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ORIGINAL

BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, D.C.

STB Finance Docket No. 34442

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



EXPEDITED ACTION RESPECTFULLY REQUESTED

PETITION TO REJECT  
OF  
NEW JERSEY RAIL CARRIER LLC

ENTERED  
Office of Proceedings

DEC 01 2003

Part of  
Public Record

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Attorney for

NEW JERSEY RAIL CARRIER LLC

Dated: December 1, 2003

BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, D.C.



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Petitioner, New Jersey Rail Carrier LLC of South Kearny, NJ, pursuant to 49 C.F.R. 1117.1, asks that the Verified Notice of Exemption, filed November 25, 2003, be rejected, because it contains false and misleading information and, hence, is void *ab initio*. 49 C.F. R. 1150.32.(c).

1. The Board's regulations, 49 C.F.R. 1150.33(c), require that the applicant state that an agreement has been reached or details about when an agreement will be reached. The Verified Notice of Exemption is wholly deficient in that regard. Although at pages 1-2 of the Notice, applicant alleges that it "expects shortly to execute agreements with BASF Corporation ("BASF") and Jac-Jon Associates ("Jac-Jon") for Maritime to lease and operate railroad properties known as the Meadows Industrial Tracks . . . ", applicant offers no details about the agreements it

anticipates reaching with BASF or Jac-Jon. At best, applicant, at page 3 of its Notice, states that BASF has consented to Maritime's use of its property, but, as for Jac-Jon, applicant acknowledges it is still negotiating with Jac-Jon. It is Jac-Jon's property, however, on which the loading track and two ten-car storage tracks which applicant proposes to lease and operate, as shown on the map attached to the Notice, are located.

2. The Board's regulations, 49 C.F.R. 1150.33(e)(3), require that the applicant include the mile-posts of the subject property. Applicant has failed totally to do so. The map attached to its Notice includes as tracks to be leased and operated by it not only the loading track and two ten-car storage tracks on the Jac-Jon property but also tracks extending into the former Columbia Terminals leased by New Jersey Rail Carrier LLC, which are the subject of Verified Notice of Exemption filed in STB Finance Docket No. 34392, New Jersey Rail Carrier LLC–Acquisition and Operation Exemption–Former Columbia Terminals, Kearny, NJ. Additionally, the map attached to applicant's Notice indicates that the applicant will be leasing and operating the track of Consolidated Rail Corporation used by it to serve a shipper, Veckridge Chemical; applicant, however, has no lease agreement with Consolidated Rail Corporation, whether actual or proposed.

3. The Board's regulations, 49 C.F.R. 1150.33(e), require that the applicant set forth a brief summary of the proposed transaction. At the top of page 4, applicant states:

Initially, traffic transported over the subject line will include outbound loads of dirt moving from BASF's facility 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 [footnote omitted].

None of this traffic is in the offing. The supporting letter from BASF, attached to applicant's

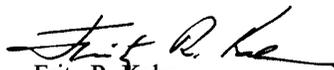
Verified Notice of Exemption as Exhibit D, acknowledges that BASF does not now have and merely hopes to secure a contract to clean and otherwise process dredge sediment removed from the NY/NJ port facilities and then it needs to construct a new turn out and loading track on which the processed sediment would be loaded into railroad cars to be shipped to yet unknown and unspecified destinations. There is no crane as shown on the map attached to applicant's Notice and, hence, no present means for handling inbound containers of freight from barges and outbound tank cars of food grade commodities to barges. In any event, no consignee of inbound containers of freight or shipper of outbound tank cars of food grade commodities is identified in applicant's Notice. Moreover, there is no indication how much freight would be tendered applicant and whether it would be sufficient to support its proposed operations.

WHEREFORE, New Jersey Rail Carrier LLC asks that the Verified Notice of Exemption of Maritime Rail LLC be rejected for being void *ab initio*.

Respectfully submitted,

NEW JERSEY RAIL CARRIER LLC

By its attorney,



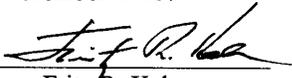
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Washington, DC 20036-1601  
Tel.: (202) 263-4152

Dated: December 1, 2003

CERTIFICATE OF SERVICE

I certify that I this day have served a copy of the foregoing Petition to Reject upon  
Maritime Rail LLC by hand delivering a copy to its counsel, John D. Heffner, Esq.

Dated at Washington, DC, this 1<sup>st</sup> day of December 1003.

  
Fritz R. Kahn

VERIFICATION

I, Anthony Rizzo, Jr., Managing Member of New Jersey Rail Carrier LLC, declare under penalty of perjury, under the laws of the United States of America, that I have read the foregoing Petition to Reject and that its assertions are true and correct to the best of my knowledge, information and belief. I further declare that I am qualified and authorized to submit this verification on behalf of New Jersey Rail Carrier LLC. I know that willful misstatements or omissions of material facts constitute Federal criminal violations punishable under 18 U.S.C. 1001 by imprisonment up to five years and fines up to \$10,000 for each offense. Additionally, these misstatements are punishable as perjury under 18 U.S.C. 1621, which provides for fines up to \$2,000 or imprisonment up to five years for each offense.

Dated at Kearny, NJ, this 1<sup>st</sup> day of December 2003.

  
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Anthony Rizzo, Jr.