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214 252

June 28, 2005

VIA MESSENGER

Mr. Vernon Williams, Secretary
Office the Secretary
Surface Transportation Board
1925 K Street, NW, Room 700
Washington, DC 20423-0001

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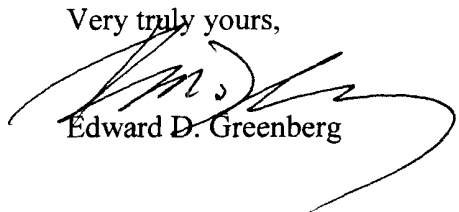
**Re: STB Docket No. WCC-101 - Government Of The Territory Of Guam v.
Sea-Land Service, Inc., American President Lines, Ltd., and Matson
Navigation Company, Inc.**

Dear Mr. Williams

Enclosed for filing are an original and 11 copies of: (1) a Notice of Appearance and
(2) Reply Of The Government Of The Territory Of Guam To The Order Of The Surface
Transportation Board To Show Cause. Please date stamp and return a copy to our messenger for
our records.

If you have any questions concerning this, please do not hesitate to contact me.

Very truly yours,


Edward D. Greenberg

EDG:kmd
Enclosures

cc: To All Parties On Service List (via First Class U.S. Mail)
David Konschnik (via Messenger)

BEFORE THE SURFACE TRANSPORTATION BOARD

STB Docket No. WCC-101

214252



GOVERNMENT OF THE TERRITORY OF GUAM

v.

**SEA-LAND SERVICE, INC., AMERICAN PRESIDENT LINES, LTD., AND MATSON
NAVIGATION COMPANY, INC.**

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**REPLY OF THE GOVERNMENT OF THE TERRITORY OF GUAM TO THE
ORDER OF THE SURFACE TRANSPORTATION BOARD TO SHOW CAUSE**

In a decision served June 8, 2005, the Surface Transportation Board ("Board") served an order requiring the Government of Guam ("Guam") to show cause why this proceeding should not be dismissed. As Guam had requested that previous procedural schedules be vacated and had not provided the Board with information relating to its intentions in this matter, it appears that the June 8, 2005 decision was issued to clarify whether Guam wished to continue this proceeding. As discussed below, Guam is submitting this Reply both to reaffirm its commitment to pursue the relief sought when this matter was initiated and to urge the Board not to dismiss this proceeding.

As the Board is well aware, Guam has long been concerned about the rates and practices of the various water carriers that have been providing service to shippers and receivers of cargo on Guam. It has expended substantial efforts and resources in its attempts

to protect the interests of its citizens. Guam initially challenged the carriers' practices before the Federal Maritime Commission in 1989 when that agency had jurisdiction over these issues. FMC Docket No. 89-26, *The Government Of The Territory of Guam v. Sea-Land Services, Inc., et al.* Guam vigorously litigated that matter and ultimately obtained a decision holding that the challenged rates were excessive.

Then, following the enactment of the Interstate Commerce Commission Termination Act and the transfer of jurisdiction to this agency, Guam filed this case in 1998. Again, Guam litigated these issues before the Board pursuant to this agency's procedural decision served January 6, 1999 adopting a three-step process and submitted extensive briefs in the Phase I and Phase II aspects of this proceeding. Hence, it is clear that this is a matter of great concern to Guam and that the inability of petitioner to go forward with the oral argument earlier this year was not occasioned by any lack of interest or decision not to prosecute the matter.

Instead, Guam was experiencing financial constraints that are not unknown to many government agencies. Simply stated, Guam did not have the funds necessary to continue the efforts required in this complex and expensive litigation. That disability has now been cured, however, and the undersigned are authorized to represent to the Board that Guam has now been able to secure the funding necessary to resume the litigation. In that regard, his Excellency Felix P. Camacho, the Governor of Guam, has just issued, on June 24, 2005, Executive Order 2005-24 entitled "Relative To Declaring An Emergency For Procurement Of Legal Services Specializing In Maritime Law Relative To Ongoing Government Of Guam Maritime Cases." In that Order, Governor Camacho initially recited the history of the ongoing cases brought before the Board and the FMC, observed that any dismissal of this case would jeopardize the public welfare of the citizens of Guam, and accordingly (1) declared a "state of

emergency that threatens the island's welfare" due to the need to obtain legal representation, and (2) authorized the appropriation of sufficient funds for that purpose.

While regrettable delays in prosecuting this case have been experienced over the past several months due to political and budgetary considerations, Guam has been in the past and remains in the present vitally interested in obtaining redress from rate levels assessed by the respondents. Thus, although Guam regrets that this matter has not progressed as expeditiously as it would have liked, under the circumstances and in the context of all the litigation that has transpired in the last 16 years, these delays are minor "bumps in the road" that should not now serve as the basis for dismissing this proceeding and denying relief to Guam shippers and receivers.

Despite these delays, it is not clear whether or how the respondents have been prejudiced. After all, the carriers' rates were never suspended, there was never any "keep account" requirement imposed upon them, and they have continued to assess, collect, and enjoy rates that Guam believes to be extraordinarily excessive and unreasonable. Whether Guam is correct is a matter to be determined by the Board. But, Guam is entitled under the circumstances to its day in court, so that its citizens will not be prejudiced simply because of the temporary budget situation that has now been resolved.

Accordingly, Guam respectfully requests that the order to show cause be withdrawn and that the Board replace this proceeding on the active docket list. In addition, in view of the fact that Guam has appointed the undersigned as new counsel to represent its interests in this case, it asks that the Board allocate sufficient time for it to discuss these matters with counsel and develop an appropriate and efficient mechanism for concluding this litigation. Guam therefore requests that the Board issue an order directing the parties to propose, within thirty

days, a date for going forward with the oral argument as to the appropriate methodology for assessing rate reasonableness.

Respectfully submitted this 28th day of June, 2005.

A handwritten signature in black ink, appearing to read 'Ed Greenberg', is written over a horizontal line.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served via First Class U.S. mail on June 28, 2005 to the following:

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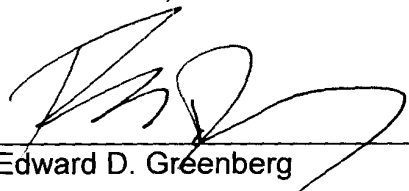
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