

# CLARK HILL

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## VIA E-FILING

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)  
**Application for Adverse Abandonment**

Dear Ms. Brown:

We are writing to respectfully request that the Board issue a decision on the Application for Adverse Abandonment in the above referenced matter as promptly as possible because the operator SMS Rail Service, Inc. (SMS) has had three additional safety incidents at the Paulsboro refinery since the last filings were made.

Paulsboro Refining Company (PRC) is concerned that the uncertainty caused by the continuing pendency of this proceeding is leading SMS to lose focus on the safety of its operations, as well as the maintenance and repair of the tracks and SMS's equipment.

The most recent and by far most serious incident occurred in June when an SMS locomotive pushed six loaded and five empty propane cars for a distance of 10 feet beyond the end of track-stop/bumper, separating the track, and causing a derailment. SMS subsequently advised PRC that the root cause was the failure of radio equipment in the locomotive that made it impossible for the crewman on the ground to communicate with the engineer. During the post-incident investigation, which was attended by representatives of both PRC and SMS, as well as the crew,

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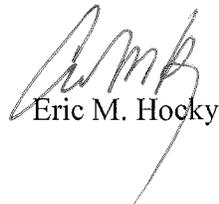
the engineer indicated he believed that he was following FRA procedures when communications are lost by proceeding to stop in one-half the distance. He reported he felt good about the operations, and "it could have been worse..." In the face of the serious potential danger inherent in this type of incident, the engineer's casual response is unacceptable to PRC. PRC is concerned that that if the issuance of a decision continues to be extended, there will only be more opportunities for incidents like this to be repeated

According to 49 CFR 1152.26(a), the Board will issue a decision in an abandonment proceeding within 110 days of when the application was filed. The timetable set forth in the regulations do not distinguish between a "regular" and an "adverse" abandonment, and provide adequate time for the Board to make its determination. In this matter, the Application for Adverse Abandonment was over 185 days ago, and it has been more than 75 days since the Board accepted the last supplemental filings into the record.

In light of the recent derailment and escalating safety concerns, as well as SMS's unacceptable response thereto, PRC respectfully requests that the Board promptly issue a decision. Thank you for your consideration of this request

Respectfully,

CLARK HILL THORP REED



Eric M. Hocky

EMH/e

cc: All parties shown on attached service list

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**AB 1095 (Sub No. 1) Service List**

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