



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

December 19, 2013

Michelle Walker
Chief, Regulatory Branch
U.S. Army Corps of Engineers, Seattle District
P.O. Box 3755
Seattle, WA 98124-3755

Re: Millennium Bulk Terminals-Longview, LLC Project

Dear Ms. Walker:

Thank you for your June 18, 2012 letter inviting the Surface Transportation Board to participate in the preparation of an Environmental Impact Statement (EIS) for the proposed Millennium Bulk Terminals-Longview, LLC Project in Washington State. Based on available information, it does not appear that the Board would have a licensing role in the proposed Millennium Bulk Terminals-Longview, LLC Project. Typically, a license from the Board is required to construct a new rail line or an extension to an existing rail line.¹ However, there is no statutory requirement for a carrier to obtain Board approval to build or expand facilities that would improve the railroad's existing operations but would not extend the railroad's ability to serve new markets.²

Because the existing BNSF/UP rail line that connects the project site to the main line already serves existing industries and markets, making improvements to the existing BNSF/UP line would not extend the territory or markets that are served. In addition, it appears that construction of the proposed operating loop track and up to 8 new loop tracks for rail parking within the project site would qualify as industrial or private industry track. While the Board has exclusive jurisdiction over the construction and operation of spur, industrial, team, switching and side tracks, there is no statutory requirement for a carrier to obtain Board approval to construct such track.³

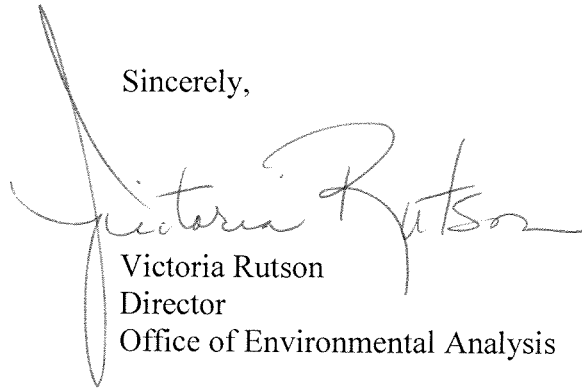
¹ See 49 U.S.C. § 10901.

² See Port Authority of New York and New Jersey—Petition for Declaratory Order, FD 34428 (STB served Jan. 21, 2004).

³ See 49 U.S.C. §§ 10501(b)(2) and 10906.

We understand that, pursuant to 40 C.F.R. § 1501.6, a federal agency may participate in the preparation of an EIS when it has special expertise with respect to any environmental issue that should be addressed. However, due to current commitments and limited resources, we are unable to participate at this time in the environmental review.⁴ We do appreciate the invitation and would be happy to answer any questions that you may have as the EIS moves forward. If information regarding this project should change or if you have additional information indicating that Board licensing may be required, please to not hesitate the contact me at (202) 245-0295 or Danielle Gosselin of my staff at (202) 245-0300.

Sincerely,



Victoria Rutson
Director
Office of Environmental Analysis

⁴ See 40 C.F.R. § 1501.6(c).