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SEC

SERVICE DATE – AUGUST 26, 2008

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 35141

U S RAIL CORPORATION—CONSTRUCTION AND OPERATION EXEMPTION—
BROOKHAVEN RAIL TERMINAL

Decided: August 25, 2008

On August 7, 2008, U S Rail Corporation (U S Rail) filed a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10901 to construct and operate a line of railroad and related rail facilities at a 28-acre site to be known as the Brookhaven Rail Terminal (BRT), in Brookhaven, Suffolk County, NY. According to U S Rail, the total length of the track to be constructed is about 11,000 feet and it would connect with an existing rail line of the Long Island Rail Road, over which freight service is provided by the New York & Atlantic Railway Company. The purpose of the proposed construction is to enable U S Rail to serve BRT as a common carrier and to service the rail freight requirements of Sills Road Realty, LLC (which owns the underlying property), and its affiliates and related companies.

By letter filed on August 14, 2008, counsel for the Town of Brookhaven, NY (Brookhaven), requests an extension of the due date for filing replies in this matter until September 18, 2008. Counsel states that her law firm represents Brookhaven not only in this docket but in another Board docket (STB Finance Docket No. 35036) and in a related Federal court proceeding pending in the U.S. District Court for the Eastern District of New York. Counsel argues that this fact, coupled with her long-scheduled vacation plans during this period, necessitates the sought extension so that counsel may adequately address the arguments raised here and in the other proceedings.

On August 15, 2008, U S Rail filed a reply stating that it does not oppose Brookhaven's extension request. Brookhaven has justified the sought extension. Therefore, Brookhaven will be granted an extension until September 18, 2008, to file its reply.

It is ordered:

1. Brookhaven's request for an extension of time to file its reply is granted.
2. Brookhaven's reply to the exemption petition is due by September 18, 2008.

3. This decision is effective on its date of service.

By the Board, Anne K. Quinlan, Acting Secretary.

Anne K. Quinlan
Acting Secretary