

BEFORE THE
SURFACE TRANSPORTATION BOARD



KOKOMO RAIL, LLC -- ACQUISITION)
AND OPERATION EXEMPTION -- RAIL) FINANCE DOCKET
LINE OF KOKOMO RAIL CO., INC. IN) NO. 36070
MADISON COUNTY, IN)

241924

NOTICE OF EXEMPTION UNDER 49 C.F.R. § 1150.41

ENTERED
Office of Proceedings
October 27, 2016
Part of
Public Record

KOKOMO RAIL, LLC
1002 West Morgan Street
Kokomo, IN 46901

Applicant

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THOMAS F. McFARLAND, P.C.
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Chicago, IL 60604-1228
(312) 236-0204
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Attorney for Applicant

DATE FILED: October 27, 2016

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MADISON COUNTY, IN)

NOTICE OF EXEMPTION UNDER 49 C.F.R. § 1150.41

Pursuant to 49 C.F.R. § 1150.41 *et seq.*, KOKOMO RAIL, LLC (KR), a Class III rail carrier^{1/}, hereby provides notice of its class exemption from 49 U.S.C. § 10902 for its acquisition from Kokomo Rail Co., Inc. (KRC) and operation of a rail line that extends between a point of connection to Norfolk Southern Railway Company (NS) at or near Florida Station and the end of track northwest of Anderson, a distance of 4.55 miles in Madison County, Indiana (the Rail Line). The Rail Line does not have milepost designations. A map of the Rail Line from a Railroad Atlas of Indiana is attached to this Notice as Appendix 1.

BACKGROUND

On August 2, 2016, in Finance Docket No. 36054, KRC filed a Notice of Exemption for its class exemption from 49 U.S.C. § 10902 for its acquisition from Indian Creek Railroad Company (ICRK) and operation of the Rail Line.

^{1/} KR is a rail carrier as a result of KRC's transfer to it of KRC's authority to own and operate a rail line between Marion and Amboy, IN. *See* Notice of Exemption in Finance Docket No. 36069, filed simultaneously.

On August 18, 2016, the Board issued a Notice to the Public of the filing of that Notice of Exemption. *Kokomo Rail Co., Inc. -- Acquisition and Operation Exemption -- Rail Line of Indian Creek Railroad Company.*

The exemption for KRC's acquisition and operation of the Rail Line became effective on September 1, 2016.

Thereafter, representatives of KRC learned that KRC was voluntarily dissolved as a corporation prior to the filing of the Notice of Exemption in Finance Docket No. 36054.

Corporate dissolution of KRC makes it necessary to transfer the authority to acquire and operate the rail line of ICRK from KRC to an active corporation, KR. This Notice of Exemption is filed for that purpose.^{2/}

INFORMATION REQUIRED BY 49 C.F.R. § 1150.43

(a) *The full name and address of the Class III rail carrier applicant;*

Applicant is Kokomo Rail, LLC, 1002 West Morgan Street, Kokomo, IN 46901.

(b) *The name, address, and telephone number of the representative of the applicant who should receive correspondence;*

Applicant's representative is Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1666, Chicago, IL 60604-1228, (312) 236-0204, *mcfarland@aol.com.*

(c) *A statement that an agreement has been reached or details about when an agreement will be reached;*

An agreement has been reached for transfer of the Rail Line by KRC to KR.

^{2/} KR is an affiliate of Kokomo Grain Co., Inc. (KGC), as was KRC before its dissolution.

(d) The operator of the property;

KR will operate the Rail Line or contract with an experienced rail operator to operate it.

(e) A brief summary of the proposed transaction, including:

(1) The name and address of the railroad transferring the subject property to the Class III rail carrier applicant;

The transferor of the Rail Line is KRC, 1002 Morgan Street, Kokomo, IN 46901.

(2) The proposed time schedule for consummation of the transaction;

The proposed acquisition and operation will not be consummated before this Notice of Exemption becomes effective.

(3) The mileposts of the subject property, including any branch lines; and

The Rail Line does not have milepost numbers.

(4) The total route miles being acquired.

Approximately 4.55 miles of Rail Line are proposed to be transferred.

(f) A map that clearly indicates the area to be served, including origins, termini, stations, cities, counties, and states; and

The required map is attached to this Notice as Appendix 1.

(g) A certificate that applicant's projected revenues as a result of the transaction will not result in the creation of a Class II or Class I rail carrier so as to require processing under Sec. 1150.45.

The required certificate is contained in the Verification of Mr. Scot Ortman, President and CEO of KR, which is attached to this Notice as Appendix 2.

(h) Interchange Commitments. (1) The filing party must certify whether or not a proposed acquisition or operation of a rail line involves a provision or agreement that may limit future interchange with a third-party connecting carrier, whether by outright prohibition, per-car penalty, adjustment in the purchase price or rental, positive economic inducement, or other means ("interchange commitment").

The proposed acquisition and operation do not involve any interchange commitments.

CAPTION SUMMARY

The caption summary required by 49 C.F.R. § 1150.44 is attached to this Notice as Appendix 3.

ENVIRONMENTAL AND HISTORIC MATTERS

By virtue of 49 C.F.R. § 1105.6(c)(2) and 49 C.F.R. § 1105.8(b)(1), no environmental or historic reporting is required in conjunction with the proposed acquisition and operation.

LABOR PROTECTION

By virtue of 49 U.S.C. § 10902(c), no labor protective conditions are to be imposed in conjunction with this Notice.

ANNUAL REVENUES

The certificate required by 49 C.F.R. § 1150.42(e), (annual revenues will not exceed \$5 million), is contained in Appendix 2 attached to this Notice.

VERIFICATION

A general verification of all factual assertions in this Notice is contained in Appendix 2.

CONCLUSION AND REQUESTED RELIEF

WHEREFORE, within 16 days after the filing of this Notice, the Director of the Board's Office of Proceedings should arrange for publication of notice of the filing of this Notice in the *Federal Register*.

Respectfully submitted,

KOKOMO RAIL, LLC
1002 West Morgan Street
Kokomo, IN 46901

Applicant

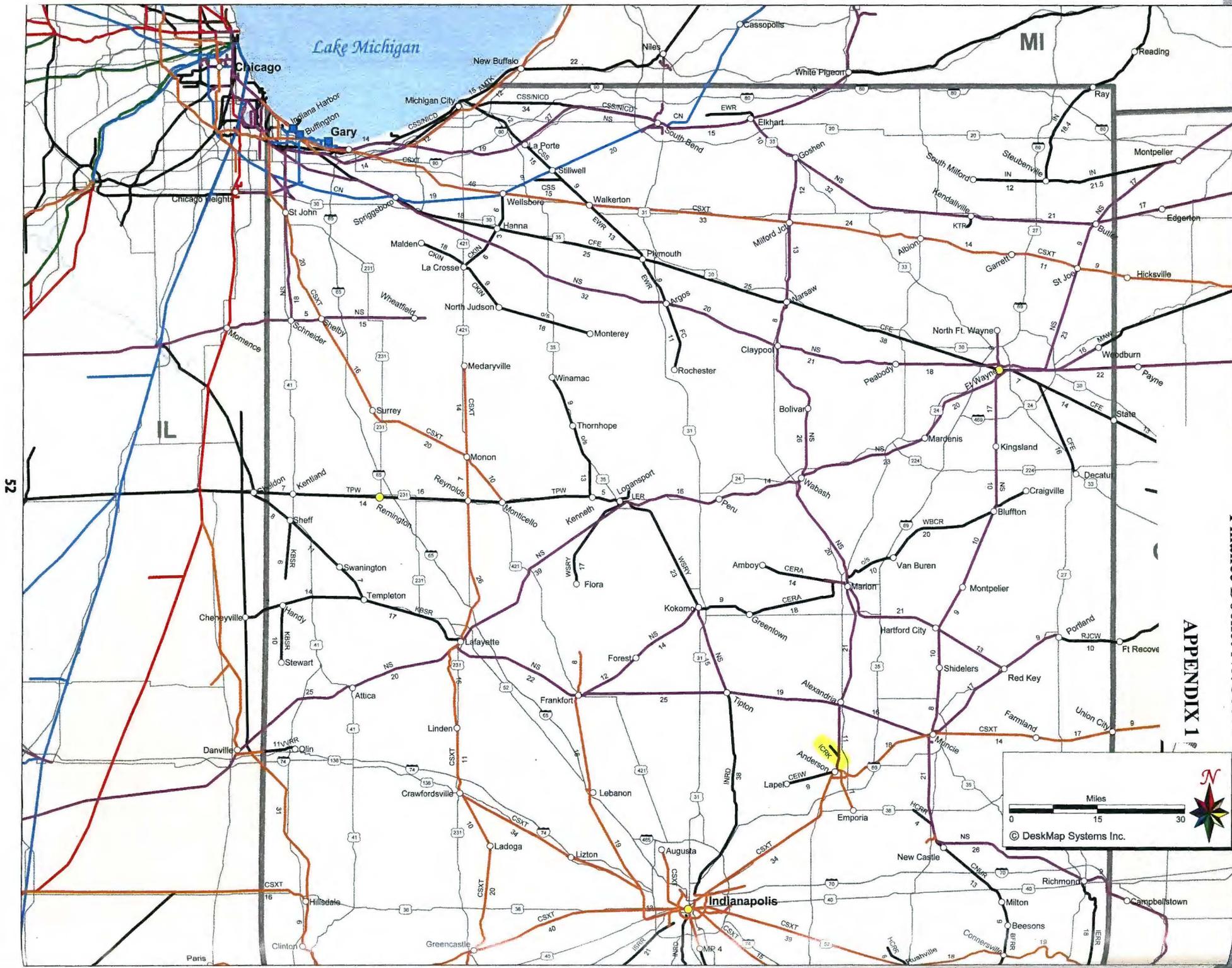
Thomas F. McFarland

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Attorney for Applicant

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APPENDIX 1



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Miles
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CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

Notice of Exemption

FINANCE DOCKET NO. 36070

***KOKOMO RAIL, LLC -- ACQUISITION AND
OPERATION EXEMPTION -- RAIL LINE
OF KOKOMO RAIL CO., INC. IN MADISON COUNTY, IN***

Kokomo Rail, LLC (KR), a Class III rail carrier, has filed a Notice of Exemption to acquire from Kokomo Rail Co., Inc. (KRC) and operate a rail line that extends between a point of connection to Norfolk Southern Railway Company (NS) at or near Florida Station and the end of track northwest of Anderson, a distance of 4.55 miles in Madison County, Indiana. Comments must be filed with the Board and be served on KRC's representative, Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1666, Chicago, IL 60604-1228, (312) 236-0204.

The Notice is filed under 49 C.F.R. § 1150.41. 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.

By the Board

Dated:

(SEAL)

Cynthia T. Brown
Chief, Section of Administration