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Office of Proceedings
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February 1, 2013



Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E. Street, S.W.
Washington, DC 20024

**Re: STB Finance Docket No. 35239-Allegheny Valley Railroad
Petition for Declaratory Order-The Buncher Company, Respondent**

Dear Ms. Brown:

We represent The Buncher Company, the Respondent in the above-reference matter pending before the Surface Transportation Board. We wrote to you regarding this matter just two weeks ago, on January 14, 2013, with a copy to Petitioner's counsel. Perhaps in reaction to that letter or as part of an ongoing effort to create obstruction, Petitioner's Chief Executive Officer sent a letter dated January 28, 2013 which he copied to the "City of Pittsburgh, Urban Redevelopment Authority and Surface Transportation Board." In the event his letter has not yet come to your attention, we attach a copy of it hereto.

Clearly, Petitioner's Chief Executive Officer is attempting to maximize his delay of a major project underway in Pittsburgh, and is doing so pretending to ignore the procedural history that has occurred in the above-referenced matter between the June 15, 2010 date of the Surface Transportation Board's initial ruling and the appeal, consensual remand and reconsideration that has been underway ever since. In the penultimate paragraph of our January 14, 2013 letter to you, Respondent respectfully requested that a decision of the matters pending before the Surface Transportation Board be made as soon as possible. The attached letter is further evidence of why a decision of this long-pending matter is important.

For information purposes only, we also attach hereto our response to Petitioner's January 28, 2013 letter.

Very truly yours,

BUCHANAN INGERSOLL & ROONEY

By:

Joseph F. McDonough

JFM:jcp

Enclosures

cc: Richard R. Wilson, Esquire

Russell A. Peterson
CEO
519 Cedar Way, Bldg. 1, Suite 100
Oakmont, PA 15139
Phone: 412.426.2000
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January 28, 2013

Mr. Thomas Balestrieri, President and CEO
The Buncher Company
1300 Penn Avenue, suite 300
Pittsburgh, PA 15222

Re: Allegheny Valley Railroad Company Rail Line Reactivation Notice

Dear Mr. Balestrieri,

As you will recall, on June 15, 2010, the Surface Transportation Board ruled that Allegheny Valley Railroad (hereinafter "AVR") retains an active rail easement over The Buncher Company property between 16th and 21st Street in the Pittsburgh Strip District. The purpose of this notice is to advise you that the AVR, pursuant to acquisition and operating authority issued by the Federal Surface Transportation Board in Finance Docket No. 32783, Allegheny Valley Railroad - Acquisition And Operation Exemption - Certain Lines of Consolidated Rail Corporation (served November 17, 1995), intends to reconstruct and operate its track over its railroad right-of-way as part of its plans to provide more flexible rail freight service and passenger service to downtown Pittsburgh.

AVR therefore requests that The Buncher Company remove any concrete barriers obstructing AVR's permanent rail easement and restrict parking to that portion of The Buncher Company's property that is not subject to AVR's permanent rail easement. AVR intends to utilize the full 90-foot width of its railroad right-of-way between 16th and 21st Streets. To the extent that any question exists regarding the precise dimensions of its permanent rail easement, AVR is prepared to use all legal means necessary to resolve those issues.

Should you have any questions in connection with this matter, please do not hesitate to contact me.

Very truly yours,

ALLEGHENY VALLEY RAILROAD COMPANY



Russell A. Peterson, CEO

Cc: City of Pittsburgh
Urban Redevelopment Authority
Surface Transportation Board

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February 1, 2013

Richard R. Wilson, Esquire
18 N. Center Street, Suite 1
Ebensburg, PA 15931



**Re: STB Finance Docket No. 35239-Allegheny Valley Railroad
Petition for Declaratory Order-The Buncher Company, Respondent**

Dear Mr. Wilson:

We are responding on behalf of The Buncher Company to a letter sent by your client's Chief Executive Officer dated January 28, 2013. You are not shown as receiving a copy of the letter, but we have provided one to you by way of our letter of even date herewith to Cynthia T. Brown, Chief, Section of Administration, Office of Proceedings, Surface Transportation Board.

Mr. Peterson's letter is obviously intended for political purposes as part of his effort to obstruct The Buncher Company's major Pittsburgh development that is now coming to fruition. As we both know, Mr. Peterson has no real intention of extending railroad track or any business reason whatsoever to do so. Notably, his January 28, 2013 letter does not describe a single reason for extending track (or a single potential customer seeking rail service) into an area where no track has existed for several decades.

The Buncher Company remains confident that the rights claimed by your client Allegheny Valley Railroad Company do not exist. The position of The Buncher Company that it will not pay to purchase rights that do not exist remains intact. Accordingly, The Buncher Company respectfully declines the requests contained in, and implied by, Mr. Peterson's January 28, 2013 letter.

Very truly yours,

BUCHANAN INGERSOLL & ROONEY

By:

Joseph F. McDonough

JFM:jcp