

LAW OFFICE

MCLEOD, WATKINSON & MILLER

MICHAEL R. MCLEOD
WAYNE R. WATKINSON
MARC E. MILLER
RICHARD T. ROSSIER
CHARLES A. SPITULNIK
RICHARD PASCO
ALEX MENENDEZ
AMY B. JONES
CHRISTOPHER J. SALISBURY

ONE MASSACHUSETTS AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20001-1401
(202) 842-2345
TELECOPY (202) 408-7763

ROBERT RANDALL GREEN
LAURA L. PHELPS
DAVID R. GRAVES
GOVERNMENT RELATIONS

KATHRYN A. KLEIMAN**
OF COUNSEL
(**Admitted in Virginia only)

216591

May 19, 2006

Office of Proceedings

Hon. Vernon A. Williams
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Part of
Public Record

Re: *Petition of Tri-State Brick and Stone of New York, Inc. and Tri-State
Transportation Inc. for Declaratory Order*; Finance Docket No. 34824

Dear Mr. Williams:

We represent the City of New York and the New York City Economic Development Corporation (collectively, the "City Parties"). On May 11, 2006, the Hon. Jerrold Nadler filed a Reply in this proceeding ("Congressman's Reply"). The Congressman's Reply was in response to the Reply of the New York City Economic Development Corporation and the City of New York to the Petition of the Hon. Jerrold Nadler that had been filed on May 5, 2006.

This is to advise that the City Parties will not be seeking to have the Congressman's Reply stricken from the record even though it is an impermissible pleading (49 C.F.R. §1104.13(c)), nor will the City Parties seek leave to submit a further reply. Moreover, contrary to the inference the Congressman draws from the absence of plans for the further use of the 65th Street Yard, the City Parties have previously explained that they are unable to announce plans for the use of this property due to the unlawful presence there of the Petitioners in this proceeding, the parties whose position the Congressman is supporting here.

No further pleadings and replies are permitted under the Board's rules at this time nor are they necessary at this time because the Congressman's Reply raises no new issues. The Petitioners' presence on the property is clouding the ability to plan for its use. Because the City Parties can not move forward with plans for use of the property until this proceeding is concluded, the City Parties renew their request for the Board to act expeditiously in this matter.

Respectfully submitted,

Charles A. Spitulnik
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cc: Hon. Jerrold Nadler
Joseph F. McHugh, Esquire

ND: 4840-7170-4321, Ver 1

