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November 30, 2021
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November 30, 2021

VIA E-FILING
49 C.F.R. §1150.42(e) WAIVER REQUESTED

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

Re: STB Docket No. FD 36558
Savannah Port Terminal Railroad, Inc.
- Acquisition and Operation Exemption -
Georgia Ports Authority

Dear Ms. Brown:

Enclosed for e-filing on behalf of Savannah Port Terminal Railroad, Inc. is a Notice of Exemption being filed in accordance with 49 CFR 1150.43. Included within this Notice of Exemption is a request for waiver of the notice requirements of 49 C.F.R. §1150.42(e).

The filing fee was paid using Pay.gov. Please let me know if there are any questions regarding this filing.

FEE RECEIVED
November 30, 2021
SURFACE
TRANSPORTATION BOARD

Sincerely,

A handwritten signature in blue ink that reads 'Justin J. Marks'.

Justin J. Marks
Counsel for Savannah Port Terminal Railroad Inc.

Enclosure

FILED
November 30, 2021
SURFACE
TRANSPORTATION BOARD

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 36558

SAVANNAH PORT TERMINAL RAILROAD, INC.
– ACQUISITION AND OPERATION EXEMPTION –
GEORGIA PORTS AUTHORITY

VERIFIED NOTICE OF EXEMPTION
UNDER 49 U.S.C. §10902

(includes color images)

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*Attorneys for Savannah Port Terminal
Railroad Inc.*

Dated: November 30, 2021

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 36558

SAVANNAH PORT TERMINAL RAILROAD, INC.
– ACQUISITION AND OPERATION EXEMPTION –
GEORGIA PORTS AUTHORITY

VERIFIED NOTICE OF EXEMPTION
UNDER 49 U.S.C. §10902

Savannah Port Terminal Railroad, Inc. (“SAPT”), a Class III railroad, files this Notice of Exemption under 49 U.S.C. § 10902 to exempt from regulation SAPT’s entry into an Operating Agreement (“Operating Agreement”) with Georgia Ports Authority (“GPA”) to replace a 1998 easement agreement between SAPT and GPA for SAPT to acquire rights to, and to operate approximately 1 mile of common carrier track within the GPA facility known as the Garden City Terminal (“GCT”) (“the Rail Line”), as a common carrier. Under the Operating Agreement, SAPT will also acquire rights to operate an additional approximately 34 miles of track within the GCT and GPA’s new Mason Mega-rail Terminal (“MMRT”) as non-jurisdictional yard and side tracks. The Rail Line does not have mileposts. A map of the Rail Line is included as Exhibit A.

SAPT currently holds common carrier authority to operate the Rail Line within the GCT through a 1998 agreement with GPA.¹ SAPT also has rights through other agreements to utilize

¹ *Savannah Port Terminal Railroad, Inc. – Acquisition and Operation Exemption – Georgia Ports Authority and Savannah State Docks Railroad*, STB Finance Docket No. 33613 (served July 1, 1998).

GPA's James D. Mason Intermodal Container Transfer Facility ("Mason ICTF") and its Chatham Yard Intermodal Container Transfer Facility ("Chatham ICTF") as non-jurisdictional yard and side tracks.

GPA is relocating and reconfiguring existing yard tracks, adding connecting tracks and making related improvements at its Mason ICTF and Chatham ICTF. Upon completion of this work, the Chatham ICTF and Mason ICTF will be replaced by the MMRT. (The tracks comprising the MMRT are shown on Exhibit A.) Once the MMRT reaches substantial completion, the current agreements governing SAPT's common carriage rail and yard services at GCT and operation of the yard and side tracks at the Mason ICTF and the Chatham ICTF will terminate to be replaced and superseded by the Operating Agreement. When the Operating Agreement becomes effective, SAPT will hold common carrier authority to operate the Rail Line at GCT and to utilize tracks at GCT and MMRT as yard and side tracks.

Notice

In accordance with 49 C.F.R. §1150.43, SAPT hereby provides the following information:

- (a) The full name and address of Applicant: Savannah Port Terminal Railroad, Inc.
13901 Sutton Park Drive South, Suite 270 Jacksonville, FL 32224.

- (b) Applicant's Representatives:

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- (c) SAPT has entered into an Operating Agreement with GPA for SAPT to acquire the right to operate the line of railroad at the GCT as a common carrier, and the other tracks at the GCT and the tracks at the MMRT as yard and side tracks. Under the terms of the Operating Agreement, it will be effective upon substantial completion of the MMRT.
- (d) SAPT currently operates the Rail Line as a common carrier and other portions of the GCT and the Mason ICTF and the Chatham ICTF as a non-common carrier operator.
- (e) Brief Summary of the Proposed Transaction: SAPT has entered into the Operating Agreement with GPA to replace the current agreements that allow for SAPT to conduct common carrier rail operations on the Rail Line within the GCT, and other portions of the GCT and the Mason ICTF and the Chatham ICTF as non-jurisdictional yard and side tracks. SAPT will also obtain rights to operate yard and side tracks at the MMRT.

The MMRT is a GPA project to relocate and reconfigure existing yard tracks, to add connecting tracks and to make related improvements at its Mason ICTF and Chatham ICTF to expand the capacity and efficiency of the yards. Upon completion of this work, GPA will replace the Chatham ICTF and Mason ICTF with the MMRT. Once the MMRT reaches substantial completion, the current agreements governing SAPT's common carriage rail and yard services at GCT and use of the Mason ICTF and the Chatham ICTF as yard and side tracks will terminate to be replaced and superseded by

the Operating Agreement.

- (1) The owner of the tracks – GPA – is not a railroad; it is a public corporation and instrumentality of the State of Georgia that owns the GCT and MMRT. The name and address of the owner of the tracks is the Georgia Ports Authority, 2 Main Street Garden City, Georgia 31408.
- (2) The Operating Agreement will be effective upon the effective date of this Notice of Exemption, thirty days after filing (or upon the grant of the requested labor notice waiver) and upon substantial completion of the MMRT (anticipated to be on or about January 1, 2022).
- (3) The Rail Line does not have mileposts.
- (4) The total distance of the Rail Line is approximately 1 mile of common carrier track. The Operating Agreement also covers the operation of another 34 miles of non-jurisdictional yard and side tracks within the GCT and the MMRT.
- (f) Attached as Exhibit A to this Notice of Exemption is a map of the Rail Line, as well as the non-jurisdictional yard and side tracks covered by the Operating Agreement.
- (g) SAPT certifies that its projected revenues as a result of the transaction will not exceed those that would qualify it as a Class III carrier.
- (h) SAPT certifies that the Operating Agreement does not include an interchange commitment.
- (i) In addition to the information set forth above, SAPT certifies that its revenues currently exceed \$5,000,000. However, no employees will be affected by the transaction because SAPT is the current operator and has been the operator since 1998. SAPT is therefore requesting a waiver of the labor notice requirements under 49 C.F.R.

§1150.42(e). *See* request for waiver set forth below.

Labor Protection

SAPT is a Class III carrier, and pursuant to 49 U.S.C. §10902(d), approval of this transaction may not be subjected to labor protection conditions. Additionally, since SAPT is the current operator of the Rail Line, there will be no employees adversely affected by the transaction.

Environmental and Historic Reports

This transaction is for continued rail operations that will not result in operational changes that will exceed the thresholds established in 49 C.F.R. §1105.7(e)(4) or (5). Further Board approval is required for SAPT to abandon or discontinue service on the Rail Line. Because SAPT does not own the Rail Line, it will have no authority to dispose of or alter properties subject to the Board's jurisdiction that are 50 years old or older. Accordingly, no environmental or historic documentation is required. *See* 49 C.F.R. §1105.6(c)(2); 49 C.F.R. §1105.8(b)(1).

Caption Summary

Attached hereto as Exhibit B is the caption summary required by 49 C.F.R. §1150.44.

Request for Waiver of Notice Requirements of 49 C.F.R. §1150.42(e)

As noted above, SAPT's total revenues exceed \$5,000,000. Under the Board's regulations at 49 C.F.R. §1150.42(e), SAPT would be required to give sixty days' notice to employees working on the Rail Line (and the national offices of their collective bargaining representatives). However, the Board has held: "The purpose of 49 CFR 1150.42(e) is to ensure that rail labor unions and employees who would be affected by the transfer of a line are given sufficient notice of the transaction before consummation." *Louisiana & Delta Railroad, Inc. – Lease Amendment and Operation Exemption – Union Pacific Railroad Company*, STB Finance

Docket No. 36379, slip op. at 2 (served Mar. 4, 2020). *See also Acquisition of Leased Lines under 49 USC 10901 and 10902 – Advance Notice of Proposed Transactions* (“*Advanced Notice of Proposed Transactions*”), 2 STB 592 (1997). In adopting the notice requirement, the Board specifically recognized that “exceptional situations may occur necessitating acquirer requests for waiver of the 60 day notice provision ...” *Advanced Notice of Proposed Transactions, supra* at 601.

In this instance, SAPT should not be required to comply with the requirements of Section 1150.42(e) because there will be no changes for any employees working on the Rail Line. SAPT already operates the rail facilities and has been the sole common carrier operator providing local service at the GCT since at least 1998. The Operating Agreement supersedes and replaces the current agreements and includes the Rail Line at the GCT and the yard and side tracks at the GCT and the MMRT. Under the Operating Agreement, SAPT will continue to be the sole (common carrier) operator of the Rail Line and other tracks. GPA is not a rail carrier and therefore it has no railroad employees who will be affected or have to make any career choices as a result of the sale. Posting notices on the Rail Line would not provide notice to any GPA railroad employees since GPA has none. Thus, under the circumstances of this transaction, compliance with the notice requirements will not further the purposes of the rule and should be waived. Granting SAPT a waiver would be consistent with other circumstances in which the Board has granted waivers from the labor notice requirements when a common carrier has filed to extend the term of its operation of a line it was previously operating and to remain as the common carrier operator on the line. *See North Carolina & Virginia Railroad Company, LLC, Chesapeake & Albemarle Railroad Division – Lease Amendment Exemption – Norfolk Southern Railway Company*, STB Docket No. FD 35564 (Sub-No. 1) (served December 23, 2011). *See*

also Louisiana Southern Railroad, LLC – Lease Exemption containing Interchange Commitment – The Kansas City Southern Railway Company, STB Docket No. FD 35983 (served February 18, 2016). SAPT asks that the waiver of the labor notice requirements be granted expeditiously so that this Notice of Exemption can become effective as scheduled 30 days after it is filed.

Conclusion

Accordingly, SAPT requests that the Board issue a notice allowing the Operating Agreement to become effective when the parties determine the MMRT to be substantially complete, on or about January 1, 2022.

Respectfully submitted,



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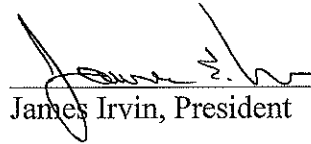
*Attorneys for Savannah Port Terminal Railroad
Inc.*

Dated: November 30, 2021

VERIFICATION

I hereby verify on behalf of Savannah Port Terminal Railroad Inc., under penalty of perjury, that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verification.

Executed on November 30, 2021.



James Irvin, President

EXHIBIT A

MAP



Blue Track is GPA Owned Track for SAPT Common Carrier Operations

Green Track is GPA Owned Track for SAPT Use as Non-Jurisdictional Yard and Side Track

Black Track is Class I Track

EXHIBIT B

CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

Notice of Exemption

STB Docket No. FD 36558

**SAVANNAH PORT TERMINAL RAILROAD, INC.
- ACQUISITION AND OPERATION EXEMPTION –
GEORGIA PORTS AUTHORITY**

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Comments must be filed with the Board and served on SAPT’s representative, Justin Marks, Esq., Clark Hill, 1001 Pennsylvania Ave. N.W., Suite 1300 South, Washington, DC 20004, (202) 772 0916, jmarks@clarkhill.com.

The Notice is filed under 49 C.F.R. §1150.41. 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.

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

Decided: _____, 2021.

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