

LAW OFFICES OF  
**LOUIS E. GITOMER, LLC.**

LOUIS E. GITOMER  
Lou@lgrailaw.com

MELANIE B. YASBIN  
Melanie@lgrailaw.com  
410-296-2225

July 2, 2014

600 BALTIMORE AVENUE, SUITE 301  
TOWSON, MARYLAND 21204-4022  
**236276** (410) 296-2250 • (202) 466-6532  
FAX (410) 332-0885

**ENTERED**  
**Office of Proceedings**  
**July 2, 2014**  
**Part of**  
**Public Record**

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

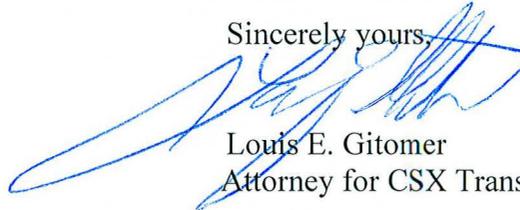
Re: Docket No. FD 35794, *Kan Rail, Inc.—Acquisition and Operation  
Exemption—in Wapakoneta, Ohio*

Dear Ms. Brown:

CSX Transportation, Inc. is efileing a Reply to the filings made by Kan Rail, Inc.

Thank you for your assistance. If you have any questions, please contact me.

Sincerely yours,



Louis E. Gitomer  
Attorney for CSX Transportation, Inc.

Enclosure

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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DOCKET NO. FD 35794

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KAN RAIL, INC.-ACQUISITION AND OPERATION EXEMPTION-IN WAPAKONETA,  
OHIO

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CSX TRANSPORTATION, INC. REPLY

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Paul R. Hitchcock, Esq.  
CSX Transportation, Inc.  
500 Water Street  
Jacksonville, FL 32202  
(904) 359-1192

Louis E. Gitomer, Esq.  
Law Offices of Louis E. Gitomer, LLC  
600 Baltimore Avenue, Suite 301  
Towson, MD 21204  
(202) 466-6532

Attorneys for: CSX TRANSPORTATION, INC.

Dated: July 2, 2014

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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DOCKET NO. FD 35794

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KAN RAIL, INC.-ACQUISITION AND OPERATION EXEMPTION-IN WAPAKONETA,  
OHIO

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CSX TRANSPORTATION, INC. REPLY

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CSX Transportation, Inc. (“CSXT”) replies to the Verified Notice of Exemption filed by Kan Rail, Inc. (“Kan Rail”) on April 22, 2014 (the “Notice”) and the Response to Request for Supplemental Information filed on June 12, 2014 (the “Supplement”). CSXT contends that Kan Rail is not proposing to provide common carrier rail service, but instead will be providing an industrial switching service that does not require advance authorization or exemption from the Surface Transportation Board (the “Board”).

The Notice sought exemption for Kan Rail to lease and operate three existing tracks that are approximately a total of 3,410 feet long from AIP Logistics, Inc. (“AIP”) and KanTrade Ltd. (the “Sister Entities”), affiliated companies that apparently own Kan Rail, in a “Facility” in Wapakoneta, OH owned by the Sister Entities. Notice at the unnumbered fourth page of the pleading. Kan Rail also sought exemption to lease and operate as a common carrier 2,615 feet of track to be constructed by the Sister Entities. Notice at the unnumbered sixth page of the pleading.

Kan Rail “proposes to assume control of and to conduct all rail aspects of the Facility as a tenant railroad, specifically by loading and unloading rail cars to and from the CSX line from and to the rail lines, warehouses, and/or silos at the Facility in order to service third party shippers and in order to allow continuous transportation of material to and from shipper destinations by rail.” Notice at the unnumbered fifth page of the pleading.

The Board directed Kan Rail “to file, by May 14, 2014, supplemental information describing in detail whether the activities at issue include construction of a line of railroad subject to the Board’s licensing authority and, if so, why Board authority for the construction has not been sought.” *Kan Rail, Inc.—Acquisition and Operation Exemption—in Wapakoneta, Ohio*, slip op. at 1, Docket No. FD 35794 (served April 29, 2014). In the same decision, the Board also deferred the effectiveness of the Notice indefinitely.

In the Supplement at 3, Kan Rail identifies the services provided by AIP today and states that “Kan Rail intends to lease from and conduct for, AIP the rail-related operations of AIP.” Kan Rail will operate over six tracks identified as T-1, T-2, T-3, T-4, T-5, and T-6. Tracks T-1, T-2, and T-4 already exist. Tracks T-3, T-5, and T-6 are the tracks to be constructed. According to the second unnumbered page of Mr. Ring’s Verified Statement (“VS”), tracks T-2, T-3, T-4, T-5, and T-6 “will be, used for unloading, loading and storage.” According to Mr. Ring, at the second unnumbered page of his VS,

Track T-1 is used and will continue to be used for the following purposes: a. Switching for CSX Transportation, Inc. (“CSX”) from Track T-8166B(1) owned by Ametek, Inc. (“Ametek”) and used by both Ametek and CSX; b. Disassembly of loaded cars dropped by CSX; and c. Reassembly of empty car strings to be picked up by CSX.

Mr. Ring goes on to state that “The purpose of Existing Track T-1 is to connect off-site transload shippers, not currently served by rail, with the interstate network.” AIP provides such service

today, but not as a common carrier.

Today, CSXT drops cars off and picks cars up on Track T-8166(B). It is clear from Mr. Ring's VS that CSXT's operations will not change when Kan Rail replaces AIP in providing service to Track T-8166(B) and on the tracks owned by AIP.

Kan Rail's proposal does not constitute operation as a rail common carrier. It is merely replacing AIP as the operator on the Sister Entities' tracks. AIP served many different shippers and consignees (Ring VS at unnumbered page 2) and was not a common carrier. Kan Rail is only being substituted for AIP. Kan Rail is simply providing an industrial switching service on non-carrier tracks, acting as a third party switcher.

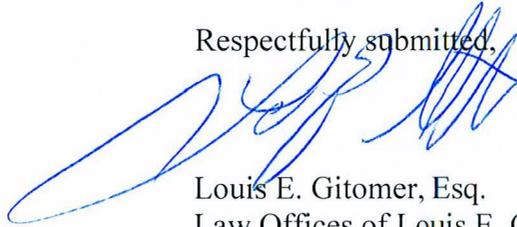
Kan Rail will not use CSXT's track. Kan Rail will not share in CSXT's line haul revenue. Kan Rail will make its own arrangements with the Sister Entities to be paid for the switching service it provides within the Sister Entities facilities to their warehousing and transload facilities owned by the Sister entities. Once CSXT delivers the cars to Track T-8166(B) the line haul service is completed. Any repositioning of cars that takes place after that is not part of the line haul service or the line haul rate. CSXT will continue to deliver to and pick up from the same customer tracks as it does today. Whether AIP or Kan Rail then distributes the cars within the Sister Entities facilities is a matter within that corporate family. If Kan Rail provides switching, it will be operating that service on behalf of the Sister Entities.

Kan Rail's proposal is distinguishable from that in *Effingham R.R. Co.—Pet. for Declaratory Order*, 2 S.T.B. 606 (1997). Kan Rail is not serving a new shipper; it is merely providing the same service to its corporate parent that the corporate parent previously provided. Kan Rail is staying in the same territory that its parent served — the facilities owned by the Sister Entities. The new track being constructed is not to serve a new shipper, but for “unloading,

loading and storage.” Kan Rail is not entering the national railroad system, it is merely providing switching for CSXT on tracks that are not part of the national system. There is no interchange agreement between Kan Rail and CSXT. All of the traffic to be handled by Kan Rail is traffic of its parent companies, the Sister Entities. In short, Kan Rail will not be operating as a common carrier. *See Newark Farmers Grain Co. Operation*, 320 I.C.C. 55 (1963). Rather, Kan Rail will only provide a non-carrier industrial switching service.

For the foregoing reasons, CSXT respectfully requests the Board to find that Kan Rail has not proposed a common carrier service and to deny the exemption sought by KanRail.

Respectfully submitted,



Paul R. Hitchcock, Esq.  
CSX Transportation, Inc.  
500 Water Street  
Jacksonville, FL 32202  
(904) 359-1192

Louis E. Gitomer, Esq.  
Law Offices of Louis E. Gitomer, LLC  
600 Baltimore Avenue, Suite 301  
Towson, MD 21204  
(202) 466-6532

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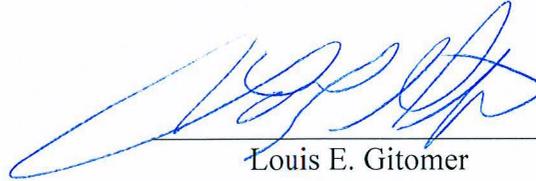
Dated: July 2, 2014

CERTIFICATE OF SERVICE

I hereby certify that I have caused the Reply in Docket No. FD 35794, *Kan Rail, Inc.*—

*Acquisition and Operation Exemption—in Wapakoneta, Ohio* to be served electronically on:

John L. Alden, Esq.  
Alden Law  
One East Livingston Avenue  
Columbus, OH 43215-5700  
jalden@aldenlaw.net



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Louis E. Gitomer  
July 2, 2014