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September 1, 2009

Ms. Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

VIA ELECTRONIC FILING

Re: STB Finance Docket No. 35141
U S Rail Corporation – Construction and Operation Exemption –
Brookhaven Rail Terminal

Dear Ms. Quinlan,

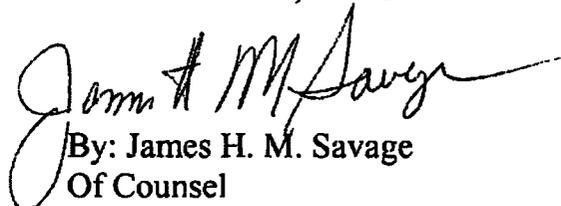
Please accept this joint status report from Petitioner U S Rail Corporation (“U S Rail”) and Respondent Town of Brookhaven (“Town”) in the above captioned proceeding. We are furnishing this status report pursuant to the Board’s June 12, 2009 Decision.

The parties are still actively engaged in settlement negotiations and are actively working toward a stipulation discontinuing the pending Federal District Court proceeding and resolving all outstanding issues between them regarding this STB proceeding. The Town Board is presently planning to take up the matter during the executive session portion of its upcoming meeting.

Jessica P. Driscoll, attorney for the Town of Brookhaven, has reviewed this letter and agrees with its content.

We shall continue to keep the Board advised.

Respectfully submitted,
John D. Heffner, PLLC


By: James H. M. Savage
Of Counsel

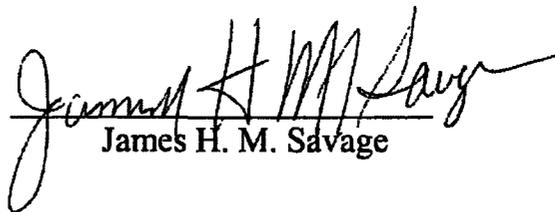
Attorneys for Petitioner
U S Rail Corp.

JHS/mhd

cc: Jessica Driscoll, Esq.
Robert A. Ryback

CERTIFICATION OF SERVICE

I, James H. M. Savage, an attorney-at-law of the District of Columbia, certify that I have served this day by electronic mail a true copy of the within pleading upon counsel for the Town of Brookhaven and by first class mail upon the New York State Department of Transportation.


James H. M. Savage

Dated: September 1, 2009

SERVICE LIST

Party of Record: Town of Brookhaven Mark A. Cuthbertson & Jessica P. Driscoll
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434 New York Avenue
Huntington, NY 11743

Party of Record: New York State Department of Transportation Robert A. Rybak
50 Wolf Road
Albany, NY 12232