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May 23, 2017

Via Federal Express
(For Filing with STB on May 24, 2017)

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

ENTERED
Office of Proceedings

MAY 25 2017

Part of
Public Record

Re: Docket No. AB-1095 (Sub-No. 2X), SMS Rail Service, Inc. –
Abandonment Exemption – In Gloucester County, New Jersey

Dear Ms. Brown:

Enclosed are the original and 10 copies of a Verified Notice of Exemption for SMS Rail Service, Inc. ("SMS") to abandon the approximately 5.8 miles of railroad lines within the 970-acre refinery owned by Paulsboro Refining Company, LLC, in Paulsboro, Gloucester County, New Jersey. Also enclosed are a check for the filing fee of \$4,000 and a CD containing a draft of notice for publication in the Federal Register in Word and pdf format.

Please time and date stamp the additional copy of this letter and the Verified Notice of Exemption and return it to me in the pre-addressed stamped envelope that is also enclosed.

Thank you for your assistance in this regard. If you have any questions, please contact me.

Sincerely,
BERKOWITZ KLEIN, LLP



Robert A. Klein
Attorney for SMS Rail Service, Inc.

FEE RECEIVED

MAY 25 2017

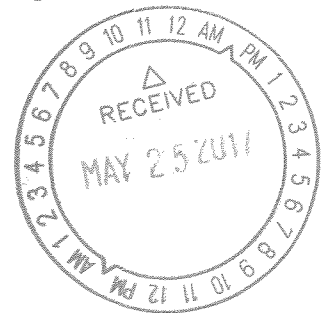
**SURFACE
TRANSPORTATION BOARD**

Encl.

FILED

MAY 25 2017

**SURFACE
TRANSPORTATION BOARD**



BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-1095 (Sub-No. 2X)

SMS RAIL SERVICE, INC. – ABANDONMENT EXEMPTION –
IN PAULSBORO, GLOUCESTER COUNTY, NEW JERSEY

VERIFIED NOTICE OF EXEMPTION



SMS RAIL SERVICE, INC.
513 Sharptown Road
Logan Township, NJ 08085

Applicant

ROBERT A. KLEIN, ESQUIRE
BERKOWITZ KLEIN, LLP
629 B Swedesford Road
Swedesford Corporate Center
Malvern, PA 19355-1530
(610) 889-3200, ext. 2
rak@berklein.com

Attorney for Applicant

DATE FILED: May 24, 2017

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-1095 (Sub-No. 2X)

SMS RAIL SERVICE, INC. – ABANDONMENT EXEMPTION –
IN PAULSBORO, GLOUCESTER COUNTY, NEW JERSEY

VERIFIED NOTICE OF EXEMPTION

SMS Rail Service, Inc. (“SMS”) files this Verified Notice of Exemption pursuant to the class exemption at 49 C.F.R. § 1152.50 for SMS to abandon an approximately 5.8 miles of railroad lines within the 970-acre refinery owned by Paulsboro Refining Company, LLC (“PRC”), in Paulsboro, Gloucester County, New Jersey (the “Line”).

SMS was granted the authorization of the Surface Transportation Board (“STB”) to be the rail carrier on the Line in Finance Docket No. 33927, SMS Rail Service, Inc. – Acquisition and Operation Exemption – Valero Refining Company – New Jersey (STB, served September 22, 2000). No rail traffic has been transported over the Line by SMS within the past two years. The Line is owned by and currently being operated by PRC as private track. Also, no overhead traffic has moved over the Line within the past two years, and overhead traffic, if there were any, could be rerouted over other lines. Further, no formal complaint filed by a user of rail service on the Line (or a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the STB or any United States District Court or has been decided in favor of a complainant within the past two years.

Based on information in the possession of SMS, the Line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

1. *Proposed consummation date:*

The proposed abandonment will be consummated on or after July 13, 2017 (50 days after filing the Notice).

2. *Certification required by 49 C.F.R. § 1152.50(b):* The required certification is contained in the Certification of Mr. Jeffrey L. Sutch, President of SMS, which is attached to this Notice as Appendix 1.

3. *Information required by 49 C.F.R. § 1152.22(a)(1) through (4), (7) and (8), and (e)(4):*

(a) *General.*

(1) *Exact name of applicant:*

SMS Rail Service, Inc.

(2) *Whether the applicant is a common carrier by railroad subject to 49 C.F.R. Subtitle IV, Chapter 105:*

SMS is a common carrier by railroad subject to 49 C.F.R. Subtitle IV, Chapter 105.

(3) *Relief Sought:*

SMS seeks to use the class exemption at 49 C.F.R. § 1152.50 to abandon the approximately 5.8 miles of railroad lines within the 970-acre refinery owned by Paulsboro Refining Company, LLC (“PRC”), in Paulsboro, Gloucester County, New Jersey. During the past two years, SMS has provided no common carrier service over the Line, nor has it received any requests for common carrier service over it.

(4) Map:

The required map is attached to this Notice as Appendix 2.

(7) Name, title, and address of representative of applicant to whom correspondence should be sent:

Applicant's attorney is Robert A. Klein, Esquire, Berkowitz Klein, LLP, 629 B Swedesford Road, Swedesford Corporate Center, Malvern, PA 19355, (610) 889-3200, ext. 2, rak@berklein.com.

(8) List of all United States Postal Service Zip Codes that the line proposed for discontinuance traverses:

The Line traverses U.S. Postal Zip Code 08066.

(e) Rural and community impact:

(4) Statement of whether the properties proposed to be discontinued are appropriate for use for other public purposes, including roads and highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the applicant is aware of any restriction on the title to the property, including any reversionary interest, which would affect the transfer of title or the use of the property for other than rail purposes, this shall be disclosed.

SMS is abandoning the Line because there has been no demand for common carrier service on the Line and no rail traffic has been transported over the Line by SMS within the past two years. The Line is the property of PRC, which owns the Paulsboro refinery. SMS will leave the infrastructure and the private and public road crossings and signals in place to preserve the Line for any possible

future traffic. Since the Line is property of PRC, neither SMS nor PRC contemplate salvaging the track and materials on the Line, and the Line is not likely to be available for public use purposes. *See Central Illinois Railroad Company – Discontinuance of Service Exemption – in Cook County, Illinois*, Docket No. AB 1066 (Sub-No. 2X) slip op. at 3 (STB, served November 16, 2010).

4. *The level of labor protection:*

The interest of any railroad employees who may be adversely affected by the proposed discontinuance of service will be adequately protected by the labor protective conditions in *Oregon Short Line R. Co. – Abandonment – Goshen*, 360 I.C.C. 91 (1979).

5. *Certification:*

Certificates of compliance with the notice requirements of 49 C.F.R. §§ 1105.7(c), 1105.11, 1105.12, and 1152.50(d)(1) are attached as Appendix 3.

6. *Environmental Report:*

The Line is the property of PRC, which owns the Paulsboro refinery. Since the Line is property of PRC, neither SMS nor PRC contemplate salvaging the track and materials on the Line. SMS will leave the infrastructure and the private and public road crossings and signals in place to preserve the Line for any possible future traffic. Because no rail traffic has been transported over the Line by SMS in the past two years, there will be no diversion of traffic from rail to truck. Therefore, SMS does not have to prepare or file an Environmental Report. 49 C.F.R. § 1105.6(c)(2).

7. *Historic Report:*

SMS is not salvaging the track and materials on the Line. SMS believes that the owner of the Line, PRC, does not contemplate removing any rail or otherwise disturbing the Line's right of way following abandonment. There will be no impact on historic properties. Therefore, SMS does not have to prepare or file an Historic Report. 49 C.F.R. § 1105.8(a).

Respectfully submitted,

SMS RAIL SERVICE, INC.
513 Sharptown Road
Logan Township, NJ 08085

Applicant



ROBERT A. KLEIN, ESQUIRE
BERKOWITZ KLEIN, LLP
629 B Swedesford Road
Swedesford Corporate Center
Malvern, PA 19355-1530
(610) 889-3200, ext. 2
rak@berklein.com

Attorney for Applicant

DATE FILED: May 24, 2017

APPENDIX 1

VERIFICATION AND CERTIFICATION

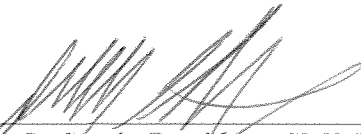
**CERTIFICATION THAT RAIL LINE MEETS
CRITERIA OF 49 C.F.R. § 1152.50(b)**

STATE OF NEW JERSEY)
)
COUNTY OF GLOUCESTER) ss:

I, Jeffrey L. Sutch, state that I am President of SMS Rail Service, Inc. ("SMS"); that I am authorized to make this certification; and that I have read the foregoing Notice of Exemption and know the facts asserted therein are true and correct as stated, to the best of my knowledge, information, and belief.

I hereby certify that no rail traffic has been transported by SMS over the approximately 5.8 miles of railroad lines within the 970-acre refinery owned by Paulsboro Refining Company, LLC ("PRC"), in Paulsboro, Gloucester County, New Jersey (the "Line"), for at least two years prior to the date hereof. The Line is located in Gloucester County, New Jersey, and is owned and currently operated by PRC. Since this is not a through line, no overhead traffic has operated; therefore, none needs to be rerouted over other lines. Overhead traffic, if there were any, could be rerouted over other lines. Further, no formal complaint filed by a user of rail service on the Line (or a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the STB or any U.S. District Court or has been decided in favor of a complainant within the past two years.

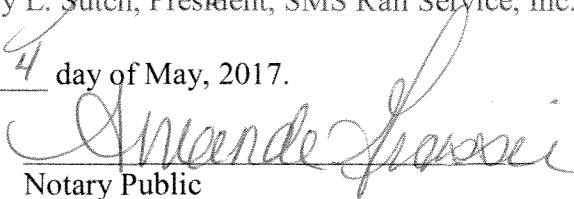
The foregoing certification is made on behalf of SMS by the undersigned after due and careful investigation of the matters herein certified and based on the best of the knowledge, information, and belief of the undersigned.



Jeffrey L. Sutch, President, SMS Rail Service, Inc.

SUBSCRIBED AND SWORN TO before me this 4 day of May, 2017.

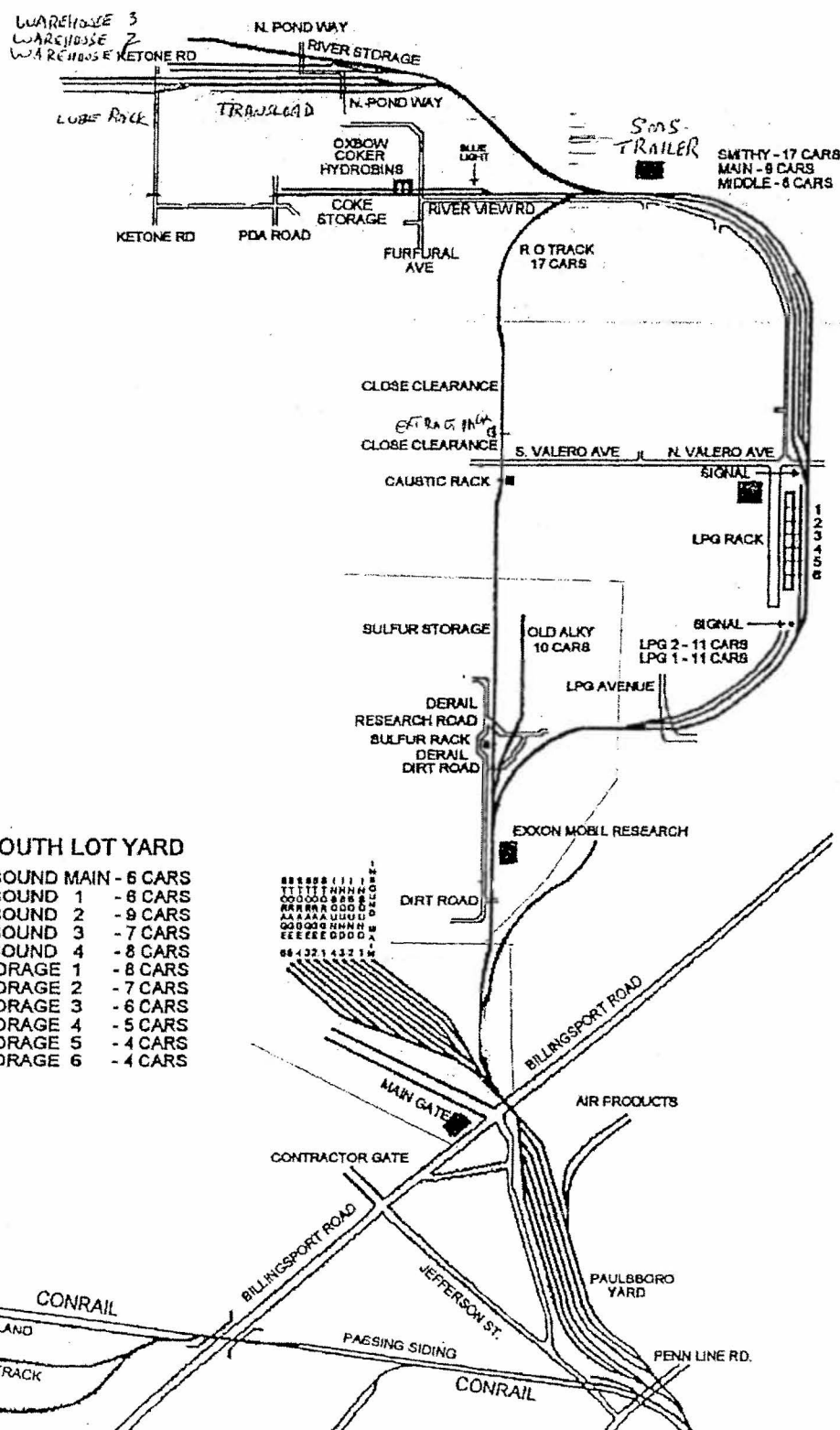
My Commission Expires: June 02, 2019



Notary Public

APPENDIX 2

MAP



SOUTH LOT YARD

- INBOUND MAIN - 6 CARS
- INBOUND 1 - 6 CARS
- INBOUND 2 - 9 CARS
- INBOUND 3 - 7 CARS
- INBOUND 4 - 8 CARS
- STORAGE 1 - 8 CARS
- STORAGE 2 - 7 CARS
- STORAGE 3 - 6 CARS
- STORAGE 4 - 5 CARS
- STORAGE 5 - 4 CARS
- STORAGE 6 - 4 CARS

APPENDIX 3

CERTIFICATES OF SERVICE AND PUBLICATION

Pursuant to 49 C.F.R. § 1152.50(d)(1), the undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-1095 (Sub-No. 2X) was mailed via first class mail on May 9, 2017, to the following parties:

State Public Service Commission

Civil Service Commission of New Jersey
P.O. Box 310
Trenton, NJ 08625-0210

Military Traffic Management Command

Headquarters
Military Surface Deployment and Distribution Command
Transportation Engineering Agency
Attn: SDTE-SA (Railroads for National Defense)
1 Soldier Way, Building 1900W
Scott AFB, IL 62225

National Park Service

Mr. Rick Potts
Chief, Conservation and Outdoor Recreation Division
Rivers, Trails and Conservation Assistance Program National Park Service
1849 C Street, N.W. (Org Code 2220)
Washington, DC 20240

National Park Service

U.S. Department of Interior
National Park Service – Land Resources Division
1849 C Street, N.W.
Washington, DC 20240

U.S. Department of Agriculture

U.S. Department of Agriculture
Chief of the Forest Service
1400 Independence Avenue, S.W.
Washington, DC 20250-0003

Date: May 9, 2017


Robert A. Klein, Esquire

CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-1095 (Sub-No. 2X) in the following form was advertised on May 9, 2017 in The South Jersey Times, a newspaper of general circulation in Gloucester County, New Jersey, as required by 49 C.F.R. § 1105.7(c) and § 1105.12.

Date: May 9, 2017


Robert A. Klein, Esquire

Notice of Intent to Abandon Rail Service

SMS Rail Service, Inc. ("SMS") gives notice that on or about May 24, 2017, it intends to file with the Surface Transportation Board ("STB"), Washington, DC 20423, a notice of exemption under 49 C.F.R. § 1152 Subpart F – Exempt Abandonments permitting the abandonment of the approximately 5.8 miles of railroad lines within the 970-acre refinery owned by Paulsboro Refining Company, LLC, in Paulsboro, Gloucester County, New Jersey, which traverses through United States Postal Service Zip Code 08066 in Gloucester County, New Jersey. The proceeding will be docketed as No. AB-1095 (Sub-No. 2X).

The STB's Office of Environmental Analysis ("OEA") will generally prepare an Environmental Assessment ("EA"), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in an STB decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Office of Environmental Analysis, Surface Transportation Board, Washington, DC 20423 or by calling that office at (202) 245-0295.

Appropriate offers of financial assistance to continue rail service can be filed with the STB. Requests for environmental conditions, public use conditions, rail/banking trails use also can be filed with the STB. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the STB's Section of Administration, Office of Proceedings, 395 E Street, SW, Washington, DC 20423-0001 [See 49 C.F.R. § 1104.1(a) and § 1104.3(a)], and one copy must be served on the applicant's representative [See 49 C.F.R. § 1104.12(a)]. Questions regarding offers of financial assistance, trails use or public use may be directed to the STB's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238. Copies of any comments or requests for conditions should be served on the applicant's representative: Robert A. Klein, Esquire, Berkowitz Klein, LLP, 629 B Swedesford Road, Swedesford Corporate Center, Malvern, PA 19355-1530, (610) 889-3200, ext. 2, rak@berklein.com.

APPENDIX 4

**ENVIRONMENTAL REPORT
(NONE REQUIRED)**

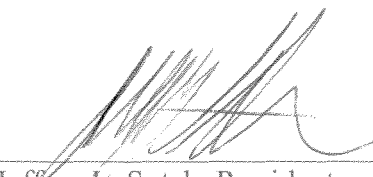
APPENDIX 5

**HISTORIC REPORT
(NONE REQUIRED)**

VERIFICATION

STATE OF NEW JERSEY)
)
COUNTY OF GLOUCESTER) ss:

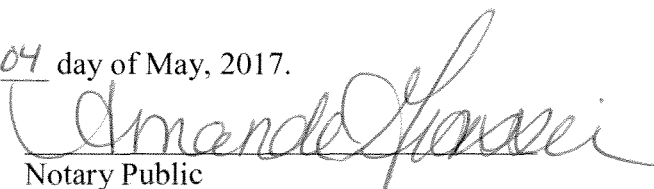
Jeffrey L. Sutch makes oath and says that he is the President of SMS Rail Service, Inc., applicant herein; that he has been authorized by the applicant to verify and file with the Surface Transportation Board ("STB") the foregoing Notice of Exemption in STB AB-1095 (Sub. No. 2X); that he has carefully examined all of the statements in the Notice as well as the exhibits appended thereto and made a part thereof; that he has knowledge of the facts and matters relied upon in the Notice; and that all representations set forth therein are true and correct to the best of his knowledge, information, and belief.



Jeffrey L. Sutch, President
SMS Rail Service, Inc.

SUBSCRIBED AND SWORN TO before me this 04 day of May, 2017.

My Commission Expires: June 02, 2019



Notary Public

AMANDA GRASSIA
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires June 2, 2019