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SERVICE DATE – OCTOBER 13, 2023

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FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36723 (Sub-No. 2)]

OmniTRAX Holdings Combined, Inc., and HGS Railway Holdings, Inc.—Continuance
in Control Exemption—Savannah Industrial Logistics, LLC

OmniTRAX Holdings Combined, Inc. (OmniTRAX), and HGS Railway Holdings, Inc. (HGS) (collectively, Omni-HGS), both noncarriers, have filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(2) to continue in control of Savannah Industrial Logistics, LLC (SIL), a noncarrier currently controlled by OmniTRAX, once SIL is authorized to commence common carrier operations.

This notice of exemption is related to a concurrently filed petition for exemption in Savannah Industrial Transportation, LLC—Construction Exemption—in Effingham County, Ga., Docket No. FD 36723. In that proceeding, SIL seeks an after-the-fact exemption under 49 U.S.C. § 10502(a), from the prior approval requirements of 49 U.S.C. § 10901(a), for the construction of a rail line (the Track) located in an industrial park sited near Rincon, in Effingham County, Georgia.¹ The Track extends from a connection with Norfolk Southern Railway Company (NSR) near NSR milepost 16.6 to a connection with CSX Transportation, Inc. (CSXT), near CSXT milepost S484.0, a distance of approximately 11,404 feet.

¹ According to the verified notice, SIL is currently controlled by OmniTRAX. (Notice 2.) Should SIL's petition for after-the-fact construction authority be granted in Docket No. FD 36723, OmniTRAX and HGS seek to control SIL jointly. (Id. at 5.)

Omni-HGS states that it will control SIL upon SIL's becoming a Class III rail carrier. According to Omni-HGS, OmniTRAX and HGS are under joint managerial and operational control.² Omni-HGS states that OmniTRAX currently controls 22 Class III railroads, HGS currently controls two Class III railroads, and OmniTRAX and HGS control one Class III railroad together.³ The properties of the rail carriers controlled by OmniTRAX and HGS are located in the following states: Alabama, California, Colorado, Florida, Georgia, Illinois, Kansas, Maryland, Nebraska, New Jersey, Ohio, Oklahoma, Texas, Virginia, Washington, and West Virginia. Omni-HGS certifies that the proposed transaction does not involve an interchange commitment.

Omni-HGS states that: (1) the line over which SIL seeks authority to operate does not connect with the lines of any of the existing rail carriers controlled by OmniTRAX or by HGS, (2) the proposed transaction is not part of a series of anticipated transactions that would connect the line with any other railroads in the OmniTRAX or

² See OmniTRAX Holdings Combined, Inc.—Control Exemption—The Winchester & W. R.R., FD 36338 (STB served Aug. 22, 2019).

³ Specifically, OmniTRAX currently controls: Alabama & Tennessee River Railway, LLC; Brownsville & Rio Grande International Railway, LLC; Central Texas & Colorado River Railway, LLC; Chicago Rail Link, L.L.C.; Cleveland & Cuyahoga Railway, LLC; Fulton County Railway, LLC; Georgia & Florida Railway, LLC; Georgia Woodlands Railroad, L.L.C.; Great Western Railway of Colorado, L.L.C.; Illinois Railway, LLC; Kettle Falls International Railway, LLC; Manufacturers' Junction Railway, L.L.C.; Nebraska, Kansas and Colorado Railway, LLC; Newburgh & South Shore Railroad, LLC; Northern Ohio & Western Railway, L.L.C.; Omni River Ridge, LLC d/b/a River Ridge Railroad; Panhandle Northern Railroad, L.L.C.; Peru Industrial Railroad, LLC; Sand Springs Railway Company, Stockton Terminal and Eastern Railroad; Winchester and Western Railroad Company; and Savannah Industrial Transportation, LLC. HGS currently controls HGS-ATN, LLC, and HGS-FCR, LLC. Further, according to Omni-HGS, it recently filed for control of OmniTRAX SBVR, LLC d/b/a South Branch Valley Railroad, noting that its control authority becomes effective on October 11, 2023. See OmniTRAX Holdings Combined, Inc.—Continuance in Control Exemption—OmniTRAX SBVR, LLC, FD 36716 (STB served Sept. 27, 2023).

HGS corporate families; and (3) the transaction does not involve a Class I rail carrier.

Therefore, the proposed transaction is exempt from the prior approval requirements of 49 U.S.C. § 11323. See 49 C.F.R. § 1180.2(d)(2).

The earliest this transaction may be consummated is October 28, 2023, the effective date of the exemption (30 days after the verified notice was filed). The verified notice states that the parties do not intend to consummate the transaction until such time as SIL consummates the transaction that is the subject of its petition for exemption in Docket No. FD 36723.

Under 49 U.S.C. § 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees.

However, 49 U.S.C. § 11326(c) does not provide for labor protection for transactions under 49 U.S.C. §§ 11324 and 11325 that involve only Class III rail carriers.

Accordingly, the Board may not impose labor protective conditions here because all the carriers involved are Class III carriers.

If the verified 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 effectiveness of the exemption. Petitions to stay must be filed no later than October 20, 2023 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36723 (Sub-No. 2), must be filed with the Surface Transportation Board via e-filing on the Board's website or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of

each pleading must be served on Omni-HGS' representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606-3208.

According to Omni-HGS, this action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c) and from historic preservation reporting requirements under 49 C.F.R. § 1105.8(b).

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

Decided: October 10, 2023.

By the Board, Mai T. Dinh, Director, Office of Proceedings.