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STEPHEN D. COAN  
STATE FIRE MARSHAL

January 31, 2014

**Via Electronic Filing**

235397

Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, SW  
Washington, D.C. 20423

ENTERED  
Office of Proceedings  
January 31, 2014  
Part of  
Public Record

**Re: Petition for Declaratory Order  
Docket No.: FD 35752, Grafton & Upton Railroad Company**

Dear Ms. Brown:

I write you in regard to the above captioned matter. On January 24, 2014, the Surface Transportation Board (“STB”) issued a decision relative to Grafton & Upton Railroad Company’s petition for Declaratory Order, docket no. FD35752. As part of its decision, the STB commented in footnote 2, page 2, that “the Massachusetts Department of Fire Services filed a reply in **support** (emphasis added) of the petition” [of the Grafton & Upton Railroad Company].

I wish to place the STB on notice and would request a correction of the record, which would indicate that the Department of Fire Services (“DFS”) did not in fact support Grafton & Upton Railroad Company’s petition. Rather, the DFS did not contest the principle of preemption under the ICCTA if the STB found Grafton & Upton Railroad Company was entitled to preemption in this matter. In fact, the DFS on page 10 of its reply (filed August 23, 2013), supported the Town of Grafton’s request for a full and complete declaratory order proceeding to determine the ownership and control of the facility which would directly touch on the issue of preemption and by implication, define the rights of DFS regarding its enforcement authority over this facility. In fact, the Board has now ordered a Declaratory proceeding in this matter, which DFS supports.

I greatly appreciate your anticipated cooperation in clarifying the record in this matter. If

you have any questions regarding this filing, or if I can be of any further assistance, please feel free to contact me at (978) 567-3182.

Very truly yours,

A handwritten signature in black ink that reads "Steven P. Rourke". The signature is written in a cursive style with a large, prominent "S" at the beginning.

Steven P. Rourke, General Counsel

SPR/ml

CC: Keith T. Borman, Esq., American Short Line and Regional Railroad Association  
James E. Howard, Esq. for the Grafton & Upton Railroad  
Fritz R. Kahn, Esq., for the Town of Grafton, Massachusetts  
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