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SERVICE DATE – SEPTEMBER 2, 2009

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35287]

The Indiana Rail Road Company—Trackage Rights Exemption—CSX Transportation, Inc.

Pursuant to a written trackage rights agreement entered into between CSX Transportation, Inc. (CSXT), and The Indiana Rail Road Company (INRD), CSXT has agreed to grant non-exclusive, limited overhead trackage rights to INRD over CSXT's line of railroad between the connection of CSXT and INRD trackage at Sullivan, IN, at approximately CSXT milepost OZA 204.5, and the connection between CSXT's line and tracks leading to the Oaktown Fuels Mine No. 1, LLC loading facility (Oaktown facility) at Oaktown, IN, at approximately CSXT milepost OZA 219.05, a distance of approximately 14.5 miles (Line).¹ According to INRD, the trackage rights will be used to permit INRD to move loaded coal trains and empty hopper trains: (1) between the Oaktown facility, located on the Line at approximately milepost OZA 219.05, and INRD's interchange with Indiana Southern Railroad Company (ISRR) at Beehunter, IN, to the Vectren power plant at Culley, IN, and to the Indianapolis Power & Light's (IP&L)

¹ A portion of the subject line is also at issue in STB Finance Docket No. 35137, The Indiana Rail Road Company—Trackage Rights Exemption—CSX Transportation, Inc., which pertains to CSXT's grant of non-exclusive, limited local trackage rights to INRD between mileposts OZA 204.5 and OZA 214.5. A revocation proceeding is pending.

power plant at Petersburg, IN, and (2) between the Oaktown facility and IP&L's Harding Street power plant in Indianapolis, IN, located on INRD's line.

The transaction is schedule to be consummated on September 17, 2009.

The purpose of the trackage rights is to permit INRD to move loaded coal trains and empty hopper trains in single-line service between the Oaktown facility and INRD's interchange with ISRR at Beehunter for onward movement to the power plants at Culley and Petersburg, and also between the Oaktown facility and the power plant in Indianapolis, thus enhancing operational efficiency.²

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). 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 effectiveness of the exemption. Stay petitions must be filed by September 9, 2009 (at least 7 days before the exemption becomes effective).

Pursuant to the Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, § 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: collecting, storing, or transferring solid waste

² The trackage rights at issue here were set forth as a supplemental agreement to a May 15, 2008 agreement between INRD and CSXT. See Exhibit 2 of INRD's verified notice of exemption.

outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting, and shredding). The term “solid waste” is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35287, 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 John Broadley, John H. Broadley & Associates, P.C., 1054 31st Street, N.W., Suite 200, Washington, DC 20007.

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

Decided: August 26, 2009.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Anne K. Quinlan
Acting Secretary