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May 17, 2004

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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

MAY 18 2004

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 Second 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

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



Finance Docket No. 34040

210 940

**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**

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

**ENTERED
Office of Proceedings**

MAY 18 2004

**Part of
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Attorneys for Riverview Trenton
Railroad Company, Inc.

May 17, 2004

**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**

**SECOND 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 second 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

Petitions for judicial review of the Board's May 15, 2003 decision filed by the Local Government opponents of the rail line (County of Wayne and Cities of Trenton and Riverview)

remain pending before the United States Court of Appeals for the Sixth Circuit.¹ In these judicial review proceedings, the Local Governments argue that the Board acted unlawfully, including in violation of the National Environmental Policy Act, in granting an exemption to RTRR allowing it to initiate rail service. RTRR has intervened in these proceedings and argued in support of the Board's actions. Briefing in these proceedings has been completed, but oral argument has not yet been scheduled. RTRR currently anticipates that the Court will not issue a final ruling on the petitions for judicial review for at least several more months. While RTRR is hopeful that the Court will affirm the Board's decision, uncertainty with respect to the status of the Board's decision will remain as long as the Local Governments continue to pursue their judicial review.²

Notwithstanding the above, RTRR has continued to take measured steps toward inaugurating its rail project. RTRR has engaged Transdevelopment Corporation with respect to rail engineering work that will be required to rehabilitate the RTRR line. That firm specializes in the development of rail terminal projects. A principal of that firm, Mr. John MacGregor, testified in support of RTRR during the course of this proceeding and described the site plan development work that had been done for RTRR by Transdevelopment at that time. In March 2004, as soon as the snow cover at the site had melted, Transdevelopment officials visited the

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 In a January 22, 2004 filing with the Board styled as "City of Riverview's Reply to First Status Report of Riverview Trenton Railroad Company," Riverview complained that RTRR "has taken few steps toward actually beginning rail operations . . ." While RTRR disagrees with that characterization, Riverview cannot be heard to complain about the pace of RTRR's progress while it continues to place the Board's authorization for RTRR to operate a rail line in doubt through its judicial review proceeding. RTRR, in other words, cannot be expected to make substantial financial investments in the project while its future remains in doubt because of Riverview's actions, and that of the other Local Governments.

RTRR site to make their further assessment of the track condition and prepare cost estimates for the track's rehabilitation. Based on their work, requests for bids addressed to firms that specialize in rail rehabilitation will be prepared and distributed.

RTRR has also had some continued discussions during the past several months with firms that could provide motive power and labor to operate the RTRR line. RTRR intends to continue to pursue these discussions and is quite confident that rail equipment and personnel will be available when rail service is ready to commence.

RTRR has communicated with Conrail regarding a re-opening of the physical connection between its line and the Conrail Detroit Shared Assets Operator line at the south end of the RTRR line. Conrail has responded with a proposal that the parties schedule a site visit to assess the connection, and a local CSX official has expressed an interest in participating in that assessment. RTRR is in the process of confirming dates on which to conduct that assessment with appropriate rail representatives and expects that this assessment will move forward in the coming weeks. Following the discussions concerning the physical opening of the track, RTRR of course will be pursuing further commercial discussions with various Class I railroads. RTRR has already met with marketing personnel from one Class I railroad within this reporting period to explore business opportunities.

RTRR, and its affiliated logistics firm, Logistics Insight Corporation, have had continued discussions over the last few months with prospective users of the line, including major Detroit area automotive manufacturers, as well as shippers located outside the Detroit area. While these discussions have been fruitful, RTRR is not in a position to move toward formal arrangements with prospective shippers or other parties given the continued uncertainty (in light of the pending judicial review proceeding) over the Board's order allowing RTRR to conduct rail operations.

B. Progress in Implementing Environmental Conditions

Most of the environmental conditions imposed by the Board's May 15 Decision are operative only either during the stage that construction is underway or after rail operations have commenced. See environmental Condition No. 1 (notification of emergency responders in advance of using the north end grade crossing); No. 3 (consultation with various agencies and implementation of best practices prior to initiation of construction); No. 4 (compliance with certain local laws concerning environmental matters to the extent that they do not interfere with RTRR's ability to go forward); No. 5 (use of berms and landscaping to minimize noise from operations of the intermodal facility) and No. 6 (restrictions on hours of operation). Since RTRR has not yet begun the rehabilitation of its line or construction of its yard area, these conditions are not yet triggered.³

RTRR continues to manage the property consistent with the requirements of the Due Care Plan and to retain the services of a consultant to address compliance with that Plan, consistent with the obligations imposed by Condition No. 2 of the Board's decision. That Plan, found at Appendix C of the Environmental Assessment, is designed to protect public health and natural resources.

In compliance with Condition No. 8, as previously reported RTRR has appointed Mr. B. Michael Blashfield to serve as its Community Liaison. Mr. Blashfield, as well as other

³ In its January 22 filing, Riverview also complained that RTRR has failed to take steps to restrict erosion and avoid runoff into the Trenton Channel from areas where soil may be disturbed in violation of Condition No. 3. Since RTRR has not yet begun construction, and is not yet on the verge of doing so, RTRR does not understand Riverview's concern. Likewise, Riverview complains that RTRR has yet to install landscaping or a berm to minimize noise in compliance with Condition No. 5. Since there are no trains operating on the property, RTRR is again at a loss to understand Riverview's concern. Whatever noise might be generated from non-rail container storage on the property is not, as RTRR understands the Board's decision, subject to the noise mitigation condition imposed explicitly with respect to future intermodal operations.

representatives of RTRR, have engaged in a series of discussions with local government officials and community leaders over the past several months on a variety of matters. For example, in late 2003, the City of Trenton, acting through its mayor, pursued an initiative to purchase the DSC property over which RTRR maintains a rail easement essential to the operation of its line. RTRR communicated with the City with respect to RTRR's need to protect its rail easement in the event of the purchase and development of the property by the City, as well the obligation of the City to comply with certain environmental cleanup responsibilities in the event of a purchase. In the end, however, the City's purchase of the property did not go forward as the Trenton City Council voted in March 2004 against the proposed purchase.

RTRR also met with the new City Manager for Riverview, and the City's Fire Chief to discuss matters of mutual interest. In addition, RTRR has also met with local citizens interested in the area, and participated in a discussion in March 2004 with the Metropolitan Affairs Coalition about redevelopment along the Trenton riverfront. The Coalition, composed of Local Government officials, local Congressional representatives and concerned citizens, has not yet developed a formal redevelopment plan. RTRR remains prepared to discuss coexistence of its rail project with other development plans that may emerge for the area.

Respectfully submitted,



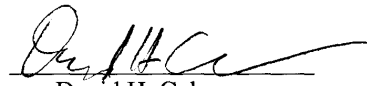
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Attorneys for Riverview Trenton
Railroad Company, Inc.

May 17, 2004

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of May, 2004, a copy of this Second Status Report of Riverview Trenton Railroad Company was served upon all parties of record by first class mail, postage prepaid.


David H. Coburn