



**Chautauqua, Cattaraugus, Allegany & Steuben Counties**

# **Southern Tier Extension Railroad Authority**

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"This institution is an equal opportunity organization"

Gerard Fitzpatrick, Chairman

## **STERA Executive Committee Meeting July 21, 2006**

### **Minutes**

**Present:** John Margeson (Chairman, presiding), Joseph Eade, James Griffin

**Staff:** Thomas Barnes

The STERA Executive Committee met by telephone conference call at 11:30 AM on July 21, 2006.

#### **1. Call to Order**

Mr. Margeson called the meeting to order at 11:30 AM.

#### **2. Randolph Foundry Brownfield Remediation Project**

Mr. Barnes provided an overview of the project. Cattaraugus County has acquired title to a former foundry building in Randolph, and subsequent to its acquisition, learned that it was a brownfield site that needed to be cleaned up. It applied for and received an Environmental Restoration award from NYS DEC for a project that would involve investigation, characterization, etc., and the removal and disposal of some the contents of some drums, tanks, and transformers. Subsequent to this award, the County learned that the foundry building had been partially (about 25%) on the right of way property now owned by STERA. NYS DEC will not let the project go forward unless either STERA becomes a co-awardee on the project or STERA deeds the relevant property over to the County. The latter option was viewed as not expedient and therefore not proposed by the County or discussed by STERA. The project is \$135,000, of which 90% is NYS DEC award and 10% is County cash match. STERA was not asked to be a financial participant in the project nor an active participant in the project.

The County had provided Mr. Burt of the WNYP a copy of the file materials. Mr. Burt had reviewed the materials and communicated to Mr. Barnes that the WNYP had no issues with the project proceeding as proposed by the County.

Mr. Barnes noted that as STERA was in title already, it already potentially had liability for remediation. However, there is now an exception in the law for property owners who come into title subsequent to the act of contamination and who did not create the contamination. Further,

STERA acquired the property along with hundreds of parcels simultaneously in 2001, and was not disposed to do due diligence on each and every parcel for potential contamination from adjoining properties or from encroachments on the property being acquired.

Mr. Griffin indicated that he was concerned regarding the project. First, he felt that the County must have acquired the property to remediate it for an identified beneficiary. Second, although the project work plan indicated that certain wastes on the property would be removed and disposed of, he felt that the project was too small to be a cleanup project, and as a characterization project ran the risk of leading to a much more costly remediation project. Third, he felt that the acceptance of co-awardee status on the characterization project could potentially lead to liability for remediation for such a much more costly project. He urged caution.

At that point Mr. Barnes tried to reach both Cattaraugus County Attorney Dennis Tobolski and STERA attorney Thomas Brady by telephone. Neither was available.

The Board agreed to table the request by Cattaraugus County to become a co-awardee until the Executive Committee could reconvene by telephone conference call on Monday, July 24, 2006 at 9:30 AM, with Mr. Tobolski and Mr. Brady present.

### **3. Construction Funding Administrative Expenses**

The Executive Committee adopted a resolution to pay Southern Tier West Regional Planning and Development Board 2% of the state and federal construction rehabilitation funding contract awards for its administrative services (Eade, Margeson, passing unanimously, Griffin abstaining).

### **4. Adjournment**

The meeting was adjourned at 12:10 PM (Eade, Griffin, passing unanimously).