



SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

PETER A. PFOHL

March 24, 2022

304171

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street S.W.
Washington, D.C. 20423

ENTERED
Office of Proceedings
March 24, 2022
Part of
Public Record

Re: Docket No. FD 36602, *SEDA-COG Joint Rail Authority – Acquisition Exemption with Interchange Commitment – Norfolk Southern Railway Company*

Dear Ms. Brown:

Attached for filing in the above referenced docket is the Verified Notice of Exemption pursuant to 49 C.F.R. Part 1150 Subpart D for the SEDA-COG Joint Rail Authority and a Request for Filing Fee Waiver, which seeks reimbursement of the filing fee that has been paid electronically via pay.gov.

Contemporaneously with this Verified Notice, we are e-filing a Confidential Appendix which includes the confidential information and documents pertaining to the interchange commitment as required by 49 C.F.R. § 1150.33(h). The Confidential Appendix is designated as “Highly Confidential,” and as provided by 49 C.F.R. § 1150.33(h)(1), it is being filed pursuant to 49 C.F.R. § 1104.14(a) and is to be kept confidential without having to file an accompanying motion for protective order under 49 C.F.R. § 1104.14(b).

Please contact the undersigned if there are any questions regarding this filing.
Thank you for your attention to this matter.

Respectfully submitted,

Peter A. Pfohl
Katherine F. Waring
Attorneys for
SEDA-COG Joint Rail Authority

FEE RECEIVED

March 24, 2022

SURFACE

TRANSPORTATION BOARD

FILED

March 24, 2022

SURFACE

TRANSPORTATION BOARD

Enclosures

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

	)	
SEDA-COG Joint Rail Authority – Acquisition	)	
Exemption with Interchange Commitment –	)	Finance Docket No. 36602
Norfolk Southern Railway Company	)	
	)	

**VERIFIED NOTICE OF EXEMPTION OF
THE SEDA-COG JOINT RAIL AUTHORITY
PURSUANT TO 49 C.F.R. PART 1150, SUBPART D**

SEDA-COG Joint Rail Authority

Peter A. Pfohl
Katherine F. Waring
SLOVER & LOFTUS LLP
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
Phone: (202) 347-7170

Dated: March 24, 2022

Its Attorneys

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

	)	
SEDA-COG Joint Rail Authority – Acquisition	)	
Exemption with Interchange Commitment –	)	Finance Docket No. 36602
Norfolk Southern Railway Company	)	
	)	

**VERIFIED NOTICE OF EXEMPTION OF
SEDA-COG JOINT RAIL AUTHORITY
PURSUANT TO 49 C.F.R. PART 1150, SUBPART D**

Pursuant to 49 C.F.R. Part 1150 Subpart D, SEDA-COG Joint Rail Authority (the “Authority”), a Pennsylvania Municipal Authority and a non-carrier, hereby submits this Verified Notice of Exemption (“Notice”) for acquisition of approximately 7.7 miles of existing railroad track and right-of-way, excluding interest in the real property, known as the Selinsgrove Industrial Track in Snyder County, Pennsylvania (the “Line”). The Line starts at Selinsgrove Junction, Pennsylvania at Mile Post (“MP”) 0.0, and extends to MP 7.7 in Kreamer, Pennsylvania. The location of the Line is depicted in Exhibit A attached to this Notice.

The Line is presently owned and operated by the Norfolk Southern Railway Company (“NS”). As more specifically described below, the Authority is purchasing this line of track, and the North Shore Railroad Company (“North Shore”), a Class III common carrier railroad, will be operating over it pursuant to an Operating Agreement

with the Authority. Contemporaneously with this filing, North Shore will be filing a Verified Notice of Exemption for Operation of the Line.¹

In support of this Notice, and in accordance with the requirements of 49 C.F.R. §1150.33, the Authority submits the following information:

Information Required by 49 C.F.R. § 1150.33

(a) Full name and Address of the Applicant

SEDA-COG Joint Rail Authority
201 Furnace Road
Lewisburg, PA 17387

Phone: (570) 524-4491

(b) Name and Address of Representatives to Receive Correspondence

Peter A. Pfohl
Katherine F. Waring
Slover & Loftus LLP
1224 Seventeenth Street NW
Washington, D.C. 20036

Phone: (202) 347-7170
Email: pap@sloverandloftus.com

¹ As part of the transaction described further below, the Authority will also be purchasing from NS certain track referred to as the Power Plant Lead (“PPL Track”), a 1.3 mile segment of 49 U.S.C. § 10906 exempt spur track in Snyder County, Pennsylvania, formerly used to serve an electric power plant no longer in operation. Because the Surface Transportation Board (“STB” or “Board”) does not have jurisdiction over the acquisition of § 10906 track, the PPL Track is not required to be included as part of this line acquisition exemption notice. The PPL Track is referenced herein for informational purposes and because as a part of North Shore’s contemporaneously filed operating exemption, the PPL Track will be converted from 49 U.S.C. § 10906 spur track to 49 U.S.C. § 10901 common carrier track. The PPL Track is depicted in Exhibit A attached to this Notice.

(c) Statement Regarding Agreement

NS and the Authority have recently entered into (i) an Asset Purchase and Sale Agreement (“APSA”) under which NS will sell, and the Authority will purchase, all operating rail assets owned by NS involved in or relating to the operation or use of the Line and the PPL Track, including, as further defined in the APSA, the roadbed, rail, track and all related facilities, improvements, fixtures, and appurtenances, but not including any interest in the real property under the Line (“Acquired Assets”), and (ii) a Freight Service Easement Agreement (“FSEA”) providing the Authority an easement and right to operate freight rail service upon the Line and the PPL Track. The FSEA expressly contemplates that the Authority will enter into an agreement with a third-party operating railroad company to operate the Line and the PPL Track for the Authority. Pursuant to 49 C.F.R. 1150.33(h), a confidential copy of the FSEA is included in the Confidential Appendix and is to be kept confidential under 49 C.F.R. § 1104.14(a).

The APSA provides that the transaction may not be consummated without Surface Transportation Board (“STB” or “Board”) authorization. The conveyance and acquisition of the Acquired Assets will be effective on the effective date of any decision or notice of exemption served by the Board authorizing this acquisition exemption.

Following the closing of the transaction contemplated by the APSA, and after the effective date of this Notice, rail service over the Line will be performed by North Shore through an agreement with the Authority. The Authority, North Shore, and certain other North Shore-affiliated railroads (“Operators”) are currently parties to an Operating Agreement dated December 13, 2006, as amended, whereby North Shore and

the other Operators are authorized to conduct and provide common carrier railroad operations on and over various lines of railroad owned or controlled by the Authority.² The Authority has executed an addendum to the Operating Agreement to include the Line and the PPL Track as part of the railroad premises subject to the Operating Agreement, and to permit North Shore to conduct and provide common carrier railroad operations on and over the Line and the PPL Track.

Commencement of operations by North Shore will occur as soon as practicable after the effective date of this Notice and the Verified Notice of Exemption for Operation of the Line being filed contemporaneously by North Shore.

(d) The Operator of the Property

The Authority is acquiring the Line but as explained *supra*, upon this exemption notice becoming effective, the closing of the transaction, and following Board approval of the Verified Notice of Exemption for Operation of the Line being filed contemporaneously with this filing by North Shore, North Shore will operate and provide common carrier service to all shippers on the Line. NS currently performs common carrier operations on the Line, but NS will make the necessary filings at the Board to obtain service discontinuance authority to cease its operations on the Line, upon and after North Shore's commencement of service on the Line.

² A copy of the December 13, 2006 Operating Agreement was filed previously with the Board in *Susquehanna Union R.R. – Control Exemption – N. Shore R.R., Nittany & Bald Eagle R.R., Shamokin Valley R.R., Juniata Valley R.R., Lycoming Valley R.R., and Union County, Indus. R.R.*, FD 35343, Pet. for Exemption at Exhibit B (filed Apr. 12, 2010).

(e) Brief Summary of the Transaction

The Authority is a joint municipal authority whose mission is to preserve and foster rail service in Central Pennsylvania and to further economic development through retention, improvement, and expansion of the infrastructure and the rail service it supports. Under the agreements and arrangements described *supra*, the Authority is acquiring the Line, and operating rights over the Line, from NS, over which NS has operated and provided common carrier rail services. At this time, the Authority is not seeking operating authority over the Line. The agreements provide for and expressly contemplate that the Authority will enter into an agreement with a third-party operating railroad company to operate the Line for the Authority. North Shore has agreed to operate and provide common-carrier service to all shippers on the Line and the existing Operating Agreement is being amended to include this Line.

As further discussed *supra*, contemporaneously with this filing, North Shore will be filing a Verified Notice of Exemption for Operation of the Line and the PPL Track. NS will also be filing with the Board appropriate discontinuance of service filings to cease its operations on the Line, upon and after North Shore's commencement of service on the Line following Board approval of the Verified Notice of Exemption for Operation of the Line and PPL Track.

1) Name and Address of the Railroad Transferring the Subject Property:

NS is the Railroad that is transferring the subject property to the Authority.

The address for NS is:

Norfolk Southern Railway Company
650 West Peachtree St NW
Atlanta, GA 30308

(2) Proposed Schedule for Consummation of the Transaction

As discussed *supra*, the proposed transaction, including the APSA and the FSEA, will be consummated as soon as practicable after the effective date of this Notice. New common carrier rail operations by North Shore will commence pursuant to the addendum to the Operating Agreement following Board approval of the Verified Notice of Exemption for Operation of the Line being filed by North Shore contemporaneously with this filing. The parties anticipate that the transaction will be consummated as soon as practicable after the effective date of this Notice.

(3) Mileposts of the Property

The mileposts of the Line are 0.0 to 7.7.

(4) Total Route Miles

A total of approximately 7.7 route miles is being acquired pursuant to this exemption notice.

(f) Map

A map depicting the lines and immediate vicinity is included in Exhibit A attached to this Notice.

(g) Certificate of Projected Revenues

The Authority is a non-carrier, and a certification by the Authority that its projected freight revenues will not exceed those that would qualify it as a Class I or Class II carrier if it were a common carrier is included with the verification of this Notice.

(h) Interchange Commitments

The Authority hereby certifies that the proposed operation of the Line will be subject to an interchange commitment as defined in 49 C.F.R. § 1150.33(h)(1). In accordance with the requirements of 49 C.F.R. § 1150.33(h)(1), the Authority submits the following information regarding the interchange agreement:

Information Required by 49 C.F.R. § 1150.33(h)(1)

(i) The Existence of that Provision or Agreement and Identification of the Affected Interchange Points

The APSA described above does not contain any provision that may limit future interchange with a third-party connecting carrier. The FSEA described above, at Section 15 contains a provision that may limit or restrict future interchange of local traffic with a third-party connecting carrier other than NS at any interchange point where the carrier may interchange traffic with a third-party connecting carrier.

(ii) A Confidential, Complete Version of the Document(s) Containing or Addressing that Provision or Agreement

A Confidential and complete version of the FSEA, which is the only document which contains an interchange commitment as defined in 49 C.F.R. § 1150.33(h)(1), is included in the Confidential Appendix. Pursuant to 1150.33(h)(1), this

Confidential Appendix is authorized to be filed with the Board under 49 C.F.R. § 1104.14(a) and will be kept confidential without need for the filing of an accompanying motion for a protective order under 49 C.F.R. 1104.14(b).

(iii) A List of Shippers that Currently Use or Have Used the Line in Question Within the Last Two Years

The following shippers either currently use or have used the Line since February 1, 2020:

K&L Feeds, Inc.
Kreamer Feed, Inc.

(iv) The Aggregate Number of Carloads those Shippers Specified in Paragraph (h)(1)(iii) of this Section Originated or Terminated (Confidential)

This information is included in the Confidential Appendix.

(v) A Certification that the Filing Party has Provided Notice of the Proposed Transaction and Interchange Commitment to the Shippers Identified in Paragraph (h)(1)(iii) of this Section

A Certificate of Service is attached to this Notice which certifies that the shippers identified *supra* at paragraph (iii) have been provided notice of the proposed transaction and interchange commitment through service of a copy of this Notice by first-class mail, postage pre-paid, or by email.

(vi) A List of Third Party Railroads that Could Physically Interchange with the Line Sought to be Acquired or Leased

Following this transaction, and the commencement of common carrier rail operations on the Line by North Shore, the only third-party railroad that could physically interchange with the Line is NS on NS's north-south "Buffalo" line, at MP 0.0 of the

Line. However, through NS and Canadian Pacific Railway Company (“CP”) haulage rights, freight can be transported by NS from and to Northumberland, PA, where it can be interchanged by North Shore.

(vii) An Estimate of the Difference Between the Sale or Lease Price with and Without the Interchange Commitment (confidential)

This information is included in the Confidential Appendix.

(viii) A Change in the Case Caption so that the Existence of an Interchange Commitment is Apparent from the Case Title

The case has been captioned to clearly indicate the existence of an interchange commitment.

Advance Notice

The STB’s regulations at 49 C.F.R. § 1150.32(e) require advance notice of a transaction to railway employees on the affected line and service of a copy of the notice on the national offices of the labor unions with employees on the affected line, where the projected annual revenue of the carrier to be created by a transaction under this exemption is to exceed five (5) million dollars. The Authority is a non-carrier, has no railway workers, will not become a rail carrier as a result of this transaction, and the annual freight revenue of the Authority resulting from this transaction is not expected to exceed five (5) million dollars. Accordingly, the advance notice requirements of 49 C.F.R. § 1150.32(e) are inapplicable. As referenced *supra*, rail service will be provided by North Shore, who, contemporaneously with this filing, will be filing a Verified Notice of Exemption for Operation of the Line.

Labor Notice Certification

The STB's regulations at 49 C.F.R. § 1121.4(h) require Class II carriers seeking an exemption for acquisition or operation of rail lines certify that a notice has been posted at the workplace to notify employees working on the rail line. The Authority is a non-carrier and rail service will be provided by North Shore. North Shore is a Class III carrier and as result of this transaction North Shore will remain a Class III carrier. Accordingly, this provision is not applicable to this transaction.

Labor Protection

As this transaction is subject to 49 U.S.C. § 10901, and this transaction will not displace any railroad employees, no labor protection is required pursuant to 49 U.S.C. § 11326(c). Also, because the Authority is a non-carrier, and this transaction does not involve the creation of a Class I or Class II rail carrier, approval of this transaction is not subject to or require a general statement of labor impacts under 49 C.F.R. § 1150.45.

Environmental and Historical Reports

Under 49 C.F.R. § 1105.6(c)(1), the proposed operations are exempt from environmental reporting requirements, and the proposed operations will not result in changes that will exceed the environmental reporting thresholds established in 49 C.F.R. § 1105.7(e) (4) or (5).

Under 49 C.F.R. § 1105.8(b)(1), the proposed operations are exempt from historic preservation reporting requirements. The proposed transaction will provide for the continuation of common carrier rail service. After North Shore commences common

carrier service over the Line, additional Board approval would be required to abandon or discontinue service over the line, and address any future plans to dispose of or alter properties subject to the Board's jurisdiction that are fifty years old or older.

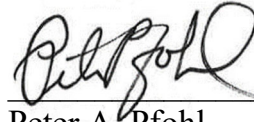
Accordingly, no environmental or historic documentation is required.

Caption Summary Pursuant to 49 C.F.R. § 1150.44

A caption summary in the form prescribed by the Board is included in Exhibit B attached to this Notice.

Respectfully submitted,

By:



Peter A. Pfohl
Katherine F. Waring
SLOVER & LOFTUS LLP
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

Dated: March 24, 2022

Attorneys for
SEDA-COG Joint Rail Authority

EXHIBIT A

[MAP]

Selinsgrove Industrial Track

9-miles of Railroad Track
Snyder County, PA

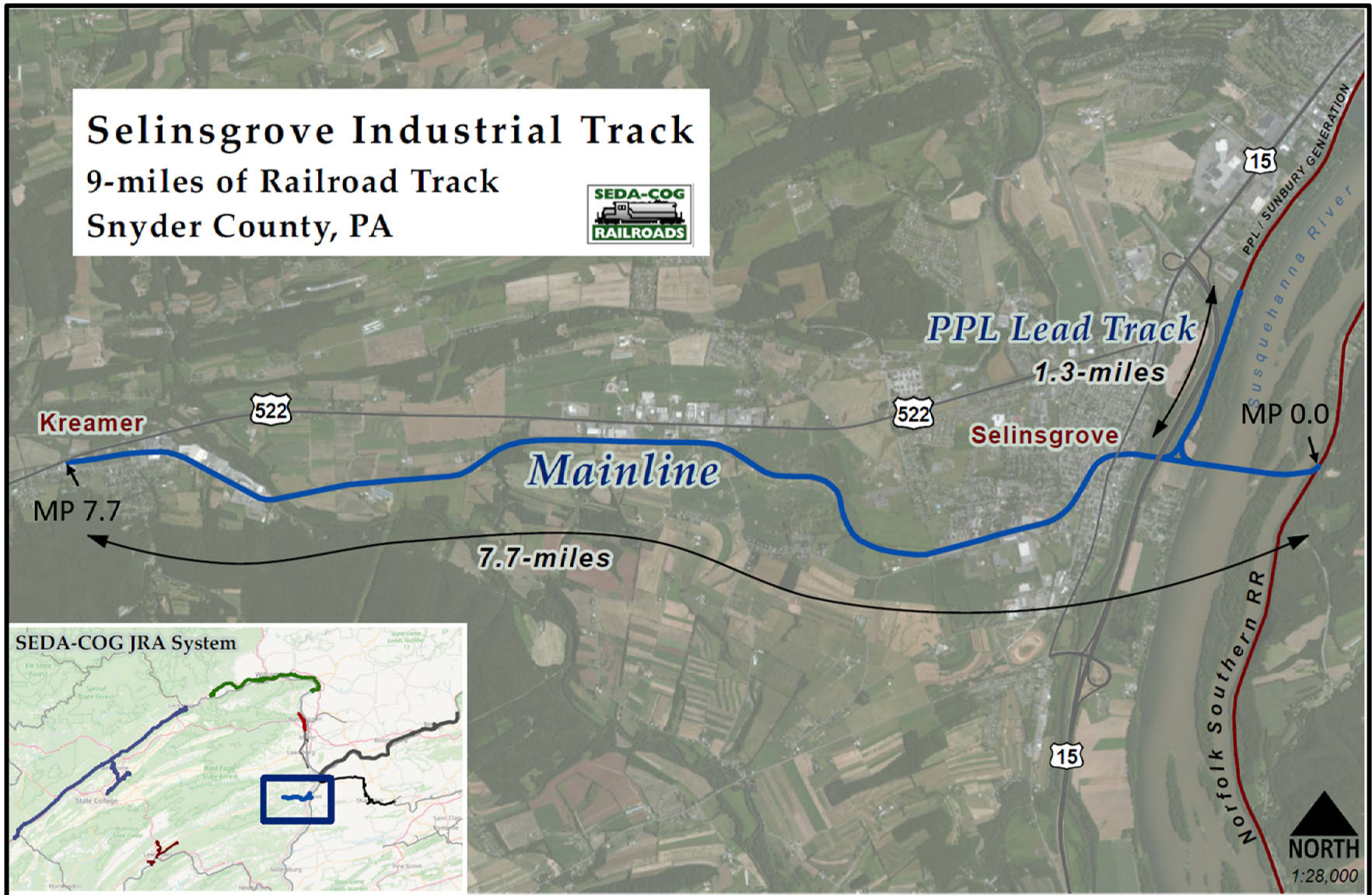


EXHIBIT B

[Caption Summary]

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

FD 36602

SEDA-COG JOINT RAIL AUTHORITY – ACQUISITION EXEMPTION WITH
INTERCHANGE COMMITMENT – NORFOLK SOUTHERN RAILWAY COMPANY

SEDA-COG Joint Rail Authority (the “Authority”), a Pennsylvania Municipal Authority and a non-carrier, has filed a Verified Notice of Exemption for acquisition of approximately 7.7 miles of existing railroad track and right-of-way, excluding interest in the real property, known as the Selinsgrove Industrial Track in Snyder County, Pennsylvania (the “Line”). The Line starts at Selinsgrove Junction, Pennsylvania at Mile Post (“MP”) 0.0, and extends to MP 7.7 in Kreamer, Pennsylvania. The Line is presently owned and operated by the Norfolk Southern Railway Company (“NS”).

The Authority is purchasing the Line, and it will be served by its operator, the North Shore Railroad Company (“North Shore”).

The transaction will be consummated and North Shore on SEDA-COG’s behalf will commence to operate on the Line upon the effective dates of the Verified Notices of Exemption being filed by SEDA-COG in Finance Docket No. 36602 and by North Shore in Finance Docket No. 36600.

Comments must be filed with the Board and served on:

Peter A. Pfohl
Katherine F. Waring
Slover & Loftus LLP
1224 Seventeenth Street NW
Washington, D.C. 20036
(202) 347-7170
pap@sloverandloftus.com

The 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: March __, 2022

By the Board

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

VERIFICATION

I, Jeffery K. Stover, verify that I am the Executive Director of SEDA-COG Joint Rail Authority, a Pennsylvania Municipal Authority; my business address is 201 Furnace Road, Lewisburg, PA 17837; I am authorized and qualified to make this verification; and I have read the foregoing Notice of Exemption, and the facts asserted therein are true and accurate as stated to the best of my knowledge, information, and belief. I further certify that SEDA-COG Joint Rail Authority is a non-carrier, and the projected freight revenues it receives or will receive as a part of the transaction described in the foregoing Notice of Exemption will not exceed those that would qualify it as a Class I or Class II carrier if it were a common carrier.


Jeffery K. Stover

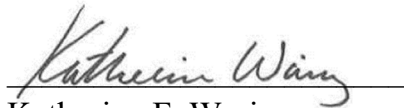
Dated: March 23, 2022

CERTIFICATE OF SERVICE

I hereby certify that this 24th day of March, 2022, pursuant to 49 C.F.R. § 1150.33(h)(1)(v), have caused a copy of the foregoing document to be served by U.S. First Class Mail or by more expeditious means on the following shippers that either currently use or have used the subject line of railroad within the past two years:

K&L Feeds, Inc.

Kreamer Feed, Inc.

A handwritten signature in cursive script, reading "Katherine Waring", is written over a horizontal line.

Katherine F. Waring

An Attorney for

SEDA-COG Joint Rail Authority

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

SEDA-COG Joint Rail Authority – Acquisition)	
Exemption with Interchange Commitment –)	Finance Docket No. 36602
Norfolk Southern Railway Company)	

REQUEST FOR FILING FEE WAIVER

SEDA-COG Joint Rail Authority

Peter A. Pfohl
Katherine F. Waring
SLOVER & LOFTUS LLP
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
Phone: (202) 347-7170

Dated: March 24, 2022

Its Attorneys

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

SEDA-COG Joint Rail Authority – Acquisition) Exemption with Interchange Commitment –) Norfolk Southern Railway Company)	Finance Docket No. 36602
--	--------------------------

REQUEST FOR FILING FEE WAIVER

For the reasons set forth below, the SEDA-COG Joint Rail Authority (the “Authority”), a Pennsylvania Municipal Authority and a non-carrier, respectfully requests that the Surface Transportation Board’s (“Board”) Chief, Section of Administration, Office of Proceedings waive the \$2,100 filing fee the Authority transmitted in this proceeding on March 24, 2022.

1. The Authority filed a Verified Notice of Exemption of SEDA-COG Joint Rail Authority Pursuant to 49 C.F.R. Part 1150, Subpart D (“Notice”) on March 24, 2022. The Authority also transmitted a filing fee of \$2,100 at that time.

2. 49 C.F.R. § 1002.2 (e)(1) provides that “[f]iling fees are waived for an application or other proceeding which is filed by a federal government agency, or a state or local government entity.” *Id.* The Authority is a qualifying “state . . . government entity.” *Id.*

3. The Board’s fee waiver policy statement provides, “[t]he fee waiver [set forth in 49 C.F.R. § 1002.2 (e)(1)] will be available to a state or local government

entity that is not acting in the capacity of a carrier or shipper.” *See Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services – Policy Statement*, 5 S.T.B 352, 355 (2000) (“*Policy Statement*”). The Authority is “not acting in the capacity of a carrier or shipper” (*id.*) in this proceeding. Instead, the Authority is purchasing the track to preserve rail access, and the North Shore Railroad Company (“North Shore”), a Class III common carrier railroad, will be operating over it pursuant to an Operating Agreement with the Authority. Contemporaneously with the Authority’s Notice, North Shore will be filing a Verified Notice of Exemption for Operation of the Line that is the subject of the Authority’s Notice.

4. In its *Policy Statement*, the Board defined Public corporations as those “created by statute for public purposes only and the interests of public corporations are the exclusive property and domain of the government.” *Policy Statement* at 354. Here, the Authority is a Pennsylvania Municipal Authority and its membership is comprised of 11 member counties. The Authority does not have any shareholders, and it serves a public purpose with its stated mission being to “preserve and foster rail service in Central Pennsylvania and to further economic development through retention, improvement and expansion of the infrastructure and the rail service it supports.”¹

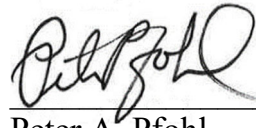
¹ SEDA-COG Joint Rail Authority, <http://www.sedacograil.org/Pages/Home.aspx#:~:text=OUR%20MISSION,the%20rail%20service%20it%20supports> (accessed Mar. 24, 2022).

5. Granting the Authority's fee waiver request comports with the standards set forth in *Policy Statement*.

6. Since the Authority has already transmitted the filing fee, it respectfully requests that the Board return or refund the filing fee to counsel for the Authority.

Respectfully submitted,

By:



Peter A. Pfohl
Katherine F. Waring
SLOVER & LOFTUS LLP
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

Dated: March 24, 2022

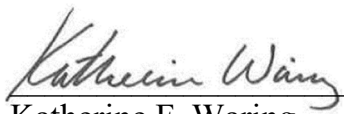
Attorneys for
SEDA-COG Joint Rail Authority

CERTIFICATE OF SERVICE

I hereby certify that this 24th day of March, 2022, I have caused a copy of the foregoing documents to be served by U.S. First Class Mail or by more expeditious means on the North Shore Railroad Company, and the following shippers that either currently use or have used the subject line of railroad within the past two years:

K&L Feeds, Inc.

Kreamer Feed, Inc.


Katherine F. Waring
An Attorney for
SEDA-COG Joint Rail Authority