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June 1, 2006

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Seventh Floor
Washington, D.C. 20423

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 Secretary Williams:

On behalf of the Government of the Territory of Guam ("GovGuam"), I am writing in response to the letter filed on May 31, 2006 by counsel for Matson Navigation Company ("Matson").

The Matson letter provided the Board with a copy of a report issued recently by the Maritime Administration entitled "Competition in the Noncontiguous Domestic Maritime Trades" that was dated May 2006, which purports to be "supplemental authority" for the proposition that there is supposedly "effective competition in the Guam trade." Matson's letter is a thinly veiled attempt to reopen and reargue an issue that has already been decided by the Board when it refused to dismiss this proceeding. In its decision served November 15, 2001, the Board rejected the argument raised by Matson and the other defendant carriers that there was effective competition in the Guam trade that had restrained the carriers' excessive pricing behavior. Noting that the Department of Transportation had issued an earlier report entitled "Competition in the Noncontiguous Domestic Maritime Trades", dated March 1997, which had concluded, at III-18, that "concentration is high in the Guam trade", the Board stated that "defendants' general assertions about the state of competition in the Guam trade cannot be regarded as establishing facts sufficient to warrant summary dismissal." (Decision,



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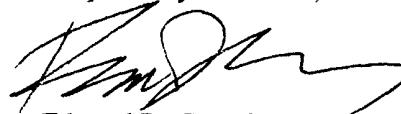
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at 3 n.8.) As the more recent MARAD report comes to the same conclusion, namely that "concentration remains high in the U.S. Mainland-Guam trade" (May 2006 report at 30), that document provides no basis for any conclusion that there is allegedly effective competition in the Guam trade. Similarly, the new report provides no justification for either bifurcating Phase III of this proceeding in order to address the competition issue or to conduct a market dominance analysis in the first instance.

Moreover, there is reason to question both the accuracy and objectivity of the May 2006 MARAD report. For example, the report indicates that the data used to prepare this report derived in large part from information contained in a report entitled "Competitiveness in the Domestic Noncontiguous Liner Shipping Markets, June 2004" by Reeve & Associates. (Report at iii.) And, at footnote 2 on the same page, it appears that the Reeve report was prepared at the behest of an organization called the Maritime Cabotage Task Force ("MCTF"). According to the MCTF website (at www.mctf.com), that organization "is dedicated to educating America on the economic, national security, environmental and safety benefits of the Jones Act and other U.S. cabotage laws . . .". And, the lead signatory on a letter prominently placed on the MCTF home page – which opposes attempts by parties seeking to obtain waivers of the Jones Act in their relief efforts from Hurricanes Katrina and Rita – is Philip Grill, listed as Chairman of MCTF and Matson Navigation Company. Similarly, representatives of Horizon Lines are members of MCTF and signatories to this letter. As the new "MARAD study" appears to have been largely, if not totally, influenced by the views of Matson and Horizon Lines, its objectivity is at the very least open to question.¹

It is not surprising that Matson, Horizon Lines and other U.S. flag interests funded or sponsored a study to support the argument that there is healthy competition in the Guam trade, despite the obvious facts that there are only two carriers serving the trade, that there is substantial excess capacity, that rates for Guam shipments are substantially higher than those for shipments in the competitive TransPacific trade that are moving on the same vessel, and that the Jones Act restricts entry into this trade. Consequently, the 2006 MARAD Report provides no reason for the Board to require that GovGuam now prove, in an expensive, time consuming proceeding, that there is an absence of effective competition in the U.S./Guam trade.

Respectfully submitted,



Edward D. Greenberg

David K. Monroe

¹ Unlike the situation with its 1997 Report, MARAD does not appear to have sought input from the shipping public or other governmental entities, such as GovGuam, when it decided for some reason to issue its 2006 Report.