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SERVICE DATE – MAY 27, 2021

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36490]

OmniTRAX Holdings Combined, Inc., and HGS Railway Holdings, Inc.—Control
Exemption—Savannah Industrial Transportation, LLC

OmniTRAX Holdings Combined, Inc. (OmniTRAX), and HGS Railway Holdings, Inc. (HGS) (collectively, Applicants), both noncarriers, filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(2) to control Savannah Industrial Transportation, LLC (SIT), a noncarrier currently controlled by OmniTRAX, once SIT is authorized to commence common carrier operations.

This notice of exemption is related to a concurrently filed petition for exemption in Savannah Industrial Transportation, LLC—Operation Exemption—in Effingham County, Ga., Docket No. FD 36489. In that proceeding, SIT seeks an exemption under 49 U.S.C. § 10502(a) to commence common carrier operations on certain trackage that it leased from the track owner, Savannah Industrial Logistics, LLC, another noncarrier holding of OmniTRAX.¹ If that petition is approved, SIT will operate as a common carrier over certain trackage in Rincon, Effingham County, Ga., extending from a connection with Norfolk Southern Railway Company (NSR) near NSR milepost 16.6 to a

¹ According to the verified notice, while SIT is currently controlled solely by OmniTRAX, if SIT's petition to commence common carrier operations in Docket No. FD 36489 is granted, OmniTRAX and HGS seek to control SIT jointly. (Notice 4.)

connection with CSX Transportation, Inc. (CSXT), near CSXT milepost S484.0, a distance of approximately 11,404 feet.

Applicants state that they will control SIT upon SIT's becoming a Class III rail carrier. According to Applicants, OmniTRAX and HGS are under joint managerial and operational control.² Applicants state that OmniTRAX currently controls 20 Class III railroads and HGS currently controls two Class III railroads.³ The properties of the rail carriers controlled by OmniTRAX and HGS are located in the following states:

Alabama, California, Colorado, Florida, Georgia, Illinois, Kansas, Maryland, Nebraska, New Jersey, Ohio, Oklahoma, Texas, Virginia, Washington, and West Virginia.

Applicants certify that the proposed transaction does not involve an interchange commitment.

Applicants state that: (1) the line over which SIT seeks authority to operate does not connect with the lines of any of the existing rail carriers controlled by OmniTRAX or by HGS, (2) the proposed transaction is not part of a series of anticipated transactions that would connect the line with any other railroads in the OmniTRAX or HGS corporate families; and (3) the transaction does not involve a Class I rail carrier. Therefore, the

² See OmniTRAX Holdings Combined, Inc.—Control Exemption—The Winchester & W. R.R., FD 36338 (STB served Aug. 22, 2019).

³ Specifically, OmniTRAX currently controls: Alabama & Tennessee River Railway, LLC; Brownsville & Rio Grande International Railway, LLC; Central Texas & Colorado River Railway, LLC; Chicago Rail Link, L.L.C.; Cleveland & Cuyahoga Railway, LLC; Fulton County Railway, LLC; Georgia & Florida Railway, LLC; Georgia Woodlands Railroad, L.L.C.; Great Western Railway of Colorado, L.L.C.; Illinois Railway, LLC; Kettle Falls International Railway, LLC; Manufacturers' Junction Railway, L.L.C.; Nebraska, Kansas & Colorado Railway, LLC; Newburgh & South Shore Railroad, LLC; Northern Ohio & Western Railway, L.L.C.; Panhandle Northern Railroad, L.L.C.; Peru Industrial Railroad, LLC; Sand Springs Railway Company; Stockton Terminal and Eastern Railroad; and Winchester & Western Railroad Company. HGS currently controls HGS-ATN, LLC and HGS-FCR, LLC.

proposed transaction is exempt from the prior approval requirements of 49 U.S.C.

§ 11323. See 49 C.F.R. § 1180.2(d)(2).

The earliest this transaction may be consummated is June 10, 2021, the effective date of the exemption (30 days after the verified notice was filed). The verified notice states that the parties do not intend to consummate the transaction until such time as SIT consummates the transaction that is the subject of its petition for exemption in Docket No. FD 36489.

Under 49 U.S.C. § 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. However, 49 U.S.C. § 11326(c) does not provide for labor protection for transactions under 49 U.S.C. §§ 11324 and 11325 that involve only Class III rail carriers.

Accordingly, the Board may not impose labor protective conditions here because all the carriers involved are Class III carriers.

If the verified 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 effectiveness of the exemption. Petitions to stay must be filed no later than June 3, 2021 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No FD 36490, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on Applicants' representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606-2832.

According to Applicants, this action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c) and from historic preservation reporting requirements under 49 C.F.R. § 1105.8(b).

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

Decided: May 24, 2021.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.