

BEFORE THE  
SURFACE TRANSPORTATION BOARD

234908  
ENTERED  
Office of Proceedings  
September 27, 2013  
Part of Public  
Record

---

FINANCE DOCKET NO. 35773

MULE SIDETRACKS, L.L.C.  
--EXEMPTION FOR PURCHASE OF LINE OF RAILROAD  
AND ASSIGNMENT OF OPERATING RIGHTS—  
COLUMBIANA COUNTY PORT AUTHORITY

---

VERIFIED NOTICE OF EXEMPTION  
OF  
MULE SIDETRACKS, L.L.C.  
PURSUANT TO 49 C.F.R. § 1150.31

---

RICHARD H. STREETER  
LAW OFFICE OF RICHARD H. STREETER  
5255 Partridge Lane, N.W.  
Washington, D.C. 20016  
Telephone: (202) 363-2011  
Fax: (202) 363-4899  
Email: [rhstreeter@gmail.com](mailto:rhstreeter@gmail.com)

Attorney for  
MULE SIDETRACKS, L.L.C.

Dated: September 27, 2013

BEFORE THE  
SURFACE TRANSPORTATION BOARD

---

FINANCE DOCKET NO. 35773

MULE SIDETRACKS, L.L.C.  
--EXEMPTION FOR PURCHASE OF LINE OF RAILROAD  
AND ASSIGNMENT OR OPERATING RIGHTS—  
COLUMBIANA COUNTY PORT AUTHORITY

---

VERIFIED NOTICE OF EXEMPTION  
OF  
MULE SIDETRACKS, L.L.C.  
PURSUANT TO 49 C.F.R. § 1150.31

---

Pursuant to 49 C.F.R. § 1150.31, *et seq.*, Mule Sidetracks, L.L.C. (“MSLLC”), a non-carrier, hereby files this Verified Notice of Exemption to (1) purchase the line of railroad from the Columbiana County Port Authority (“CCPA”) running from Youngstown, Ohio to Darlington, Pennsylvania, and (2) receive permanent assignments of operating rights and easements owned by CCPA on continuous segments of lines connected to the leased line from CCPA.

The line is the former Youngstown & Southern Line and runs from Milepost 0.0 in Youngstown, Ohio to Milepost 35.7 in Darlington, Pennsylvania (“the Line”). The Line is owned by CCPA and is currently operated by the Youngstown & Southeastern Railway Company (“Y&SR”), pursuant to the Board’s authorization in F.D. 34962, *Youngstown & Southeastern Railway Company—Lease and Operation Exemption—Lines of Eastern States Railroad,*

LLC.,<sup>1</sup> which will continue to operate the Line. In addition, MSLLC will receive permanent assignments of CCPA's agreements and operating rights to approximately three (3) miles of continuous track segments running east of Milepost 0.0 that connect to the Line and that, *inter alia*, facilitate interchange with Norfolk Southern Railway Company ("NSR") and CSX Transportation, Inc. ("CSXT"). All of this trackage is shown on Exhibit A, attached and incorporated herein, and is in Columbiana and Mahoning Counties, Ohio, and Beaver County, Pennsylvania. Based on projected revenues for MSLLC, it expects to become and remain a Class III rail carrier after consummation of the transaction proposed herein.

In accordance with the requirements of 49 C.F.R. § 1150.33, MSLLC submits the following information:

**Name and Address of Applicant: 49 C.F.R. § 1150.33(a)**

The full name and address of the rail carrier applicant herein is as follows:

Mule Sidetracks, L.L.C.  
1515 Arapahoe Street, Tower 1  
Suite 1600  
Denver, CO 80202

**Applicant's Representative: 49 C.F.R. § 1150.33(b)**

MSLLC's representative to whom correspondence regarding this transaction should be sent is as follows:

LAW OFFICE OF RICHARD H. STREETER  
Richard H. Streeter

---

<sup>1</sup> Although Eastern States Railway was authorized to acquire the Line from CCPA, the transaction was never consummated.

5255 Partridge Lane, N.W.  
Washington, D.C. 20016  
Telephone: (202) 363-2011  
Fax: (202) 363-4899  
Email: [rhstreeter@gmail.com](mailto:rhstreeter@gmail.com)

**Statement Concerning Agreement: 49 C.F.R. § 1150.33(c)**

CCPA has agreed to sell the Line and all of its operating rights on continuous segments of lines connected to the Line to MSLLC, as set forth in a Purchase Agreement dated September 27, 2013. As part of the transaction with MSLLC, CCPA is also assigning to MSLLC all of its interests in all agreements and operating rights necessary or useful to enable MSLLC to operate from milepost 0.0 to interchanges with NSR and CSXT, a distance of approximately three (3) miles, which agreements and operating rights are made part of this exemption including, without limitation, the following agreements and operating rights:

(A) Overhead Trackage Rights Agreement dated May 7, 2001 between Ohio & Pennsylvania Railroad Company (which, together with its parent and all affiliates, "OHPA") and CQPA, to which CCPA is successor;

(B) Letter Agreement regarding yard operations dated November 30, 2001 between OHPA, CQPA and CCPA;

(C) Interchange Agreement dated July 23, 2002, as amended and in effect, among CSX, OHPA and CQPA and Interline Service Agreement, effective date April 1, 2004, between CSXT and CQPA, to which CCPA is successor;

(D) Land Lease dated August 8, 2003 between CSXT and CQPA, which was assumed by CCPA, effective January 3, 2006;

(E) Interchange Agreement dated May 1, 2001, and Interline Service Agreement, effective date October 5, 2004 between CQPA and NS, to which CCPA is successor;

(F) Easements granted by Allied Erecting & Dismantling Company,

Inc. ("Allied") to The Pittsburgh and Lake Erie Railroad Company ("PLE") by agreements dated June 3, 1992, and November 10, 1993, and easements retained by PLE in deeds dated June 3, 1992, and November 10, 1993, from PLE to Allied (collectively, the "Allied Easements"), which Allied Easements were conveyed by Youngstown and Southern Railway Company (successor-in-interest to PLE) to Railroad Ventures, Inc. ("RVI") by deed dated November 8, 1996, and by RVI to CCPA by deed dated January 23, 2001, and were included in the rights granted to CQPA by CCPA, including rights over the C.P. Graham Interlocking, and which collective rights were also conferred on CCPA by order of the Bankruptcy Court dated March 28, 2002 in In re: Pittsburgh & Lake Erie Properties, Inc., Case No. 96-406 (MFW), and to which CCPA is successor; and

(G) Operating Rights Agreement between Matteson Equipment Company ("Matteson") and CQPA, to which CCPA is successor; and Operating Rights Agreement between ESRR and Matteson dated July 14, 2006 to which CCPA is successor.

If it is deemed that any consent to such assignments is necessary from the underlying trackage owners, or that new agreements should be executed, MSLLC will seek such consent and/or enter into new agreements.

**Operation of the Property: 49 C.F.R. § 1150.33(d)**

MSLLC will be a common carrier on the Line. Once it acquires the Line, MSLLC intends to continue operations with Y&SR, the current operator, which will simultaneously file an appropriate Notice of Exemption with the Board in order to reflect the slight change in status from sub-lessee to contractual operator. MSLLC will retain the residual common carrier status on the Line.

For the three (3) miles of continuous track segments running east of Milepost 0.0 in Youngstown that connect to the Line and that facilitate interchange with CSXT and NSR, MSLLC shall be the common carrier, but Y&SR shall operate on the lines solely as an agent of and in the name of

MSLLC. (See, decisions in combined Finance Dockets Nos. 34145, *Bulkmatic Railroad Corporation—Acquisition and Operation Exemption—Bulkmatic Transport Company*, and *Bulkmatic Railroad Corporation—Operation Exemption—Bulkmatic Transport Company*, served November 19, 2002 and May 15, 2003.)

**Summary of the Transaction: 49 C.F.R. § 1150.33(e)**

MSLLC intends to acquire all the rights and agreements described herein pursuant to the Purchase Agreement with CCPA, dated September 27, 2013, and will commence operations following approval of the Board on November 1, 2013.

MSLLC's address is:  
Mule Sidetracks, L.C.C.  
1515 Arapahoe Street, Tower 1  
Suite 1600  
Denver, CO 80202

CCPA's address is:  
Columbiana County Port Authority  
1250 St. George Street  
East Liverpool, OH 43920

Pursuant to the agreements already described herein, MSLLC shall become a common carrier by rail on a line between Milepost 0.0 in Youngstown, Ohio and Milepost 35.7 in Darlington, Pennsylvania, a total of approximately 35.7 miles. In addition, by virtue of the purchase and assignment of operating rights, MSLLC shall become a common carrier by rail on segments of track in Youngstown on tracks and/or property owned, starting at Milepost 0.0 and heading east approximately 3 miles, by Ohio & Pennsylvania Railroad ("OHPA"), then by Allied Erecting & Dismantling, over the C. P. Graham Interlocking with NSR, then by OHPA, then by Matteson Equipment Company, and finally again by OHPA to a point of connection with

CSXT and on property leased from CSXT. The operating rights through Youngstown east Milepost 0.0 facilitate, among other things, interchange with CSXT and NSR. The total length of these operating rights and track segments east of Milepost 0.0 in Youngstown is approximately 3 miles.

The total route miles that are the subject of this Exemption are approximately 38.7 miles.

**Map: 49 C.F.R. § 1150.33(f)**

Maps showing the tracks that are the subject of this Exemption are attached as Exhibit A to this Notice.

**Certificate of Compliance: 49 C.F.R. § 1150.33(g)**

A Certificate of Compliance with the provisions of 49 C.F.R. § 1150.33(g) is attached as Exhibit B to this Notice.

**Transactions Involving Interchange Commitments: 49 C.F.R. § 1150.33(h)**

This transaction does not involve any provision or agreement that may limit future interchange with a third-party connecting carrier.

**Advance Notice: 49 C.F.R. § 1150.32(e)**

The projected annual operating revenue of MSLLC upon consummation of this transaction does not exceed \$5 million, and, accordingly, the advance notice requirements of 49 C.F.R. § 1150.32(e) are not applicable to this transaction. See Exhibit B hereto.

**Environmental and Historic Preservation Data: 49 C.F.R. § 1105**

Under 49 C.F.R. § 1105.6(c)(2), MSLLC's proposed acquisition and operation of the tracks as described herein is exempt from environmental

reporting requirements. The proposed transaction will not result in significant changes in carrier operations, *i.e.*, changes that exceed the thresholds established in 49 C.F.R. § 1105.7(e)(4) or (5).

Under 49 C.F.R. § 1105.8(b)(1), MSLLC's Exemption herein is also exempt from historic preservation reporting requirements. The proposed transactions are for the purpose of continued rail operations. Further, Surface Transportation Board approval is required to discontinue or abandon any service, and there are no plans to dispose of or alter properties subject to Board jurisdiction that are fifty years old or older.

**Caption Summary:**

A caption summary in appropriate form is attached as Exhibit C to this Notice.

Respectfully submitted,

By: Richard H. Streeter /s/  
Law Office Of Richard H. Streeter  
5255 Partridge Lane, N.W.  
Washington, D.C. 20016  
Telephone: (202) 363-2011  
Email: [rhstreeter@gmail.com](mailto:rhstreeter@gmail.com)

Attorney for Mule Sidetracks, L.L.C.

Dated: September 27, 2013

**VERIFICATION**

State of Colorado )  
County of Denver )

ss:

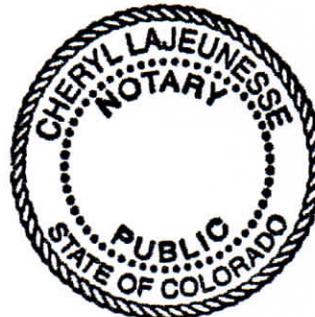
Nancy K. Buese, being duly sworn, deposes and says that <sup>she</sup> ~~he~~ is CFO of Mule Sidetracks, that <sup>she</sup> ~~he~~ has read the foregoing Verified Notice of Exemption and knows the facts asserted therein, and that the same are true as stated.

Nancy K. Buese  
Name: Nancy K. Buese  
Title: Executive Vice President and CFO at 2/2/13

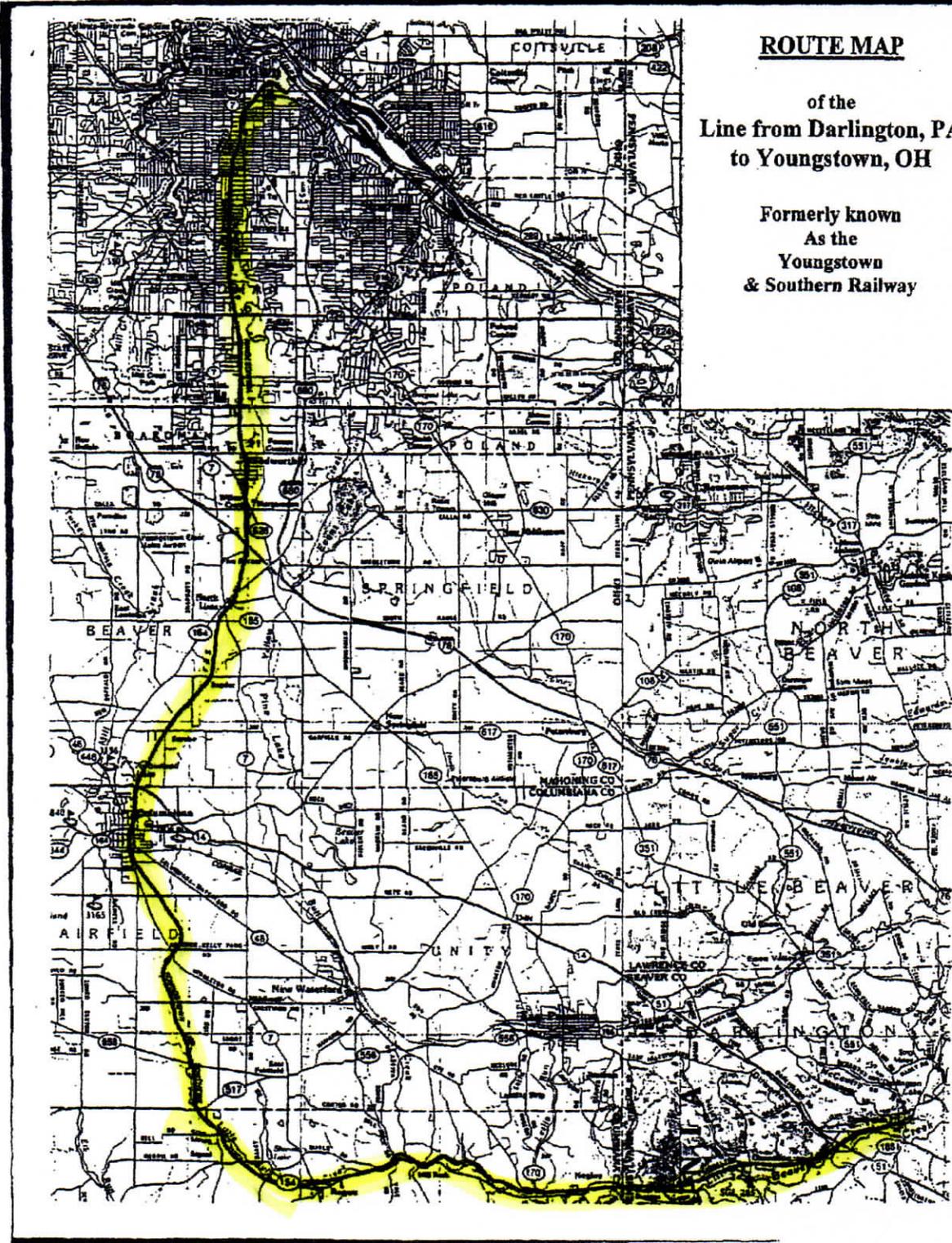
SUBSCRIBED AND SWORN TO  
Before me this 26 day of  
September, 2013.

Cheryl Lajeunesse  
Notary Public

My Commission expires: 12-18-2014



My Commission Expires 12/18/2014



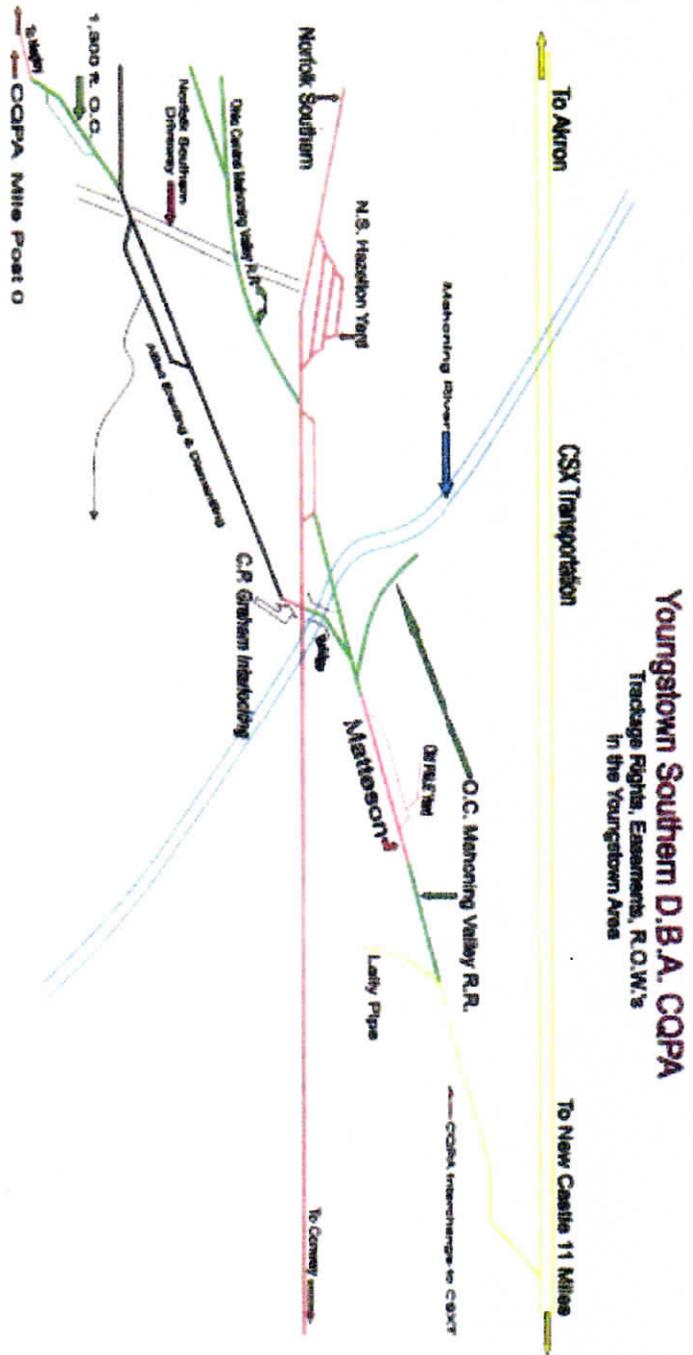
**ROUTE MAP**

of the  
**Line from Darlington, PA  
to Youngstown, OH**

Formerly known  
As the  
**Youngstown  
& Southern Railway**

**EXHIBIT A**

Page 2 of 2



**EXHIBIT B**

**CERTIFICATION**

State of Colorado )  
County of Denver ) ss:

Nancy K Buese, being duly sworn, hereby certifies that the projected annual rail revenue of Mule Sidetracks, L.L.C. does not exceed \$5 million and will not result in the creation of a Class II or Class I carrier under the provisions of 49 C.F.R. § 1201(1-1).

Nancy K. Buese  
Name: Nancy K Buese  
Title: EVP, CTO

ck  
9-20-13

SUBSCRIBED AND SWORN TO  
Before me this 26 day of  
September, 2013.

Cheryl Lajeunesse  
Notary Public

My Commission expires: 12-18-2014



My Commission Expires 12/18/2014

**SURFACE TRANSPORTATION BOARD**

**NOTICE OF EXEMPTION**

---

FINANCE DOCKET NO. 35773

MULE SIDETRACKS, L.L.C.  
--EXEMPTION FOR PURCHASE OF LINE OF RAILROAD  
AND ASSIGNMENT OF OPERATING RIGHTS—  
COLUMBIANA COUNTY PORT AUTHORITY

---

MULE SIDETRACKS, L.L.C. (“MSLLC”), a non-carrier, has filed a Verified Notice of Exemption under 49 C.F.R. § 1150.31 to (1) purchase a line of railroad from Columbiana County Port Authority (“CCPA”) that extends approximately 35.7 miles between milepost 0.0 in Youngstown, Ohio and milepost 35.7 in Darlington, Pennsylvania (“the Line”) and is currently operated by Youngstown & Southeastern Railway Company (“YSRR”); and (2) receive permanent assignment of CCPA’s agreements and operating rights to approximately 3 miles of continuous track segments running east of milepost 0.0 that connect to the Line and that facilitate interchange with Norfolk Southern Railway Company and CSX Transportation, Inc., which agreements and operating rights are made part of this Exemption including, without limitation, the following agreements and operating rights:

(A) Overhead Trackage Rights Agreement dated May 7, 2001 between Ohio & Pennsylvania Railroad Company (which, together with its parent and all affiliates, “OHPA”) and CQPA, to which CCPA is successor;

(B) Letter Agreement regarding yard operations dated November 30, 2001 between OHPA, CQPA and CCPA;

(C) Interchange Agreement dated July 23, 2002, as amended and in effect, among CSX, OHPA and CQPA and Interline Service Agreement, effective date April 1, 2004, between CSXT and CQPA, to which CCPA is successor;

(D) Land Lease dated August 8, 2003 between CSXT and CQPA, which was assumed by CCPA, effective January 3, 2006;

(E) Interchange Agreement dated May 1, 2001, and Interline Service Agreement, effective date October 5, 2004 between CQPA and NS, to which CCPA is successor;

(F) Easements granted by Allied Erecting & Dismantling Company, Inc. ("Allied") to The Pittsburgh and Lake Erie Railroad Company ("PLE") by agreements dated June 3, 1992, and November 10, 1993, and easements retained by PLE in deeds dated June 3, 1992, and November 10, 1993, from PLE to Allied (collectively, the "Allied Easements"), which Allied Easements were conveyed by Youngstown and Southern Railway Company (successor-in-interest to PLE) to Railroad Ventures, Inc. ("RVI") by deed dated November 8, 1996, and by RVI to CCPA by deed dated January 23, 2001, and were included in the rights granted to CQPA by CCPA, including rights over the C.P. Graham Interlocking, and which collective rights were also conferred on CCPA by order of the Bankruptcy Court dated March 28, 2002 in In re: Pittsburgh & Lake Erie Properties, Inc., Case No. 96-406 (MFW), and to which CCPA is successor; and

(G) Operating Rights Agreement between Matteson Equipment Company (“Matteson”) and CQPA, to which CCPA is successor; and Operating Rights Agreement between ESRR and Matteson dated July 14, 2006 to which CCPA is successor.

The line over which MSLLC shall become a common carrier runs between Milepost 0.0 in Youngstown, Ohio and Milepost 35.7 in Darlington, Pennsylvania, a total of approximately 35.7 miles. In addition, by virtue of the purchase and assignment of operating rights, MSLLC shall become a common carrier by rail on segments of track in Youngstown on tracks and/or property owned, starting at Milepost 0.0 and heading east approximately 3 miles, by Ohio & Pennsylvania Railroad (“OHPA”), then by Allied Erecting & Dismantling, over the C. P. Graham Interlocking with NSR, then by OHPA, then by Matteson Equipment Company, and finally again by OHPA to a point of connection with CSXT and on property leased from CSXT. The operating rights through Youngstown east Milepost 0.0 facilitate, among other things, interchange with CSXT and NSR. The total length of these operating rights and track segments east of Milepost 0.0 in Youngstown is approximately 3 miles.

MSLLC intends to continue to have YSRR operate the line. MSLLC states that it will retain a residual common carrier obligation on the line.

MSLLC intends to purchase all these rights and agreements described herein pursuant to a Railroad Assets Sales Agreement with CCPA. The transaction may be consummated on or after November 1, 2013, which is five

days after the effective date of the exemption (35 days after the notice of exemption was filed).

Comments must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Richard H. Streeter, 5255 Partridge Lane, N.W., Washington, D.C. 20016.

This Notice is filed under 49 C.F.R. § 1150.31. If this Notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 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: \_\_\_\_\_, 2013

By the Board

Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings