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May 11, 2009

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225097

The Honorable Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
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Washington, D.C. 20423-0001

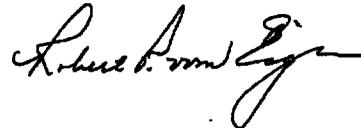
Subject: Finance Docket No. 34914 – *DesertXpress Enterprises LLC, Petition for Declaratory Order – Petition to Intervene and Reopen – Reply to Reply*

Dear Acting Secretary Quinlan:

Enclosed for filing in the above-referenced proceeding are the following:

- (1) Joint Petition of California-Nevada Super Speed Train Commission (“CNSSTC”) and the American Magline Group (“AMG”) for Leave to File a Rebuttal in Response to the Replies by DesertXpress and the International Brotherhood of Teamsters Rail Conference (“IBT”) in Opposition to the Joint Petition to Intervene and Reopen this proceeding; and
- (2) Rebuttal by CNSSTC and AMG to Replies in Opposition to Petition to Intervene and Reopen.

Sincerely yours,



Robert P. vom Eigen

RVE:dmo

Enclosures

**Before the
SURFACE TRANSPORTATION BOARD
Washington, D.C.**

Finance Docket No. 34914

DESERTXPRESS ENTERPRISES, LLC—PETITION FOR DECLARATORY ORDER

**JOINT PETITION OF THE CALIFORNIA-NEVADA SUPER SPEED TRAIN
COMMISSION AND AMERICAN MAGLINE GROUP FOR LEAVE TO FILE
REBUTTAL TO THE REPLIES IN OPPOSITION TO PETITION TO INTERVENE
AND REOPEN**

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CALIFORNIA-NEVADA SUPER SPEED
TRAIN COMMISSION AND
AMERICAN MAGLINE GROUP

May 11, 2009

**Before the
SURFACE TRANSPORTATION BOARD**

225097

Finance Docket No. 34914

DESERTXPRESS ENTERPRISES, LLC—PETITION FOR DECLARATORY ORDER

**JOINT PETITION OF THE CALIFORNIA-NEVADA SUPER SPEED TRAIN
COMMISSION AND AMERICAN MAGLINE GROUP FOR LEAVE TO FILE
REBUTTAL TO THE REPLIES IN OPPOSITION TO PETITION TO INTERVENE
AND REOPEN**

The California-Nevada Super Speed Train Commission (“CNSSTC”) and the American Magline Group (“AMG”) file this Petition for Leave to File a Rebuttal in response to the Replies by DesertXpress and IBT in Opposition to the Joint Petition to Intervene and Reopen this proceeding.

While Petitioners are aware of the STB’s regulation prohibiting the submission of a reply to a reply at 49 C.F.R. § 1104.13(c), Petitioners understand that the Board has discretion to accept such a pleading where it contains material that adds to the Board’s understanding of the issues.¹ The attached Rebuttal of Petitioners to the DesertXpress and IBT Replies in Opposition to AMG and CNSSTC’s Petition to Reopen and Intervene responds to issues raised by DesertXpress’s Reply that are not addressed in the Joint Petition to Reopen and Intervene such as DesertXpress’s assertion that the Board is the “appropriate” agency to exercise jurisdiction in this matter. In addition, Petitioners’ Rebuttal provides further discussion as to why the

¹ See, e.g., *Jefferson Terminal Railroad Company – Acquisition and Operation Exemption – Crown Enterprises, Inc.*, STB Finance Docket No. 33950, Mar. 15, 2001, at p. 3.

Petitioners' delayed filing in this matter does not affect the Board's ability to retain subject matter jurisdiction over this proceeding. Further, Petitioners' Rebuttal addresses the viability of the California-Nevada Interstate Maglev Project ("CNIMP"), and demonstrates that reopening the proceeding would not cause harm to DesertXpress.

For the foregoing reasons, AMG and CNSSTC respectfully request that its Joint Petition for Leave to File a Rebuttal in Response to the Replies in Opposition to AMG and CNSSTC's Petition to Reopen and Intervene be granted, and that the Petitioners' Rebuttal be considered by the Board in this proceeding.

Respectfully submitted,



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