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THOMAS F MCFARLAND

22061

April 11, 2008

By UPS overnight mail
(Monday delivery)

Anne K Quinlan, Esq
Acting Secretary
Surface Transportation Board
395 E Street, S W , Suite 1149
Washington, DC 20024

ENTERED
Office of Proceedings

APR 14 2008

Part of
Public Record

Re Finance Docket No 35133, *Milwaukee Industrial Trade Center, LLC,*
d b u Milwaukee Terminal Railway -- Operation Exemption -- Private Truckage
at Milwaukee, WI

Dear Ms Quinlan

Enclosed please find an original and 10 copies of Verified Notice of Exemption Under 49
C F R § 1150 31, for filing with the Board in the above referenced matter

Also enclosed is a check in the amount of \$1,600 for the filing fee

FEE RECEIVED

APR 14 2008

**SURFACE
TRANSPORTATION BOARD**

Very truly yours.

Tom McFarland

Thomas F McFarland
Attorney for Applicant

TMcF kl enc wp8 0-12941rstb1

FILED

APR 14 2008

**SURFACE
TRANSPORTATION BOARD**

BEFORE THE
SURFACE TRANSPORTATION BOARD



MILWAUKEE INDUSTRIAL TRADE)
CENTER, LLC, d b a MILWAUKEE) FINANCE DOCKET
TERMINAL RAILWAY -- OPERATION) NO 35133
EXEMPTION -- PRIVATE TRACKAGE)
AT MILWAUKEE, WI)

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

MILWAUKEE INDUSTRIAL TRADE CENTER, LLC
d b a MILWAUKEE TERMINAL RAILWAY
4777 West Lincoln Ave
West Milwaukee, WI 53219

Applicant

THOMAS F McFARLAND
THOMAS F McFARLAND, P C
208 South LaSalle Street
Suite 1890
Chicago, IL 60604-1112
(312) 236-0204
(312) 201-9695 [fax]
mcfarland@aol.com

Attorney for Applicant

DATE FILED April 14, 2008

BEFORE THE
SURFACE TRANSPORTATION BOARD

MILWAUKEE INDUSTRIAL TRADE)	
CENTER, LLC, d b a MILWAUKEE)	FINANCE DOCKET
TERMINAL RAILWAY -- OPERATION)	NO 35133
EXEMPTION -- PRIVATE TRackage)	
AT MILWAUKEE, WI)	

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

Pursuant to 49 C F R § 10502(a) and 49 C F R § 1150 31. *et seq* , MILWAUKEE INDUSTRIAL TRADE CENTER, LLC, d b a MILWAUKEE TERMINAL RAILWAY ("MITC"), a noncarrier, hereby provides verified notice of its exemption from 49 U S C § 10901 for its operation as a common carrier of approximately two miles of trackage that is located within an 84-acre plant site at 2725 North Hopkins Street, Milwaukee, WI 53216, formerly owned and operated by A O Smith Corp and later by Tower Automotive, Inc (the rail line) Authority to acquire the rail line is not required because MITC already owns the line

The rail line to be operated is shaded in yellow on a Site Base Plan that is attached to this Notice as Appendix 1 Shaded in pink on that Plan is a rail line owned by Canadian Pacific Railway Company (CP), which is operated by Wisconsin & Southern Railroad Co (WSOR), and which is connected to the rail line proposed to be operated by MITC as a common carrier Not shown on the Plan is Burma Road, which separates the CP-WSOR rail line from the rail line within the MITC plant site. The Plan shows the numerous buildings within the 84-acre plant site, all of which are located east of Burma Road

Heretofore, the rail line proposed to be operated by MITC has been privately-owned track, owned first by A O Smith, then by Tower, and now by MITC MITC now proposes to operate over that trackage as a common carrier Raw materials would be received by rail by tenants of the buildings at the plant site for processing and/or manufacturing and for transloading onto trucks for distribution in the local area The tenants would also load processed raw materials and finished goods onto railcars at the plant site for rail transportation to destination In addition, locomotives and railcars would be transported by rail to the plant site for repair, cleaning, storage and other rail-related uses for independent companies operating at buildings in the plant site

Under the principle of the *Effingham* and *Bulkmatic* cases,^{1/} the rail line to be operated by MITC constitutes a line of railroad for which an exemption from the Board is required because it is MITC's initial rail operation, notwithstanding that it might otherwise be considered to be spur, industrial and/or switching track exempt from the Board's acquisition and operation authority by virtue of 49 U S C § 10906

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

(a) The full name and address of the applicant.

The full name and address of the applicant is Milwaukee Industrial Trade Center, LLC.
d b a Milwaukee Terminal Railway, 4777 West Lincoln Avenue, West Milwaukee, WI 53219

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

^{1/} *Effingham RR Co - Pet for Declaratory Order*, 2 S T B 606 (1997), *aff'd sub nom. , United Transp Union v STB*, 183 F 3d 606 (7th Cir 1999), and *Bulkmatic R Corp -- Acq & Oper Exempt -- Bulkmatic Transport Co*, 2002 S T B LEXIS 691 (Finance Docket No 34145, served Nov 19, 2002), recons denied, 2003 STB LEXIS 256 (served May 15, 2003)

MITC's representative is Thomas F McFarland, Thomas F McFarland, P C , 208 South LaSalle Street, Suite 1890. Chicago, IL 60604-1112, (312) 236-0204, (312) 201-9695 fax, mcfarland@aol.com

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

No agreement with a third party is required for the proposed operation because the operator. MITC, owns the trackage to be operated

(d) The operator of the property,

MITC will be the operator of the property

(e) .1 brief summary of the proposed transaction, including

(1) The name and address of the railroad transferring the subject property,

The rail property is not being transferred The nature of the transaction is operation as a common carrier of trackage formerly operated as private trackage

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

The operation is proposed to be consummated no earlier than 30 days after the filing of this notice of exemption

(3) The mile-posts of the subject property, including any branch lines, and

The rail line is not described by milepost numbers The rail line consists of approximately two miles of trackage at the plant site of MITC The rail line connects with CP-WSOR

(4) The total route miles being acquired,

A total of approximately two miles of trackage is to be operated

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

The required map is attached to this Notice as Appendix 1

(g) A certificate that applicant's projected revenues do not exceed those that would qualify it as a Class III carrier

The required certificate is attached to this Notice as Appendix 2

CAPTION SUMMARY

A caption summary required by 49 C F R § 1150.34 is attached to this Notice as Appendix 3

ENVIRONMENTAL AND HISTORIC REPORT

The proposed operation does not require environmental and historic reporting. See 49 C F R § 1105.6(c)(2)(i) and 49 C F R § 1105.8(b)(1)

LABOR PROTECTION

Pursuant to 49 U S C § 10901(c), labor protection requirements do not apply to this transaction

VERIFICATION

The verification of Thomas F. McFarland in behalf of MITC is attached to this Notice as Appendix 4

PROJECTED ANNUAL REVENUES

The verification of Thomas F. McFarland in behalf of MITC is attached to this Notice as Appendix 5 certifying that the projected annual revenues of MITC will not exceed \$5 Million

CONCLUSION AND REQUESTED RELIEF

WHEREFORE, the Director of the Board's Office of Proceedings should publish notice in the *Federal Register* of the filing of this notice of exemption See 49 C F R § 1150 32(b), as amended

Respectfully submitted,

MILWAUKEE INDUSTRIAL TRADE CENTER, LLC
d b a MILWAUKEE TERMINAL RAILWAY
4777 West Lincoln Ave
West Milwaukee, WI 53219

Applicant

Thomas F. McFarland

THOMAS F McFARLAND
THOMAS F McFARLAND, P C
208 South LaSalle Street
Suite 1890
Chicago, IL 60604-1112
(312) 236-0204

Attorney for Applicant

DATE FILED April 14, 2008

APPENDIX 2

CERTIFICATION UNDER 49 C.F.R. § 1150.33(g)

The undersigned, Thomas F McFarland, hereby certifies under 49 C F R § 1150 33(g), that the projected revenues of Milwaukee Industrial Trade Center, d b a Milwaukee Terminal Railway, do not exceed those that would qualify it as a Class III rail carrier

Thomas F McFarland

Thomas F McFarland
*Authorized Representative of
Milwaukee Industrial Trade Center, LLC.
d b a Milwaukee Terminal Railway*



SUBSCRIBED and SWORN to
before me this 11th day of
April, 2008

Kathleen Lenhan

Notary Public

CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

Notice of Exemption

FINANCE DOCKET NO. 35133,

***MILWAUKEE INDUSTRIAL TRADE CENTER, LLC,
d.b.a. MILWAUKEE TERMINAL RAILWAY
-- OPERATION EXEMPTION --
PRIVATE TRACKAGE AT MILWAUKEE, WI***

Milwaukee Industrial Trade Center, LLC, d b a Milwaukee Terminal Railway (MITC), a noncarrier, has filed a Notice of Exemption to operate as a common carrier over approximately two miles of rail line located within its own plant site at Milwaukee, Wisconsin. The rail line connects with a rail line owned by Canadian Pacific Railway Company and operated by Wisconsin & Southern Railroad. Comments must be filed with the Board and be served on MITC's representative, Thomas F McFarland, Thomas F McFarland, P C , 208 South LaSalle Street, Suite 1890, Chicago, IL 60604-1112, (312) 236-0204, (312) 201-9695 fax, mcfarland@aol.com

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

(SEAL)

Anne K. Quinlan, Acting Secretary

VERIFICATION

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

Thomas F McFarland, being duly sworn, states that he is attorney for Milwaukee Industrial Trade Center, LLC, d b a Milwaukee Terminal Railway (MITC), that he is familiar with the factual allegations made in the foregoing Notice of Exemption in behalf of MITC, and that such allegations are true as stated

Thomas F McFarland

Thomas F McFarland



SUBSCRIBED and SWORN to
before me this 11th day of
April, 2008

Kathleen Lenihan

Notary Public

APPENDIX 5

CERTIFICATION

Pursuant to 49 C F R § 1150 32(c), the undersigned, on oath, states that the projected revenues of Milwaukee Industrial Trade Center, LLC, d b a Milwaukee Terminal Railway, as a result of the operation in this docket, will not exceed \$5 Million per year



Thomas F. McFarland

Thomas F. McFarland

SUBSCRIBED and SWORN
to before me this 11th day
of April, 2008

Kathleen Lenhan

Notary Public

My commission expires 1/29/2010