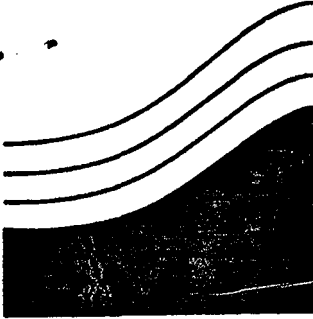




CITY OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL PROTECTION
 OFFICE OF LEGAL COUNSEL

2353 MUNICIPAL BUILDING, NEW YORK, N.Y. 10007

(212) 669-8450

HARVEY W. SCHULTZ
 Commissioner

RICHARD BOWERS
 General Counsel

March 11, 1988

Jared I. Roberts
 Associate General Counsel
 National Railroad Passenger Corp.
 400 North Capitol Street N.W.
 Washington, D.C. 20001

Re: Proposed Amtrak construction in the vicinity of 11th
 Ave. and West 33rd St., Borough of Manhattan

Dear Mr. Roberts:

I am in receipt of your Dec. 31, 1987 letter on the above-referenced topic. I concur with your assessment of the rights retained by the City pursuant to of the July 2, 1929 conveyance.

Your suggestion that this agency have access rights to the dual syphon which you will construct via your proposed West 38th Street access road is acceptable. I would ask however that any form of agreement contain a clear provision obligating Amtrak to guarantee such access at all times upon D.E.P. request. Should you believe that maintaining a key at Pennsylvania Station would enable Amtrak to meet this obligation, we would have no objection to such an arrangement. Notwithstanding, Amtrak shall remain obligated to guarantee access.

With respect to the costs associated with sewer construction and maintenance, my understanding is that the subject syphon is being constructed at Amtrak's sole cost and expense. Naturally D.E.P. will be responsible for all costs associated with maintaining or repairing the facility, however, we are of the opinion that should it become necessary for D.E.P. to repair or reconstruct this facility and Amtrak requests flagging or track monitoring, Amtrak should bear the cost. D.E.P. will agree to provide engineering plans for Amtrak's review and approval prior to performing any construction work of a non-emergency nature. As is currently the practice, D.E.P. will continue to provide Amtrak with plans for any new sewers which we propose to locate within its right-of-way and absorb all costs associated with such work.

RECEIVED
 D.E.P. BUREAU OF SEWERS

APR 11 1988

DIVISION OF
 SEWER REGULATION
 AND CONTROL

Should this be acceptable, please draft a proposed form of agreement for our review.

Sincerely,

Frank Schiano
Assistant Counsel

cc: Bowers
Miller
DiMartino ✓
Farag