

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

October 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,

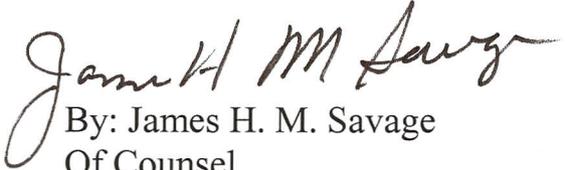
Please accept this joint status report from Petitioner U S Rail Corporation (“U S Rail”) and Respondent Town of Brookhaven (“Town”) in the above captioned proceeding. We are furnishing this status report pursuant to the Board’s June 12, 2009 Decision.

The parties continue to actively engage in settlement negotiations and work toward a stipulation discontinuing the pending Federal District Court proceeding and resolving all outstanding issues between them regarding this STB proceeding. The parties recently 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 and may discuss the matter further at its next meeting.

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

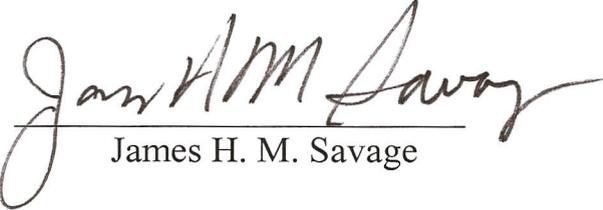
Attorneys for Petitioner
U S Rail Corp.

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