

LAW OFFICES  
**JOHN D. HEFFNER, PLLC**  
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**ORIGINAL**

November 19, 2010



228 287

Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423

**RE: STB Finance Docket No. 35444, New York New Jersey  
Rail, LLC- Acquisition and Operation Exemption -  
Line of Railroad in Hudson County, NJ**

**ENTERED  
Office of Proceedings**

**NOV 19 2010**

**Part of  
Public Record**

Dear Ms: Brown:

On behalf of New York New Jersey Rail, LLC, I am enclosing an original and ten copies of a Verified Notice of Exemption under 49 CFR 1150.41 in the above-captioned proceeding. I am enclosing with this filing a check for \$1800 to cover the applicable filing fee as well as a copy of the filing on a computer disk formatted for MS word.

Please date stamp and return one copy in the self addressed envelop marked "Stamp and Return."

**FILED**

NOV 19 2010

**SURFACE  
TRANSPORTATION BOARD**

Sincerely yours,

John D. Heffner

cc: Mark Hoffer, Esq.  
Mr. Jack Goldfarb

**FEE RECEIVED**

NOV 19 2010

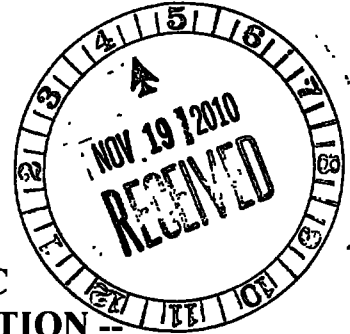
**SURFACE  
TRANSPORTATION BOARD**

**ORIGINAL**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

228287

**STB Finance Docket No. 35444**



**NEW YORK NEW JERSEY RAIL, LLC  
-- ACQUISITION AND OPERATION EXEMPTION --  
LINE OF RAILROAD IN HUDSON COUNTY, NJ**

**VERIFIED NOTICE OF EXEMPTION  
PURSUANT TO 49 U.S.C. 10902 AND 49 CFR 1150.41**

**ENTERED  
Office of Proceedings**

**NOV 19 2010**

**Part of  
Public Record**

John D. Heffner, PLLC  
1750 K Street, N.W.-Suite 200  
Washington, D.C. 20006

James H. M. Savage  
Of Counsel  
Telephone: (202)296-3335

*Attorneys for Applicant  
New York New Jersey Rail, LLC*

Dated: November 19, 2010

**FEE RECEIVED**

NOV 19 2010

**SURFACE  
TRANSPORTATION BOARD**

**FILED**

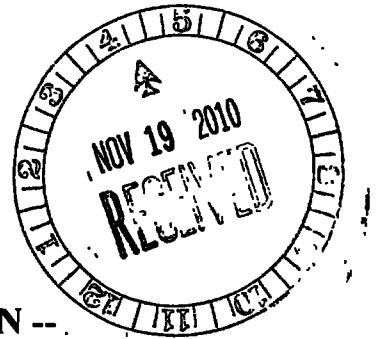
NOV 19 2010

**SURFACE  
TRANSPORTATION BOARD**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

**STB Finance Docket No. 35444**

**NEW YORK NEW JERSEY RAIL, LLC  
-- ACQUISITION AND OPERATION EXEMPTION --  
LINE OF RAILROAD IN HUDSON COUNTY, NJ**



**VERIFIED NOTICE OF EXEMPTION  
PURSUANT TO 49 U.S.C. 10902 AND 49 CFR 1150.41**

New York New Jersey Rail, LLC (“NYNJ” or “Applicant”), a wholly owned subsidiary of The Port Authority of New York and New Jersey (“PA-NYNJ”) and an existing class III short line railroad, files this Notice of Exemption, pursuant to 49 C.F.R. Part 1150, Subpart D – Exempt Transactions, with the Surface Transportation Board (the “Board”) to permit NYNJ to acquire and operate approximately 2.4 miles of railroad line in Jersey City, Hudson County, NJ (the “Line”). NYNJ is seeking to acquire the Line pursuant to an Asset Purchase Agreement to be entered into with Port Jersey Railroad Company (“PJR”).

**INFORMATION REQUIRED BY 49 CFR 1150.43**

Name and Address of Applicant

**49 CFR 1150.43(a)**

New York New Jersey Rail, LLC  
c/o The Port Authority of New York and New Jersey  
225 Park Avenue South, 11<sup>th</sup> Floor  
New York, NY 10003

Applicant's Representative  
John D. Heffner, PLLC  
1750 K Street, N.W. – Suite 200  
Washington, DC 20006  
Attn. James H. M. Savage  
Of counsel  
(202) 296-3335

**49 CFR 1150.43(b)**

Statement of Agreement

**49 CFR 1150.43(c)**

NYNJ expects to shortly enter into an Asset Purchase Agreement with PJR to acquire a significant portion of the operating assets of PJR for the purpose of enabling NYNJ to provide freight rail services utilizing and assuming PJR's common carrier obligations in respect of the rail assets to be acquired.

Operator of the Property

**49 CFR 1150.43(d)**

NYNJ will provide common carrier operations over the Line.

Brief Summary of Transaction

**49 CFR 1150.43(e)**

NYNJ is an existing class III short line railroad and a wholly owned subsidiary of the PA-NYNJ. NYNJ intends to acquire a significant portion of the operating assets of PJR for the purpose of enabling NYNJ to provide common carrier freight rail services to shippers within the Greenville section of Jersey City, NJ. NYNJ currently interchanges with and will continue to interchange with Conrail at its junction with Conrail's Greenville "A" Yard track, all of which is

located in Jersey City, NJ.

Other information required

(1) The name and address of the railroad transferring the subject property:

Port Jersey Railroad Company  
2431 Estancia Boulevard – Building A-1  
Clearwater, FL 34621

(2) The proposed time schedule for consummation of the transaction:

The parties intend to consummate the transaction as soon as possible, at least 30 days from the date of this Notice.

(3) The mileposts of the subject property including any branch lines:

There are no mileposts on the rail Line, all of which is located within the Greenville section of Jersey City, NJ.

(4) The total route miles to be acquired and operated:

Approximately 2.4 miles.

Related transactions

None.

Map

**49 CFR 1150.43(f)**

A map depicting the railroad trackage to be operated is attached to this Notice as Exhibit A.

Certificate of Carrier Classification **49 CFR 1150.43(g)**

NYNJ certifies that, with this acquisition, its projected annual revenues will be less than \$5,000,000 annually. A certificate complying with the provisions of 49 CFR 1150.43(g) is attached to this Notice as Exhibit B.

Transactions Imposing Interchange Commitments **49 CFR 1150.43(h)**

Not applicable. The Asset Purchase Agreement does not contain any language limiting NYNJ's ability to interchange with other carriers. Furthermore, the Line only connects with lines of Conrail.

Disclosure of Intent to Transport Waste

NYNJ does not presently intend to provide facilities for the transfer of municipal solid waste ("MSW") or construction and demolition ("C&D") material outside of the original shipping container, if at all.

Labor Protection

Labor protective conditions are not applicable to transactions involving class III carriers only under 49 U.S.C. 10902.

Caption Summary

**49 CFR 1150.44**

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

Environmental and Historic Preservation Data

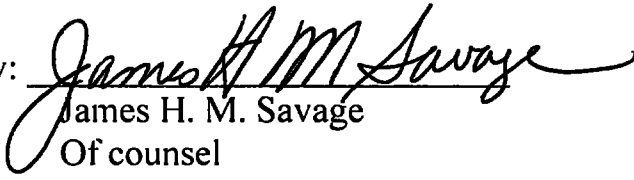
**49 CFR 1105**

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 49 CFR 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, PLLC  
1750 K Street, N.W.-Suite 200  
Washington, D.C. 20006

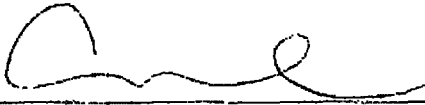
By:   
James H. M. Savage  
Of counsel  
Telephone: (202)296-3335

*Attorneys for Applicant*  
*New York New Jersey Rail, LLC*

Dated: Nov. 19, 2010



Jersey, which is the sole managing member of New York New Jersey Rail, LLC,  
that he has read the foregoing Notice of Exemption and knows the facts asserted  
therein, and that the same are true as stated.



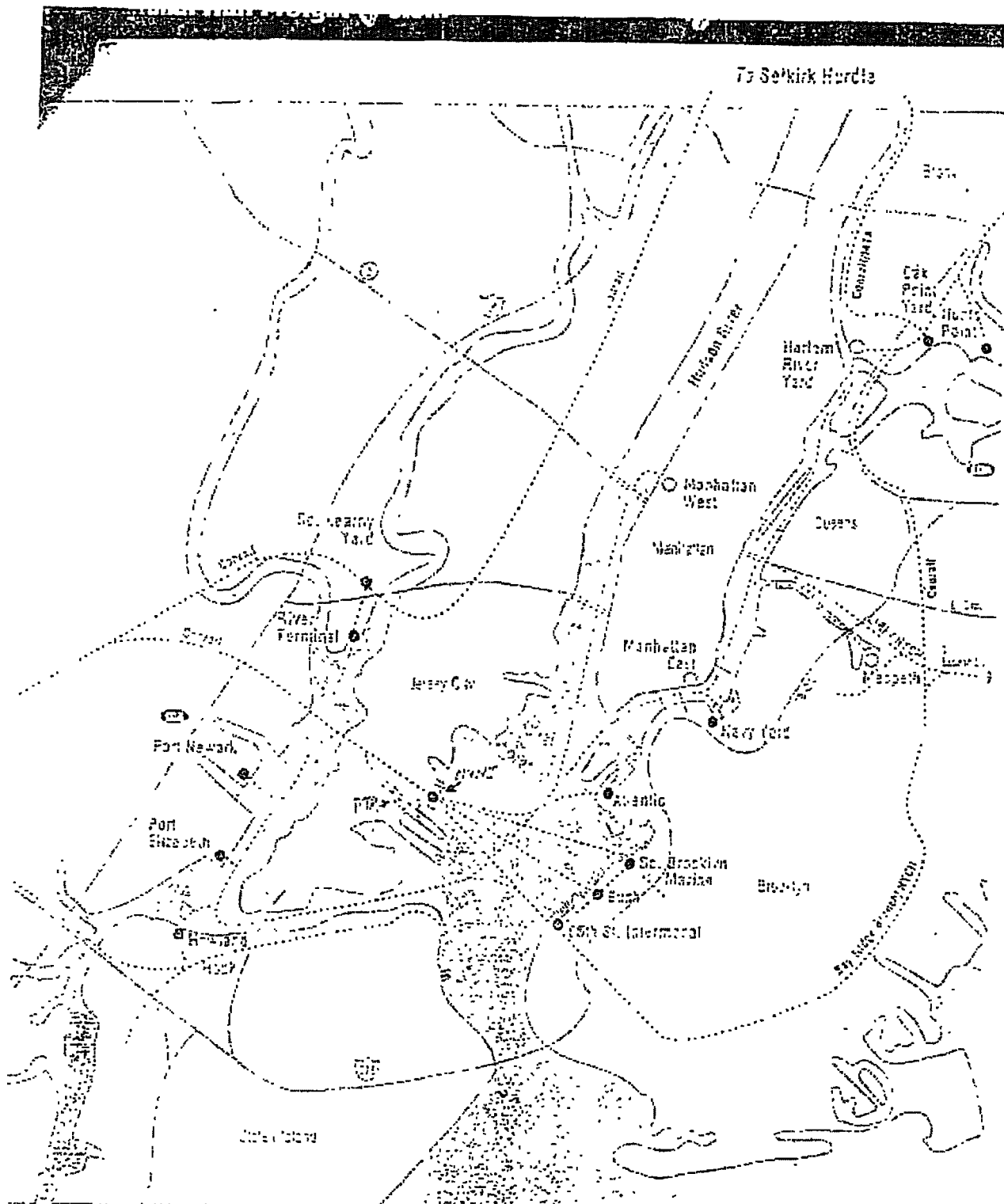
*Port Authority of New York and New Jersey, as  
Owner/Sole Managing Member of the LLC,  
by Christopher O. Ward*

Dated: November 18, 2010

EXHIBIT A

**MAP**

To Seikirk Hurdle




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EXHIBIT B

CERTIFICATE OF CARRIER CLASSIFICATION

I, Christopher O. Ward, Executive Director of The Port Authority of New York and New Jersey ("PA-NYNJ"), which is the sole managing member of New York New Jersey rail, LLC, hereby certifies under penalty of perjury that following consummation of this transaction the projected annual carrier operating revenues of New York New Jersey Rail, LLC ("NYNJ"), in the aggregate, will not exceed \$5 million annually and will not result in the applicant becoming a Class I or Class II carrier under the provisions of 49 CFR 1201.1-1).

I further certify that the foregoing statements made by me are true, and that I am aware that if any of the foregoing statements made by me be willfully false, I am subject to punishment.

  
\_\_\_\_\_  
*Port Authority of New York and New Jersey, as  
Owner, Sole Managing Member of the LLC,  
by Christopher O. Ward*

Dated: November 18, 2010

**EXHIBIT C**

**CAPTION SUMMARY**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

**STB Finance Docket No. 35444**

**NEW YORK NEW JERSEY RAIL, LLC  
-- ACQUISITION AND OPERATION EXEMPTION --  
LINE OF RAILROAD IN HUDSON COUNTY, NJ**

New York New Jersey Rail, LLC, a wholly owned subsidiary of The Port Authority of New York and New Jersey (“PA-NYNJ”) and an existing class III short line railroad, has filed a Verified Notice of Exemption to acquire and operate an approximately 2.4 mile line of railroad in Jersey City, Hudson County, NJ. NYNJ seeks to acquire the Line pursuant to an Asset Purchase Agreement to be entered into with Port Jersey Railroad Company (“PJR”).

NYNJ plans to consummate this transaction as soon as possible, at least 30 days from the date of this Notice.

NYNJ certifies that its projected annual revenues as a result of this transaction would not exceed those that would qualify it as a Class III rail carrier and further certifies that its projected annual revenues will not exceed \$5 million.

If the Verified 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 effectiveness of the exemption. Petitions to stay must be filed no later than \_\_\_\_\_ (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Finance Docket No. 35444, must be filed with the Surface Transportation Board, 395 E. Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on John D. Heffner, PLLC, 1750 K Street, N.W., Suite 200, Washington, DC 20006, Telephone: (202) 296-3335, attention James H.M. Savage, Of counsel.

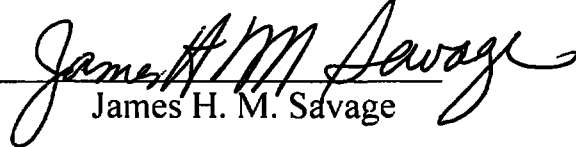
Board decisions and notices are available on our website at [WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).

Decided:

By the Board, Rachel D. Campbell, Director, Office of Proceedings

CERTIFICATION OF SERVICE

I, James H. M. Savage, an attorney-at-law of the District of Columbia, certify that I have served this day a true copy of the foregoing Notice of Exemption by First Class Mail, postage prepaid upon Jack Goldfarb, President, Port Jersey Railroad Company, 2431 Estancia Boulevard, Building A-1, Clearwater, FL 34621.

  
James H. M. Savage

Dated: Nov. 19, 2010