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ENTERED
Office of Proceedings
September 3, 2021
Part of
Public Record

(202) 663-7831 (Direct Dial)

September 3, 2021

Via E-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: Ohio Rail Development Commission – Acquisition and Operation Exemption –
City of Jackson, FD 36537

Dear Ms. Brown:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of a Verified Notice of Exemption under 49 C.F.R. § 1150.31 filed on behalf of the Ohio Rail Development Commission. If there are any questions concerning this e-filing, please contact me by telephone at (202) 663-7831 or by e-mail at czorbaugh@bakerandmiller.com. Pursuant to 49 C.F.R. § 1002.2(f)(11)(ii), the \$2,200.00 filing fee has been paid via Pay.gov. If I am unavailable, you may contact William A. Mullins, by telephone at (202) 663-7823 or by e-mail at wmullins@bakerandmiller.com.

Sincerely,

/s/ Crystal M. Zorbaugh

Crystal M. Zorbaugh
Special Counsel for Ohio Rail Development
Commission

FILED
September 3, 2021
SURFACE TRANSPORTATION
BOARD

cc: Matt Dietrich

FEE RECEIVED
September 3, 2021
SURFACE TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

FD 36537

**OHIO RAIL DEVELOPMENT COMMISSION
– ACQUISITION AND OPERATION EXEMPTION –
CITY OF JACKSON**

VERIFIED NOTICE OF EXEMPTION

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Tel: (614) 466-8146**

**Dave Yost
ATTORNEY GENERAL OF OHIO**

**Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., NW
Suite 300
Washington, DC 20037
Tel: (202) 663-7820
Fax: (202) 663-7849**

Dated: September 3, 2021

**Special Counsel for Ohio Rail Development
Commission**

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

FD 36537

**OHIO RAIL DEVELOPMENT COMMISSION
– ACQUISITION AND OPERATION EXEMPTION–
CITY OF JACKSON**

VERIFIED NOTICE OF EXEMPTION

Pursuant to 49 C.F.R. §1150.31, et. seq., Ohio Rail Development Commission (“ORDC”), a non-carrier,¹ hereby files this Verified Notice of Exemption (“Notice”) to acquire ownership of and operating rights² over approximately 60.36 miles of main line currently owned and operated by the City of Jackson (“City”) extending between Hamden, OH (MP 0.00/127.0)

¹ ORDC, a state entity, owns another line of rail line it acquired from Conrail. The rail line formerly known as the Glass Rock Branch, includes the Fultonham Running Track from milepost 0.0 to milepost 3.1 (Glass Rock-East) and Z&W Industrial Track from milepost 45.8 to milepost 57.5 (Glass Rock-West). In 2020, the Board correctly found that the acquisition of the Glass Rock Branch by ORDC’s predecessor (Ohio Rail Transportation Authority) under section 308(e)(3)(A) of NERSA did not require agency authorization. See Del. Otsego Corp.—Exemption from 49 U.S.C. 10762(c)(3), 10901, 11343, FD 29867, slip op. at 3 (I.C.C. served Apr. 15, 1982) (finding that parties that consummate a sale under section 308(e) of NERSA need not file for authority to acquire and/or operate the line under 49 U.S.C. § 10901). In addition, when ORTA, a state entity, purchased the Line under section 308(e)(3)(A) of NERSA, it acquired a line “approved for abandonment” that had not been “fully abandoned.” See Common Carrier Status of States, 363 I.C.C. at 135. As such, in 2020, the Board found that properly found that ORDC was not a STB regulated entity. See Ohio Rail Dev. Commission – Petition for Declaratory Order, FD 36387, slip op at 6 (S.T.B. Served Dec. 22, 2020)

² ORDC is acquiring operating rights and will hold the residual common carrier for the rail lines, which are currently operated by Indiana Eastern Railroad, LLC d/b/a Ohio South Central Railroad. See Ind. E. R.R., LLC, d/b/a Ohio S. Cent. R.R.— Change in Operators Exemption – Rail Lines of the City of Jackson, Ohio, in Jackson, Vinton, and Ross Counties, Ohio, FD 35758, slip op at 1 (S.T.B. served Sept. 6, 2013)

and Firebrick (MP 32.76);³ between West Junction, OH (MP 112.3) and Hamden, OH (MP 127.0);⁴ between Hamden, OH (MP 127.71) and Red Diamond, OH (MP 136.71);⁵ and between RA Junction (MP 91.6) and West Junction, OH (MP 95.5 at West Junction, which is also known as milepost 112.3)⁶ (the “Lines”) and the following spurs off of the Hamden-Firebrick portion of the mainline:⁷ Buckeye Branch, Meadow Run Branch, Huron Branch (East), Huron Branch (West) and Pyro Spur, all of which is located in Jackson, Vinton, Ross and Lawrence Counties in Ohio. The Lines are currently operated by Indiana Eastern Railroad, LLC d/b/a Ohio South Central Railroad. ORDC is also acquiring incidental trackage rights over 5.9 miles of former B&O/C&O rail lines (currently owned by CSX Transportation, Inc.) for interchange purposes from RA Junction (milepost 91.6) to RA Junction (milepost 85.7) near Vauces, OH.

³ Acquired in 1987 in City of Jackson, OH – Acquisition – Balt. and Ohio R.R. Co. and Chesapeake and Ohio Ry. Co., FD 31020, slip op at 1 (I.C.C. served Apr. 24, 1987) (“1987 Acquisition”).

⁴ Acquired in 1987 Acquisition.

⁵ The City of Jackson acquired 9.0 miles of line between milepost 127.71 (near Hamden, OH), and milepost 136.71 (at a point known as Red Diamond, OH) following abandonment by CSX Transportation of the rail line in CSX Transp., Inc. – Abandonment and Discontinuance of Trackage Rights – In Vinton and Jackson Counties, OH, AB 55 (Sub-No. 221X), slip op at 1 (I.C.C. served Nov. 8, 1988 as supplemented by decision served Dec. 18, 1990). See also The Ind. & Ohio E. R.R., Inc., Modified Rail Certificate, FD 31803, slip op at 1 (I.C.C. served Jan. 18, 1991).

⁶ Acquired in 1987 Acquisition.

⁷ While ORDC is acquiring the entirety of the City of Jackson’s ownership interest in the mainline track. ORDC is only acquiring certain 10906 spur and ancillary tracks currently owned by the City of Jackson. The 10906 spur and ancillary tracks being acquired include the Buckeye Branch (an approx. 0.8-mile spur at MP 2.6; the Meadow Run Branch (an approx. 1.3-mile spur at MP 4.4), the Huron Branch (East) (an approx. 1.0-mile spur at MP 13.1), the Huron Branch (West) (an approx. 4.8-mile spur at MP 13.4), and the Pyro Spur (a 1.1.-mile spur at MP 23.6)

REQUIRED INFORMATION

In support of this Notice, ORDC submits the following information as required by 49 C.F.R. § 1150.31, et. seq.:

(a) **Full name and Address of Applicant: 49 C.F.R. § 1150.33(a)**

Ohio Rail Development Commission
1980 West Broad Street, Mail Stop #3140
Columbus, Ohio 43223

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

Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., NW, Suite 300
Washington, DC 20037
Tel: (202) 663-7820
Fax: (202) 663-7849

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

ORDC has reached an agreement with the City to acquire and operate the Lines upon the effective date established by the Board ("Agreement"). The City passed Ordinance No. 32-19 to transfer the Lines to ORDC and ORDC passed Resolution 19-08 acceptance conveyance of the Lines from the City of Jackson.

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

An operator for the City, Indiana Eastern Railroad, LLC d/b/a Ohio South Central Railroad, currently provides common carrier rail service to the Lines. Upon this class exemption notice becoming effective and the closing of the transaction, ORDC will become a Board-authorized common carrier and hold a residual common carrier obligation for the Lines. Indiana Eastern Railroad, LLC d/b/a Ohio South Central Railroad will continue to provide operations over the Lines.

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

ORDC, a non-carrier, is filing this Notice to acquire and operate the Lines from the City.

- (1) Name and address of railroad transferring the subject property:

City of Jackson
145 Broadway Street
Jackson, Ohio 45640

- (2) Proposed time schedule for consummation:

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

- (3) Mileposts of the subject property:

The (10901) portion of the property includes:

Mainline Segments	Start MP	End MP
Hamden-Firebrick	0 (Hamden)	32.76 (near Firebrick)
West Junction-Hamden	112.3	127.0
Hamden-Red Diamond	127.71 (near Hamden)	136.71 (Red Diamond)
RA Junction-West Junction	91.6 (at RA Junction)	95.5 (at West Junction also known as milepost 112.3)

The property also includes 10906 spurs between the following endpoints on the Hamden-Firebrick Mainline Segment:

Name	Track Type	MP Location on Hamden-Firebrick Line	Mile Post	Length (miles)
Buckeye Branch	Spur	At MP 2.6	MP 0.0 – MP 0.8	~0.8 miles
Meadow Run Branch	Spur	At MP 4.4	MP 0.0 – MP 1.3	1.3 miles
Huron Branch (East)	Spur	At MP 13.1	MP 0.0 – MP 1.0	~1.0 mile
Huron Branch (West)	Spur	At MP 13.4	MP 0.0 – MP 4.8	4.8 miles
Pyro Spur	Spur	At MP 23.6	MP 0.0 – MP 1.1	1.1 miles

ORDC is also acquiring incidental trackage rights over 5.9 miles of former B&O/C&O rail lines (currently owned by CSX Transportation, Inc.) for interchange purposes from RA Junction (milepost 91.6) to RA Junction (milepost 85.7) near Vauces, OH.

(4) Route miles being acquired:

The Lines being acquired by ORDC, excluding the 10906 spurs, total approximately 60.36 miles.

(f) **Map: 49 C.F.R. § 1150.33(f)**

A map of the Lines being acquired is attached as Exhibit A.

(g) **Certification of Revenues: 49 C.F.R. § 1150.33(g)**

ORDC hereby certifies that its projected annual revenues resulting from the transaction will not exceed those that would qualify it as a Class III carrier. See certification attached as Exhibit B.

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

The proposed transaction does not involve, and the purchase agreement does not include any interchange commitments.

ENVIRONMENTAL AND HISTORIC IMPACTS

Under 49 C.F.R. § 1105.6(c)(2), the proposed transaction is exempt from environmental reporting requirements because 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).

Also, under 49 C.F.R. § 1105.8(b)(1), the proposed transaction is exempt from historic preservation reporting requirements. The proposed transaction is for the purpose of continued rail operations. Further Board approval would be required for ORDC to abandon service. There are

no plans to dispose of or alter properties subject to Board jurisdiction that is fifty years old or older.

CAPTION SUMMARY

A caption summary in the appropriate form (49 C.F.R. § 1150.34) is attached as Exhibit C to this Notice.

Respectfully submitted,

/s/ Crystal M. Zorbaugh

**Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., NW
Suite 300
Washington, DC 20037
Tel: (202) 663-7820
Fax: (202) 663-7849**

Dated: September 3, 2021

**Special Counsel for Ohio Rail Development
Commission**

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

FD 36537

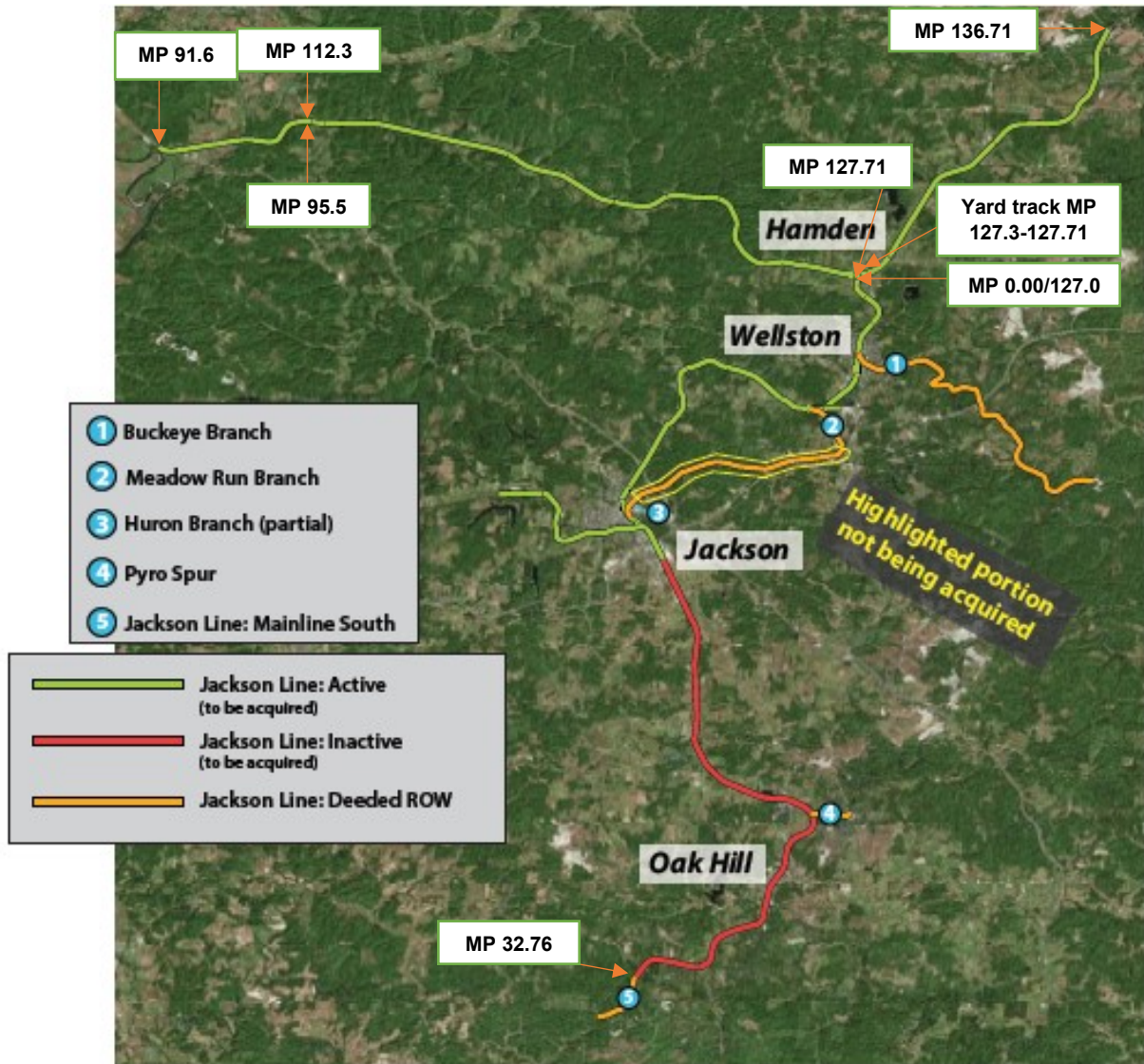
**OHIO RAIL DEVELOPMENT COMMISSION
– ACQUISITION AND OPERATION EXEMPTION –
CITY OF JACKSON**

VERIFIED NOTICE OF EXEMPTION

EXHIBIT A

MAP

Ohio Rail Development Commission – Acquisition and Operation Exemption –
City of Jackson, FD 36537



**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

FD 36537

**OHIO RAIL DEVELOPMENT COMMISSION
– ACQUISITION AND OPERATION EXEMPTION–
CITY OF JACKSON**

VERIFIED NOTICE OF EXEMPTION

EXHIBIT B

**OHIO RAIL DEVELOPMENT COMMISSION
CERTIFICATION OF REVENUES 49 C.F.R. § 1150.33(g)**

CERTIFICATION OF REVENUES

State of Ohio)
County of Franklin) SS:

I, Matthew Dietrich, Executive Director of Ohio Rail Development Commission (“ORDC”), hereby certify that the projected annual rail revenues of ORDC will not as a consequence of the transaction result in ORDC becoming a Class II or Class I rail carrier so as to require processing the foregoing notice of exemption under 49 C.F.R. § 1150.45.

Executed this 2nd day of September 2021

Mike Deane

Matthew Dietrich, Executive Director
Ohio Rail Development Commission

**BEFORE THE
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WASHINGTON, DC**

FD 36537

**OHIO RAIL DEVELOPMENT COMMISSION
– ACQUISITION AND OPERATION EXEMPTION –
CITY OF JACKSON**

VERIFIED NOTICE OF EXEMPTION

EXHIBIT C

CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

FD 36537

**OHIO RAIL DEVELOPMENT COMMISSION
– ACQUISITION AND OPERATION EXEMPTION –
CITY OF JACKSON**

Ohio Rail Development Commission (“ORDC”), non-carrier, has filed a verified notice of exemption to acquire and operate approximately 60.36 miles of mainline currently owned and operated by the City of Jackson (“City”) extending between Hamden, OH (MP 0) and Firebrick, (MP 32.76); between West Junction, OH (MP 112.3) and Hamden, OH (MP 127.0); between Hamden, OH (MP 127.71) and Red Diamond, OH (MP 136.71); and between RA Junction (MP 91.6) and West Junction, OH (MP 95.5 at West Junction, which is also known as milepost 112.3) (the “Lines”) and the following spurs off of the Hamden-Firebrick portion of the mainline: Buckeye Branch, Meadow Run Branch, Huron Branch (East), Huron Branch (West) and Pyro Spur.⁸ ORDC is also acquiring incidental trackage rights over 5.9 miles of former B&O/C&O rail lines (currently owned by CSX Transportation, Inc.) for interchange purposes from RA Junction (milepost 91.6) to RA Junction (milepost 85.7) near Vauces, OH.

An operator for the City, Indiana Eastern Railroad, LLC d/b/a Ohio South Central Railroad, currently provides common carrier rail service to the Lines. Upon this class exemption notice becoming effective and the closing of the transaction, ORDC will become a Board-

⁸ The 10906 spur and ancillary tracks being acquired include the Buckeye Branch (an approx. 0.8-mile spur at MP 2.6; the Meadow Run Branch (an approx. 1.3-mile spur at MP 4.4), the Huron Branch (East) (an approx. 1.0-mile spur at MP 13.1), the Huron Branch (West) (an approx. 4.8-mile spur at MP 13.4), and the Pyro Spur (an 1.1.-mile spur at MP 23.6)

authorized common carrier and hold a residual common carrier obligation for the Lines. Indiana Eastern Railroad, LLC d/b/a Ohio South Central Railroad will continue to provide operations over the Lines.

ORDC expects to consummate this transaction and commence operation of the Lines on or after the effective date of this Notice of Exemption. Comments must be filed with the Board and served on ORDC's representative: Crystal M. Zorbaugh, Baker & Miller PLLC, 2401 Pennsylvania Ave., NW, Suite 300, Washington, DC 20037, (202) 663-7820. This notice is filed under 49 C.F.R. § 1150.31, et. seq. If the notice contains false or misleading information, the exemption is void ab initio. The filing of a petition to revoke will not automatically stay the transaction.

Decided: _____

By the Board

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

FD 36537

**OHIO RAIL DEVELOPMENT COMMISSION
– ACQUISITION AND OPERATION EXEMPTION –
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VERIFIED NOTICE OF EXEMPTION

VERIFICATION

Pursuant to 28 U.S.C. 1746, I, Matthew Dietrich, Executive Director of Ohio Rail Development Commission (“ORDC”), declare under the penalty of perjury under the laws of the United States that I am authorized to make this verification on behalf of ORDC and the foregoing verified notice of exemption is true and correct to the best of my knowledge and belief.

Executed this 2nd day of September 2021



Matthew Dietrich, Executive Director
Ohio Rail Development Commission