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IRVIN RIGSBY PLC
ATTORNEYS AT LAW

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August 19, 2020
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Lexington, KY 40588-4106
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CATHERINE S. WRIGHT
cwright@irvinrigsby.com
Direct Dial: (859) 724-4104

August 19, 2020

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E Street, S. W.
Washington, D.C. 20024

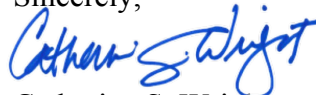
RE: Finance Docket No. 36429; R. J. Corman Railroad Company/Luzerne & Susquehanna Line, LLC – Change Operators, Lease and Operation Exemption – Luzerne and Susquehanna Railway Co. and Luzerne County Rail Corporation

Dear Ms. Brown:

Enclosed for filing in the above-captioned proceeding is the Verified Notice of Exemption on behalf of R. J. Corman Railroad Company/Luzerne & Susquehanna Line, LLC pursuant to 49 C.F.R. § 1150.31, *et seq.* dated August 19, 2020. The sum of \$2,100.00, representing the appropriate fee for this filing, has been tendered electronically via Pay.gov. The Pay.gov Tracking ID is 26PNTONE.

If you have any questions, please feel free to contact me.

Sincerely,



Catherine S. Wright
Attorney for R. J. Corman Railroad
Company/Luzerne & Susquehanna Line,
LLC

Enclosures

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 36429

**R. J. CORMAN RAILROAD COMPANY/LUZERNE & SUSQUEHANNA LINE, LLC –
CHANGE OPERATORS, LEASE AND OPERATION EXEMPTION –
LUZERNE AND SUSQUEHANNA RAILWAY COMPANY AND
LUZERNE COUNTY RAIL CORPORATION**

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

Submitted by:
David R. Irvin
Catherine S. Wright
IRVIN RIGSBY PLC
110 N. Main St.
Nicholasville, Kentucky 40356
dirvin@irvinrigsby.com
cwright@irvinrigsby.com
(859) 724-4104
*Counsel for R. J. Corman Railroad
Company/Luzerne & Susquehanna
Line, LLC*

Contains Color Images

Dated: August 19, 2020

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 36429

**R. J. CORMAN RAILROAD COMPANY/LUZERNE & SUSQUEHANNA LINE, LLC –
CHANGE OPERATORS, LEASE AND OPERATION EXEMPTION –
LUZERNE AND SUSQUEHANNA RAILWAY COMPANY AND
LUZERNE COUNTY RAIL CORPORATION**

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

Pursuant to 49 C.F.R. §§ 1150.31 *et seq.*, R. J. Corman Railroad Company/Luzerne & Susquehanna Line, LLC (“LS”)¹, a non-carrier, hereby files this Verified Notice of Exemption to permit LS to change operators and assume the lease and operations of approximately 55.09 miles of rail line, with additional trackage rights, located in Luzerne and Lackawanna counties, Pennsylvania (the “Line”). The Line is currently operated by the Luzerne and Susquehanna Railway Company (“LSX”) pursuant to a lease and operating agreement from Luzerne County Rail Corporation (“LCRC”), a political subdivision and nonoperating Class III rail carrier.

The Line consists of: (1) The Dunmore Secondary Track, between milepost 6.5, at Avoca, and milepost 10, at Montage Road, a distance of 3.5 miles; (2) The Avoca Industrial Track, between milepost 4, at Rock Street, and milepost 6.5, at Avoca, a distance of 2.5 miles, including

¹ R. J. Corman Railroad Company, LLC, a non-carrier holding company, who owns 100% of LS, is filing a related proceeding to continue in control of LS upon it becoming a carrier while remaining in control of other existing R. J. Corman Railroad Company, LLC owned and controlled Class III STB regulated carriers. *See R. J. Corman Railroad Company, LLC – Continuance in Control – R. J. Corman Railroad Company/Luzerne & Susquehanna Line, LLC, R. J. Corman Railroad Company/Lehigh Line, LLC and R. J. Corman Railroad Company/Owego & Harford Line, LLC*, Finance Docket No. 36431 (filed concurrently).

the connection with the track of Conrail, between “LB” Junction and the switch of the Dunmore Secondary Track, a distance of 0.123 miles, and the Langcliff Connecting Track, between milepost 0.0, at Duryea, and the connection with the Delaware & Hudson (DH) in the middle of York Avenue, at milepost 0.867, a distance of 0.867 miles; (3) The West Pittston Running Track, between milepost 0.0, at West Pittston, and milepost 3.0, at Harding, a distance of 3.0 miles, and between milepost 186.4, at West Pittston, and milepost 194.4, in Kingston, a distance of 8.0 miles; (4) The Suscon Industrial Track, between milepost 154.5, at Suscon, and milepost 158.7, at Hillside, a distance of 4.2 miles; (5) The Wilkes-Barre Secondary, between milepost 169.2, at Ashley, and milepost 185.5, at Pittston, a distance of 16.3 miles; (6) Milepost 0.0, at Ashley, and milepost 2.0, at Hanover Industrial Track, a distance of 2.0 miles; (7) The Brownsville Industrial Track, between milepost 0.0, at Hillside, and milepost 1.0, at Brownsville, a distance of 1.0 miles; (8) The Wilkes Barre Industrial Track, between milepost 59.9, at Ferry Street, and milepost 62.9, at Wilkes Barre, a distance of 3.0 miles; (9) The Kingston Industrial track, between milepost 142.7, at Pittston Junction, and Railroad Station 8594+58, a distance of 8.1 miles; and (10) The DH Wilkes- Barre Connector, from milepost A-208.08, Hudson Yard, to Conyngham Avenue, City of Wilkes- Barre, a distance of 2.5 miles.

LS will also assume trackage rights from milepost 10+/- North side Montage Road Crossing on the Dunmore Secondary to the switch at Little Virginia, milepost 10.5 and from Little Virginia, milepost 3.7 to 100 feet East of Runaround switch, milepost 2.5 on the Brady Industrial Track; and trackage rights on the Minooka Industrial Track.

Upon effective date of this Notice, LS will become a carrier and replace LSX as operator of the Subject Lines.

In accordance with the requirements of 49 C.F.R. § 1150.32-1150.34, LS submits the following information:

Name and Address of Applicant: 49 C.F.R. §1150.33(a)

The full name and address of the Class III rail carrier applicant herein is as follows:

R. J. Corman Railroad Company/Luzerne & Susquehanna Line, LLC
101 R. J. Corman Drive
PO Box 788
Nicholasville, Kentucky 40356

Applicant's Representative: 49 C.F.R. §1150.33(b)

David R. Irvin
Catherine S. Wright
IRVIN RIGSBY PLC
110 N. Main St.
Nicholasville, Kentucky 40356
dirvin@irvinrigsby.com
cwright@irvinrigsby.com
(859) 724-4104

Statement Concerning Agreement: 49 C.F.R. §1150.33(c)

LS has reached an agreement in principle in which LS will assume the underlying July 16, 2002 Lease and Operating Agreement and an Extension Agreement, entered by LSX and LCRC on July 16, 2002 and October 1, 2009, respectively, (collectively, the "Lease") and operate the Line. The Extension Agreement extends the Lease and Operating Agreement through July 15, 2025. A final version of the consent to the assignment and assumption of the Lease is expected to be executed shortly.

Operator of the Property: 49 C.F.R. §1150.33(d)

LS will replace LSX as the operator of the Line. Upon LS's assumption of operations, LSX will have no further common carrier obligations on the Line. Additionally, LS will lease and operate the Line.

Summary of the Transaction: 49 C.F.R. §1150.43(e)

LS, a non-carrier, seeks to assume the lease obligations of LSX to LCRA to operate the Line (approximately 55.05 miles of rail line located in Luzerne and Lackawanna counties, PA). LSX has been operating the Line since 1994. *See Luzerne and Susquehanna Railway Company – Lease and Operation Exemption – Certain Lines of Luzerne County Rail Corporation, L&F Realty, Inc., and Pocono Northeast Railway, Inc.*, Finance Docket No. 32563 (ICC served Sept. 23, 1994); *Luzerne and Susquehanna Railway Company – Lease and Operation Exemption – Certain Lines of Luzerne County Rail Corporation, L&F Realty, Inc., and SLIBCO Utilities, Inc.*, Finance Docket No. 33338 (STB served Feb. 4, 1997). LS has reached an agreement in principle to assume the Lease entered by LSX and LCRA to operate the Line.

This transaction is part of a larger transaction in which R. J. Corman Railroad Company, LLC, through three, non-carrier, newly formed subsidiaries, R. J. Corman Railroad Company/Owego & Harford Line, LLC, R. J. Corman Railroad Company/Lehigh Line, LLC, and R. J. Corman Railroad Company/Luzerne & Susquehanna Line, LLC, have entered into an agreement to purchase material assets of Lehigh Railway, LLC, Luzerne and Susquehanna Railway Company and Owego & Harford Railway, Inc., each under ownership and control of Steven C. May, and continue providing freight rail service on the respective rail lines. *Steven C. May – Continuance in Control Exemption – Luzerne and Susquehanna Railway Co.*, Finance

Docket No. 32564 (ICC served Sept. 24, 1994); *Steven C. May – Continuance in Control Exemption – Lehigh Railway, LLC*, Finance Docket No. 35193 (STB served Nov. 14, 2008); *Steven C. May – Continuance in Control Exemption – Owego & Harford Railway, Inc.*, Finance Docket No. 32062 (ICC served May 15, 1992).

- (1) Name and Address of railroads transferring the subject property:

Luzerne and Susquehanna Railway Company
25 Delphine Street
Owego, NY 13827

Luzerne County Rail Corporation
16 Luzerne Ave, #210
West Pittston, PA 18643-2817

- (2) Proposed time schedule for consummation:

The transaction is expected to be consummated on or after the effective date of this Notice, which will be 30 days after filing of this Notice.

- (3) Mileposts of the subject property:

The Line consists of the following:

(1) The Dunmore Secondary Track, between milepost 6.5, at Avoca, and milepost 10, at Montage Road, a distance of 3.5 miles;

(2) The Avoca Industrial Track, between milepost 4, at Rock Street, and milepost 6.5, at Avoca, a distance of 2.5 miles, including the connection with the track of Conrail, between “LB” Junction and the switch of the Dunmore Secondary Track, a distance of 0.123 miles, and the Langcliff Connecting Track, between milepost 0.0, at Duryea, and the connection with the Delaware & Hudson (DH) in the middle of York Avenue, at milepost 0.867, a distance of 0.867 miles;

(3) The West Pittston Running Track, between milepost 0.0, at West Pittston, and milepost 3.0, at Harding, a distance of 3.0 miles, and between milepost 186.4, at West Pittston, and milepost 194.4, in Kingston, a distance of 8.0 miles;

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(8) The Wilkes Barre Industrial Track, between milepost 59.9, at Ferry Street, and milepost 62.9, at Wilkes Barre, a distance of 3.0 miles;

(9) The Kingston Industrial track, between milepost 142.7, at Pittston Junction, and Railroad Station 8594+58, a distance of 8.1 miles; and

(10) The DH Wilkes- Barre Connector, from milepost A-208.08, Hudson Yard, to Conyngham Avenue, City of Wilkes- Barre, a distance of 2.5 miles.

LS will also assume trackage rights from milepost 10+/- North side Montage Road Crossing on the Dunmore Secondary to the switch at Little Virginia, milepost 10.5 and from Little Virginia, milepost 3.7 to 100 feet East of Runaround switch, milepost 2.5 on the Brady Industrial Track; and trackage rights on the Minooka Industrial Track.

(4) Route Miles being leased:

The Line consists of 55.09 miles.

Map: 49 C.F.R. §1150.43(f)

A Map showing the Line is attached as Exhibit A to this Notice.

Certificate of Compliance: 49 C.F.R. §1150.33(g)

A Certificate of Compliance consistent with the provisions of 49 C.F.R. § 1150.33(g) stating that LS's projected annual revenues resulting from the transaction will not result in the creation of a Class I or II rail carrier is attached as Exhibit B to this Notice.

Interchange Commitments: 49 C.F.R. § 1150.33(h)(1)

LS hereby certifies that the Lease between LSX and LCRC, which is being assigned and assumed by LS, does not contain any provision or agreement that would limit future interchange with a third-party connecting carrier.

Shipper Notice: 49 C.F.R. § 1150.32(b)

LS hereby certifies that it has contemporaneously with this filing, furnished all known shippers on the Line with a copy of this Notice as reflected in the certificate of service attached as Exhibit C.

Advance Notice: 49 C.F.R. § 1150.32(e)

The projected annual revenue of LS will not exceed \$5 million, and accordingly the advance notice requirements of 49 C.F.R. § 1150.32(e) are not applicable to this transaction. *See* Exhibit B to this Notice.

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

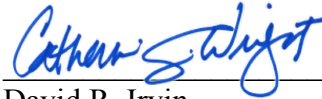
Pursuant to 49 C.F.R. § 1105.6(c)(1), the proposed transaction is excepted from environmental reporting requirements. The proposed transaction will not result in significant changes in carrier operations, i.e. changes that exceed the thresholds established in 49 C.F.R. § 1105.7(e)(4) or (5).

The proposed transaction also is excepted from historic preservation reporting requirements under 49 C.F.R. § 1105.8(b)(1). The proposed transaction is for the purpose of continued rail operations. Additional Board approval would be required to discontinue rail service or to abandon service. Moreover, there are no plans to dispose of or alter properties subject to Board jurisdiction that are 50 years old or older.

Caption Summary: 49 C.F.R. § 1150.34

A caption summary in an appropriate form is attached as Exhibit D to this Notice.

Respectfully submitted this 19th day of August 2020.



David R. Irvin
Catherine S. Wright
IRVIN RIGSBY PLC
110 N. Main St.
Nicholasville, Kentucky 40356
dirvin@irvinrigsby.com
cwright@irvinrigsby.com
(859) 724-4104
*Counsel for R. J. Corman Railroad
Company/Luzerne & Susquehanna Line,
LLC*

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 36429

**R. J. CORMAN RAILROAD COMPANY/LUZERNE & SUSQUEHANNA LINE, LLC –
CHANGE OPERATORS, LEASE AND OPERATION EXEMPTION –
LUZERNE AND SUSQUEHANNA RAILWAY COMPANY AND
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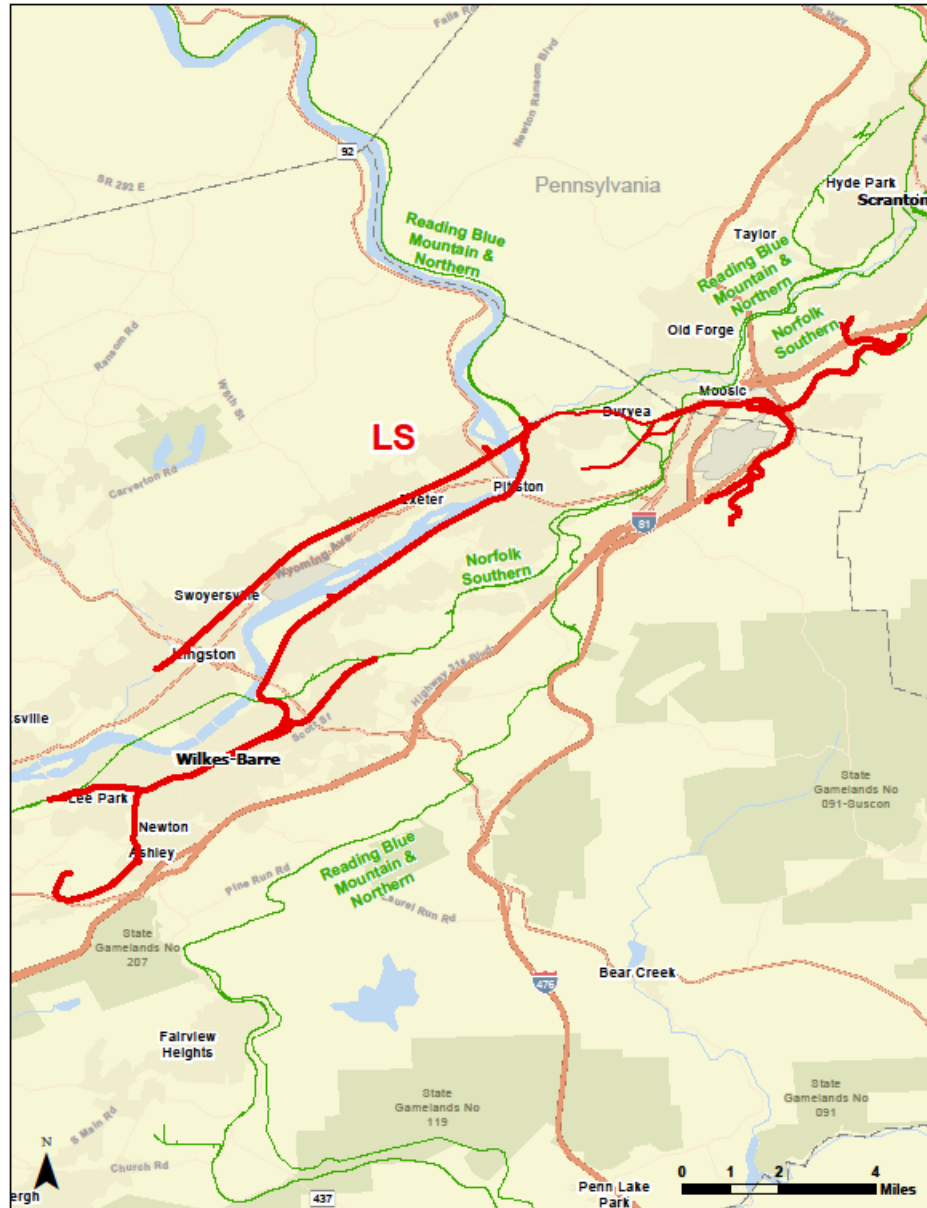
**VERIFIED NOTICE OF EXEMPTION
UNDER 49 C.F.R. § 1150.31 *et seq.***

EXHIBIT A

CONTAINS COLOR IMAGES

MAP

R. J. Corman Railroad Company/Luzerne & Susquehanna Line, LLC



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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EXHIBIT B

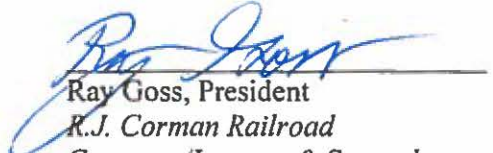
**R.J. CORMAN RAILROAD COMPANY/ LUZERNE & SUSQUEHANNA LINE, LLC
CERTIFICATION OF REVENUES 49 C.F.R. § 1150.33(g) and VERIFICATION**

CERTIFICATION AND VERIFICATION

I, Ray Goss, President of R. J. Corman Railroad Company/Luzerne & Susquehanna Line, LLC, hereby certify that LS's projected annual revenues will not as a consequence of the proposed transaction result in LS becoming a Class I or Class II rail carrier so as to require processing of the foregoing notice of exemption under 49 C.F.R. § 1150.35, and that LS's projected annual revenues will not exceed \$5,000,000.00.

Furthermore, pursuant to 28 U.S.C. 1746, I declare under penalty of perjury under the laws of the United States that the foregoing Notice of Exemption is true and correct to the best of my knowledge and belief. Further, I certify that I am qualified and authorized to file this pleading.

Executed on August 19, 2020.


Ray Goss, President
*R.J. Corman Railroad
Company/Luzerne & Susquehanna
Line, LLC*

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 36429

**R. J. CORMAN RAILROAD COMPANY/LUZERNE & SUSQUEHANNA LINE, LLC –
CHANGE OPERATORS, LEASE AND OPERATION EXEMPTION –
LUZERNE AND SUSQUEHANNA RAILWAY COMPANY AND
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**VERIFIED NOTICE OF EXEMPTION
UNDER 49 C.F.R. § 1150.31 *et seq.***

**EXHIBIT C
CERTIFICATE OF SERVICE FOR SHIPPERS**

CERTIFICATE OF SERVICE

The undersigned counsel hereby states that a copy of this Verified Notice of Exemption was served via regular U.S. mail on the following shippers on the Line on August 19, 2020:

Bridon American Corporation
280 New Commerce Blvd # C
Hanover, PA 18706

Modern Gas & Oil
PO Box 5001
Avoca, PA 18641

Letica Corporation
2 Commerce Road
Pittston, PA 18640

Safety-Kleen Systems
600 Stewart Rd,
Hanover, PA 18706

Lion Brewing
700 North Pennsylvania Ave.
Wilkes Barre PA 18705

Solomon Container Services
PO Box 1305
Wilkes Barre, PA 18703

Maui Cup
20 Commerce Rd
Pittston, PA 18640

Dupont Terminal
674 Suscon Rd
Pittston, PA 18640

Milazzo Industries, Inc.
1609 River Rd
Pittston, PA 18640

Lucknow Highspire Terminals
900 South Eisenhower Blvd.
Middletown, PA 17057



Catherine S. Wright
*Counsel for R. J. Corman Railroad
Company/Luzerne & Susquehanna Line,
LLC*

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**EXHIBIT D
CAPTION SUMMARY**

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

FD 36429

R. J. CORMAN RAILROAD COMPANY/LUZERNE & SUSQUEHANNA LINE, LLC – CHANGE OPERATORS, LEASE AND OPERATION EXEMPTION – LUZERNE AND SUSQUEHANNA RAILWAY COMPANY AND LUZERNE COUNTY RAIL CORPORATION

R. J. Corman Railroad Company/Luzerne & Susquehanna Line (“LS”),¹ a non-carrier, hereby files this Verified Notice of Exemption to permit LS to change operators and assume the lease and operations of approximately 55.09 miles of rail line, with additional trackage rights, located in Luzerne and Lackawanna counties, Pennsylvania (the “Line”). The Line is currently operated by Luzerne and Susquehanna Railway Company (“LSX”) pursuant to a lease and operating agreement with the Luzerne County Rail Corporation (“LCRC”), a political subdivision and nonoperating Class III rail carrier.

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Upon effective date of his Notice, LS will become a carrier and replace LSX as the Line's operator.

LS expects to consummate the proposed transactions on or shortly after the effective date of this Notice of Exemption.

Comments must be filed with the Board and served on Catherine S. Wright, Irvin Rigsby PLC, 110 North Main Street, Nicholasville, Kentucky 40356, (859) 724-4104.

This Notice is filed under 49 C.F.R. § 1150.31. If this 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.

Dated: _____, 2020

By the Board