

Before the Surface Transportation Board

Conrail -- Abandonment)
) AB 167 (Sub-no. 1189X)
--in Hudson County, NJ.)

 and
CSX Transp. - Discon. of)
Service - same) AB 55 (Sub-no. 686X)

 and
Norfolk Southern -)
Discon. of Service - same) AB 290 (Sub-no. 306X)

City of Jersey City, et al's Opposition
to Riffin's November 29 filings (e.g.,
"Clarification/Supplement")
and LLCs' November 21 "Reply" Seeking to Strike
City et al's November 4 Pleading

This is an Opposition on behalf of City of Jersey City,
Rails to Trails Conservancy, and Pennsylvania Railroad Harsimus
Stem Embankment Preservation Coalition ("City et al") to two
filings by Riffin appearing on the Surface Transportation Board
(STB) website on November 29, 2016. The two pleadings appear to
seek to open a new docket to consider Riffin's effort to obtain
reconsideration of his dismissal from AB 167-1189X. Both
pleadings bear the docket number for AB 167-1189X and related
cases, and have lines drawn through docket number "F.D. 36081."
One pleading is termed "Clarification/Supplement" and appears to
be an effort by Riffin to open a new declaratory docket (F.D.
36081) for his initial request for appellate relief (he termed

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it "Petition(s) for Other Relief") which he filed on October 31, 2016, in AB 167-1189X. The second Riffin pleading is styled "Riffin's Reply to the LLCs' November 21, 2016 Motion to Strike" his October 31 pleading in AB 167-1189X. City et al have been served with versions of those pleadings, but so far not the version appearing on the STB website.

City et al will treat the Riffin filings as accepted for filing only in AB 167-1189X and the related discontinuance dockets, and respond to the versions on the STB website.

City et al also herein oppose the Hyman interests' (212 Marin Boulevard LLC, et al's) motion to strike the City's November 4, 2016, reply to Riffin's October 31, 2016 "Petition(s)."

I. No New Docket

Riffin's pleading entitled "Clarification/Supplement" appears on its face to seek to open a new Finance Docket in which to consider his "Petition(s)" for appellate relief and a stay in AB 167-1189X. City et al oppose opening more dockets for Riffin dealing with AB 167-1189X.¹

Riffin's effort to open a new docket for an appeal and a stay is simply an evasion of Administrative Law Judge Dring's

¹ Riffin is also attempting to open a new docket to litigate AB 167-1189X matters in F.D. 36078, filing a petition on Nov. 16 and a barrage of belated supplements. City et al will oppose that effort by the due date for replies in that proceeding.

October 26, 2016, order dismissing him from the AB 167-1189X abandonment proceeding and barring additional filings other than appeals.

Riffin's Reply to LLCs at 3 (para 10-11) professes concern at the LLCs' effort to strike his "Petition(s)" filed on October 31. Riffin at 3 (para 12) evidently thinks a new docket will protect him. To this end, Riffin at 2 erroneously claims his October 31 filing is "totally independent" from AB 167-1189X.

Riffin's "Petition(s)" sought a stay and appellate relief in AB 167-1189X. City et al does not object to Mr. Riffin pursuing available appellate relief so long as he does so in conformity to the Board's procedures. Pleadings that seek to reopen, reconsider, appeal, or stay a decision in a docket are properly filed in that docket, not a new docket. City et al timely (within the five-day period for replies to stay requests) responded in opposition to Riffin's October 31 stay request, and to the October 31 Petition(s) generally, on November 4, 2016. As we stated therein, Riffin's "Petition(s)" must be treated as a petition to reopen/rehear and denied, and Riffin did not justify a stay. Riffin's Petition(s) is thus appropriate for denial, not for a new docket. As we also indicated, it does not matter what Riffin styles his pleadings: they must be treated as petitions to reopen/reconsider in AB 167-1189X.

The LLCs' November 21, 2016, request that Riffin's October 31, 2016, Petition(s) be stricken as rendered moot by Riffin's November 14 appeal misses the point. Riffin's October 31, 2016, Petition(s) should simply be denied. He has not justified a stay or entitlement to any available relief. His later Appeal is simply a redundant and inappropriate additional filing which should also be denied.

II. LLCs' November 21 Reply/Motion to Strike

The LLCs' reply on November 22 to Riffin also included a motion to strike City et al's November 4 filing responding to Riffin's "Petition(s)." LLCs' Motion to Strike at p. 7. City et al is entitled timely to respond to all appellate and stay initiatives taken by Riffin. Riffin's October 31 filing encompassed a motion to stay and stated an intent to exercise appellate rights. City et al merely responded to the merits arguments offered by Riffin for those purposes.

The LLCs' motion to strike has no merit and served here only (a) to evoke more riffs by Riffin when there are too many already, (b) to prompt Riffin to attempt to open a new docket for his appeal, and (c) to fire another totally unjustified clip at Jersey City.

III. Suggestion to Close the Docket on Further Appellate Papers

Judge Dring's October 26 orders preclude Riffin from filing further papers in AB 167-1189X other than to seek reconsideration by the Board of the sanctions imposed upon Riffin. Riffin has now filed multiple appellate pleadings (October 31, November 14, November 21, and two on November 29) purporting to seek reconsideration.

Four (or arguably five) bites of the apple is inordinate when the agency's regulations contemplate only one. City et al suggest that the docket be closed to further appellate filings by Riffin. The Board also should decline to accept appellate filings by Riffin masquerading under new docket numbers. City et al oppose all additional Riffin petitions, supplements, clarifications, or so forth in or bearing upon AB 167-1189X until Riffin's various pending pleadings seeking appellate relief from Judge Dring's October 26 decision dismissing him from AB 167-1189X are resolved. The parties should be spared the burden of dealing with additional Riffin filings until the Board determines whether Riffin is in or out of AB 167-1189X.

Respectfully submitted,



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Certificate of Service

The undersigned hereby certifies service by posting the foregoing in the US Mail, postage pre-paid, first class or priority mail, on or before the 5th day of December 2016 addressed to the parties or their representatives per the service list below, unless otherwise indicated. The undersigned also certifies the deposit of the foregoing for express delivery (next business day) upon Judge Dring at the Federal Energy Regulatory Commission, Office of Administrative Law Judges, 888 First Street, N.E., Washington, DC 20426 (courtesy email to Judge Dring's law clerk).



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