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The Honorable Anne K. Quinlan  
Acting Secretary  
Surface Transportation Board  
395 E Street, S.W.  
Washington, DC 20423-0001

Re: Finance Docket No. 35360: *San Francisco Bay Railroad-Mare Island – Petition for Declaratory Order – Lennar Mare Island, LLC, and Pursuant to 49 U.S.C. § 11123 and 49 C.F.R. § 1146.1 (b)(1)(i) for Expedited Relief Due to Unauthorized Cessation of Operations*

Dear Acting Secretary Quinlan:

I am writing on behalf of Lennar Mare Island, LLC (“LMI”) concerning John F. McHugh’s letter to you dated August 25, 2010 (but received by us on August 26), which seeks on behalf of San Francisco Bay Railroad-Mare Island (“SFBR-MI”) leave to file a so-called “Supplementary Submission Based Upon New Demands for Service.”

SFBR-MI’s proposed “Supplementary Submission” purports to request that an emergency service order be “entered immediately” to facilitate certain potential rail movements. SFBR-MI’s Submission is fraught with factual errors and omissions, and provides absolutely no basis for the Board to issue any emergency service order. LMI intends to provide a full response to SFBR-MI’s new assertions by Thursday, September 2, consistent with the time for a reply that would apply were SFBR-MI’s Submission treated as a request for an emergency service order under 49 U.S.C. § 11123 and 49 C.F.R. § 1146.

In the meantime, however, the Board should understand that there continues to be no service emergency warranting the Board’s intervention.

According to SFBR-MI’s Submission, there are two “customers [who] continue to demand service.” Submission, p. 6. One so-called “demand” involves XKT Engineering and potential deliveries of steel. Contrary to SFBR-MI’s implication, however, LMI has not refused to allow XKT to receive rail shipments. To the contrary, as LMI will explain further on September 2, immediately upon learning of this potential delivery, LMI moved to accommodate the shipment, and is currently working with XKT and LMI’s switching

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services contractor, Mare Island Rail Service ("MIRS"), to arrange for the unloading of railcars at a convenient and efficient point.

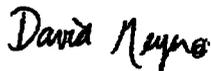
The other purported "demand," which SFBR-MI misleadingly identifies as made by CSI, Inc. and/or TurnKey Construction (*see* Submission, pp. 4, 11, & 26), involves a single soil remediation project being performed by contractors acting for LMI, as LMI itself is the owner of the contaminated soil. As LMI will explain, it has not ruled out the possibility of moving this soil by rail, but the key fact here is that neither CSI nor TurnKey is the "shipper," as repeatedly stated in the Submission. LMI would be the shipper; CSI and TurnKey are subcontractors to LMI's contractor (CH2M HILL). In any event, these shipments will not occur until October 2010 at the earliest.

Most of the remainder of SFBR-MI's Submission is devoted to another movement of contaminated soil from an environmental remediation project on Mare Island. SFBR-MI acknowledges that there is *no current demand* for movement of that soil (*see* Submission, pp. 6 & 13). LMI will address SFBR-MI's mischaracterizations of the events surrounding this potential movement in its reply on September 2, but, as with the other potential soil movement, the key fact that is missing in the Submission is that LMI is the owner of the affected land and the soil, and LMI is the only party that could be the shipper had the rail option been selected.

Accordingly, it is absolutely clear that no service emergency exists that warrants the Board's intervention.

LMI will provide its further response to SFBR-MI's Submission on September 2.

Respectfully,



David L. Meyer

cc: John F. McHugh, Esq.  
Charles A. Spitulnik, Esq.  
Thomas Sheaff