

LAW OFFICE
THOMAS F. MCFARLAND, P.C.
208 SOUTH LASALLE STREET - SUITE 1666
CHICAGO, ILLINOIS 60604-1228
TELEPHONE (312) 236-0204
mcfarland@aol.com

THOMAS F. MCFARLAND

241224

August 1, 2016

ENTERED
Office of Proceedings
August 2, 2016
Part of
Public Record

By UPS overnight mail

Ms. Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

Re: Finance Docket No. 36054, *Kokomo Rail Co., Inc. -- Acquisition and Operation Exemption -- Rail Line of Indian Creek Railroad Company in Madison County, IN*

Dear Ms. Brown:

Hereby transmitted is the original and 10 copies of a Notice Of Exemption Under 49 C.F.R. § 1150.41 for filing with the Board in the above referenced matter.

Also enclosed is a check in the amount of \$1,900 for the filing fee.

Very truly yours,



Thomas F. McFarland
Attorney for Applicant

TMcF:mg:enc:wp8.0\1741\ltrSTB1

FEE RECEIVED
August 2, 2016
SURFACE
TRANSPORTATION BOARD

FILED
August 2, 2016
SURFACE
TRANSPORTATION BOARD



BEFORE THE
SURFACE TRANSPORTATION BOARD

KOKOMO RAIL CO., INC. --)
ACQUISITION AND OPERATION) FINANCE DOCKET
EXEMPTION -- RAIL LINE OF INDIAN) NO. 36054
CREEK RAILROAD COMPANY IN)
MADISON COUNTY, IN)

NOTICE OF EXEMPTION UNDER 49 C.F.R. § 1150.41

KOKOMO RAIL CO., INC.
1002 West Morgan Street
Kokomo, IN 46901

Applicant

THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1666
Chicago, IL 60604-1228
(312) 236-0204
mcfarland@aol.com

Attorney for Applicant

DATE FILED: August 2, 2016

BEFORE THE
SURFACE TRANSPORTATION BOARD

KOKOMO RAIL CO., INC. --)	
ACQUISITION AND OPERATION)	FINANCE DOCKET
EXEMPTION -- RAIL LINE OF INDIAN)	NO. 36054
CREEK RAILROAD COMPANY IN)	
MADISON COUNTY, IN)	

NOTICE OF EXEMPTION UNDER 49 C.F.R. § 1150.41

Pursuant to 49 C.F.R. § 1150.41 *et seq.*, KOKOMO RAIL CO., INC. (KRC), a Class III rail carrier^{1/}, hereby provides notice of its class exemption from 49 U.S.C. § 10902 for its acquisition from Indian Creek Railroad Company (ICRK) and operation of a rail line that extends between a point of connection to Norfolk Southern Railway Company (NS) at or near Florida Station and the end of track northwest of Anderson, a distance of 4.55 miles in Madison County, Indiana (the Rail Line).^{2/} The Rail Line does not have milepost designations. A map of the Rail Line from a Railroad Atlas of Indiana is attached to this Notice as Appendix 1.

INFORMATION REQUIRED BY 49 C.F.R. § 1150.43

(a) *The full name and address of the Class III rail carrier applicant;*

^{1/} KRC owns a rail line between Marion and Amboy, IN. *See Kokomo Rail Co., Inc. and Cent. R.R. of Indianapolis -- Acq. and Oper. Exempt. -- Line of CSX Transp., Inc between Marion and Amboy, IN*, 1993 WL 517295 (ICC Finance Docket No. 32231, decision served Dec. 8, 1993).

^{2/} ICRK has operated the Rail Line since July 20, 1980. The Rail Line extends between Madison County Road 200 West and a point near the intersection of Madison County Roads 500 West and 700 North. ICRK is owned by Rydman & Fox, Inc., which owns facilities for rail shipment of grain and rail receipt of fertilizer on the Rail Line.

Applicant is Kokomo Rail Co., Inc., 1002 West Morgan Street, Kokomo, IN 46901.

(b) The name, address, and telephone number of the representative of the applicant who should receive correspondence;

Applicant's representative is Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1666, Chicago, IL 60604-1228, (312) 236-0204, *mcfarland@aol.com*.

(c) A statement that an agreement has been reached or details about when an agreement will be reached;

An agreement has been reached for sale of the Rail Line by ICRK to KRC.

(d) The operator of the property;

KRC will likely contract with an experienced rail operator to operate the Rail Line. KRC recognizes its obligation to operate the Rail Line in the absence of such a contract.

(e) A brief summary of the proposed transaction, including:

(1) The name and address of the railroad transferring the subject property to the Class III rail carrier applicant;

The transferor of the Rail Line is ICRK, 7878 West 600 North, Frankton, IN 46044.

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

The proposed acquisition and operation will not be consummated before this Notice of Exemption becomes effective.

(3) The mileposts of the subject property, including any branch lines; and

The Rail Line does not have milepost numbers.

(4) The total route miles being acquired.

Approximately 4.55 miles of Rail Line are proposed to be acquired.

(f) A map that clearly indicates the area to be served, including origins, termini, stations, cities, counties, and states; and

The required map is attached to this Notice as Appendix 1.

(g) A certificate that applicant's projected revenues as a result of the transaction will not result in the creation of a Class II or Class I rail carrier so as to require processing under Sec. 1150.45.

The required certificate is contained in the Verification of Mr. Scot Ortman, President and CEO of KRC, which is attached to this Notice as Appendix 2.

(h) Interchange Commitments. (1) The filing party must certify whether or not a proposed acquisition or operation of a rail line involves a provision or agreement that may limit future interchange with a third-party connecting carrier, whether by outright prohibition, per-car penalty, adjustment in the purchase price or rental, positive economic inducement, or other means ("interchange commitment").

The proposed acquisition and operation do not involve any interchange commitments.

CAPTION SUMMARY

The caption summary required by 49 C.F.R. § 1150.44 is attached to this Notice as Appendix 3.

ENVIRONMENTAL AND HISTORIC MATTERS

By virtue of 49 C.F.R. § 1105.6(c)(2) and 49 C.F.R. § 1105.8(b)(1), no environmental or historic reporting is required in conjunction with the proposed acquisition and operation.

LABOR PROTECTION

By virtue of 49 U.S.C. § 10902(c), no labor protective conditions are to be imposed in conjunction with this Notice.

ANNUAL REVENUES

The certificate required by 49 C.F.R. § 1150.42(e), (annual revenues will not exceed \$5 million), is contained in Appendix 2 attached to this Notice.

VERIFICATION

A general verification of all factual assertions in this Notice is contained in Appendix 2.

CONCLUSION AND REQUESTED RELIEF

WHEREFORE, within 16 days after the filing of this Notice, the Director of the Board's Office of Proceedings should arrange for publication of notice of the filing of this Notice in the *Federal Register*.

Respectfully submitted,

KOKOMO RAIL CO., INC.
1002 West Morgan Street
Kokomo, IN 46901

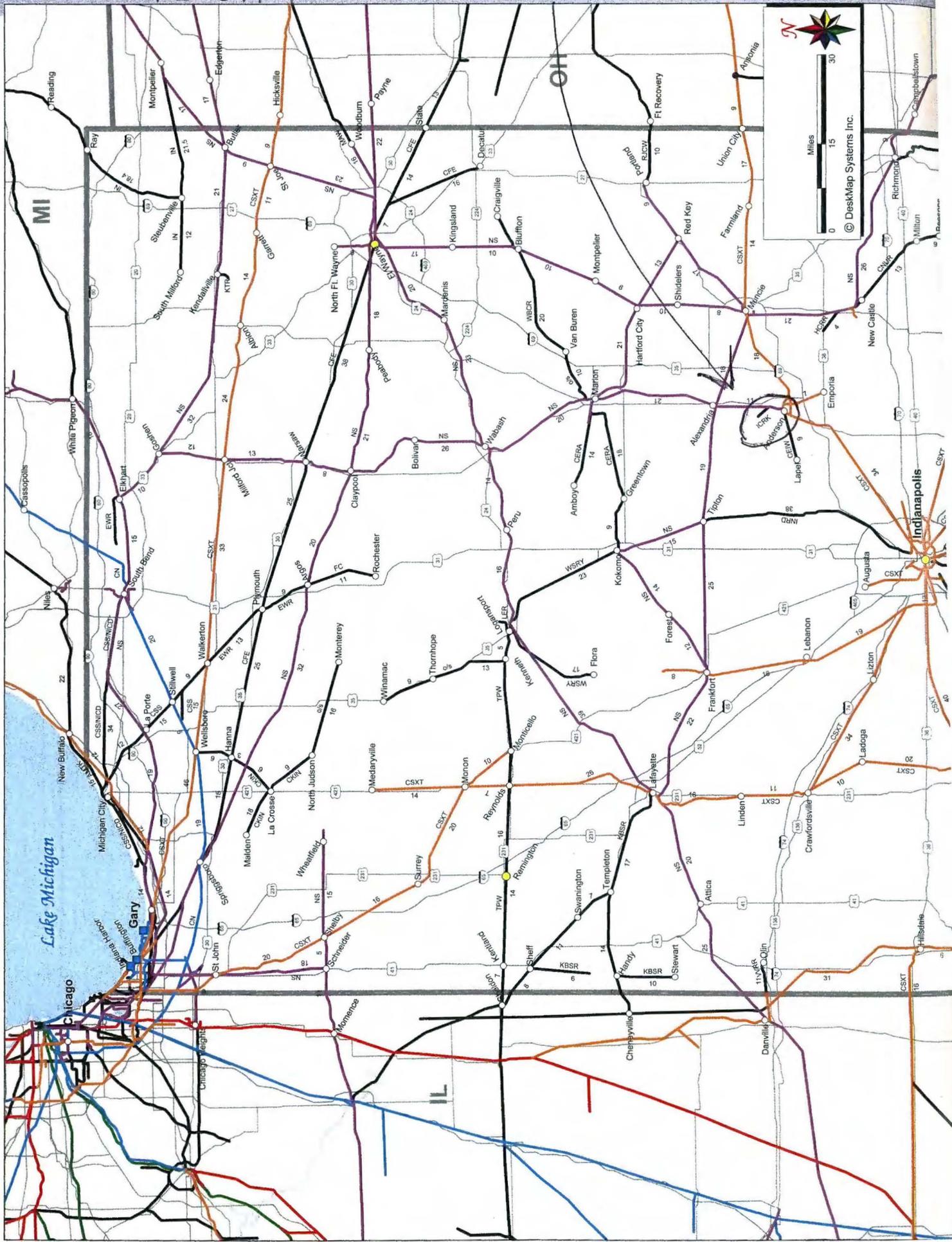
Applicant

Thomas F. McFarland

THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1666
Chicago, IL 60604-1228
(312) 236-0204
mcfarland@aol.com

Attorney for Applicant

DATE FILED: August 2, 2016



VERIFICATION

SCOT ORTMAN, being duly sworn, states that he is President and Chief Executive Officer of KOKOMO RAIL CO., INC. (KRC) ; that he has read the foregoing Notice of Exemption under 49 C.F.R. § 1150.41 being filed by KRC; that the projected annual revenue of the rail line being acquired by KRC, together with KRC's annual revenues, do not exceed \$5 million; that KRC's projected revenues as a result of the proposed acquisition will not result in the creation of a Class I or Class II rail carrier; that the proposed acquisition does not involve any interchange commitment as defined in 49 C.F.R. § 1150.43(h); and that all allegations of fact contained in KRC's Notice of Exemption are true and correct.



SCOT ORTMAN

STATE OF INDIANA)
) SS:
COUNTY OF HOWARD)

SUBSCRIBED and SWORN to before me
this 1 day of August, 2016.



Notary Public

My Commission expires: 12/9/2023

CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

Notice of Exemption

FINANCE DOCKET NO. 36054

***KOKOMO RAIL CO., INC. -- ACQUISITION AND
OPERATION EXEMPTION -- RAIL LINE
OF INDIAN CREEK RAILROAD COMPANY
IN MADISON COUNTY, IN***

Kokomo Rail Co., Inc. (KRC), a Class III rail carrier, has filed a Notice of Exemption to acquire from Indian Creek Railroad Company (ICKR) and operate a rail line that extends between a point of connection to Norfolk Southern Railway Company (NS) at or near Florida Station and the end of track northwest of Anderson, a distance of 4.55 miles in Madison County, Indiana. Comments must be filed with the Board and be served on KRC's representative, Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1666, Chicago, IL 60604-1228, (312) 236-0204.

The Notice is filed under 49 C.F.R. § 1150.41. 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 transaction.

By the Board

Dated:

(SEAL)

Cynthia T. Brown
Chief, Section of Administration