

232285

May 7, 2012

FILED
MAY 8 - 2012
SURFACE
TRANSPORTATION BOARD

JOHN D. HEFFNER
Direct Fax 202-742-8697
Direct Phone 202-742-8607
Email: john.heffner@strasburger.com

VIA COURIER

Ms. Cynthia A. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

FEE RECEIVED
MAY 8 - 2012
SURFACE
TRANSPORTATION BOARD

RECEIVED
MAY 8 2012
MANAGEMENT
STB

ENTERED
Office of Proceedings
Public Record

**RE: FD 35623, Cleveland Commercial Railroad Company, LLC—
Continuance-In-Control Exemption-Cleveland Harbor Belt Railroad**

**FD 35624, Cleveland Harbor Belt Railroad-Operation Exemption-
Cleveland-Cuyahoga County Port Authority**

Dear Ms. Brown:

I am filing an original and ten copies of the following two documents in the above-captioned dockets:

- (1) in FD 35623, I am filing on behalf of the Cleveland Commercial Railroad Company, LLC, a verified notice of exemption under 49 CFR §1180.2(d)(2) for Cleveland Commercial Railroad Company to Continue in Control of the Cleveland Harbor Belt Railroad; and
- (2) in FD 35624, a verified notice of exemption under 49 U.S.C. §10901 and 49 CFR §1150.31 for the Cleveland Harbor Belt Railroad to operate trackage owned by the Cleveland-Cuyahoga County Port Authority.

I am enclosing with a check payable to the Board for \$3100 to cover the applicable filing fees as well as a copy of each filing on a computer disk formatted

Strasburger
ATTORNEYS AT LAW

Ms. Cynthia A. Brown

May 7, 2012

Page 2

in MS Word. Please date stamp and return to me one copy of each filing in the attached envelop.

Sincerely yours,

A handwritten signature in black ink, appearing to read "John D. Heffner", with a long horizontal flourish extending to the right.

John D. Heffner

Enclosures

cc: Mr. William Brown

232285

ORIGINAL

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 35624

RECEIVED
MAY 8 2012
SURFACE TRANSPORTATION BOARD

**CLEVELAND HARBOR BELT RAILROAD
—OPERATION EXEMPTION—
CLEVELAND-CUYAHOGA COUNTY PORT AUTHORITY**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 U.S.C. §10901 and 49 CFR §1150.31**

Submitted By:

John D. Heffner
Strasburger & Price, LLP
1700 K Street, N.W.
Suite 640
Washington, D.C. 20006
(202) 742-8607

Counsel for Petitioner

FILED
MAY 8 - 2012
SURFACE
TRANSPORTATION BOARD

Office of Proceedings
MAY 8 - 2012
Part of
Public Record

Dated: May 7, 2012

FEE RECEIVED
MAY 8 - 2012
SURFACE
TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

RECEIVED
MAY 8 2012
MANAGEMENT
SIS

FD 35624

**CLEVELAND HARBOR BELT RAILROAD
—OPERATION EXEMPTION—
CLEVELAND-CUYAHOGA COUNTY PORT AUTHORITY**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 U.S.C. §10901 and 49 CFR §1150.31**

Cleveland Harbor Belt Railroad (“CHB”) files this Notice of Exemption, pursuant to 49 C.F.R. Part 1150, Subpart D – Exempt Transactions, with the Surface Transportation Board (“the Board”) to permit it to operate as a common carrier about 1 mile of terminal railroad trackage (“the Line”) currently owned by the Cleveland-Cuyahoga Port Authority and operated as “exempt” private trackage by CSX Transportation (“CSXT”) and Norfolk Southern Railway (“NSR”). There are no mileposts on the Line. In addition, CHB seeks incidental trackage rights for the purpose of interchange only over a line owned by CSXT between the connection with the Port-owned trackage in downtown Cleveland and CSXT’s Collinwood Yard, about 6 miles east of downtown Cleveland.

INFORMATION REQUIRED BY 49 CFR §1150.31

Name and Address of Applicant
Cleveland Commercial Railroad
29930 Pettibone Road,
Glenwillow, OH 44139

49 CFR §1150.33(a)

Applicant's Representative
John D. Heffner
Strasburger & Price, LLP
1700 K Street, N.W.
Suite 640
Washington, D.C. 20006
(202) 742-8607

49 CFR §1150.33(b)

Statement of Agreement

49 CFR §1150.33(c)

CHB has executed an agreement with the Port that contemplates that CHB will initiate operations over the Line on or about June 7, 2012.

Operator of the Property

49 CFR §1150.33(d)

As noted above, CHB will provide all common carrier rail operations over the Line.

Brief Summary of Transaction

49 CFR §1150.33(e)

CHB is a recently established limited liability company and noncarrier formed for the purpose of providing common carrier freight service over what has been “exempt” private trackage owned by the Port and operated by CSX Transportation (“CSXT”) and Norfolk Southern Railway (“NSR”). CHB will

replace the service formerly provided by those two carriers. Moreover, CHB will be operating trackage over rail facilities that are currently being expanded by the Port as part of a vastly expanded port facility. CHB notes that the Board has previously exempted transactions such as this one involving the conversion of “private trackage” to common carrier rail service. *See, Swan Ranch Railroad, L.L.C.-Operation Exemption-Swan Industrial Park, FD 35574, STB served Dec. 14, 2011* (where the Board exempted without condition the operation of a new common carrier short line railroad inside an industrial park). The Port supports CHB’s efforts to operate this trackage as shown by the letter attached as Exhibit D. As noted above, CHB seeks incidental trackage rights for the purpose of interchange only over a line owned by CSXT between the connection with the Port-owned trackage in downtown Cleveland and CSXT’s Collinwood Yard, about 6 miles east of downtown Cleveland.

Other information required

(1) The name and address of the party transferring the subject property:

No physical property will be transferred as a result of this filing; only operating rights will be granted to the operator.

The name and address of the Port is:

Cleveland-Cuyahoga Port Authority
One Cleveland Center,

Suite 2300
1375 East Ninth Street,
Cleveland, OH 44104-1786

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

CHB intends to consummate this transaction at least 30 days from the effective date of this notice, probably on or about June 7, 2012.

The mileposts of the subject property, including any branch lines:

There are no mileposts on the Line.

The total route miles to be operated:

About 1 miles of railroad and about 6 miles of incidental trackage rights.

Map **49 CFR §1150.33(f)**

A map depicting the railroad trackage to be operated is attached as Exhibit A.

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

CHB certifies that with this transaction its projected annual revenues will be less than \$5,000,000 annually. A certificate complying with the provisions of 49 CFR §1150.33(g) is attached as Exhibit B to this notice.

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

Not applicable. There are no agreements applicable to the Line imposing any interchange commitments.

Labor Protection

Labor protective conditions are not applicable to transactions under 49 U.S.C. §10901.

Caption Summary **49 CFR §1150.34**

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

Related transaction

Concurrently with this filing, CHB's corporate parent, Cleveland Commercial Railroad Company, L.L.C. (CCR), is submitting a verified Notice of Exemption for continuance-in-control of CHB by CCR. That notice has been assigned docket number FD 35623.

Environmental and Historic Preservation Data **49 CFR §1105**

Pursuant to 49 CFR §1105.6(c) (2), the proposed transaction is exempt from environmental review under 49 CFR §1105(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 if rail operations will continue. Further Board approval is required for the parties

to abandon service, and there are no plans to dispose of or alter the properties
subject to Board jurisdiction.

Submitted By:



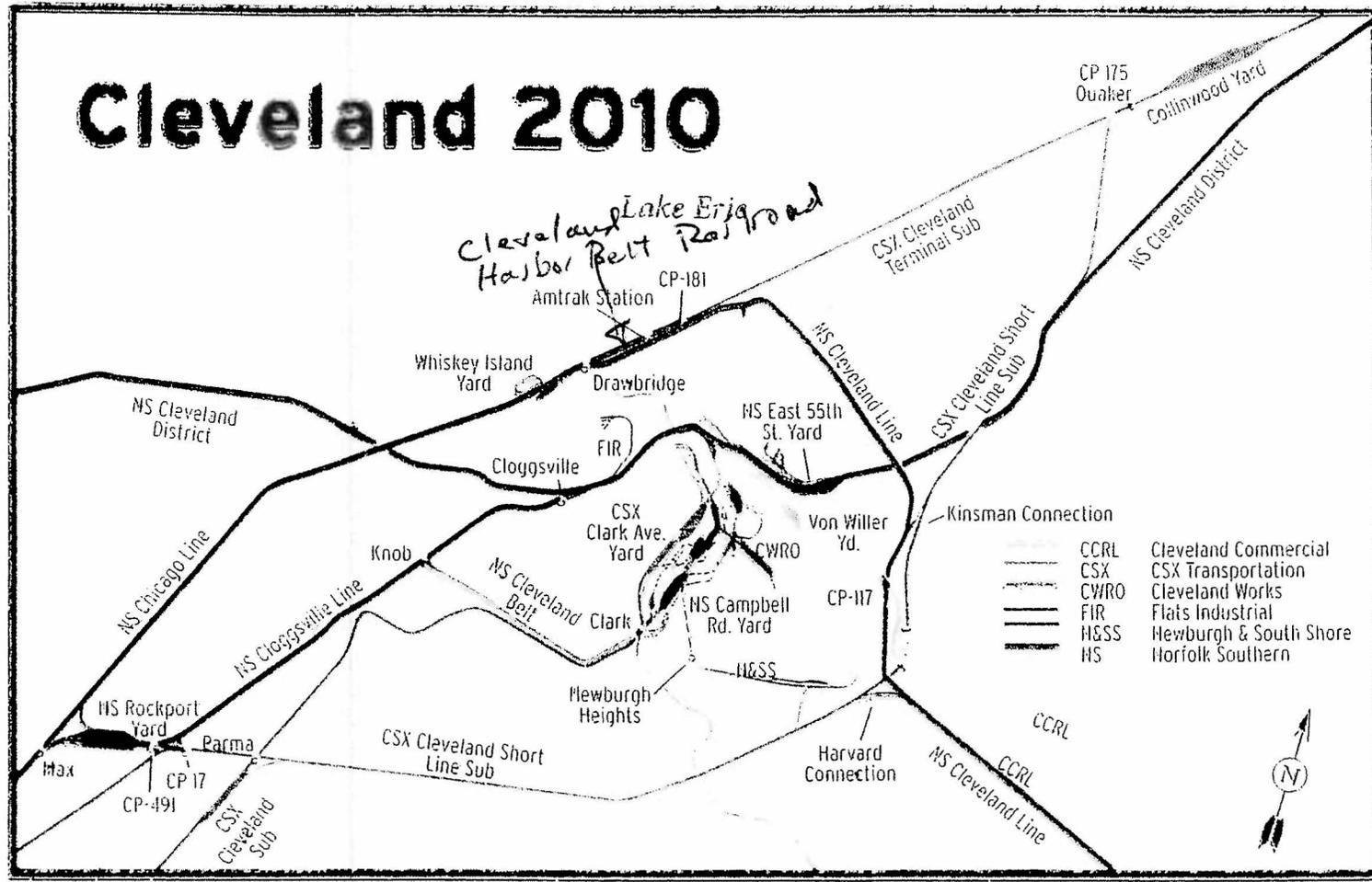
John D. Heffner
Strasburger & Price, LLP
1700 K Street, N.W.
Suite 640
Washington, D.C. 20006
(202) 742-8607

Counsel for Petitioner

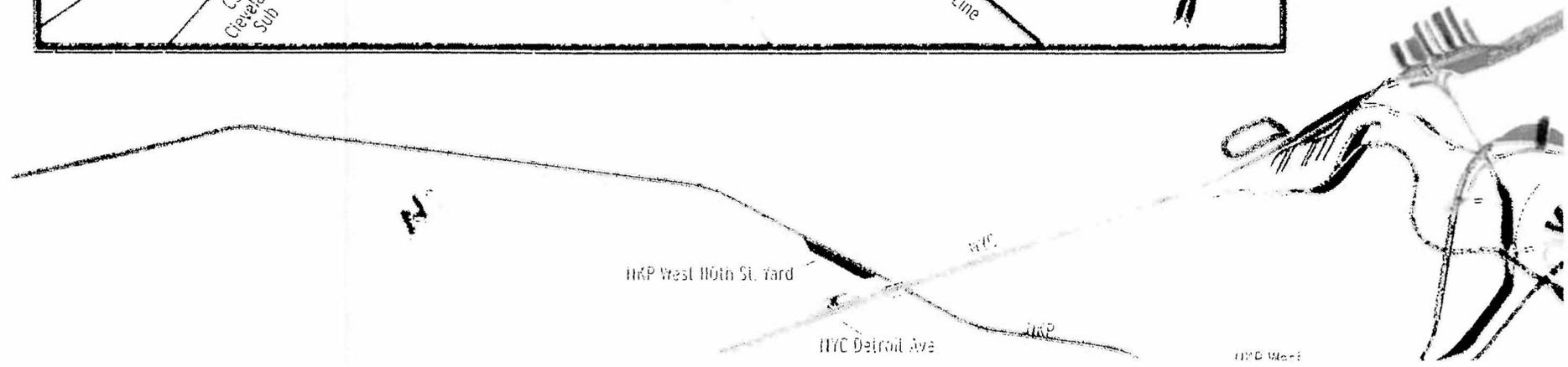
Dated: May 7, 2012

EXHIBIT A

MAP OF THE MONTH



Lake Erie

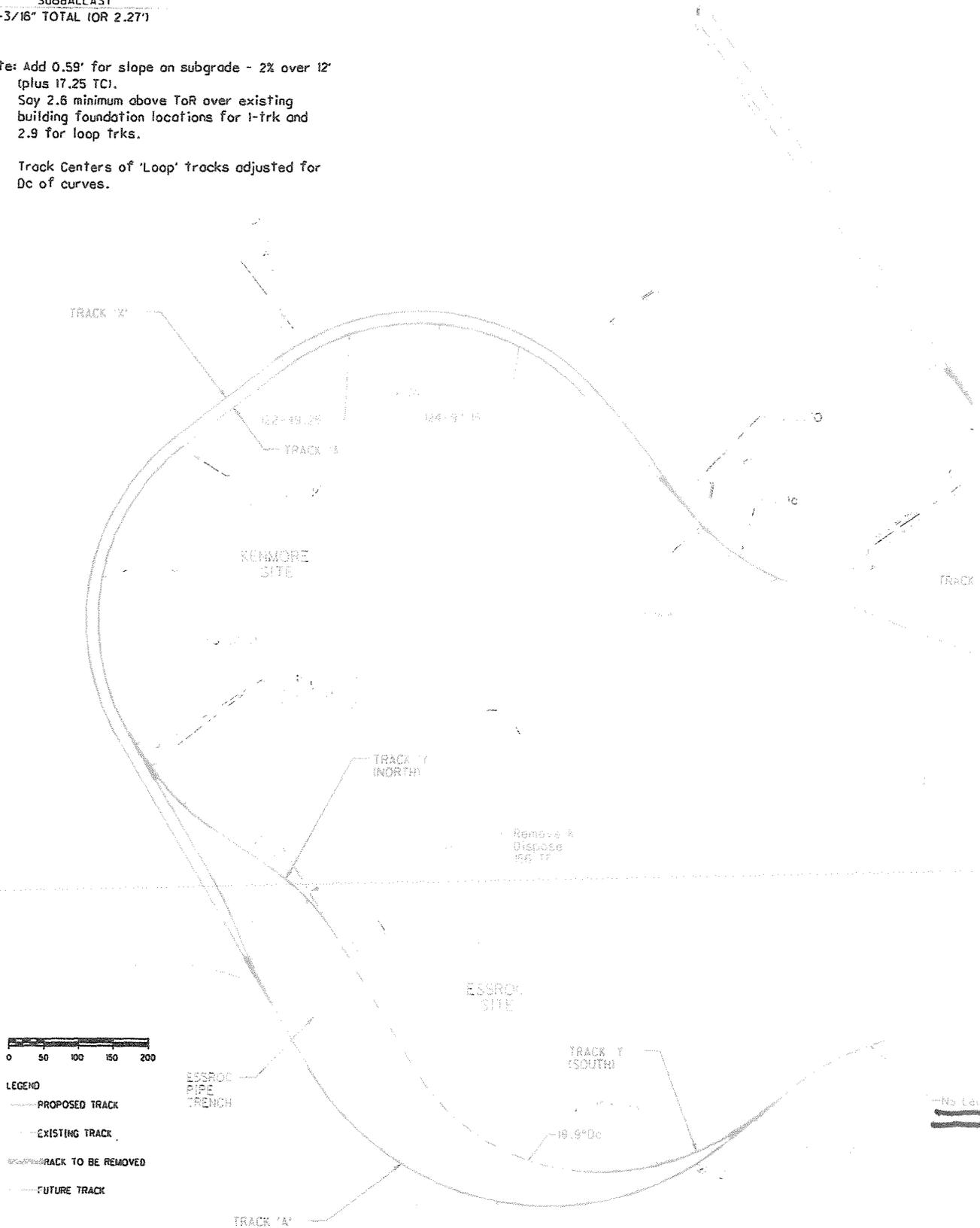


TOP OF RAIL (T/R) TO TOP OF SUBGRADE - TIMBER TIE

- 7-5/16" 136RE JOINTED RAIL
- 3/8" TIE PLATE (AREMA PLAN No.12, 14-IN ASSUMED)
- 7" TIMBER CROSSTIE
- 6" BALLAST
- 6" SUBBALLAST
- 27-3/16" TOTAL (OR 2.27')

Note: Add 0.59' for slope on subgrade - 2% over 12'
 (plus 17.25 TC).
 Say 2.6 minimum above ToR over existing
 building foundation locations for 1-trk and
 2.9 for loop trks.

Track Centers of 'Loop' tracks adjusted for
 Dc of curves.



CLEVELAND - CUYAHOGA COUNTY PORT AUTHORITY

2012 RAILROAD IMPROVEMENT PROJECT

PROJECT DESCRIPTION

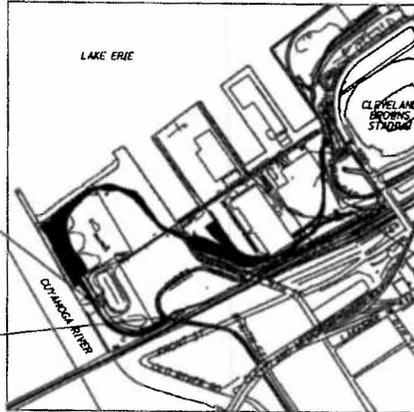
NEW CONSTRUCTION AT THE PORT OF CLEVELAND OF SITE WORK, RAILROAD TRACKS, SITE PAVING, UTILITIES, AND STRUCTURES.

EARTH DISTURBED AREAS

PROJECT EARTH DISTURBED AREA: 8.6 ACRES
ESTIMATED CONTRACTOR EARTH DISTURBED AREA: 0.1 ACRES
NOTICE OF INTENT EARTH DISTURBED AREA: 8.7 ACRES

2010 SPECIFICATIONS

THE STANDARD SPECIFICATIONS OF THE STATE OF OHIO, DEPARTMENT OF TRANSPORTATION, INCLUDING CHANGES AND SUPPLEMENTAL SPECIFICATIONS LISTED IN THE PROPOSAL SHALL GOVERN THIS IMPROVEMENT.



LATITUDE: 41°30'10"N
LONGITUDE: 81°42'10"W

LOCATION MAP

SCALE IN FEET



PORTION TO BE IMPROVED
OTHER ROADS

CITY OF CLEVELAND CUYAHOGA COUNTY

ENGINEERS SEAL (CIVIL):



SIGNED: *Stephen J. Gage*
DATE: 12/23/2011

ENGINEERS SEAL (RAIL):



SIGNED: *Philip G. Pasternak*
DATE: 12/23/2011

ENGINEERS SEAL (STRUCTURES):



SIGNED: *Brian M. Gilhousin*
DATE: 12/23/2011

INDEX OF SHEETS:

TITLE
GENERAL NOTES
GENERAL SUMMARY
PROJECT SITE PLAN
BORING LOCATION MAP
SCHEMATIC PLAN
TRACK TYPICAL SECTIONS
TRACK PLAN & PROFILE
TRACK CROSS SECTIONS
TRACK DETAILS
DRAINAGE PIPE PROFILES
DRAINAGE DETAILS
UTILITY PLAN
STRUCTURES

PAGE NO. SHEET NO.

T101 1
GN01 - GN03 2 - 4
GS01 - GS02 5 - 6
SP01 - SP04 7 - 10
BO01 11
SC01 - SC05 12 - 16
RRTS01 - RRTS02 17 - 18
RRP01 - RRP09 19 - 27
RRXS01 - RRXS24 28 - 51
RRTD01 - RRTD06 52 - 57
DPO1 - DPO4 58 - 61
DDO1 - DDO2 62 - 63
UTO1 - UTO4 64 - 67
STO1 - ST11 68 - 78

STANDARD CONSTRUCTION DRAWINGS

BP-3.1 10/19/2007
CB-1.2 7/15/2005
CB-2.2 7/15/2005
CB-4.2 7/19/2002
DM-1.1 1/21/2011
DM-1.2 10/21/2005
DM-1.4 7/15/2011
DM-2.1 7/20/2001
DM-4.3 4/11/2009
DM-4.4 4/11/2009
F-1.1 4/16/2010
MH-1.1 7/19/2002
MH-1.2 1/20/2006
MT-101.60 4/11/2009
MT-105.10 1/16/2009
TC-73.10 1/19/2001

SUPPLEMENTAL SPECIFICATIONS

800 10/21/2011
802 4/15/2011
823 7/15/2011
832 5/5/2009
895 10/15/2010
902 7/16/2010
995 10/15/2010

I HEREBY APPROVE THESE PLANS AND DECLARE THAT THE MAKING OF THIS IMPROVEMENT WILL NOT REQUIRE THE CLOSING TO TRAFFIC OF THE SIDE ROAD AND THAT PROVISIONS FOR THE MAINTENANCE AND SAFETY OF TRAFFIC WILL BE AS SET FORTH ON THE PLANS AND ESTIMATE.

APPROVED _____
DATE 12/23/2011 PRESIDENT/CEO
PORT OF CLEVELAND

REVISIONS

REV.	DESCRIPTION	INITIAL	DATE

UNDERGROUND UTILITIES
CONTACT BOTH SERVICES
CALL TWO WORKING DAYS
BEFORE YOU DIG

CALL 1-800-362-2764 (TOLL FREE)
OHIO UTILITIES PROTECTION SERVICE
NON-EMERGENCY
MUST BE CALLED DIRECTLY

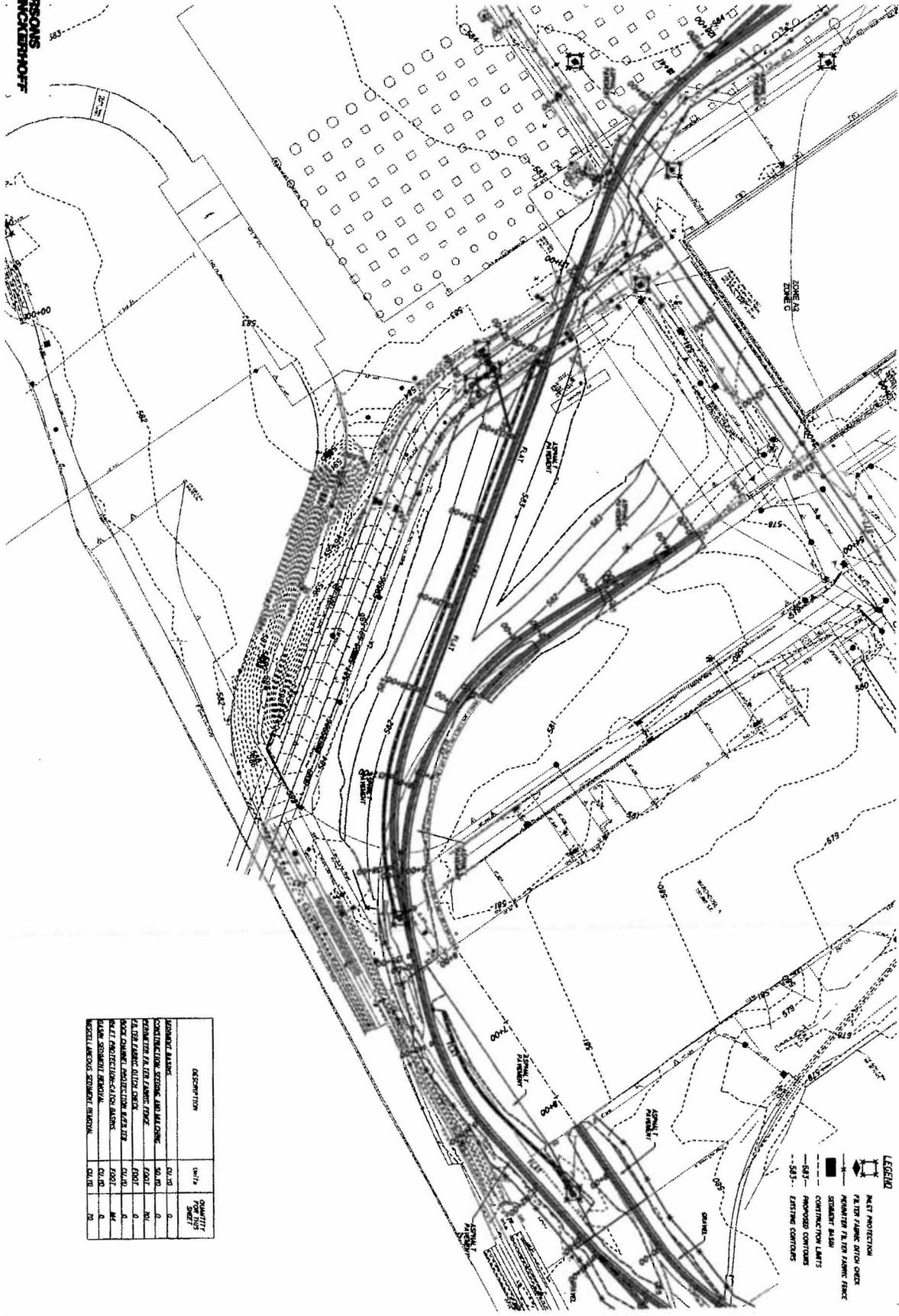
OIL & GAS PRODUCERS PROTECTIVE
SERVICE CALL: 1-800-925-0988

PLANS PREPARED BY:

PARSONS BRINCKERHOFF
PARSONS BRINCKERHOFF
230 WEST MONROE STREET, SUITE 900
CHICAGO, ILLINOIS 60608
(312) 762-8150

CCCPA 2012 RAILROAD IMPROVEMENT PROJ.

**PARSONS
BRINCKERHOFF**



DESCRIPTION	UNIT	QUANTITY
CONCRETE BANK	SQ. FT.	0
CONCRETE LINE, SECTION 1 AND 2	SQ. FT.	0
CONCRETE LINE, SECTION 3	SQ. FT.	0
CONCRETE LINE, SECTION 4	SQ. FT.	0
CONCRETE LINE, SECTION 5	SQ. FT.	0
CONCRETE LINE, SECTION 6	SQ. FT.	0
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CONCRETE LINE, SECTION 97	SQ. FT.	0
CONCRETE LINE, SECTION 98	SQ. FT.	0
CONCRETE LINE, SECTION 99	SQ. FT.	0
CONCRETE LINE, SECTION 100	SQ. FT.	0

- LEGEND**
- FILTER FABRIC OVER GREN
 - FILTER FABRIC UNDER GREN
 - CONCRETE BANK
 - CONCRETE LINE
 - CONCRETE FORMS
 - 583 - EXISTING CONTOUR



Exhibit B

Certification

I, William D. Brown, certify that I am Chief Financial Officer _____ (state position) of Cleveland Harbor Belt Railroad, LLC _____ (name of carrier) and that applicant's projected revenues will not exceed \$5 million annually and will not result in the applicant becoming a Class I or Class II carrier under the provisions of 49 CFR 1201(1-1).

Dated: May 1, 2012

Signature

A handwritten signature in black ink, appearing to read "William D. Brown", written over a horizontal line.

EXHIBIT C

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 35624

**CLEVELAND HARBOR BELT RAILROAD
—OPERATION EXEMPTION—
CLEVELAND-CUYAHOGA COUNTY PORT AUTHORITY**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 U.S.C. §10901 and 49 CFR §1150.31**

Cleveland Harbor Belt Railroad (“CHB”) files this Notice of Exemption, pursuant to 49 C.F.R. Part 1150, Subpart D – Exempt Transactions, with the Surface Transportation Board (“the Board”) to permit it to operate as a common carrier about 1 mile of terminal railroad trackage (“the Line”) currently owned by the Cleveland-Cuyahoga County Port Authority and operated as “exempt” private trackage by CSX Transportation (“CSXT”) and Norfolk Southern Railway (“NSR”). There are no mileposts on the Line. In addition, CHB seeks incidental trackage rights for the purpose of interchange only over a line owned by CSXT between the connection with the Port-owned trackage in downtown Cleveland and CSXT’s Collinwood Yard, about 6 miles east of downtown Cleveland.

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

Concurrently with this filing, CHB's corporate parent, Cleveland Commercial Railroad Company, L.L.C. (CCR), is submitting a verified Notice of Exemption for continuance-in-control of CHB by CCR. That notice has been assigned docket number FD 35623.

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 exemption. Petitions for stay must be filed no later than ____, 2012 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to FD No. 35624, 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 John D. Heffner, Esq., Strasburger & Price, 1750 K Street, N.W. – Suite 640, Washington, D.C. 20006, Telephone: (202) 742-8607, counsel.

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

Decided:

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

EXHIBIT D



Cleveland-Cuyahoga
County Port Authority

One Cleveland Center
1375 E. Ninth St., Suite 2300
Cleveland, Ohio 44114-4790

216.241.8004 tel
216.241.8016 fax
www.portofcleveland.com

April 10, 2012

Surface Transportation Board
395 E St. SW
Washington, DC 20423

To Whom It May Concern,

I am writing this letter in support of the recent application filed by Cleveland Commercial Railroad LLC ("CCR") pertaining to their intent to operate their subsidiary, Cleveland Harbor Belt Railroad, on Port of Cleveland property.

The Port of Cleveland is currently constructing approximately one mile of new railroad track on our property, which will improve our connectivity to the two Class 1 railroads that service the Port, CSX and the Norfolk Southern ("NS"). The Port of Cleveland and CCR signed an agreement in January, 2011, which grants CCR exclusive access to the Port of Cleveland, with no interference from CSX or NS.

In addition, CCR has provided valued counsel to the Port of Cleveland during the design and construction phase of this project, which is scheduled for completion later this summer. CCR will also market our enhanced rail capabilities in partnership with the Port as part of this agreement.

The Port is pleased with the relationship that we have formed with CCR, and is excited that a locally owned and operated company shares our vision to grow tonnage through additional service offerings to our current and potential customers.

Sincerely,

David S. Gutheil

Vice-President, Maritime & Logistics

VERIFICATION

STATE OF OHIO)
)
CITY OF Brecksville) SS

William D. Brown, being duly sworn according to law, hereby deposes and states that (s)he is holds the position of Chief Financial Officer _____ with applicant/petitioner (respondent), is authorized to make this Verification, has read the foregoing document, and knows the facts asserted therein are true an accurate as stated, to the best of (her) his knowledge, information, and belief.


WILLIAM D. BROWN OHDLIC RP993278 155 4-1-9
EXP 4-13-13

Subscribed to and sworn to before me, a Notary Public, in and for the City of BRECKSVILLE in the State of OHIO, this 1ST day of MAY, 2012

Shel Mumdelin
Notary Public

My commission expires: 08-11-2016