

SILLSROAD MATERIALS LLC

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July 15, 2010

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

VIA ELECTRONIC FILING

RE: STB Finance Docket No. 35348
CSX Transportation, Inc. and Delaware & Hudson Railway Company, Inc. –
Joint Use Agreement

Dear Ms. Brown:

Sills Road Materials LLC (“SRM”) is writing as a result of New York & Atlantic Railway Company’s Comments in Opposition to Proposed Transaction and Request for Conditions (“NY&A Comments”) filed in the referenced matter on July 2, 2010.

As the Board is aware, U S Rail Corporation is seeking Board approval for the construction and operation of a freight rail facility, known as the Brookhaven Rail Terminal (“BRT”), in Yaphank, Long Island, New York. See, *STB Finance Docket No. 35141 U S Rail Corporation-Construction and Operation Exemption-Brookhaven Rail Terminal*. Sills Road Realty, LLC, an affiliate of SRM (collectively, “Sills Group”), is the owner of the real property on which the BRT will be located and the Sills Group will be a substantial user of the BRT in connection with the sale of, among other materials, crushed stone aggregate into the Long Island market. The primary sources of such aggregate are quarries (“Quarries”) in the Albany-Capitol district which currently ship via rail to the SRM Group on the Albany-Fresh Pond Segment referenced in the NY&A Comments. Aggregate shipments to the Sills Group currently constitute a significant portion of the Stone Traffic, referred to in the NY&A Comments, on the Albany-Fresh Pond Segment.

The Sills Group is committed to purchase annually up to 500,000 tons of aggregate from the Quarries for shipment to the BRT. The substantial investment of money to date in, and the long-

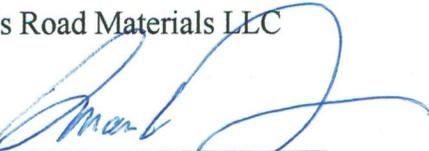
term, commercial viability of, the BRT are premised on the continuation, and, hopefully, enhancement, of adequate, reliable rail service, at reasonable rates, for stone shipments from the Albany area to the BRT. The stone business will be the “anchor tenant” of the BRT, will support the financing of the facility and will permit the BRT to serve the substantial demand for other rail freight services in the Long Island market.

SRM welcomes the commitment of CSXT and D&H that service and rates along the Albany-Fresh Ponds Segment will improve under the Joint Use Agreement. However, to the extent the Joint Use Agreement permits or, even worse, incentivizes rate and/or service instability, as the NY&A Comments suggest, the future of the BRT will be severely and adversely affected. To avoid that result and its broader effects on rail freight services on Long Island, we request the Board to condition its approval on (i) D&H, CSXT and NY&A negotiating a five year agreement using cost based pricing¹ based on the use of CSXT merchandise trains running in the Rouses Point - Selkirk - Oak Point corridor for stone moving from Comstock or Saratoga Springs, NY and its environs to Long Island and (ii) continuing Board oversight of ongoing service along the Albany- Fresh Ponds Segment.

A copy of this letter has been served on the date hereof upon all parties of record in this proceeding by first class mail, postage prepaid.

Very truly yours,

Sills Road Materials LLC

By: 

Gerard T. Drumm

¹ Cost based pricing under such agreement should reflect, among other things, efficiencies arising from the elimination of the present Mohawk-Schenectady-Amtrak-Kenwood yard routing, creating a stone block in existing service and moving the NY&A interchange from Fresh Pond to Oak Point.