

BALL JANIK LLP

A T T O R N E Y S

1455 F STREET, NW, SUITE 225
WASHINGTON, D.C. 20005

www.balljanik.com

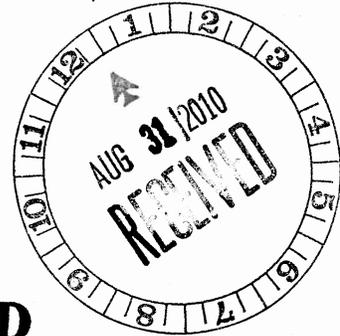
TELEPHONE 202-638-3307
FACSIMILE 202-783-6947

227724

kmorell@dc.bjllp.com

FILED
AUG 31 2010
SURFACE
TRANSPORTATION BOARD
KARL MORELL

August 31, 2010



BY HAND DELIVERY

FEE RECEIVED

AUG 31 2010

**SURFACE
TRANSPORTATION BOARD**

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street S.W.
Washington, DC 20423-0001

Re: STB Finance Docket No. 35412, Middletown & New Jersey
Railroad, LLC – Lease and Operation Exemption – Norfolk
Southern Railway Company

Dear Ms. Brown:

Attached for filing are the original and ten copies of a Verified Notice of Exemption under 49 C.F.R. § 1150.41 and a check covering the \$1,800 filing fee. Also enclosed is a Disc containing the Notice and Summary.

Pursuant to 49 C.F.R. §§ 1150.43(h)(1)(ii) and 1104.14(a), Middletown & New Jersey ("M&NJ") is filing ten (10) copies of the final Lease Agreement between M&NJ and Norfolk Southern Railway Company under seal.

Please time and date stamp the extra copy of the Notice of Exemption and return it with our messenger.

ENTERED
Office of Proceedings

AUG 31 2010

Part of
Public Record

August 31, 2010
Page 2

If you have any questions, please contact me.

Sincerely yours,

A handwritten signature in black ink that reads "Karl Morell". The signature is written in a cursive, flowing style with a prominent initial "K".

Karl Morell

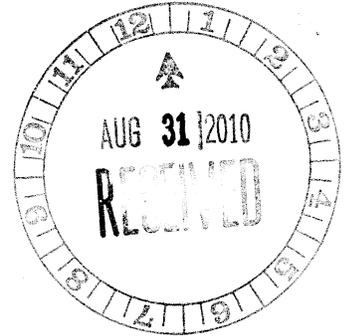
Enclosures

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 35412

MIDDLETOWN & NEW JERSEY RAILROAD, LLC
--LEASE AND OPERATION EXEMPTION--
NORFOLK SOUTHERN RAILWAY COMPANY

VERIFIED NOTICE OF EXEMPTION
Pursuant to 49 C.F.R. § 1150.41, Et Seq.



KARL MORELL
Of Counsel
BALL JANIK LLP
Suite 225
1455 F Street, N.W.
Washington, D.C. 20005
(202) 638-3307

Attorney for:
MIDDLETOWN & NEW JERSEY
RAILROAD, LLC

Dated: August 31, 2010

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 35412

MIDDLETOWN & NEW JERSEY RAILROAD, LLC
--LEASE AND OPERATION EXEMPTION--
NORFOLK SOUTHERN RAILWAY COMPANY

VERIFIED NOTICE OF EXEMPTION
Pursuant to 49 C.F.R. § 1150.41, Et Seq.

Middletown & New Jersey Railroad, LLC ("M&NJ"), a Class III rail carrier, files this Notice of Exemption pursuant to 49 C.F.R. Part 1150, Subpart E--Exempt Transactions Under 49 U.S.C. 10902, to permit M&NJ to lease certain rail lines from Norfolk Southern Railway Company ("NSR"). In conjunction with the lease of the NSR rail lines, M&NJ will also sublease connecting track owned by New York, Susquehanna & Western Railway ("NYS&W") and receive incidental overhead trackage rights.

In support of this Notice of Exemption, M&NJ submits the following information as required by 49 C.F.R. § 1150.43:

- (a) Full name and address of applicant:

Middletown and New Jersey Railroad, LLC
505 S. Broad Street
Kennett Square, PA 19348

(b) Applicant's Representative:

Karl Morell
Of Counsel
BALL JANIK LLP
Suite 225
1455 F Street, N.W.
Washington, DC 20005
(202) 638-3307

(c) Statement of Agreement:

M&NJ has entered into agreements with the NSR for the lease of the rail lines, the sublease of the connecting track and the incidental trackage rights.

(d) The operator of the property:

M&NJ will be the operator on the involved rail lines.

(e) Summary of proposed transaction:

(1) The name and address of the entity leasing the subject property is:

Norfolk Southern Railway Company
Three Commercial Place
Norfolk, VA 23510

(2) M&NJ's lease of the rail lines, sublease of the connecting track and incidental trackage rights are expected to be consummated on or shortly after October 1, 2010.

(3) M&NJ is proposing to lease the following rail lines from NSR: (1) the Hudson Secondary located between Mileposts LX 2.1 and LX 20.6 (18.5 miles in length); (2) the Walden Secondary located between Mileposts DJ5.0-DJ 10.5 and WI 29.1-WI 32.9 (9.3 miles in length); (3) the Maybrook Industrial Track located Mileposts RT 1.3 and RT 7.5 (6.2

miles in length); (4) the Greycourt Industrial Track located between Mileposts IL 52.5 and IL 53.4 (1.0 mile in length); and (5) the EL Connection Track located between Mileposts QK 0.0 and QK 0.8 (0.8 mile in length). In conjunction with the lease of these lines: (1) NSR is granting M&NJ incidental overhead trackage rights over NSR's rail line located between Mileposts JS 67.50 and 63.14 (4.36 miles in length); (2) NSR is subleasing to M&NJ NSR's lease operations over the connecting track owned by the NYS&W located between Milepost JS 63.14, at Hudson Jct., NY, and Milepost LX 2.1, at Hudson Jct., NY (approximately .35 mile in length); and (3) NSR is partially assigning to M&NJ all of NSR's rights under the NYS&W Trackage Rights Agreement for NYS&W's continued trackage rights operations over the Hudson Secondary track between Hudson Jct., NY and Warwick, NY.

(4) The length of the rail lines being leased and subleased is approximately 36.15 miles. The length of the incidental trackage rights is 4.36 miles.

(f) A map of the rail lines being leased and subleased and the trackage rights line is attached as Exhibit A.

(g) M&NJ hereby certifies that M&NJ's projected revenues as a result of this transaction will not result in M&NJ becoming a Class II or Class I rail carrier. M&NJ further certifies that its projected annual rail freight revenues from operation of the leased lines, when combined with M&NJ's projected revenues from current rail freight operations, will not exceed

\$5 million. Consequently, the requirements of 49 C.F.R. § 1150.42(e) do not apply to this transaction.

(h) The Lease Agreement between NSR and M&NJ contains a provision that will enable M&NJ to reduce its lease payments by receiving a credit for each car interchanged with NSR. NSR initially proposed a fixed rental payment with no option to reduce the rent. M&NJ, however, insisted on a lease credit option to provide an opportunity for M&NJ to earn lower rental payment so that M&NJ will be able to invest in improvements on the leased lines to increase traffic levels. The affected interchange point is Campbell Hall, NY. A copy of the final Lease Agreement is being filed with the Board under 49 C.F.R. §§ 1104.14(a) and 1150.43(h)(ii). The other Agreements between the parties do not contain an interchange commitment.

A caption summary, as required by 49 C.F.R. § 1150.44, is attached.

ENVIRONMENTAL AND HISTORIC IMPACTS

M&NJ is leasing and subleasing the lines from NSR and obtaining the incidental trackage rights for continued rail operations. Further Surface Transportation Board (“Board”) approval is required for M&NJ to discontinue any service, and there are no plans to dispose of or alter properties subject to Board jurisdiction that are 50 years old or older. Hence, this Notice of Exemption does not require an historic report under 49 C.F.R. § 1105.8(b)(1).

M&NJ's lease and trackage rights will not result in significant changes in carrier operations. There will not be a diversion of: (1) more than 1,000 rail carloads a year to motor carriage; or (2) an average of 50 carloads per mile per year for any part of this line to motor carriage. This transaction will not result in: (1) an increase in rail traffic of at least 100 percent or an increase of at least eight trains a day on any segment of the line; (2) an increase of rail yard

activity of at least 100 percent; or (3) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day. MN&J's lease of the rail lines and trackage rights will not affect a Class I or nonattainment area under the Clean Air Act. In any event, the thresholds of 49 C.F.R. § 1105.7(e)(5)(ii) will not be exceeded. Finally, the transportation of ozone depleting materials is not contemplated. Therefore, no environmental documentation is required under 49 C.F.R. § 1105.6(c)(2).

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

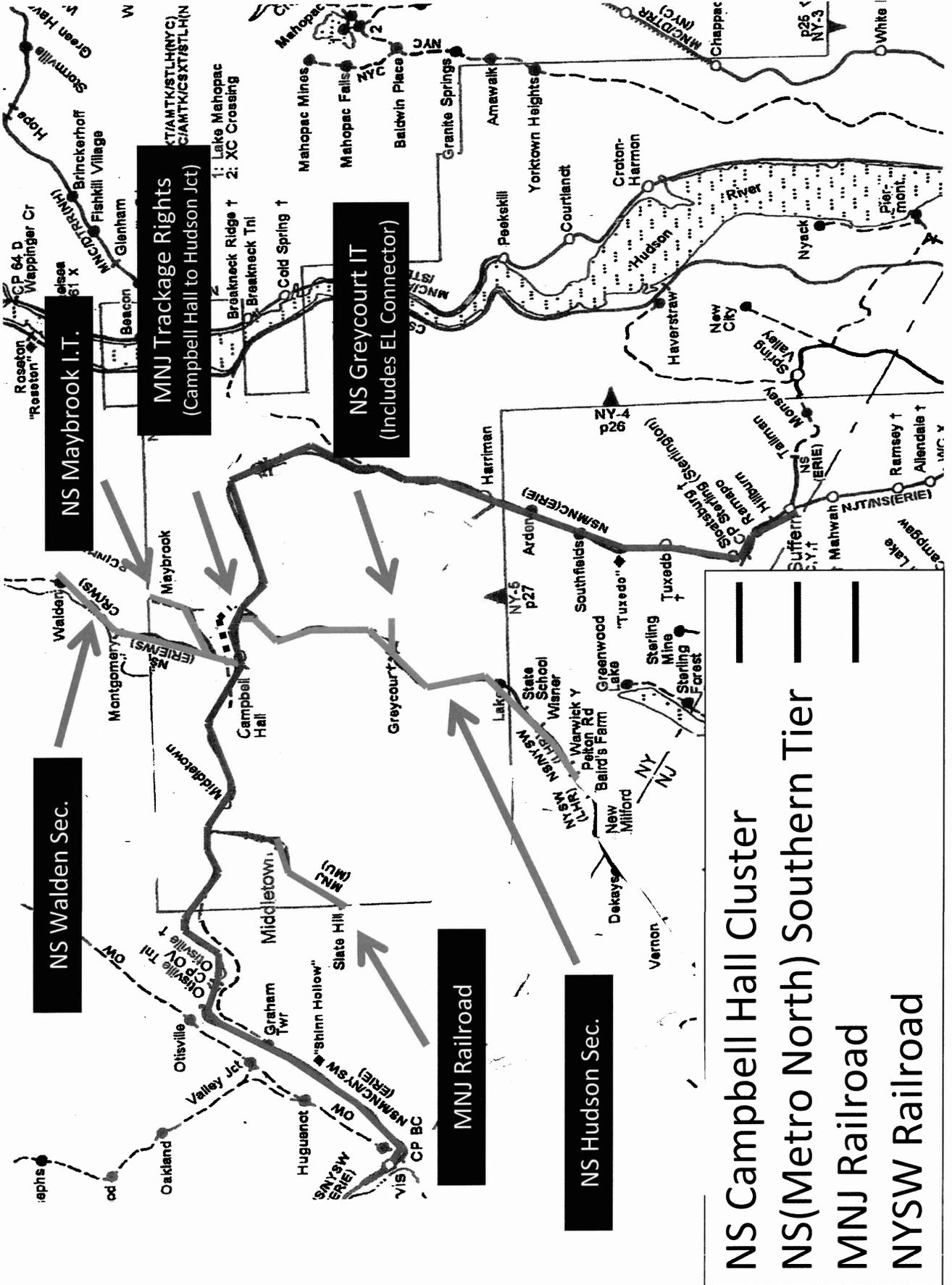
Respectfully submitted,



KARL MORELL
Of Counsel
BALL JANIK LLP
Suite 225
1455 F Street, N.W.
Washington, DC 20005
(202) 638-3307

Attorney for:
MIDDLETOWN & NEW JERSEY
RAILROAD, LLC

Dated: August 31, 2010



SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

FINANCE DOCKET NO. 35412

MIDDLETOWN & NEW JERSEY RAILROAD, LLC
--LEASE AND OPERATION EXEMPTION--
NORFOLK SOUTHERN RAILWAY COMPANY

Middletown & New Jersey Railroad, LLC ("M&NJ"), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease from the Norfolk Southern Railway Company ("NSR") the following rail lines: (1) the Hudson Secondary located between Mileposts LX 2.1 and LX 20.6 (18.5 miles in length); (2) the Walden Secondary located between Mileposts DJ5.0-DJ 10.5 and WI 29.1-WI 32.9 (9.3 miles in length); (3) the Maybrook Industrial Track located Mileposts RT 1.3 and RT 7.5 (6.2 miles in length); (4) the Greycourt Industrial Track located between Mileposts IL 52.5 and IL 53.4 (1.0 mile in length); and (5) the EL Connection Track located between Mileposts QK 0.0 and QK 0.8 (0.8 mile in length). In conjunction with the lease of these lines: (1) NSR is granting M&NJ incidental overhead trackage rights over NSR's rail line located between Mileposts JS 67.50 and 63.14; (2) NSR is subleasing to M&NJ NSR's lease operations over the connecting track owned by the New York, Susquehanna & Western Railway located between Milepost JS 63.14, at Hudson Jct., NY, and Milepost LX 2.1, at Hudson Jct., NY; and (3) NSR is partially assigning to M&NJ all of NSR's rights under the NYS&W Trackage Rights Agreement for NYS&W's continued trackage rights operations over the Hudson Secondary track between Hudson Jct., NY and Warwick, NY.

Comments must be filed with the Board and served on Karl Morell, Of Counsel, BALL JANIK LLP, Suite 225, 1455 F Street, N.W., Washington, DC 20005, (202) 638-3307.

This notice is filed under 49 C.F.R. 1150.41. If the notice contains false or misleading information, the exemption is void ab initio. The filing of a petition to revoke will not automatically stay the transaction.

VERIFICATION

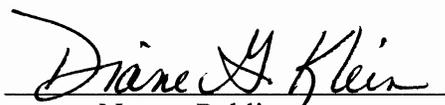
STATE OF PENNSYLVANIA)
)
COUNTY OF CHESTER) ss.

I, Robert C. Parker, being duly sworn depose and state that I am President and Chief Executive Officer of the Middletown and New Jersey Railroad, LLC, that I am authorized to make this verification, and that I have read the foregoing Notice of Exemption and know the facts asserted therein are true and accurate as stated to the best of my knowledge, information, and belief.


Robert C. Parker

SUBSCRIBED AND SWORN TO before me this 27th day of August, 2010, in the County of Chester, State of Pennsylvania.

My Commission Expires: Sept. 3, 2010


Notary Public

