

PENTIUK, COUVREUR & KOBILJAK

RANDALL A. PENTIUK*
JOSEPH G. COUVREUR
KURT M. KOBILJAK
KERRY L. MORGAN*+ <
MICHAEL P. HURLEY
JAYSON J. HALL
LORI R. RUIZ
CREIGHTON D. GALLUP

* ALSO ADMITTED TO PRACTICE
IN THE DISTRICT OF COLUMBIA

+ ALSO ADMITTED TO PRACTICE IN VIRGINIA

< OF COUNSEL TO THE FIRM

PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELLORS AT LAW
www.pck-law.com

EDELSON BUILDING, SUITE 200
2915 BIDDLE AVENUE
WYANDOTTE, MICHIGAN 48192

TELEPHONE: (734) 281-7100
FACSIMILE: (734) 281-7102
EMAIL: firm@pck-law.com

June 18, 2004

211427
Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W. Room 711
Washington, D.C. 20423-0001

FILED

JUN 25 2004

JUN 25 2004
RECEIVED

SUB-
TRANSPORTATION BOARD

Re: STB Finance Docket No. 34040, Riverview Trenton Railroad Company

Dear Secretary Williams:

Enclosed please find the original and 10 copies of the Petition for Reconsideration for City of Riverview in reference to the aforementioned matter.

Please contact the undersigned should you have any questions or concerns.

Very truly yours,

ENTERED
Office of Proceedings

JUN 25 2004

Part of
Public Record

PENTIUK, COUVREUR & KOBILJAK, P.C.



Randall A. Pentiuk
CITY ATTORNEY
CITY OF RIVERVIEW

/pdj

Enclosure

c: Wally G. Long w/enclosures
Mark J. Zausmer w/enclosures
David H. Coburn w/enclosures

FILED FOR WANTED

ENTERED
Office of Proceedings

JUN 25 2004

Part of
Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

FILED

JUN 25 2004

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, MICHIGAN

JUN 25 2004
RECEIVED

TRANSPORTATION BOARD

PROOF OF SERVICE/MAILING

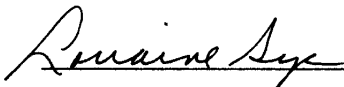
STATE OF MICHIGAN)
)§
COUNTY OF WAYNE)

PATRICIA D. JEDLICKI being first duly sworn deposes and says that she is employed by PENTIUK, COUVREUR & KOBILJAK, P.C., Attorneys for City of Riverview in this matter, and that on June 18, 2004, she caused to be placed in the United States mail an envelope, with full postage thereon affixed containing an original and ten copies of the City of Riverview's Reply to Second Status Report of Riverview Trenton Railroad Company to the Honorable Vernon A. Williams, Secretary, Surface Transportation Board, 1925 K Street, N.W. Room 711, Washington DC 20423; and in the United States mail an envelope, with full postage thereon affixed containing one copy same to Wallace G. Long, Howard & Howard, 39400 Woodward Avenue, Suite 101, Bloomfield Hills, Michigan 48034, one copy to Mark J. Zausmer, 31700 Middlebelt Road, Suite 150, Farmington Hills, Michigan 48334 and one copy to David H. Coburn, 1330 Connecticut Avenue, NW, Washington, DC 20036 and Proof of Service.

Further, deponent sayeth not.


PATRICIA D. JEDLICKI

Subscribed and sworn to before me on June 18, 2004



Lorraine Syc
Notary Public, Wayne County, Michigan
My Commission Expires December 20, 2004

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FILE

JUN 25 2004

BEFORE THE
SURFACE TRANSPORTATION BOARD

RECEIVED
JUN 23 2004

Finance Docket No. 34040

CITY OF RIVERVIEW'S REPLY TO SECOND STATUS REPORT
OF RIVERVIEW TRENTON RAILROAD COMPANY

NOW COMES the City of Riverview (Riverview), and upon review of the "Second Status Report of Riverview Trenton Railroad Company", provides the following response:

RIVERVIEW HAS TAKEN NO WRONGFUL OR UNLAWFUL
ACTION TO IMPEDE THE PROGRESS OF RTRR

Riverview made this point in its response to RTRR's first status report, yet RTRR continues to maintain that its "progress" is being impeded by the local governments' appeal of this Honorable Board's ruling. Riverview hereby reiterates that the filing of its Petition for Judicial Review with the Sixth Circuit Court of Appeals is a perfectly lawful act, and can in no way be construed as an unlawful act calculated to cause damage to RTRR. The fact that RTRR has not seen fit to take significant steps to begin rail operations, is the result of an apparent economic decision by RTRR, and can not be attributed to any action by Riverview.

Riverview and its representatives have continuously stated that the City has no objection to RTRR conducting rail operations pursuant to the ruling of this Honorable Board, and will take no unlawful action to interfere with such conduct.

**RTRR CONTINUES ITS NON- COMPLIANCE WITH
BOARD MANDATED ENVIRONMENTAL CONDITIONS**

In its response to RTRR's first status report, Riverview pointed out to the Board that RTRR had taken virtually no steps toward beginning rail operations. In response, RTRR states in its second status report that "Riverview cannot be heard to complain about the pace of RTRR's progress while it continues to place the Board's authorization for RTRR to operate a rail line in doubt through its judicial review proceeding." (RTRR's Second Status Report, pg. 2). Riverview has never complained about the pace of RTRR's progress, and only calls attention to RTRR's lack of progress in rail operations as further support for its contention that RTRR's intent in seeking railroad status was to circumvent regulation and/or condemnation by local government.

RTRR, admittedly, "has neither broken ground nor begun rail construction activities." (RTRR's First Status Report, pg. 4) and maintains the position that most of the environmental conditions imposed by the Board are operative only after rail operations have commenced. This clearly is not the case. As pointed out by Riverview in its response to RTRR's first status report, some of the environmental conditions imposed by the Board are not dependant upon rail operations and should be immediately heeded by RTRR.

RTRR has taken no action to identify and implement Best Management Practices to restrict erosion and avoid runoff to the Trenton Channel from areas where the project may disturb the soil prior to initiation of any construction or earth disturbing activities, as required under the condition of the May 15, 2003 Decision. By its very language, said condition is effective prior to any construction, therefore, RTRR's failure to comply is inexcusable. RTRR now takes the position that such action is not required because it is "not yet on the verge" of beginning

construction. (RTRR's Second Status Report, pg. 4). But the Board's decision does not state that this condition must only be complied with when RTRR is "on the verge" of beginning construction. Furthermore, with respect to this condition, the Board's decision states that RTRR is to consult with the U.S. Department of Agriculture, and the Natural Resource Conservation Service. RTRR has reported no such activity.

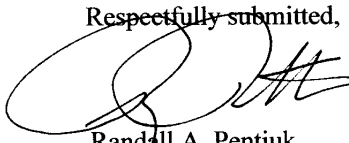
Additionally, RTRR has still taken no steps to use landscaping such as berms and vegetation, as appropriate, to minimize noise generated by the intermodal facility, as required by the May 15, 2003 Decision.. RTRR is currently using the facility for storage of containers which is generating increased truck traffic, hence, the conditions designed to minimize noise at the facility are clearly operative. In fact, area residents and motorists have complained of increased dust problems caused by said traffic. Landscaping and other area improvements may decrease such problems. RTRR states that non-rail activity is not subject to this noise mitigation condition, however, the Board's decision places no such limitation on this condition. The Board's decision simply states that "RTR shall use landscaping such as berms and vegetation, as appropriate, to minimize **noise generated by the intermodal facility.**" (Emphasis added).

CONCLUSION

Riverview respectfully requests that this Honorable Board order RTRR to take immediate corrective action to cure its non-compliance with the conditions placed upon it by the STB, and

closely examine all further status reports from RTRR for evidence of RTRR's intent to invoke STB jurisdiction for the primary purpose of usurping local governmental regulation.

Respectfully submitted,



Randall A. Pentiuk
CITY ATTORNEY
CITY OF RIVERVIEW

Date: June 16, 2004

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