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SERVICE DATE – LATE RELEASE MAY 2, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 35014

SUFFOLK & SOUTHERN RAIL ROAD LLC—SUBLEASE AND OPERATION
EXEMPTION—BROOKHAVEN RAIL TERMINAL

Decided: May 2, 2007

On April 3, 2007, Suffolk & Southern Rail Road LLC (Suffolk), a noncarrier, filed a verified notice of exemption under 49 CFR 1150.31 to sublease from Custom Recycling LLC (Custom), a noncarrier, and to operate 1,280 feet of rail line located at the Brookhaven Rail Terminal at Yaphank, Suffolk County, NY. There are no mileposts on the line. According to Suffolk's filing, Custom currently leases the line from Nicolia Realty LLC, also a noncarrier and owner of the line. As a result of this transaction, Suffolk states that it will provide common carrier service over this line of railroad, which currently is being served as industry trackage by the New York & Atlantic Railway, a Class III rail carrier. Notice of the exemption was served and published in the Federal Register on April 19, 2007 (72 FR 19761). The exemption is scheduled to become effective on May 3, 2007.

By letter dated April 25, 2007, Suffolk has notified the Board that the notice contains inaccurate information. Suffolk asks that the Board hold the exemption in abeyance to allow Suffolk to obtain the correct information and file an amendment or a new exemption notice. Because there evidently is inaccurate information contained in the notice, Suffolk's request will be granted. Therefore, the exemption will not become effective, if at all, until further order of the Board.

It is ordered:

1. Suffolk's request is granted.
2. The exemption that was the subject of the notice in this proceeding will not become effective until further order of the Board.

3. This decision is effective on the date of service.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary