

# CLARK HILL | THORP REED

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Office of Proceedings  
December 13, 2013  
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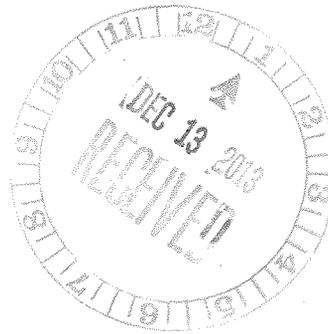
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December 9, 2013

## VIA CERTIFIED MAIL

Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street SW  
Washington, DC 20024



**Re: Paulsboro Refining Company LLC -  
Adverse Abandonment -  
SMS Rail Service, Inc. in Gloucester County, NJ  
STB Docket No. AB-1095 (Sub No. 1)**

Dear Ms. Brown:

Pursuant to 49 CFR 1152.20(a)(1), enclosed is a copy of the Notice of Intent of Paulsboro Refining Company LLC (“Applicant”) to file an adverse abandonment application in the above-referenced proceeding. The Notice of Intent is consistent with the form required under 49 CFR 1152.21, and the waivers granted by the Board in its decision served July 26, 2012.

As required under 49 CFR 1152(a)(2), Applicant is serving a copy of this letter, and the enclosed Notice of Intent, on the parties shown on the attached service list.

The requirement under 49 CFR 1152(a)(3) to post the Notice of Intent was waived by the Board in its decision served July 26, 2012.

A copy of the Notice of Intent is scheduled to be published in the *Courier-Post* and in the *South Jersey Times* on December 9, 16 and 23, 2013, as required by 49 CFR 1152(a)(4). Proof of publication will be included as part of the Environmental and Historic Report.

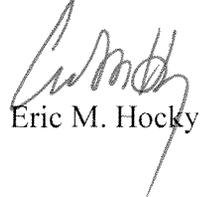
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Please time stamp the extra copy of this letter to indicate receipt, and return it to me in the stamped, self-addressed envelope provided for your convenience.

Please let me know if there are any questions regarding this filing.

Respectfully,

CLARK HILL THORP REED



Eric M. Hocky

EMH/e  
Encl.

cc: All Persons Shown on Attached List (w/encl.)

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**Service List for Notice of Intent:**

**Via certified mail:**

Governor Chris Christie  
State of New Jersey  
P.O. Box 001  
Trenton, NJ 08625

**Via U.S. first class mail, postage prepaid:**

New Jersey Department of Transportation  
Freight, Air & Water Division (Rail)  
P.O. Box 600  
Trenton, NJ 08628-066

Cooperative Extension of Gloucester County  
Rutgers New Jersey Agricultural Experiment Station  
County Government Services Building  
1200 N. Delsea Dr.  
Clayton, NJ 08312-1095

US Department of Transportation  
Federal Railroad Administration  
1200 New Jersey Avenue, SE  
Washington, DC 20590

Headquarters  
Military Surface Deployment and Distribution Command  
Transportation Engineering Agency  
ATTN: SDTE-SA (Railroads for National Defense)  
709 Ward Drive, Building 1990  
Scott AFB, IL 62225-5357

Conservation and Outdoor Recreation Programs  
National Park Service  
1849 C. Street, NW  
Org. Code 2220  
Washington, DC 20240

U.S. Railroad Retirement Board  
844 North Rush Street  
Chicago IL, 60611-2092

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Tom Tidwell, Chief  
U.S. Forest Service  
1400 Independence Ave., SW  
Washington, DC 20250-0003

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1920 N street, NW  
Washington, DC 20036-1601

Jonathan Broder  
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1717 Arch Street, 32nd Floor  
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E.M. Fitzsimmons  
Nathan Goldman  
CSX Transportation, Inc.  
Law Department  
500 Water Street, J150  
Jacksonville, FL 32202

James A. Hixon  
William A. Galanko  
Norfolk Southern Railway Company  
Three Commercial Place  
Norfolk, VA 23510

Michael A. Carrocino  
Facility Manager  
ExxonMobil Research and Engineering Company  
600 Billingsport Road  
Paulsboro, NJ 08066

STB No. AB 1095 (Sub-No. 1)

**Notice of Intent to File Adverse Abandonment**

Paulsboro Refining Company LLC (“Applicant”) gives notice that on or about December 31, 2013, it intends to file with the Surface Transportation Board, Washington, DC 20423, an application seeking the adverse abandonment of the approximately 5.8 miles of railroad tracks (the “Line”) currently operated by SMS Rail Service, Inc. (“SMS”) within the 970-acre Paulsboro, New Jersey refinery (the “Refinery”), which traverses through United States Postal Service ZIP Code 08066, in Gloucester County, New Jersey. There are no mileposts or stations associated with the Line. The reason for the proposed adverse abandonment is that Applicant, as the owner of the Refinery, has terminated SMS’s operating agreement in accordance with its terms. Applicant determined that it no longer needed SMS to provide common carrier service, and that it preferred to do its own intra-plant switching through the services of a private non-carrier switching contractor. SMS has refused to seek abandonment on its own. Applicant is seeking adverse abandonment authority so that it can proceed to evict SMS under New Jersey state law. Based on information in our possession, the Line does not contain federally granted rights-of-way. Any documentation in the Applicant’s possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by Oregon Short Line Railroad Co.--Abandonment--Goshen, 360 ICC 91 (1979). The application will include the Applicant's entire case for adverse abandonment.. Any interested person, after the application is filed (on or about December 31, 2013), may file with the Surface Transportation Board written comments concerning the proposed adverse abandonment or protests to it. These filings are due 45 days from the date of filing of the application. Based on waivers and exemptions granted by the Surface Transportation Board, this proposed abandonment will not be subject to a request for a public use condition under 49 U.S.C. 10905 (§1152.28 of the Board's rules). The Surface Transportation Board did not rule on whether a request for a trail use condition under 16 U.S.C. 1247(d) (§ 1152.29 of the Board's rules) will be permitted; however, if permitted, a request must be filed within 45 days from the date of filing of the application. Persons who may oppose the abandonment but who do not wish to participate fully in the process by appearing at any oral hearings or by submitting verified statements of witnesses, containing detailed evidence, should file comments. Persons interested only in seeking trail use conditions should also file comments. Persons opposing the proposed abandonment or discontinuance that do wish to participate actively and fully in the process should file a protest. Protests must contain that party's entire case in opposition including the following:

- (1) Protestant's name, address and business.
- (2) A statement describing protestant's interest in the proceeding including:
  - (i) A description of protestant's use of the line;
  - (ii) If protestant does not use the line, information concerning the group or public interest it represents; and
  - (iii) If protestant's interest is limited to the retention of service over a portion of the line, a description of the portion of the line subject to protestant's interest (with any designations as may be available) and evidence showing that the applicant can

operate the portion of the Line profitably, including an appropriate return on its investment for those operations.

- (3) Specific reasons why protestant opposes the application including information regarding protestant's reliance on the involved service [this information must be supported by affidavits of persons with personal knowledge of the fact(s)].
- (4) Any rebuttal of material submitted by Applicant.

In addition, a commenting party or protestant may provide a statement of position and evidence regarding:

- (i) Environmental impact;
- (ii) Impact on rural and community development;
- (iii) Recommended provisions for protection of the interests of employees;
- (iv) Prospective use of the right-of-way for interim trail use and rail banking under 16 U.S.C. 1247(d) and §1152.29.

Written comments and protests will be considered by the Board in determining what disposition to make of the application. The commenting party or protestant may participate in the proceeding as its interests may appear.

If an oral hearing is desired, the requester must make a request for an oral hearing and provide reasons why an oral hearing is necessary. Oral hearing requests must be filed with the Board no later than 10 days after the application is filed.

Those parties filing protests to the proposed abandonment should be prepared to participate actively either in an oral hearing or through the submission of their entire opposition case in the form of verified statements and arguments at the time they file a protest. Parties seeking information concerning the filing of protests should refer to §1152.25.

Written comments and protests, including all requests for trail use conditions, should indicate the proceeding designation STB No. AB 1095 (Sub-No. 1) and must be filed with the Chief, Section of Administration, Office of Proceedings, Surface Transportation Board, Washington, DC 20423-0001, no later than February 14, 2014 (or 45 days after the date Applicant files its application). Interested persons may file a written comment or protest with the Board to become a party to this abandonment proceeding. A copy of each written comment or protest shall be served upon the representative of the Applicant: Eric M. Hocky, Clark Hill Thorp Reed, One Commerce Square, 2005 Market Street, Philadelphia, PA 19103; 215-640-8500. The original and 10 copies of all comments or protests shall be filed with the Board with a certificate of service. Except as otherwise set forth in 49 CFR Part 1152, each document filed with the Board must be served on all parties to the abandonment proceeding. 49 CFR §1104.12(a).

In this adverse abandonment, the line sought to be abandoned will not be available for an offer of financial assistance for subsidy or sale for continued rail use, if the Board decides to permit the abandonment, in accordance with applicable laws and regulations (49 U.S.C. 10904 and 49 CFR §1152.27). Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment or discontinuance

regulations at 49 CFR Part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis.

A copy of the application will be available for public inspection on the Board's website on or after December 31, 2013 after it has been filed. Applicant shall furnish a copy of the application to any interested person proposing to file a protest or comment, upon request.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Section of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Section of Environmental Analysis. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Section of Environmental Analysis. EAs in these abandonment proceedings normally will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.