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FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

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THOMAS J. HEALEY

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ENTERED
Office of Proceedings
September 25, 2020
Part of
Public Record

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SEPTEMBER 25, 2020

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20024

Re: **Finance Docket 36443**

**Illinois Central Railroad Company — Trackage Rights Exemption —
Terminal Railway Alabama State Docks**

Dear Ms. Brown:

Attached for filing is the **Verified Notice of Exemption of Illinois Central Railroad Company Pursuant to 49 C.F.R. § 1180.2(d)(7)**, dated September 25, 2020. Payment of the appropriate amount for this filing has been submitted through pay.gov.

If you have any questions regarding this filing, please feel free to contact me.
Thank you for your assistance on this matter.

Respectfully submitted,



Thomas J. Healey

FILED

September 25, 2020

**SURFACE
TRANSPORTATION BOARD**

**FEE RECEIVED
September 25, 2020
SURFACE**

TRANSPORTATION BOARD

Enclosure

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36443

ILLINOIS CENTRAL RAILROAD COMPANY
– TRACKAGE RIGHTS EXEMPTION –
TERMINAL RAILWAY ALABAMA STATE DOCKS

**VERIFIED NOTICE OF EXEMPTION OF
ILLINOIS CENTRAL RAILROAD COMPANY
PURSUANT TO 49 C.F.R. § 1180.2(d)(7)**

Michael J. Barron
Thomas J. Healey
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500

**ATTORNEYS FOR ILLINOIS CENTRAL
RAILROAD COMPANY**

Dated: September 25, 2020

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36443

ILLINOIS CENTRAL RAILROAD COMPANY
– TRACKAGE RIGHTS EXEMPTION –
TERMINAL RAILWAY ALABAMA STATE DOCKS

**VERIFIED NOTICE OF EXEMPTION OF
ILLINOIS CENTRAL RAILROAD COMPANY
PURSUANT TO 49 C.F.R. § 1180.2(d)(7)**

Illinois Central Railroad Company (“IC”), a common carrier by rail, hereby files this verified notice of exemption under 49 C.F.R. § 1180.2(d)(7) for its overhead trackage rights on the relocated Brookley Lead of the Terminal Railway Alabama State Docks of the Alabama State Port Authority (“TASD”), a distance of approximately 1.8 miles in Mobile, Alabama. The trackage rights preserve IC’s continued access to the Brookley Field Complex (the “Complex”), a mixed-use industrial park at the Mobile Downtown Airport,¹ and serve as a connection between IC’s trackage at the Complex and the remainder of IC’s rail system.

In accordance with the requirements of 49 C.F.R. § 1180.4(g), IC submits the following information:

Description of the Proposed Transaction: 49 C.F.R. § 1180.6(a)(1)(i)

IC is a Class I common carrier by rail which owns and operates approximately 2,550 miles of rail line in six Midwestern and southern states. IC’s principal route extends from Chicago, Illinois through Memphis, Tennessee to New Orleans, Louisiana. Secondary main lines

¹ The Complex is also known as the Mobile Aeroplex at Brookley. Mobile Downtown Airport was formerly a U.S. Air Force base known as Brookley Field.

reach to Springfield, Peoria and East St. Louis, Illinois; Baton Rouge, Louisiana; and Mobile, Alabama. IC is an indirect subsidiary of Canadian National Railway Company (“CNR”). *See Canadian Nat’l Ry. Co. – Control – Illinois Cent. Corp.*, 4 S.T.B. 122 (1999).²

TASD is a department of the Alabama State Port Authority and a Class III switching and terminal carrier which operates approximately 75 miles of trackage serving the Port of Mobile and the surrounding area.

Pursuant to a July 28, 2020 Trackage Rights Amendment between IC and TASD, amending a December 20, 1982 Operating Agreement between the parties, IC is obtaining overhead trackage rights on TASD’s relocated Brookley Lead extending from the connection with IC’s rail line at Frascati Interlocking near South Lawrence Street and Baker Street to the connection at South Broad Street with IC’s track into the Complex, a distance of approximately 1.8 miles in Mobile, Alabama.³ The trackage rights herein replace IC’s existing operating rights over TASD’s former Brookley Lead route, which TASD acquired as ancillary track from IC’s predecessor in 1982. As part of that 1982 transaction, IC’s predecessor retained contractual and property rights to operate on the transferred ancillary trackage to access the Complex. The 1982 agreement acknowledged that the Brookley Lead could be relocated in the future, so long as IC’s access to the Complex was preserved. TASD has now relocated the Brookley Lead trackage to accommodate development of an intermodal terminal and a local sewer project,⁴ and the parties have entered into the Trackage Rights Amendment to reflect that relocation.

² CNR’s U.S. rail subsidiaries, including IC, are held directly or indirectly by Grand Trunk Corporation (“GTC”), a wholly-owned, indirect subsidiary of CNR, and report to the Board on a consolidated Class I basis under the GTC name.

³ The Brookley Lead does not have mileposts.

⁴ Regardless of the regulatory status of the Brookley Lead as to TASD, TASD’s reconstruction and relocation of that trackage was not subject to the Board’s jurisdiction. *See, e.g., City of*

IC's predecessor did not seek trackage rights authority from the former Interstate Commerce Commission in 1982 for its operations over the Brookley Lead, apparently because of the ancillary nature of the trackage involved. But as the agency has more recently explained, "the focus is more properly on the use of the trackage under the terms of the transaction rather than on the character of the trackage itself," and it is "the tenant railroad's use [that is] the controlling factor in determining the character of the track as to the [tenant]." *Chicago Rail Link, L.L.C. – Lease & Oper. – Union Pacific R. Co.*, 2 S.T.B. 534, 540 (1997) (quotation and citation omitted), *aff'd sub nom. United Transp. Union-Ill. Legis. Bd. v. STB*, 169 F.3d 474 (7th Cir. 1999); *see also Brotherhood of Maint. of Way Employees v. Soo Line R. Co.*, 3 S.T.B. 1076, 1081 (1998) (applying "tenant use" test and finding that yard track was not exempt as to lessee). Here, IC will utilize the relocated Brookley Lead on an overhead basis to connect its mainline at Frascati Junction with IC's own ancillary trackage serving the Complex. Consistent with the guidance of *Chicago Rail Link* and *BMWE*, IC is filing this Notice to obtain an exemption for those trackage rights operations. The parties' agreement specifically contemplates that IC would seek STB authorization for IC's rights on the relocated Brookley Lead. Trackage Rights Amendment, § 6.⁵

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

Illinois Central Railroad Company
17641 South Ashland Avenue
Homewood, Illinois 60430
(708) 332-4381

Detroit v. Canadian National Ry. Co., 9 I.C.C.2d 1208 (1993), *aff'd sub nom. Detroit/Wayne County Port Authority v. ICC*, 59 F.3d 1314 (D.C. Cir. 1995).

⁵ The submission of this Notice does not change the ancillary nature of the Brookley Lead trackage as to TASD. The trackage traverses and is used to switch the Garrows Bend Intermodal Container Transfer Facility.

Any questions concerning this Notice should be sent to IC's representative at the following address:

Michael J. Barron
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208
(312) 252-1504

Proposed Time Schedule for Consummation: 49 C.F.R. § 1180.6(a)(1)(ii)

IC intends to consummate the exemption authority proposed in this Notice on or shortly after October 25, 2020.

Purpose Sought to Be Accomplished: 49 C.F.R. § 1180.6(a)(1)(iii)

The proposed trackage rights are intended to preserve IC's rights to access the Complex over TASD's relocated Brookley Lead. IC and TASD have agreed that IC would file for trackage rights authority on the relocated route.

States in Which Applicants' Property is Located: 49 C.F.R. § 1180.6(a)(5)

IC owns and operates over property in the States of Alabama, Illinois, Kentucky, Louisiana, Mississippi and Tennessee. TASD operates rail property in the State of Alabama.

Map: 49 C.F.R. § 1180.6(a)(6)

A map of the TASD track over which IC proposes to acquire trackage rights is attached hereto as Exhibit A.

Agreement: 49 C.F.R. § 1180.6(a)(7)(ii)

An executed copy of the Trackage Rights Amendment between IC and TASD dated July 28, 2020 and recorded on the same date with the Mobile County Probate Court is attached

hereto as Exhibit B. The original December 20, 1982 Operating Agreement between the parties is included as Exhibit B to the Trackage Rights Amendment.

Labor Protective Conditions: 49 C.F.R. § 1180.4(g)(1)(i)

As a condition to this exemption, IC agrees that the employee protective conditions established in *Norfolk and Western Ry. Co. – Trackage Rights – BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry. Inc. – Lease and Operate*, 360 I.C.C. 653 (1980) are applicable to this transaction.

Caption Summary: 49 C.F.R. § 1180.4(g)(2)(i)

A caption summary of this transaction suitable for publication in the *Federal Register* is attached hereto as Exhibit C.

Environmental and Historic Preservation Matters: 49 C.F.R. § 1180.4(g)(3)

Under 49 C.F.R. § 1105.6(c)(4), the proposed acquisition of trackage rights by IC is exempt from environmental reporting requirements. Under 49 C.F.R. § 1105.8(b)(3), IC's proposed trackage rights acquisition also is exempt from historic preservation reporting requirements.

Respectfully submitted,

By: Michael J. Barron/TJH

Michael J. Barron

Thomas J. Healey

Fletcher & Sippel LLC

29 North Wacker Drive

Suite 800

Chicago, Illinois 60606-2832

(312) 252-1500

**ATTORNEYS FOR ILLINOIS CENTRAL
RAILROAD COMPANY**

Dated: September 25, 2020

BEFORE THE
SURFACE TRANSPORTATION BOARD

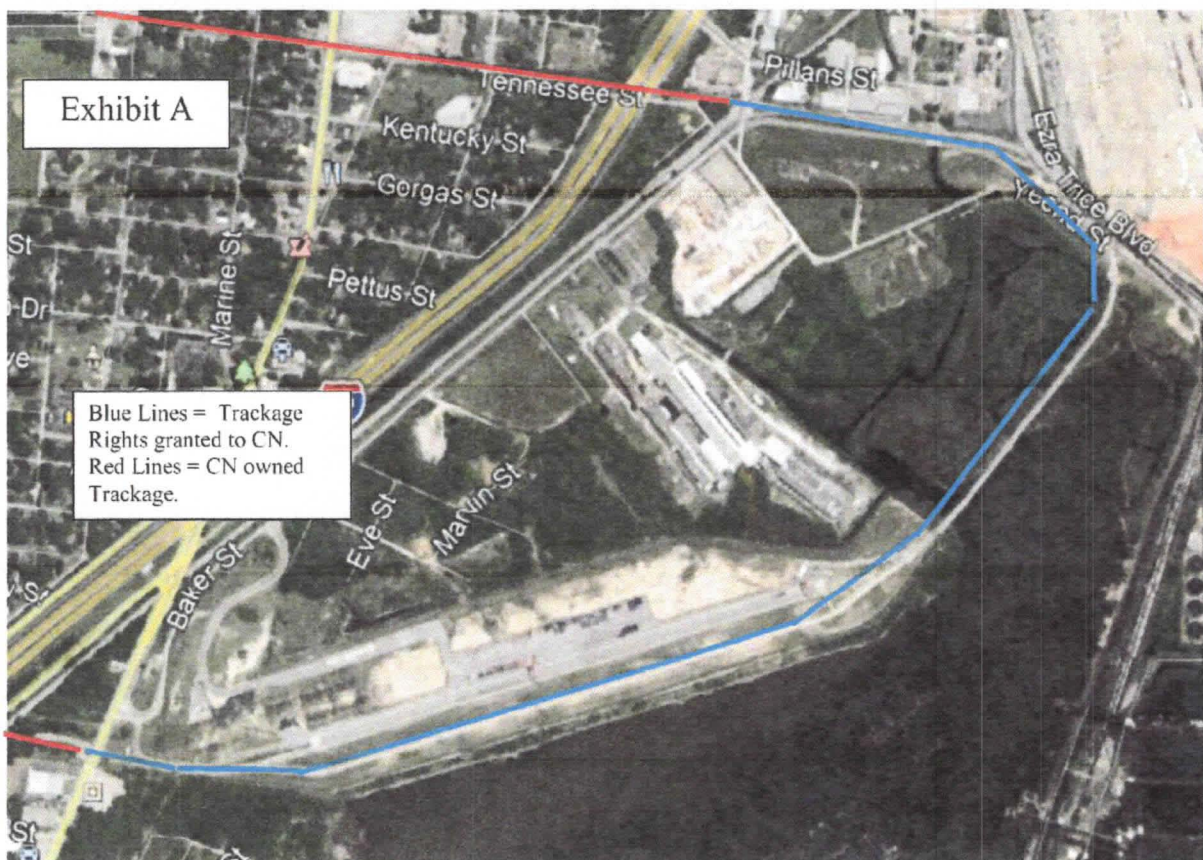
DOCKET NO. FD 36443

ILLINOIS CENTRAL RAILROAD COMPANY
-- TRACKAGE RIGHTS EXEMPTION --
TERMINAL RAILWAY ALABAMA STATE DOCKS

**VERIFIED NOTICE OF EXEMPTION OF
ILLINOIS CENTRAL RAILROAD COMPANY
PURSUANT TO 49 C.F.R. § 1180.2(d)(7)**

EXHIBIT A

MAP



BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36443

ILLINOIS CENTRAL RAILROAD COMPANY
-- TRACKAGE RIGHTS EXEMPTION --
TERMINAL RAILWAY ALABAMA STATE DOCKS

**VERIFIED NOTICE OF EXEMPTION OF
ILLINOIS CENTRAL RAILROAD COMPANY
PURSUANT TO 49 C.F.R. § 1180.2(d)(7)**

EXHIBIT B

**TRACKAGE RIGHTS AMENDMENT
DATED JULY 28, 2020**

TRACKAGE RIGHTS AM Clerk: JHANCOCK

THIS TRACKAGE RIGHTS AMENDMENT ("Amendment") made and entered into this 28 day of July 2020, by and between **ILLINOIS CENTRAL RAILROAD COMPANY ("IC")** and **ALABAMA STATE PORT AUTHORITY TERMINAL RAILWAY ("TASD")**. Each of TASD and IC shall individually be referred to as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, IC and TASD or their predecessors in interest entered into an Agreement dated December 20, 1982 ("Agreement") which provided, among other things, for the sale of the Brookley Lead to TASD and in Exhibit B of the Agreement the retained usage and the grant of rights for IC to continue to operate on the Brookley Lead to reach the Brookley Field Complex; and

WHEREAS, Exhibit B, Paragraph 5 of the Agreement expressly grants TASD the right to relocate the trackage upon which IC has rights after notice to IC, and TASD has provided such notice; and

WHEREAS, the Alabama State Port Authority ("ASPA") has developed a tract of land owned and operated by the ASPA for the transloading of intermodal containers from ocean vessels to railcars or trucks ("Intermodal Port"), and has relocated the trackage covered by the Agreement minus one small section.

WHEREAS, the Mobile Area Water and Sewer System ("MAWSS") is upgrading its infrastructure and requires permission to cross the original route granted by the Agreement as well as needing rights to cross the relocated route with an underground pipe system ("Project"); and

WHEREAS, TASD is amenable, on its own behalf and, to the extent necessary, on behalf of IC, to grant MAWSS permission to cross the original route and the relocated route, and, upon completion of the Project, TASD will install the trackage on the relocated route required to make a continuous relocated route for IC to reach Brookley Field Complex, subject to the terms and conditions hereinafter specified.

NOW, THEREFORE, for and in consideration of the foregoing Recitals, which are hereby incorporated into and made a part of this Amendment, and the covenants, obligations, and agreements hereafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties, intending to be lawfully bound, agree as follows:

1. To the extent necessary, TASD will act as IC's agent in negotiations and execution of the rights required for the Project with MAWSS. TASD will require MAWSS to comply with all applicable American Railway Engineering and Maintenance-of-

Way Association ("AREMA") standards and recommendations as an element of the grant of rights to MAWSS.

2. Promptly upon completion of the Project, TASD, at its sole cost and expense, will complete the track work required to close the gap left during the Project within ninety (90) days.
3. TASD hereby grants IC use of the relocated route to facilitate use of the rights granted in Exhibit B of the Agreement, after the gap in the track is completed, from the Frascati Interlocking to the connection switch to the Intermodal Port, then through the Intermodal Port to the ASPA edge of the Broad Street crossing where IC track ownership resumes, as more fully described in Exhibit A which is attached hereto and made a part hereof.
4. IC accepts TASD grant of use of the relocated route as described above and shown in Exhibit A to access IC's Brookley Field Complex and in exchange, upon completion by TASD of the work described in Section 2 hereof and acceptance of said work by IC, IC will vacate its trackage rights as described in Section 1 of Exhibit B of the Agreement.
5. In the event the gap of approximately 100 feet is not completed on the relocated route contemplated herein and MAWSS is required to encase or complete other work as required under AREMA standards to protect the Project under the original route such encasement or other associated work shall be at TASD's sole cost and expense.
6. IC, at TASD's sole cost and expense, will initiate and thereafter diligently prosecute an action to obtain approval, authority, or exemption from the Surface Transportation Board for the rights described herein. TASD will assist and support efforts of IC to obtain any such required approval, authority or exemption.
7. To the extent that a provision or provisions of the Agreement are in conflict with a provision or provisions of this Amendment, the provision or provisions of this Amendment shall take precedence and control. Capitalized terms, not otherwise defined herein, shall have the same meanings ascribed to them in the Agreement. Except as modified by this Amendment, the remaining terms, covenants, provisions, and conditions of the Agreement shall remain in full force and effect.

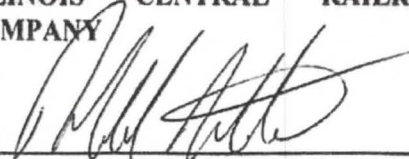
******Signature Page Follows******

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed in duplicate as of the day and year first hereinabove written.

WITNESS

B. J. Mattem

ILLINOIS CENTRAL RAILROAD
COMPANY

By: 

Michael Matteucci

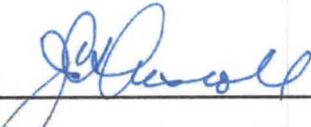
Title: Region Director Contracts &
Administration

Date: 7-6-20

WITNESS

John C. Driscoll

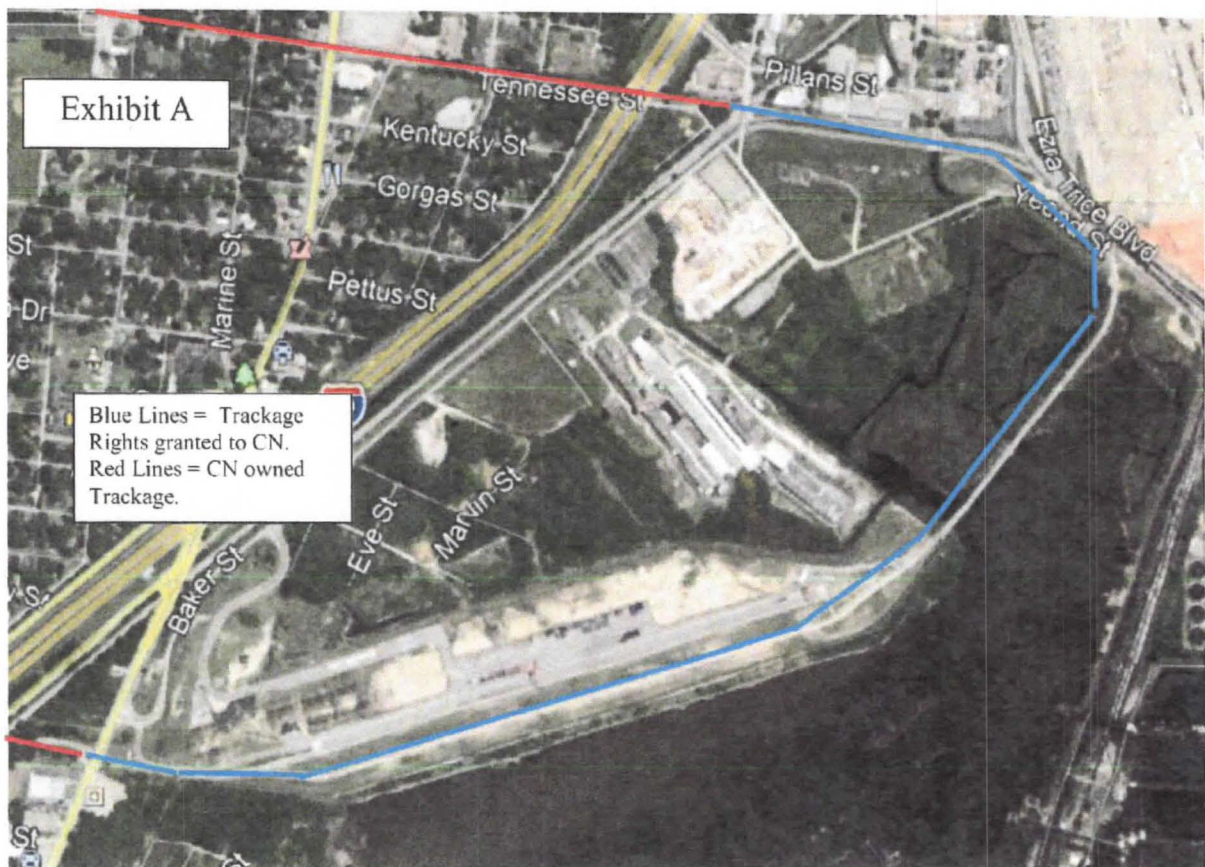
ALABAMA STATE PORT AUTHORITY
TERMINAL RAILWAY (TASD)

By: 

Printed Name: John C. Driscoll

Title: Director and Chief Executive Officer

Date: 7/28/2020



**CN/IC - ASPA (ASDD) TRACKAGE
RIGHTS RELOCATION EX. B**

STATE OF ALABAMA)

COUNTY OF MOBILE)

KNOW ALL MEN BY THESE PRESENTS that ILLINOIS CENTRAL GULF RAILROAD COMPANY, a Delaware Corporation, the Grantor, for and in consideration of the sum of [REDACTED] to it in hand paid by the STATE OF ALABAMA (acting through the Alabama State Docks Department), the Grantee, receipt of which is hereby acknowledged, the said Grantor does hereby remise, release, quit claim and convey unto said Grantee, its successors and assigns, all its right, title, interest and claim in and to the following described equipment and land situated in the County of Mobile and State of Alabama to wit:

All its tracks, equipment and appurtenances thereto, together with all easements and right-of-way in connection with said tracks, which said tracks begin at a point where the same come off of the L&N Railroad Track on the westerly side of Baker Street in the vicinity of National Street extended and run in a southwesterly direction to a point on the easterly line of Washington Avenue, Mobile, Alabama, all trackage as shown in green and all right-of-way as shown in red on the plat attached hereto, marked Exhibit AA and made a part hereof; the 30 foot easement for said trackage along the westerly line of Lot 1 and Lot 32, Block 7, Oakdale Subdivision, according to a plat recorded in Deed Book 156 N.S., page 461 of the Probate Court Records of Mobile County, Alabama; all right, title and interest in any streets over which any of said tracks run; all easements and rights-of-way of every nature and description located in what is known as the Monroe Park property in Tract 1 of the Mandeville Tract. It being the intention of the Grantor to convey and it does hereby remise, release, quit claim and convey unto the Grantee all said trackage shown in green on said Exhibit AA attached hereto, together with all appurtenances in connection therewith, all easements and rights-of-way used in connection with said tracks and all easements and rights-of-way of every nature and description in which the Grantor may have any interest lying eastward of said trackage line on said Exhibit AA attached hereto, with the exception of the Gulf Bond Industry lead track.

TO HAVE AND TO HOLD the same unto the said STATE OF ALABAMA, its successors and assigns forever.

GRANTOR reserves the right to interchange railroad cars with Grantee at Grantee's South Mobile Terminal Complex at such time when Grantee has constructed facilities adequate to accommodate such interchange and at Grantee's published tariff charge for services involved. Grantor also reserves the right to operate over the trackage hereby conveyed to the Grantee in accordance with the terms of the operating agreement between the parties hereto of even date, a copy of which operating agreement is attached hereto, marked Exhibit B and made a part of this conveyance.

GRANTOR reserves for itself, its successors and assigns all coal, oil, gas, ores and any other minerals whether similar or dissimilar or now known to exist or hereafter discovered of every kind in, on or under said premises, together with the right at any time to explore, drill for, mine, remove and market all such products in any manner which will not damage structures on the surface of said premises. Grantee will release for itself, its successors or assigns the Grantors, its successors or assigns from any liability for any damages attributable to removing said minerals and this release shall run with the land. . . .

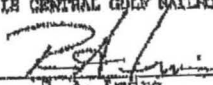
GRANTOR reserves the right for the continued maintenance, replacement and use of all existing conduits, sewers, water mains, gas lines, electric power lines, wires and other utilities and easements on said premises whether or not of record including the repair, reconstruction and replacement thereof and Grantee agrees not to interfere with the rights herein reserved or any facilities used pursuant thereto.

As a part of the consideration hereof, and in accepting this conveyance, the Grantee agrees and binds itself to purchase, affix and cancel any and all documentary stamps of every kind and nature in the amount prescribed by statute, and to pay any and all required transfer taxes and fees incidental to recordation of this instrument.

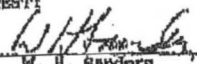
IN WITNESS WHEREOF, ILLINOIS CENTRAL GULF RAILROAD COMPANY, the Grantor, has caused these presents to be signed by its Vice President, and its corporate seal, duly attested by its Assistant Secretary to be hereunto affixed, they being thereunto duly authorized this 20th day of December, 1982.

ILLINOIS CENTRAL GULF RAILROAD COMPANY

By


H. A. Irvine
Vice President

ATTEST:

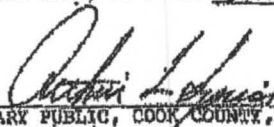

W. H. Sanders
Assistant Secretary

STATE OF ILLINOIS)

COUNTY OF COOK)

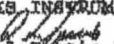
I, the undersigned, a Notary Public in and for said County in said State, hereby certify that R. A. Irvine and W. H. Sanders whose names as Vice President and Assistant Secretary, respectively, of ILLINOIS CENTRAL GULF RAILROAD COMPANY, a corporation, are signed to the foregoing conveyance, and who are known to me, acknowledged before me on this date, that being informed of the contents of the conveyance, they, as such officers and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and Notarial Seal, this the 10TH day of DECEMBER, 1981.


NOTARY PUBLIC, COOK COUNTY, ILLINOIS

My Commission Expires: FEBRUARY 25, 1985

THIS INSTRUMENT PREPARED BY:


Real Estate Department
ILLINOIS CENTRAL GULF RAILROAD COMPANY
233 North Michigan Avenue
Chicago, Illinois 60601

The Grantee's name and latest mailing address is as follows:

State of Alabama, acting through the
Alabama State Docks Department,
P. O. Box 1588
Mobile, Alabama 36601

ICG-13137

EXHIBIT "B"

Operating Agreement

This Agreement made and entered into this 20th day of December, 1982, by and between TERMINAL RAILWAY ALABAMA STATE DOCKS, hereinafter referred to as "TASD", and ILLINOIS CENTRAL GULF RAILROAD COMPANY, hereinafter referred to as "ICG".

W I T N E S S E T H :

WHEREAS, TASD has purchased from the ICG a certain track, commonly referred to as the Brookley Lead Track, in Mobile, Alabama as set forth in red on Exhibit A attached hereto and made a part hereof (said track hereinafter referred to as "Lead Track").

WHEREAS, as a condition of the sale of Lead Track, ICG reserved an easement for its continued use and operation over Lead Track.

WHEREAS, Lead Track is to be used only by TASD and ICG.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein it is agreed as follows:

1. Trackage Rights. TASD does hereby grant to ICG the right to operate in either direction ICG's trains and work equipment in common with TASD over and across Lead Track.

I. C. G. R. R. CO. - ORIGINAL

ADD
Mobile

2. Compensation. ICG shall pay to TASD as compensation for the use and maintenance of the Lead Track ~~XXXXXXXXXX~~ ~~XXXXXXXXXX~~ for each loaded car and each locomotive unit moved in either direction by ICG over Lead Track physically described as beginning on the west side of Baker Street as the track departs from the L&N right-of-way and proceeding in an easterly thence southerly direction a distance of 4,050 feet to the Washington Avenue crossing, but terminating on the east side of Washington Avenue.

The per loaded car rate shall be subject to adjustment on each anniversary date of this Agreement. Should either party desire to adjust the per loaded car rate ~~XXXXXXXXXX~~ provided for in this Section 2, the party desiring such adjustment shall serve written notice of such intention upon the other party thirty (30) days prior to the anniversary date of this Agreement, and thereupon the parties shall proceed to increase or decrease the said rate, and the new rate as thus determined shall be effective as of the following anniversary date of this Agreement and shall be adjusted in the following manner:

The Indexes of Railroad Material Prices and Wage Rates (1977 = 100), issued by the Economics and Finance Department, Association of American Railroads, Series RCR, shall be used in determinating the percentage of increase or decrease. In making the determination, the Index of Material Prices, Wage Rates and Supplements Combined (excluding fuel) for the Southern District shall be used and said final Index for the year 1982 shall be taken as the base. The rate shall be increased or decreased in the ratio that the Index for the year

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immediately preceding such year in which adjustment is to be made bears to the base year index. The first allowable adjustment in the rate will be effective 1983.

Example of computation:

[REDACTED]

Subsequent increases or decreases would involve the same calculations to arrive at a percentage change which would again be applied to the original rate [REDACTED] to produce new loaded car charge.

In the event the base for the indexes issued by the Association of American Railroads shall be changed from the year 1977, appropriate revisions shall be made in the base year. If the Association of American Railroads or any successor organization discontinues said index, an appropriate substitute for determining in a similar manner the percentage of increase or decrease shall be agreed upon by the parties hereto.

3. Maintenance. TASD shall maintain Lead Track in a condition comparable to the condition of the track at the date first above written and which will safely and satisfactorily accommodate the trains, cars, locomotives and work equipment to be operated thereover by Railroad. If TASD shall fail, in ICG's opinion, to maintain Lead Track in a condition comparable to the condition of the Lead Track at the time of this agreement

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ICG may, after thirty (30) days notice to TASD, perform maintenance work necessary to bring Lead Track to this standard. However, in no event shall ICG be obligated to perform any maintenance work on Lead Track. All work done by ICG under this Section shall be deemed action of TASD for purposes of Section 7 herein. TASD shall reimburse ICG promptly upon receipt of an invoice for any such costs incurred by ICG, which such cost shall include ICG's standard additives in effect at such time.

4. Additions, Betterments and Alterations. TASD may, at its sole cost, make such changes, additions and/or betterments to Lead Track. However, TASD shall notify ICG prior to commencement of any such change, addition or betterment. In no event shall any change, addition or betterment restrict or interfere with ICG's use of Lead Track.

5. Relocation. TASD may relocate all or a portion of Lead Track for the purpose of industrial development or any reasonable purpose for the benefit of TASD, provided that prior to such relocation or removal of any portion of Lead Track TASD must notify ICG 90 days prior to the commencement of relocation work. ICG shall be guaranteed the same rights and privileges of operation over said relocated Lead Track as set forth herein. In no event shall such relocation disrupt, interfere with or delay the movement of any ICG train. All

and
Randy

expenses attributable to such relocation shall be borne by T ASD. Such expenses shall include, but not be limited to, cost incurred by ICG for construction of any connecting track or any additional construction necessary to enable ICG to operate over Lead Track. T ASD shall reimburse ICG promptly upon receipt of an invoice for any such costs incurred by it, including ICG's standard additives in effect at such time promptly upon receipt of an invoice from ICG.

6. Operation. ICG, in the use of Lead Track, shall use personnel fully qualified to operate over such facilities and conversant with and subject to all applicable rules, regulations and instructions of T ASD and to the orders of its train dispatchers, yardmasters and supervisory personnel. Each party shall be responsible for the clearing of its own derailments on the Lead Track, and the expense associated therewith shall be assumed by the parties hereto in accordance with the provisions of Section 7 hereof.

Each party hereto shall comply with the provisions of the Federal Safety Appliance Act, all amendments thereto and any other laws, regulations or rules state or federal, respecting the condition and inspection of safety of its locomotives, cars and work equipment during the period that such party's locomotives, cars or work equipment are used and operated over Lead Track.

Am
Randy

Operation over Lead Track shall be limited to the trains, locomotives, cars and work equipment of the parties hereto; however, Lead Track shall not be used for storage of cars or loading or unloading purposes. In no event shall any third party operate over Lead Track without the prior written approval of both T&SD and ICG.

7. Liability.

A. Whenever the trains, locomotives, cars or work equipment (including crews) of one party hereto are involved in a derailment or an accident without the trains, locomotives, cars or work equipment of the other party being involved, the party whose trains, locomotives, cars or work equipment are involved shall be separately and individually liable for and shall indemnify and save harmless the other party from all expenses and liability for loss of and damage to property of any kind and/or injury including death to persons (including employees of the parties hereto) except when caused by the sole negligence of the other party.

B. In the event of a collision between the trains, locomotives, cars or work equipment operated by one party hereto and the trains, locomotives, cars or work equipment operated by the other party, each party hereto shall assume responsibility for the loss of or damage to the trains, locomotives, cars or work equipment operated by it (including lading) and

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injury (including death) to its employees on or about such trains, locomotives, cars or work equipment regardless of the cause or causes of such collision. Injury (including death) to all other parties, not employees of the parties hereto, and loss of or damage to all other property (including the Lead Track and the clearing of the right-of-way) shall be shared equally by the parties.

C. Neither party hereto shall have any claim or right of action against the other party hereto for any liability, loss or damage incurred or sustained by reason of any delays suffered by any of its locomotives, trains, cars, work equipment or its traffic upon Lead Track except when caused by the sole negligence or willful conduct of the other party.

D. In the event any suit is brought against either party hereto for which the other party is solely or jointly liable, pursuant to provisions set forth herein, the party against whom such suit is brought shall within thirty (30) days of the service of summons give the other party notice thereof in writing and, thereupon the other party shall assume or join in defense of such suit and shall pay all or a portion of the expense assumed by it under the liability provisions of this Agreement, including attorneys' fees, cost and expense incurred in defending such suit, as well as all judgments that may be rendered. It being understood that if such other party is solely liable under the liability provisions herein such party

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shall bear all cost and expense as set forth herein.

E. Each party hereto agrees to indemnify, protect and save harmless the other party hereto from any and all fines, penalties and liabilities imposed upon it under any laws, rules and regulations of any public authority or by any court having jurisdiction in the premises when attributable solely to the failure of that party to comply with its obligations in this regard.

8. Payment of Bill. ICG shall furnish to TASD, within ten days from the end of each month a statement of the number of loaded cars and engines moved over Lead Track during such month. TASD shall then process a bill covering the payments called for. ICG shall make payment promptly upon receipt of bill therefor.

If any dispute should arise as to any statement rendered, either party hereto shall have the right to examine the records of the other party in order to verify this statement. Errors or disputed items in such bill shall not be deemed a valid excuse for delaying payment, but shall be subject to subsequent adjustment; provided, no exception to any bill shall be honored, recognized or considered if filed after expiration of two years on the last day of the calendar month during which the bill is rendered and no bill shall be rendered later than two years after the last day of the calendar month in which the expense covered

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thereby is incurred.

9. Term. The term of this Agreement shall continue in full force and effect until ICG terminates this Agreement upon sixty (60) days prior written notice to TASD.

10. Assigns. Terms of this Agreement shall be binding upon the parties hereto, their successors and assigns and shall run with the land.

11. Notice. Any notice to be given hereunder by any party to the other shall be in writing and deemed properly served and deposited in the United States Mail, postage paid, addressed to the parties as follows:

TASD at: Terminal Railway Alabama State Docks
P. O. Box 1588
Mobile, Alabama 36633
Attention: R. M. Hope, Director

ICG at: Illinois Central Gulf Railroad Company
233 North Michigan Avenue
Chicago, Illinois 60601
Attention: Vice President - Energy Management
and Operations Administration

IN WITNESS WHEREOF, the State of Alabama acting by and through its duly constituted agency, Alabama State Docks Department, on behalf of the Terminal Railway Alabama State Docks and Illinois Central Gulf Railroad Company have caused these presents to be executed by the respective operating

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officer thereunto duly authorized and the seals of the
corporation involved shall be affixed thereto, signed
this 20th day of December, 1962.

TERMINAL RAILWAY ALABAMA STATE DOCKS

By

R. M. Hope

ATTEST:

George P. ...
My Commission
Expires 2/21/83

ILLINOIS CENTRAL GULF RAILROAD COMPANY

By

W. D. ...

Vice President Energy Management
& Operations Administration

ATTEST:

J. K. ...
Assistant Secretary

and
Bm/s

APPROVED AS TO FORM	
Materials Management	<u>[Signature]</u>
Engineering	<u>[Signature]</u>
Accounting	<u>[Signature]</u>
Law	<u>[Signature]</u>
Law	<u>[Signature]</u>

SM 1-13-93

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36443

ILLINOIS CENTRAL RAILROAD COMPANY
-- TRACKAGE RIGHTS EXEMPTION --
TERMINAL RAILWAY ALABAMA STATE DOCKS

**VERIFIED NOTICE OF EXEMPTION OF
ILLINOIS CENTRAL RAILROAD COMPANY
PURSUANT TO 49 C.F.R. § 1180.2(d)(7)**

EXHIBIT C

CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

DOCKET NO. FD 36443

ILLINOIS CENTRAL RAILROAD COMPANY
-- TRACKAGE RIGHTS EXEMPTION --
TERMINAL RAILWAY ALABAMA STATE DOCKS

Terminal Railway Alabama State Docks ("TASD") has agreed to grant overhead trackage rights to Illinois Central Railroad Company ("IC") on TASD's relocated Brookley Lead extending from the connection with IC's rail line at Frascati Interlocking near South Lawrence Street and Baker Street to the connection at South Broad Street with IC's track into the Brookley Field Complex (Mobile Aeroplex at Brookley), a distance of approximately 1.8 miles in Mobile, Alabama.¹ The trackage rights will become effective on or after October 25, 2020.

This Notice is filed under 49 C.F.R. § 1180.2(d)(7). 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

Director, Office of Proceedings

¹ The Brookley Lead does not have mileposts.

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36443

ILLINOIS CENTRAL RAILROAD COMPANY
-- TRACKAGE RIGHTS EXEMPTION --
TERMINAL RAILWAY ALABAMA STATE DOCKS

**VERIFIED NOTICE OF EXEMPTION OF
ILLINOIS CENTRAL RAILROAD COMPANY
PURSUANT TO 49 C.F.R. § 1180.2(d)(7)**

VERIFICATION

VERIFICATION

I, Michael A. Matteucci, Region Director, Contracts and Administration for Illinois Central Railroad Company, declare under penalty of perjury that I have read the foregoing Notice of Exemption, that I know the facts asserted therein, and that the same are true as stated. Further, I certify that I am qualified to and authorized to provide this verification on behalf of Illinois Central Railroad Company.

Executed this 24th day of September, 2020.

A handwritten signature in blue ink, appearing to read 'Michael A. Matteucci', written over a horizontal line.

Michael A. Matteucci