

- A. February 2008: Five Union County Towns Submit Resolutions to Stop the Funding of M&E Freight Railway**
- B. May 2008: Only 1 Response Out of the 19 Persons Who Received the Information and That Response Totally Misses the Point**
- C. May 2008: Coalition to Stop the Freight Train Attempts to Put the NJDOT Back On the Right Track**

A. Five Union County Towns Submit Resolutions to Stop the Funding of M&E Freight Railway

The Coalition to Stop the Train has sent copies of these Resolutions to 19 lawmakers and state officials, including the Governor, Attorney General, and the Union County Manager.

The main impetus for the five municipalities' common demand to "terminate funding" is Union County Freeholders' failure to enforce definite and specific stipulations listed in the May, 2002, contract with the Morristown and Erie Railway. The Union County Freeholders thereby have breached their June, 2000, contract with the State Department of Transportation, which charged the County to "monitor and supervise all provisions" of the M&E contract.

All of the taxpayer funding, \$14.6 million to date, for this freight railway has been squandered. Now in the seventh year of a ten year contract, there is no due compliance to each of the breached contracts.

The Letter follows here:

(Links to Resolutions of each municipality also attached.)

COALITION TO STOP THE TRAIN
P.O. BOX 76 • KENILWORTH • NEW JERSEY • 07033
stopthetrain@comcast.net

February, 2008

To: Governor Jon Corzine
Congressman Michael Ferguson
Attorney General, Anne Milgram
President of NJ State Senate, Richard Codey
NJ Dept. of Treasury, David Rousseau
NJ Dept. of Transportation, Kris Kolluri
Senator Raymond Lesniak
Senator Thomas Kean, Jr.
Senator Nicholas Scutari
Assemblyman Joseph Cryan
Assemblyman Neil Cohen
Assemblyman Jerry Green
Assemblyman Jon Bramnick
Assemblyman Eric Munoz
Assemblywoman Linda Stender
NJTPA, Chairwoman Susan Zellman

Union County Freeholders, Manager George Devanney
M&E Railway Inc., Wesley Weiss, President
M&E Railway Inc., Gordon Fuller, COO

Subject: **Breach of Contract**

Enclosed please find resolutions passed in the Union County towns of Roselle, Roselle Park, Kenilworth, Springfield and Summit regarding the proposed reactivation of the Rahway Valley and Staten Island railroads. There have been two serious breaches of contracts involving the Morristown & Erie Railway, the Union County Freeholders and the NJ State Department of Transportation.

This issue is not about federal railroad law and administration. It is, rather, a double edged breach of contract between M&E and the Freeholders of the County of Union, and between the County and the New Jersey State DOT. Both contracts, signed by the parties mentioned above, have been violated, causing third party harm to the citizens of Union County.

We request that the Union County Freeholders terminate the Operating Agreement of May 9, 2002, with Morristown & Erie for breach of contract regarding its obligations which are clearly stipulated in that Operating Agreement. This agreement requires that a detailed written **Business and Operating Plan** be provided to the County by M&E. This agreement also stipulates that a clear illustration of M&E's proposed objectives and procedures be given in the following areas of concern: Corporate Structure, Capitalization, Marketing Plan, Operating Plan, Safety & Emergency Management Plan, Maintenance Plan, Landscape Plan, and Capital Spending.

We are now six years into the ten year Operating Agreement and M&E has **not** furnished this contractually required document. An OPRA request was made for this document and it was determined by County authorities that it **does not exist**. Therefore, these municipalities are requesting that all public funding to M&E be terminated due to these serious breaches of contract, and that the County of Union terminate this Operating Agreement with M&E.

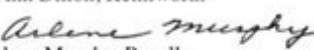
We also request that the breach of contract between the Freeholders of Union County and the NJ Department of Transportation of June 23, 2000, be addressed by **terminating public funding for this project**. Union County Freeholders have failed to enforce and rectify the serious breach of M&E not fulfilling explicit terms of the 2002 Agreement. Furthermore, Union County has failed to comply with the terms of its 2000 Agreement with NJDOT to fulfill its responsibility as sponsor in "monitoring and supervising compliance with all points of this Agreement" (*Section G of NJDOT Agreement with Union County; Re: Rail Freight Project*).

The citizens of Union County deserve your protection from this ill-conceived plan to reactive the Staten Island and Rahway Valley Railroads and relief from the negative impact upon our safety, quality of life and environment.


We hope you, as our elected officials, will assist these municipalities in their findings regarding these breaches of contract on the part of the County of Union, the NJ DOT and M&E.

Sincerely,
Coalition to Stop the Train Representatives


JoAnn Dillon, Kenilworth

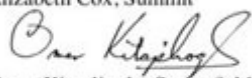

Arlene Murphy, Roselle

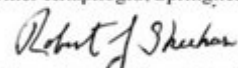

William T. Fidurski, Clark; Dir. Off. of Tech Information

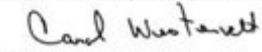

Stewart Weiss, Chrm. Inman Railroad Committee


Richard Lenihan, Linden


Elizabeth Cox, Summit


Omer Kitaplioglu, Springfield


Robert Sheehan, Pres. East Summit Association


Carol Westevelt, Kenilworth

Encl: **Resolutions (Each can be viewed [HERE](#).)**

1/17/2008 Roselle Park
RESOLUTION TO STOP FUNDING OF FREIGHT TRACK REACTIVATION AND
TERMINATE THE OPERATING AGREEMENT WITH M&E RAILROAD

1/16/2008 Roselle
RESOLUTION IN SUPPORT OF CEASING FUNDING
OF RAHWAY VALLEY FREIGHT TRACK REACTIVATION

1/8/2008 Springfield
RESOLUTION OPPOSING STATE FUNDING
OF UNION COUNTY'S OPERATING AGREEMENT WITH M&E RAILROAD

12/12/2007 Kenilworth
RESOLUTION TO STOP FUNDING OF FREIGHT TRACK REACTIVATION AND
TERMINATE THE OPERATING AGREEMENT WITH M&E RAILROAD

12/4/2007 Summit
STOP FUNDING OF RAHWAY VALLEY FREIGHT TRACK REACTIVATION

7/18/2007 Roselle
RESOLUTION SUPPORTING CITIZEN'S RESOLUTION
FOR FREIGHT RAIL SAFETY FOR ROSELLE

B. Only 1 Response Out of the 19 Persons Who Received the Information

and That Response Totally Misses the Point

NJDOT Commissioner Kolluri was the only one to respond to the letter and Resolutions of the five municipalities. Unfortunately, however, his response begs the questions and content of the Resolutions. He has referred the matter to the Union County Freeholders, *the very party in breach* of the June 23, 2000, contract with the NJ State Department of Transportation.

DOT Commisioner Kolluri's letter follows:



JON S. CORZINE
GOVERNOR

KRIS KOLLURI
COMMISSIONER

STATE OF NEW JERSEY
DEPARTMENT OF TRANSPORTATION

1035 PARKWAY AVENUE
P.O. BOX 601
TRENTON, N.J. 08625-0601
609-530-3536

May 2, 2008

Coalition to Stop the Train
P.O. Box 76
Kenilworth, NJ 07033

Dear Representatives:

Thank you for your letter and accompanying Resolutions concerning the Union County, Rail Freight Project.

Please be advised that this matter concerns the Operating Agreement between the Union County Board of Chosen Freeholders and the Morristown & Erie Railway. The State is not a party to that Agreement. As such, this matter is being referred to Union County for their review and consideration.

I hope this information is helpful and thank you for taking the time to contact me.

Sincerely,

Kris Kolluri
Commissioner

C. Coalition to Stop the Freight Train Attempts to Put the NJDOT Back On the Right Track

The Coalition has responded to DOT's Kolluri, referring him to the documents which his office had signed and has already released 14.6 million dollars. The question remains: How can the State continue to fund a "breached contract" with significant "third party harm" to the citizens of Union County?

COALITION TO STOP THE TRAIN
P.O. BOX 76 • KENILWORTH • NEW JERSEY • 07033
stopthetrain@comcast.net

May 19, 2008

Mr. Kris Kolluri
NJ Dept of Transportation
PO Box 601
Trenton, NJ 08625-0601

Dear Mr. Kolluri:

We are in receipt of your letter dated May 2, 2008. This letter was in response to our "Breach of Contract" letter to you and several other elected officials regarding the reactivation of the Staten Island and Rahway Valley Railroads.

As stated in our original letter (copy enclosed), there are two (2) breaches of contracts:

- a) one between the Morristown & Erie Railroad and the Freeholders of Union County; and
- b) the second breach between the County of Union and the NJ State DOT.

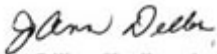
We have also enclosed for your review a copy of this second agreement dated June 23, 2000 between the NJ Department of Transportation and the County of Union. We specifically refer to page 2, Section g, 1, 2, 3 & 4. Please note that the County of Union, as per this agreement, was to monitor and supervise compliance with all provisions of this agreement to the NJ DOT. This is the 2nd breach of contract that we referred to in our original letter of February 2008. Therefore, we respectfully disagree with your response advising us that "this is a matter concerning the Operation Agreement between the Union County Board of Chosen Freeholders and the Morristown & Erie Railway." This is quite definitely a matter between M&E Railway and the County of Union **AND** the County of Union and the NJ State DOT.

The breach of contact by Union County Board of Chosen Freeholders with your department is a public issue that must be addressed. We respectfully again request that the State of New Jersey terminate public funding for this project. Union County Freeholders have failed to enforce and rectify this serious breach by M&E in not fulfilling explicit terms of the 2002 Agreement. In addition, the County of Union has seriously failed to comply with the terms of this 2000 Agreement with the NJDOT. Our OPRA requests to the County prove that Union County Freeholders and the County Manager have failed to fulfill their responsibility as "sponsor" in "monitoring and supervising compliance with all points of this Agreement."

We ask that you please review these enclosed documents again. Please assist us and our municipalities from the many negative impacts this lack of monitoring and supervision have on eight Union County Communities.

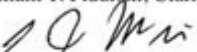
We thank you in advance for your consideration and conscientious attention to these matters.

Sincerely,
Coalition to Stop the Train


JoAnn Dillon, Kenilworth

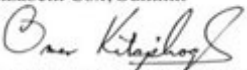

Arlene Murphy, Roselle

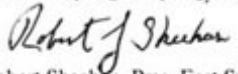

William T. Fidurski, Clark; Dir. Off. of Tech Information

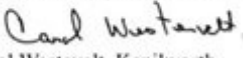

Stewart Weiss, Chrm. Inman Railroad Committee


Richard Lenihan, Linden


Elizabeth Cox, Summit


Omer Kitaplioglu, Springfield


Robert Sheehan, Pres. East Summit Association


Carol Westevelt, Kenilworth

cc: Attorney General, Anne Milgram

Enclosures:

- 1) February 2008 letter from the Coalition to Stop the Train Representatives to various elected officials – Subject: Breach of Contract
- 2) Agreement between the NJ DOT and the County of Union dated June 23, 2000