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February 8, 2002

VIA HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423

204727

**Re: Finance Docket No. 33980, Riverview Trenton Railroad Company --
Acquisition and Operations Exemption -- Crown Enterprises**

**Finance Docket No. 34040, Riverview Trenton Railroad Company --
Petition for Exemption**

204728

Dear Secretary Williams:

Riverview Trenton Railroad Company ("RTRR") notes that a February 1, 2002 letter from Congressman John D. Dingell to Chairman Linda Morgan concerning RTRR has, at the Congressman's request, been placed into the public docket in Finance Docket No. 33980. The letter poses certain questions to the Board concerning this matter. While Congressman Dingell's letter is addressed to Chairman Morgan, RTRR assumes that because it has been placed in the public docket it would be appropriate for RTRR to offer its comments on the letter for the Board's consideration in replying to the Congressman.

Congressman Dingell asserts that there have been "[n]ew and troubling developments" since Congressman Dingell last wrote to the Board on this matter in March 2001. In fact, there have been no "troubling" developments in this proceeding and the major new development since March 2001 has been the preparation of a Draft and Post Environmental Assessment that addresses the issues that RTRR opponents have raised. It also bears note that RTRR has not had an opportunity to speak in any detail with the Congressman or his staff about this matter and is not certain whether the Congressman has seen any or all of the filings in these proceedings by RTRR, including the recently served Post EA. Many of the questions that he asks are answered in those documents. Thus, RTRR will not belabor the record or the Board with extended responses.

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First, Congressman Dingell asks whether the application process would provide greater opportunity to explore whether RTRR's proposal is in the public interest, citing what he describes as the "potentially harmful" affect RTRR may have on local communities. The Congressman may not be aware that SEA's Post-EA, issued February 1, 2002, reaffirmed the Draft EA's determination that the RTRR project, in view of recommended mitigation, will not have any "potentially harmful" environmental impacts. In any event, requiring RTRR to file an application at this late stage would accomplish nothing but delay since all of the relevant issues have been fully aired in the extensive record before the Board, and an application filing would not bring any relevant new facts to the Board's attention. All interested parties already have been afforded ample opportunity to bring their views to the Board's attention with respect all relevant matters in both of the pending RTRR proceedings, and they have done so.

Second, Congressman Dingell's question about the conversion of non-jurisdictional property to jurisdictional property overlooks the fact that the Board has regularly processed notices of exemption with respect to rail property that was not previously within its jurisdiction. See cases cited at pages 7-10 of RTRR's April 2, 2001 Reply to the Petitions to Revoke Filed by the Cities of Trenton and Riverview. The Congressman's question also overlooks the fact that if there is any doubt on this issue, the Board has before it RTRR's Petition for Exemption, as to which no party has raised any similar jurisdictional claim.

Third, Congressman Dingell asks whether RTRR has rebutted "evidence" purportedly showing that it was motivated to seek Board jurisdiction to avoid local land use and zoning authority. RTRR is aware only of allegations on this point, not evidence. The solid evidence of record, including documentary evidence, shows that RTRR intended to operate a rail line long before the County -- in a forthright effort to stop it from doing so -- raised the eminent domain specter, and that local officials were aware of these intentions. See, for example, the summary of relevant evidence found at page 5 of RTRR's April 2 Reply, referencing the March 7, 2001 and April 2, 2001 Verified Statements of B. Michael Blashfield and the various exhibits attached to those Statements.

Fourth, Congressman Dingell asks whether false and misleading statements are a basis for revoking a notice of exemption, and cites what he claims were such statements in RTRR's class exemption notice. RTRR disputes that it made any false statements in its class exemption notice. Further, it filed its Petition for Exemption to put any such issues to rest.

Fifth, Congressman Dingell asks a series of questions about the Board's handling of various environmental issues. All of these questions have been fully explored and answered in both SEA's Draft and Post EA and/or in prior RTRR submissions. For example, SEA has concluded -- properly -- that the analysis of the impacts of possible future waterborne freight development is too speculative at this time to require, or allow for, meaningful review at this time. SEA has also thoroughly and consistently analyzed the level of truck and train traffic; properly addressed issues pertaining to the carriage of hazardous materials (as to which RTRR will be subject to all applicable safety regulations); and considered claims raised as to the

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impacts of increased road traffic, finding no significant traffic or safety impacts in the vicinity of the RTRR facility. Moreover, as the Draft and Post EA note, the Board is without jurisdiction to mitigate with respect to matters outside its jurisdiction, such as truck routing. All interested parties had ample opportunity to comment on the Draft EA, and several interested local governments did so.

The Congressman also asks about the steps that the Board has taken to address the operational concerns raised by Canadian National/Grand Trunk Western, which he describes as the "sole direct rail connection to the site." That description is not correct -- the RTRR tracks will connect directly with tracks operated by the Conrail Shared Assets Operator, which in fact owns the rail overpass at the south end of the property. In any event, RTRR has responded in detail to the operational "concerns" raised by CN/GTW, demonstrating that these concerns can be addressed, as they have been during years of rail operations to/from the steel plant that used to occupy the property.

Congressman Dingell asks whether the construction of new track on the property has been analyzed. As RTRR has reported, it will be rehabilitating track on the property. Any such activities on the property will be undertaken, as the Post-EA recommends, consistent with the environmental Due Care Plan that has been prepared for the property and in conformity with all applicable environmental regulations.

Congressman Dingell asks whether it is within the Board's authority to republish for public comment a revised Draft EA. There is plainly no basis for doing so here as there have been no changes to the RTRR project (despite attempted mischaracterizations by RTRR opponents), and thus no basis for further analysis. Further, the mere fact that SEA has not found the comments filed by some parties compelling is no basis for further environmental review. The Post EA responds point by point to the comments that were filed.

RTRR appreciates this opportunity to offer its views on Congressman Dingell's letter.

Respectfully,



David H. Coburn
Attorney for Riverview Trenton Railroad
Company

cc: All Parties of Record
Honorable John D. Dingell