

LAW OFFICES
PAUL H. LAMBOLEY
BANK OF AMERICA PLAZA
SUITE 645
50 W. LIBERTY STREET
RENO, NV 89501

TEL 775.786.8333
FAX 775.786.8334

E-MAIL
phlamboley@aol.com

Via E-filing

March 19, 2008

Hon. Ann K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, SW.
Washington, DC 20423-0001

Re: STB Ex Parte No. 677, Common Carrier Obligations of Railroads

Dear Secretary Quinlan:

Enclosed for filing in the above-captioned docket is the **Notice of Intent to Participate** submitted on behalf of Clean Earth of North Jersey, Inc., presented in both original and PDF version in WORD format.

Please acknowledge receipt.

Thank you.

Yours truly,

Paul H. Lamboley

PHL/nd
Enc.

UNITED STATES OF AMERICA

BEFORE THE SURFACE TRANSPORTATION BOARD

STB Ex Parte No. 677

COMMON CARRIER OBLIGATION OF RAILROADS

NOTICE OF INTENT TO PARTICIPATE

Pursuant to the Notice of the Surface Transportation Board, served February 22, 2008, 73 FR 10509, CLEAN EARTH OF NORTH JERSEY, INC. (“CENJ”) hereby files notice of its intent to participate in the Board’s examination of issues related to the common carrier obligation of railroads by speaking at the hearing scheduled for April 24, 2008 and submitting written testimony in advance thereof.

CENJ operates a RCRA Part B permitted Transfer, Storage and Disposal Facility (TSDF) that accepts hazardous and industrial waste from the greater NY/NJ area for environmentally safe treatment and disposal.

CENJ’s facility is located at 115 Jacobus Ave., Kearny, NJ, and lies within the North Jersey Shared Assets Area (“NJSAA”) as defined in Decision No. 89, in *CSX Corp. et al - Control – Conrail, Inc. et al*, 3 S.T.B. 196 (1998). The dual-track industrial spur at CENJ’s facility connects to a segment of the Meadows Industrial Track No. 2, OFA purchased from Conrail (“CRR”) by shipper, Gardner Asphalt (“GA”) and over which CRR provides switching service for line haul traffic via Norfolk Southern (“NS”) and/or CSX Transportation (“CSXT”).

CRR by-passes CENJ’s facility to provide switching service to GA, but refuses to provide switching service requested by CENJ. Not only is rail service essential to CENJ’s operations, CENJ anticipates its rail traffic will produce an estimated \$7-10

million in new revenue for carriers and remove substantial truck traffic from congested highways.

Speaking on behalf of CENJ will be Robert P. Fixter, V.P. and General Manager, of the Kearny facility, whose contact information is Clean Earth of North Jersey, Inc., 115 Jacobus Avenue, Kearny, NJ 07032, Tel. 973.344.4004.

Mr Fixter's testimony will detail CENJ's frustrations and disappointments experienced in efforts to obtain rail service. He will specifically address construction of CENJ's industrial spur, asserted "paper barrier" in related OFA agreement for Meadows No. 2, CRR's refusal to execute then implement the agreement negotiated with CENJ, CRR's refusal to provide requested switching service, and assistance sought by CENJ from the Office of Compliance and Consumer Assistance (OCCA).

Mr. Fixter will also generally address item nos. (1) – (6) and (8) set out in the Board's Notice, all as it relates to denial of rail service to CENJ's facility. Mr. Fixter's written testimony will be filed on or before April 17, 2008.

Mr. Fixter requests 12-15 minutes to summarize CENJ's experience in the pursuit and denial of rail service, as well as to respond to any questions the Board may have.

The undersigned will accompany Mr. Fixter and may address procedural or legal questions that arise.

Dated this 19th day of March, 2008.

_____/s/
Paul H. Lamboley
Bank of America Plaza
50 W. Liberty Street, Suite 645
Reno, NV 89501
Tel. 775.786.8333 Fax 775.786.8334
E-mail: phlamboley@aol.com

Attorney for Clean Earth of North Jersey, Inc.