

**Before the  
Surface Transportation Board**

**FD 35902**

237756  
ENTERED  
Office of Proceedings  
February 18, 2015  
Part of  
Public Record

**ELIZABETHTOWN INDUSTRIAL RAILROAD LLC  
OPERATION EXEMPTION**

**VERIFIED NOTICE OF EXEMPTION  
PURSUANT TO 40 U.S.C. § 10902 and 49 C.F.R. § 1150.31**

Submitted By:

John K. Fiorilla  
Capehart & Scatchard, P.A.  
8000 Midlantic Drive Suite 300S  
Mount Laurel, N.J. 08054  
(856) 914-2054  
Counsel for Petitioner

Dated: February 9, 2015

FILED  
February 18, 2015  
SURFACE  
TRANSPORTATION BOARD

FEE RECEIVED  
February 18, 2015  
SURFACE  
TRANSPORTATION BOARD

**Before the  
Surface Transportation Board**

**FD-35902**

**ELIZABETHTOWN INDUSTRIAL RAILROAD LLC  
OPERATION EXEMPTION**

**VERIFIED NOTICE OF EXEMPTION  
PURSUANT TO 49 U.S.C. and 49 CFR § 1150.31**

Elizabethtown Industrial Railroad LLC is a Pennsylvania LLC non carrier (hereinafter EZR) which files this Notice of Exemption to obtain the operating rights of a certain line of railroad located in West Donegal Township, County of Lancaster, Commonwealth of Pennsylvania. The line which is known as the Conewago Industrial Track which begins at Milepost 0.0 on the northerly right of way line of property owned by the National Railroad Passenger Corporation (Amtrak) and extending 1.0 miles more or less to Milepost 1.0 being the end of this line in Conewago, Pennsylvania. The line in question is owned by Rail Holdings, Inc. a non-carrier which purchased the line from Conewago Industrial Track, Inc. in September of 2014. Rail Holdings will grant to EZR the right to operate this portion of railroad in common carrier freight service. A map illustrating the line is attached hereto as Exhibit A. EZR would interline with Norfolk Southern Railway at Conewago, Pennsylvania.

Information Required by 49 CFR §1150.33

**Name and address of the applicant      49 CFR 1150.33 (a)**

Elizabethtown Industrial Railroad LLC  
113 Penny Lane  
New Freedom, PA 17349

**Applicant's Representative                      49 CFR 1150.33 (b)**

John K. Fiorilla  
Capehart & Scatchard P.A.  
8000 Midlantic Drive Suite 300S  
Mount Laurel, N.J. 08054  
856-914-2054  
[jfiorilla@capehart.com](mailto:jfiorilla@capehart.com)

**Statement of Agreement                      49 CFR 1150.33(c)**

Elizabethtown Industrial RR LLC has reached an agreement with Rail Holdings LLC to publish tariffs and to operate the Conewago Industrial Track in common carrier freight service. EZR has been told that once this Petition is granted that an agreement to interchange traffic with Norfolk Southern Railway at Conewago, PA will be entered into. Service is currently provided by Norfolk Southern Railway with the consent of the prior owners, though no written agreements regarding the service between the owners of the track and NS have been found.

**Operator of the Property                      49 CFR 1150.33(d)**

Elizabethtown Industrial Railroad LLC will hold itself out to provide common carrier rail freight service pursuant to its operating agreement Rail Holdings, Inc.

**Brief Summary of Transaction**                      **49 CFR 1150.33 (e)**

1. The Elizabethtown Industrial Railroad LLC (EZR) a non-carrier, is entering into an operating agreement with the owner of the track Rail Holdings, Inc. to operate the Conewago Industrial Track between the connections with the Norfolk Southern Railway at approximately milepost 1.0 in Conewago, Lancaster County, Pennsylvania. to approximately milepost 0.0 in West Donegal Township, Pennsylvania. EZR has been told that once its Petition is granted that Norfolk Southern will enter into an interchange or switching agreement so that EZR can serve customers on the one mile line of railroad.

2. EZR and Rail Holdings, Inc. request that this service commence soon as possible since there are shippers on the line who are requesting this service.

3. The operation will be from milepost 1.0 in Conewago, Pennsylvania to milepost 0.0 in West Donegal Township, Pennsylvania.

4. The total route miles to be operated is approximately 1.0 miles.

**Map**                      **49 CFR 1150.33 (f)**

A map of the line is attached hereto as Exhibit "A".

**Certificate of Carrier Classification**                      **49 CFR § 1150.33 (g)**

EZR certifies that is projected revenues will not exceed \$5,000,000 and that would qualify it as a Class III carrier, and that this transaction will not result in the creation of a Class I or Class II carrier.

**Transactions Imposing Interchange Agreements**                      **49 CFR § 1150.33 (h)**

This operation agreement does not involve a provision or agreement which may limit future interchange with a third party connecting carrier.

**Labor Protective Conditions**

Pursuant to 49 U.S.C. § 10902, labor protective conditions do not apply and will not be imposed.

**Caption Summary**                      **49 CFR 1150.34**

A caption Summary in the prescribed form is attached as Exhibit "B" to this Notice.

**Environmental and Historic Preservation Matters**

Pursuant to 49 CFR 1105.6 (c) (2), the proposed transaction is exempt from environmental review under 49 CFR 1105.6 (c) (2) (i), because the actions proposed herein will not cause any operating changes that exceed the thresholds established in 49 CFR 1105.7(e) (4) or (5).

In addition, this transaction is exempt from historic review under 49 CFR § 1105.8 (b) (1). Under this section a sale, lease or transfer of a rail line is exempt since rail operations will continue. EZR has no plans to alter or to dispose of any

properties subject to STB jurisdiction that are fifty years old or older, the transaction does not require an historic report.

Respectfully Submitted,



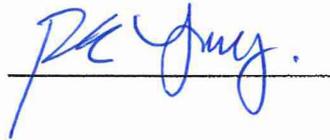
Dated: February 9, 2015

John K. Fiorilla, Esq.  
Capehart & Scatchard, PA  
8000 Midlantic Drive Suite 300S  
Mount Laurel, N.J. 08054  
(856) 914-2054  
[jfiorilla@capehart.com](mailto:jfiorilla@capehart.com)  
**Attorney for Petitioner,  
Elizabethtown Industrial Railroad LLC**

## VERIFICATION

I, Robert Lowe, Chief Operating Officer of the petitioner hereby certifies that I have read the foregoing Notice of Exemption and am knowledgeable of facts stated therein, and that the same are true as stated to the best of my knowledge. I am aware that if any of the foregoing statements are willfully false, that I am subject to punishment.

Dated: February 3, 2015

A handwritten signature in blue ink, appearing to read "Robert Lowe", is written over a horizontal line.

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OPERATION EXEMPTION**

**VERIFIED NOTICE OF EXEMPTION  
PURSUANT TO 49 U.S.C. and 49 CFR § 1150.31**

**CAPTION SUMMARY**

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Elizabethtown Industrial Railroad LLC, a Pennsylvania Limited Liability Corporation and a Non-carrier has filed a verified notice of exemption under 49 CFR. § 1150.31 to operate as a common carrier 1.0 miles of railroad and appurtenant property owned by the Rail Holdings, Inc. a non-Carrier in Lancaster County, Pennsylvania. This line will extend from the Norfolk Southern Railway connection at Conewago, PA to West Donegal Township, PA. It will operate pursuant to an operating agreement with Rail Holdings, Inc.

Any comments must be filed with the Surface Transportation Board and served on Petitioner's Representative, John K. Fiorilla, Esq., Capehart & Scatchard, P.A., and 8000 Midlantic Drive Suite 300S, Mount Laurel, N.J. 08054.

Mr. Fiorilla's telephone is (856)-914-2054 and his email address is

[jfiorilla@capehart.com](mailto:jfiorilla@capehart.com).

This notice is filed under 49 C.F.R. 1150.31 if the notice contains false or misleading information, the exemption is void *ab initio*. The filing of a petition to revoke will not automatically stay the transaction.

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**EXHIBIT**

**LEGEND**

- CONCRETE MAINTENANCE TRACK
- TRACK ROW
- PROPERTY LINES



**CONEWAGO INDUSTRIAL TRACK**  
ELIZABETHTOWN, PENNSYLVANIA

**TRACK RIGHT-OF-WAY MAP**

DESIGNED / DRAWN BY S. McCORKLE	ORIGINAL DWG DATE 9/19/14
PROJ. MGR. M. KENNEDY	DRAWING ID: TRACK-ROW
PROJECT # CONEWAGO	SHEET 1 of 2

**TRAC**  
The Railroad Association Corporation  
4910 SIMPSON FERRY ROAD  
MECHANICSBURG, PA 17060  
(717) 830-TRAC (8723)  
www.railroadtrac.com

#	DATE	REVISION DESCRIPTION	BY

