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March 19, 2019

Ms. Cynthia T. Brown
Chief of the Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, S. W.
Washington, D.C. 20423-0001

Re: Docket No. NOR 42162, Denver Rock Island Railroad Company v. The
City and County of Denver, Colorado

Dear Ms. Brown:

Enclosed for e-filing is the Petition to Intervene of Iron and Metals Inc. in
Docket No. NOR 42162. Thank you for your assistance. If you have any questions,
please contact me.

Respectfully,

A handwritten signature in black ink, appearing to read 'E B -', is written over the typed name.

Erich Bethke
Attorney for Iron and Metals, Inc.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

NOR No. 42162

**DENVER ROCK ISLAND RAILROAD COMPANY V. THE CITY AND COUNTY
OF DENVER, COLORADO**

**PETITION TO INTERVENE OF
IRON AND METALS INC.**

Pursuant to 49 CFR § 1112.4 and/or 49 CFR § 1113.7, as appropriate, Iron and Metals Inc. (“IMI”) respectfully requests that it be permitted to intervene in the above captioned proceeding in support of the verified complaint (the “Complaint”) of Denver Rock Island Railroad Company (“DRIR”) seeking findings that the City and County of Denver (the “City”) has acted unlawfully in attempting to cause the abandonment of railroad tracks in the National Western Center without first submitting to the Board’s removal and abandonment jurisdiction under 49 U.S.C. §§ 10501, 10903, and 10906. DRIR filed the Complaint with the Board on February 4, 2019. IMI also respectfully requests that it be permitted to participate in any and all Board-sponsored mediation proceedings between the Parties.

IRON AND METALS’ INTEREST IN THIS PROCEEDING

IMI operates a metal scrapyards and recycling facility to the north of the National Western Center and the City’s proposed track reconfiguration. IMI is a rail shipper that relies heavily on the availability of daily rail service provided

by Denver Rock Island Railroad (“DRIR”) to transport materials generated from its metal scrapyards and recycling operations. In 1975, IMI invested in and built trackage near the National Western Center that directly connects to the DRIR. IMI established its operations in Denver, Colorado because it afforded IMI direct access to multiple railroads, including BNSF, UP, and DRIR. DRIR not only provides assistance to IMI with respect to interchanging traffic with BNSF and UP, but DRIR also assists IMI with car storage in nearby yards located on the main line. IMI is dependent on DRIR and the relevant track for interchange purposes, staging and storage, all of which ensure the efficiency of its operations.

The only practical and economical mode of transportation for IMI’s materials shipments is by rail, and IMI has relied on regular, predictable rail shipments for the past forty years in order to maintain and expand its business. The City’s proposed reconfiguration of track significantly threatens IMI’s ability to receive daily rail service from DRIR by consolidating multiple rail lines in the National Western Center. The proposed reconfiguration involves the removal of large sections of track as shown in Exhibits C and D to the City’s December 21, 2018 Petition in FD No. 36263. IMI and DRIR currently rely on such sections of track to stage and store rail cars for the provision of daily rail service to IMI. The removal and reconfiguration of track as proposed by the City would adversely impact IMI’s service, operations, and working relationship with its railroad partners by threatening IMI’s ability to receive daily rail service. If IMI were to lose reliable daily railroad service and the use

of the relevant track, IMI estimates that it would experience significant economic harm and the economic viability of its decades-old operation would be in jeopardy.

IMI's interest is not adequately represented in these proceedings at present. While DRIR, through its Complaint, is generally seeking to minimize the disruption to its shippers, DRIR's obligation is to maximize its own profits and preserve the overall bulk of its business, as opposed maintaining optimal service for any one specific shipper such as IMI. Therefore, IMI seeks to intervene to ensure that its current level of daily service is maintained after any reconfiguration that may be agreed to by the current Parties or as ordered by the Board.

IRON AND METALS' SUPPORT OF DRIR'S COMPLAINT

DRIR's Complaint seeks findings that the City is in violation of 49 U.S.C. §§ 10501, 10903, and 10906 via its attempt to remove tracks without the consent of interested parties or the approval of the Board. See DRIR Complaint, pp. 7-10. IMI Supports DRIR's Complaint that seeks findings that the City has violated such statutory provisions in attempt to dodge the Board's jurisdiction over abandonment and track removal decisions. At no point has the City filed an adverse abandonment petition before the Board or obtained consent to remove and relocate tracks from DRIR and its shippers such as IMI. The City's removal of significant portions of track upon which IMI currently relies will severely disrupt IMI's operations and cause irreparable harm.

CONCLUSION AND REQUEST FOR RELIEF

Given the substantial impact that the City's improper attempts to illegally remove tracks will have on IMI, IMI seeks to intervene in support of DRIR's Complaint. So that IMI's interests will be adequately represented as the Parties work toward a possible resolution of their dispute, IMI also respectfully requests that it be allowed to participate in the mediation as ordered by the Board's March 8, 2019 Order granting mediation in both FD 36263 and NOR 42162.

Dated: March 19, 2019

Respectfully Submitted,



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ATTORNEY FOR
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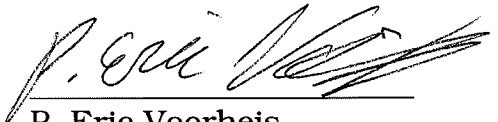
CERTIFICATE OF SERVICE

I certify that I have this day served copies of Iron and Metals' Petition to Intervene by electronic mail and first class mail on the following:

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P. Eric Voorheis
March 19, 2019