

D:D # 01031126 001001

209491

**JOHN D. HEFFNER, PLLC**

1920 N St., N.W.  
SUITE 800  
WASHINGTON, D.C. 20036  
(202) 263-4180  
FAX (202) 296-3939  
j.heffner@verizon.net

ORIGINAL



November 25, 2003

BY HAND

Hon. Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street  
Washington, D.C. 20423-0001

RE: FD No. 34442, Maritime Rail, LLC  
-- Lease And Operation Exemption --  
Meadows Industrial Tracks

**FILED**  
NOV 25 2003  
SURFACE  
TRANSPORTATION BOARD

Dear Mr. Williams:

On behalf of Petitioner Maritime Rail, LLC, I am filing an original and ten copies of a verified notice of exemption under 49 CFR 1150.31 for the lease and operation by Maritime Rail, LLC, of the Meadows Industrial Tracks in South Kearney, NJ.

I am also enclosing one check payable to the Board for \$1,400 to cover the applicable filing fee and a computer disk formatted in WordPerfect 8.0 containing this filing.

Please date stamp and return one copy of this filing for our records.

Sincerely yours,

*J. D. Heffner*  
John D. Heffner

Enclosures

cc: Mr. John C. Koster  
Mr. Leonard Goldmar  
Mr. William Hooten

**FEE RECEIVED**  
NOV 25 2003  
SURFACE  
TRANSPORTATION BOARD

ENTERED  
Office of Proceedings  
NOV 25 2003  
Part of  
Public Record

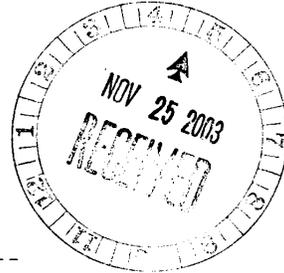
D: B # 01031126001001

209491

BEFORE THE  
SURFACE TRANSPORTATION BOARD

ORIGINAL

STB FINANCE DOCKET NO. 34442



MARITIME RAIL, LLC  
-- LEASE AND OPERATION EXEMPTION --  
MEADOWS INDUSTRIAL TRACKS

**FILED**  
NOV 25 2003  
SURFACE  
TRANSPORTATION BOARD

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VERIFIED NOTICE OF EXEMPTION  
PURSUANT TO 49 U.S.C. 10901 and 49 CFR 1150.31

NOTICE OF OPERATION OF RAIL LINE  
INFORMATION REQUIRED BY 49 CFR 1150.33

**FEE RECEIVED**  
NOV 25 2003  
SURFACE  
TRANSPORTATION BOARD

Submitted By:

John D. Heffner  
John D. Heffner, PLLC  
1920 N Street, N.W.  
Suite 800  
Washington, D.C. 20036  
(202) 263-4180

Counsel for Petitioner

ENTERED  
Office of Proceedings  
NOV 28 2003  
Part of  
Public Record

Dated: November 25, 2003

BEFORE THE  
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 34442



MARITIME RAIL, LLC  
-- LEASE AND OPERATION EXEMPTION --  
MEADOWS INDUSTRIAL TRACKS

VERIFIED NOTICE OF EXEMPTION  
PURSUANT TO 49 U.S.C. 10901 and 49 CFR 1150.31

NOTICE OF OPERATION OF RAIL LINE

INFORMATION REQUIRED BY 49 CFR 1150.33

Name and Address of Applicant                    **49 CFR 1150.33(a)**

Maritime Rail, LLC  
505 Milltown Road  
Envar Services New Office Building  
North Brunswick, NJ 08902

Applicant's Representative                    **49 CFR 1150.33(b)**

John D. Heffner  
John D. Heffner, PLLC  
1920 N Street, N.W.  
Suite 800  
Washington, D.C. 20036  
(202) 263-4180

Statement of Agreement(s)                    **49 CFR 1150.33(c)**

Maritime Rail, LLC ("Maritime") is negotiating and

expects shortly to execute agreements with BASF Corporation ("BASF") and Jac-Jon Associates ("Jac-Jon")<sup>1</sup> for Maritime to lease and operate railroad properties known as the Meadows Industrial Tracks consisting of trackage and real property described in more detail below and located in or near South Kearney, NJ.

The rail properties to be leased and operated consist of the following segments: (1) a lead track which terminates in a track identified on the attached map A-1 as the "car loading track;" (2) a track identified on the attached map A-1 as the "10-car storage track"; and (3) the track identified on the attached map A-1 as the "10-car capacity track for holding empties." In addition, a curved loading track (down near the bottom of map A-1) will be constructed at a later date.<sup>2</sup> Tracks (1) and (2) are located on property owned by Jac-Jon which Maritime seeks to lease. Track (3) and the alignment for the curved loading track are located on property owned by BASF. The total distance involved is about 2500 track feet.

Maritime plans to commence operations sometime during the year 2004, specifically 6 to 8 months after the Army Corps of

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<sup>1</sup> The address for BASF Corporation is 3000 Continental Drive-North, Mount Olive, NJ 07828-1234.

<sup>2</sup> The address for Jac-Jon is 76-78 Central Ave., Kearney, NJ 07032

<sup>2</sup> Because the three numbered tracks will be used for originating and terminating trains moving in interstate commerce, Maritime believes these tracks form a line of railroad within the meaning of 49 U.S.C. 10901 et seq.

Engineers and the State of New Jersey award a joint contract for a demonstration project involving the dredging of the Passaic River and the treatment of the dredge material.

Operator of the Property                      **49 CFR 1150.33(d)**

In all cases anticipated by this Notice, and as described in the transaction summary provided below, Maritime will hold itself out to provide common carrier rail freight service over the subject rail facilities.

Brief Summary of Transaction                      **49 CFR 1150.33(e)**

Maritime is a newly established noncarrier which proposes to operate the subject rail properties as a class III short line railroad. By this transaction, Maritime will reactivate and restore to common carrier rail service trackage formerly operated by Consolidated Rail Corporation. No service has been provided over the subject line for approximately 2 to 4 years. The subject rail lines traverse land owned by Jac-Jon, with whom Maritime is still negotiating, and BASF which has consented to Maritime's use of its property.<sup>3</sup> Once this exemption becomes effective and the appropriate property leases are executed, Maritime will rehabilitate the subject trackage, negotiate an interchange agreement with Conrail, and commence operations.

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<sup>3</sup> See support letter from BASF attached as Exhibit D to this notice.

Initially, traffic transported over the subject line will include outbound loads of dirt moving from BASF's facility<sup>4</sup> to customers located throughout the country, inbound containerized freight coming by water from international or domestic origins for rail movement on the U.S. mainland, and inbound tank cars of food grade commodities to be transferred to barge.

This transaction qualifies for a class exemption under 49 CFR 1150.31 et seq., because it involves the lease and operation of a rail line by a newly established class III short line rail carrier.

Map

**49 CFR 1150.33(f)**

A series of Maps depicting the line to be leased and operated are attached as Exhibit A.

Certificate of Carrier Classification    **49 CFR 1150.33(g)**

Maritime hereby certifies that, with this acquisition, its projected annual revenues will still be less than \$5,000,000 annually. A certificate complying with the provisions of 49 CFR 1150.33(g) is attached as Exhibit B to this notice.

Labor Protection

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<sup>4</sup> The dirt consists of soil sediment which BASF has dredged in the harbor and chemically cleaned. The clean dirt is suitable for use for ground cover, top soil, and making building blocks. BASF intends to use rail to ship this clean dirt to customers located around the country.

Under 49 U.S.C. 10901 the imposition of labor protective conditions is discretionary. Maritime requests that no conditions be imposed as there are no employees who will be adversely affected.

Caption Summary

**49 CFR 1150.34**

A caption summary in the prescribed form is attached as Exhibit C to this Notice.

Environmental and Historic Preservation Data **49 CFR 1105**

Pursuant to 49 CFR 1105.6(c)(2), the proposed transaction is exempt from environmental review under 49 CFR 1105(c)(2)(i), because the actions proposed herein will not cause any operating changes that exceed the thresholds established in 1105.7(e)(4) or (5).

In addition, this transaction is exempt from historic review under 1105.8(b)(1). Under this section, a sale, lease or transfer of a rail line is exempt if rail operations will continue. Further Board approval is required for the parties to abandon service, and there are no plans to dispose of or alter the properties subject to Board jurisdiction.

Respectfully submitted,

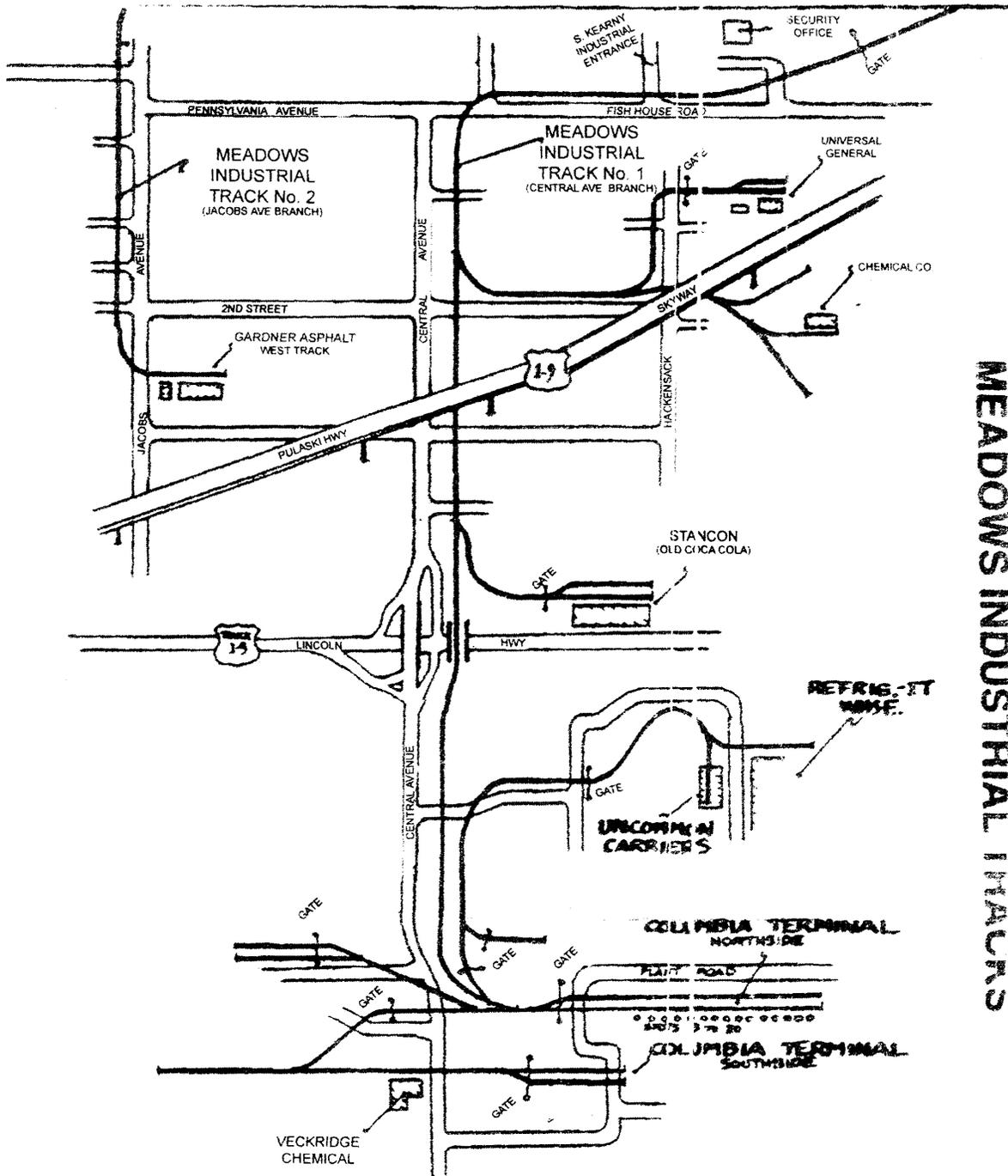


John D. Heffner  
John D. Heffner, PLLC  
1920 N Street, N.W.  
Suite 800  
Washington, D.C. 20036  
(202) 263-4180

Counsel for Petitioner

Dated: November 25, 2003

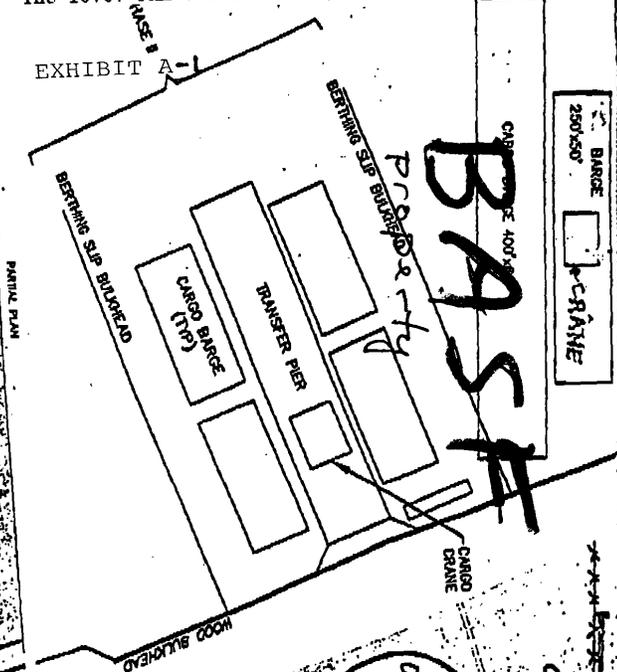
EXHIBIT A



MEADOWS INDUSTRIAL TRACKS

PASSAIC RIVER

EXHIBIT A-1



**BASF**

PROPERTY

Joe - Tom Associates  
PROPERTY

OUTBOUND STORAGE

10-CAR CAPACITY TRACK FOR HOLDING EMPTIES WHILE LOADS ARE FILLED. BERTING TRAIL (BASF) TRACK 230

CONSTRUCT NEW # B TURNOUT AND TRACK AS SHOWN DASHED.

AT 14' CL. PT. INSTALL DERAIL ON NEW TRACK. 1400 P.C. 12" CV.

AT 14' CL. PT. INSTALL DERAIL IN EXISTING TRACK.

8+00 END NEW TRACK.

0+00 P.S. & B.L.N.T.O.

REMOVED SOUTH TRACK EXIST OF 5'



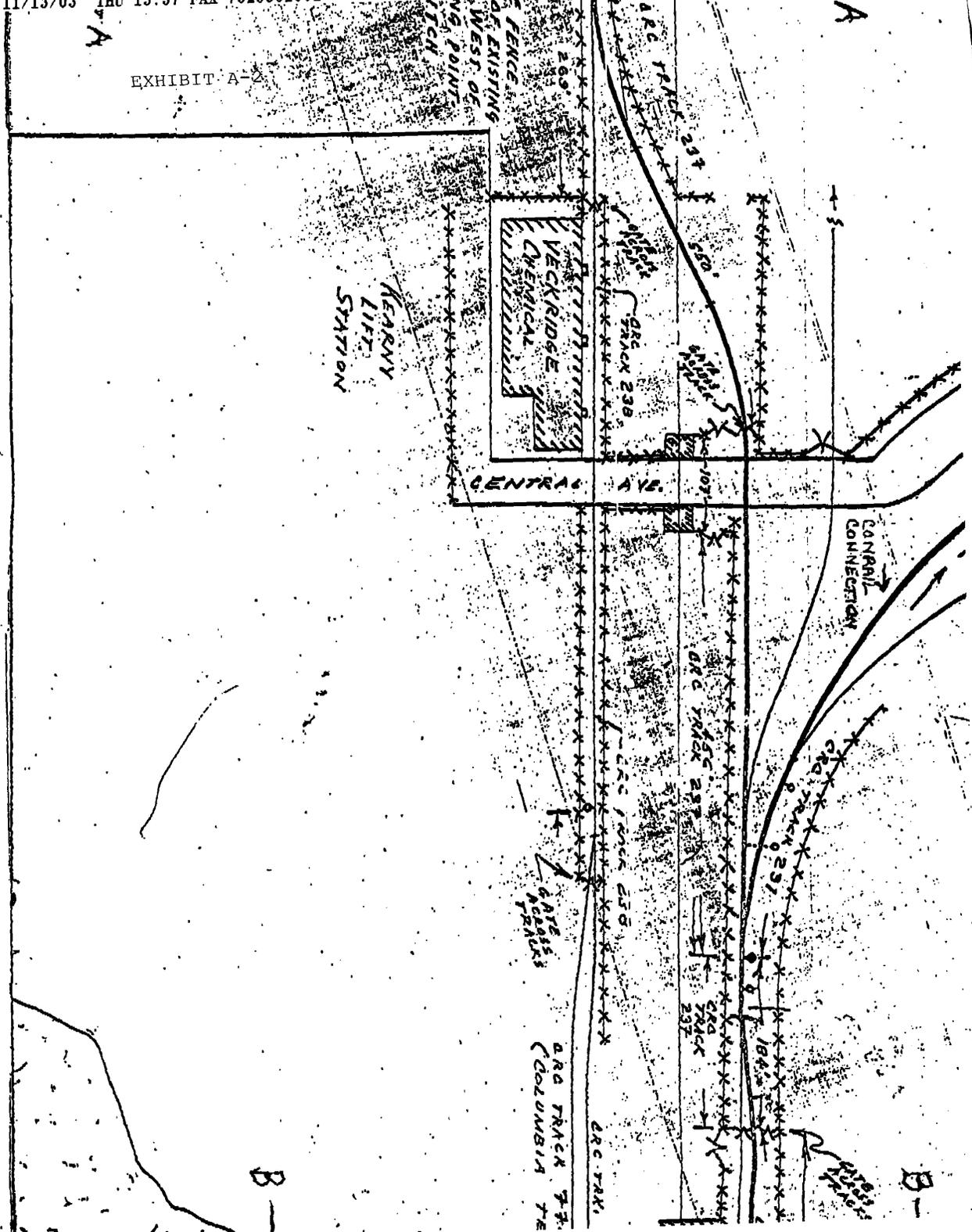
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EXHIBIT A-2

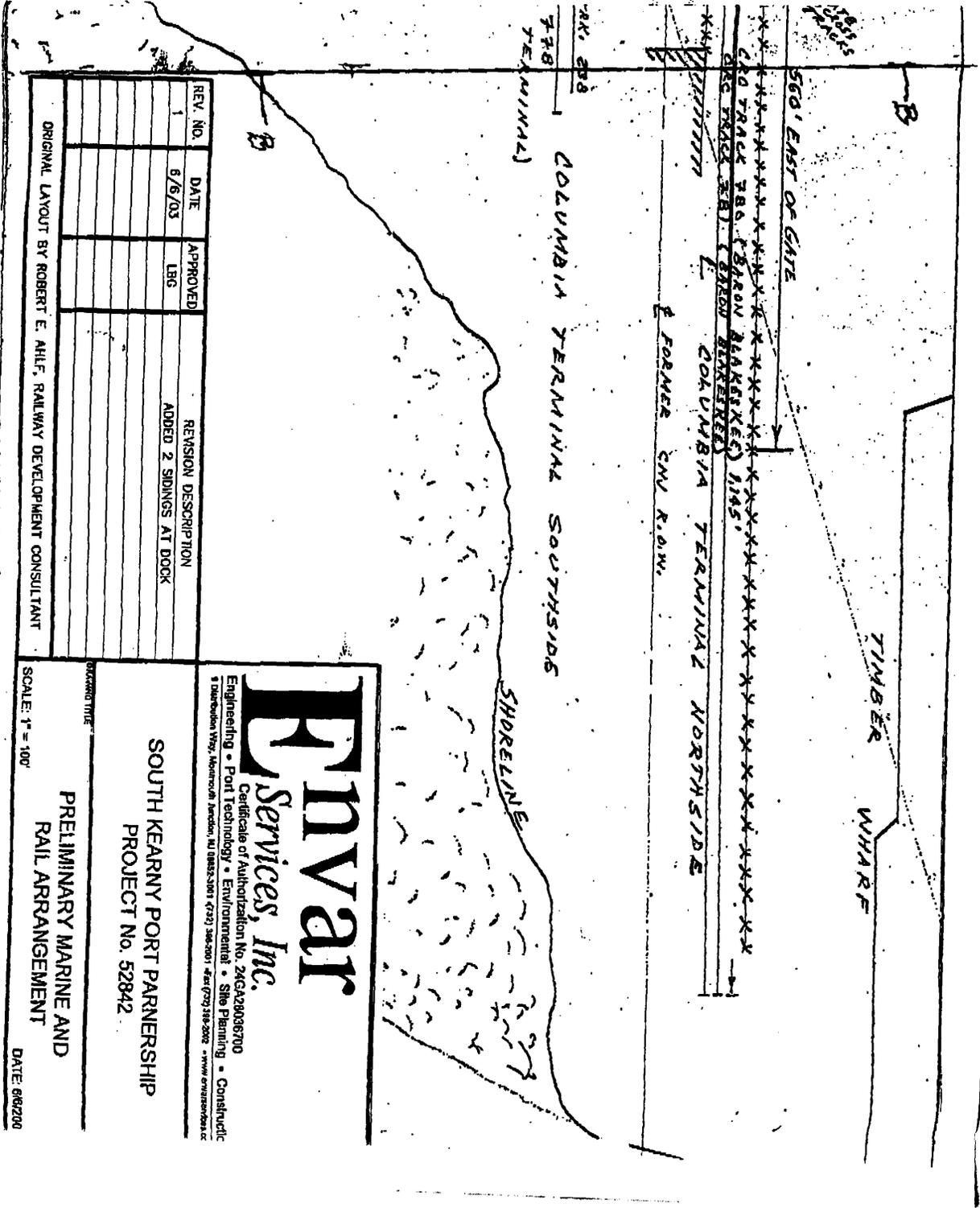
-A



B

B-

EXHIBIT A-3



REV. NO.	DATE	APPROVED	REVISION DESCRIPTION
1	8/6/03	LBG	ADDED 2 SIDINGS AT DOCK

ORIGINAL LAYOUT BY ROBERT E. AHLF, RAILWAY DEVELOPMENT CONSULTANT

SCALE: 1" = 100'

DATE: 08/20/03

**Envar**  
Services, Inc.

Certificate of Authorization No. 24GA29036700  
 Engineering • Port Technology • Environmental • Site Planning • Constructive  
 9 Distribution Way, Monmouth Junction, NJ 08852-3081 (732) 346-3001 • Fax (732) 346-3002 • www.envarservices.com

SOUTH KEARNY PORT PARTNERSHIP  
 PROJECT NO. 52842

PRELIMINARY MARINE AND  
 RAIL ARRANGEMENT

EXHIBIT B

CERTIFICATION

I, John C. Koster, an officer of the  
RAILROAD ("MARITIME RAIL, LLC") hereby certify under  
penalty of perjury that the projected annual revenues of  
MARITIME RAIL LLC in the aggregate, will not exceed \$5,000,000, and  
that MARITIME RAIL LLC will be a Class III rail carrier as set  
forth at 49 CFR 1201 (1-1) (a). Further, I certify that I am  
qualified and authorized to make this certification on behalf of  
MARITIME RAIL LLC.

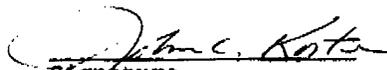
  
Signature

EXHIBIT C

BEFORE THE  
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 34442

MARITIME RAIL, LLC  
-- LEASE AND OPERATION EXEMPTION --  
MEADOWS INDUSTRIAL TRACKS

VERIFIED NOTICE OF EXEMPTION  
PURSUANT TO 49 U.S.C. 10901 and 49 CFR 1150.31

NOTICE OF OPERATION OF RAIL LINE

Maritime Rail, LLC ("Maritime"), a newly established noncarrier has filed a Verified Notice of Exemption under 49 CFR 1150.31 to lease and operate as a class III short line railroad the certain railroad properties totaling about 2500 track feet in length. The tracks are identified on the map attached to the notice of exemption as: (1) the lead track which terminates in a track known as the car loading track; (2) the 10-car storage track; and (3) the 10-car capacity track for holding empties.

Maritime intends to consummate this transaction sometime during 2004, depending upon the award date of a contract for dredging the Passaic River.

This notice is filed under 49 C.F.R. 1150.31. 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. 34442 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1925 K Street, N.W., Washington, D.C. 20423-0001. In addition, a copy of each pleading must be served on:

John D. Heffner, Esq.  
John D. Heffner, PLLC  
1920 N Street, N.W.  
Suite 800  
Washington, D.C., 20036  
Telephone: (202) 263-4180

(seal)

Vernon A. Williams  
Secretary

BASF Corporation

**BASF**

EXHIBIT D

John D. Heffner  
Law Offices of John D. Heffner  
555 Twelfth Street, N.W.  
Suite 950N  
Washington, D.C. 20004  
(202) 737-4335

To whom it may concern,

BASF Corporation owns a certain parcel of land comprised of approximately 27.1 acres and located on the South Kearny peninsula in the Town of Kearny, Hudson County, New Jersey. That parcel is more carefully described in the map attached to and made part of this letter. BASF is aware of, has encouraged and wholeheartedly supports the application by Maritime Rail, LLC to become a class III short line railroad common carrier on the South Kearny peninsula and more particularly with some of its tracks, switches and rights of way on the above captioned property.

The property has had an active industrial rail siding in the past. BASF is now supporting the development of this property as a significant dredge sediment cleaning and beneficial use manufacturing facility. Such a facility will support and facilitate the critical deepening and dredging of NY/NJ's port facilities. It will do so in an environmentally responsible and innovative way and it will create a number of beneficial use products that will require bulk transportation from the property.

The redevelopment and refurbishment of rail infrastructure on the site and the creation of a terminal switching railroad is critical to both the short term and long term developments for the property and for the commerce to be located there. The development and use of rail for the site and for these proposed activities is in keeping with the Town of Kearny's, the County's, the region's, the States and the Federal Government's goals of displacing truck traffic wherever possible and improving and making more and better use of rail.

As and when the track lay out has been engineered, approved by BASF and permitted, BASF anticipates leasing appropriate rights of way over the property, land and facilities to Maritime Rail for the installation and operation of the railroad.

We look forward to your expeditious approval of Maritime Rail's application.

Yours truly,

  
J. Douglas Reid-Green,  
Senior Environmental Specialist

VERIFICATION

STATE OF )  
          )     SS  
CITY OF    )

John C. Koster, being duly sworn according to law,  
hereby deposes and states that (s)he is authorized to make the  
Verification, has read the foregoing document, and knows the  
facts asserted therein are true and accurate as stated, to the  
best of (her)his knowledge, information and belief.

John C. Koster

Subscribed and sworn to before me, a Notary Public, in and for  
the City of Savanna in the State of Illinois, this 24<sup>th</sup>  
day of Nov.

Jo Carey  
Notary Public

My Commission expires:

1-23-06

