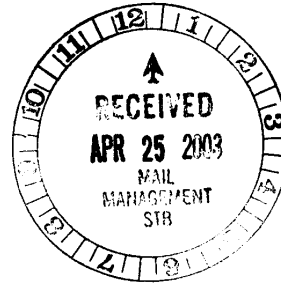


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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 34040



**RIVERVIEW TRENTON RAILROAD COMPANY – PETITION FOR AN EXEMPTION
FROM 49 U.S.C. 10901 TO ACQUIRE AND OPERATE A RAIL LINE IN WAYNE
COUNTY, MI**

**REPLY OF RIVERVIEW TRENTON RAILROAD COMPANY
TO MOTION OF CITY OF RIVERVIEW FOR ORDER COMPELLING
AMENDMENT OF PETITION FOR EXEMPTION AND DIRECTING
SUPPLEMENTAL ENVIRONMENTAL ASSESSMENT**

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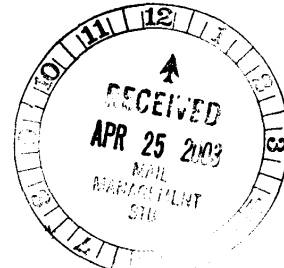
J. William Koegel, Jr.
David H. Coburn
Steptoe & Johnson LLP
1330 Connecticut Avenue, N.W.
Washington, DC 20036
202.429.3000

April 25, 2003

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In its unusual Motion to Compel Riverview Trenton Railroad Company (“RTRR”) to amend its pending Petition for Exemption and to require further analysis of the environmental impacts of that Petition, the City of Riverview has repackaged the same meritless arguments about RTRR’s intentions that it, and its allies in opposition to RTRR, have made again and again.¹ Riverview and its allies apparently believe that they might influence the Board by frequent repetition of their misstatements and mischaracterizations. The Board should not be fooled by this strategy, and should admonish the opponents that duplicative filings are highly inappropriate and wasteful of RTRR’s resources and those of the Board.

¹ The same arguments Riverview makes in its “Motion” were raised in the post-settlement discussion status reports filed by Riverview and the other Opponents on September 20, 2002; in a January 6, 2003 letter to the Board written by Congressman John Dingell, in a February 21, 2003 letter to the Board submitted by Riverview’s counsel and now again in Riverview’s Motion. The arguments have been fully answered on each occasion. *See* RTRR’s March 4, 2003 letter to the Board responding to Riverview, RTRR’s October 16, 2002 Supplemental Report on Settlement, and RTRR’s October 1, 2002 Reply to Status Reports. *See also* Chairman Nober’s January 23, 2003 letter responding to Congressman Dingell.

Riverview's Motion should be denied because it rests on the utterly false assertion that RTRR has plans, allegedly disclosed by RTRR during the course of settlement discussions last year but undisclosed to the Board, to buy a huge amount of land in Riverview and surrounding communities and to conduct rail operations entirely different from those described in its May 1, 2001 Petition for Exemption. As RTRR has stated on the record previously, its intentions with respect to the rail operations it plans -- which is the only matter at issue before the Board -- have not changed since the time that its Petition for Exemption was filed. RTRR is not acquiring an additional 1,000 acres (or some other large number of acres as the Opponents have at times claimed) surrounding the current 76 acre parcel on which it intends to operate, and has never proposed to do so. There is, in fact, no evidence whatsoever that such a huge parcel or parcels of land is even available in the area and no evidence that RTRR has designs to buy such property.²

RTRR asked the Board in its May 1, 2001 Petition for an exemption to operate a shortline railroad that would serve the adjacent Detroit Steel Center facility and intermodal traffic to be

² The Opponents seem intent on turning the Board's well-intentioned (albeit ultimately unsuccessful) effort to promote settlement in this proceeding into a game whereby they twist and turn statements made during the course of settlement discussions into ammunition to use against RTRR. In fact, as RTRR has previously advised the Board, the only reference to "1,000 acres" that RTRR made at the settlement discussions was a reference to the size of the Detroit Intermodal Freight Terminal ("DIFT"), a project proposed a decade ago (and still unbuilt) to increase intermodal capacity to meet the needs of shippers within the City of Detroit. *See* RTRR October 16, 2002 Supplemental Report on Settlement and Verified Statements of Dannie Stamper and B. Michael Blashfield attached thereto (explaining this point). RTRR's project will assist in meeting that need for additional regional intermodal capacity, but is unrelated to the DIFT.

Further, the Board should not overlook the fact that it was the Opponents who failed to disclose to RTRR or the Board that their settlement strategy of persuading RTRR to operate its railroad on a parcel of land owned by Detroit Edison (DTE) was merely a smokescreen since DTE had previously told them that this idea was a non-starter. *See* RTRR October 16 Supplemental Report.

handled at an intermodal facility that would be located on RTRR's 76 acre parcel in Riverview and Trenton. These remain RTRR's plans, and accordingly there is no reason for RTRR to amend its Petition or for the Board to reopen the very thorough environmental review that was completed by the Board's Section of Environmental Analysis (SEA). As Chairman Nober indicated in his January 23, 2003 letter to Congressman Dingell (who raised the same incorrect claim about RTRR's plans in his January 6 letter to the Chairman and in simultaneous statements issued to local media), the STB record "contains no evidence that demonstrates RTR will accept a proposal different from the one in the filing before the Board and for which the Board completed an Environmental Assessment" and "the record does not demonstrate that RTR has substantially altered its proposal pending before the Board."

Further, Riverview's claim that RTRR is planning "a ten fold plus increase in train traffic, heavy truck traffic, noise, fumes, dust and road damage" is simply not correct. The assumptions made during the environmental review process about the scope of RTRR's operations remain as fully valid today as they were when the Environmental Assessment was prepared. RTRR has no idea where the additional traffic posited by Riverview would come from, and Riverview has offered no explanation.

Repeating another oft-repeated and answered claim, Riverview says that the Environmental Assessment should have taken account of the water transportation activities that it claims are "a certainty" for the RTRR facility. RTRR has throughout this proceeding advised SEA and the Board that at some future point it may develop a pier in the area so that it could handle waterborne commerce. However, there is no fixed time frame for doing so nor any certainty that this will be carried out. Further, any such development is at least several years down the road and assessing impacts would thus involve guesswork at best. The Environmental

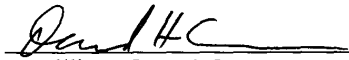
Assessment therefore properly concluded that there is simply an insufficient basis on which to evaluate the impacts of so speculative a project. *See* October 15, 2001 EA at page 1-3 (concluding that since “this mode of transportation will not be implemented within a reasonably foreseeable horizon, the nature and scope of any water transportation activities are too speculative to assess at this time.”) SEA’s conclusion remains correct; development of a port area in conjunction with the RTRR facility remains merely a future possibility. *See Illinois Central Railroad Company -- Construction and Operation Exemption -- In East Baton Rouge Parish, LA*, STB Finance Docket No. 33877 (served Feb. 20, 2002) (holding that claims about possible construction of storage facility were unsupported by evidence and too speculative to warrant environmental analysis).

Finally, Riverview’s argument that the RTRR Petition should be deemed void *ab initio* under 49 C.F.R. § 1150.32(c) because it allegedly contains misleading information is entirely off base. Not only does the Petition not contain any misleading information, but the cited regulation applies to transactions in which the party seeking exemption has used the verified notice of exemption process, which is not the case with respect to RTRR’s pending Petition.

CONCLUSION

RTRR has expended considerable resources in defending itself against unsubstantiated claims made time and again by Riverview and the other "not in my backyard" opponents in this proceeding. Those resources would otherwise be devoted to initiating the rail transportation service RTRR intends to provide for the benefit of area shippers. The Board should promptly issue a final decision granting RTRR's Petition and denying Riverview's Motion.

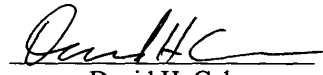
Respectfully submitted,


J. William Koegel, Jr.
David H. Coburn
Steptoe & Johnson LLP
1330 Connecticut Avenue, N.W.
Washington, DC 20036
202.429.3000

April 25, 2003

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of April, 2003, a copy of the foregoing Reply of Riverview Trenton Railroad Company was served by first class mail, postage pre-paid upon the parties of record in this proceeding.


David H. Coburn