

IMPORTANT DEVELOPMENT REGARDING RAIL LITIGATION

Federal Defendants in the rail litigation submitted their Answer late yesterday, the last day it was due. It is filled with pro forma denials, even to straightforward, easily-verifiable factual matters. Their reliance on "we don't know" denials is telling. For example, take a look at the response to the allegations in paragraph 112 of our Complaint. Essentially, they are saying that they won't answer in detail because they lack the knowledge to do so. But the subject of paragraph 112 is the existence of reasonable and prudent alternatives - the very thing the Defendants were legally required to know. In short, (1) their Answer does not set out any previously-unidentified facts that could strengthen their position and (2) the refusal to address in detail our allegations leaves the Defendants vulnerable to our legal arguments about their failure to undertake required analyses.

We've been expecting to win this case, but the weakness of this Answer reinforces our belief. In fact, we are now thinking about asking the judge to tell the defendants to hold off on all work on the rail system until the case has been finally resolved.

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