

**Before the
SURFACE TRANSPORTATION BOARD**

STB Docket No. FD 36894

**AJAK RAIL, LLC –
ACQUISITION EXEMPTION –
CHAMBERSBURG, PA**

ENTERED
Office of Chief Counsel
February 6, 2026
Part of
Public Record

**PETITION OF PENNSYLVANIA & SOUTHERN RAILWAY, LLC
TO REJECT OR REVOKE**

(includes color images)

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Railway, LLC.*

Dated: February 6, 2026

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PETITION OF PENNSYLVANIA & SOUTHERN RAILWAY, LLC
TO REJECT OR REVOKE

Pennsylvania & Southern Railway, LLC (“PSCC”) files this Petition to request that the Board either reject or revoke the notice of exemption filed by AJAK Rail, LLC (“AJAK”) in this proceeding.¹

Procedural Status

On December 15, 2025, AJAK filed a notice of exemption under 49 C.F.R. §1150.31 to acquire from Colby Nitterhouse (Nitterhouse), on behalf of Franklin Storage, LP (“Franklin Storage”), and operate what was originally described as 7,665 feet of rail line in Chambersburg, PA. On January 13, 2026, the Board issued a decision based on its review of the notice filed in this proceeding (as well as those filed simultaneously in three other proceedings) requiring AJAK to supplement its notice of exemption by January 27, 2026 to correct certain errors and omissions, including the failure to attach a verification, the failure to certify whether the operation would be subject to an interchange commitment, the failure to accurately describe the length of the subject line and the failure to submit a map that accurately showed the ownership of the proposed subject line. The decision also postponed the effective date of the AJAK exemption (and three other

¹ As discussed below, it is not clear whether the AJAK notice has been accepted by the Board. If the notice has not yet been accepted, then PSCC seeks rejection of the notice. If the notice has been accepted, then PSCC seek revocation of the notice.

exemptions that had been filed on behalf of new entities formed by Nitterhouse) until further order of the Board.

Also on January 13, 2026, CSX Transportation, Inc. (“CSXT”) filed a petition in this docket (as well as in Docket No. FD 36897 in which another Nitterhouse controlled entity WCN Rail, LLC (“WCN”) had filed a notice of exempt to acquire and operate different track in Chambersburg as a line of railroad) asking the Board to reject AJAK’s notice or in the alternative, issue a stay and require Nitterhouse to file a notice of exemption to continue in control of AJAK and WCN before the notices of AJAK and WCN became effective.

On January 27, 2026, AJAK filed a supplement to address the deficiencies previously noted by the Board. Significantly, AJAK clarified that the “rail line” would consist of three separate tracks (on three separate properties) totaling 2,665 feet. AJAK also submitted a new map which it purports accurately identifies the three tracks to be acquired and operated by AJAK.

On January 28, 2026, the Board issued a decision in this docket (as well as five other dockets), directing among other requirements, that Nitterhouse, by February 27, 2026, either seek Board authorization to continue in control of AJAK as well as the three other carriers that Nitterhouse would control upon their becoming rail carriers, or explain why such control authority would not be required. If Nitterhouse does not submit the required filing or filings, then the Board indicated that the relevant notices of exemption (including AJAK’s) will be rejected without further order of the Board, effective February 28, 2026.

Interest of PSCC

PSCC is a Class III carrier that operates in the Chambersburg, PA area. It provides service to a number of shippers including, as acknowledged in the AJAK notice of exemption and on the revised map provided in the AJAK supplement, the Franklin Storage properties where AJAK

proposes to operate. PSCC is concerned about the proposed rail operations because AJAK has not discussed either in its notice of exemption or in private discussions with PSCC such issues as how AJAK proposes to operate the three disconnected track segments as a single railroad / line of railroad, or how and where interchange will take place given the lack of available track space that can be used for interchange.

Request for Relief

PSCC respectfully requests the Board reject the notice of exemption regardless of whether Nitterhouse files a common control notice as required in the January 28 decision. Under the Board's decisions in these dockets, AJAK's authority is not effective and will not be effective until further order of the Board (January 13 decision) or until the common control notice is filed and becomes effective (January 28 decision). However, if, as a result of the AJAK January 27, 2026 supplement and any subsequent control filing, the Board deems the AJAK notice of exemption as complete, then PSCC requests that the Board consider this petition as one to revoke the exemption under 49 U.S.C. §10502(d).

PSCC requests that the Board reject the notice of exemption because the revised map submitted with the January 27, 2026 supplement contains false and misleading information since the map gives the deceptive impression that two of the tracks that AJAK proposes to operate connect with each other near Vocation Avenue. Further, the circumstances of the proposed new railroad operations are too complicated to be handled in a notice of exemption.

Argument

Under 49 C.F.R. 1150.32(c), if a notice contains false or misleading information, the exemption is void ab initio. In addition, the Board (and the ICC before it) has made clear, the "class exemption" is intended for routine situations, and not for cases converting private track to

common carrier service that attract controversy and opposition. *See Riverview Trenton Railroad Company – Acquisition and Operation Exemption – Crown Enterprises, Inc.*, STB Docket No. FD 33980 (served February 15, 2002), slip op. at pp. 6-7. Such matters require additional review and scrutiny under the rail transportation policy at 49 U.S.C. §10101(2) (the “RTP”) to determine if regulation is required. *Id.*, at p. 8. *See also Saratoga and North Creek Railway, LLC – Operation Exemption – Tahawus Line*, STB Docket No. FD 35559 (served May 14, 2012) (upholding the decision of the Acting Director in rejecting the original notice of exemption given the issues raised), slip op. at p. 5 (confirming class exemption is meant for transaction involving routine matters; citations omitted). The Board has held that it is proper to reject a notice that raises substantial controversy or substantial factual or legal issues. *Saratoga and North Creek, supra* at p. 6.

In this instance, the map provided with the AJAK January 27, 2026 supplement contains false and misleading information.

As the AJAK’s supplement clarifies, the “line of railroad” that it seeks to acquire and operate is not a single line but rather is comprised of three separate tracks located on three separate parcels. The supplement acknowledges that the original map submitted with the notice was mislabeled. A copy of the revised map submitted with the supplement as Amended Appendix 1-B is attached hereto for convenience. Although the revised map provides more clarity than the original map submitted with the notice, it is still false and misleading. The map appears to show that two of the tracks that AJAK proposes to operate directly connect with each other near Vocation Avenue. However, this is not the case. Rather, each of the two tracks connects with the PSCC line that runs between the two tracks, but no steel connection exists between these two AJAK tracks. The “point of connection” as shown on the map is actually PSCC track (PSCC owns the

track, switches and connecting tracks) and not Franklin Storage track and cannot be subject to the AJAK proposed acquisition and operation. AJAK and PSCC have entered into no agreement allowing AJAK to use PSCC track to cross over from one AJAK track to another. The Board should find that because the notice of exemption as supplemented contains this false and misleading presentation, the notice is void *ab initio*, and should be rejected or revoked.

Even if the Board were to conclude that the map presentation is not deliberately false or misleading, it demonstrates that AJAK does not fully understand the situation on the ground. This raises serious concerns for PSCC and its adjacent operations. AJAK has not approached PSCC to discuss how AJAK plans to operate three independent tracks, none of which connect with each other. Nor has there been any discussion or indication from AJAK about how or where interchange would take place with PSCC without disruption of PSCC's operations on its serving line of railroad.² Given these potential complications regarding track ownership and operational complexities, PSCC does not believe that this is a simple or straightforward transaction, and as such should not be eligible for a class exemption and it would be proper for the Board to reject (or revoke) the AJAK notice of exemption.

² The PSCC line of railroad shown on AJAK's map is only a portion of PSCC's line. Disruption of operations at this location risk disruption of PSCC operations generally.

Conclusion

Based on the foregoing, PSCC requests that the Board either reject or revoke the AJAK notice of exemption.

Respectfully submitted,

/s/ Eric M. Hocky

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*Attorneys for
Pennsylvania & Southern Railway, LLC*

Dated: February 6, 2026

VERIFICATION

I hereby verify on behalf of Pennsylvania & Southern Railway, LLC, under penalty of perjury, that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verification.

Executed on February 5, 2026.



Eyal Shapira, President

CERTIFICATE OF SERVICE

I certify that I have served copies of the Petition to Reject or Revoke on all parties of record in this proceeding by electronic delivery:

Max Callahan (max@prptax.com and kris@prptax.com)

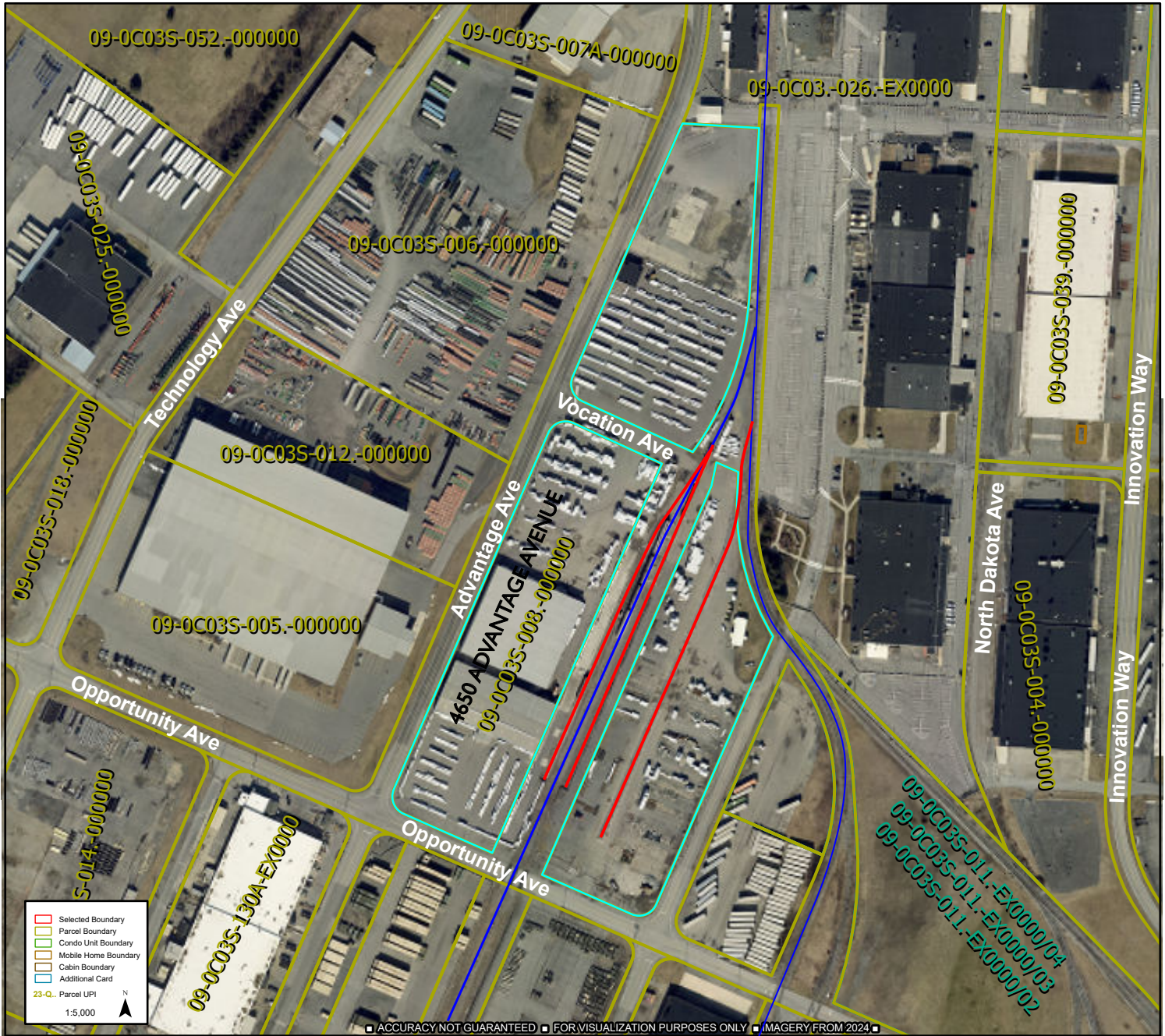
Louis E, Gitomer (lou@lgraillaw.com)

/s/ Eric M. Hocky

Dated: February 6, 2026

EXHIBIT A

AJAK REVISED MAP



PROPERTY INFORMATION

UPI: 09-0C03S-008.-000000
ADDRESS: 4950 ADVANTAGE AVENUE
CHAMBERSBURG PA 17201

Unit ID: PARCELS 8 & 9 & 5-114
TYPE: Tax Parcel
DEED AREA: 13.6 ACRES

CURRENT OWNER INFORMATION

OWNER: AJAK PROPERTIES LLC
ADDRESS: 900 KRINER RD STE 1
CHAMBERSBURG PA 17202
DEED REF: 18-025181 SOLD: 12/21/2018
PRICE: \$2,250,000.00

ASSESSMENT VALUES

BLDGS	\$131,200.00
LAND	\$40,790.00
TOTAL	\$171,990.00

TAXABLE STATUS

EXEMPT: NO

PENNSYLVANIA & SOUTHERN RR SPUR
PENNSYLVANIA & SOUTHERN RR OTHER

