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January 22, 2020
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January 22, 2020

VIA E-FILING

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

Re: Toledo Industrial Railroad LLC - Operation Exemption -
Line in Lucas County, OH
STB Docket No. FD 36381

Dear Ms. Brown:

Enclosed for e-filing on behalf of Toledo Industrial Railroad LLC is a Notice of Exemption being filed under 49 USC 10901 and 49 CFR 1150.31. The filing fee of \$2,100 was paid using Pay.gov.

Please let us know if there are any questions regarding this filing.

Respectfully,

CLARK HILL PLC



Eric M. Hocky

EMH/e
Enclosure

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January 22, 2020
SURFACE

TRANSPORTATION BOARD
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January 22, 2020
SURFACE
TRANSPORTATION BOARD

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 36381

TOLEDO INDUSTRIAL RAILROAD LLC
- OPERATION EXEMPTION –
LINE IN LUCAS COUNTY, OH

VERIFIED NOTICE OF EXEMPTION
UNDER 49 U.S.C. §10901

(includes color images)

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Counsel for
Toledo Industrial Railroad LLC

Dated: January 22, 2020

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 36381

TOLEDO INDUSTRIAL RAILROAD LLC
- OPERATION EXEMPTION –
LINE IN LUCAS COUNTY, OH

VERIFIED NOTICE OF EXEMPTION
UNDER 49 U.S.C. §10901

This Verified Notice is filed pursuant to 49 C.F.R. §1150.31 by Toledo Industrial Railroad LLC (“TIR”), a non-carrier, to exempt from regulation under 49 U.S.C. §10901, its operation of approximately 28,000 feet of existing railroad trackage inside an existing transloading facility (the “Rail Line”). The trackage is located inside a private transloading facility operated by TIR’s affiliate Midwest Terminals of Toledo, Inc. (“Midwest Terminals”). At the facility, Midwest Terminals unloads maritime vessels on the Maumee River near Lake Erie, transloads the cargo into rail cars, and moves them to the serving carrier Norfolk Southern Railway Company (“NS”). After approval of the Notice, TIR will provide common carrier terminal switching services for Midwest Terminals as well as other shippers in the facility and a new customer located on an adjacent parcel.

Notice

In accordance with 49 C.F.R. §1150.33, TIR hereby provides the following information:

- (a) The full name and address of Applicant: Toledo Industrial Railroad LLC, 383 W. Dussel Drive, Maumee, OH 43537.
- (b) The name, address, and telephone number of the representative of TIR who should receive correspondence: Eric M. Hocky, Esq., Clark Hill, PLC, Two Commerce

Square, 2001 Market St., Suite 2620, Philadelphia, PA 19103; (215) 640-8500.

- (c) TIR will be entering into an operating license for the Rail Line, and converting the Rail Line from private rail operations to common carrier terminal switching railroad service.
- (d) Currently there is no common carrier operating on the track that will be the Rail Line; the track is operated by Midwest Terminals as private track. TIR will be the freight operator of the Rail Line.

- (e) Brief Summary of the Proposed Transaction:

Midwest Terminals currently operates an industrial transload facility located on the Maumee River at the west end of Lake Erie. Midwest Terminals conducts unloading operations from marine vessels, and conducts private switching and transload services for itself within the facility. TIR will be entering into an operating license that will give TIR control of the Rail Line and other tracks within in the facility. TIR will operate the portion of the tracks designated as the Rail Line as shown on the map attached hereto as Exhibit A, as common carrier tracks, and the other tracks shown on the map as non-jurisdictional yard tracks and side tracks. TIR will operate as a terminal switching common carrier. TIR will enter into an interchange agreement with NS.

TIR's conversion of private switching and transload track to common carrier rail service is consistent with Board precedent in cases such as *Effingham Railroad Company – Petition for Declaratory Order - Construction at Effingham, IL*, STB Finance Docket No. NOR 41986, 1997 WL 564155 (served Sept. 12, 1997).

- (1) The name and address of the non-carrier company that currently controls the Rail Line: Midwest Terminals of Toledo, Inc., 383 W. Dussel Drive, Maumee,

OH 43537.

- (2) TIR expects to commence operations on or after February 21, 2020, more than thirty days after the filing of this Notice of Exemption.
- (3) The Rail Line is located in Toledo, Lucas County, Ohio. There are no mileposts because the Rail Line is located inside a private transloading facility.
- (4) The total mileage to be acquired and operated is approximately 28,000 feet.
- (f) Attached as Exhibit A to this Notice of Exemption is a map of the Rail Line highlighted in yellow. The map also shows associated 49 U.S.C. §10906 non-jurisdictional yard tracks and industrial side tracks.
- (g) TIR certifies that its projected revenues as a result of the transaction will not exceed those that would qualify it as a Class III carrier.¹
- (h) No interchange commitments are being imposed on TIR's operations.

Labor Protection

Pursuant to 49 U.S.C. §10901(c), approval of this transaction may not be subjected to labor protections.

Environmental and Historic Reports

Pursuant to 49 C.F.R. §1105.6(c)(1)(i), no environmental documentation should be required because this proceeding involves operating authority under 49 U.S.C. §10901 for continued operations that will not exceed the thresholds established in 49 C.F.R. §1105.7(e)(4) or (e)(5).

No historic report under 49 C.F.R. §1105.8(b)(1) should be required because this Notice

¹ TIR additionally certifies that its projected revenues after the transaction will not exceed \$5,000,000 per year.

of Exemption merely involves a notice of exemption for operating authority to continue industrial switching and transloading services as a rail common carrier, and Board approval will be required to discontinue or abandon any service. TIR has no plans to dispose of or alter properties subject to the Board's jurisdiction that are 50 years old or older.

Caption Summary

Attached hereto as Exhibit B is the caption summary required by 49 C.F.R. §1150.34.

Conclusion

Accordingly, TIR requests that the Board issue a notice allowing the common carrier operations of TIR to become effective at any time after 30 days from the filing of this Notice of Exemption.

Respectfully submitted,



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Counsel for Toledo Industrial Railroad, LLC.

Dated: January 22, 2020

VERIFICATION

I, Brandon McGilvray, General Manager of Toledo Industrial Railroad LLC verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file the foregoing document.

Executed on January 22, 2020.

A handwritten signature in black ink, appearing to read 'B. McGilvray', is written over a solid horizontal line.

EXHIBIT A

MAP

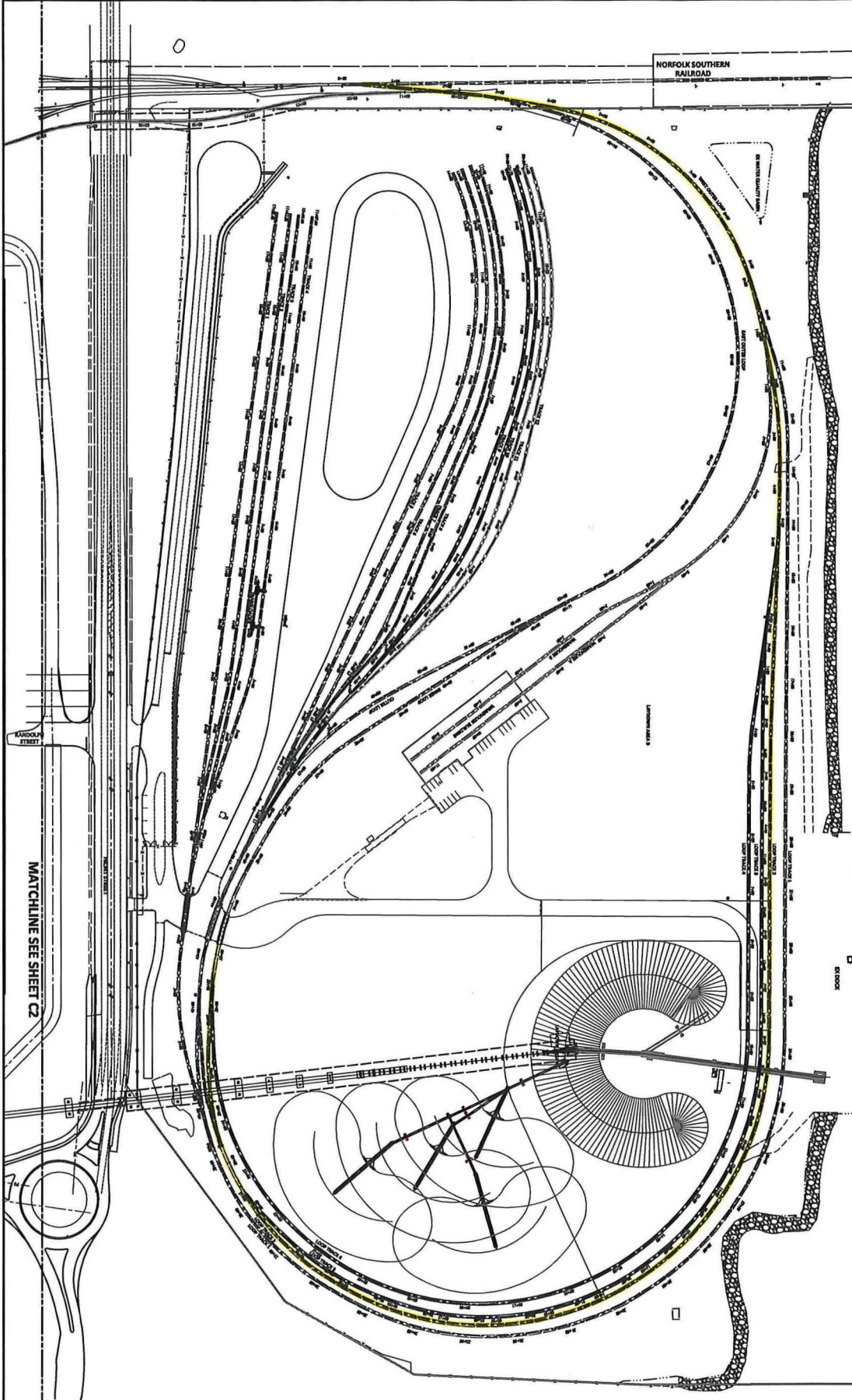


EXHIBIT B

CAPTION SUMMARY

**BEFORE the
SURFACE TRANSPORTATION BOARD**

STB Docket No. FD 36381

**TOLEDO INDUSTRIAL RAILROAD LLC
- OPERATION EXEMPTION –
LINE IN LUCAS COUNTY, OH**

Toledo Industrial Railroad LLC (“TIR”) a non-carrier, has filed a Notice of Exemption to operate a 28,000- foot long line of railroad in Toledo, Ohio, inside what is now an existing private switching facility for operation as a terminal switch carrier. Once this notice is effective, TIR will provide common carrier rail service to shippers located inside the facility and on adjacent property.

Comments must be filed with the Board and served on TIR’s representative, Eric M. Hocky, Esq., Clark Hill, PLC, Two Commerce Square, 2001 Market St., Suite 2620, Philadelphia, PA 19103; (215) 640-8500.

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.

Board decisions and notices are available at www.stb.gov.

Decided: January __, 2020.

By the Board, Allison C. Davis, Director, Office of Proceedings.