



Surface Transportation Board
Washington, D.C. 20423-0001

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Office of the General Counsel

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Meeting under Section 5, STB Reauthorization Act

Office of Proceedings

October 23, 2020

September 3, 2020

Part of

Public Record

Present: Members Begeman, Fuchs, and Oberman
Staff Stephanie Borges, Matthew Bornstein, Rachel Campbell, Allison Davis,
Ellen Erichsen, Sarah Fancher, Amanda Gorski, Danielle Gosselin, Theodore
Hunt, Craig Keats, Evelyn Kitay, Barbara Miller, Lisa Novins, Valerie Quinn,
Vicki Rutson, Danielle Gosselin, Janie Sheng, Scott Zimmerman

Topic: Docket No. FD 36399, Brookhaven Rail LLC—Petition for
Exemption from Requirements at 49 U.S.C. § 10909

Summary of the Matters Discussed, Prepared by General Counsel Craig Keats:

At this meeting, staff briefed Board Members on the proceeding involving the petition of Brookhaven Rail LLC (“BHR”) to obtain an exemption from the statutory and regulatory provisions of the “Clean Railroads Act” (49 U.S.C. § 10908-10 and 49 CFR Part 1155 subpart C), governing an application by a rail carrier for a “land-use-exemption permit” for the siting of a solid waste rail transfer facility in Long Island, New York. Sills Road Realty, LLC, which controls adjacent property, has filed comments in opposition. The Town of Brookhaven and an environmental group have also participated in the matter.

Staff and Board Members discussed the following issues:

1. The nature and history of the project, including the private litigation in federal and state court involving the property in the area of the proposed facility.
2. A related petition to obtain construction and operation authority for a section of new rail line in Docket No. FD 36398.
3. The provisions of § 10502.
4. The provisions of § 10909 and the governing regulations.
5. Options for addressing the petition.