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SERVICE DATE – OCTOBER 26, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 35090

JP RAIL, INC.—LEASE AND OPERATION EXEMPTION—NAT INDUSTRIES, INC.

Decided: October 25, 2007

On October 17, 2007, JP Rail, Inc. (JP Rail), a Class III short line railroad, filed a verified notice of exemption under 49 CFR 1150.41 to lease from NAT Industries, Inc. (NAT) and to operate approximately 1 mile of track in Carroll Township, PA, known as the Donora Line (the Line), formerly operated by NAT as private industrial track. JP Rail states that it will hold itself out to provide common carrier rail freight service over the Line, and that it plans to serve customers originating traffic at JP Rail's Pleasantville, NJ facility and also to market its service to "local" customers. According to JP Rail, the traffic would comprise construction and demolition materials (C&D), which would be transported from Pleasantville by Norfolk Southern Railway Company to a connection with the Line at milepost ML40 in Carroll Township. JP Rail would then transport the C&D over the Line for subsequent transloading into trucks for movement to "Westmoreland Waste's landfill," approximately 3 miles from Carroll Township. JP Rail states that this operation is intended to be temporary until a permanent rail unloading facility can be constructed on Westmoreland Waste's site and its landfill permit amended to allow for rail traffic. Finally, JP Rail asserts that the proposed transaction is exempt from environmental review under 49 CFR 1105.6(c)(2)(i) (allegedly because it would not cause any operating changes that exceed the thresholds established in 49 CFR 1105.7(e)(4) or (5)) and from historic review under 49 CFR 1105.8(b)(1).

Given what is known about this case, additional information and public outreach is warranted. Moreover, JP Rail provides very few details about its proposed operations and fails to support its contention that such operations would not exceed the environmental thresholds at 49 CFR 1105.7(e)(4) and (5). Nor does it explain why this proposal would not otherwise warrant the preparation of environmental documentation. See 49 CFR 1105.6(d).

The Board expects to publish notice of the exemption in the Federal Register as scheduled on November 2, 2007. However, because questions remain about the proposal, the effective date of the exemption will be delayed and JP Rail will be directed to file, by November 2, 2007, supplemental information describing in more detail its anticipated operations, and supporting its claim that environmental review is not warranted here.

JP Rail will also be directed to serve a copy of its verified notice and this decision on appropriate federal, state, and local entities, including those listed in the Appendix to this decision, and to certify to the Board that it has done so within 5 days of the service date of this

decision. To allow time for those parties to participate, if they wish, in this proceeding, JP Rail's proposed exemption will not become effective until December 6, 2007, 50 days after the filing date of its verified notice, and the due date for any petitions to stay will be extended 20 days until November 29, 2007.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The exemption that is the subject of the notice in this proceeding will not become effective until December 6, 2007, and any petition(s) for stay will be due by November 29, 2007.
2. JP Rail is directed to file, by November 2, 2007, supplemental information describing, in detail, its anticipated operations and explaining why its operations would not exceed the environmental thresholds or otherwise warrant the preparation of environmental documentation.
3. JP Rail is directed to serve a copy of its verified notice and this decision on interested parties, including those listed in the Appendix to this decision, and to certify to the Board that it has done so within 5 days of the service date of this decision.
4. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

APPENDIX

U.S. Army Corps of Engineers
Scott Hans
Acting Chief, Regulatory Branch
Department of the Army
Pittsburgh District Corps of Engineers
1000 Liberty Avenue
Pittsburgh, PA 15222

U.S. Environmental Protection Agency
Region 3
1650 Arch Street (3PM52)
Philadelphia, PA 19103-2029

U.S. Fish and Wildlife Service
Pennsylvania Field Office
315 South Allen Street, Suite 322
State College, PA 16801-4850

Natural Resources Conservation Service
Greensburg Service Center
214 Donohoe Road
Greensburg, PA 15601-9217

Pennsylvania State Clearinghouse
Health & Welfare Building
7th and Forster Streets
Harrisburg, PA 17120

Pennsylvania Department of Environmental Protection
Southwest Regional Office
400 Waterfront Drive
Pittsburgh, PA 15222

Washington County
Board of Commissioners
Courthouse Square
Suite 702
Washington, PA 15301

Westmoreland County
Board of Commissioners
Main Office
2 North Main Street
Suite 101
Greensburg, PA 15601

Town of Donora
Donora Administrative Office
603 Meldon Avenue
Donora, PA 15033

Town of Monessen
Monessen Mayor's Office
100 3rd Street
Monessen, PA 15062