

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB FINANCE DOCKET NO. 36047

JERSEY MARINE RAIL, LLC—NOTICE OF EXEMPTION—UNION COUNTY, NJ

**COMMENTS OF CONSOLIDATED RAIL CORPORATION
IN OPPOSITION TO NOTICE OF EXEMPTION**

Consolidated Rail Corporation (“Conrail”) hereby submits these Comments in Opposition to the Notice of Exemption filed on June 22, 2016, by Jersey Marine Rail, LLC (“JMR”) in the above-captioned docket. JMR’s notice of exemption is, at best, premature in that it seeks operating rights on Conrail tracks and property that Conrail has not agreed to grant. Moreover, as set forth below, the notice appears to raise issues that are controversial and that may require information beyond that provided in the notice itself. Accordingly, JMR’s notice should be dismissed.¹

Conrail is a Class III railroad and owns and operates assets throughout the State of New Jersey, Commonwealth of Pennsylvania, and State of Michigan. It is indirectly owned by Norfolk Southern Corporation and CSX Corporation, and operates its assets as part of the “shared asset areas” as defined in Decision 89 of the Conrail Control Transaction, Docket No. 33388.

Included among these rail assets is the so-called “Third Industrial Track” that connects to Conrail’s Garden State Secondary Line, as well as the active portion of the Sound Shore Industrial Track, all of which are located in the City of Linden, Union County, New Jersey. JMR represents that it has an interest (apparently, a leasehold) in property along Tremley Point Road

¹ If these comments are deemed untimely, Conrail respectfully requests that the Board grant Conrail leave to file them and that the Board consider them despite that fact.

in Linden that it wishes to redevelop for rail use. Conrail has had a number of discussions with JMR and stands ready to provide interchange at this facility. However, Conrail has not agreed to provide any rights on the track segments mentioned above.

Conrail informed JMR that it would not provide these operating rights and received a letter from JMR (attached hereto) representing that JMR was not seeking such rights. Thus, Conrail was surprised when JMR filed a notice of exemption seeking such operating rights. A representative of JMR subsequently advised that JMR wanted to leave open the possibility that Conrail might grant such rights for operating convenience. The notice, therefore, appears to have been filed purely to prepare for a contingency that may never eventuate. Consequently, the notice is premature.

In addition, JMR makes reference to acquiring property to build additional tracks. These tracks would appear to be necessary to facilitate the rail movements posited by JMR in its notice. However, no arrangements have been made to acquire this property and for that additional reason, JMR's notice of exemption is premature.

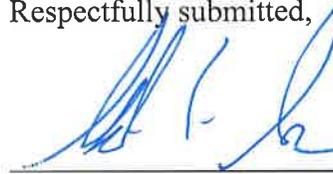
Moreover, because there may be a controversy or uncertainty over whether the sought-after operating rights are feasible in the absence of the acquisition of the property needed for the construction of the additional tracks, the notice should be rejected, consistent with the Board's practice of rejecting notices of exemption "[i]n cases that require information beyond that provided through simplified notice procedures, or that are controversial." *James Riffin & Eric Strohmeier—Acquis. & Operation Exemption—in Rio Grand, & Mineral Counties, CO.*, FD 35705, slip op. at 2 (STB served Jan. 11, 2013).

There *may* come a time when a JMR exemption notice, like the one at issue here, would be called for. But that time is not now. Rather, when JMR's service requirements are defined, it

may be appropriate for Conrail to enter into discussions regarding a point of interchange at or adjacent to the proposed facility. Conceivably, arrangements to which Conrail might agree could include operating rights over Conrail property. But until the relevant discussions take place and any necessary agreements are at least provisionally reached, there is no basis for providing operating rights to JMR on the aforementioned Conrail rail segments.

For the foregoing reasons, Conrail respectfully requests that the Board dismiss JMR's notice of exemption.

Respectfully submitted,



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Attorneys for Consolidated Rail Corporation

Dated: July 15, 2016

CERTIFICATE OF SERVICE

I certify that on this 15th day of July, 2016 I served a copy of the foregoing Comments in Opposition to Notice of Exemption of Consolidated Rail Corporation on the following listed below by UPS next business day delivery:

John F. McHugh, Esq.
233 Broadway
Suite 2320
New York, NY 10279



Adam C. Sloane

ATTACHMENT

JERSEY MARINE RAIL, LLC



46 Grand Cove, Edgewater, NJ 07020-7245



201-840-0766
201-840-0887 fax
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May 16, 2016

Mr. John Broder
Vice President of Corporate Development and Chief Legal Counsel
Consolidated Rail Corporation
1717 Arch Street
Philadelphia, PA 19103

Re: Jersey Marine Rail, LLC
Linden, NJ

Dear Mr. Broder:

Jersey Marine Rail, LLC intends to file a petition with the Surface Transportation Board for a license as a short line switching railroad at a terminal it plans to develop at the confluence of the Arthur Kill and the Rahway River on Tremley Point, Linden, NJ. Attachment A is a schematic map to go along with the following explanation. The Black Lines represent the existing Conrail tracks (A- The Third Industrial Lead Track and the parallel Kinder Morgan Track, and B- the Sound Shore Line Segment) . The Red Lines represent the tracks which JMR will construct (A-the two parallel By-Pass Tracks, and B- the lead track and four parallel tracks in the JMR Terminal. Note that the two parallel By-Pass Tracks will connect back to the Conrail Tracks: (a) at the northwestern end, at The Third Industrial Lead Track; and (b) at the southeastern end either at The Third Industrial Lead Track or the Sound Shore Line Segment, depending on how much room is available after taking into account Conrail's planned double-track extension of The Third Industrial Track.

JMR will acquire the land and develop the tracks designated on the attached schematic in "red" as the By-Pass Tracks and the tracks in the JMR Terminal.

Conrail will run from the Chemical Coast along the By-Pass Tracks (assuming The Third Industrial Lead Track and the Kinder Morgan Tracks are occupied) and the Sound Shore Line Segment, and will interchange with JMR at the JMR Terminal. JMR does not expect to run on Conrail Tracks. All clearances, curvatures, switches and grades on the By-Pass Tracks and JMR Terminal will be in conformity with Conrail requirements.

JMR hopes to have service 5 days per week. If additional service is made available to the Tremley Point area, JMR would like to avail itself of such additional service.

The JMR Terminal will serve (i) marine customers transloading commodities from vessels onto or off of rail cars, and (ii) local area customers transloading commodities from rail cars to truck or pipelines. The

aggregate of all traffic which JMR expects at the JMR Terminal will be between 20 and 30 cars per day, 5 days per week. The types of commodities, volumes and origin/destinations are set forth on

Attachment B, which contains business information of a confidential nature. Therefore, JMR requests that the information contained on Attachment B be treated confidentially.

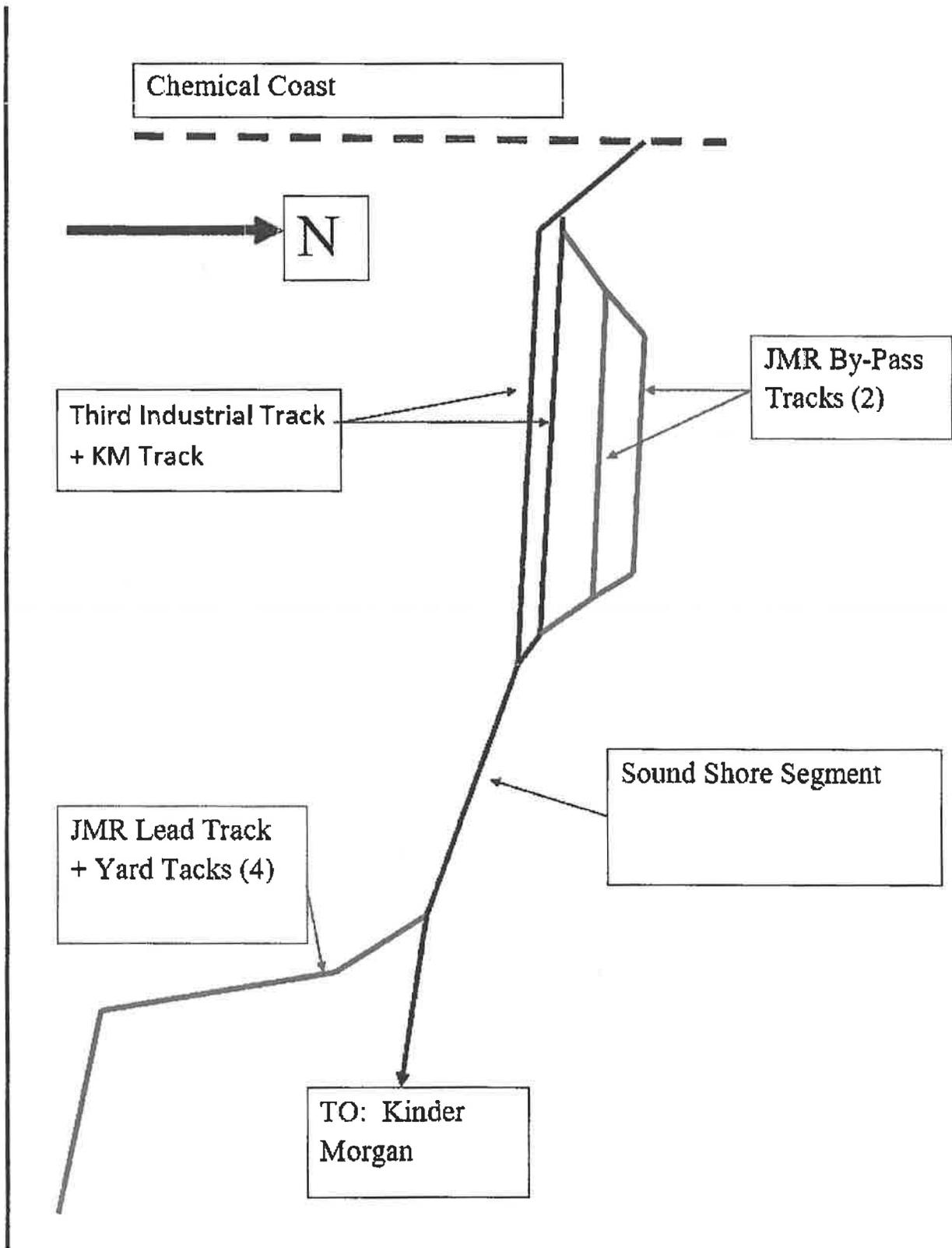
If you have any questions or comments on the foregoing, please give me a call.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ronald A. Klempner". The signature is fluid and cursive, with a long horizontal stroke at the end.

Ronald A. Klempner,
Manager

ATTACHMENT A



ATTACHMENT B
(Confidential Information)

JMR directly and/or through DT Allen, the option holder to lease the land at 4900 Tremley Point Road, Linden, NJ from Linden Marine, LLC, has been approached by a number of entities regarding transloading and rail transport of the following commodities:

Wilmar---, Palm oil originating from Southeast Asia destined for distribution points in the Midwest (as far as Chicago), Eastern Seaboard and Southeast. Commodities to move in tank cars.

Nu Star---- and American===, Petroleum related commodities (a) originating from refineries in the Midwest destined for distribution in the New York/New Jersey market or transloaded onto vessels destined for the Caribbean or abroad, and (b) originating from refineries abroad on vessels destined for distribution points and/or refineries in the Midwest and Eastern Seaboard. Commodities to move in tank cars.

Kinder Morgan----, ethanol originating in the Upper Midwest destined for pipelines accessible from the JMR Terminal (which will serve as an expansion of their existing operations at their site adjacent to the North of the JMR Terminal in Tremley Point). Commodities to move in tank cars.

North Pier-- Liquefied Natural Gas originating from the Marcellus Shale formation in Northwestern Pennsylvania and Northeastern Ohio destined for the New York/New Jersey market. Commodities to move in intermodal tanks on well cars.

DT Allen & Co-- Sand and gravel originating in Northeastern Pennsylvania destined for distribution in the New York/New Jersey markets.

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