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MAR 14 2002

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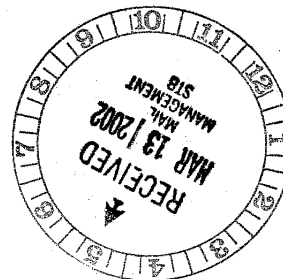
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EXPEDITED CONSIDERATION REQUESTED

March 13, 2002

BY HAND DELIVERY

Mr. Vernon A. Williams, Secretary
Surface Transportation Board
Office of the Secretary
Case Control Unit
1925 K Street, N.W.
Washington, D.C. 20423-0001



**Re: Riverview Trenton Railroad Company – Acquisition and Operation in
Wayne County, Michigan (STB Finance Docket No. 34040)**

Dear Secretary Williams:

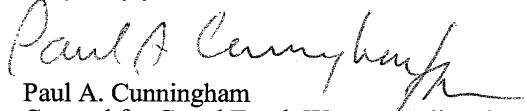
Enclosed for filing in the above-captioned docket are an original and ten (10) copies each of the Joint Request by the County of Wayne and Grand Trunk Western, Incorporated for Removal of Designation of Documents as "Highly Confidential" and Supplement to Their Reply in Opposition to Riverview Trenton Railroad Company's Motion for Protective Order, and the Motion of County of Wayne and Grand Trunk Western Railroad Incorporated for Extension of Time for Replies to Supplemental Information of Riverview Trenton Railroad Company. **Please note that the movants request expedited consideration of these Motions.**

HARKINS CUNNINGHAM

Mr. Vernon A. Williams, Secretary
March 13, 2002
Page 2

Also enclosed is a diskette containing the text of these filings in WordPerfect 6/7/8/9 format.

Very truly yours,


Paul A. Cunningham
Counsel for Grand Trunk Western Railroad
Incorporated

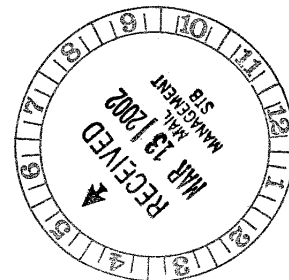
Enclosures

cc: All Parties of Record

EXPEDITED CONSIDERATION REQUESTED

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 34040



RIVERVIEW TRENTON RAILROAD COMPANY –
ACQUISITION AND OPERATION IN WAYNE COUNTY, MICHIGAN

**SUPPLEMENT TO THE REPLY OF THE COUNTY OF WAYNE AND
GRAND TRUNK WESTERN RAILROAD, INCORPORATED
IN OPPOSITION TO RIVERVIEW TRENTON RAILROAD COMPANY'S
MOTION FOR PROTECTIVE ORDER**

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Railroad Incorporated

March 13, 2002

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BEFORE THE
SURFACE TRANSPORTATION BOARD

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RIVERVIEW TRENTON RAILROAD COMPANY –
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MOTION FOR PROTECTIVE ORDER**

The County of Wayne ("County") and Grand Trunk Western Railroad ("GTW") (together, "WC/GTW") hereby submit this supplement to their reply served March 12, 2002 ("Reply"), to Riverview Trenton Railroad Company's ("RTR") Motion for Protective Order ("Motion") served with RTR's supplemental evidence and argument pursuant to the Board's decision served on February 15, 2002 in the above-captioned proceeding ("February 15 Decision").

Because of the need for expedited action by the Board on RTR's Motion, when WC/GTW submitted their expedited reply to the Motion on March 12, 2002, they had not had an opportunity to review the witness support statements that were subject to the protective order, as explained in that Reply. Under an interim confidentiality agreement between WC/GTW and RTR, the documents remain designated Highly Confidential unless and until redesignated by the Board (unless, of course, RTR withdraws or modifies the initial designations).

Now that outside counsel for WC/GTW have had an opportunity to review the documents it is evident that they do not warrant characterization or protection as Highly

Confidential nor in most respects even as Confidential. They are garden-variety support letters of the type regularly submitted in Board proceedings. Most are form letters essentially identical to others. On their face they give no indication that the submitter assumed or even hoped that they would not be on the public record, fully open to inspection as is generally true of such statements. Neither in toto nor in part does any of them contain information that meets the stringent standards for Highly Confidential treatment. Indeed, there is little in any of the letters that meets the less stringent standards for Confidential treatment.

In addition, the letters reveal that the characterizations of them in the Motion were in many significant respects totally unfounded as to any of the statements, or only arguably supported in some respects as to a distinct minority of them. For example:

- Most are form letters essentially identical to others.
- Most do not go so far as to say that any traffic “would be tendered” to RTR or to describe the nature of such traffic. Motion p. 2. Most do no more than to describe RTR as an additional option.
- None was labeled or stamped confidential by the party or otherwise requested confidential treatment or even intimated that any of the largely general information in the statement might be confidential or on any way “commercially sensitive.” Motion p. 2. The identical “highly confidential” legend on each was evidently stamped after letters were delivered to counsel.
- None intimates that public disclosure of the submitter’s identity could in any way “prove detrimental to [its] business interests.” Motion p. 2.
- None expresses any fear or concern whatsoever about “pressure or discrimination from parties opposing” RTR. Motion p. 2
- Almost none could fairly be said even generally to disclose “plans of shippers.” Motion p. 2.
- Few purport or appear to disclose “shipper-specific information” that might in any sense be “confidential.” Motion p. 3.

- None states that RTR “is engaged in discussing business opportunities” or “business negotiations” with it or that it will have “commercial discussions” with RTR. Motion p. 3
- None expresses any concern about being “subjected to discrimination or harassment” as a result of supporting RTR. Motion p. 3.
- None expresses “concern for their business interests” as a result of participation in this proceeding. Motion p. 4.

Since most of the letters are obviously based on form letters, presumably prepared by or with the assistance of experienced counsel for RTR, the failure to address the foundation requirements for the protective order RTR seeks cannot be attributed to lack of sophistication about such matters or about Board practice.

As the Joint Reply demonstrated, the entire protective order issue is evidently a procedural gambit manufactured not by RTR’s supporters but by its lawyers. Now that the veil of secrecy has been lifted, it can be said that on this record their motion for the protective order they sought borders on the frivolous.

The limitations that would be imposed by the protective order on access to and disclosure of Highly Confidential documents or information impose significant burdens on WC/GTW and other parties. The inability to disclose information to in-house counsel or to other knowledgeable employees of a party results in significant inefficiencies and added costs. Accordingly, when the classification of a document is drawn into question, the burden is ultimately on the proponent of such protection to justify the restrictive Highly Confidential treatment.

Here, however, RTR is in effect trying to reverse the burden and shift it to the parties seeking access. Whatever may be the case where the confidentiality characterization is not in dispute, here, where substantial questions have been raised about the Highly Confidential

classification, there should be no need for those parties to do more to lay out their strategy and work plans in order to justify less restricted access and use. Only if the information involved is concededly or demonstrably confidential – which is not the case here – might there be a burden to justify declassification or disclosure.

Accordingly, the Board should reject the designation of any of RTR's support letters as Highly Confidential under any form of protective order. RTR would not oppose treatment of certain portions of particular letters as Confidential within the meaning of the Exhibit B protective order, upon a representation by the company providing the letter that such particular information is confidential. In WC/GTW's view, this may arguably be the case only as to information about volume of shipments in a relatively limited number of the letters.

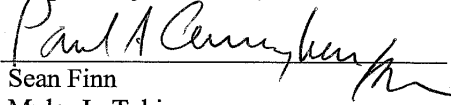
Conclusion

For the foregoing reasons and the reasons set forth in WC/GTW's Reply, the Board should deny RTR's Motion for a Protective Order insofar as it relates to the protective order RTR prepared. WC/GTW do not object to entry of a protective order along the lines set forth in Exhibit B to their Reply.

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Respectfully submitted,


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Counsel for Grand Trunk Western
Railroad Incorporated

March 13, 2002

CERTIFICATE OF SERVICE

I certify that I have this 13th day of March, 2002, served copies of the foregoing Supplement to the Reply of the County of Wayne and Grand Trunk Western Railroad, Incorporated In Opposition to Riverview Trenton Railroad Company's Motion for Protective Order on all parties to these proceedings, by causing a copy to be delivered to each of the following by first-class mail or by a more expeditious manner of delivery:

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The Honorable Carl M. Levin
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Washington, DC 20510

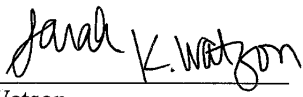
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