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March 20, 2013



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

RE: Docket No FD 35725, *MCM Rail Services LLC, d/b/a Baltimore Industrial Railroad—Operation Exemption—HRE Sparrows Point, LLC*

Dear Ms Brown:

Enclosed for filing are the original and 10 copies of a Verified Notice of Exemption under 49 C.F.R. 1150.31, a check covering the \$1,800.00 filing fee, and a CD with the file Notice of Exemption

Please time and date stamp the extra copy of this letter and the Verified Notice of Exemption and return them with our messenger. Thank you for your assistance.

If you have any questions, please call or email me.

Sincerely yours,

Louis E. Gitomer  
Attorney for: MCM Rail Services LLC, d/b/a  
Baltimore Industrial Railroad

ENTERED  
Office of Proceedings

MAR 20 2013

Part of  
Public Record

Enclosures

**FILED**  
MAR 20 2013  
SURFACE  
TRANSPORTATION BOARD

**FEE RECEIVED**  
MAR 20 2013  
SURFACE  
TRANSPORTATION BOARD

BEFORE THE  
SURFACE TRANSPORTATION BOARD

DOCKET NO FD 35725

MCM RAIL SERVICES LLC, d/b/a BALTIMORE INDUSTRIAL RAILROAD—OPERATION  
EXEMPTION—HIRE SPARROWS POINT, LLC

VERIFIED NOTICE OF EXEMPTION  
Pursuant to 49 C.F.R. § 1150.31. Et Seq.

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TRANSPORTATION BOARD

Louis F. Gitomer, Esq.  
Law Offices of Louis E. Gitomer LLC  
600 Baltimore Avenue, Suite 301  
Towson, MD 21204  
(410) 296-2250  
Lou@lgraillaw.com

Attorney for MCM RAIL SERVICES LLC.  
d/b/a Baltimore Industrial Railroad

Dated. March 20, 2013

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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DOCKET NO. FD 35725

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MCM RAIL SERVICES LLC, d/b/a BALTIMORE INDUSTRIAL RAILROAD —OPERATION  
EXEMPTION—  
HRE SPARROWS POINT, LLC

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VERIFIED NOTICE OF EXEMPTION  
Pursuant to 49 C F R. § 1150.31. Et Seq.

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MCM Rail Services LLC, d/b/a Baltimore Industrial Railroad (“MCM”), a noncarrier, 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 MCM to operate as a common carrier over an approximately 12-mile line of railroad in Sparrows Point, Baltimore County, MD (the “Line”). The Line does not have mileposts and will be the first line of railroad to be operated by MCM.

MCM filed a Petition for Retroactive Exemption on December 20, 2012 (as amended on December 21, 2012) in Docket No. FD 35707. MCM Rail Services LLC-Petition for Retroactive Exemption-of the Operation of a Line of Railroad in Sparrows Point, Baltimore County, Maryland (the “Petition”) Upon review of the Petition and the Board’s rules at 49 C.F.R. Part 1150, MCM realized that the Petition had not provided the Board with the information required by the rules. MCM is filing this Notice of Exemption in accordance with the Board’s rules in order to be in compliance with 49 U.S.C. §10901. By separate letter, MCM is also withdrawing the Petition. In lieu of the retroactive relief sought in the Petition, MCM respectfully requests

that the Board confirm that it will not pursue an enforcement action against MCM because it inadvertently did not obtain approval or exemption to operate the Line from the Board prior to beginning operations. MCM's operation of the Line has resulted in no harm to employees or shippers.<sup>1</sup>

In support of this Notice of Exemption, MCM submits the following information as required by 49 C.F.R. § 1150.33:

a. Full name and address of applicant:

MCM Rail Services LLC, d/b/a Baltimore Industrial Railroad  
35980 Woodward Avenue, Suite 210  
Bloomfield Hills, MI 48304  
(248) 932-9600

b. Applicant's Representative:

Louis E. Gitomer, Esq.  
Law Offices of Louis E. Gitomer LLC  
600 Baltimore Avenue, Suite 301  
Towson, MD 21204  
(410) 296-2250  
Lou@lgraillaw.com

c. MCM has entered a Railroad Services Agreement (the "Agreement") with HRE Sparrows Point, LLC ("HRE")<sup>2</sup> The Agreement provides that MCM will operate the Line until March 14, 2016. Unless the Agreement is extended or MCM is otherwise able to continue to provide rail service over the Line, MCM shall seek discontinuance authority from the Board prior to discontinuing service over the Line.

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<sup>1</sup> See, *Parksierra Corporation (Successor-In-Interest to California Northern Railroad Company Limited Partnership)-Lease and Operation Exemption-Southern Pacific Transportation Company*, STB Finance Docket No 34126, slip up at 11-12 (served December 26, 2001).

<sup>2</sup> MCM understands that HRE intends to file a Notice of Exemption to acquire and operate the Line pursuant to 49 U.S.C. §10901 and 49 CFR Part 1150

d. The operator of the Line will be MCM.

e. Summary of proposed transaction:

1. The name and address of the party transferring the property is:

HRE Sparrows Point, LLC  
5 Revere Drive, Suite 206  
Northbrook, IL 60062

HRE acquired the Line as a result of the bankruptcy of R G. Steel, LLC, WP Steel Venture LLC, Metal Centers LLC, R.G. Steel Wheeling, RG Steel Warren, LLC, RG Steel Wheeling Group, LLC, and R.G. Steel Railroad Holdings, LLC ("R.G. Steel Railroad"). HRE did not acquire R.G. Steel Railroad, only the railroad assets. HRE has agreed with MCM for MCM to operate the Line.

2. The proposed time schedule for the consummation of the transaction is on or after April 19, 2013.

3. The mileposts of the subject property, including any branch lines. There are no mileposts on the Line.

4 MCM will operate over about 12 miles of railroad line as well as additional spur, industrial, team, switching, and side track as a common carrier railroad. MCM will interchange traffic with CSX Transportation, Inc. ("CSXT"), and Norfolk Southern Railway Company ("NSR").

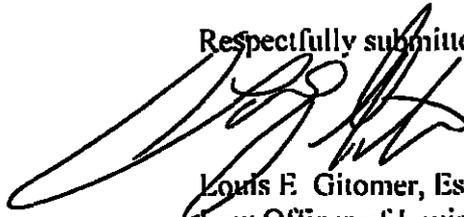
f. A color map of the Line is attached as Exhibit C. The map includes the railroad line and additional spur, industrial, team, switching, and side track.

g. A Certificate of Compliance with the provisions of 49 C.F.R. § 1150.33(g) is attached as Exhibit A.

- h. There are no interchange commitments or paper barriers in the agreement between MCM and the HRE. Nor will there be any interchange commitments or paper barriers in the interchange agreements between MCM and CSXT and MCM and NSR.
- i. A caption summary, as required by 49 C.F.R. §1150.34, is attached as Exhibit B.
- j. No environmental documentation is required because there will be no operational changes that would exceed the thresholds established in 49 C.F.R. §1105.7(c)(4) or (5) and there will be no action that would normally require environmental documentation. Hence, this Notice of Exemption does not require environmental documentation under 49 C.F.R. §1105.6(b)(4) and (c)(2)(i).
- k. An historic report is not required because MCM will operate the Line. will require further Board approval as required to discontinue any service, and there are no plans to dispose of or alter properties subject to Board jurisdiction that are 50 years old or older. Hence, this Notice of Exemption does not require an historic report under 49 C.F.R. §1105.8(b)(1).

This action will not significantly affect either the quality of the human environment or energy conservation.

Respectfully submitted,



Louis E. Gitomer, Esq.  
Law Offices of Louis E. Gitomer LLC  
600 Baltimore Avenue, Suite 301  
Towson, MD 21204  
(410) 296-2250  
Lou@lgraillaw.com

Attorney for MCM RAIL SERVICES LLC.  
d/b/a Baltimore Industrial Railroad

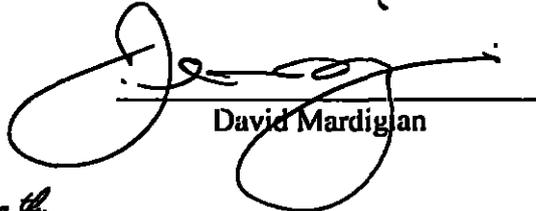
Dated: March 20, 2013

# **EXHIBIT A**

**CERTIFICATION**

State of Michigan            )  
  ) ss.  
County of Oakland         )

I, David Mardigian, being duly sworn, deposes and says that he is Chief Executive Officer of MCM Rail Services LLC, d/b/a Baltimore Industrial Railroad, a Michigan limited liability company, and that the projected annual revenues from the rail operations would not exceed those that would make it a Class III carrier under 49 CFR Part 1201(1-1) and would not exceed \$ 5 million.

  
\_\_\_\_\_  
David Mardigian

Subscribed and sworn to before me this 18<sup>th</sup> day of March 2013.

  
\_\_\_\_\_  
Notary Public

(SEAL)

ROBERT L. YAROCH  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF OAKLAND  
MY COMMISSION EXPIRES Jul 10, 2018  
ACTING IN COUNTY OF Oakland

My Commission Expires \_\_\_\_\_



# **EXHIBIT B – CAPTION SUMMARY**

SURFACE TRANSPORTATION BOARD

Notice of Exemption

FINANCE DOCKET NO. 35725

MCM RAIL SERVICES LLC—OPERATION EXEMPTION—  
HRE SPARROWS POINT, LLC

MCM Rail Services LLC, d/b/a Baltimore Industrial Railroad (“MCM”) has filed a notice of exemption to operate over about 12 miles of railroad line as well as additional spur, industrial, team, switching, and side track in Sparrows Point, Baltimore County, MD (the “Line”), pursuant to an agreement with HRE Sparrows Point, LLC, the owner of the Line. There are no mileposts on the Line

The transaction is scheduled to take place on or after April 19, 2013.

MCM 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 further certifies that its projected annual revenue will not exceed \$5 million.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding 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. Petitions to stay must be filed no later than April 12, 2013 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35725, 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 Louis E. Gitomer, Esq.,

Law Offices of Louis E. Gitomer LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204,  
(410) 296-2250, Lou@lgrailaw.com

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

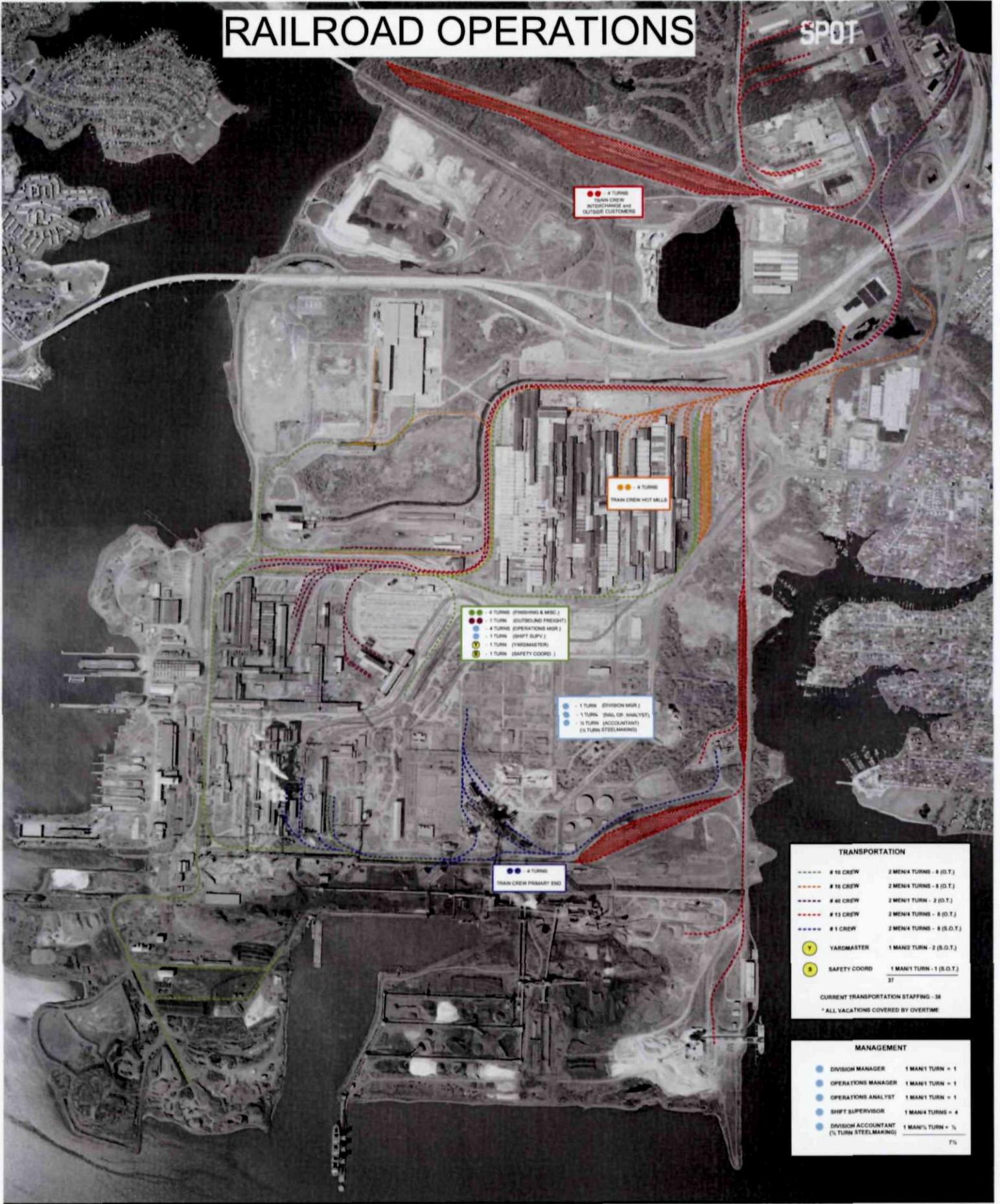
Decided. March \_\_, 2013.

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

# **EXHIBIT C-MAP**

# RAILROAD OPERATIONS

SPOT



TRANSPORTATION	
--- # 10 CREW	2 MEN/4 TURNS - 8 (D.O.T.)
--- # 16 CREW	2 MEN/4 TURNS - 8 (D.O.T.)
--- # 40 CREW	2 MEN/1 TURN - 2 (D.O.T.)
--- # 13 CREW	2 MEN/4 TURNS - 8 (D.O.T.)
--- # 1 CREW	2 MEN/4 TURNS - 8 (D.O.T.)
①	YARDMASTER 1 MAN/1 TURN - 2 (D.O.T.)
②	SAFETY COORD 1 MAN/1 TURN - 1 (D.O.T.)
37	
CURRENT TRANSPORTATION STAFFING - 38	
* ALL VACATIONS COVERED BY OVERTIME	

MANAGEMENT	
●	DIVISION MANAGER 1 MAN/1 TURN = 1
●	OPERATIONS MANAGER 1 MAN/1 TURN = 1
●	OPERATIONS ANALYST 1 MAN/1 TURN = 1
●	SHIFT SUPERVISOR 1 MAN/4 TURNS = 4
●	DIVISION ACCOUNTANT (1/2 TURN STEELMAKING) 1 MAN/1 TURN = 1/2
7 1/2	