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SERVICE DATE – SEPTEMBER 29, 2006

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34928]

SMS Rail Lines of New York, LLC—Acquisition and Operation Exemption—

Northeastern Industrial Park, Inc.

SMS Rail Lines of New York, LLC (SMSNY), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire by lease from Northeastern Industrial Park, Inc., and to operate approximately 15 miles of rail line in the Northeastern Industrial Park, Guilderland Center 12085, Albany County, NY.¹

This transaction is related to STB Finance Docket No. 34929, Jeffrey L. Sutch—Continuance in Control Exemption—SMS Rail Lines of New York, LLC, wherein Jeffrey L. Sutch has concurrently filed a verified notice of exemption to continue in control of SMSNY, upon its becoming a Class III rail carrier.²

SMSNY certifies that the projected annual revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier, and further certifies that its projected annual revenues will not exceed \$5 million. The transaction was scheduled to be consummated on or after September 8, 2006.

¹ The rail lines extend from connections with the Canadian Pacific Railway at milepost 11.4 on the railroad's Vorheesville Running Track. There is a separate connection with a rail line of CSX Transportation, Inc.

² Mr. Sutch also controls SMS Rail Service, Inc., a Class III rail carrier.

If the 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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34928, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Fritz R. Kahn, Fritz R. Kahn, PC, 1920 N St., N.W., Eighth Floor, Washington, DC 20036-1601.

Board decisions and notices are available on our website at WWW.STB.DOT.GOV.

Decided: September 22, 2006.

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

Vernon A. Williams

Secretary