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March 22, 2023
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Justin J. Marks
T (202) 772-0916
F +12027720919
Email:jmarks@ClarkHill.com

Clark Hill
1001 Pennsylvania Avenue N.W.
Suite 1300 South
Washington, DC 20004
T (202) 772-0909
F (202) 772-0919

March 22, 2023

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

Re: Jason W. Grube
– Continuance in Control Exemption –
Rochester & Erie Railway, LLC
Surface Transportation Board Finance Docket 36684

Dear Ms. Brown:

Enclosed for filing in the above referenced docket is a verified notice of exemption filed pursuant to 49 C.F.R. §1180.2(d)(2). The filing fee has been paid via pay.gov.

Sincerely,

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

Justin J. Marks
Counsel to Jason W. Grube

Enclosure

FILED
March 22, 2023
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
March 22, 2023
SURFACE
TRANSPORTATION BOARD

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 36684

JASON W. GRUBE
– CONTINUANCE IN CONTROL EXEMPTION –
ROCHESTER & ERIE RAILWAY, LLC

NOTICE OF EXEMPTION

(contains color images)

Eric M. Hocky
Clark Hill PLC
Two Commerce Square
2001 Market St.
Suite 2620
Philadelphia, PA 19103
(215) 640-8523
ehocky@clarkhill.com

Justin J. Marks
Clark Hill PLC
1001 Pennsylvania Ave. N.W.
Suite 1300 South
Washington, DC 20004
(202) 772-0916
jmarks@clarkhill.com

Attorneys for Jason W. Grube

Dated: March 22, 2023

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 36684

JASON W. GRUBE
– CONTINUANCE IN CONTROL EXEMPTION –
ROCHESTER & ERIE RAILWAY, LLC

NOTICE OF EXEMPTION

Jason W. Grube (“Grube”), a non-carrier, files this Notice of Exemption pursuant to 49 C.F.R. §1180.2(d)(2) to exempt from the provisions of 49 U.S.C. §11323 his continuance in control (by majority ownership) of Rochester & Erie Railway, LLC (“RERY”), a non-carrier, when RERY becomes a common carrier. Grube currently has indirect control of Fulton County, LLC, d/b/a Fulton County Railroad (“FCRR”) through his ownership of Grube Industries, LLC which owns Steel on Steel Railways, LLC (“Steel on Steel”), which in turn owns FCRR. FCRR is a Class III carrier.¹

RERY, a non-carrier, has filed a notice of exemption to enter into an operating agreement to operate on behalf of FCRR the line described below and shown on Exhibit A (the “Subject Line”) in the State of Indiana. *See Rochester & Erie Railway, LLC – Operation Exemption – Fulton County, LLC, d/b/a Fulton County Railroad*, STB Docket No. FD 36671, filed contemporaneously with this Notice of Exemption. Under the proposed transaction, RERY will

¹ *Fulton County, L.L.C. – Acquisition and Operation Exemption – Norfolk and Western Railway Company*, STB Docket No. FD 33477 (served Oct. 31, 1997). Steel on Steel Railways (owned by Jason Grube) acquired ownership of the membership interests of FCRR in July 2022. Since neither Jason Grube nor Steel on Steel controlled any other railroads, no STB authority was required for the acquisition.

enter into an agreement to operate the Subject Line on behalf of its corporate affiliate FCRR which owns the Subject Line, and which is a Class III carrier with operating authority. The Subject Line is the only line owned or to be operated by the Grube corporate family and, therefore, it does not connect with any other railroads in the corporate family, nor is the continuance in control of RERY part of a series of anticipated transactions that would connect the Subject Line with any other carriers in RERY's corporate family. The proposed transaction does not involve a Class I railroad. Accordingly, this transaction qualifies for the class exemption described in 49 C.F.R. §1180.2(d)(2).²

Required Information

In accordance with the provisions of 49 C.F.R. 1180.4(g), Grube provides the following information as required by 49 C.F.R. §1180.6(a)(1)(i)-(iii), (a)(5), (a)(6), and (a)(7)(ii):

1180.6(a)(1)

(i) The proposed transaction as described above involves Grube's continuance in control (by majority ownership) of RERY, a non-carrier, when RERY becomes the contract operator of the Subject Line. Upon the commencement of operations, RERY will be a Class III carrier. Because Grube indirectly controls another carrier (FCRR), his continuance in control of RERY when RERY becomes a carrier requires authorization under 49 U.S.C. §11323(a)(5) or an exemption therefrom.

² See *Oregon International Port of Coos Bay – Continuance in Control Exemption – Coos Bay Rail Line, Inc.*, STB Docket No. 36242 (served Nov. 14, 2018) (finding the exemption applicable in a similar situation where the owner of a rail line sought an exemption to continue in control of a newly formed carrier that would operate its rail line).

The full name and address of the applicant is: Jason W. Grube; 1552 E. Lucas Street, Rochester, Indiana 46975.

The name, address and telephone number of Grube's counsel who should receive correspondence is:

Eric M. Hocky
Clark Hill PLC
Two Commerce Square
2001 Market St.
Suite 2620
Philadelphia, PA 19103
(215) 640-8523
ehocky@clarkhill.com

Justin J. Marks
Clark Hill PLC
1001 Pennsylvania Ave. N.W.
Suite 1300 South
Washington, DC 20004
(202) 772-0916
jmarks@clarkhill.com

(ii) RERY is filing its notice of exemption contemporaneously with the filing of this Notice of Exemption to enter into an operating agreement to operate on behalf of FCRR the Subject Line described as between approximately milepost I-108.6 near Argos and approximately milepost I-96.9 at Rochester, in Marshall and Fulton Counties, Indiana. The Subject Line includes a short stub-ended spur extending west from approximately milepost 98.1 terminating at U.S. Route 31. The transaction also includes incidental trackage rights over NSR's tracks between milepost I-108.6 and NSR's Argos Yard. *See Rochester & Erie Railway, LLC – Operation Exemption – Fulton County, LLC, d/b/a Fulton County Railroad*, STB Docket No. FD 36671.

RERY expects to consummate its transaction after its exemption becomes effective on April 21, 2023.

(iii) The purpose of the transaction is to allow Grube, a non-carrier, that indirectly controls another Class III railroad, to continue in his ownership control of RERY when RERY begins to operate as a carrier. The continuance in control will allow RERY to take advantage of the administrative, financial, and marketing support that Grube and the other entities he controls can provide while adding the operational experience that the other members of RERY can provide to the operation of FCRR's Subject Line. Thus, promoting the ability of RERY to operate on behalf of FCRR to provide safe and efficient service to its shippers.

1180.6(a)(5)

RERY will operate solely in the State of Indiana. FCRR is currently a Class III owner of the line that RERY will operate under contract with FCRR.

1180.6(a)(6)

A map showing the Subject Line to be operated by RERY and owned by FCRR is attached as Exhibit A.

1180.6(a)(7)(ii)

There is no agreement covering the common control FCRR and RERY, or the continuance in control of the two entities by Grube.

Labor Protection

Pursuant to 49 U.S.C. §11326(c), approval of this transaction may not be subject to labor protection because the proposed transaction involves only Class III carriers (FCRR and RERY).

Interchange Commitment

Grube certifies that the proposed continuance in control transaction does not impose or include an interchange commitment.

Environmental and Historic Reports

The proposed acquisition of control involves only the continuance in control of a non-carrier when it becomes a carrier, and will not affect the level of operations on the Subject Line to be operated by RERY on behalf of FCRR, which is the only rail line operated by the railroads in Grube's corporate family. As such, the proposed transaction should be exempt from the Board's environmental reporting requirements pursuant to 49 C.F.R. §1105.6(c)(2)(ii). Further, the proposed transaction is exempt from the historic preservation reporting requirements since the proposed acquisition of control will not substantially change the level of operations over, or maintenance of, the Subject Line to be operated by RERY on behalf of FCRR. *See* 49 C.F.R. §1105.8(b)(3).

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Conclusion

For the foregoing reasons, Grube requests that the Board issue a notice of exemption pursuant to 49 C.F.R. §1180.2(d)(2).

Respectfully submitted,



Eric M. Hocky
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Washington, DC 20004
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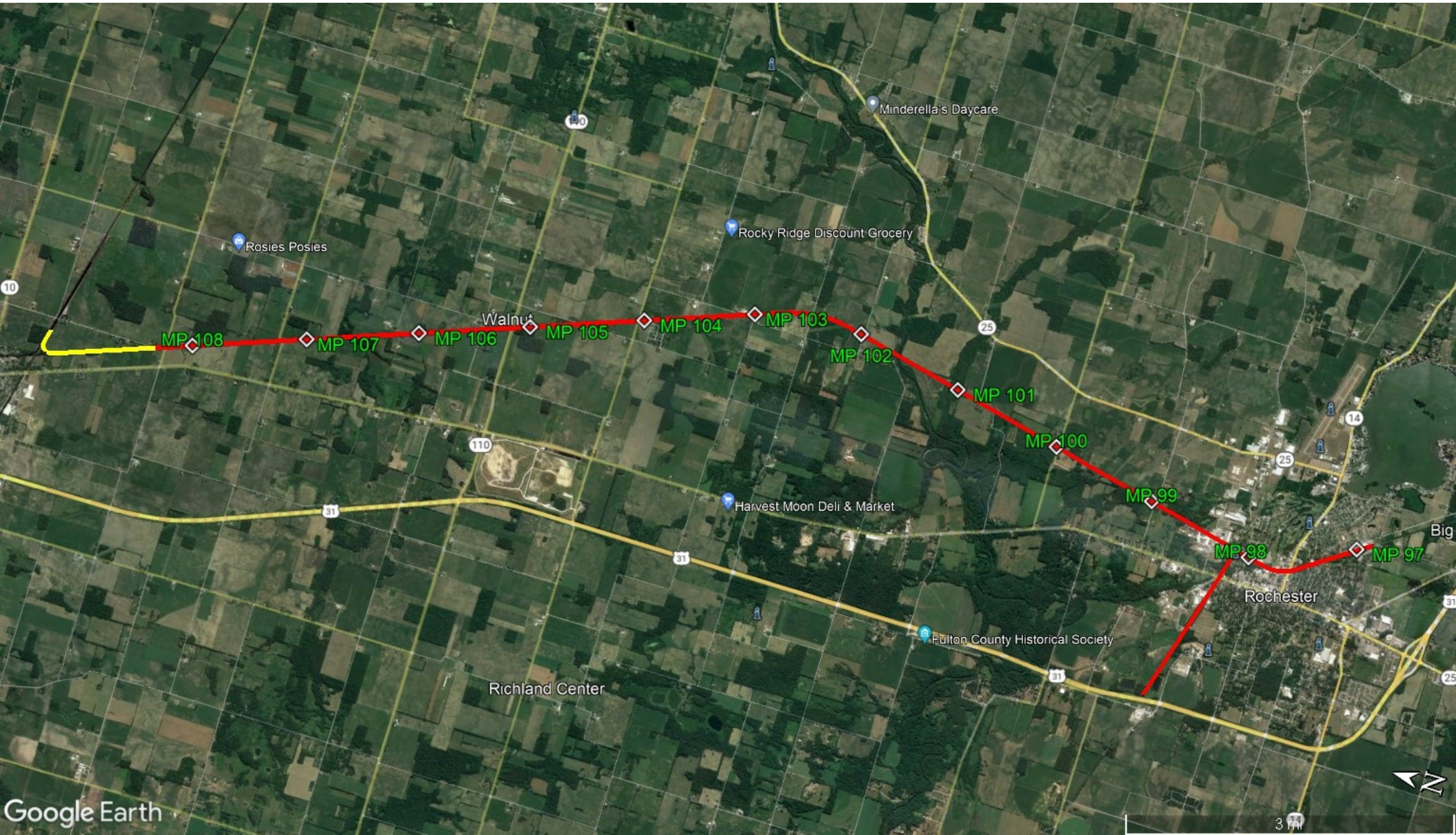
Attorneys for Jason W. Grube

Dated: March 22, 2023

EXHIBIT A

MAP OF THE FCRR / RERY SUBJECT LINE

FULTON COUNTY RAILROAD

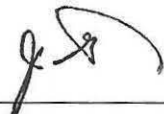


KEY
Red Line = FCRR Subject Line
Yellow Line = Incidental Trackage Rights

VERIFICATION

I, Jason W. Grube, verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file the foregoing document.

Executed on March 22, 2023.



Jason W. Grube