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October 4, 2016

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20423-0001

Re: **Docket No. FD 36068**
The Indiana Rail Road Company -- Temporary
Trackage Rights Exemption -- CSX Transportation, Inc.

Docket No. FD 36068 (Sub-No. 1)
The Indiana Rail Road Company -- Temporary
Trackage Rights Exemption -- CSX Transportation, Inc.

Dear Ms. Brown:

On September 29, 2016, The Indiana Rail Road Company ("INRD") filed a Verified Notice of Exemption and a Petition to Partially Revoke Class Exemption in the above-captioned proceedings regarding INRD's acquisition of certain temporary trackage rights over a line of CSX Transportation, Inc. ("CSXT") between Sullivan and Oaktown, Indiana. In several instances those pleadings refer to the proposed temporary trackage rights as "local." INRD, however, will conduct overhead operations between the INRD/CSXT connection at Sullivan and the connection with mine trackage at Oaktown. Beyond serving the mine at Oaktown, the temporary trackage rights will not allow INRD to provide local service at any points between Sullivan and Oaktown.

The categorization of INRD's temporary trackage rights does not affect their qualification for the class exemption at 49 C.F.R. § 1180.2(d)(7). See Consolidated Rail Corporation -- Trackage Rights Exemption -- Missouri Pacific Railroad Company, Docket No. FD 32662 (STB served June 18, 1998) at 3-4. Nor does it alter the unavailability of the class exemption at 49 C.F.R. § 1180.2(d)(8), given that INRD's proposed temporary trackage rights will extend for a term of greater than one year. Consideration of INRD's petition to partially revoke in Docket No. FD 36068 (Sub-No. 1) thus remains appropriate.

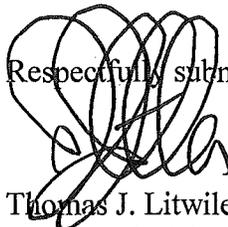
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INRD is attaching a revised version of the *Federal Register* caption summary for its filing in Docket No. FD 36068, and would request that this be substituted for Exhibit 3 to INRD's original notice of exemption.

Please feel free to contact me if you have any questions regarding this matter. Thank you for your assistance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'T. Litwiler', written over the text 'Respectfully submitted,'.

Thomas J. Litwiler
Attorney for The Indiana Rail Road Company

TJL:tl

Attachment

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

DOCKET NO. FD 36068

THE INDIANA RAIL ROAD COMPANY
-- TEMPORARY TRACKAGE RIGHTS EXEMPTION --
CSX TRANSPORTATION, INC.

Pursuant to a written agreement dated as of September 1, 2016, CSX Transportation, Inc. ("CSXT") has agreed to grant limited, temporary trackage rights to The Indiana Rail Road Company ("INRD") over CSXT's line of railroad between the connection with INRD at approximately CSXT Milepost OZA 204.5 at Sullivan, Indiana and the connection with trackage serving the Oaktown Mine at approximately CSXT Milepost OZA 219.05 at Oaktown, Indiana, a distance of approximately 14.55 miles. INRD may utilize the temporary trackage rights for the sole purpose of handling loaded and empty unit coal trains between the Oaktown Mine and the Kentucky Utilities Generating Station in Harrodsburg, Kentucky in interline service with other rail carriers.

The temporary trackage rights will be effective on October 29, 2016, and will expire by agreement of the parties on December 31, 2017. INRD has concurrently filed a petition in Docket No. FD 36068 (Sub-No. 1) to partially revoke the class exemption at 49 C.F.R. § 1180.2(d)(7) to allow the proposed trackage rights to expire on December 31, 2017. The Board will address INRD's petition in a separate decision.

As a condition to this exemption, any employee affected by the trackage rights will be protected by the conditions imposed in Norfolk & Western Railway -- Trackage Rights --

Burlington Northern, Inc. 354 I.C.C. 605 (1978), as modified in Mendocino Coast Railway -- Lease & Operate -- California Western Railroad, 360 I.C.C. 653 (1980).

This notice is filed under 49 C.F.R. § 1180.2(d)(7).¹ If it 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 effectiveness of the exemption. Stay petitions must be filed by October 21, 2016 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36068, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Thomas J. Litwiler, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606-2832.

Board decisions and notices are available on our website at WWW.STB.DOT.GOV.

Decided: October __, 2016

By the Board, Rachel D. Campbell, Office of Proceedings.

¹ INRD states that its verified notice of exemption was not filed under the Board's class exemption for temporary trackage rights at 49 C.F.R. § 1180.2(d)(8) because the proposed trackage rights are longer than one year in duration. See Railroad Consolidation Procedures, 6 S.T.B. 910 (2003).