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BAKER & MILLER PLLC

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March 11, 2022

VIA ELECTRONIC FILING

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E. Street, SW
Washington, DC 20423-0001

Re: STB Finance Docket No. 36591, Louisville & Indiana Railroad Company – Acquisition and Operation Exemption – Southern Indiana Railway, Inc.

Dear Ms. Brown:

Enclosed for filing in the above-referenced proceeding is a verified notice of exemption of Louisville & Indiana Railroad Company pursuant to 49 C.F.R. section 1150.41. Included with this notice of exemption is a request for waiver of the notice requirements of 49 C.F.R. section 1150.42(e). The filing fee of \$2,100 has been paid via Pay.gov.

Please let me know if you have any questions.

Respectfully submitted.



Rose-Michele Nardi

FEE RECEIVED
March 11, 2022
SURFACE
TRANSPORTATION BOARD

FILED
March 11, 2022
SURFACE
TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. FD 36591

**LOUISVILLE & INDIANA RAILROAD COMPANY
--ACQUISITION AND OPERATION—
SOUTHERN INDIANA RAILWAY, INC.**

VERIFIED NOTICE OF EXEMPTION

**PURSUANT TO 49 U.S.C. SECTION 10902
AND
49 C.F.R. SECTION 1150.41 ET SEQ.**

Rose-Michele Nardi
Baker & Miller PLLC
Suite 300
2401 Pennsylvania Ave., N.W.
Washington, D.C. 20037
rnardi@bakerandmiller.com
(202) 663-7852

Attorneys for:

Louisville & Indiana Railroad
Company

Dated: March 11, 2022

LOUISVILLE & INDIANA RAILROAD COMPANY
--ACQUISITION AND OPERATION EXEMPTION--
SOUTHERN INDIANA RAILWAY, INC.

VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 U.S.C. SECTION 10902
AND 49 C.F.R. SECTION 1150.41 ET SEQ.

DOCKET NO. FD 36591

Louisville & Indiana Railroad Company ("LIRC"), a Class III railroad, hereby files this Verified Notice of Exemption ("Exemption Notice") under 49 U.S.C. section 10902 and 49 C.F.R. section 1150.41 et seq. for authority to acquire from Southern Indiana Railway, Inc. ("SIND"), and operate over, the property described below.

Pursuant to 49 C.F.R. section 1150.42, LIRC provides the following information:

1. Applicant's name and current mailing address:

Louisville & Indiana Railroad Company
500 Willinger Lane
Jeffersonville, IN 47130

2. Applicant's representative to receive correspondence:

Rose-Michele Nardi
Baker & Miller PLLC
Suite 300
2401 Pennsylvania Ave., N.W.
Washington, D.C. 20037
(202) 663-7852
rnardi@bakerandmiller.com

3. Information concerning the agreement:

LIRC and SIND have executed an asset purchase agreement ("APA") regarding the property described below in Item 5.

4. Operator:

LIRC will be the operator of the property described below in Item 5.

5. Brief summary of the proposed transaction:

The address of SIND, the seller, is 320 N. Meridian St., Suite 306, Indianapolis, IN 46204. LIRC seeks authority to acquire and operate the rail corridor of SIND from north of the intersection of highway 403 at Speed ("SIND Speed Property") southerly to a connection with a rail line of CSX Transportation at Watson Junction, all in Clark County, IN (the, "SIND Rail Corridor"), plus yard tracks situated on the real property of Lehigh Cement in Speed, IN, north of the SIND Speed Property ("Yard Tracks"). The SIND Rail Corridor plus the Yard Tracks (together, the "Subject Property") total approximately 7.41 miles¹.

6. Consummation of the purchase/Labor Notice Requirements:

LIRC will consummate the purchase on or after the effective date of this Notice, but shall not consummate the purchase before the Board either (i) grants LIRC's Petition for Waiver (as set forth below in Item 7), or (ii) LIRC satisfies the applicable labor notice requirements set forth at section 1150.42(e).

7. Labor Notice Requirements - Petition for Waiver

LIRC hereby requests a waiver from the labor notice requirements at 49 C.F.R. section 1150.42(e). SIND has advised LIRC that, for approximately 2 years, SIND has not moved any traffic over the Subject Property for customers and has not had any employees working on the Subject Property.² Accordingly, no SIND employees will be adversely affected by LIRC's purchase of the Subject Property.³

Even though there are no employees working on the Subject Property, on March 11, 2022, LIRC posted a notice of LIRC's intent to purchase the Subject Property at the engine house building situated on the property. Attached as Exhibit A is a copy of the notice and a Certificate of Posting.

The labor notice requirements set forth at section 1150.42(e) are intended "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". Docket No. FD 36310, *Kansas & Oklahoma Railroad, LLC – Operation Exemption – Colorado Pacific Railroad, LLC*, served June 21, 2019 ("*Kansas & Oklahoma*"). Because SIND has no employees working on the Subject Property, and there are no labor unions representing such SIND employees, granting this waiver would not thwart the purpose behind the notice requirements.

The Board has previously granted labor notice waiver requests under similar circumstances. See *Kansas & Oklahoma* (granting waiver when there had been no service on the line and no employees working on the line); Docket No. FD 36538, *The Central Railroad Company of Indiana – Acquisition and Operation Exemption – Patton-Lowe RR, Inc.* (granting waiver when seller had

¹ LIRC is using the number from the ICC decision in Finance Docket No. 12551, *Southern Indiana Railway, Inc., Acquisition* (Feb. 7, 1940), because it is LIRC's intention to acquire SIND's rights to the entire rail corridor described in the 1940 Decision. To the extent the Yard Tracks and other ancillary tracks are subject to 49 U.S.C. 10906, LIRC's request for authority to acquire the Subject Property is not intended to convert such section 10906 track into common carrier tracks subject to section 10901.

² In fact, it is LIRC's understanding that SIND no longer has any employees (other than, potentially, the President of SIND).

³ In addition, LIRC does not anticipate hiring any additional employees in the near term to provide service over the Subject Property.

no railroad employees and had not operated on the line); Docket No. FD 35995, *South Carolina Division of Public Railways d/b/a Palmetto Railways – Acquisition Exemption – Hampton & Branchville Railroad*, June 2, 2016 (granting waiver when there had been no rail service and selling railroad had no employees other than the seller's president). A waiver is equally applicable in this case. Accordingly, LIRC requests that the Board waive any remaining requirements under section 1150.42(e) related to the Subject Property and reduce the 60-day posting period to coincide with the effective date of the Exemption Notice.

8. Map:

A map of the Subject Property is attached hereto as Exhibit B.

9. Certificate of projected revenue:

Pursuant to 49 C.F.R. Section 1150.43(g), a certificate concerning LIRC's projected revenues is attached as Exhibit C.

10. Interchange commitment:

LIRC certifies that the APA between LIRC and SIND does not contain any provision that may limit future interchange with a third-party connecting carrier.

11. Environmental issues:

Environmental documentation normally need not be prepared for transactions that do not cause operational changes in excess of the applicable thresholds set forth in 49 C.F.R. Sections 1105.7(e)(4) and (5). See 49 C.F.R. Section 1105.6(c)(1). Because the subject transaction will not cause changes in carrier operations that exceed the applicable thresholds, no environmental documentation is required for this Notice.

12. Historic Report:

Transactions involving a sale, lease or transfer of a rail line for the purpose of continued rail operations are exempt from the historic report requirements of 49 C.F.R. Section 1105.8(a) if abandonment of such operations requires further approval by the Board and there are no plans to dispose of or alter properties subject to the Board's jurisdiction that are 50 years old or older. See 49 C.F.R. Section 1105.8(b)(1).

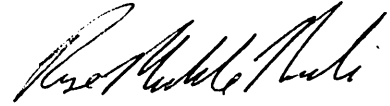
LIRC is acquiring the Subject Property for continued rail operations, and the abandonment of rail operations over the Subject Property would require prior approval or an exemption. LIRC does not have any plans to dispose of or alter properties subject to Board jurisdiction that are 50 or more years old. Therefore, a historic report is not required for this Exemption Notice.

13. Caption Summary.

Pursuant to 49 C.F.R. Section 1150.44, attached as Exhibit D is the caption summary.

Based on the information provided herein, LIRC requests that the Board issue a notice authorizing LIRC to acquire and operate the Subject Property, effective thirty days from the filing of the Exemption Notice.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rose-Michele Nardi".

Rose-Michele Nardi
Baker & Miller PLLC
Suite 300
2401 Pennsylvania Ave., N.W.
Washington, D.C. 20037
(202) 663-7852
rnardi@bakerandmiller.com

Attorneys for:

Louisville & Indiana Railroad
Company

Dated: March 11, 2022

VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R SECTION 1150.41
DOCKET NO. FD 36591

LOUISVILLE & INDIANA RAILROAD COMPANY
--ACQUISITION AND OPERATION EXEMPTION--
SOUTHERN INDIANA RAILWAY, INC.

EXHIBIT A

CERTIFICATE OF POSTING

BEFORE THE SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36591

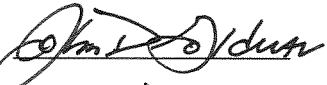
LOUISVILLE & INDIANA RAILROAD COMPANY
--ACQUISITION AND OPERATION EXEMPTION--
SOUTHERN INDIANA RAILWAY, INC.

CERTIFICATE OF POSTING

The undersigned certifies that that the Notice of Intent in this proceeding (which is set forth on the next page) has been posted at the following address on March 11, 2022.

The Engine House
415 Adkins Court
Sellersburg, IN 47172

Signature:



Printed Name:

John D. Goldman

Title:

PRESIDENT

**NOTICE OF INTENT
TO FILE
A VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. SECTION 1150.41**

IN FINANCE DOCKET NO. 36591

**LOUISVILLE & INDIANA RAILROAD COMPANY
--ACQUISITION AND OPERATION EXEMPTION—
SOUTHERN INDIANA RAILWAY, INC.**

On March 11, 2022, Louisville & Indiana Railroad Company ("LIRC") is filing for authority from the Surface Transportation Board to acquire and operate the rail corridor of Southern Indiana Railway, Inc. ("SIND") from north of the intersection of highway 403 at Speed ("SIND Speed Property") southerly to a connection with a rail line of CSX Transportation at Watson Junction, all in Clark County, IN, plus yard tracks situated on the real property of Lehigh Cement in Speed, IN, north of the SIND Speed Property.

LIRC is providing this notice pursuant to the Surface Transportation Board requirements at 49 C.F.R. section 1150.42(e).

LIRC does not expect to hire any additional employees in the near term to provide service over the property it is acquiring from SIND.

VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R SECTION 1150.41
DOCKET NO. FD 36591

LOUISVILLE & INDIANA RAILROAD COMPANY
--ACQUISITION AND OPERATION EXEMPTION—
SOUTHERN INDIANA RAILWAY, INC.

EXHIBIT B

MAP OF SUBJECT PROPERTY

VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R SECTION 1150.41
DOCKET NO. FD 36591

LOUISVILLE & INDIANA RAILROAD COMPANY
--ACQUISITION AND OPERATION EXEMPTION--
SOUTHERN INDIANA RAILWAY, INC.

EXHIBIT C

CERTIFICATE OF REVENUE

CERTIFICATE OF REVENUE

Pursuant to 49 C.F.R. section 1150.43(g), I do hereby certify that the projected revenues of Louisville & Indiana Railroad Company as a result of this transaction will not result in the creation of a Class II or Class I rail carrier.

Signature: 

Name: John D. Goldman

Title: PRESIDENT

Date: MARCH 11, 2022

VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R SECTION 1150.41
DOCKET NO. FD 36591

LOUISVILLE & INDIANA RAILROAD COMPANY
--ACQUISITION AND OPERATION EXEMPTION--
SOUTHERN INDIANA RAILWAY, INC.

EXHIBIT D

CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

VERIFIED NOTICE OF EXEMPTION

Docket No. FD 36591

**LOUISVILLE & INDIANA RAILROAD COMPANY
--ACQUISITION AND OPERATION EXEMPTION--
SOUTHERN INDIANA RAILWAY, INC.**

Louisville & Indiana Railroad Company, a class III rail carrier, has filed a notice of exemption under 49 C.F.R. Section 1150.41 for authority to acquire and operate the rail corridor of SIND from north of the intersection of highway 403 at Speed ("SIND Speed Property") southerly to a connection with a rail line of CSX Transportation at Watson Junction, all in Clark County, IN (the, "SIND Rail Corridor"), plus yard tracks situated on the real property of Lehigh Cement in Speed, IN, north of the SIND Speed Property ("Yard Tracks"). The SIND Rail Corridor plus the Yard Tracks (together, the "Subject Property") total approximately 7.41 miles⁴

Comments must be filed with the Surface Transportation Board ("Board") via e-filing on the Board's website and served on Rose-Michele Nardi, Baker & Miller PLLC, Suite 300, 2401 Pennsylvania Ave., N.W., Washington, D.C. 20037.

This notice is filed under 49 C.F.R. section 1150.41. 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.

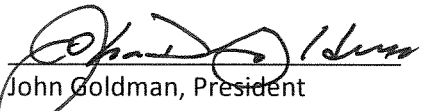
Decided:

By the Board,

⁴ LIRC is using the number from the ICC decision in Finance Docket No. 12551, *Southern Indiana Railway, Inc., Acquisition* (Feb. 7, 1940), because it is LIRC's intention to acquire SIND's rights to the entire rail corridor described in the 1940 Decision. To the extent the Yard Tracks and other ancillary tracks are subject to 49 U.S.C. 10906, LIRC's request for authority to acquire the Subject Property is not intended to convert such section 10906 track into common carrier tracks subject to section 10901.

VERIFICATION

I, John Goldman, certify under penalty of perjury that the foregoing notice of exemption is true and correct to the best of my knowledge, information and belief. Further, I certify that I am qualified and authorized to cause this Verified Notice of Exemption to be filed.



John Goldman, President
Louisville & Indiana Railroad Company

Dated: March 11, 2022