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August 2, 2024

VIA EMAIL

Ms. Danielle Gosselin

Director, Office of Environmental Analysis

Surface Transportation Board

395 E Street, SW

Washington, DC 20423

Danielle.Gosselin@stb.gov

Re: FD 36723, Savannah Industrial Logistics, LLC – Construction Exemption – In Effingham County, Ga.

FD 36723 (Sub-No. 1), Savannah Industrial Transportation LLC (“SIT”) – Lease and Operation Exemption – Line of Savannah Industrial Logistics, LLC in Effingham County, Ga.

Petition for waiver of Environmental Impact Statement requirements pursuant to 49 C.F.R. § 1105.6(d)

Dear Director Gosselin:

Pursuant to 49 C.F.R. § 1105.6(d), Savannah Industrial Logistics, LLC (“SIL”) and Savannah Industrial Transportation LLC (“SIT”), Petitioners in the above-captioned proceedings, hereby request that the Surface Transportation Board (“STB”) waive the Environmental Impact Statement (“EIS”) requirement of 49 C.F.R. § 1105.6(a) in favor of the preparation of an Environmental Assessment (“EA”). Petitioners submit that reclassification would be appropriate because the construction and operation of the rail line (the “Line”) located in an industrial park in Effingham County, Georgia that is the subject of these proceedings is unlikely to have a significant environmental impact. Among other things, the Line construction was the subject of extensive state, federal and local review and permitting processes, including environmental impacts review, and is located within lands that were, and continue to be, under development for industrial use. Accordingly, the requested waiver and the alternative preparation of an EA would

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sufficiently address the anticipated impacts of the construction and operation of the Line. In support of this request, Petitioners submit the following information in keeping with 49 C.F.R. §§ 1105.6(b)(1) and §1105.7(e).

Background

The Line already exists, having been constructed by SIL in the latter half of 2020 and, in turn leased to corporate affiliate SIT. The Line currently serves – and by Board order of August 23, 2023, is authorized only to serve – one shipper in the industrial park. The Board’s August 2023 decision, however, required SIL to seek after-the-fact authorization of the Line, and required SIT to seek authorization to operate the Line, all subject to applicable environmental and historic resources impacts analysis. In the above-referenced proceedings, Petitioners have done as the Board has directed, and the requisite environmental and historic resources impact analysis is underway with the assistance of a third-party environmental consultant that Petitioners supplied to the Board’s Office of Environmental Analysis from its list of acceptable consultants.

SIT currently operates one train a day, five days a week, on the Line, and forecasts that the number of trains per day and level of service over the Line, post authorization, would remain at that level.

In 2015, the Effingham County Industrial Development Authority (“ECIDA”) approached an affiliate of Petitioners, OmniTRAX, Inc. (“OmniTRAX”), out of an interest to develop a rail-served industrial park (where the Line is located today). The industrial park is located upon what ECIDA terms the Research Forest Property, encompassing 2,603.7 acres (now known as Savannah Gateway Industrial Hub or “SGIH”). Prior to approaching OmniTRAX, ECIDA had been working with a team of engineering and environmental contractors for over 10 years to study the proposed development of Research Forest Property as an industrial park, and, in the process, ECIDA undertook the sorts of impact assessments that one ordinarily would encounter in an undertaking guided by the National Environmental Policy Act (“NEPA”).

For example, in the mid-2000’s ECIDA’s contractors conducted a wetland survey of the entire Research Forest Property. An example of the documentation ECIDA received is a letter from the U.S. Army Corps of Engineers (“USACE”) dated February 27, 2015, referring to the “March 4, 2009, Public Notice titled ‘Characterization of Jurisdictional Determinations: Purpose, Application, and Documentation Requirements as Defined by the Savannah District, US Army Corp of Engineers.’” In July 2012, ECIDA developed a Wetlands Master Plan for the industrial park. And in the February 27, 2015 letter, USACE provided ECIDA with an “expanded” Jurisdictional Determination (“JD”) for the “2,603.7 acre site located west of U.S. Highway 21, and east and west of and adjacent to McCall Road, approximately two miles south of the city of

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Rincon, Effingham County, Georgia (Latitude 32.2727, Longitude -81.2367).” The project was assigned number SAS-2003-20390.

Other assessments performed by the Effingham County Development Agency include but are not limited to:

1. Habitat Assessment for Threatened and Endangered Species;
2. Phase 1 Cultural Resources Survey;
3. Traffic Impact Study;
4. Sewer and Reuse Water Master Plan; and
5. Phase 1 Environmental Site Assessment

Supplemental to SIL’s planned development of the Research Forest Property as a logistics park, OmniTRAX hired a well-known and experienced engineering contractor, HDR Consulting (<https://www.hdrinc.com> – “HDR”) to work closely with the ECIDA team on track design, location, and engineering. HDR reviewed the background information for the Research Forest Property. HDR considered the USACE wetlands JD as well as the track standards and requirements of the two Class I railroads whose lines would connect with the Line, CSXT Transportation, Inc. (“CSXT”) and Norfolk Southern Railway Company (“NSR”). HDR interacted with multiple governing agencies and stakeholders during the course of the project. SIT and SIL previously provided extensive documentation related to the design review, permits, and approvals reviewed and/or produced by HDR.

SIL constructed the Line in 2020 as part of ECIDA’s larger industrial development project in Rincon, Georgia (the development of the SGIH), located approximately 11 miles northwest of the Port of Savannah, Georgia. SGIH’s dual access to line-haul carriers NSR and CSXT makes its location highly appealing to rail shippers. Further, At the time of construction, SIL envisioned the Line as an industrial switching operation only and thus not subject to Board jurisdiction and regulatory oversight. Accordingly, SIL completed and extensive permitting and environmental review processes akin to a NEPA process, as part of the construction process.

SIT’s Proposal is Not Likely to Have a Significant Impact on the Environment

Under 49 C.F.R. § 1105.6(a), an EIS “will normally be prepared for rail construction proposals.” However, 49 C.F. R. § 1105.6(d), provides that an applicant (such as the Petitioners here) can request that the STB instead evaluate a project under an EA, rather than an EIS, if the applicant can demonstrate that a given railroad line construction and operation project is not likely to have a significant environmental impact. Further, under Section 1105.6(d), “any request for reclassification must be in writing and, in a rail construction, should be presented with a prefilming notice required by 49 C.F.R. § 1105.10(a)(1) (or request to waive that prefilming notice period).”

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Here, under the unique circumstances of these proceedings, The Board's Office of Environmental Analysis previously excused Petitioners from the pre-filing, advance notice requirements. But the Board has not yet acted on whether or not to assess SIL's after-the-fact construction of the Line and SIT's provision of common carrier operations over it as a leasehold operator under the board's EA processes. Hence the present petition for a waiver of the otherwise-applicable EIS requirements.

As an initial matter, the Line that is the subject of both proceedings is of modest scope, currently serving one customer (with other customers potentially interested in locating within SGIH, adjacent to the Line, depending upon the STB decisional time frames), and consisting of roughly two miles of main line track and another roughly 7,000 feet of ancillary trackage. The Line is within an industrial logistics facility that has long been targeted for industrial development by ECIDA (a public entity). Moreover, the ostensible purpose of the current environmental and historic resourced review, per the Board's holding in *Savannah Industrial Transportation, LLC – Operation Exemption – In Effingham County, GA*, FD 36489 (STB served Aug. 1, 2023), is linked to the agency's expectation to review and authorize SIL's construction of the Line and SIT's operation of the same "after the fact," speaks to a limited analysis focusing upon Line construction and operation as originally conceived. The Board's Office of Environmental Analysis has not yet, to Petitioners' knowledge, clarified or established the appropriate scope of an assessment for after-the-fact construction and operation authorization, although Petitioners are confident that the Director will be guided by the Board's expectations as set forth in last August's Entire Board decision.

Additionally, as above, the Line construction has been the subject of extensive federal, state, and local review and permitting, all of which is documented (and which documentation has been provided to this agency). For example, line engineering, track design and construction project considered wetlands surveys, Effingham County's wetlands master plan, and the USACE wetland JD. Other studies that supported Line construction permits and approvals that SIL obtained included, but are not limited to, Habitat Assessment for Threatened and Endangered Species, Phase I Cultural Resources Survey, Traffic Impact Study, Sewer and Reuse Water Master Plan, and a Phase I Environmental Site Assessment. Because much of what might be required under a traditional EIS has already been undertaken and completed, an EA here would be sufficient. Petitioners are confident that the Board's efforts will in many cases entail a virtual audit of the steps and processes followed by Petitioners and HDR in designing and building the Line under non-Board procedures, with, potentially, marginal additional analysis if and/or where the agency may determine that past review is not fully board-compliant.

Further in support of the requested waiver, Petitioners' engineering contractor prepared engineering design sheets and specifications for the planned Line construction. Engineering designs were reviewed and approved with comments by various governing agencies. The

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Facility final designs were found to comply with all applicable provisions of local, state and federal laws and engineering standards, including all applicable Effingham County Development Codes. The final engineering design was stamped and signed by a licensed professional engineer prior to construction.

SIT rail operations are not situated adjacent to residential properties, and as such it is not anticipated that the SIT's rail operations will impact sensitive noise receptors. Petitioners will continue to work with OEA to quantify current and potential future noise impacts.

Petitioners do not believe that SIT's rail operations are likely to adversely affect endangered or threatened species or areas designated as critical habitat.

Petitioners know of no historic or cultural resources that have been, or would be, impacted by Line construction or operation over it, but they will work with the OEA to identify any potential impacts and appropriate mitigation, if any.

In sum, Petitioners believe that an EIS will be unnecessary because the environmental conditions of this property are known, and the impacts of the Line and rail operations over it are negligible based on the information provided. Accordingly, Petitioners respectfully request waiver of the requirement of 49 C.F.R. §1105.6(a), Preparation of an Environmental Impact Statement, in favor of the preparation of an Environmental Assessment. We appreciate your consideration in this matter.

Respectfully submitted,

/s/ *R. A. Wimbish*

Robert A. Wimbish
Counsel for Savannah Industrial Logistics, LLC and
Savannah Industrial Transportation LLC

cc: Karen Stevens, STB – Office of Environmental Analysis (via email)
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