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SERVICE DATE – MAY 1, 2008

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35133]

Milwaukee Industrial Trade Center, LLC, d/b/a Milwaukee Terminal

Railway—Acquisition and Operation Exemption—Line Owned by Milwaukee Industrial Trade Center, LLC, d/b/a Milwaukee Terminal Railway

Milwaukee Industrial Trade Center, LLC, d/b/a Milwaukee Terminal Railway (MITC), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31¹ to acquire and operate approximately 2 miles of rail line² that is located within MITC's 84-acre plant site in Milwaukee, WI.

MITC states that the line connects with a rail line owned by Canadian Pacific Railway Company, which is operated by Wisconsin & Southern Railroad Co. MITC further states that the rail line to be acquired and operated by MITC constitutes a line of railroad for which an exemption from the Board is required because it is MITC's initial rail acquisition and operation, notwithstanding that it might otherwise be considered to be

¹ The notice of exemption in this proceeding originally was filed on April 14, 2008, but was amended on April 16, 2008. Therefore, the official filing date for the notice of exemption is April 16, 2008.

² The rail line proposed to be acquired and operated by MITC has been privately owned track, which was formerly owned by A.O. Smith Corp., then by Tower Automotive, Inc., and now by MITC.

spur, industrial, and/or switching track exempt from the Board's acquisition and operation authority under 49 U.S.C. 10906.³

The transaction is expected to be consummated no sooner than 30 days after the filing of the amended notice of exemption, or after the May 16, 2008 effective date of the exemption.

MITC certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed \$5 million.

If the verified 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 transaction. Petitions for stay must be filed no later than May 9, 2008 (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 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.

³ See Effingham RR Co.—Pet. for Declaratory Order, 2 S.T.B. 606 (1997), aff'd sub nom. United Transp. Union—Ill. Legislative Bd. v. Surface Transp. Bd., 183 F.3d 606 (7th Cir. 1999); see also Bulkmatic RR.—Acquire and Operate—Bulkmatic Transport, 6 S.T.B. 481 (2002).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35133, 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 Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1890, Chicago, IL 60604-1112.

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

Decided: April 23, 2008.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan
Acting Secretary