

DID # 0102088002 206709

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DANIEL A. LaKEMPER

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November 22, 2002

FD 34287

Mr. Vernon A. Williams, Secretary
Surface Transportation Board
1925 "K" Street, N.W.
Washington, D.C. 20423

ENTERED
Office of Proceedings

NOV 25 2002

Part of
Public Record



RE: FD 34287

Dear Mr. Williams:

Enclosed, for filing, is an original and ten copies of a Verified Notice of Exemption for the acquisition and operation of a line of railroad by FNG Logistics Co., along with a check for \$1,300, for the filing fee. Also enclosed is an additional copy which I ask that you "file-stamp" and return in the enclosed SSAE.

If you have any questions about this matter, please do not hesitate to contact me.

Respectfully yours,

[Handwritten Signature]
Daniel A. LaKemper

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Encs.
cc: Tom Clarkson

SURFACE TRANSPORTATION BOARD SURFACE TRANSPORTATION BOARD

LaKemper Law Office

*Research * Writing * Appeals * Document Drafting and Review * Corporate Consulting
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USCA: 6th, 7th. and D.C. Circuits; United States Supreme Court*

206709

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. FD-34287

FNG LOGISTICS CO.
-- ACQUISITION AND OPERATION EXEMPTION --
NEW YORK CENTRAL LINES, L.L.C.
VERMILLION AND WARREN COUNTIES, INDIANA



VERIFIED PETITION FOR EXEMPTION
PURSUANT TO 49 C.F.R. §1150.31

NOTICE OF OPERATION OF RAIL LINES
INFORMATION REQUIRED BY 49 C.F.R. §1150.31

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Attorney for FNG Logistics Co.

Dated: November 22, 2002.

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with New York Central Lines, L.L.C. ('NYC'), owner and operator, and CSX Transportation, Inc., for the purchase and operation of a certain rail line in Vermillion and Warren Counties, Indiana. The parties intend to consummate this transactions on or about December 3, 2002.

Total Route Miles

49 C.F.R. §1150.33(c)(4)

The lines to be operated by FNG consist of approximately 5.19 miles of railroad.

Operator of the Property

49 C.F.R. §1150.33(d)

In all cases anticipated by this Notice, it is anticipated that FNG will enter into an agreement with another entity to provide service to the subject property as a contract operator, but FNG will be the common carrier. No contract has been finalized as yet.

Brief Summary of Transaction

49 C.F.R. §1150.33(e)

FNG, an Indiana corporation, is currently a non-carrier. FNG proposes to acquire and operate the subject rail line as a Class III shortline rail carrier. FNG will operate approximately 5.91 miles of railroad, to be sold by New York Central Lines, L.L.C.. The line in question runs from Olin (near Covington), Warren County, Indiana (MP 11.09) to the Indiana-Illinois State Boundary

Line, in Vermillion County, Indiana (MP 5.18), near Danville, Illinois. It was originally part of the Peoria & Eastern Railway, operated by the old New York Central System, and more recently was operated by Conrail, and subsequently transferred to New York Central Lines, L.L.C. as part of the Conrail transaction (See FD 333888 0, Decided July 20, 1998). NYC filed for abandonment authority in AB 565 4X (New York Central Lines, L.L.C., and CSX Transportation, Inc., Abandonment Exemption in Vermillion and Warren Counties, Indiana, Decided September 19, 2001), and FNG's parent made an offer of financial assistance which ultimately resulted in the agreement for sale and the Board dismissed the abandonment and authorized the sale for which this Notice seeks an Exemption (See AB 565 4X, Decided September 16, 2002).

Under the Agreement between FNG's parent and NYC all rights and interests of NYC (except retained fiber optics rights) would be transferred, at Closing, to FNG.

This transaction qualifies for a class exemption under 49 C.F.R. §1150.31, *et. seq.*, because it involves the operation by a newly created Class III carrier of a line of railroad. See, 49 C.F.R. §1150.31 *et. seq.*, and *Class Exemption - Acq. L. & Oper. of R.R. Lines Under 49 U.S.C. 10901*, 1 I.C.C.2d 810 (1985). Issuance of a class exemption under 49 C.F.R. §1150.31 will permit FNG to serve the shippers on the Line.

FNG currently owns no railroad lines and conducts no rail operations subject to the Board's jurisdiction, nor does FNG's

parent company, Flex-N-Gate Corporation. As noted above, the parties propose to consummate the subject transaction on or about December 3, 2002.

Map

49 C.F.R. §1150.33(f)

A map depicting the area to be served is attached as Exhibit A.

Certificate of Carrier Classification **49 C.F.R. §1150.33(g)**

FNG hereby certifies that its projected revenues will not exceed those that would qualify its as a Class III rail carrier.

Caption Summary

49 C.F.R. §1150.34

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

Environmental and Historic Preservation Data **49 C.F.R. §1105**

Pursuant to 49 C.F.R. §1105.6(c)(2), the proposed transaction is exempt from environmental review under 49 CFR 1105(c)(2)(I), because the proposed action will not cause any operating changes that exceed the thresholds established in Section 1105.7(e)(4) or (5).

In addition, this transaction is exempt from historic review under Section 1105.8(b)(1). Under that Section, a sale, lease or transfer of a rail line is exempt if rail operations will continue. Further Board approval is required for any of the parties to this transaction to abandon service, and there are no plans to dispose of or alter properties subject to Board jurisdiction. Accordingly, no historic report is required.

Respectfully submitted,

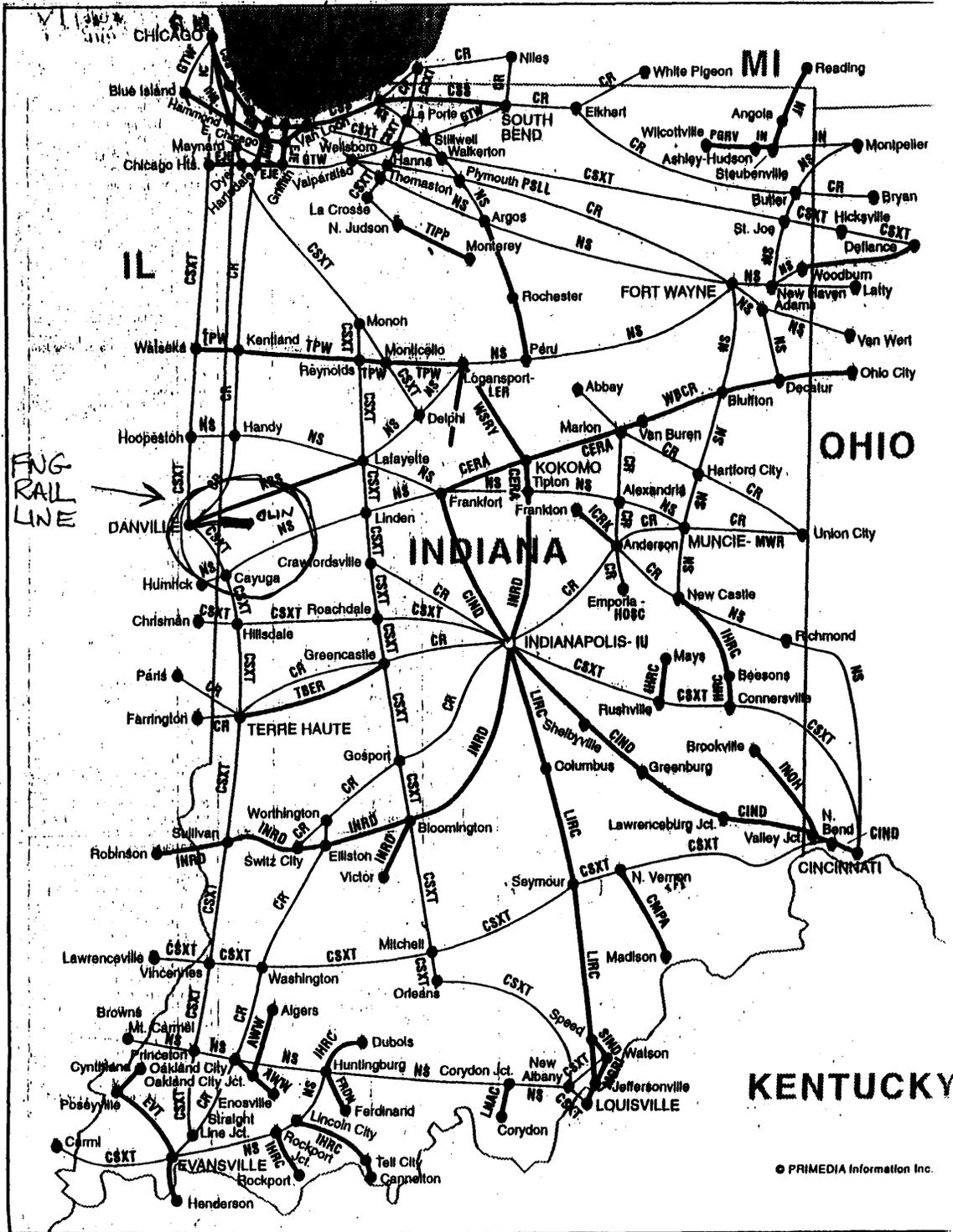
A handwritten signature in black ink, appearing to read "Daniel A. LaKemper". The signature is fluid and cursive, written over the typed name.

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Attorneys for Petitioner

November 22, 2002.

EXHIBIT A
MAP



CAPTION SUMMARY
EXHIBIT B

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. FD-34287

FNG LOGISTICS CO.
-- ACQUISITION AND OPERATION EXEMPTION --
NEW YORK CENTRAL LINES, L.L.C.
VERMILLION AND WARREN COUNTIES, INDIANA

VERIFIED PETITION FOR EXEMPTION
PURSUANT TO 49 C.F.R. §1150.31

FNG Logistics Co. ('FNG'), a non-carrier, has filed a Verified Notice of Exemption under 49 CFR 1150.31 to acquire and operate as a class III shortline rail carrier, a line of railroad currently owned by New York Central Lines, L.L.C. extending from Milepost 11.09 at Olin (near Covington), Warren County, Indiana, to Milepost 5.18 at the Indiana-Illinois State Line (near Danville, Illinois), in Vermillion County, Indiana. This trackage is about 5.91 miles in length.

Comments must be filed with the Surface Transportation Board and served on:

Daniel A. LaKemper, Esq.
LaKemper Law Office
P.O. Box 185
Morton, Illinois 61550
Attorney for FNG Logistics Co.

Dated: November 22, 2002.