

BEFORE THE
SURFACE TRANSPORTATION BOARD



KOKOMO RAIL, LLC -- ACQUISITION)
AND OPERATION EXEMPTION -- RAIL) FINANCE DOCKET
LINE OF KOKOMO RAIL CO., INC.) NO. 36069
BETWEEN MARION AND AMBOY, IN)

241922

NOTICE OF EXEMPTION UNDER 49 C.F.R. § 1150.31

ENTERED
Office of Proceedings
October 27, 2016
Part of
Public Record

KOKOMO RAIL, LLC
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: October 27, 2016

FEE RECEIVED
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NOTICE OF EXEMPTION UNDER 49 C.F.R. § 1150.31

Pursuant to 49 C.F.R. § 1150.31 *et seq.*, KOKOMO RAIL, LLC (KR), a non-carrier, hereby provides notice of its class exemption from 49 U.S.C. § 10901 for its acquisition from Kokomo Rail Co., Inc. (KRC) and operation of a rail line that extends between Marion and Amboy, IN, a distance of approximately 12.55 miles in Howard and Grant Counties, Indiana (the Rail Line). 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.

BACKGROUND

In *Kokomo Rail Co., Inc. and Central Railroad Company of Indianapolis -- Acquisition and Operation Exemption -- Line of CSX Transportation, Inc. between Marion and Amboy, Indiana*, 1993 WL 517295 (Finance Docket No. 32231, decision served December 15, 1993), KRC was authorized to acquire from CSX Transportation, Inc. and operate a rail line between Marion and Amboy, IN, a distance of approximately 12.55 miles in Howard and Grant Counties, IN.

Thereafter, representatives of KRC learned that KRC was voluntarily dissolved as a corporation. That corporate dissolution makes it necessary to transfer KRC's authority to own

and operate the Marion-Amboy IN rail line from KRC to KR. This Notice of Exemption is filed for that purpose.^{1/}

INFORMATION REQUIRED BY 49 C.F.R. § 1150.33

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

Applicant is Kokomo Rail, LLC, 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 transfer of the Rail Line by KRC to KR.

(d) *The operator of the property;*

KR will operate the Rail Line or contract with an experienced rail operator to operate it.

(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 Kokomo Rail Co., Inc., 1002 Morgan Street, Kokomo, IN 46901.

(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.

^{1/} KR is an affiliate of Kokomo Grain Co., Inc., as was KRC.

(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 12.55 miles of Rail Line are proposed to be transferred.

(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 KR, 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. § 1150.34 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. § 10901, no labor protective conditions are to be imposed in conjunction with this Notice.

ANNUAL REVENUES

The certificate required by 49 C.F.R. § 1150.33(g), (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.

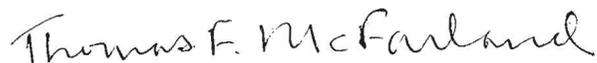
CONCLUSION AND REQUESTED RELIEF

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, LLC
1002 West Morgan Street
Kokomo, IN 46901

Applicant

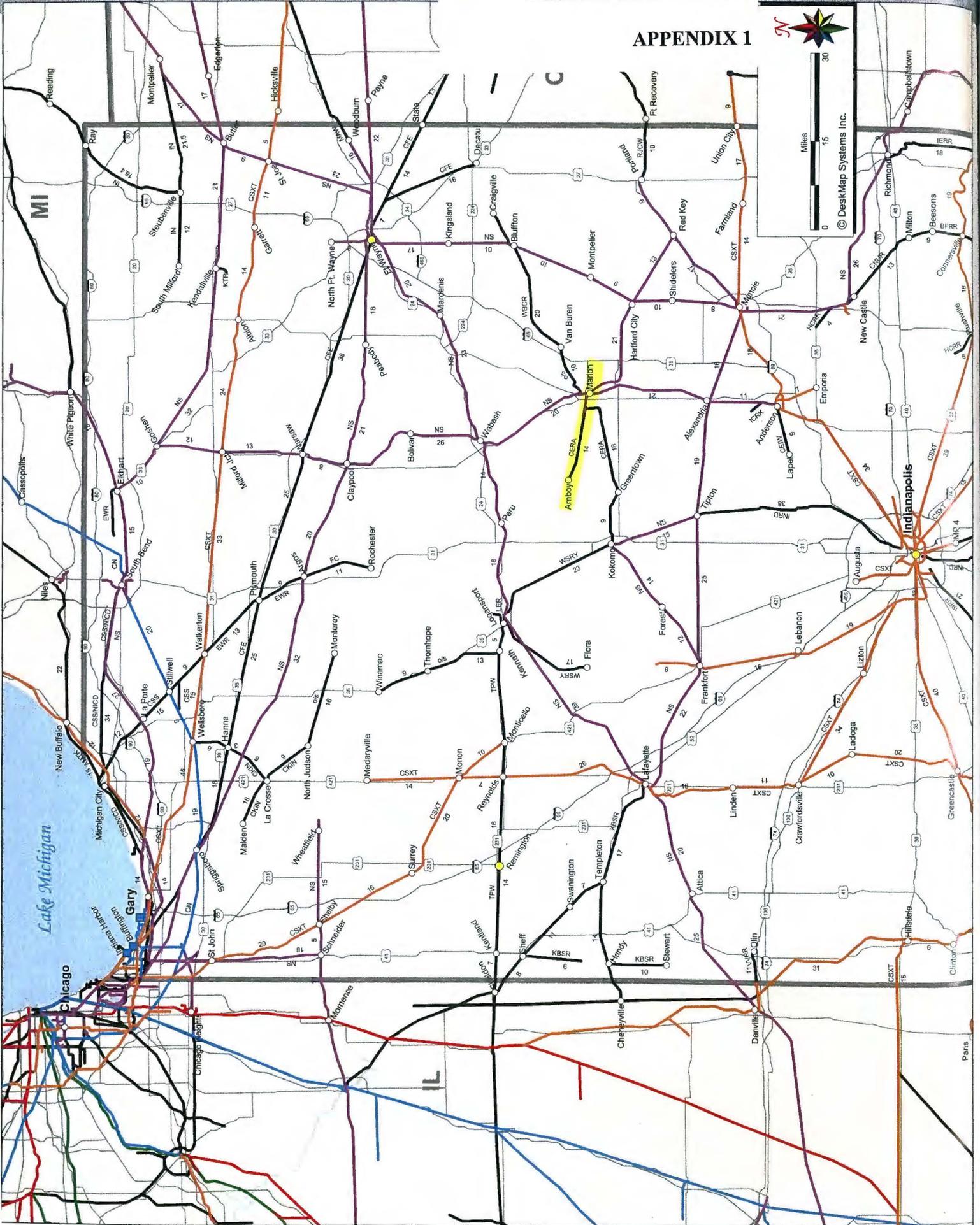
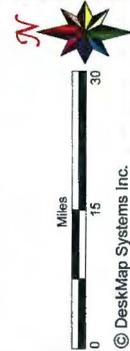


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APPENDIX 1



VERIFICATION

SCOT ORTMAN, being duly sworn, states that he is President and Chief Executive Officer of KOKOMO RAIL, LLC (KR) ; that he has read the foregoing Notice of Exemption under 49 C.F.R. § 1150.41 being filed by KR; that the projected annual revenue of the rail line being acquired by KR, together with KR's annual revenues, do not exceed \$5 million; that KR'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 KR's Notice of Exemption are true and correct.



SCOT ORTMAN

STATE OF INDIANA)
) SS:
COUNTY OF HOWARD)

SUBSCRIBED and SWORN to before me
this 26 day of September, 2016.



Notary Public

My Commission expires: 12/9/2023

CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

Notice of Exemption

FINANCE DOCKET NO. 36069

***KOKOMO RAIL, LLC -- ACQUISITION AND
OPERATION EXEMPTION -- RAIL LINE
OF KOKOMO RAIL CO., INC. BETWEEN
MARION AND AMBOY, IN***

Kokomo Rail, LLC (KR), a non-carrier, has filed a Notice of Exemption to acquire from Kokomo Rail Co., Inc. (KRC) and operate a rail line that extends between Marion and Amboy, IN, a distance of approximately 12.55 miles in Howard and Grant Counties, Indiana. Comments must be filed with the Board and be served on KR'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. § 1150.31. 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