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FEE RECEIVED

November 5, 2012

NOV 5 2012
SURFACE
TRANSPORTATION BOARD

BY HAND

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E. Street, SW
Washington, DC 20423-0001

FILED

NOV 5 2012
SURFACE
TRANSPORTATION BOARD

RE: STB Finance Docket No. 35688, Transco Railway Products Inc. -- Acquisition and Operation Exemption -- D&W Railroad LLC

Dear Ms. Brown:

Enclosed for filing in the above-referenced proceeding are an original and 10 copies of (i) the verified notice of exemption of Transco Railway Products Inc, pursuant to 49 C.F.R. § 1150.31 (the "Notice"), as well as a check in the amount of \$1,800 to cover the cost of the filing, and (ii) a Motion to Dismiss the Notice.

Please acknowledge receipt of this letter by date-stamping the enclosed acknowledgment copy and returning it to our messenger.

Very truly yours,

Rose-Michele Nardi
Rose-Michele Nardi

**ENTERED
Office of Proceedings**

NOV 5 - 2012

**Part of
Public Record**

BEFORE THE
SURFACE TRANSPORTATION BOARD

TRANSCO RAILWAY PRODUCTS INC.
- ACQUISITION AND OPERATION EXEMPTION -
D&W RAILROAD LLC

FILED

STB FINANCE DOCKET NO. 35688

NOV 5 - 2012

SURFACE
TRANSPORTATION BOARD
VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1150.31

Transco Railway Products Inc. ("Transco"), a non-common carrier entity, hereby files this Verified Notice of Exemption (the "Notice") to acquire the interests from D&W Railroad LLC ("D&W")¹ in, and to operate, the rail tracks described below ("Subject Tracks").

1. Applicant's name and current mailing address:

FEE RECEIVED

Transco Railway Products Inc.
55 East Jackson Blvd.
Suite 2100
Chicago, IL 60604-4166

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SURFACE
TRANSPORTATION BOARD

2. Applicant's representative to receive correspondence:

Rose-Michele Nardi
Weiner Brodsky Sidman Kider PC
1300 19th Street, NW
Fifth Floor
Washington, D.C. 20036-1609
(202) 628-2000

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3. Information concerning the agreement:

Transco and D&W intend to enter into an agreement or instrument whereby Transco will acquire all (or substantially all of) the interests of D&W in and to the Subject Tracks. As noted below in Section 6, this proceeding is subject to a Motion to Dismiss, filed by

¹ D&W is an affiliate of Transco.

Transco. If this proceeding is not dismissed, the sale of the Subject Tracks from D&W to Transco may not occur.

4. Operator of the property:

Transco will operate the Subject Tracks.²

5. Brief summary of the proposed transaction:

The earliest date on which Transco and D&W would consummate the transaction is December 5, 2012. D&W is located at 55 East Jackson Blvd., Ste 2100, Chicago, IL 60604.

Transco will acquire all (or substantially all) of the interests of D&W in and to the Subject Tracks. The Subject Tracks are identified in black on the maps attached hereto as Exhibit A. The Subject Tracks are situated in Oelwein, Iowa, and generally consist of (1) a series of approximately 24 parallel, stub-ended track segments, the longest of which is approximately 1.0 miles ("Stub-ended Tracks"); (2) track segments that connect to the Main Line (as identified on the maps), which segments include three parallel tracks northeast of the Stub-ended Tracks (identified on the maps as Track Nos. 0, 1 and 2) and the tracks identified on the maps as the "Depress Track", the "Back Lead", and the "Freight Track"(which is the track that leads to the Transco's facility), and (3) the track segments identified on the maps as the "Round House Track" and the "Diesel Track", each of which connects to the Freight Track, and the "Crossover" track, which connects the Freight Track to the Back Lead track. The aggregate length of the Subject Tracks is approximately 23 miles. The Subject Tracks include all tracks that meet the following three criteria: the track is located west of the Main Line, north of Fourth Street S.W. and south of 50th Street.

6. Related proceedings:

Contemporaneously with this Notice, Transco is filing a Motion to Dismiss the Notice. As set forth in the Motion to Dismiss, Transco believes the Subject Tracks are excepted track under 49 U.S.C. § 10906. Accordingly, Transco's acquisition and operation of the Subject Tracks is not regulated by the Surface Transportation Board (the "Board").

7. Interchange Commitments.

The acquisition and operation of the Subject Tracks by Transco will not involve a provision or agreement that may limit future interchange with a third-party connecting carrier.

² As discussed in the related Motion to Dismiss, no operator performs common carrier operations on the Subject Tracks.

8. Environmental Issues:

Pursuant to the Interstate Commerce Commission's decision in *Ex Parte* No. 55 (Sub-No. 22A), *Implementation of Environmental Laws*, 7 I.C.C.2d 807 (1991) ("*Environmental Laws*"), environmental documentation normally need not be prepared for a transaction that does not involve the diversion from rail to motor carriage of more than (A) 1,000 rail carloads a year, or (B) an average of 50 rail carloads per mile per year for any part of the affected line (49 C.F.R. § 1105.7(e)(4)), on the one hand, or that does not involve (A) an increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, (B) an increase in rail yard activity of at least 100 percent (measured by carload activity), or (C) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment (49 C.F.R. § 1105.7(e)(5)), on the other hand. *See* 49 C.F.R. § 1105.6(c)(2).

The subject transaction will not result in changes in carrier operations that exceed the above-listed thresholds. Therefore, no environmental documentation is required for this Verified Notice of Exemption.

Pursuant to the *Environmental Laws* decision, transactions involving a sale, lease or transfer of a rail line for the purpose of continued rail operations are exempt from the historic report requirements of 49 C.F.R. § 1105.8(a) if termination of such operations requires further approval by the Surface Transportation Board (the "Board") and there are no plans to dispose of or alter properties subject to the Board's jurisdiction that are 50 years old or older. *See* 49 C.F.R. § 1105.8(b)(1).

Transco would need Board authority to terminate any common carrier operations over the Subject Tracks, and Transco has no plans to dispose of or alter properties subject to Board jurisdiction that are 50 or more years old. Therefore, a historic report is not required for this Notice.

9. Certificate of projected revenue:

A certificate concerning Transco's projected annual railroad operating revenue is attached as Exhibit B.

10. Labor Notice:

The projected annual railroad operating revenue will not exceed 5 million dollars.

Therefore, the requirements of 49 C.F.R. § 1150.32(e) do not apply to this transaction.

Respectfully submitted,



Rose-Michele Nardi
Weiner Brodsky Sidman Kider PC
1300 Nineteenth Street, NW
Fifth Floor
Washington, D.C. 20036-1609
(202) 628-2000

Attorneys for:

TRANSCO RAILWAY PRODUCTS INC.

Dated: November 5, 2012

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**TRANSCO RAILWAY PRODUCTS INC.
- ACQUISITION AND OPERATION EXEMPTION -
D&W RAILROAD LLC**

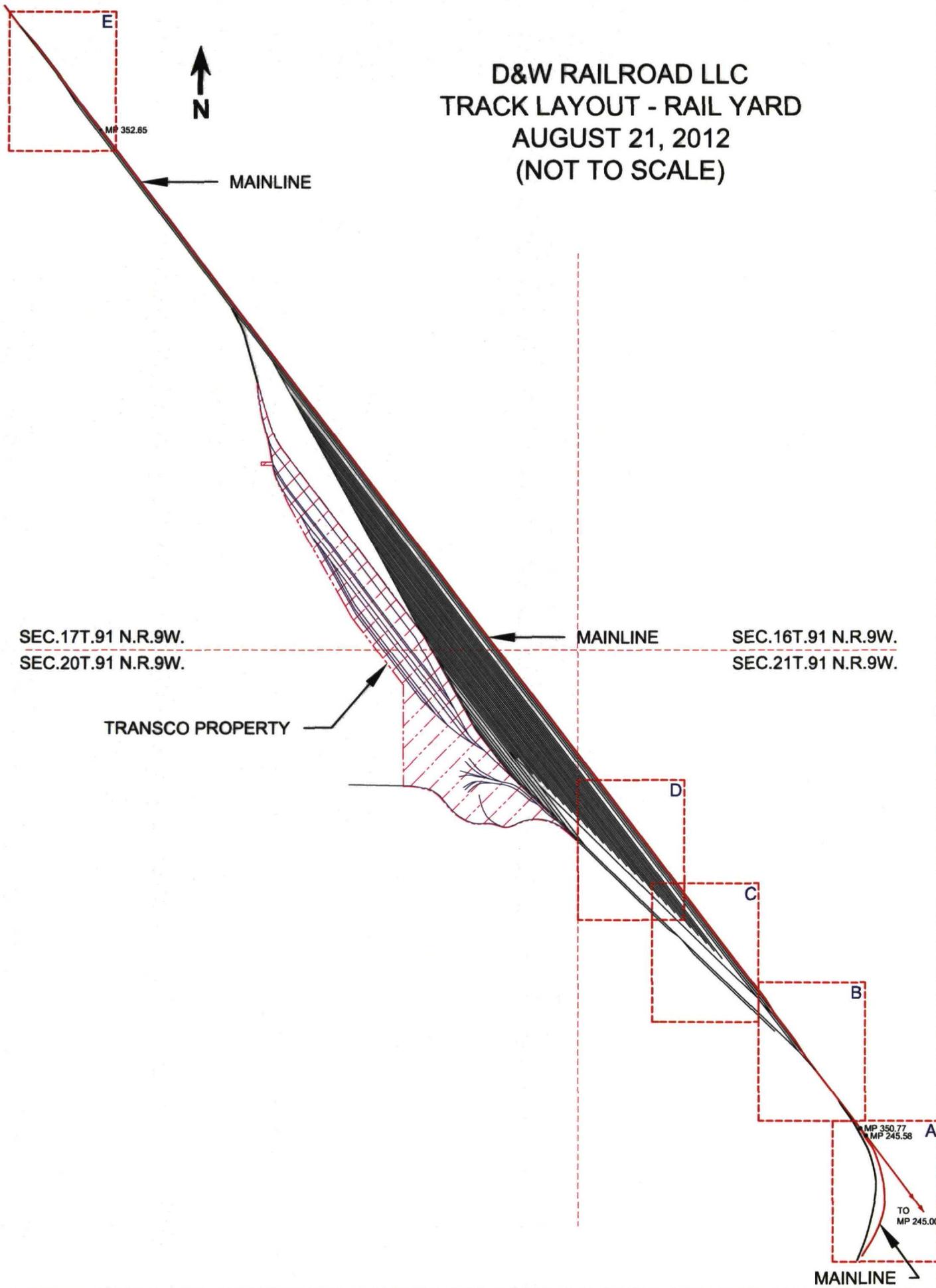
STB FINANCE DOCKET NO. 35688

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1150.31**

EXHIBIT A

MAPS OF SUBJECT TRACKS

D&W RAILROAD LLC
TRACK LAYOUT - RAIL YARD
AUGUST 21, 2012
(NOT TO SCALE)



D&W RAILROAD LLC
TRACK LAYOUT - DETAIL A
AUGUST 21, 2012
(NOT TO SCALE)

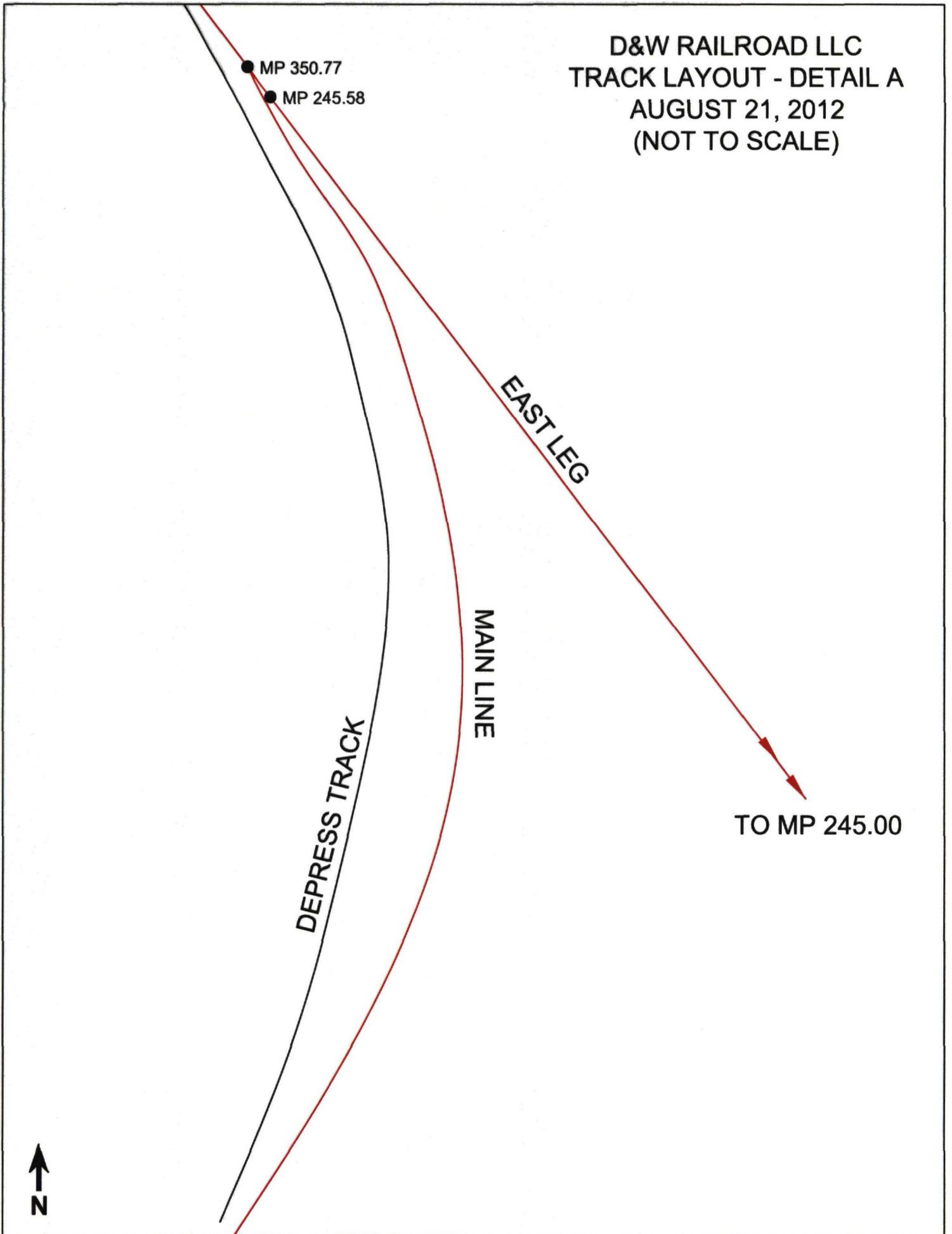
● MP 350.77
● MP 245.58

DEPRESS TRACK

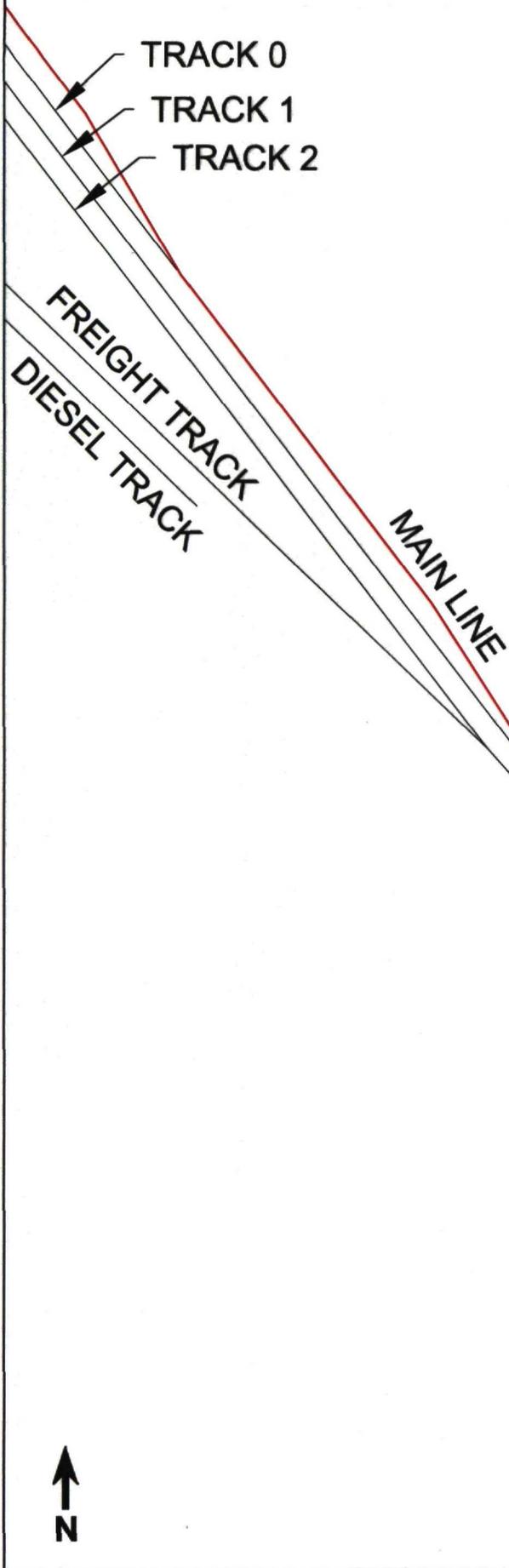
MAIN LINE

EAST LEG

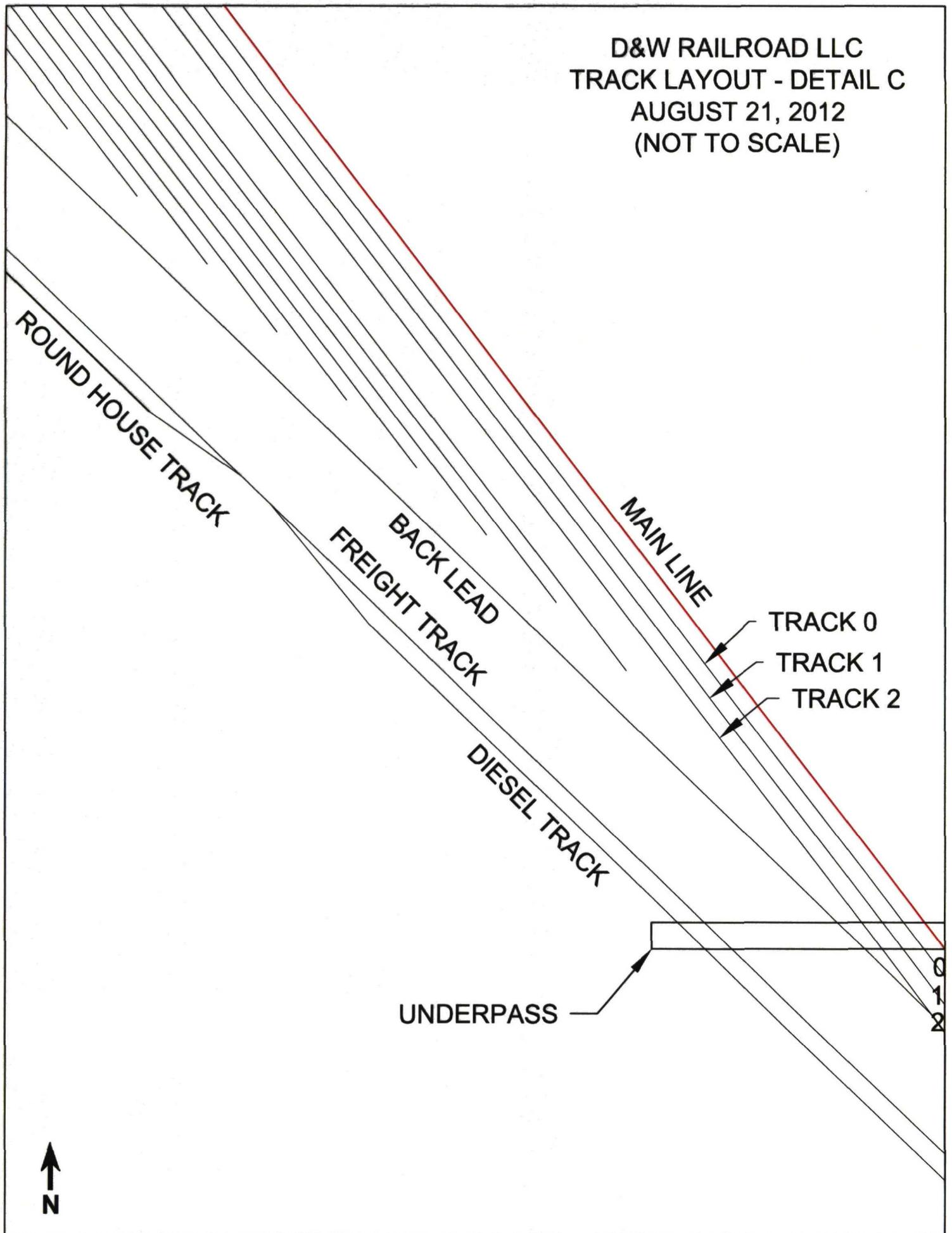
TO MP 245.00



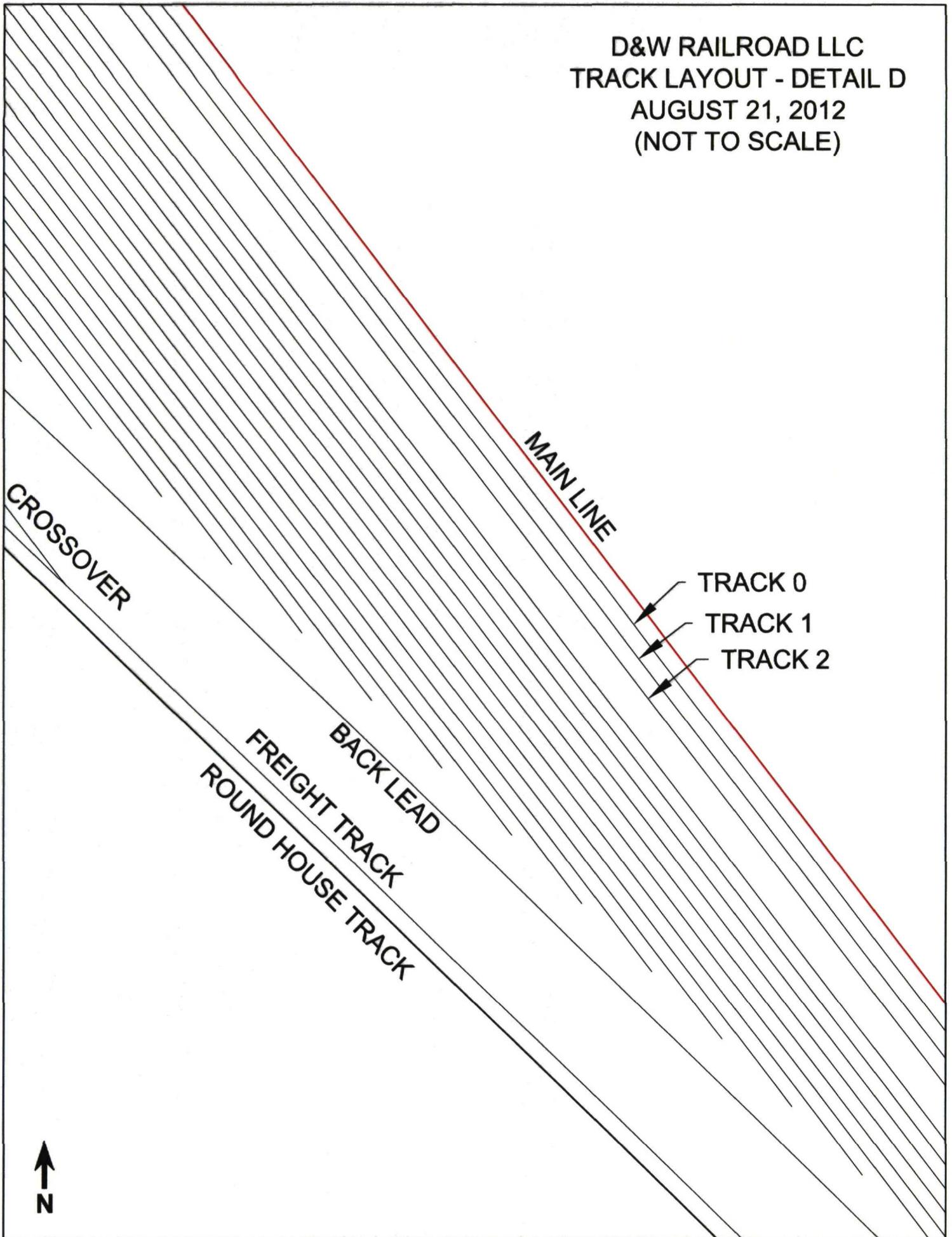
D&W RAILROAD LLC
TRACK LAYOUT - DETAIL B
AUGUST 21, 2012
(NOT TO SCALE)



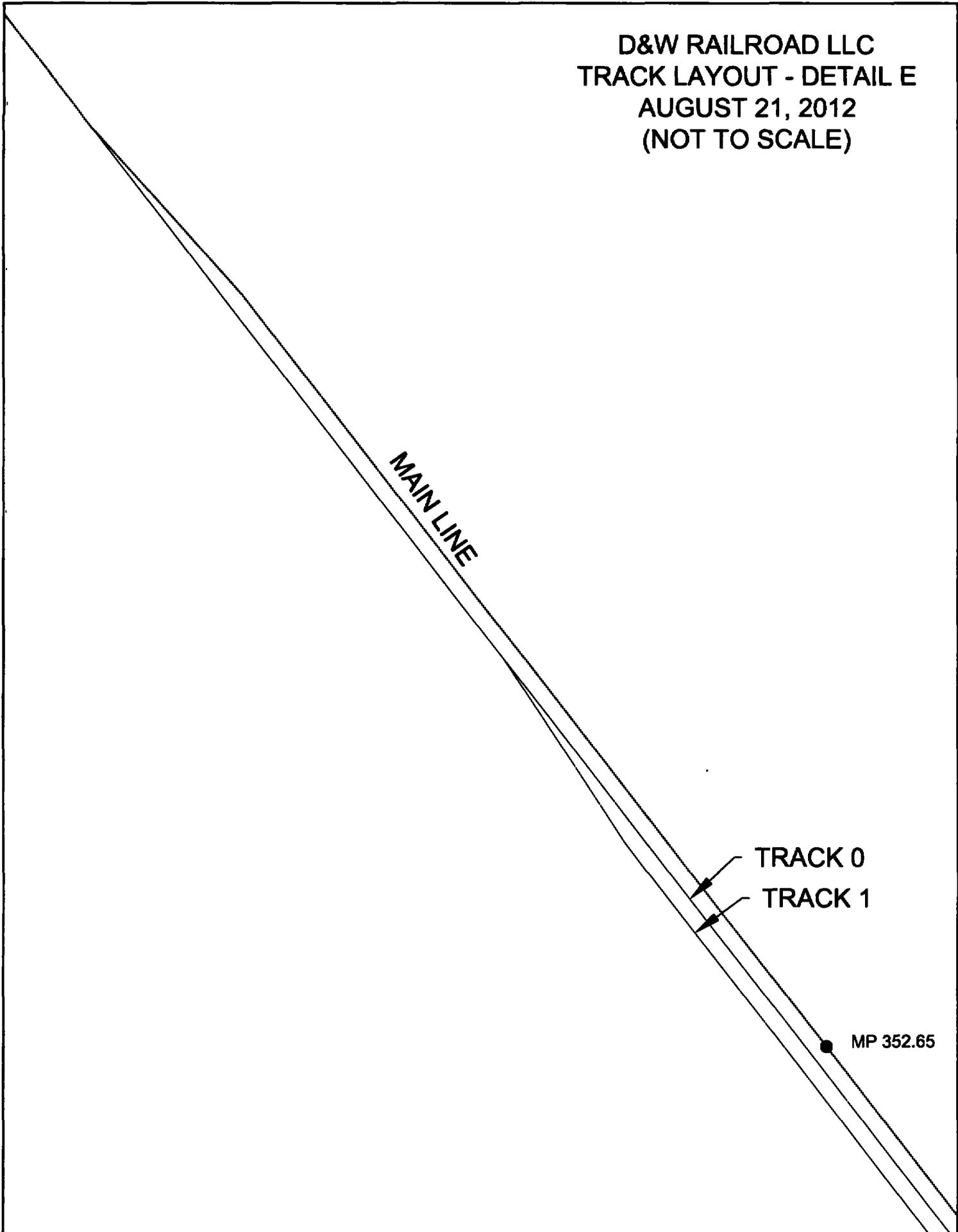
D&W RAILROAD LLC
TRACK LAYOUT - DETAIL C
AUGUST 21, 2012
(NOT TO SCALE)



D&W RAILROAD LLC
TRACK LAYOUT - DETAIL D
AUGUST 21, 2012
(NOT TO SCALE)



D&W RAILROAD LLC
TRACK LAYOUT - DETAIL E
AUGUST 21, 2012
(NOT TO SCALE)



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**TRANSCO RAILWAY PRODUCTS INC.
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D&W RAILROAD LLC**

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**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1150.31**

EXHIBIT B

CERTIFICATION OF REVENUE

The undersigned hereby certifies that the projected annual railroad operating revenues of Transco Railway Products Inc. ("Transco") would not exceed that which would qualify it as a class III carrier.



J. Robert Nelson, President
Transco Railway Products Inc.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**TRANSCO RAILWAY PRODUCTS INC.
- ACQUISITION AND OPERATION EXEMPTION -
D&W RAILROAD LLC**

STB FINANCE DOCKET NO. 35688

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1150.31**

CAPTION SUMMARY

Transco Railway Products Inc. ("Transco"), a non-common carrier entity, has filed a notice of exemption (the "Notice") to acquire all or substantially all of the interest of D&W Railroad, LLC in, and to operate, certain track segments that, in the aggregate, total approximately 23 miles of tracks in Oelwein, IA. The subject tracks generally consist of (1) a series of approximately 24 parallel, stub-ended track segments, the longest of which is about 1.0 miles ("Stub-ended Tracks"), (2) track segments that connect to the Main Line (as identified on the maps attached to the Notice), which segments include three parallel tracks northeast of the Sub-ended Tracks (identified on those maps as Track Nos. 0, 1 and 2) and the tracks identified on those maps as the "Depress Track", the "Back Lead", and the "Freight Track" (which is the track that leads to Transco's facility in Oelwein), and (3) the track segments identified on the maps attached to the Notice as the "Round House Track," the "Diesel Track", each of which connects to the Freight Track, and the "Crossover" track, which connects the Freight Track to the Back Lead track. The Subject Tracks include all tracks that

meet the following three criteria: the track is located west of the Main Line, north of Fourth Street S.W. and south of 50th Street.

Comments must be filed with the Surface Transportation Board (the "Board") and served on Rose-Michele Nardi, Weiner Brodsky Sidman Kider PC, 1300 Nineteenth Street, NW, Fifth Floor, Washington, D.C. 20036-1609.

This proceeding is related to a Motion to Dismiss the Notice, filed by Transco in the same proceeding, wherein Transco asserts that its acquisition and operation of the Subject Tracks is not regulated by the Board.

This notice is filed under 49 CFR § 1150.31. 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.

Dated:

By the Board,

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VERIFICATION

I, J. Robert Nelson, certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief. Further, I certify that I am qualified and authorized to file this Verified Notice of Exemption.



J. Robert Nelson, President
Transco Railway Products Inc.

Dated: November 5, 2012