

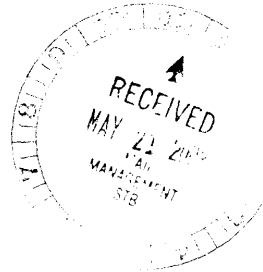
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THOMAS F. MCFARLAND

May 16, 2003

Vernon A. Williams, Secretary
Surface Transportation Board
Case Control Unit, Suite 713
1925 K Street, N.W.
Washington, DC 20423-0001



Re: Docket No. AB-596, *New York City Economic Development Corporation -- Adverse Abandonment -- New York Cross Harbor Railroad, Inc., in New York, NY*

Dear Mr. Williams:

The Shipper Protestants in the above proceeding hereby express their support for the Petition filed by New York Cross Harbor Railroad, Inc. for stay of the Board's decision in the above proceeding, served May 12, 2003.

Four of the seven Shipper Protestants would lose direct rail service at their places of business in the event of abandonment, i.e., Davidson Pipe Supply Co.; Franklin Poly Corp.; Interdynamics, Inc.; and Midwood Lumber and Millwork, Inc. Contrary to the facile finding in the decision (at 6) that "shippers will continue to have transportation options," loss of direct rail service constitutes a significant adverse effect from abandonment.

The decision sought to be stayed is the first to have granted an adverse abandonment over concerted opposition of shippers and the operating rail carrier. The decisions cited in footnote 14 on page 7 of the decision were not adverse abandonments. The decision sought to be stayed is a departure from a consistent line of decisions that have denied adverse abandonment applications where the abandonment was sought to remove an impediment to a State or local nonrail project, where shipper opposition establishes that there is a potential for continued rail operations, and where the operating rail carrier has taken reasonable steps to attract traffic. *Western Stock Show Assn. - Aban. Exempt. - in Denver, CO*, 1 STB 113, 134-136 (1996); *City of Colorado Springs, et al. - Petition for Declar. Order - Aband. Determination*, 1989 ICC LEXIS 78 at *14-17, ICC Finance Docket No. 31271, decision served March 31, 1989; *Wisconsin Dept. of Transp. - Abandonment Exemption*, 1988 ICC LEXIS 359 at *11-15, ICC Finance Docket No. 31303, decision served Nov. 23, 1988.

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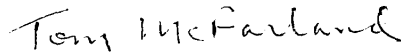
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In Shipper Protestants' view, it is bad law and bad policy for a rail regulatory agency to subordinate the interests of active rail shippers and an active rail operating carrier to the nonrail interests of a municipality.

Ten copies accompany the original of this pleading. All parties are being served.

Very truly yours,



Thomas F. McFarland
Attorney for Shipper Protestants

*AMERICAN WAREHOUSE, INC.
CROPSEY SCRAP IRON & METAL CORP.
DAVIDSON PIPE SUPPLY CO., INC.
DORANN RESOURCES, LTD.
FRANKLIN POLY CORP.
INTERDYNAMICS, INC.
MIDWOOD LUMBER & MILLWORK, INC.*