



# CNJ RAIL CORPORATION

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May 2<sup>nd</sup>, 2016

US Surface Transportation Board  
Office of Proceedings

240584

Chief – Section of Administration  
395 E Street SW  
Washington, DC 07302

ENTERED  
Office of Proceedings  
May 2, 2016  
Part of  
Public Record

Re: STB Docket # **AB 167 (Sub No.# 1189) X**  
Consolidated Rail Corporation  
– Abandonment Exemption –

**\*\*\* Reply in support of the City of Jersey City’s *Motion to Compel* \*\*\***

Dear Ms. Brown,

On behalf of CNJ Rail Corporation (“CNJ”), I am transmitting this brief Letter Reply in support of the City of Jersey City’s (“City”) *Motion to Compel*. CNJ Rail fully supports the City’s requested relief.

Discovery is an important element of the process of adjudicating any proceeding before this Board. In this proceeding, the discovery process has been extensively used by the parties. Nearly every party actively participating in this proceeding has been the subject of at least one

discovery request. For example, nearly two years ago, CNJ itself received a number of discovery requests in this proceeding.

Mr. Riffin has chosen to involve himself in this proceeding personally. His choice to participate means he must play by the same rules as everyone else. The City properly served a discovery request upon him. CNJ feels he should have no choice but to comply with the City's request.

CNJ itself has had to go through this process. We had to produce a significant amount of documents in order to comply with the requests of the various parties. While producing the requested documents was time consuming, it was hardly burdensome. Both the City and the Intervener LLC's made reasonable accommodations in order to reduce our burden to a very manageable level.

The City served its discovery request upon Mr. Riffin on March 28<sup>th</sup>, 2016. It set a due date for responses of April 19<sup>th</sup>, 2016. Counsel for the City contacted the undersigned shortly after the deadline had passed, inquiring if CNJ had heard from Mr. Riffin regarding the request. CNJ was surprised to learn he had not received any response.

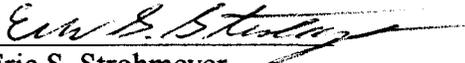
The failure to produce a timely response was shocking. In another proceeding before the Board, this agency has held that a failure to provide any response to a discovery could lead to significant sanctions. See *Denver & Rio Grande Railway Historical Foundation – Petition for a Declaratory Order*, FD 35496, STB served April 30<sup>th</sup>, 2012.

Just as CNJ has had to do in this proceeding, Mr. Riffin should be made to comply with the discovery requests. We feel that no party actively participating in this proceeding should be given a pass. All the other parties to this proceeding have had to go through this process, so too should Mr. Riffin.

In closing, CNJ respectfully asks that the Board:

Accept this letter reply in support of the City's *Motion to Compel*,  
Issue an Order compelling discovery with the Board's regulation,  
Set forth appropriate sanctions for failing to comply with any order to compel,  
and provide for any additional relief which is appropriate and just.

Respectfully,

  
Eric S. Strohmeyer  
Vice President, COO  
CNJ Rail Corporation

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Cc: All Parties of Record

CERTIFICATE OF SERVICE

I hereby certify that on this 2<sup>nd</sup> day of May, 2016, I have served<sup>1</sup> a copy<sup>2</sup> of CNJ Rail Corporation's "Reply in support of the City of Jersey City's *Motion to Compel*", filed herein STB Docket No. AB 167 (Sub No. 1189)X, by first class mail, properly addressed with postage prepaid, or via a more expeditious means of delivery with consent of the receiving party, upon all parties of record in this proceeding.

  
Eric S. Strohmeyer

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<sup>1</sup> The form and style of this *Certificate of Service* complies precisely with the Board's regulations found at 49 C.F.R. § 1104.12(c)

<sup>2</sup> The accompanying document was properly served in full compliance with the Board's regulations. See: 49 C.F.R. § 1104.12(a)