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SERVICE DATE – DECEMBER 11, 2009

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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35296]

Anthony Macrie—Continuance in Control Exemption—New Jersey Seashore Lines, Inc.

Anthony Macrie (Macrie), a noncarrier, has filed a verified notice of exemption to continue in control of New Jersey Seashore Lines, Inc. (NJSL), upon NJSL's becoming a Class III rail carrier.

This transaction is related to a concurrently filed verified notice of exemption for NJSL to operate approximately 13 miles of rail line owned by Clayton Sand Company, between milepost 66.0 at Lakehurst, Borough of Lakehurst, in Ocean County, NJ, and milepost 79.0 at Woodmansie, Woodland Township, in Burlington County, NJ.¹ See STB Finance Docket No. 35297, *New Jersey Seashore Lines, Inc.—Operation Exemption—Clayton Sand Company.*²

The parties may consummate the transaction on or after December 24, 2009.

Macrie owns 100 percent of the common stock of NJSL and also owns 100 percent of the common stock of Cape May Seashore Lines, Inc. (CMSL), an existing

¹ Macrie states that the involved line is a segment of rail line originally known as the Central Railroad Company of New Jersey's Southern Division.

² By decision served on September 25, 2009, the Board held publication of this notice in abeyance because it is directly related to the notice in STB Finance Docket No. 35297 which was also held in abeyance. In a decision served today in STB Finance

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Class III rail carrier that obtained authority in Cape May Seashore Lines, Inc.—Modified Rail Certificate, STB Finance Docket No. 34112 (STB served Nov. 19, 2001).

The parties represent that: (1) the rail line to be operated by NJSL does not connect with any other railroads in the corporate family; (2) the transaction is not part of a series of anticipated transactions that would connect the rail lines with any other railroad in the corporate family;³ and (3) the transaction does not involve a Class I rail carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here because all of the carriers involved are Class III carriers.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the

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Docket No. 35297, the Board is publishing the notice that had been held in abeyance. Thus, this notice is also no longer being held in abeyance.

³ Macrie states that, although CMSL and NJSL will both operate in the State of New Jersey, the lines of the two carriers are at least 50 miles apart at the closest point.

effectiveness of the exemption. Stay petitions must be filed no later than December 18, 2009 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35296, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on John D. Heffner, 1750 K Street, N.W., Suite 200, Washington, DC 20006.

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Decided: December 7, 2009.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.