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April 26, 2018

VIA FEDERAL EXPRESS

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20024

245597
ENTERED
Office of Proceedings
April 27, 2018
Part of
Public Record



Re: **Docket No. FD 36190**
Terminal Railway Alabama State Docks -- Temporary Trackage
Rights Exemption -- Norfolk Southern Railway Company

Dear Ms. Brown:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of the **Petition for Waiver and for Immediate Effective Date**, dated April 26, 2018. Please note that expedited consideration of this Petition is requested.

If you have any questions regarding this filing, please feel free to contact me. Thank you for your assistance on this matter.

Respectfully submitted,

Thomas J. Litwiler
Attorney for Terminal Railway
Alabama State Docks

TJL:tl

Enclosures

cc: Garrett D. Urban, Esq., NS

ORIGINAL

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36190

TERMINAL RAILWAY ALABAMA STATE DOCKS
-- TEMPORARY TRACKAGE RIGHTS EXEMPTION --
NORFOLK SOUTHERN RAILWAY COMPANY



**PETITION FOR WAIVER AND FOR
IMMEDIATE EFFECTIVE DATE**

EXPEDITED CONSIDERATION REQUESTED

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**ATTORNEY FOR TERMINAL RAILWAY
ALABAMA STATE DOCKS**

Dated: April 26, 2018

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36190

TERMINAL RAILWAY ALABAMA STATE DOCKS
-- TEMPORARY TRackage RIGHTS EXEMPTION --
NORFOLK SOUTHERN RAILWAY COMPANY



**PETITION FOR WAIVER AND FOR
IMMEDIATE EFFECTIVE DATE**

Terminal Railway Alabama State Docks ("TASD") hereby petitions the Board to waive the 30-day effectiveness period specified by 49 C.F.R. § 1180.4(g) to permit the temporary trackage rights notice of exemption concurrently filed by TASD in this docket under 49 C.F.R. § 1180.2(d)(8) to become effective immediately. Waiver will accommodate TASD's emergency detour operations over a Norfolk Southern Railway Company ("NS") line while repairs are conducted on a nearby TASD bridge, and effectuate the cooperative arrangements with NS and rail labor that allowed those emergency operations to commence immediately. Expedited consideration of this petition is requested.

As is explained in TASD's notice of exemption, TASD recently experienced a structural failure on the Viaduct Bridge that carries TASD's rail line over Bay Bridge Road in Mobile, Alabama. That failure isolated TASD's Chickasaw Line from the remainder of TASD's system in Mobile, and threatened to disrupt service to customers on the Chickasaw Line. With the cooperation of NS and rail labor, TASD made arrangements to conduct emergency detour operations over 2.9 miles of parallel NS rail line to reach the Chickasaw Line while repairs to the Viaduct Bridge are performed. Those detour operations are ongoing.

These arrangements were undertaken with the understanding that T ASD would obtain immediate authority from the Board to continue its detour operations over NS as temporary trackage rights. T ASD is today filing its notice of exemption in this proceeding in fulfillment of that understanding.

Under 49 C.F.R. § 1180.4(g), T ASD's temporary trackage rights exemption would ordinarily not become effective until 30 days after the filing of T ASD's notice. Waiver of that period in the limited, exigent circumstances present here would honor the cooperative arrangements with rail labor that permitted the prompt commencement of T ASD's detour operations and the preservation of service to T ASD customers. In addition, T ASD anticipates that repairs to the Viaduct Bridge will be completed, and operations via T ASD's own line will resume, by mid-May. In the absence of the requested waiver, the temporary trackage rights exemption might not be effective until after T ASD's operations over NS's line have ceased. Allowing that exemption to become effective immediately is reasonable in this situation to accommodate the parties' emergency detour arrangements.

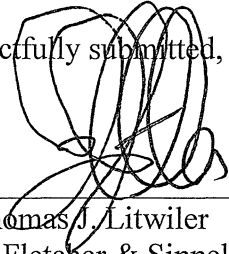
The Board has previously granted waivers to allow immediate effectiveness of temporary trackage rights in directly analogous circumstances. See CSX Transportation, Inc. -- Temporary Trackage Rights -- Norfolk Southern Railway Company, Docket No. FD 35460 (STB served January 18, 2011) (exemption allowed to become effective immediately to permit emergency detour operations to be continued as temporary trackage rights while out-of-service bridge on detouring railroad's line is repaired); cf. Arkansas Midland Railroad Company, Inc. -- Trackage Rights Exemption -- Caddo Valley Railroad Company, Docket No. FD 35530 (STB served June 14, 2011); Soo Line Railroad Company -- Trackage Rights -- Over a Line of

Chicago, Central & Pacific Railroad Company in Rockford, IL, Docket No. FD 32446 (ICC served January 6, 1994). A similar waiver is appropriate here.

WHEREFORE, TASD respectfully requests that the Board waive the 30-day regulation at 49 C.F.R. § 1180.4(g) and allow the temporary trackage rights exemption in this proceeding to become effective immediately.

Respectfully submitted,

By: _____


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**ATTORNEY FOR TERMINAL RAILWAY
ALABAMA STATE DOCKS**

Dated: April 26, 2018