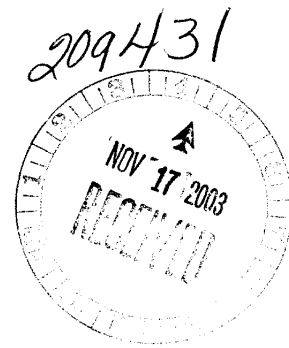


STEPTOE & JOHNSON ^{LLP}
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November 17, 2003

VIA HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1924 K Street, N.W.
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings
NOV 17 2003
Part of
Public Record

**Re: Finance Docket No. 34040, Riverview Trenton Railroad Company –
Petition for Exemption**

Dear Secretary Williams:

Enclosed please find the original and ten copies of the First Status Report of Riverview Trenton Railroad Company filed pursuant to Condition No. 7 of the Board's May 15, 2003 decision in the above-referenced proceeding.

Sincerely,

David H. Coburn

cc: All parties of record

WASHINGTON

PHOENIX

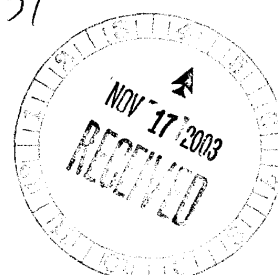
LOS ANGELES

LONDON

BRUSSELS

209431

**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**

**FIRST STATUS REPORT OF
RIVERVIEW TRENTON RAILROAD COMPANY**

**ENTERED
Office of Proceedings
NOV 17 2003
Part of
Public Record**

J. William Koegel, Jr.
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(202) 429-3000

Attorneys for Riverview Trenton
Railroad Company, Inc.

November 17, 2003

**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**

**FIRST STATUS REPORT OF
RIVERVIEW TRENTON RAILROAD COMPANY**

Pursuant to Condition No. 7 of the Board's May 15, 2003 decision granting an exemption in this proceeding for Riverview Trenton Railroad Company ("RTRR") to acquire and operate a rail line in Wayne County, MI, RTRR submits this first six-month report on the status of its activities. That Condition requires RTRR to report to the Board "on its progress, satisfaction of environmental conditions, and, when operations commence, traffic levels." In this Report, RTRR will describe the major steps it has taken in the previous several months toward the inauguration of rail service and the satisfaction of the relevant environmental conditions.

A. Progress Toward Inaugurating Rail Service

RTRR has been actively taking steps necessary prior to inaugurating rail service. It has been doing so notwithstanding that the County of Wayne and the Cities of Riverview and Trenton (collectively, "Local Governments") have filed petitions for judicial review of the

Board's May 15 decision with the United States Court of Appeals for the Sixth Circuit.¹ Based on filings to date in those judicial review proceedings, RTRR anticipates that the Local Governments will argue that the Board acted unlawfully in granting an exemption to RTRR allowing it to initiate rail service. RTRR has intervened in these proceedings to argue in support of the Board's actions. Briefing in these proceedings is currently scheduled to be completed in March 2004. The Court has not yet scheduled an oral argument, but RTRR anticipates that the Court will not issue a final ruling on the petitions for judicial review until mid 2004, at the earliest.

Below, we will describe the major steps that RTRR has taken in the direction of inaugurating rail service while the judicial review proceedings remain pending.

First, RTRR and certain affiliated companies have been engaged in extensive discussions with prospective users of its rail line, including major Detroit-area automobile companies and other large area shippers. These discussions are designed to eventually lead to commercial arrangements with these shippers for handling their traffic at the RTRR facility. As a result of these discussions, RTRR is further refining its business and marketing plans. RTRR remains confident, based on these discussions, that the level of rail shipper support illustrated by filings made during the course of this proceeding, and by discussions that RTRR has had with other major area businesses, remains strong.²

¹ No. 03-4174, *City of Riverview v. Surface Transportation Board, et al.*; No. 03-4198, *City of Trenton v. Surface Transportation Board, et al.*; No. 03-4206, *County of Wayne v. Surface Transportation Board, et al.*

² At the same time, as a result of the unusual Local Government opposition to RTRR's proceeding, and the consequent prolongation, of regulatory proceedings, RTRR has been forced to forego certain business opportunities that were awarded during the course of those proceedings.

Second, RTRR has been engaged in discussions with rail engineering firms on the renovation of the line and the design of the rail loading facility that RTRR intends to develop in conjunction with its line. Preliminary engineering plans have been drafted. RTRR expects to complete the design and engineering process in the coming months, following which rail renovation and yard construction can begin. Pursuant to this, a Request for Qualifications has been prepared and will be circulated shortly to interested rail construction firms to solicit their capabilities, interest and availability to accomplish the RTRR line renovation and yard development project.

Third, RTRR has opened discussions with firms to provide motive equipment and other services needed to operate the RTRR line. RTRR has conducted interviews with two potential contract operators of the line, and continues weighing the possibility of acquiring its own equipment and personnel to operate the line. RTRR has already moved an intermodal lift to the site of its proposed intermodal yard. That lift will be used in connection with intermodal operations that RTRR intends to initiate.³

Fourth, RTRR intends shortly to initiate discussions with the relevant Class I railroads on opening the physical connections between its line and their lines and on commercial arrangements regarding the interchange of RTRR traffic with those railroads. In the coming weeks and months, RTRR intends to pursue those discussions with appropriate personnel at these railroads to forge such arrangements as are necessary to accommodate the requirements of all parties to the transportation services.

³ In advance of the initiation of rail operations, intermodal containers are currently being stored on the site, together with chassis and tractors.

B. Progress in Implementing Environmental Conditions

With respect to the environmental conditions, RTRR notes that most of the environmental conditions imposed by the Board's May 15 Decision are operative only either once construction is underway or after rail operations have commenced. See environmental condition number 1 (notification of emergency responders in advance of using the north end grade crossing); number 3 (consultation with various agencies and implementation of best practices prior to initiation of construction); number 4 (compliance with certain local laws concerning environmental matters to the extent that they do not interfere with RTRR's ability to go forward); number 5 (use of berms and landscaping to minimize noise from operations) and number 6 (restrictions on hours of operation). Since RTRR has neither broken ground nor begun rail construction activities, these conditions are not yet triggered. Conditions 2 and 8 are operative at this time, and will be discussed next.

RTRR continues to comply with the Due Care Plan that is referenced in condition number 2 of the Board's decision by managing the property consistent with the requirements of that Plan. That Plan, found at Appendix C of the Environmental Assessment, is designed to protect public health. RTRR continues to retain the services of an environmental consultant who regularly monitors the implementation of the Due Care Plan. In addition, RTRR retains the services of a regulatory specialist who is in contact with relevant state and federal officials regarding the former owner's obligations under the consent decrees that were in place when RTRR acquired the property. RTRR is also working in conjunction with the former owner of the site to accomplish remediation.

In compliance with condition number 8, on June 24, 2003, RTRR advised the Board by letter addressed to the Board's Secretary that it had appointed Mr. B. Michael Blashfield to serve

as its Community Liaison. RTRR simultaneously served a copy of that letter on the Mayors of the Cities of Trenton and Riverview, and on appropriate officials of the County of Wayne and other relevant local officials. An RTRR e-mail account has been set up to facilitate communication and RTRR contact information has been provided to interested parties.

Since his appointment, Mr. Blashfield (who had previously been responsible for communications with the Local Governments on matters concerning RTRR) has been invited to speak at school and other community functions and has communicated with Local Government officials on issues relating to RTRR. He also participated in an August 1, 2003 hearing presided over by Congressman John Conyers to consider whether the RTRR facility (as well as another proposed facility for the area unrelated to RTRR) give rise to any homeland security issues. Mr. Blashfield offered reassurances that the RTRR facility raises no such issues and answered questions from various elected officials and local citizens. In addition, Mr. Blashfield regularly responds to media inquiries and, along with his colleagues, provides information as needed to elected representatives and area residents.

Respectfully submitted,



J. William Koegel, Jr.

David H. Coburn

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(202) 429-3000

Attorneys for Riverview Trenton
Railroad Company, Inc.

November 17, 2003

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of November, 2003, a copy of this First Status Report of Riverview Trenton Railroad Company was served upon all parties of record by first class mail, postage prepaid.



David H. Coburn