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July 16, 2021
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FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208

Phone: (312) 252-1500
Fax: (312) 252-2400
www.fletcher-sippel.com

THOMAS J. HEALEY
(312) 252-1505
thealey@fletcher-sippel.com

July 16, 2021

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 20006

Re: **Docket No. FD 36528**
South Point & Ohio Railroad, LLC — Operation Exemption —
Lawrence Economic Development Corporation

Dear Ms. Brown:

Enclosed for filing in the above-captioned proceeding is the **Verified Notice of Exemption of South Point & Ohio Railroad, LLC Pursuant to 49 C.F.R. § 1150.31**, and a **Motion for Protective Order**, both dated July 16, 2021. Public (redacted) and confidential (unredacted) versions of the governing lease agreement have been filed separately. Payment of the appropriate filing fee was made through www.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,

FEE RECEIVED
July 16, 2021
SURFACE
TRANSPORTATION BOARD

Thomas J. Healey
Thomas J. Healey
Attorney for South Point & Ohio Railroad, LLC

FILED
July 16, 2021
SURFACE
TRANSPORTATION BOARD

TJH:th

Enclosure

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36528

SOUTH POINT & OHIO RAILROAD, LLC
— OPERATION EXEMPTION —
LAWRENCE ECONOMIC DEVELOPMENT CORPORATION

**VERIFIED NOTICE OF EXEMPTION OF
SOUTH POINT & OHIO RAILROAD, LLC
PURSUANT TO 49 C.F.R. § 1150.31**

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

**ATTORNEYS FOR SOUTH POINT
& OHIO RAILROAD, LLC**

Dated: July 16, 2021

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36528

SOUTH POINT & OHIO RAILROAD, LLC
— OPERATION EXEMPTION —
LAWRENCE ECONOMIC DEVELOPMENT CORPORATION

**VERIFIED NOTICE OF EXEMPTION OF
SOUTH POINT & OHIO RAILROAD, LLC
PURSUANT TO 49 C.F.R. § 1150.31**

Pursuant to 49 C.F.R. § 1150.31, South Point & Ohio Railroad, LLC (“SPOR”), a non-carrier, hereby files this Verified Notice of Exemption (the “Notice”) to operate as a common carrier over approximately 1,277 feet of track located in South Point, Ohio (the “Line”). The Line, which has no mileposts, is currently owned and operated by Lawrence Economic Development Corporation (“LEDC”), an Ohio nonprofit corporation established pursuant to Ohio Code 1702.04, *et al.*, also a non-carrier entity. Based upon projected annual revenues, SPOR expects to be a Class III rail carrier following consummation of the transaction proposed herein.

In accordance with the requirements of 49 C.F.R. § 1150.33, SPOR submits the following information:

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

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

South Point & Ohio Railroad, LLC
2201 N. Willenborg St.
Suite #2
Effingham, IL 62401

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

SPOR's representative to whom correspondence regarding this transaction should be sent is as follows:

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

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

SPOR and LEDC have entered into a Lease, Development and Marketing Services Agreement (the "Agreement") pursuant to which SPOR will provide common carrier rail service on the Line, and will operate as needed over connecting ancillary track, all of which is located within an LEDC-owned industrial park. The Agreement would be effectuated upon the effective date of the subject exemption, and upon the satisfaction of several other conditions precedent as set forth in the Agreement. SPOR's obligation to provide common carrier rail service is anticipated to commence on or after August 15, 2021.

Pursuant to *Anthony Macrie – Continuance in Control Exemption – New Jersey Seashore Lines, Inc.*, FD 35296 (STB served Aug. 31, 2010) at 3, SPOR is filing redacted (public) and unredacted (confidential) versions of the Agreement establishing the lease of the Line as separately filed exhibits to this Notice. The confidential version of the Agreement is filed under seal subject to a simultaneously-filed motion for issuance of a protective order pursuant to 49 C.F.R. § 1104.14(b).

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

SPOR will operate and provide rail common carrier service to shippers accessed from the Line. SPOR is a wholly-owned subsidiary of Agracel Rail Holdings, LLC, a holding company that – (i) currently does not control any other railroad common carrier; (ii) is not commonly controlled with any other railroad common carrier; and (iii) is not controlled by any railroad common carrier.

Summary of the Transaction: 49 C.F.R. § 1150.33(e)

SPOR and LEDC have entered into the aforementioned Agreement, pursuant to which SPOR will provide common carrier rail service on the Line, and will operate as needed over connecting ancillary track, all of which is located within an LEDC-owned industrial park. The Line, which has no mileposts, consist of approximately 1,277 feet of track located in South Point, Ohio, extending from a point of connection with the Kenova District main line of Norfolk Southern Railway Company (“NSR”) northward, as is depicted in the map supplied as Exhibit B. Under the terms of the Agreement, and subject to the exemption procedures that SPOR has invoked here, SPOR and LEDC agree that SPOR will commence common carrier operations over the LEDC-owned Line, where no such service had previously been offered. Interchange will be effected through a direct connection between the Line and the adjacent NSR main line.

The complete name and address of the owner of the Line is as follows:

Lawrence Economic Development Corporation
216 Collins Avenue
South Point, Ohio 45680

SPOR intends to consummate its operation on the Line on or after August 15, 2021.

Map: 49 C.F.R. § 1150.33(f)

A map showing the Line and the surrounding ancillary tracks is attached as Exhibit B to this Notice.

Certificate of Class III Status: 49 C.F.R. § 1150.33(g)

Certification in accordance with the provisions of 49 C.F.R. § 1150.33(g) (establishing that SPOR would qualify as a Class III carrier) is attached as Exhibit C.

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

The proposed transaction does not involve—and the Agreement between SPOR and LEDC does not include—any provision, restriction or agreement that would limit future interchange with a third-party connecting carrier.

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

SPOR's projected annual revenue is not expected to exceed \$5 million, and, accordingly, the advance notice requirements of 49 C.F.R. § 1150.32(e) are inapplicable to this transaction. See Certification attached as Exhibit C.

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

Under 49 C.F.R. § 1105.6(c)(1)(i), SPOR's proposed operations on the Line is exempt from environmental reporting requirements. The proposed transaction will not result in significant changes in operations within the LEDC-owned facilities, i.e., changes that exceed the thresholds established in 49 C.F.R. § 1105.7(e)(4) or (5).

Under 49 C.F.R. § 1105.8(b)(1), SPOR's proposed operation of the Line also is exempt from historic preservation reporting requirements. The proposed transaction is for the purpose of restored rail service. Separate Surface Transportation Board approval would be

required to discontinue any service and there are no plans to dispose of or alter properties subject to Board jurisdiction that are fifty years old or older.

Caption Summary: 49 C.F.R. § 1150.34

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

Respectfully submitted,

Thomas J. Healey

Thomas J. Healey

Robert A. Wimbish

Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606
(312) 252-1500

**ATTORNEYS FOR SOUTH POINT
& OHIO RAILROAD, LLC**

Dated: July 16, 2021

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36528

SOUTH POINT & OHIO RAILROAD, LLC
— OPERATION EXEMPTION —
LAWRENCE ECONOMIC DEVELOPMENT CORPORATION

EXHIBIT A

**LEASE, DEVELOPMENT AND
MARKETING SERVICES AGREEMENT**

**PUBLIC (REDACTED) AND CONFIDENTIAL
EXHIBITS – FILED SEPARATELY**

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36528

SOUTH POINT & OHIO RAILROAD, LLC
— OPERATION EXEMPTION —
LAWRENCE ECONOMIC DEVELOPMENT CORPORATION

EXHIBIT B

MAP

South Point & Ohio Railroad, LLC - Main Line Track

Legend

Approximately
1,277 feet

Connection to
Norfolk Southern



BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36528

SOUTH POINT & OHIO RAILROAD, LLC
— OPERATION EXEMPTION —
LAWRENCE ECONOMIC DEVELOPMENT CORPORATION

EXHIBIT C

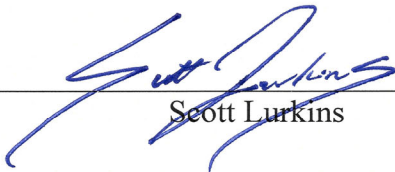
CERTIFICATION AND VERIFICATION

CERTIFICATION AND VERIFICATION

I, Scott Lurkins, the President of Agracel Rail Holdings, LLC, which is the owner of South Point & Ohio Railroad, LLC ("SPOR"), under penalty of perjury, certify and verify as follows:

1. I am authorized to provide the present certification and verification on behalf of SPOR.
2. I certify that SPOR's annual rail revenues are not expected to exceed \$5 million, and that the transaction that is the subject of this exemption proceeding will not result in SPOR becoming Class I or II rail carrier under the thresholds set forth at 49 C.F.R. § 1201(11).
3. I verify that I have read the foregoing Notice of Exemption and know that the facts stated herein are true.

Dated: July 16, 2021



Scott Lurkins

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36528

SOUTH POINT & OHIO RAILROAD, LLC
— OPERATION EXEMPTION —
LAWRENCE ECONOMIC DEVELOPMENT CORPORATION

EXHIBIT D

CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

DOCKET NO. FD 36528

SOUTH POINT & OHIO RAILROAD, LLC
— OPERATION EXEMPTION —
LAWRENCE ECONOMIC DEVELOPMENT CORPORATION

South Point & Ohio Railroad, LLC (“SPOR”), a non-carrier, has filed a Verified Notice of Exemption to operate approximately 1,277 feet of track located in South Point, Ohio. The Line, which currently exists as unregulated private track, is owned by the Lawrence Economic Development Corporation, a non-carrier.

SPOR expects to consummate the subject transaction and commence operations on the Line on or after August 15, 2021.

Comments must be filed with the Board and served on:

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

This 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.

Dated: July __, 2021

By the Board

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings