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January 10, 2014
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January 9, 2014

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VIA FEDEX

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

FILED
January 10, 2014
Surface Transportation Board

FEE RECEIVED
January 10, 2014
Surface Transportation Board

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

Dear Ms. Brown:

Enclosed for filing please find the original and 10 copies of the Public version of an Application for Adverse Abandonment (the "Application") being filed on behalf of Paulsboro Refining Company LLC, together with the proposed form of Federal Register notice on diskette as required by 49 CFR 1152.22(i). Also enclosed is our check in the amount of \$23,700 representing the filing fee therefor.

We are also simultaneously filing under seal an original and 10 copies of a Highly Confidential version of the Application pursuant to the Protective Order served by the Board in this proceeding on July 26, 2012.

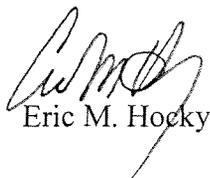
Please time stamp the additional copy of this letter to indicate receipt of all of the foregoing, and return it to me in the stamped, self-addressed envelope provided for your convenience.

Cynthia T. Brown
January 9, 2014
Page 2

Let us know if you have any questions regarding the filing.

Respectfully,

CLARK HILL THORP REED



Eric M. Hocky

EMH/e

Enclosures

cc: All parties shown on service list

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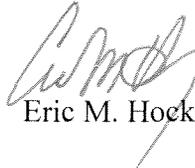
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Enclosures
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Before the

SURFACE TRANSPORTATION BOARD

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

JAN 10 2014

**PAULSBORO REFINING COMPANY LLC
-- ADVERSE ABANDONMENT --
SMS RAIL SERVICE, INC. IN GLOUCESTER COUNTY, NJ**

APPLICATION FOR ADVERSE ABANDONMENT

Eric M. Hocky
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(215) 640-8500

Attorneys for
Paulsboro Refining Company LLC

Dated: January 9, 2014

Before the

SURFACE TRANSPORTATION BOARD

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

**PAULSBORO REFINING COMPANY LLC
-- ADVERSE ABANDONMENT --
SMS RAIL SERVICE, INC. IN GLOUCESTER COUNTY, NJ**

APPLICATION FOR ADVERSE ABANDONMENT

Paulsboro Refining Company LLC (“PRC” or “Applicant”) is filing this application seeking authority from the Board for the adverse abandonment of the approximately 5.8 miles of railroad tracks (the “Line”) owned by PRC and currently operated by SMS Rail Service, Inc. (“SMS”) within PRC’s 970-acre Paulsboro, New Jersey refinery (the “Refinery”). A map of the Line and an aerial photo of the Refinery are attached hereto as Exhibit A. There are no mileposts or stations associated with the Line, all of which is located in Gloucester County, New Jersey. This Application is filed in accordance with the requirements of 49 CFR Part 1152, and the Board’s decision served on July 26, 2012 (the “July 26 Decision”) granting certain waivers and exemptions.

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 authority from

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the Board. Applicant is seeking adverse abandonment authority so that it can proceed to evict SMS under New Jersey state law.

Background

PRC is the current owner of the Refinery and of the tracks within the Refinery. Historically, the tracks comprising the Line were operated as private plant tracks. In September, 2000, SMS obtained an exemption from the Board to operate as a common carrier over the tracks, and to treat the tracks as a line of railroad. *SMS Rail Service, Inc. – Acquisition and Operation Exemption - Valero Refining Company – New Jersey*, STB Finance Docket No. 33927 (served September 22, 2000). In August 2000, SMS and Valero entered into the original Operating Agreement that covered the services that SMS would be providing and other obligations between the parties. A copy of the original Operating Agreement is attached hereto as Exhibit B-1. The initial term of the Operating Agreement was ten years, with a possible ten-year renewal upon mutual agreement of the parties. Subsequently, in response to a petition for declaratory order filed by SMS, the Board confirmed that SMS was operating as a common carrier at the Refinery. *SMS Rail Service, Inc. – Petition for Declaratory Order*, STB Finance Docket No. 34483 (served January 24, 2005) (“*SMS Declaratory Order Decision*”).

Prior to SMS commencing operations, Conrail delivered traffic to the Refinery, and performed switching services within the Refinery. Valero chose to replace Conrail for the services to be provided at the Refinery, and contracted with SMS to do so. Valero was indifferent as to whether SMS provided its services as a common carrier or as a contract switching operator. *SMS Declaratory Order Decision*, at 5. Pursuant to the

Operating Agreement, SMS, in addition to performing common carrier service, also performed industrial switching services within the Refinery.

At the time of the *SMS Declaratory Order Decision*, SMS was providing service to Valero and four other shippers (Air Products and Chemicals, Inc., ExxonMobil Corporation (“ExxonMobil”) and Oxbow Carbon & Minerals, Inc.) that could be accessed from the Refinery tracks. Currently, SMS serves only PRC and to a minor extent, ExxonMobil.¹ During the term of SMS’s operations, traffic has been interchanged between SMS and its interline connections at Conrail’s adjacent yard across the street from the Refinery (*see Exhibit A*).

In May 2010, Valero and SMS entered into a Second Amendment to Rail Line Service Agreement which provided in relevant part:

1. SMA and Valero agree that on the date this Second Amendment is fully executed by the parties; [sic] (a) the business terms of the Current Agreement shall continue on an ongoing basis until such time as Valero provides SMS with ninety (90) days written notice of its intention to terminate both: (a) the Ten Year Renewal option, as it is defined at paragraph 2(b) of the Original Agreement [Rail Line Service Agreement dated August 31, 2000] and (b) the Current Agreement [the original Agreement and a First Amendment entered into in November 2002].²

Second Amendment, attached hereto as Exhibit B-2.

PBF Holding Company LLC acquired PRC and the Refinery from Valero in December 2010. Subsequently, PRC reevaluated its rail service needs at the Refinery,

¹ According to SMS, during the “Base Year”, PRC shipped or received approximately [] carloads of interline freight, and ExxonMobil shipped or received only [] carloads of interline freight.

² PRC did not receive a copy of the First Amendment from Valero when it acquired the Refinery. According to the Second Amendment, Recital B, the First Amendment dealt with subletting a portion of the rail line for a transloading facility to be operated by a non-carrier operator; and would not affect the right of Valero (now PRC) to terminate the Operating Agreement pursuant to the Second Amendment.

and 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. After meeting with SMS, and reviewing proposals from SMS and others, PRC selected a contractor other than SMS. Accordingly, on September 22, 2011, PRC gave SMS an email notice under the Operating Agreement that PRC was terminating the Operating Agreement on 90 days' notice. The notice and the termination date of December 21, 2011, were confirmed in a letter dated October 27, 2011. Copies of the September 22 notice and the October 27 letter are attached hereto as Exhibit C. As noted in the October 27 letter, the Operating Agreement requires SMS to promptly vacate the Refinery on termination:

10. Surrender. Operator [SMS] agrees, at the expiration or earlier termination of the term hereof, promptly to yield up, clean and neat, and in the same condition, order and repair in which it is required to be kept throughout the term hereof, the Rail Line and to remove Operator's railcars and equipment. ...

Exhibit B-1. In breach of the contract, SMS has so far failed and refused to do so, or to seek Board authority to do so.

As noted above, PRC has determined that it does not require SMS to perform common carrier services for it. PRC or its contractor can continue to deliver / pick up interline traffic with its connecting carriers without operating on any lines of railroad or obtaining any operating rights from the Board.³ PRC's selected contractor has advised that it can be mobilized and ready to begin operating with 30 days advance notice. Thus, PRC's traffic can continue to flow uninterrupted as it always has, assuming SMS cooperates in the transition.

³ Since the service will be private contract switching, no Board authorization will be required.

Additionally, the only other customer served from tracks within the Refinery, ExxonMobil, can also be served by PRC’s contract switching operator, and it has indicated that it is satisfied that it no longer will need SMS’s common carrier services. *See* letter from ExxonMobil attached hereto as Exhibit D.⁴

PRC now wishes to return the Line to private track status, and to have the rail operations at the Refinery performed by a non-carrier switching contractor. None of the tracks or facilities will be removed or salvaged, and there will not be any change in the level of operations being performed at the Refinery.

Since common carrier services are no longer required or being requested, the public convenience and necessity do not require that the Line remain as part of the national railroad system, and the Line can and should be abandoned as a line of railroad. Because SMS has failed and refused to seek the authority itself, PRC has proceeded with this application for adverse abandonment.

Required Information

Pursuant to 49 CFR § 1152.22, PRC hereby provides the following information related to the proposed adverse abandonment:

(a) General

(1) The exact name of the applicant/owner of the Line is Paulsboro Refining Company LLC. The exact name of the operator of the Line is SMS Rail Service, Inc.

⁴ Although not signed, the letter was sent by ExxonMobil to PRC by email for use in this proceeding. ExxonMobil is being served with a copy of the public version of this application.

(2) The applicant/owner PRC is not a common carrier by railroad. The operator SMS is a common carrier by railroad subject to 49 USC Subtitle IV, chapter 105.

(3) The relief sought is adverse authority for the abandonment of the Line by SMS. The Line is comprised of approximately 5.8 miles of railroad tracks within the Refinery. The trackage extends northward from a connection 950 feet to the west of milepost 14 on the Paulsboro Industrial Track of Consolidated Rail Corporation (“Conrail”), to and including the tracks within the Refinery, all in Gloucester County, New Jersey. After abandonment of the Line as a line of railroad, PRC will retain the tracks as private industrial tracks.

(4) A detailed map of the Line is attached as Exhibit A-1. Although the end points of the tracks that comprise the Line are not clearly marked, this is the map that SMS filed when it obtained its common carrier authority to operate the Line. Attached as Exhibit A-2 is an aerial photograph that shows an overview of the PRC Refinery.

(5) The system diagram map requirements have been waived. *See* July 26 Decision.

(6) The detailed reasons for seeking adverse abandonment have been set forth in the Background section above. In short, PRC has determined that it no longer wants or needs the tracks located within the Refinery Facility to be operated as a line of railroad by a common carrier, and wishes instead to receive its common carrier service from Conrail (for and on behalf of Norfolk Southern Railway (“NS”) and CSX Transportation (“CSX”)), and to have its internal switching performed by a non-carrier switching

contractor. The only other current shipper served by SMS from the Line does not object to the abandonment.

(7) The name, title and address of the representative of Applicant to whom correspondence should be sent are: Eric M. Hocky, Esq., Clark Hill Thorp Reed, 2005 Market Street, Suite 1000, Philadelphia, PA 19103; phone no.: 215-640-8500; email: ehocky@clarkhill.com.

(8) The Line traverses United States Postal Service ZIP Code 08066.

(b) Condition of Properties.

Under the Operating Agreement, SMS is responsible for maintaining the Line in good order and condition. Operating Agreement, §5. To the best of PRC’s knowledge that Line is generally in the required condition; however, PRC is not a railroad and does not have the expertise to evaluate fully the condition. The most recent time that PRC sought to inspect the tracks, SMS refused access. *See* letter from counsel for SMS dated July 16, 2012, attached hereto as Exhibit E. PRC is aware of several minor derailments over the past 6 to 8 months.

(c) Service Provided.

Based on information provided to PRC by SMS as required by the July 26 Decision, and PRC’s records of service provided by SMS,⁵ the following information describes the service provided in the Base Year (defined for the purposes of this application as the period from November 1, 2012 until October 31, 2013):

(1) SMS operated two trains per day each day during the Base Year except on December 25, 2012 and January 1, 2013.

⁵ The information provided by SMS is shown in the letters attached as Exhibits F-1 and F-2.

(2) SMS operates over approximately 5.8 miles of track in Paulsboro, all of which is owned by PRC. PRC does not believe that SMS, at this location, operates over any SMS-owned tracks or sidings.

(3) SMS operated an average of two locomotive units.

(4) Total tonnage and carloads by each commodity group are shown on Exhibits F-1 and F-2. This information is exclusive of the in-plant industrial switching services provided by SMS for PRC. [Exhibits F-1 and F-2 are redacted in public version.]

(5) The Line is all located within the Refinery. As such, it is not part of a through route and there is no overhead traffic.

(6) The average crew size utilized by SMS during the Base Year was three.

(7) As noted above, SMS is required by the Operating Agreement to maintain the tracks in good order and condition. PRC believes that SMS has generally complied with the maintenance conditions, although SMS has denied PRC access to the tracks to do a full inspection. *See* Exhibit E attached hereto.

(8) SMS reports no material changes in train service. The primary changes in service were operating practices, including the flagging of an industry crossing and the repositioning of foul points to increase visibility to vehicular traffic.

(9) There has generally been no decline in the amount of traffic handled for PRC. However, traffic to ExxonMobil is lower than it was in the past. As to the other two shippers for whom SMS originally provided service, Air Products and Chemicals, Inc. and Oxbow Carbon & Minerals, Inc., neither of these entities nor any successors are currently receiving rail service from SMS at Paulsboro. Since PRC is not the operator it does not know the reasons for the decline in service to other customers.

(d) Revenue and Cost Data.

The requirement that PRC provide revenue and cost data for SMS has been waived. *See* July 26 Decision.

(e) Rural and Community Impact.

(1) There are no stations on the Line. The Line is located within PRC’s refinery facility, an industrial area, in Paulsboro, Gloucester County, New Jersey. Paulsboro’s population in 2012 was approximately 6041. *See* <http://www.city-data.com/city/Paulsboro-New-Jersey.html>

(2) There were only two customers that originated or terminated traffic on the Line in the two calendar years immediately preceding the filing of this Application, including in the Base Year. Based on the information available to PRC as provided by SMS, the names and addresses of, and principal commodities (by tonnage and carloads) handled for these customers are shown in Exhibit F. Since there were only two customers, the totals shown on Exhibit F also reflect the total traffic handled by SMS on the Line. [Exhibit F is redacted in public version]

(3) PRC can also receive some service by motor carrier or by water carrier. It is anticipated, however, that after abandonment, rail service will fully continue with common carrier service provided by Conrail (on behalf of NS and CSXT), and industrial switching service provided by a non-carrier switching contractor. ExxonMobil will also be able to continue to receive rail service even if the adverse abandonment were granted. There will be no adverse impact on rural or community development.

(4) Because the tracks comprising the Line are owned by PRC and are located within PRC’s Refinery, the properties proposed for abandonment are not appropriate for

use for other public purposes. Moreover, PRC as the owner, is not willing or interested in transferring any of the tracks or its property.

(f) Environmental Impact.

PRC filed an Environmental and Historic Report with the Board on December 11, 2013, more than 20 days before the filing of this Application.

(g) Passenger Service.

There is no passenger service provided over the Line.

(h) Additional Information.

No additional information has been required by the Board.

(i) Draft Federal Register Notice.

Attached as Exhibit G-1 is a draft Federal Register notice for publication by the Board. PRC has modified the form of notice set forth in 49 CFR 1152.22(h)(1) to reflect that this is an adverse abandonment, and to reflect the waivers and exemptions set forth by the Board in the July 26 Decision. The modifications to the form set forth in the regulations are shown in Exhibit G-2. A copy of Exhibit G-1 in Word is also being submitted on a computer diskette.

(j) Verification.

An executed verification in the required form is included following the final page of this Application.

Offers of Financial Assistance and Public Use

In the July 26 Decision, the Board exempted PRC from the offer of financial assistance provisions of 49 USC §10904, and from the public use provisions of 49 USC §10905. July 26 Decision, slip op. at 6.

Trails Act

The Board deferred a decision on whether the trail use provisions of 49 CFR §1152.29 should apply if the adverse abandonment were granted. *See* July 26 Decision, slip op., at 6. In situations such as this proceeding, where the carrier is not the owner of the tracks or property and cannot agree to transfer the property, trail use (as well as public use) is inappropriate. This is particularly true in this instance given that the tracks are located in the middle of an operating refinery, and where the tracks will continue to be used for rail service. PRC has no intention of transferring the tracks or property, and allowing a trail use request would merely delay PRC in transferring service over the tracks which it owns to a private contractor.

Labor Protection

The Board should require SMS to protect its employees pursuant to the conditions set forth in *Oregon Short Line R. Co. – Abandonment – Goshen*, 360 ICC 91 (1979), as it has in other adverse abandonment proceedings. *See, for example, Norfolk Southern Railway Company – Adverse Abandonment – St. Joseph County, Ind.*, Docket No. AB 290 (Sub-No. 286), slip op at 7.

Notice and Service

Applicant hereby certifies that it has complied with the notice requirements of 49 CFR 1150.20 as follows:

(1) A Notice of Intent was sent to the Board by certified letter. It was received by the Board on December 13, 2013. A copy of the Notice of Intent is attached hereto as Exhibit H.

(2) As shown by the certificate of service attached to the Notice of Intent, copies were sent as required by the Board’s regulations. *See* Exhibit H.

(3) Posting of the Notice of Intent was waived by the July 26 Decision.

(4) The Notice of Intent was 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). Copies of the proofs of publication are attached hereto as Exhibit I.

(5) As noted above, an Environmental and Historic Report was filed with the Board on December 11, 2013, more than 20 days prior to the filing of this Application.

Copies of the Application are being served as required by 49 CFR 1152.24 and the July 26 Decision, and as shown on the attached Certificate of Service. Since there are no stations on the Line, a copy of the Application will not be posted. Copies will be available from counsel to the Applicant.

Discussion

Because SMS has been authorized by the Board to operate as a carrier at the Refinery, the abandonment of the Line as a line of railroad requires authorization pursuant to 49 U.S.C. §10903. Any person with a “proper interest” can bring an adverse abandonment application. *See Jacksonville Port Authority – Adverse Discontinuance – In Duval County, FL*, STB Docket No. AB-469 (served July 17, 1996) (*Jacksonville Port Authority*), slip op. at 5, *and cases cited therein*. PRC, as the owner of the tracks comprising the Line and as the primary shipper served from the Line, is clearly a person with a proper interest and entitled to file this application.

The Board has set forth the standards to be applied in an adverse abandonment proceeding:

Under 49 U.S.C. § 10903(d), the standard that applies to any application for authority to abandon a line of railroad is whether the present or future public convenience and necessity (PC&N) require or permit the proposed abandonment. In applying this standard in an adverse abandonment context, we consider whether there is a present or future public need for rail service over the line and whether that need is outweighed by other interests. As part of our PC&N analysis, we must consider whether the proposed abandonment would have a serious, adverse impact on rural and community development.

Stewartstown Railroad Company – Adverse Abandonment – In York County, PA, STB Docket No. AB 1071 (served November 14, 2012) (“*Stewartstown Railroad*”) (citations omitted), slip op. at 4. *See also Norfolk Southern Railway Company – Adverse Abandonment – St. Joseph County, Ind.*, Docket No. AB 290 (Sub-No. 286), slip op at 3. In making the determination, the Board balances the competing benefits and burdens of the proposed abandonment on all interested parties, including the owner of the tracks, the shippers and the railroad, and on interstate commerce generally. *See New York Cross Harbor Railroad v. STB*, 374 F. 3d 1177, 1180-1181 (D.C. Cir. 2004). Further, in making its evaluation, the Board has explained:

Accordingly, we typically preserve and promote continued rail service where a carrier has expressed a desire to continue operations and has taken reasonable steps to acquire traffic. On the other hand, we do not allow our jurisdiction to be used to shield a line from the legitimate processes of state law where no overriding federal interest exists. If we grant an adverse abandonment, our decision removes the shield of our jurisdiction, enabling the applicant to pursue other legal remedies to force the carrier off a line and sell or dispose of railroad property that would otherwise be protected as part of the national rail transportation system.

Stewartstown Railroad, supra at 4-5 (citations omitted). *See also Minnesota Commercial Railway Company – Adverse Discontinuance – In Ramsey County, MN*, STB Docket No. AB-882 (served July 16, 2008) (“*Minnesota Commercial*”), slip op. at 3.

This is a simple straightforward situation where common carrier service is no longer needed, where SMS’s Operating Agreement has been properly terminated, and where PRC, as the track owner, needs the abandonment authority granted so that it can proceed with its state court remedies to enforce the termination provisions of the Operating Agreement and remove SMS from the Refinery if SMS continues to refuse to do so voluntarily. While SMS originally was providing service to a number of shippers, there are now only two remaining, and over 99% of the traffic is being handled for PRC. The abandonment would not affect the ability of Conrail, NS or CSXT to provide common carrier service to and from the Refinery, and PRC has a private switching contractor standing by so that there should be no interruption in switching service to the current shippers, PRC and ExxonMobil (assuming SMS cooperates in the transition). Both current shippers support the shift to a private switching contractor. Thus there will be no adverse effect on interstate commerce or on shippers,⁶ and there is no public interest in requiring that SMS continue to provide unwanted, unneeded operations. *See Cheatham County Rail Authority – Application and Petition for Adverse Discontinuance*, ICC Finance Docket No. 32049 (renumbered ICC Docket No. AB-379X) (served November 4, 1992), at 7. There is no reason that the Line needs to remain as part of the national railroad system.

PRC is not requesting that the Board make any determinations about whether the Operating Agreement has been properly terminated in accordance with its terms. Rather, PRC is requesting that the Board remove the jurisdictional shield that SMS is now using to prevent the rights of the parties under the Operating Agreement from being determined

⁶ As such, there will be no adverse impact on rural or community development.

by the courts. The Board has been clear that it will not allow its jurisdiction in such a manner. *See Stewartstown Railroad, supra* at 12. *See also Minnesota Commercial, supra; Jacksonville Port Authority, supra* at 6.

Further, the Operating Agreement clearly provides that upon termination, SMS will promptly yield up the tracks and property. Operating Agreement, Exhibit B-1, Section 10. As such, SMS should not be heard to oppose the adverse abandonment. Any opposition would only further exacerbate SMS’s failure to cooperate in seeking abandonment authority in contravention of the Operating Agreement.

As noted above, the SMS Operating Agreement has been terminated and SMS has no contractual rights to operate at the Refinery. After the abandonment of the Line as a line of railroad, PRC intends to have the tracks operated as private plant tracks by a non-carrier switching contractor.⁷ The shippers no longer need or desire common carrier service by SMS to be performed within the Refinery, or to or from PRC’s tracks, and after abandonment service would continue in the same manner as before SMS began common carrier operations, without any adverse effect on shippers. Granting of the abandonment would allow SMS to comply with the termination provisions of the Operating Agreement and stop operating the tracks within the Refinery, either voluntarily

⁷ PRC believes that as the owner of the tracks it has the authority to allow private switching on the tracks even while SMS has common carrier authority to operate over them. *See V&S Railway, LLC – Petition for Declaratory Order – Railroad Operations in Hutchinson, Kan.*, STB Docket No. FD 35459 (served July 12, 2012); *Hanson Natural Resources Company – Non-Common Carrier Status – Petition for a Declaratory Order*, ICC Finance Docket No. 32248 (served December 5, 1994), 1994 MCC LEXIS 111 at *48-*50. However, PRC has so far elected not to bring its private contractor onto the tracks while it attempts to have SMS voluntarily transition SMS’s operations as required by the Operating Agreement.

or through legal action that PRC would pursue. No shippers would lose any service, and there is no need for the tracks to remain as part of the national rail system.⁸

Transition of Operations

PRC believes that SMS is required under the terms of the Operating Agreement to cooperate in the transition of operations following termination of the Agreement, and that if SMS fails to do so it will be liable for damages. In addition, the Board has continuing jurisdiction over SMS until it stops operating as a carrier, and has the power, without ruling on the merits of any contract claims, to order SMS to cooperate with PRC’s contract switching operator so that there can be a safe and orderly transition without any harm or interruption of service to shippers. *Cf. City of Peoria and the Village of Peoria Heights, IL – Adverse Discontinuance – Pioneer Industrial Railway Company*, STB Docket No. AB-878 (served November 19, 2007) (ordering two carriers to negotiate joint operating protocols to avoid interference with each other); *Cheatham County Rail Authority – Application and Petition for Adverse Discontinuance*, ICC Finance Docket No. 32049 (served August 31, 1992), at 2 (ordering coordination of operations in view of the need for orderly operations and to assure safety on the line). Accordingly as a condition of the grant of abandonment authority, and the required exercise thereof by SMS, the Board should order SMS to cooperate with PRC and its private switching contractor, and the connecting Class I carriers, in an orderly transition of operations and service.

⁸ Grant of the abandonment authority would also allow SMS to use its rail resources elsewhere where it continues to operate.

Conclusion

For the reasons set forth above, the Board should find that Applicant’s proposed abandonment satisfies the requirements of 49 C.F.R. §1152, and should issue a decision granting the adverse abandonment authority requested.

Respectfully submitted,


ERIC M. HOCKY
CLARK HILL THORP REED
One Commerce Square
2005 Market Street, Suite 1000
Philadelphia, PA 19103
(215) 640-8500

Attorneys for
Paulsboro Refining Company LLC

Dated: January 9, 2014

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of January, 2014, I served a copy of the public version of the Application for Adverse Abandonment on the persons listed below by the method shown below:

By Federal Express next day delivery:

Fritz R. Kahn
1919 M Street, NW
7th Floor
Washington, DC 20036

Jonathan Broder
Conrail
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Greg Summy
David Coleman
Norfolk Southern Railway Company
Three Commercial Place
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Paul Hitchcock
CSX Transportation, Inc.
Law Department
500 Water Street, J150
Jacksonville, FL 32202

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

By US First Class Mail, postage prepaid:

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State of New Jersey
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Trenton, NJ 08625

Cooperative Extension of Gloucester
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Rutgers New Jersey Agricultural
Experiment Station
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New Jersey Department of Transportation
Freight, Air & Water Division (Rail)
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Trenton, NJ 08628-0600

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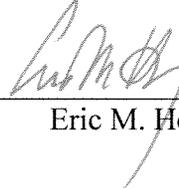
US Department of Transportation
Federal Railroad Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

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 62225-5327

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

US Railroad Retirement Board
844 North Rush Street
Chicago, IL 60611-2092

By:



Eric M. Hocky

EXHIBIT A

"Public Version"



EXHIBIT B

RAIL LINE SERVICE AGREEMENT

THIS AGREEMENT made as of the day of June, 2000, by and between SMS RAIL SERVICE, INC., a Pennsylvania corporation registered to conduct business in the State of New Jersey ("SMS" or "Operator") and VALERO REFINING COMPANY - NEW JERSEY, a Delaware corporation ("Valero" or Owner).

THE BACKGROUND OF THIS AGREEMENT IS AS FOLLOWS:

A. Valero owns the property located 800 Billingsport Road, Paulsboro, Gloucester County, New Jersey 08066, consisting of approximately 970 acres (the "Property" or "Refinery") whereupon it operates a petroleum refinery and which Property is served by a private rail line owned exclusively by Valero. Valero currently maintains the rail line which is serviced by Conrail.

B. SMS is in the business of operating and servicing shortline railroads and desires to provide rail service for Valero at the Property. Valero desires to engage SMS to maintain the rail line at the Property and to provide exclusive rail service therefor.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement and intending to be legally bound, SMS and Valero agree as follows:

1. Grant of Exclusive Service Agreement. Owner does hereby grant and Operator does hereby agree to accept, for the term and upon the conditions set forth in this Agreement, the exclusive right to service and maintain all that certain railroad track located at the Property, which comprises approximately 5.8 miles, shown more precisely as the railroad on

the plan attached hereto, made a part hereof and marked as Exhibit "A" (the "Rail Line").

2. Term.

(a) Initial Term. The initial term of this Agreement shall commence ("Commencement Date") when Operator has entered into an appropriate agreement for inclusion in the existing freight rate contract of Valero (as defined below) and Operator has completed its start-up operations. Unless terminated sooner under the terms hereof, the initial term of this Agreement shall terminate on 12:01 a.m. local time on the tenth (10th) anniversary of the first day of the first full calendar month of the initial term.

(b) Ten Year Renewal Option. The term of this Agreement may be extended for one (1) additional ten (10) year term upon the mutual agreement of Valero and Operator, during which all terms and conditions shall remain as set forth in this Agreement (the "Renewal Term"). Discussions between the two parties regarding the Renewal Term shall begin at least three (3) months prior to the expiration of the initial term. In the event that Valero and Operator mutually agree to the Renewal Term, the Renewal Term shall commence at 12:01 a.m. local time on the tenth (10th) anniversary of the first day of the first full calendar month during the initial term as aforesaid and shall expire at 12:01 a.m. local time on the tenth (10th) anniversary of the Renewal Term. The initial term and the Renewal Term described in this Paragraph 2, are referred to collectively herein as the "Term".

3. Exclusive Servicer of Rail Line. Throughout the Term, Operator shall have the exclusive right to be the servicer and operator of the Rail Line, subject to the rights of Owner as set forth herein. During the term, Owner shall not engage any other party to service or operate the Rail Line. The servicing functions and duties of Operator shall include service, track maintenance and removal of vegetation, debris or other obstructions from the railroad.

4. Fee.

(a) Operator agrees to pay to Owner, in consideration for the exclusive right to service and operate the Rail Line, the sum of Fifteen (\$15.00) Dollars per railroad car serviced (as defined below) on the Rail Line (the "Fee"). For the purposes of calculating the Fee, each trip transporting a cargo load from Valero to the Conrail Trunk Line and each trip transporting a cargo load from the Conrail Rail Trunk to Valero shall constitute one car serviced, but the return of an empty car after a delivery or the transport of an empty car to pick up a load shall not constitute a separate incident of service.

(b) The Fee shall be payable, without notice, demand, set-off or deduction, on a monthly basis in lawful currency of the United States of America, on the thirtieth (30th) day of the calendar month after which the service was provided, to Owner at 800 Billingsport Road, Paulsboro, New Jersey 08066, or to such other person at such other place as Owner may designate in writing. Each payment shall include an accounting certified by

an authorized officer of Operator setting forth the number of cars serviced during the prior month (an "Accounting"). An Accounting shall be submitted with such back-up documentation as maybe reasonably required by owner.

(c) Owner may, upon reasonable notice and during normal business hours, audit the books and records of operator relating to the use, operation and servicing of the Rail Line. Owner shall conduct such audit at its own cost. Operator agrees to maintain all related records on its principal office in New Jersey for a period of (3) years after the month to which such records relate. Operator shall promptly pay to owner any shortfall in the Fee discovered by an audit, and any excess Fee discovered by such audit shall be credited towards the next payment of any Fee due by Operator under this agreement.

5. Operator's Covenants.

(a) In further consideration of Operators's exclusive right to service and operate the Rail Line, Operator hereby covenants to maintain in good order and condition the Rail Line and all the area within fifteen (15) feet in each direction from the centerline of the Rail Line (hereinafter referred to as the "Adjoining Area"). Operator shall promptly at Operators's own expense make all necessary repairs, structural and nonstructural, ordinary as well as extraordinary, foreseen as well as unforeseen to the Rail Line and the Adjoining Area. When used in this paragraph, the term "repairs" shall include replacements and renewals, and

all such repairs made by Operator shall be at least equal in quality and usefulness to the original improvements and equipment.

(b) Operator recognizes that the quality of the rail service provided to Valero and the competitiveness of freight rates are critical to the viability and financial prospects of Valero. Operator agrees to provide all locomotives, maintenance equipment, track, materials and personnel necessary to operate the Rail Line and to provide said service in a professional, high-quality manner commensurate with prudent industry standards. Owner and Operator contemplate that Owner will required a high degree of service, and Operator covenants that it will conduct its operations in such a manner in order to provide adequate service to Owner, including but not limited to, providing shifting services at least twice per day, seven (7) days per week. Operator covenants further that it will expand its operations to accommodate any growth in Valero's demand for rail service and to provide the same level of quality service required under this Agreement. Without limiting the foregoing requirements, Operator agrees that: (i) the quality of service and maintenance shall be consistent with at least the equivalent of such rail service available at other first-class warehouse parks or facilities providing rail service in the Middle-Atlantic Region; and (ii) Operator shall not impose any surcharges or other additional freight rates upon Owner that would render the total freight rates payable by Owner higher than those generally charged for similar service at other facilities and industrial and warehouse parks in the

Middle-Atlantic region. Operator shall not have any obligation to install any new track or extend existing track to meet Valero's future needs beyond the Rail Line as it exists as of the date of this Agreement, shown on Exhibit "A".

(c) Operator shall keep and maintain all portions of the Rail Line and the Adjoining Area free of accumulation of dirt, snow, ice, pollution or rubbish. Operator shall have the reasonable right of ingress and egress to the Rail Line by such vehicles, equipment and materials necessary to maintain and operate the Railroad in accordance with the Agreement. In performing its obligations hereunder, Operator shall not unduly obstruct or impede Owner's operations at the Property.

(d) All improvements, repairs, alterations and fixtures attached to or used in connection with the Rail Line by or on behalf of Operator shall, subject to the terms and conditions of this Agreement, be and become the property of Owner immediately upon completion of installation thereof, without payment therefor by Owner and shall be surrendered to Owner upon the expiration or earlier termination of the term of this Agreement.

(e) Operator's daily operations hereunder shall include (but are not limited to) the following:

(i) Performance of a daily railcar inventory, the results of which will be provided to Owner daily;

(ii) Provision of electronic bills of lading to Owner's customers; and

(iii) Maintenance of constant communication with Owner's personnel and Operator's personnel as needed.

6. Owner's Covenants.

(a) Owner covenants that, except as provided in Paragraph 16, throughout the Term it will not take any action to terminate or diminish Operator's rights hereunder, and that it will maintain in effect or cause others to maintain in effect all zoning, wetlands, land-use and similar local and state permits and approvals necessary for the use of the Rail Line and for any upgrades which may be undertaken by Owner. Operator shall be responsible for obtaining and keeping in effect all licenses, permits and approvals required by federal or state law or regulation relating to the operation, rail servicing and maintenance by Operator of the Rail Line. Owner agrees to terminate, prior to the Commencement Date, all existing track rental or car storage agreements for storage within the refinery only, if any, with any outside parties.

(b) At the request of Operator, Owner shall provide a parcel or parcels of land aggregating no less than one (1) acre in area, adjacent to the Rail Line, for use by Operator in connection with the performance of its duties hereunder. Operator shall be entitled to store equipment upon this area and to erect such track, facilities and improvements as Operator may deem appropriate for the performance of those duties, all of which shall be done in accordance with all legal requirements and at Operator's sole cost and expense. From and after the designation by Owner of such land

area, it shall be deemed to be included, for no additional fee, within the definition of the "Rail Line" and shall be covered in all respects by the terms of this Agreement, including all requirements relating to insurance and maintenance.

7. Net Agreement. It is understood and agreed that this is a net Agreement. It is the intention of the parties that Owner shall receive all Fees payable hereunder free from all taxes, assessments and impositions upon or by reason of the Rail Line and the track, rails, equipment and improvements constructed thereon and all expenses and charges required to be paid to maintain and carry the Rail Line, all of which taxes, assessments, impositions and such charges shall be paid by Operator; provided, however, that nothing herein contained shall require Operator to pay any tax, assessment, charge or levy which Owner is required to pay by reason of the income represented by the Fees under this Agreement.

8. Insurance.

(a) Operator, at Operator's sole cost and expense, shall maintain and keep in effect throughout the term:

(i) Insurance against loss or damage to the Rail Line and any maintenance facilities by any casualty as may be included in the broadest form of all risk insurance from time to time available in an amount at least equal to the replacement cost thereof, without any co-insurance by Owner or Operator;

(ii) Insurance against loss or liability in connection with bodily injury or death or property damage occurring in the vicinity of the Rail Line, under policies of general public liability insurance, naming Owner as additional insured, with a policy amount initially equal to Ten Million (\$10,000,000) Dollars, which amount shall be adjusted from time to time throughout the Term to amounts then carried by prudent operators of similar railroads. Operator's insurance shall contain a rider or endorsement insuring against loss or damage arising out of the spillage, discharge, dispersal or release of pollutants or hazardous substances in or on the Rail Line which is not covered by an insurance policy obtained by the rail user as required above in this paragraph.

(b) All policies of insurance provided for in this Paragraph 8 shall name Valero Energy Corporation and its subsidiaries and affiliates, and the officers, directors and employees of Valero Energy Corporation and of its subsidiaries and affiliates and Operator as the only insured parties.

(c) All policies shall provide that they shall not be cancelable without at least thirty (30) days' prior written notice to Owner and shall be issued by insurers of recognized responsibility, licensed to do business in the State of New Jersey. At least five (5) days prior to the Commencement Date, the original insurance policies required under this Paragraph 8 shall be delivered to Owner.

(d) With respect to all insurance provided herein, Operator shall waive, or shall cause the insurer(s) to waive, any right of subrogation that such insurer(s) may have or may gain in connection with or related to work or service of Operator done under this Agreement.

9. Compliance with Legal Requirements. Operator covenants throughout the term of this Agreement, at Operator's sole cost and expense, promptly to comply with all laws and ordinances and notices, orders, rules, regulations and requirements of all federal, state and municipal governments and appropriate departments, commissions, boards and officers thereof, and notices, orders, rules and regulations of the National Board of Fire Underwriters, or any other body now or hereafter constituted exercising similar functions, governing the operation, ownership, maintenance and servicing of the Rail Line, including (without limitation) all laws relating to interstate commerce, railroads, health and safety, and environmental matters, whether foreseen or unforeseen, ordinary as well as extraordinary, structural as well as nonstructural. Operator shall likewise observe and comply with the requirements of all policies of public liability, fire and all other policies of insurance at any time in force with respect to this Agreement and the Rail Line and the equipment thereon.

10. Surrender. Operator agrees, at the expiration or earlier termination of the term hereof, promptly to yield up, clean and neat, and in the same condition, order and repair in which it is required to be kept throughout the term hereof, the Rail Line and to remove Operator's railcars

and equipment. All equipment, rolling stock of Operator's fixtures, tools, supplies, buildings and improvements remaining in or on the Rail Line more than thirty (30) days after the expiration or earlier termination of the Term shall be deemed to have been abandoned by Operator.

11. Damage by Fire or Other Casualty. In case of damage to the Rail Line by any casualty, Operator shall promptly notify Owner, and Operator shall repair the damage. The work shall be commenced promptly and completed with due diligence, taking into account the time required for Operator to effect a settlement with, and procure insurance proceeds from, the insurer, and delays due to governmental regulations, scarcity of or inability to obtain labor or materials, or causes beyond Operator's reasonable control.

12. Assignment. Operator may not assign, mortgage, pledge or encumber this Agreement or any of its rights hereunder, in whole or in part, or sublet the whole or any part of the Rail Line or delegate any of its duties hereunder.

13. Eminent Domain. If the Rail Line or any part thereof is taken or condemned for a public or quasi-public use (a sale in lieu of condemnation to be deemed a taking or condemnation), this Agreement shall, as to the part taken, terminate as of the date title shall vest in the condemnor, provided that the provisions concerning the payment of awards as provided below shall continue in full force and effect. In any such event, Operator waives all claims against Owner and against the condemning

authority or party and Operator covenants and agrees that Operator will make no claim by reason of the complete or partial taking of the Rail Line.

14. Curing Operator's Defaults. If Operator shall be in default in the performance of any of its obligations hereunder, Owner may (but shall not be obligated to do so), in addition to any other rights it may have in law or equity and after written notice to Operator except in case of emergency, cure such default on behalf of Operator, and Operator shall reimburse Owner for any reasonable sums paid or costs incurred by Owner in curing such default, which reasonable sums and costs shall be deemed additional Fees hereunder and shall be payable immediately upon written demand.

15. Responsibility of Operator; Indemnity.

(a) Operator agrees to indemnify Owner and hold Owner harmless against any claims, damages or liability for physical injury arising out of or resulting in any way from the use and operation of the Rail Line during the Term, unless such injury is caused directly by Owner's recklessness or gross negligence. Operator hereby relieves and agrees to indemnify Owner against all claims, damages or liability by reason of any injury or damage to the Rail Line, to Operator or to any person or to property adjoining the Rail Line, whether belonging to Operator or to any other person, caused by any fire, breakage, leakage, collapse or other event in any portion of the Rail Line, whether or not such event results in the

termination of this Agreement by reason of damage to or destruction of the Rail Line.

(b) Without limiting the above Operator hereby agrees to indemnify, defend and hold harmless Owner from and against any and all expense, damage, loss or liability incurred by Owner arising from the application or claim of application to the Rail Line (including, but not limited to, the improvements on the Rail Line) of any state or federal oil, toxic, or hazardous substances or waste statute or other law, now or hereafter enacted (including, but not limited to, the Federal Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 2nd as amended by the Superfund Amendments and Reauthorization Act of 1986. Operator's liability hereunder shall survive the termination of this Agreement whether terminated by an agreement, expiration, judgment, or otherwise, but in no event shall Operator's liability extend to losses resulting directly from affirmative acts of Owner or arising out of any ground water, soil or other environmental contamination that occurred prior to the Commencement Date. Operator agrees not to store any hazardous materials at the Property, and will not require any underground tanks for storage of materials.

16. Owner's Remedies Upon Operator's Defaults. If Operator shall fail or omit to pay the Fee or any additional charges due hereunder on the days and time and at the place the same are made payable, and without demand therefor, or if Operator shall in any respect violate any of the

terms, conditions or covenants contained in the Agreement, or if Operator becomes insolvent, bankrupt, or makes an assignment for the benefit of creditors, or is levied upon or sold out by Sheriff's or Marshall's or Constable's sale, or if a receiver for Operator is appointed, Owner may (subject to the grace period set forth in Section 18 below) re-enter and repossess the Rail Line and Adjoining Area, together with all improvements and additions thereto, or pursue any remedy permitted by law or equity for the enforcement of the provisions hereof, and Operator's agreement regarding the Rail Line shall be extinguished. In the alternative, and at the election of Owner, Owner may give to Operator at any time after the occurrence of the event written notice of Owner's election to terminate this Agreement on a date to be specified in said notice, not less than fifteen (15) days after the giving thereof; and upon the date specific in said notice, this Agreement and the term thereof shall (except for the continued liability of Operator as hereinafter provided) expire and come to an end as fully and completely as if the date specified in said notice were the date definitely fixed in this Agreement for the expiration of the term hereof, and Operator shall quit and surrender the Rail Line and Adjoining Area, on or before that date, to Owner, without cost or charge to Owner.

In case this Agreement shall be terminated as herein provided, or in case of termination of Operator's possession by reentry, summary dispossession proceedings or any other method, Owner may, at Owner's option, as an additional or alternative remedy, bring suit to eject Operator.

In the event of termination of this Agreement as herein provided, or of termination of Operator's possession by re-entry, summary dispossess proceedings or any other method, whether or not the Rail Line shall be subject to further agreements, Operator shall, until the time when this Agreement would have expired but for such prior expiration or for such re-entry, summary dispossess proceedings or termination, continue and remain liable for the performance of duties in the Agreement, less the avails of reletting (after deduction of all reasonable expenses of recovery of possession and reletting), if any. Upon such expiration, termination or re-entry as aforesaid, neither Operator, Operator's creditors or representatives shall thereafter have any right, legal or equitable, in or to the Rail Lines or Adjoining Area or any part thereof, or in or to the repossession of same, or in or to this Agreement; and Operator hereby waives all right of redemption which is or may hereafter be provided by law. The words "re-enter" and "re-entry" as used in this Agreement are not restricted to their technical legal meaning.

Any action taken by Owner under this paragraph shall not operate as a waiver of any other claim Owner might have against Operator, and Operator shall remain responsible to Owner for any loss and/or damage suffered by Owner by reason of Operator's default or breach. Such loss or damage encompasses any cost incurred by Owner to have Operator's obligations under this Agreement performed by another entity for the remainder of the initial term, which includes any excess of the price paid per car by

Operator to Owner over the price paid per car by an entity performing similar duties to Operator's duties under the Agreement after a default by Operator.

Any sums not paid by Operator when due hereunder shall bear interest at a per annum rate equal to the greater of 8% per annum or 2% in excess of the prime rate announced from time to time by Woodstown National Bank. All costs incurred by Owner in enforcing its rights hereunder, including attorney's fees and court costs, shall be payable by Operator as an additional Fee and shall be due immediately upon demand.

17. Waiver. The failure of Owner or Operator to insist in any one or more instances upon the performance of any of the covenants or conditions of the Agreement or to exercise any right or privilege herein conferred shall not be construed as thereafter waiving or relinquishing any such covenants, conditions, rights or privileges and the same shall continue and remain in full force and effect, and waiver of one default or right shall not constitute waiver of any other default; and the receipt of any rent by Owner from Operator or any assignee of Operator, or of any portion thereof, shall not operate as a waiver of the right of Owner to enforce any of the obligations of the Agreement by such remedies as may be appropriate, and shall not waive or avoid the right of Owner at any time thereafter to elect to terminate this Agreement, on account of any such assignment, transferring of this Agreement or any other breach of any covenant herein, or condition of the Agreement, unless evidenced by Owner's written waiver.

18. Grace Period. Notwithstanding anything herein above stated, it is understood and agreed that neither party hereto will exercise any right or remedy provided for in the Agreement or allowed by law because of any default of the other, unless such party shall have first given written notice thereof by registered mail to the other, and the other, within a period of fifteen (15) days thereafter, shall have failed to pay the sum or sums due if the default consists of the failure to pay money, or if the default consists of something other than the payment of money, shall have failed, within fifteen (15) days thereafter to begin and actively and diligently in good faith to proceed with the correction of the default until it shall be fully corrected; provided, however, that no such notice from Owner shall be required nor shall Owner be required to allow any part of the said notice period or if Operator shall have removed from or shall be in the course of removing from the Rail or if a petition in bankruptcy or for reorganization shall have been filed by or against Operator, resulting in an adjudication of bankruptcy or for reorganization or if a Receiver or Trustee is appointed for Operator and such appointment and such Receivership or Trusteeship is not terminated within sixty (60) days or Operator makes an assignment for the benefit of creditors or if Operator is levied upon and is about to be sold out from the Rail Line by any sheriff, marshal or constable.

19. Notices. All notices required or permitted hereunder from either of the parties to the other shall be in writing and sent by .

Registered Mail, return receipt requested, postage prepaid. Notices to Operator shall be addressed to:

SMS Rail Service, Inc.
P.O. Box 711
Bridgeport, NJ 08014
with a copy to:

Joseph J. Kalkbrenner, Jr., Esquire
HUGHES, KALKBRENNER & ADSHEAD, LLP
Suite 205, 1250 Germantown Pike
Plymouth Meeting, PA 19462

Notices to Owner shall be addressed to:

Valero Refining Company- New Jersey
800 Billingsport Road
Paulsboro, NJ 08066

with a copy to:
Manager-Rail Movements
Valero Marketing and Supply Company
One Valero Place
San Antonio, Texas 78212

Either party may at any time, in the manner set forth for giving notices to the other, set forth a different address to which notice to it shall be sent.

20. Definitions.

(a) "Owner". The word "Owner" is used herein to include the Owner named above as well as its successors and assigns, as well as the heirs, personal representatives or successors and assigns of any such subsequent Owner, each of whom shall have the same rights, remedies, powers, authorities and privileges as he would have had he originally signed this Agreement as Owner, but any such person or entity, whether or not named

herein, shall have no liability hereunder after he ceases to hold title to the Property, except for obligations which may have heretofore accrued.

(b) "Operator". The word "Operator" is used herein to include the Operator named above as well as its successors and assigns, each of which shall be under the same obligations, liabilities, privileges and powers as it would have possessed had it originally signed this Agreement as Operator. However, no such rights, privileges or powers shall inure to the benefit of any assignee of Operator, immediate or remote, unless the assignment to such assignee has been approved in writing by Owner.

(c) "Service". The word "service" includes, but is not limited to, picking up and delivering train cars from or to the Conrail line from or to a point within the Property, transporting, loading and unloading train cargo, and performing all maintenance duties necessary to operate the Rail Line in accordance with the terms of this Agreement.

(d) "Rail Line". The term "Rail Line" shall include all that track described in Section 1, including the approximately 5.8 miles of track and the land within a distance of fifteen (15) feet on each side of the centerline of the track, and all track, rails, switches, ties, beds, equipment apparatus, buildings and improvements forming a part thereof, located therein or thereon or used in connection therewith.

21. Entire Agreement. It is expressly understood and agreed by and between the parties hereto that this Agreement and the exhibits attached hereto set forth all the promises, agreements, conditions and understandings

between Owner and Operator with respect to the Rail Line, and that there are no promises, agreements, conditions or understandings, either oral or written, between them other than are herein set forth. It is further understood and agreed that no subsequent alteration, amendment, change or addition to this Agreement shall be binding upon Owner or Operator unless reduced to writing and signed by them.

22. Severability. If any provision of this Agreement is found invalid the remainder of this Agreement shall stay in full force and effect.

23. Captions. It is agreed that the captions of the Agreement are for convenience only and are not a part of the Agreement and do not in any way limit or amplify the terms and provisions of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement under seal as of the day and year first above written.

OWNER:
VALERO REFINERY COMPANY-NEW JERSEY

By: Donald T. Harris

Title: VP/Gen Mgr

OPERATOR:
SMS RAIL SERVICE, INC.

By: [Signature]

Title: Pres.

"Public Version"

**SECOND AMENDMENT TO RAIL LINE SERVICE
AGREEMENT DATED AUGUST 31, 2000**

THIS AGREEMENT made as of the ____ day of May, 2010, by and between SMS RAIL SERVICE, INC., a Pennsylvania corporation registered to conduct business in the State of New Jersey ("SMS" or "Operator") and VALERO REFINING COMPANY - NEW JERSEY, a Delaware corporation ("Valero" or "Owner").

THE BACKGROUND OF THIS AGREEMENT IS AS FOLLOWS:

A. Valero and SMS entered into a Rail Line Service Agreement dated August 31, 2000 (the "Original Agreement") whereby SMS services and maintains the rail line at Valero's refinery located at 800 Billingsport Road, Paulsboro, New Jersey 08066 (the "Refinery") which Original Agreement is incorporated herein by reference.

B. Valero and SMS entered into a First Amendment to Rail Line Service Agreement Dated August 31, 2000 in November of 2002 in order to modify the Original Agreement to permit SMS to sublet a portion of the rail line to The Savage Companies, so that the Savage Companies could operate a transloading facility for petroleum coke or petroleum coke products (the Original Agreement and First Amendment are referred to collectively as the "Current Agreement").

C. Valero and SMS desire to amend the Current Agreement to permit Valero to terminate the Ten Year Renewal Option set forth at paragraph 2(b) of the parties' Original Agreement as set forth in more detail herein below.

D. Except as set forth at paragraph C. herein above regarding the term of the Current Agreement, Valero and SMS desire to have SMS continue to provide all of the usual and

customary services SMS has provided for Valero at the Refinery on an ongoing basis until such time as Valero provides SMS with ninety (90) days written notice of its intention to terminate the Current Agreement as set forth herein below.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement and intending to be legally bound, SMS and Valero agree as follows:

1. SMS and Valero agree that on the date this Second Amendment is fully executed by the parties; (a) the business terms of the Current Agreement shall continue on an ongoing basis until such time as Valero provides SMS with ninety (90) days written notice of its intention to terminate both: (a) the Ten Year Renewal Option, as it is defined at paragraph 2(b) of the Original Agreement and (b) the Current Agreement.

2. It is expressly understood and agreed by and between the parties hereto that the Original Agreement and all prior amendments to the Original Agreement are incorporated into this Second Amendment to Rail Line Service Agreement and that collectively such documents set forth all of the promises, agreements, conditions and understandings between Valero and SMS with respect to the rail line, and that there are no promises, agreements, conditions or understandings, either oral or written, between them other than are herein set forth. It is further understood and agreed that no subsequent alteration, amendment, change or addition to this Agreement shall be binding upon Valero or SMS unless reduced to writing and signed by them.

3. In all other respects, the prior agreements are ratified and confirmed and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto intending to be legally bound

hereby and for good and valuable consideration, the receipt and sufficiency of which is acknowledged, have executed this Agreement under seal as of the day and year first above written.

**OWNER:
VALERO REFINERY COMPANY NEW JERSEY**

By: Jack Eisemann

Title: VP & General Manager

Date: 8-26-2010

**OPERATOR:
SMS RAIL SERVICE, INC.**

By: [Signature]

Title: Pres

Date: 8-25-10

EXHIBIT C

From: OMalley, James [mailto:James.OMalley@pbfenergy.com]

Sent: Thursday, September 22, 2011 3:03 PM

To: rbucko@smsrail.com

Cc: Kennedy, Pat J; Eisenmann, Jack; Krynski, Steve; Sittmann, Robert; Lucey, Don; Warden, Art; Wujcik, Alexander; Keating, James; Lucey, Don; Jason Ray

Subject: Rail operations

After a careful review of the quotations provided to PBFenergy by your group and others we have decided to award a contract to manage all of our rail activities at DCR and Paulsboro to the Savage Services Group. We would like our transition team to begin discussions with your group early next week so that we can develop a comprehensive plan for an orderly transition to be completed by November 14, 2011, if possible. Also, we would appreciate you providing us with the name and contact information for the individual heading your team.

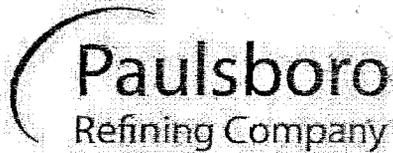
We would like to schedule a meeting (October 13) with your group to discuss all of the financial and operational issues that might arise during the initial transition period (September 26 to October 13). The Savage Group will act as our consultant during this period and will develop transition schedules with your group to allow us to meet the November deadline.

We appreciated the service your group has provided since December 17,2011 and we look forward to an orderly transition. If you have any questions, I am available at 561-901-4250.

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"Public Version"



Paulsboro Refining Company LLC
1 Sylvan Way
Parsippany, NJ 07054

PH: 973-455-7500
FX: 973-455-7560
www.pbfenergy.com

October 27, 2011

VIA E-MAIL; ORIGINAL VIA

US Registered Mail, Return Receipt Requested 7011 1570 0002 7288 1716

SMS Rail Service, Inc.
PO Box 711
Bridgeport, NJ 08014
Attention: Jeffrey L. Sutch, President

Re: Termination of Rail Line Service Agreement

Dear Mr. Sutch:

As we have previously notified SMS by email dated September 22, 2011, Paulsboro Refining Company LLC ("PRC") has decided that it wishes to terminate the Rail Line Service Agreement, as amended (the "Agreement"), between SMS Rail Service, Inc. ("SMS") and PRC (as the successor to Valero Refining Company - New Jersey). As you know, the Second Amendment to Rail Line Service Agreement dated August 31, 2000, provides that the Agreement can be terminated on ninety (90) days written notice. Accordingly, based on September 22 notice, the Agreement will terminate as of December 21, 2011.

Pursuant to Section 10 of the Agreement, SMS agreed, upon termination, "promptly to yield up, clean and neat, and in the same condition, order and repair in which it is required to be kept throughout the term hereof, the Rail Line and to remove [SMS's] railcars and equipment." We understand that because of SMS's status as a common carrier by rail it cannot stop providing common carrier service until it receives authority from the Surface Transportation Board ("STB") to discontinue such service at Paulsboro. We expect SMS promptly to seek such authority, through an application or petition for exemption, as part of its duty under Section 10. If it fails to do so, and/or if PRC is forced to seek such authority, then PRC intends to hold SMS responsible for all costs PRC incurs as a result of SMS's breach.

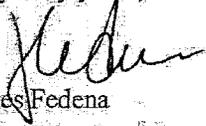
Between now and the termination date, we expect SMS to fulfill its common carrier and other obligations under the Agreement.

PRC has made arrangements to be served by a switching contractor beginning immediately upon the termination of the Agreement, and thereafter PRC will no longer need or use SMS's carrier or switching services. We have been advised that there is no prohibition against a private or contract carrier operating over the same tracks that are also operated by a common carrier. PRC will ensure with its contractor that SMS is provided sufficient track space to store a locomotive, and that SMS will have sufficient operating windows and use of necessary tracks within the facility to fulfill its common carrier obligations to any other rail customer served at the Paulsboro facility (we understand that at this time, ExxonMobil is the only other active customer). The details can be worked out among you, us and our new contractor during the period between now and the termination date.

We have appreciated the service you provided to PRC during this transition period, but we have decided to move in a different direction for the handling of our switching needs.

We stand ready to discuss the transition with you, and how to facilitate your termination of services, including any reasonable shortening of the 90-day period that you might prefer.

Very truly yours,


James Fedena
Senior Vice President

cc (via US Registered Mail, Return Receipt Requested 7011 1570 0002 7288 1709):

Joseph J. Kalkbrenner, Jr., Esquire
Hughes, Kalkbrenner & Ozorowski, LLP
Suite 205, 1250 Germantown Pike
Plymouth Meeting, PA 19462

Cc (via email):

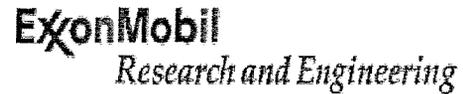
Arthur G. Warden, III
Fritz Kahn

EXHIBIT D

"Public Version"

ExxonMobil Research and Engineering Company
600 Billingsport Road
Paulsboro, NJ 08066
856.224.2417 Telephone
856.224.2860 Facsimile

Michael A. Carrocino
Facility Manager



December 26, 2013

Kevin Fetchko, SHE Director
Paulsboro Refining Company
Paulsboro, New Jersey 08066

Kevin,

You have advised us that you are seeking to change your rail service from the existing common carrier SMS to a private switching contractor.

ExxonMobil currently receives and returns less than 10 carloads by rail per year to and from its facility in Paulsboro.

We take no exception with the change in the operator and how the switching will be handled. Similar to other PRC employees/contractors working at our site, we will need to ensure that the switching contractor employees are cleared under the Department of Homeland Security's Transportation Worker Identification Credentials (TWIC) program.

Sincerely,

Michael A. Carrocino
Facility Manager

EXHIBIT E

BERKOWITZ · KLEIN LLP
ATTORNEYS AT LAW
629 B SWEDES FORD ROAD
SWEDES FORD CORPORATE CENTER
MALVERN, PENNSYLVANIA 19355-1530

Robert A. Klein

Telephone 610-889-3200
Fax 610-889-9564

July 16, 2012

Christopher R. Gibson, Esquire
Archer & Greiner, P.C.
One Centennial Square
P.O. Box 3000
Haddonfield, New Jersey 08033-0968

Re: Paulsboro Refining Company, LLC v. SMS Rail Service, Inc.,
U.S. District Ct., D.N.J. (Camden),
Civil Action No. 1:12-cv-02828-JBS-KMW

Dear Mr. Gibson:

Please advise pursuant to which provision of the Rail Line Service Agreement your client Paulsboro Refining Company, LLC ("PRC") deems itself to have a right to have a third party inspect the track at the Paulsboro Refinery. We reviewed the agreement and found nothing providing PRC the right to such an inspection of the track. If there is such a provision in the agreement, of course our client SMS Rail Service, Inc. will comply.

Sincerely,
BERKOWITZ KLEIN, LLP

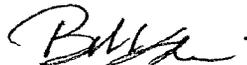

Robert A. Klein

EXHIBIT F

[REDACTED]

EXHIBIT G

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

Notice of Application for Adverse Abandonment

On January __, 2014, Paulsboro Refining Company LLC ("Applicant") filed with the Surface Transportation Board, Washington, D.C. 20423, an application seeking the adverse abandonment of 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 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 Applicant's entire case for adverse abandonment was filed with the application.

The interest of railroad employees will be protected by Oregon Short Line Railroad Co.--Abandonment--Goshen, 360 ICC 91 (1979). The application will included the Applicant's entire case for adverse abandonment.

Any interested person may file with the Surface Transportation Board written comments concerning the proposed abandonment or protests (including the protestant's entire opposition case), within 45 days after the application is filed. 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 that do wish to participate actively and fully in the process should file a protest.

In addition, a commenting party or protestant may provide:

- (i) a statement of position and evidence regarding recommended provisions for protection of the interests of employees; and
- (ii) a statement pertaining to prospective use of the right-of-way for interim trail use and rail banking under 16 U.S.C. 1247(d) and §1152.29.

Parties seeking information concerning the filing of protests should refer to §1152.25.

Written comments and protests, including all requests for trail use, must 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 (insert the date 45 days after the date the application is filed). 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 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 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.

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. 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.

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

Notice of Application to ~~Abandon or to Discontinue Service~~for Adverse Abandonment

On ~~(insert date application was filed with the Board)~~ (name of applicant January . 2014, Paulsboro Refining Company LLC ("Applicant")) filed with the Surface Transportation Board, Washington, D.C. 20423, an application ~~for permission for~~seeking the adverse abandonment of ~~(the discontinuance of service on)~~ a line of railroad known as ~~_____~~ extending from railroad milepost near ~~(station name)~~ to ~~(the end of line or rail milepost) near (station name)~~, a distance of ~~_____~~ miles, in ~~{County(ies), State(s)}~~. The line includes the stations of ~~(list all stations on the line in order of milepost number, indicating milepost location)~~ and traverses through ~~_____~~ ~~(ZIP Codes)~~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 Codes Code 08066, in Gloucester County, New Jersey. There are no mileposts or stations associated with the line.

The line ~~(does)~~ (does not) contain federally granted rights-of-way. Any documentation in the ~~railroad~~ Applicant's possession will be made available promptly to those requesting it. The ~~applicant~~ Applicant's entire case for adverse abandonment ~~(or discontinuance)~~ (case in chief) was filed with the application.

This line of railroad has appeared on the applicant's system diagram map or has been included in its narrative in category 1 since ~~(insert date)~~.

The interest of railroad employees will be protected by ~~(specify the appropriate conditions)~~ Oregon Short Line Railroad Co.--Abandonment--Goshen, 360 ICC 91 (1979). The application will included the Applicant's entire case for adverse abandonment.

Any interested person may file with the Surface Transportation Board written comments concerning the proposed abandonment ~~(or discontinuance)~~ or protests (including the protestant's entire opposition case), within 45 days after the application is filed. All interested persons should be aware that following any abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any 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) and any. 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 after from the date of filing of the application is filed. Persons who may oppose the abandonment ~~or discontinuance~~ 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 ~~public use or 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.

In addition, a commenting party or protestant may provide:

(i) ~~An offer of financial assistance, pursuant to 49 U.S.C. 10904 (due 120 days after the application is filed or 10 days after the application is granted by the Board, whichever occurs sooner);~~(ii) ~~Recommended a statement of position and evidence regarding recommended provisions for protection of the interests of employees;~~(iii) ~~A request for a public use condition under 49 U.S.C. 10905; and~~
(iv) ~~(ii) A~~ statement pertaining to prospective use of the right-of-way for interim trail use and rail banking under 16 U.S.C. 1247(d) and §1152.29.

Parties seeking information concerning the filing of protests should refer to §1152.25.

Written comments and protests, including all requests for ~~public use and trail use conditions~~, must indicate the proceeding designation STB No. AB ~~1095~~ (Sub-No. ~~1~~) and ~~should~~ must be filed with the Chief, Section of Administration, Office of Proceedings, Surface Transportation Board (~~Board~~), Washington, DC 20423-0001, no later than (insert the date 45 days after the date ~~applicant intends to file its~~ the application is filed). Interested persons may file a written comment or protest with the Board to become a party to this abandonment (~~or discontinuance~~) proceeding. A copy of each written comment or protest shall be served upon the representative of the applicant (~~insert name, address, and phone number~~). Applicant: Eric M. Hocky, Clark Hill Thorp Recd. 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 part 1152, ~~every~~ each document filed with the Board must be served on all parties to the abandonment proceeding. 49 CFR 1104.12(a).

~~The~~ In this adverse abandonment, the line sought to be abandoned (or discontinued) will not be available for subsidy or sale for continued rail use, if the Board decides to permit the abandonment (~~or discontinuance~~), in accordance with applicable laws and regulations (49 U.S.C. 10904 and 49 CFR 1152.27). ~~No subsidy arrangement approved under 49 U.S.C. 10904 shall remain in effect for more than 1 year unless otherwise mutually agreed by the parties (49 U.S.C. 10904(f)(4)(B)).~~ Applicant will promptly provide upon request to each interested party an estimate of the subsidy and minimum purchase price required to keep the line in operation. ~~The carrier's representative to whom inquiries may be made concerning sale or subsidy terms is (insert name and business address).~~ 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.

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. 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.

EXHIBIT H

CLARK HILL | THORP REED

Eric M. Hocky
T 215.640.8523
F 215.640.8501
Email: ehocky@clarkhill.com

Clark Hill Thorp Reed
One Commerce Square
2005 Market Street
Suite 1000
Philadelphia, PA 19103
T 215.640.8500
F 215.640.8501
clarkhillthorpreed.com

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.

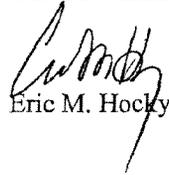
Cynthia T. Brown
December 9, 2013
Page 2

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.)

Cynthia T. Brown
December 9, 2013
Page 3

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

Cynthia T. Brown
December 9, 2013
Page 4

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

Fritz R. Kahn
Eighth Floor
1920 N street, NW
Washington, DC 20036-1601

Jonathan Broder
Conrail
1717 Arch Street, 32nd Floor
Philadelphia, PA 19103

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.

EXHIBIT I

MEMBER THE ASSOCIATED PRESS AND THE AMERICAN NEWSPAPER PUBLISHERS ASSOCIATION

Courier-Post
P.O. Box 5300
Cherry Hill, N.J. 08034

CLARK HILL/THORP REED
ONE COMMERCE SQUARE
Philadelphia, PA 19103

January 06, 2014

Attn: CAROL LYDON
Acct# 148962 Order # 0001642236

AD #	DATES	Advertisement/Description	Publications	NUMBER OF LINES	RATE PER LINE	TOTAL AMOUNT
0001642236	12/09/13, 12/16/13, 12/23/13	STB NO AB 1095	3 x	468	0.33	\$463.32
		Affidavit of Publication Charge				24.75
		TOTAL AMOUNT DUE				0.00

PAID

Check #: _____
Date: _____

CERTIFICATION BY RECEIVING AGENCY
I, HAVING KNOWLEDGE OF THE FACTS, CERTIFY AND DECLARE THAT THE GOODS HAVE BEEN RECEIVED OR THE SERVICES RENDERED AND ARE IN COMPLIANCE WITH THE SPECIFICATIONS OR OTHER REQUIREMENTS, AND SAID CERTIFICATION IS BASED ON SIGNED DELIVERY SLIPS OR OTHER REASONABLE PROCEDURES OR VERIFIABLE INFORMATION.

SIGNATURE: _____
TITLE: _____ DATE: _____

CERTIFICATION BY APPROVAL OFFICIAL
I CERTIFY AND DECLARE THAT THIS BILL OR INVOICE IS CORRECT, AND THAT SUFFICIENT FUNDS ARE AVAILABLE TO SATISFY THIS CLAIM. THE PAYMENT SHALL BE CHARGEABLE TO:

APPROPRIATION ACCOUNT(S) AND AMOUNTS CHARGED: P.O. # _____

SIGNATURE: _____
TITLE: _____ DATE: _____

CLAIMANT'S CERTIFICATION AND DECLARATION
I DO SOLEMNLY DECLARE AND CERTIFY UNDER THE PENALTIES OF THE LAW THAT THIS BILL OR INVOICE IS CORRECT IN ALL ITS PARTICULARS; THAT THE GOODS HAVE BEEN FURNISHED OR SERVICES HAVE BEEN RENDERED AS STATED HEREIN; THAT NO BONUS HAS BEEN GIVEN OR RECEIVED BY ANY PERSON OR PERSONS WITHIN THE KNOWLEDGE OF THIS CLAIMANT IN CONNECTION WITH THE ABOVE CLAIM; THAT THE AMOUNT HEREIN STATED IS JUSTLY DUE AND OWING, AND THAT THE AMOUNT CHARGED IS A REASONABLE ONE.

Date: January 06, 2014 Signature: *Andy Kadmil* Federal ID #: 061032273
Official Position: Clerk

Kindly return a copy of this bill with your payment so that we can assure you proper credit.

Affidavit of Publication

Publisher's Fee \$463.32 Affidavit \$24.75

State of New Jersey } SS.

Camden County

Personally appeared *Sandy Koblentz*

Of the **Courier-Post**, a newspaper printed in Cherry Hill, New Jersey and published in Cherry Hill, in said County and State, and of general circulation in said county, who being duly sworn, deposes and saith that the advertisement of which the annexed is a true copy, has been published in the said newspaper 3 times, once in each issue as follows:

12/09/13, 12/16/13, 12/23/13

_____ A.D. 2014

Sandy Koblentz

Sworn and subscribed before me, this
6 day of January, 2014

Maria D. Martinez

Notary Public of New Jersey

MARIA D. MARTINEZ
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 5/22/2017

STB No. AB 1095 (Sub-No. 1)
Notice of Intent to File Adverse
Abandonment

Pauisboro 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 Pauisboro, 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 intraport 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 (1975). 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 por-

tion 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.

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"Public Version"

AFFIDAVIT OF PUBLICATION

State of New Jersey
ss:
Gloucester County
Salern County
Cumberland County

Joseph P. Owens, being duly sworn, on his oath, says he is an agent of the South Jersey Media Group, publishers of "South Jersey Times", a newspaper printed and published at Cherry Hill, N.J. for the State and Counties of Gloucester, Salem and Cumberland aforesaid, and that a notice of which the annexed is a true copy, was published in said newspaper for a period of 3 time(s), successively commencing on the 9th day of December, 2013, and continuing December 10th, December 23rd, 2013.

PUBLIC NOTICE

STB No. AB 1095 (Sub-No. 1)
Notice of Intent to File Adverse Abandonment

Pasuborn 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 3.8 miles of railroad tracks (the "Line") currently operated by SMS Rail Service, Inc. ("SMS") within the 870-acre Pasuborn, 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 erect 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.

Joseph P. Owens
General Manager
Sworn to and subscribed to me this 23rd day of December, 2013.

Cynthia J. Frazier
Notary Public of New Jersey
My commission Expires on May 12, 2016

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 (51152.28 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) (5 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 facts).
(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 51152.29.

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 Road, One Commerce Square, 2005 Market Street, Philadelphia, PA 19103; 215-543-8500. 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. 10504 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.