

EI- 17727

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April 6, 2009

Ms. Victoria Rutson
S.E.A. Chief
395 E. Street, SW
Room 1106
Washington, DC 20423

**RE: Compliance with Clean Rail Act 49 U.S.C. 10909
J.P. Rail, Inc.**

Dear Ms. Rutson:

I am the Vice President and General Counsel of J.P. Rail, Inc. My shortline has a solid waste Transloading facility on its line for which has been in operation since approximately 2006. The facility is located in Pleasantville, New Jersey.

As a result of the age of the facility this facility is a "sitting facility." Pursuant to the Clean Rail Act 49 U.S.C. 10909 enacted in November 2009, we are required to comply with proofs of compliance with State Environmental Regulations on or by April 19, 2009. Please accept this correspondence as a request for guidance as to our conformity with the Act.

The Act requires a showing of conformity with State regulations; however, New Jersey has not passed its regulations pertaining to Solid Waste Transloading facilities operated by railroads.

J.P. Rail has every intention of providing proof of compliance, however, there is no statutory authority to comply with. Please be mindful that New Jersey's last attempt at such regulation was struck down by Judge Hayden in the Court decision in NYS&W v Jackson, 500 F.3d 238, 2007.

I am requesting your guidance in this matter or in the alternative, please allow an extension for any submission(s) until New Jersey passes a statutory guidance as to its requirements. Without any statutory authority to gauge compliance criteria of documentation would be an exercise in futility.

In considering this request, the STB should be mindful that the Court has already ruled in this matter. The State of New Jersey brought suit against J.P. Rail in the matter of NJDEP v J.P. Rail for alleged violations of N.J.A.C. 7:26.2D (the same rules struck down in NYS&W v Jackson). The Court (affirmed by the App. Ct.), that J.P. Rail did not violate any provision of the State's statute, see attached decision.

Ms. Victoria Rutson

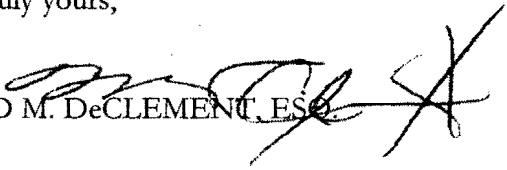
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In consideration of the above, please advise us as to how we are to comply with the Act in the absence of or controlling State statute. If it is the position of the STB for J.P. Rail, Inc. to submit a Document of Conformity, please accept this correspondence as a request for an extension of ninety (90) days to complete such a document.

Very truly yours,

DAVID M. DeCLEMENT, ESQ.



DMD/cme

Enclosure

C: Joseph Petaccio
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