

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction found to be consistent with the public interest, taking into consideration at least: (1) The effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

Applicant has submitted information, as required by 49 CFR 1182.2, including information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b). Specifically, applicant states that the public will be unaffected by the proposed transaction because the new company will be operated by the same managers and in the same manner as Raz. Also, CUSA RAZ states that the proposed transaction will have no effect on fixed charges or employees. Applicant states that all qualified Raz employees who desire employment will be offered employment with CUSA RAZ. CUSA RAZ asserts that the proposed transaction will allow CUSA to extend its advantages of volume purchasing power in areas such as equipment and fuel to this new acquisition. Additional information, including a copy of the application, may be obtained from Applicant's representative.

On the basis of the application, the Board finds that the proposed transaction is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. See 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

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

*It is ordered:*

1. The proposed finance transaction is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this decision will be deemed vacated.

3. This decision will be effective on November 22, 2004, unless timely opposing comments are filed.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier

Safety Administration, 400 7th Street, SW., Room 8214, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, NW., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 400 7th Street, SW., Washington, DC 20590.

Decided: October 4, 2004.

By the Board, Chairman Nober, Vice Chairman Mulvey, and Commissioner Buttrey.

**Vernon A. Williams,**  
*Secretary.*

[FR Doc. 04-22704 Filed 10-7-04; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34551]

#### Standard Terminal Railroad of New Jersey, Inc.—Acquisition Exemption—Rail Line of Joseph C. Horner

Standard Terminal Railroad of New Jersey, Inc. (STRR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire approximately 1.25 miles of rail line located in the Township of Bridgewater and the Borough of Manville, Somerset County, NJ, that is part of a rail line known as the Reading Company New York Branch (also known as the Raritan Valley Connecting Track), and identified as Line Code 0326, between milepost 57.25 at Manville Yard and milepost 58.50 at a junction with New Jersey's commuter line.<sup>1</sup> STRR will provide common carrier rail service through a subcontractor who will conduct the day-to-day operations on the line.

STRR states that it has purchased the right to operate over this line of railroad, which is owned by Joseph C. Horner, pursuant to a perpetual, irrevocable, exclusive and assignable easement. STRR also states that it has acquired title to a railroad bridge spanning the Raritan River that connects the properties on which the easement lies. STRR indicates that, although Mr. Horner and STRR effectuated the transfer of property by Quitclaim Deeds on July 26 and 27, 2002, the ownership of the property is a matter pending in the United States Bankruptcy Court. *In*

<sup>1</sup> The Board previously granted an exemption to Morristown & Erie Railway, Inc. (M&E) to operate the rail property that is the subject of this notice of exemption. See *Morristown & Erie Railway, Inc.—Operation Exemption—Somerset Terminal Railroad Corporation*, STB Finance Docket No. 34267 (STB served Dec. 20, 2002).

*the Matter of Bridgewater Resources, Inc.*, No. 00-60057 (WHG) (D.N.J.).

Publication of this notice and effectiveness of the exemption does not constitute any finding by the Board concerning the ownership of the property involved. The exemption merely permits STRR and Mr. Horner to consummate the described transaction if and when they, in fact, have the legal capacity to do so.<sup>2</sup>

It should be noted that there may be two operators on the line if STRR begins operations. The Board has sanctioned dual operations on rail lines previously, and requires coordinated dispatching and operating protocols to assure safe operations. The Federal Railroad Administration also has regulations governing rail safety in the instance of such operations. These regulations have assured safe operations in the past and may be relied upon to do so in the future, on this line and elsewhere. To assure coordination of dispatching, STRR must certify to the Board that coordination protocols for dual operations are in place and have been fully communicated to the other operator before its operations can commence on the line under this authority.

STRR certifies that its projected revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier.

STRR states that it intends to consummate the transaction by the later of 7 days after the exemption was filed or upon affirmation of its ownership rights by the bankruptcy court.

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34551, must be filed with

<sup>2</sup> By letter filed on September 16, 2004, Bridgewater Resources, Inc. (Bridgewater), which owns and operates a solid waste transfer facility near Bridgewater, NJ, states that neither STRR nor M&E have operating rights over the property in question. Bridgewater states that it owns the exclusive easement over the property, as well as the track and track structure. According to Bridgewater, Norfolk Southern Railway Company has used the track, with Bridgewater's permission, to provide direct rail service to Bridgewater's facility. Bridgewater does not seek to stay the exemption but urges the Board in publishing its notice to stress that publication of this notice does not constitute any finding by the Board concerning the ownership of the property involved and does not provide any basis for STRR to claim that the Board has permitted STRR to conduct or subcontract operations in the absence of a decision by the court that STRR has the legal right to conduct such operations. STRR replied on September 17, 2004.

the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Jeffrey O. Moreno, Esq., Thompson Hine LLP, 1920 N Street, NW., Suite 800, Washington, DC 20036-1600.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: September 30, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 04-22703 Filed 10-7-04; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Bureau of Transportation Statistics

[Docket No. BTS-2004-19241]

#### Request for Public Comments on Reporting Requirements

**AGENCY:** Bureau of Transportation Statistics (BTS), DOT.

**ACTION:** Request for public comments.

**SUMMARY:** As part of our data quality review, we have contacted Federal Express (FedEx Express) concerning the carrier's compliance with the Department's mail reporting requirements. FedEx Express states that due to the structure and operation of its transportation agreement with the United States Postal Service, it is no longer in a position to comply with the mail reporting requirements. BTS is seeking public comments on the merits of the FedEx Express position and views on whether the Department's mail reporting requirements should be retained, amended, supplemented, replaced, or removed.

**DATES:** Comments must be received by December 7, 2004.

**ADDRESSES:** You may submit comments (identified by DMS Docket Number BTS-2004-19241) through the following methods:

*Web Site:* <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic docket site.

*Fax:* 1-202-493-2251.

*Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

*Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Federal Rulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

*Instructions:* All submissions must include the agency name and docket number. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided. You should know that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

*Docket:* For access to the docket to read background documents or comments, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Bernie Stankus, Office of Airline Information, Bureau of Transportation Statistics, Department of Transportation, Room 4125, 400 Seventh Street, SW., Washington, DC, 20590-0001, (202) 366-4387; [bernard.stankus@bts.gov](mailto:bernard.stankus@bts.gov).

**SUPPLEMENTARY INFORMATION:** Pursuant to 14 CFR part 241, certain air carriers are required to file quarterly BTS Schedule P-1.2 Statement of Operations. This schedule has a separate line item for mail revenues. The schedule requires that reporting air carriers use account code 3905 for their mail revenues. According to BTS, FedEx Express has been reporting large amounts of mail as freight using account code 3906. In addition, pursuant to 14 CFR 214.19-5, certain air carriers are required to report the tons of mail carried on each nonstop segment flown using account code 239 and tons of mail enplaned using account code 219. According to BTS, rather than report all its mail traffic using these account codes, FedEx Express reported a large volume of mail as freight using account codes 237 and 217.

Following an April 1, 2004 meeting with BTS representatives, FedEx Express submitted an April 23 letter explaining its position. In its letter, FedEx Express asserted that because of its unique relationship with the United States Postal Service (USPS) it could not report its mail traffic in the format required by the regulation. According to

FedEx Express, its transportation agreement with USPS is based on "linehaul space" and is not based on weight. Under this agreement, USPS purchases cubic feet of space in an aircraft. According to FedEx Express, USPS can use the space for the U.S. mail or shipping USPS supplies. In addition, the agreement allows FedEx to place its own items in those containers which have additional space. Thus, according to FedEx Express, it does not segregate the USPS product and weigh it separately. Therefore, according to FedEx Express, it does not have the data required by the part 241 regulation.

FedEx Express is also claiming that the reporting codes are not applicable to its operations because the codes only apply to "scheduled service" and the services provided to USPS are "not part of services performed pursuant to published flight schedules."

FedEx Express also stated that to collect the required data would be "extremely burdensome". According to FedEx Express, "[i]f the Department were to insist that FedEx Express generate the information, FedEx Express would have to unload containers, analyze the contents, sort the mail from freight, separate priority from non-priority mail, and weigh each group separately."

FedEx Express also claimed that the disclosure of this required data would cause "serious competitive harm" to FedEx Express. FedEx Express stated that disclosure of the required data elements "would enable competitors to undercut [its] pricing or rates in future negotiations with USPS." Finally, FedEx Express asserted that the data serve no official DOT purpose.

#### Request for Public Comments

We are treating FedEx Express' April 23rd letter as a waiver request (see 14 CFR part 241, Section 1-2 and 14 CFR 385.19(c)). Thus, we are inviting public comments on the FedEx Express request and views on whether the Department's mail reporting requirements should be retained, amended, supplemented, replaced, or removed. Based on the public comments and a review of the waiver request, BTS will consider a future rulemaking to amend, supplement, replace, or remove the relevant regulations.

We are posing a series of questions in the hope that the public comments will address several issues in particular:

- (1) Do you use BTS' mail data elements required under part 241 and, if so, how do you use the information?
- (2) Should BTS consider these mail data elements as confidential business information which, if disclosed to the