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October 1, 2002

VIA HAND DELIVERY

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

**Re: 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:

Enclosed for filing please find an original and 10 copies of the Reply of Riverview Trenton Railroad Company to Supplemental Brief of City of Riverview. The original of this filing has been submitted reflecting consecutive page numeration in conformity with the Board's rules.

Respectfully,



David H. Coburn
Attorney for Riverview Trenton Railroad
Company

Enclosure

cc: All parties of record

WASHINGTON

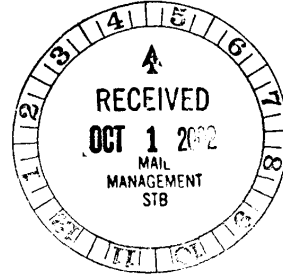
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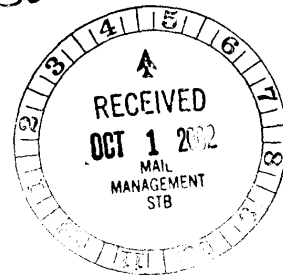
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Part of
Public Record

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206301

BEFORE THE
SURFACE TRANSPORTATION BOARD



Finance Docket No. 34040

**RIVERVIEW TRENTON RAILROAD COMPANY – PETITION FOR AN EXEMPTION
FROM 49 U.S.C. 10901 TO ACQUIRE AND OPERATE A RAIL LINE IN WAYNE
COUNTY, MI**

**REPLY OF RIVERVIEW TRENTON RAILROAD COMPANY
TO SUPPLEMENTAL BRIEF OF CITY OF RIVERVIEW**

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 34040

**RIVERVIEW TRENTON RAILROAD COMPANY – PETITION FOR AN EXEMPTION
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COUNTY, MI**

**REPLY OF RIVERVIEW TRENTON RAILROAD COMPANY
TO SUPPLEMENTAL BRIEF OF CITY OF RIVERVIEW**

Riverview Trenton Railroad Company (“RTRR”) hereby submits this reply to the September 20, 2002 “Supplemental Brief of the City of Riverview Concerning the American Heritage Rivers Review Requirement” (“Riverview Brief”).

In its Brief, Riverview takes belated issue with the Board’s very consideration of the RTRR Petition. Riverview claims that an Executive Order issued on September 11, 1997 concerning “Federal Support of Community Efforts Along American Heritage Rivers”¹ requires Board denial of the RTRR Petition for Exemption because the Draft Environmental Assessment issued by the Board on October 15, 2001 does not address this matter.

The arguments raised in Riverview’s Brief are untimely and baseless. First, Riverview fails to explain why, at this late stage, it is only now claiming that the Detroit River’s heritage status is relevant to this proceeding. Riverview’s November 14, 2001 Comments on the Draft EA do not even mention the American Heritage River designation, or raise any of the issues it

¹ Executive Order 13061.

now raises. Nothing has changed since that filing. The Executive Order on which it relies was, as noted, issued on September 11, 1997, and the Detroit River was designated as Heritage River in 1998. Riverview's decision to press its baseless Heritage River point now thus appears to be yet another effort to delay disposition of this proceeding.

Second, and most fundamentally, Riverview misapprehends the Executive Order and the nature of the Heritage Rivers initiative. The Executive Order ("EO"), attached to Riverview's Brief, does not in any way restrict either private property rights or establish new regulatory authority. See EO Section 1(d). It does *not* impact the rights of the Board to act on matters that come before it, such as RTRR's Petition. Indeed, the Order specifically states that it creates no substantive or procedural rights for any party enforceable against any federal agency. See EO Section 7. Rather, the American Heritage Rivers program is primarily focused on those agencies that are positioned to provide appropriate federal resources to help local planning and other efforts. It thus commits federal planning, functions and programs to assist community efforts to preserve, protect and restore rivers, and to develop or formal and informal partnerships to assist such efforts. The program does not, on the other hand, restrict commercial development along designated rivers. In fact, "economic revitalization" is among the explicit goals of the American Heritage Rivers initiative. See EO Section 1(a).

It is not of course within the ambit of the Board, an independent body with adjudicatory responsibilities in this proceeding, to undertake such efforts. Rather, the Board considers the environmental impacts of its actions through the EA (or EIS) process, in which interested parties are given the opportunity to make representations. Here, SEA undertook a thorough review of the RTRR project impacts. SEA's Draft EA was forwarded to numerous federal agencies, including several agencies that participate in the federal Interagency Committee established by

the American Heritage Rivers Executive Order: EPA, Department of Interior (Fish and Wildlife Service) and the Department of Agriculture (Natural Resources Conservation Service). In addition, the Draft was forwarded to a variety of interested state and local agencies and governments.

SEA received comments from several local government interests, including Riverview and other local government interests. None of these raised the American Heritage Rivers issue.² On the basis of its analysis, SEA properly concluded in its Draft Environmental Assessment and Post-EA documents that the RTRR project would not have adverse impacts on water resources or on access to recreational resources along the Detroit River, including parks and other resources in the general vicinity of the RTRR site. SEA also correctly concluded that RTRR's use of its property would not alter the historic commercial use of that property.

Riverview offers no basis for revisiting these findings. Its request that the Board rely on the American Heritage Rivers initiative to deny the RTRR Petition should be rejected.

Respectfully submitted,



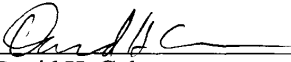
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² In its March 7, 2002 Supplemental Evidence and Argument, Wayne County noted (at page 20) the federal designation of the Detroit River, but did not claim that this designation requires denial of RTRR's Petition or that it is cause for further environmental review. In its March 21 Reply, RTRR noted that the River's designation did not mean that commercial development could not proceed along the River and did not override the ability of the Board to grant RTRR's Petition.

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of October, 2002, a copy of the Reply of Riverview Trenton Railroad Company to Supplemental Brief of the City of Riverview was served by first class mail, postage prepaid, upon counsel for all parties of record.


David H. Coburn