



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE  
REFER TO OUR FILE

August 11, 2006

CARL ROE  
CSX TRANSPORTATION INC  
500 WATER STREET J-301  
JACKSONVILLE FL 32202

CSX Double Stack Clearance Project  
A-00114082 – Chester Pike, Borough of Darby (S. R. 0013)  
A-00114083 – 68<sup>th</sup> Street, Philadelphia (AAR 140 637 C)  
A-00114084 – 65<sup>th</sup> Street, Philadelphia (AAR 140 635 N)  
A-00114085 – Cemetery Street, Philadelphia (AAR 140 634 G)  
A-00114086 – Lindbergh Boulevard, Philadelphia (AAR 140 629 K)  
A-00114087 – Pine Street, Borough of Darby (AAR 140 643 F)  
A-00114088 – Clifton Avenue, Borough of Collingdale (AAR 140 645 U)  
A-00114089 – Woodland Avenue, Philadelphia (AAR 140 632 T)  
A-00114090 – 61<sup>st</sup> Street, Philadelphia (AAR 140 633 A)  
A-00114213 – Pedestrian Bridge No. 87F (AAR 140 636 V)

Dear Mr. Roe:

In accordance with our Secretarial letter issued July 19, 2000 and modified by Secretarial letter issued June 18, 2001, CSX was to complete the above referenced projects by December 31, 2005.

Currently, we have not received any notification if the project is completed. Therefore, please notify us within twenty (20) days of the status of these projects.

Your attention in this matter is appreciated.

Very truly yours,

David C. Hart, P.E., Manager  
Rail Safety Division  
Bureau of Transportation and Safety  
717-787-1106

DCH:RJH:lg

cc: BENJAMIN C DUNLAP  
NAUMAN SMITH ATTORNEYS AT LAW  
PO BOX 840  
HARRISBURG PA 17108-0840



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE  
REFER TO OUR FILE

February 7, 2007

CARL ROE  
CSX TRANSPORTATION INC  
500 WATER STREET J-301  
JACKSONVILLE FL 32202

DOCUMENT  
FOLDER

*CSX Double Stack Clearance Project*

- A-00114082 – Chester Pike, Borough of Darby (S. R. 0013)
- A-00114083 – 68<sup>th</sup> Street, Philadelphia (AAR 140 637 C)
- A-00114084 – 65<sup>th</sup> Street, Philadelphia (AAR 140 635 N)
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- A-00114090 – 61<sup>st</sup> Street, Philadelphia (AAR 140 633 A)
- A-00114213 – Pedestrian Bridge No. 87F (AAR 140 636 V)

Dear Mr. Roe:

In accordance with our Secretarial letter issued July 19, 2000 and modified by Secretarial letter issued June 18, 2001, CSX was to complete the above referenced projects by December 31, 2005.

By letter dated August 11, 2006, I requested, within twenty (20) days, the status of the projects. No response was received. Therefore, if we fail to receive a response within ten (10) days, this matter will be referred to our Law Bureau for further action.

Your attention in this matter is appreciated.

Very truly yours,

David C. Hart, P.E., Manager  
Rail Safety Division  
Bureau of Transportation and Safety  
717-787-1106

DCH:RJH:lg

cc: BENJAMIN C DUNLAP  
NAUMAN SMITH ATTORNEYS AT LAW  
PO BOX 840  
HARRISBURG PA 17108-0840

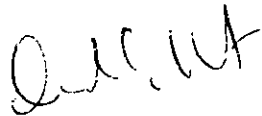
COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Public Utility Commission

DATE: May 2, 2007

SUBJECT: CSX Double Stack Clearance Project  
A-00114082 – Chester Pike, Borough of Darby (S. R. 0013)  
A-00114083 – 68<sup>th</sup> Street, Philadelphia (AAR 140 637 C)  
A-00114084 – 65<sup>th</sup> Street, Philadelphia (AAR 140 635 N)  
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A-00114090 – 61<sup>st</sup> Street, Philadelphia (AAR 140 633 A)  
A-00114213 – Pedestrian Bridge No. 87F (AAR 140 636 V)

TO: B. R. Pankiw, Chief Counsel  
Law Bureau

FROM: David C. Hart, P.E., Manager  
Rail Safety Division  
Bureau of Transportation & Safety



Attached are my letters dated August 11, 2006 and February 7, 2007. Currently we have not received any response to our inquiry from the railroad. Therefore, I am referring this matter to the Law Bureau for appropriate action.

Your attention to this matter is appreciated.

cc: Michael Hoffman, Director  
Bureau of Transportation and Safety

Robert Longwell, Deputy Chief Counsel  
Law Bureau

DOCUMENT  
FOLDER

# Nauman Smith

Attorneys At Law

RECEIVED

2007 AUG 17 AM 8:22

**Please Reply to:**  
P. O. Box 840  
Harrisburg, PA 17108-0840

Benjamin C. Dunlap, JEA P.U.C.  
E-mail: [bdunlapjr@nssh.com](mailto:bdunlapjr@nssh.com)

August 16, 2007

DOCUMENT  
FOLDER

RECEIVED

R.K. Smith, Jr., Esquire  
Assistant Counsel – Law Bureau  
PA Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

AUG 17 2007

BUREAU OF T & S  
LEGAL DIVISION

RE: **CSX Double Stack Clearance Project**  
A-00114082 - Chester Pike, Borough of Darby (S.R. 0013)  
A-00114083 - 68<sup>th</sup> Street, Philadelphia (AAR 140 637 C)  
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A-00114089 - Woodland Avenue, Philadelphia (AAR 140 632 T)  
A-00114090 - 61<sup>st</sup> Street, Philadelphia (AAR 140 633 A)  
A-00114213 - Pedestrian Bridge No. 87F (AAR 140 636 V)

Dear Mr. Smith:

Pursuant to our telephone conference today, I enclose a copy of the e-mail that I sent to Robert Shea, PennDOT Assistant Chief Counsel, yesterday. The e-mail details the dilemma in which our client, CSX Transportation, Inc. ("CSXT"), finds itself. To file a Petition for Extension of Time to perform the work at this point potentially could be considered an anticipatory breach of the Compromise, Settlement and Release with PennDOT executed April 10, 2003. While PennDOT representatives have stated verbally to CSXT that PennDOT has no objection to an extension of time until December 31, 2012, for the completion of the work, CSXT has received nothing in that regard in writing. Due to the amount of money at stake in the Compromise, Settlement and Release, as well as the level of past controversy over this matter, I am extremely reluctant to advise our client to file a Petition for Extension of Time with the Commission prior to receiving a formal extension agreement from PennDOT.

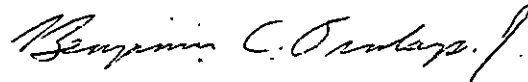
Immediately following our telephone conference today, I spoke with Gina D'Alfonso of PennDOT, who said that she would try to move this matter along. I will keep you informed of any

Superior analysis. Effective solutions. Since 1871.

R.K. Smith, Jr., Esquire  
August 16, 2007  
Page 2

developments in that regard. In the meantime, CSXT would appreciate the Commission's further patience in regard to this matter. Any assistance that you could provide in helping us to resolve the issue would also be appreciated.

Sincerely yours,



Benjamin C. Dunlap, Jr.

BCDjr/jc  
Enclosure

cc: Gina M. D'Alfonso, Esquire  
Tammy Butler, Esquire  
Michael Hoey, P.E.  
Carl A. Roe, Jr., P.E.

**Benjamin Dunlap - CSX Double Stack Clearance Project**

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**From:** Benjamin Dunlap  
**To:** rshea@state.pa.us  
**Date:** 8/15/2007 3:29 PM  
**Subject:** CSX Double Stack Clearance Project  
**CC:** Carl\_Roe@csx.com; gdalfonso@state.pa.us; michael\_Hoey@csx.com; tammy\_butler@csx.com  
**Attachments:** Carl\_Roe@csx.com; gdalfonso@state.pa.us; michael\_Hoey@csx.com; tammy\_butler@csx.com

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Dear Mr. Shea,

I represent CSX Transportation, Inc. ("CSXT"), and have been in communication with Gina D'Alfonso for a number of months now about obtaining an extension for CSXT to perform the clearance work on the Philadelphia Subdivision under the Compromise, Settlement and Release, Agreement No. 820249, executed April 10, 2003. That agreement requires CSXT to complete certain clearance work no later than December 31, 2008. I have been informed by CSXT that PennDOT is agreeable to it performing planned clearance work on its Trenton Line prior to the Philadelphia Subdivision, which would require an extension of the Compromise, Settlement and Release Agreement to December 31, 2012. It is also my understanding from Ms. D'Alfonso that PennDOT is agreeable to this change and that you were preparing an extension agreement.

I received a few days ago the attached letter from the PUC requesting CSXT to file for an extension of time to perform the work for this project or face possible sanctions. However, I have been reluctant to advise our client to do so without first having in place a formal extension of the Compromise, Settlement and Release from your office.

It would be appreciated if you would finalize that extension agreement at your earliest convenience. However, as I am required to respond to the PUC by August 27, 2007, I further request that you respond to this e-mail in writing that the Department has no objection to CSXT requesting an extension of time until December 31, 2012, to perform the clearance work and that an extension agreement of the Compromise, Settlement and Release executed April 10, 2003, to formalize PennDOT's agreement in that regard will be forthcoming. If you have any questions, please do not hesitate to contact me.

Sincerely,

Benjamin C. Dunlap, Jr., Partner  
**Nauman, Smith, Shissler & Hall, LLP**  
200 North Third Street, 18th Floor  
P. O. Box 840  
Harrisburg, PA 17108-0840  
Phone: 717-236-3010 Fax 717-234-1925

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