

STEPTOE & JOHNSON LLP

ATTORNEYS AT LAW

1330 Connecticut Avenue, NW
Washington, DC 20036-1795

Telephone 202.429.3000
Facsimile 202.429.3902
www.step toe.com

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DAVID H. COBURN
(202) 429-8063
dcoburn@step toe.com



January 25, 2002

Honorable Vernon Williams
Office of the Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

204603

Re: STB Finance Docket No. 33980, Riverview Trenton Railroad Company -- Acquisition and Operations Exemption -- Crown Enterprises

STB Finance Docket No. 34040, Riverview Trenton Railroad Company -- Petition for Exemption from 49 U.S.C. § 10901 to Acquire and Operate a Rail Line in Wayne County, MI

Dear Secretary Williams:

204604

This will update the Board on certain recent developments relevant to this matter.

First, as Riverview Trenton Railroad Company ("RTRR") has previously advised the Board, there is a proceeding pending in the United States District Court for the Eastern District of Michigan in which RTRR has asked the court to enjoin Wayne County from pursuing an eminent domain proceeding against the property on which it intends to operate a shortline railroad and related intermodal facility. *See Riverview Trenton Railroad Company v. County of Wayne*, Case No. 01-70078 (filed Jan. 5, 2001 E.D. Mich.).¹ RTRR has previously advised the Board that the Court issued a preliminary injunction in RTRR's favor on April 10, 2001. On January 15, 2002, a hearing was held on RTRR's October 17, 2001 motion for summary judgment in the proceeding. That hearing had been scheduled, at the Court's own initiative, on

¹ RTRR maintains that the County's eminent domain efforts were designed solely to prevent RTRR from using its property for rail transportation purposes. The County has never identified a critical public necessity for the property and recent reports suggest that the County wants to the property used for retail and similar commercial development.

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October 18, 2001. The Court did not rule at the January 15 hearing, but set a new hearing date of February 25, 2002.² The Court observed that any action by the Board in the interim may or may not inform its views on the October 17 summary judgment motion.

Second, RTRR is in receipt of a copy of a letter to the Board from Michigan representative Bruce Patterson opposing the RTRR project. Similarly, he has introduced a resolution in the Michigan House of Representative, which subsequently passed the House, raising concerns about the traffic and other environmental impacts of RTRR operations. It bears note that Representative Patterson fails to acknowledge that this Board, through its Section of Environmental Analysis ("SEA"), has undertaken a thorough environmental assessment of the RTRR project in which each of the issues he has raised were fully considered. (RTRR officials, after receiving a copy of Representative Patterson's letter and the resolution, arranged for the prompt delivery to him of a copy of the Draft Environmental Assessment prepared by SEA, which he acknowledged he had not previously reviewed.)

Further, Mr. Patterson states in his resolution that the need for any additional intermodal facility in the Detroit area could be better met at a different location, such as the proposed Detroit Intermodal Terminal. This point too has been addressed during the course of the environmental review process. The Detroit facility is still in the study phase and it is not at all clear that it will ever be constructed. Moreover, the State of Michigan Department of Transportation, which is a sponsor of the speculative Detroit facility, has advised SEA that it is not opposed to the construction of the RTRR facility.³ Also, the Southeast Michigan Council of Governments stated in its comment submitted to the environmental record of this matter that the RTRR facility "would address" the need "for a combined, shared rail/truck facility in the metro Detroit region" and that such a facility "would add to the region's economic competitiveness."

² On January 11, 2002, the City of Trenton and Grand Trunk Western Railroad Company, which are not parties to the Court suit, sought leave to file an amicus curiae brief with the Court, arguing that the Court should defer action until after the Board rules in the pending RTRR exemption proceedings. On January 22, RTRR filed a reply opposing their participation in the case as amici, urging that Wayne County is fully capable of representing its own interests with respect to the eminent domain/preemption issues before the Court and that the eleventh hour efforts by Trenton and GTW are untimely under governing principles.

³ GTW has also made the argument about the Detroit Intermodal Terminal. It did so because it may perceive more commercial benefits accruing to GTW from the Detroit facility than from the RTRR facility, which GTW apparently believes will benefit the Conrail Shared Assets Operator to GTW's competitive detriment. GTW's unusual opposition to the RTRR project is properly viewed from the perspective of GTW's own commercial interests. Those interests, of course, do not qualify as a relevant factor in the Board's disposition of this proceeding.

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The Board also should be aware that a group of regional/local activists, including organizers who are not from Riverview or Trenton, are spearheading efforts to question the bona fides of the RTRR project on the basis of an outrageous claim that RTRR intends to use the property for the construction of a deepwater port to facilitate the transfer of waste from Canada. This claim is entirely untrue, and reflects a baseless effort to link the RTRR project with the "hot button" area issues of deep injection wells and waste disposal/local landfill controversies. Further, it bears note that organizers perpetuating these inaccurate claims appear to be philosophically opposed to any railroad and like industrial presence in the area, as they are endeavoring to alter its historic industrial image. RTRR has in fact been sensitive to the interests of local officials who are favor public recreational access to the Detroit River, which abuts the RTRR project. RTRR remains engaged in discussions with them toward the end of restoring the waterfront area and facilitating public access.

At the same time, RTRR intends to operate a rail line on the property for the benefit of intermodal shippers in the area. The strange and unfounded claims about out-of-state trash now being heard are simply the latest manifestation of the "not in my backyard" attitude that has marked the actions of Wayne County and the Cities of Riverview and Trenton in this proceeding. RTRR believes that the County's eminent domain efforts were manufactured to prevent RTRR from moving forward, just as the latest efforts are being led by those who simply seek to have the RTRR property used for other than rail transportation purposes.

RTRR submits that it has met the qualifications for an exemption to allow it to operate as a rail common carrier and urges the Board to so find.

Sincerely,



David H. Coburn
Attorney for Riverview Trenton
Railroad Company

cc: All parties of record