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May 31, 2022

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: **FD 36621**
Kinston Railroad, LLC – Change in Operator Exemption –
Line in Lenoir County, NC

FD 36620
OPSEU Pension Plan Trust Fund, Jaguar Transport
Holdings, LLC, and Jaguar Rail Holdings, LLC –
Continuance in Control Exemption – Kinston Railroad, LLC

Dear Ms. Brown:

Attached for filing in the above-captioned proceedings are the **Verified Notice of Exemption of Kinston Railroad, LLC submitted pursuant to 49 C.F.R. Part 1150, subpart D, the Verified Notice of Exemption of OPSEU Pension Plan Trust Fund, Jaguar Transport Holdings, LLC, and Jaguar Rail Holdings, LLC submitted pursuant to 49 C.F.R. § 1180.2(d)(2), and a Motion for Protective Order**, all dated May 31, 2022. The sums of \$2,100.00 and \$1,500.00, representing the applicable fees for these filings, has been made on www.pay.gov.

FEE RECEIVED
May 31, 2022
SURFACE
TRANSPORTATION BOARD

FILED
May 31, 2022
SURFACE
TRANSPORTATION BOARD

Ms. Cynthia T. Brown
May 31, 2022
p. 2

If you have any questions regarding these filings, please contact me. Thank you for your assistance on this matter.

Respectfully submitted,

/s/ *R. A. Wimbish*

Robert A. Wimbish
Attorney for Kinston Railroad, LLC, OPSEU
Pension Plan Trust Fund, Jaguar Transport
Holdings, LLC, and Jaguar Rail Holdings, LLC

RAW:th

Enclosures

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36621

KINSTON RAILROAD, LLC
-- CHANGE IN OPERATOR EXEMPTION --
LINE IN LENOIR COUNTY, NC

**VERIFIED NOTICE OF EXEMPTION OF KINSTON RAILROAD, LLC
PURSUANT TO 49 C.F.R. PART 1150, SUBPART D**

Robert A. Wimbish
Thomas J., Healey
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500

ATTORNEYS FOR KINSTON RAILROAD, LLC

Dated: May 31, 2022

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36621

KINSTON RAILROAD, LLC
-- CHANGE IN OPERATOR EXEMPTION --
LINE IN LENOIR COUNTY, NC

**VERIFIED NOTICE OF EXEMPTION OF KINSTON RAILROAD, LLC
PURSUANT TO 49 C.F.R. PART 1150, SUBPART D**

Pursuant to 49 C.F.R. § 1150.31, *et seq.*, Kinston Railroad, LLC (“KNR”) a non-carrier, hereby files this Verified Notice of Exemption (“Notice”) to assume operation of approximately 5.7 miles of track (the “Line”) owned by the North Carolina Department of Transportation (“NCDOT”) near Kinston, in Lenoir County, North Carolina. The Line extends between milepost GTP-0.0 (and a connection at that location to a North Carolina Railroad Company track) and milepost GTP-5.7 at the North Carolina Global TransPark (“TransPark”). The Line is currently operated under lease by Kinston & Snow Hill Railroad Co., Inc. (“KSHR”).¹ Based on projected annual revenues for the Line, KNR expects to be a Class III rail carrier after consummation of the proposed transaction.

This Notice is related to FD 36620, *OPSEU Pension Plan Trust Fund, Jaguar Transport Holdings, LLC, and Jaguar Rail Holdings, LLC – Continuance in Control Exemption – Kinston Railroad, LLC*, in which OPSEU Pension Plan Trust Fund, Jaguar Transport Holdings, LLC, and Jaguar Rail Holdings, LLC (collectively “Jaguar”) are concurrently filing a notice of

¹ *North Carolina & Atlantic Railroad Co., Inc. – Lease and Operation Exemption – North Carolina Department of Transportation*, FD 36008 (“NC&A”) (STB served Mar. 25, 2016). North Carolina & Atlantic Railroad Co., Inc. subsequently changed its name to Kinston & Snow Hill Railroad Co., Inc. *NC&A* (STB served Nov. 4, 2016).

exemption pursuant to 49 C.F.R. § 1180.2(d)(2) to continue in control of KNR once KNR commences operation of the Line and becomes a carrier. Jaguar are non-carriers that collectively control eight Class III carriers.²

In accordance with the requirements of 49 C.F.R. Part 1150, subpart D, KNR submits the following information:

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

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

Kinston Railroad, LLC
1027 South Main Street
Joplin, MO 64801
(417) 622 0384

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

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

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500

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

KSHR (under its previous name) and NCDOT entered into a Lease and Operating Agreement dated as of October 26, 2015 (the "Lease") providing for KSHR's operation of rail

² Southwestern Railroad, Inc., Texas & Eastern Railroad, LLC, Wyoming and Colorado Railroad, Inc. (which also does business under the name "Oregon Eastern Railroad"), Cimarron Valley Railroad, L.C., Washington Eastern Railroad, LLC, West Memphis Base Railroad, L.L.C., Missouri Eastern Railroad, LLC, and Charlotte Western Railroad, LLC.

common carrier service on the Line. KSHR and KNR have reached an agreement pursuant to which, with NCDOT's consent, KSHR will assign its interest the Lease to KNR. Upon effectuation of the Lease assignment, KNR will commence common carrier operations over the Line in place of KSHR.

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

KNR will operate the Line and provide all rail common carrier service to customers upon consummation of the proposed transaction. KNR's operations will replace those of KSHR, which, upon the commencement of KNR's operations, will have no further common carrier obligation with respect to the Line.

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

KNR, a non-carrier subsidiary of Jaguar Rail Holdings, LLC, will assume KSHR's leasehold interests in, and will operate, the Line, extending from milepost GTP-0.0 to milepost GTP-5.7, a total of 5.7 route miles near Kinston, Lenoir County, North Carolina.

Pursuant to *Anthony Macrie – Continuance in Control Exemption – New Jersey Seashore Lines, Inc.*, FD 35296 (STB served August 31, 2010), KNR is submitting as Confidential Exhibit D a copy of the Lease, along with a motion for protective order. The Lease does not allow NCDOT, as the non-carrier owner of the Line, to exercise undue control over or interfere with KNR's operations or ability to provide common carrier service.

The complete name and address of the current operator of the Line to be replaced by KNR pursuant to this change in operator class exemption notice is as follows:

Kinston & Snow Hill Railroad Co., Inc.
8301 Depot St
Rural Hall, NC 27045-9176
(910) 544-9280

KSHR is voluntarily assigning the Lease to KNR, and does not object to the proposed change in operators.

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

North Carolina Department of Transportation
Rail Division
1 South Wilmington Street
1553 Mail Service Center
Raleigh, North Carolina 27699-1553

KNR intends to commence operations over the Line on or after June 30, 2022.

Map: 49 C.F.R. § 1150.33(f)

A map showing the Line and the surrounding area is attached as Exhibit A.

Certificate of Compliance: 49 C.F.R. § 1150.33(g)

Certification pursuant to 49 C.F.R. § 1150.33(g) and a verification of the contents of this Notice are supplied as Exhibit B.

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

The proposed change in operators on the Line does not involve, and the Lease between NCDOT and KSHR does not include, any provision or agreement that would limit future interchange with a third-party connecting carrier. See, also, Exhibit B.

Shipper Notice: 49 C.F.R. § 1150.32(b)

KNR has notified on-Line customers of the proposed change in operator. A certificate of service of the notice and a list of customers is attached as Exhibit C, along with the text of the notice sent to customers (attached as Exhibit C-1).

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

KNR's projected annual revenue would not exceed \$5 million. Accordingly, the notice requirements of 49 C.F.R. § 1150.32(e) are inapplicable. See Exhibit B.

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

Under 49 C.F.R. § 1105.6(c)(2), KNR's proposed operation of the Line is exempt from environmental reporting requirements. 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).

Under 49 C.F.R. § 1105.8(b)(1), KNR's assumption of operations on the Line also is exempt from historic preservation reporting requirements. The proposed transaction is for the purpose of continued rail operations. Further Board approval is 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 E.

Respectfully submitted,

By: /s/ *R. A. Wimbish*

Robert A Wimbish
Thomas J. Healey
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500

ATTORNEYS FOR KINSTON RAILROAD, LLC

Dated: May 31, 2022

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36621

KINSTON RAILROAD, LLC
-- CHANGE IN OPERATOR EXEMPTION --
LINE IN LENOIR COUNTY, NC

EXHIBIT A
MAP

Kinston Railroad

Kinston, NC

-  **Interchange**
-  **Kinston Railroad**
-  **Norfolk Southern**
-  **CSX**
-  **NC Global TransPark Highway**



Goldsboro

New Hope

La Grange

North Carolina
Global TransPark

Kinston

Dover

Cove City



BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36621

KINSTON RAILROAD, LLC
-- CHANGE IN OPERATOR EXEMPTION --
LINE IN LENOIR COUNTY, NC

EXHIBIT B
CERTIFICATION AND VERIFICATION

CERTIFICATION AND VERIFICATION

I, J. Stuart Towner, am the President of Kinston Railroad, LLC (“KNR”). Under penalty of perjury, I hereby certify and verify as follows:

1. I am authorized to provide the present certification and verification on behalf of KNR.
2. I certify that KNR’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 KNR becoming Class I or II rail carrier under the thresholds set forth at 49 C.F.R. § 1201(1 1).
3. I certify that the Lease between the North Carolina Department of Transportation and Kinston & Snow Hill Railroad Co., Inc. (“KSHR”) that KSHR will assign to KNR does not include any provision or agreement that would limit future interchange with a third-party connecting carrier, per 49 C.F.R. § 1150.33(h).
4. I verify that I have read the foregoing Notice of Exemption and know that the facts stated herein are true.

Dated: May 31, 2022



J. Stuart Towner

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36621

KINSTON RAILROAD, LLC
-- CHANGE IN OPERATOR EXEMPTION --
LINE IN LENOIR COUNTY, NC

EXHIBIT C
CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that in compliance with the notice requirements of 49 C.F.R. § 1150.32(b), I have today arranged, via the text appended on the page following, to notify the below-listed customers on the subject railroad line of the proposed change in operators. And I certify that, in so doing, I have also supplied those customers with a copy of the present Notice of Exemption.

Cranemasters, Inc.
8020 Whitepine Road
North Chesterfield, VA 23237
Attn: Matt Little (matt.little@cranemasters.com) 800-624-0543

PCS Sales (USA), Inc.
1101 Skokie Blvd., Suite 400
Northbrook, IL 60062
Attention: Charles Morf (cjmorf@potashcorpo.com) 847-849-4354

R. A. Wimbish

Robert A. Wimbish
Attorney for Kinston Railroad, LLC

Executed on: May 31, 2022

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36621

KINSTON RAILROAD, LLC
-- CHANGE IN OPERATOR EXEMPTION --
LINE IN LENOIR COUNTY, NC

EXHIBIT C-1
SAMPLE SHIPPER NOTIFICATION

Kinston Railroad, LLC (“KNR”) hereby informs you that it has agreed to assume a lease (the “Lease”) currently held by Kinston & Snow Hill Railroad Co., Inc. (“KSHR”) under which KSHR operates as a common carrier railroad over track owned by the North Carolina Department of Transportation near Kinston, Lenoir County, North Carolina, running from milepost GTP-0.0 to milepost GTP-5.7 (the “Line”). Upon assumption of the Lease, KNR will replace KSHR as the common carrier service provider on the Line.

KNR has filed a Notice of Exemption for this transaction with the Surface Transportation Board (“STB”) under FD 36621. A copy of KNR’s Notice of Exemption is attached.

This notice is intended as information in compliance with applicable STB advance notice regulations (49 C.F.R. § 1150.32(b)). You are welcome to respond to this notice or the attached filing if you wish, but no such response is required or expected. If you have any questions concerning this notice or the railroad line transaction that is the subject of the attached regulatory filing, you may contact the STB at rcpa@stb.gov (202-245-0238) or the undersigned counsel for KNR.

Sincerely,

R. A. Wimbish

Robert A. Wimbish
Attorney for Kinston Railroad, LLC
rwimbish@fletcher-sippel.com

Enclosure

CONFIDENTIAL

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36621

KINSTON RAILROAD, LLC
-- CHANGE IN OPERATOR EXEMPTION --
LINE IN LENOIR COUNTY, NC

EXHIBIT D

**CONFIDENTIAL - LEASE AND
OPERATING AGREEMENT**

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36621

KINSTON RAILROAD, LLC
-- CHANGE IN OPERATOR EXEMPTION --
LINE IN LENOIR COUNTY, NC

EXHIBIT E
CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

FD 36621

KINSTON RAILROAD, LLC
– CHANGE IN OPERATOR EXEMPTION –
LINE IN LENOIR COUNTY, NC

Kinston Railroad, LLC (“KNR”), a non-carrier, has filed a Verified Notice of Exemption to lease and operate approximately 5.7 miles of rail line in Lenoir County, North Carolina, owned by the North Carolina Department of Transportation, and extending from milepost GTP-0.0 to milepost GTP-5.7 near Kinston, Lenoir County, North Carolina (the “Line”). KNR will replace Kinston & Snow Hill Railroad Co., Inc. (“KSHR”) as the operator of the Line, thereby ending KSHR’s common carrier obligations over the Line.

KNR expects to commence operations over the Line in place of KSHR on or after June 30, 2022.

Comments must be filed with the Board and served on:

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500

This proceeding is related to FD 36620, *OPSEU Pension Plan Trust Fund, Jaguar Transport Holdings, LLC, and Jaguar Rail Holdings, LLC – Continuance in Control Exemption* – *Kinston Railroad, LLC*, in which OPSEU Pension Plan Trust Fund, Jaguar Transport Holdings, LLC, and Jaguar Rail Holdings, LLC have concurrently filed a notice of exemption pursuant to

49 U.S.C. §§ 11323, et seq. and 49 C.F.R. § 1180.2(d)(2) to continue in control of KNR once KNR assumes operation of the Line and becomes a carrier.

This Notice is filed under 49 C.F.R. § 1150.31(a)(3). 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: June __, 2022

By the Board

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