

219331



Jon S Corzine
Governor

Kris Kolluri, Esq
Board Chairman

Richard R Saries
Executive Director

May 17, 2007

Mr Vernon Williams
Office of the Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Re: STB Finance Docket No. 35020
Northern and Bergen Railroad, L.L.C.—
Acquisition Exemption—a Line of
Railroad Owned by New York &
Greenwood Lake Railway

ENTERED
Office of Proceedings
MAY 18 2007
Part of
Public Record



Dear Mr. Williams:

New Jersey Transit Corporation ("NJ Transit") hereby submits the following comments regarding the above-mentioned Notice of Exemption ("Notice") filed by Northern and Bergen Railroad, L.L.C, Inc. ("Northern and Bergen") on April 26, 2007 under the above referenced docket number NJ Transit supports the NJ Department of Environmental Protection's request that the Surface Transportation Board ("Board") stay the effectiveness of the Notice pending the release of factual information that has not been provided to the Board. Further development of facts is required to determine whether the Northern and Bergen is entitled to the exemption set forth in 40 C.F.R. sections 1150.31-34 and 1180.2 and therefore whether Northern and Bergen is entitled to own and operate 1.1 miles of railroad track in Garfield, New Jersey as a "rail carrier" as defined in 49 U.S.C. section 10122(5).

NJ Transit is a public instrumentality of the State of New Jersey established by the New Jersey legislature in 1979 to provide efficient, safe and responsive public transportation. The Verified Notice of Exemption filed by Northern and Bergen states that it intends to provide common carrier rail operations over a rail line *and interchange with the Norfolk Southern Railway Company at Garfield, NJ* (emphasis added) on behalf of Norfolk Southern Railway Company (Northern and Bergen p. 3). NJ Transit is the owner of that portion of the Bergen County rail line where Norfolk Southern operates freight rail service and currently interchanges with the New York and Greenwood Lake Railway (NY&GL). In addition, NJ Transit is the owner of the siding where Northern and Bergen freight cars will be left for interchange to the Norfolk Southern.

Currently, New York and Greenwood Lake leases the property where the sidetrack is located from NJ Transit, however, the lease has expired. In addition, the lease is not transferable to another party. NJ Transit has not agreed to lease the sidetrack to Northern and Bergen, nor has Northern and Bergen requested a lease for the siding from NJ Transit

Mr. Vernon Williams
May 17, 2007

On the Bergen County Line itself, Norfolk Southern operates freight service over the line pursuant to a freight operating easement that Conrail reserved upon transfer of title to the State of New Jersey. A Trackage Rights Agreement between NJ Transit and Consolidated Rail Corporation governs freight operations on this portion of the line. The terms of that Agreement were conveyed to Norfolk Southern, the successor freight operator of the Line. Under Section 4.02 (a) (1) of the aforementioned Trackage Rights Agreement, Conrail agrees to arrange for any industry that wishes to install or activate a siding located along NJ Transit properties to "negotiate a suitable permit arrangement with NJ Transit ..". Neither Norfolk Southern nor the Northern and Bergen have contacted NJ Transit about this service or requested a permit from NJ Transit.

NJ Transit does not have sufficient information to determine if a lease or permit will be granted to the Northern and Bergen. NJ Transit requires information about the proposed operating plan and the types of commodities Northern and Bergen intends to transport on NJ Transit's rail line to fully understand the potential impacts of the proposed Northern and Bergen operation on NJ Transit's railroad. In addition, NJ Transit does not have any information about the financial conditions or ownership of the Northern and Bergen LLC since it is not licensed to do business in the State of New Jersey.

For all of the foregoing reasons, NJ Transit requests that the Board stay the effectiveness of the exemption pending the submittal of the additional information required to evaluate the proposed Notice of Exemption.

NJ Transit also requests that it be made a party of interest in these dockets.

Should you have any questions, please contact me. Thank you for your attention to this matter.

Sincerely,



D. C. Agrawal
Assistant Executive Director
Corporate Strategy, Policy, & Contracts

c: Jeffrey O. Moreno, Esq.
Thompson Hine LLP
1920 N Street, N.W.
Suite 800
Washington, DC 20036-1600

Kevin P. Auerbacher
Deputy Attorney General
Attorney for New Jersey Department
of Environmental Protection