

LAW OFFICES
JOHN D. HEFFNER, PLLC
1750 K STREET, N.W.
SUITE 200
WASHINGTON, D.C. 20006
PH: (202) 296-3333
FAX: (202) 296-3939

September 30, 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,

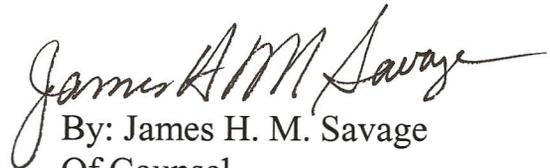
Please accept this joint status report from Petitioner U S Rail Corporation (“U S Rail”) and Respondent Town of Brookhaven (“Town”) in the above captioned proceeding. We are furnishing this status report pursuant to the Board’s June 12, 2009 Decision.

The parties are actively engaging 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 parties met at an executive work session of the Town Board on September 10, 2009 to discuss the provisions of the stipulation. The Town is in the process of considering the comments made at the September 10th executive session.

Mark A. Cuthbertson, 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: Mark A. Cuthbertson, 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 30, 2009

SERVICE LIST

Party of Record: Town of
Brookhaven

Mark A. Cuthbertson
Law Offices of Mark A. Cuthbertson
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