

248209

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 36318

ENTERED
Office of Proceedings
July 16, 2019
Part of
Public Record

**5900 HOLDINGS LLC
- CORPORATE FAMILY TRANSACTION EXEMPTION -**

**VERIFIED NOTICE OF EXEMPTION
UNDER 49 CFR § 1180.2(d) (3)**

Submitted By:

John D. Heffner
Clark Hill, PLC
1001 Pennsylvania Ave., N.W.
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Washington, D.C. 20004
(202) 572-8679

Counsel for Applicants

Dated: July 16, 2019

FILED
July 16, 2019
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
July 16, 2019
SURFACE
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- CORPORATE FAMILY TRANSACTION EXEMPTION -
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UNDER 49 CFR § 1180.2(d) (3)**

Come now 5900 Holdings LLC (“5900 Holdings”) and Hainesport Transportation Group, LLC (“HTG”), both noncarriers (collectively “the Applicants”), and state as follows:

1. Pursuant to the provisions of Section 1180 of the Board's Railroad Consolidation Rules, 49 C.F.R. §1180, Applicants hereby give notice of a transaction which may qualify for an exemption under §1180.2(d) (3) of those rules.
2. Hainesport Secondary Railroad, LLC (“HSRR”) is the owner of three (3) contiguous lots of real property, located in Hainesport, New Jersey. HSRR leases one of the three lots to its affiliate, Hainesport Industrial Railroad, LLC

(“HIRR”). HSRR and HIRR are both wholly owned by Hainesport Transportation Group, LLC, a noncarrier.

3. As relevant here, 5900 Holdings is a newly formed limited liability company and noncarrier.

4. In the Spring of 2018, the individual owners HIRR, and HSRR, established Hainesport Transportation Group, LLC (“HTG”) as a holding company to own these two carriers, with the result that these individuals traded their ownership in these railroads for an ownership in HTG, which would in turn own these two railroads, as a noncarrier holding company. HTG and its individual owners then sought and obtained ruling from the Board in FD 36184, that the mere insertion of the noncarrier holding company in the chain of control is a transaction outside the scope of section 11323 and not subject to Board approval.¹

5. HTG now seeks for its newly established affiliate, 5900 Holdings, to acquire the three contiguous parcels of real estate owned by HSR, over which both HIRR and HSRR have railroad rights of way. As part of this transaction, the parties intend that 5900 Holdings will acquire the existing lease to HIRR, and will enter into a new lease with HSRR for the remaining two parcels. This transaction would not have any impact on or change railroad operations provided involving HIRR and HSRR or between HIRR and HSRR.

¹ *Hainesport Transportation Group, LLC-Corporate Family Transaction Exemption*, FD 36184, STB served May 24, 2018.

6. Under §1180.2(d) (3) of the Board's consolidation rules, certain transactions are automatically exempt from the prior approval requirements for common control. Specifically, §1180.2(d) (3) exempts corporate family transactions where the transaction will not result in adverse changes in service levels, significant operational changes, or changes in the competitive balance with carriers outside the corporate family.

7. This transaction is subject to the Board's jurisdiction, as it fits the statutory test. There will be no changes in service levels, operations, or the competitive balance after consummation. What exists today will continue to exist tomorrow. Under that arrangement HSRR will continue to provide all common carrier operations over the leased property connecting with the Conrail Shared Assets Organization and in turn CSX Transportation or Norfolk Southern Railway, as the case may be.

8. In order to claim the §1180.2(d) (3) exemption, §1180.4(g) requires the filing of a verified notice of exemption furnishing the information requested in §§1180.6(a) (1) (i) – (iii), 1180.6(a) (5) – (6), and 1180.6(a) (7) (ii) of those rules. That information is provided as follows:

Summary of Proposed Transaction: 49 CFR §1180.6(a) (1) (i)

As described above, 5900 Holdings will acquire certain real estate traversed by the two rail lines known respectively as the South Line and the East Line. In

FD 36185 the Board exempted a prior lease by HIRR of the East Line owned by its corporate affiliate HSRR.² HIRR and HSRR will continue to hold the common carrier obligation to provide service and HSRR will actually provide the service with 5900 Holdings having a residual common carrier obligation. To the extent the Board finds that this transaction is within its jurisdiction, it qualifies for an exemption under 49 CFR § 1180.2(d)(3) because the proposed transaction is within a corporate family and will not result in adverse changes in services levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. Moreover, the Board has frequently authorized the transfer of lines under the corporate family exemption procedure from one affiliate or entity in the corporate family to another. *Hainesport Industrial Railroad, LLC—Corporate Family Transaction Exemption*, FD 35760, STB served Sept. 11, 2013).

Applicants' name, address, and telephone number:

5900 Holdings LLC
4002 Sylon Blvd.
Hainesport, NJ 08036
(856) 778-4002

Legal counsel to whom questions should be addressed:

John D. Heffner
Clark Hill, PLC

² *Hainesport Industrial Railroad, LLC—Lease and Operation Exemption*, FD 36185, STB served July 3, 2018.

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Schedule for consummation: 49 CFR §1180.6(a) (1) (ii)

The parties intend to consummate the proposed transaction at least 30 days from the date of this notice, on or about August 16, 2019.

Purpose to be accomplished by the transaction: 49 CFR §1180.6(a) (1) (iii)

The purpose of this transaction is to allow Applicants to obtain new financing.

State(s) in which the property of each carrier is situated: 49 CFR §1180.6(a) (5)

New Jersey

Map: 49 CFR §1180.6(a) (6)

Attached hereto as Exhibit A.

Copy of Agreement: 49 CFR §1180.6(a) (7) (ii)

N.A. There is no agreement covering the instant transaction.

Labor Protection to be Imposed 49 CFR§1180.4(g)(1)(i):

No labor protection applies on transactions involving only class III railroads.

See, 49 U.S.C. §11326(c).

Interchange Commitments 49 CFR§1180.4(g)(4)

The parties hereby certify that the transaction and the underlying lease do not involve or contain any provision or agreement that may limit future interchange with a third party connecting carrier.

Environmental and historical considerations:

This corporate family transaction exemption proceeding is exempt from environmental review under 49 CFR §1105.6(e) (2) (i) because the proposed action will not cause any operating changes that exceed the thresholds established in 49 CFR §1105.7(e) (4) or (5). In addition, this proceeding is exempt from historic review under 49 CFR §1105.8(b)(1) because there are no plans to dispose of or alter properties subject to Board jurisdiction that are at least 50 years old. Accordingly, no historic report is required.

Respectfully submitted,



John D. Heffner

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(202) 572-8679

Counsel for Applicants

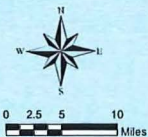
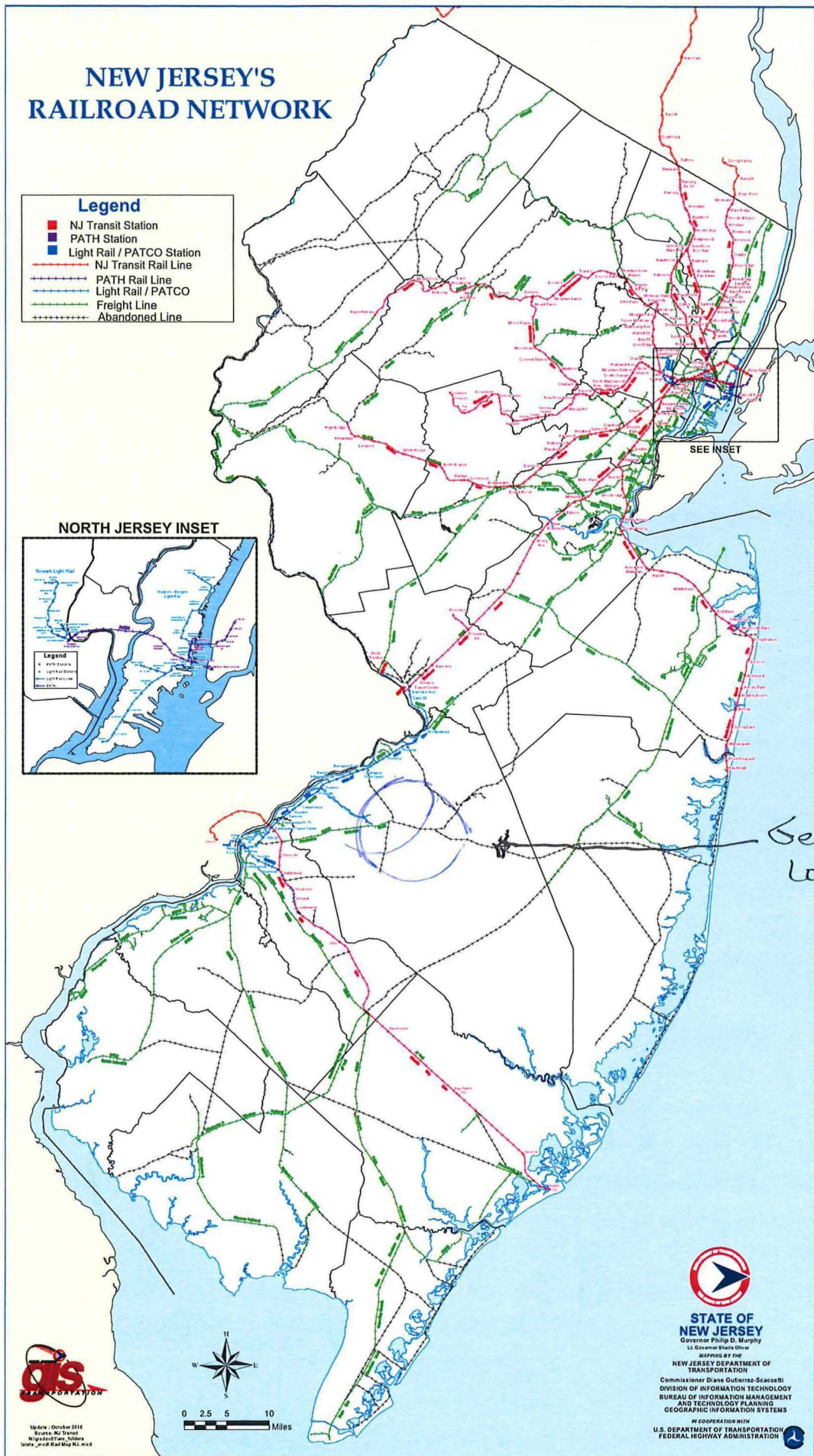
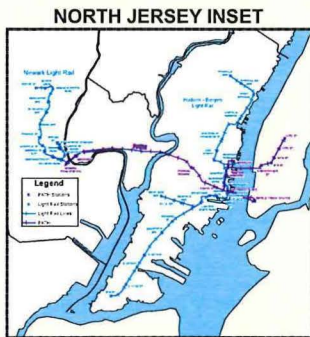
Dated: July 16 , 2019

EXHIBIT A

NEW JERSEY'S RAILROAD NETWORK

Legend

- NJ Transit Station
- PATH Station
- Light Rail / PATCO Station
- NJ Transit Rail Line
- PATH Rail Line
- Light Rail / PATCO
- Freight Line
- - - Abandoned Line

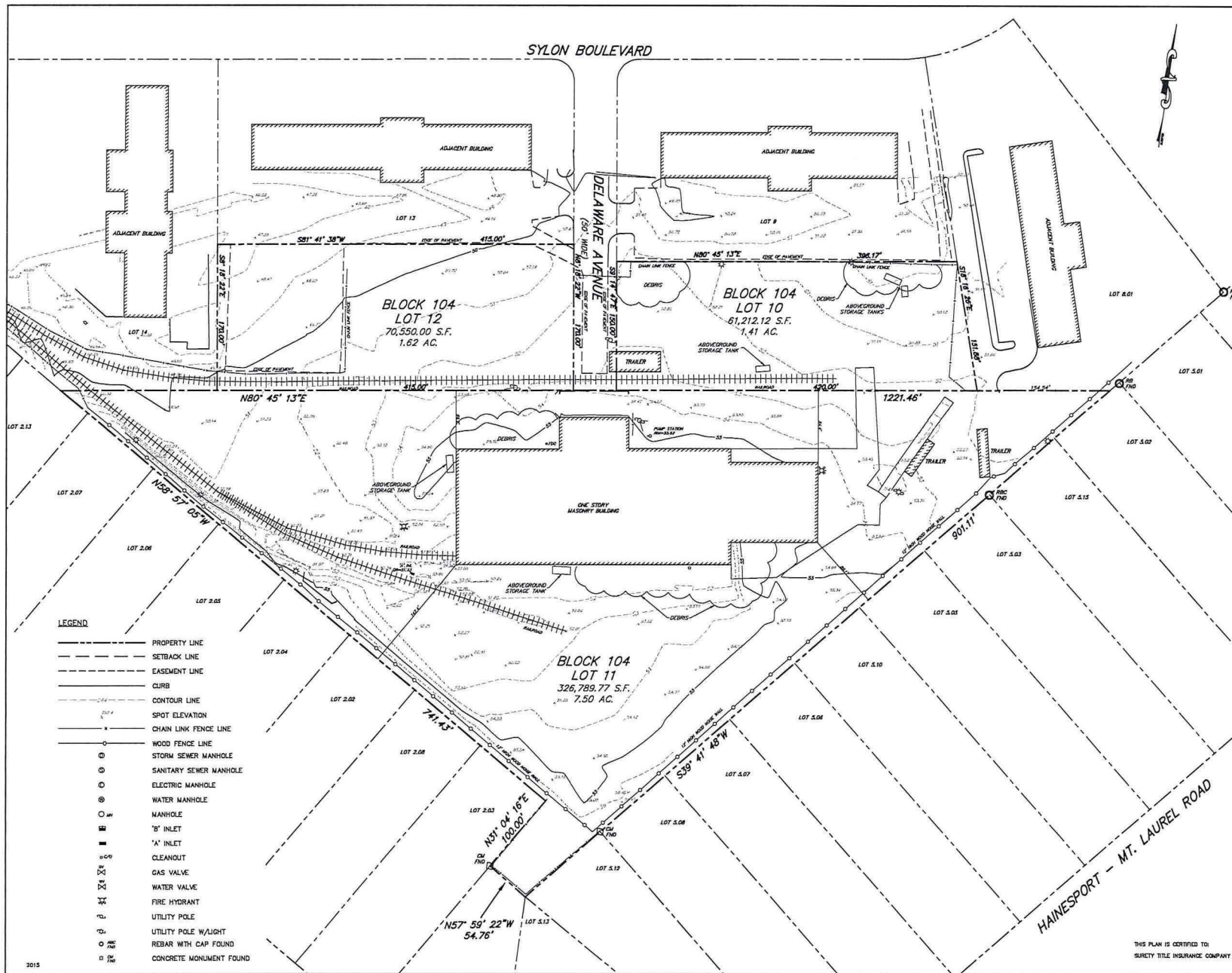


STATE OF NEW JERSEY
Governor Philip D. Murphy
Lt. Governor Shaheen Oliva

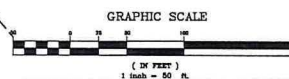
DESIGNED BY THE
NEW JERSEY DEPARTMENT OF TRANSPORTATION
Commissioner Diane Guerin-Scaccetti
DIVISION OF INFORMATION TECHNOLOGY
BUREAU OF INFORMATION MANAGEMENT
AND TECHNOLOGY PLANNING
GEOGRAPHIC INFORMATION SYSTEMS

IN COOPERATION WITH
U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

Updated: October 2010
Source: NJ Transit
Map of New Jersey
Scale: 1 inch = 10 miles



- NOTES:
1. LOT AND BLOCK NUMBERS REFER TO HAINESPORT TOWNSHIP TAX MAP, SHEET NUMBER 10.
 2. THIS PLAN WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT. THE PARCELS IS SUBJECT TO ANY AND ALL EASEMENTS, RESTRICTIONS AND ENCUMBRANCES RECORDED AND NOT RECORDED.
 3. REFERENCES:
A. "BOUNDARY AND TOPOGRAPHY PLAN - 5800 DELAWARE AVENUE LOT 11, BLOCK 104 PLAT 107" ISSUED BY ITS ENGINEER AND LAND SURVEYORS, INC. DATED SEPTEMBER 23, 2008, REVISED MARCH 18, 2010.
B. DEED BOOK 4438 PAGE 433.
C. DEED BOOK 4288 PAGE 303.
 4. MEASUREMENTS ARE REFERENCED TO ABOVE REFERENCED ITS PLAN.
 5. THE BOUNDARY SHOWN ON THIS PLAN CLOSURE IN ACCORDANCE WITH THE TECHNICAL STANDARDS FOR PROPERTY BOUNDARY SURVEY ADOPTED BY THE BOARD OF SURVEYORS OF THE NEW JERSEY SOCIETY OF PROFESSIONAL LAND SURVEYORS. (1 IN 5000).
LOT 10 = 1:113,819.38
LOT 11 = 1:132,878.88
LOT 12 = 1:117,000,000.00
 6. VERTICAL DATUM = NAVD 88.
 7. TOPOGRAPHIC FEATURES SHOWN ON THIS PLAN WERE SUPPLIED BY STOUT & CALDWELL ENGINEERS, LLC FIELD CREW ON OR ABOUT FEBRUARY 5, 2014. ONLY CONDITIONS EXISTING AT THAT TIME ARE REFLECTED ON THIS PLAN.
 8. SURFACE FEATURES SUCH AS INLETS, MANHOLES, WATER VALVES, GAS VALVES, ETC. WERE LOCATED BY FIELD SURVEY. THERE MAY BE OTHER UNDERGROUND STRUCTURES OR FACILITIES, THE EXISTENCE OF WHICH ARE NOT KNOWN TO THE UNDERSIGNED. SIZE AND LOCATION OF ALL UNDERGROUND UTILITIES AND STRUCTURES MUST BE VERIFIED BY THE APPROPRIATE AUTHORITIES.
 9. AREAS OCCUPIED BY DENSE VEGETATION MAY NOT CONFORM TO NATURAL MAP ACCURACY STANDARDS.
 10. THE SUBJECT PROPERTY IS LOCATED IN AN AREA DETERMINED TO BE IN THE FOLLOWING FLOOD ZONES:
FLOOD ZONE C
AS INDICATED ON THE FLOOD INSURANCE RATE MAP, TOWNSHIP OF HAINESPORT, NEW JERSEY, COUNTY OF BURLINGTON, NEW JERSEY. MAP NUMBER: 34008 0003 A, EFFECTIVE DATE: JULY 16, 1978.



Rev. No.	Date	Description	By
1	02/20/18	INITIAL ISSUE	APR

HAINESPORT INDUSTRIAL RAILROAD
5800 SYDON BLVD.
HAINESPORT, NJ
08036

ROBERT R. STOUT
PROFESSIONAL ENGINEER
PROFESSIONAL LAND SURVEYOR
N.J. LICENSE No. 38421

ALL INFORMATION PROVIDED ON THIS DOCUMENT IS THE PROPERTY OF THE PROFESSIONAL ENGINEER, SURVEYOR, AND LAND SURVEYOR. IT IS TO BE USED ONLY FOR THE PURPOSES AND CONDITIONS SPECIFICALLY SET FORTH HEREON. IT IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE PROFESSIONAL ENGINEER, SURVEYOR, AND LAND SURVEYOR. ANY REPRODUCTION OR TRANSMISSION OF THIS DOCUMENT WITHOUT THE WRITTEN PERMISSION OF THE PROFESSIONAL ENGINEER, SURVEYOR, AND LAND SURVEYOR IS STRICTLY PROHIBITED.

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OFFICE 856.786.2202 FAX 856.786.3050
www.stoutandcaldwell.com
Stout & Caldwell Engineers, LLC, NJ Cert. Of Authorization No. 24520202702

PLAN OF
SURVEY AND TOPOGRAPHY
BLOCK 104 - LOT 10, 11 & 12
TAX MAP SHEET #10
LAND SITUATE IN
HAINESPORT TOWNSHIP
BURLINGTON COUNTY, NEW JERSEY

Scale: 1" = 50'	Drawn by: APR	Checked by: RHS	Drawing No.: PS-1
Job Number: 1403-001	Sheet No.: 1 OF 1		

THIS PLAN IS CERTIFIED TO:
SURETY TITLE INSURANCE COMPANY

VERIFICATION

STATE OF)

)

CITY OF)

Darryl Caplan, being duly sworn according to law, hereby deposes and states that (s)he holds the position of Managing Member with applicant/petitioner, is authorized to make this Verification, had read the foregoing document, and knows the facts asserted therein are true and accurate as stated, to the best of (her)his knowledge, information, and belief.

Subscribed to and sworn to before me, a Notary Public, in and for the County of BURLINGTON in the State of NJ, this 17th day of June, 2019.


Notary Public

KIM A. LEHUQUET DILKS
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES JAN. ~~22, 2010~~
28, 2020

My Commission expires: Jan. 28, 2020