

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 35141

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

Decided: December 22, 2008

By petition filed on August 7, 2008, U S Rail Corporation (U S Rail), a Class III short line rail carrier, seeks an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 to construct and operate “a new line of railroad and related rail facilities” at a new, yet-to-be-constructed 28-acre site to be known as the Brookhaven Rail Terminal in the Town of Brookhaven, Suffolk County, NY. By decision served November 5, 2008, the Board instituted a proceeding and requested additional information to determine the nature and scope of this project and the extent of the Board’s jurisdiction over it. U S Rail was directed to supplement its petition by December 5, 2008, with additional information clarifying in greater detail the proposed construction and operation, and replies were due December 29, 2008. U S Rail timely filed its supplemental petition on December 5.

Also, on November 3, 2008, the Board granted a request from U S Rail to extend until November 24, 2008, the time to reply to a motion to compel filed by the Town of Brookhaven (Brookhaven). On November 21, 2008, the Board granted a joint request from the parties that the Board hold in abeyance its decision on Brookhaven’s motion to compel, pending ongoing settlement negotiations between the parties. The Board also granted a request by U S Rail that the Board extend the deadline for it to respond to Brookhaven’s motion to compel until December 15, 2008.

On December 12, 2008, U S Rail filed a request that the Board extend the time for filing its reply to Brookhaven’s motion to compel for an additional 30 days, until January 15, 2009. U S Rail represents that Brookhaven consents to this request. On December 15, 2008, Brookhaven filed a request to extend the time for filing its reply to U S Rail’s supplemental petition for an additional 30 days until January 29, 2009. Brookhaven states that counsel for U S Rail has indicated that U S Rail consents to this request.

The parties’ requests are reasonable and will be granted. U S Rail’s reply to Brookhaven’s motion to compel is due January 15, 2009, and Brookhaven’s reply to U S Rail’s supplemental petition is due January 29, 2009.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. U S Rail's reply to the motion to compel is due January 15, 2009.
2. Brookhaven's reply to the supplemental petition is due January 29, 2009.
3. This decision is effective on its date of service.

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

Anne K. Quinlan
Acting Secretary