

**BEFORE THE
SURFACE TRANSPORTATION BOARD 244557**

Finance Docket No. 36152

ENTERED
Office of Proceedings
October 16, 2017
Part of
Public Record

**OHIO RIVER PARTNERS SHAREHOLDER LLC
—EXEMPTION FOR INTRA-CORPORATE FAMILY TRANSACTION—
OHIO RIVER PARTNERS LLC**

VERIFIED NOTICE OF EXEMPTION

**Terence M. Hynes
Hanna M. Chouest
Sidley Austin LLP
1501 K Street, N.W.
Washington, D.C. 20005
(202) 736-8000**

Attorneys for Ohio River Partners Shareholder LLC and Ohio River Partners LLC

Dated: October 16, 2017

**FILED
October 16, 2017
SURFACE TRANSPORTATION BOARD**

**FEE RECEIVED
October 16, 2017
SURFACE TRANSPORTATION BOARD**

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**OHIO RIVER PARTNERS SHAREHOLDER LLC
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**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1180.2(d)(3)**

Ohio River Partners Shareholder LLC (“ORPS”) and Ohio River Partners LLC (“ORP”) (collectively, the “Parties”) submit this Notice pursuant to 49 C.F.R. § 1180.2(d)(3) for an exemption from the prior approval requirements of the Surface Transportation Board (“STB” or “Board”) in connection with a transaction within a corporate family. ORP is a Delaware limited liability company. In *Ohio River Partners LLC – Exemption for Acquisition and Operation of a Rail Line, Hannibal Development, LLC in Monroe County, Ohio*, STB Docket No. 35984 (decision served April 1, 2016) (“*Omal Line Acquisition Exemption*”), ORP was authorized to acquire and operate a 12.2-mile rail line between Milepost 60.5 at or near Powhatan Point, Ohio and Milepost 72.7 at or near Hannibal, Ohio (the “Omal Line”).¹ ORPS, a Delaware limited liability company, owns 100% of the member interests of ORP. ORPS is, in turn, indirectly owned and controlled by Fortress Transportation and Infrastructure Investors LLC (“FTAI”),

¹ Pursuant to the Board’s order in *Omal Line Acquisition Exemption*, ORP has not yet commenced operating the Omal Line, pending agreement with Ohio Terminal Railroad Company (“OTRC”) and Norfolk Southern Railway Company (“NS”) with respect to interchange and operating arrangements.

which is managed by an affiliate of Fortress Investment Group LLC (“Fortress”).² The transaction that is the subject of this Notice is the merger of ORP with and into its parent, ORPS, with ORPS the surviving carrier.

SPECIFIC INFORMATION REQUIRED BY THE REGULATIONS

49 C.F.R. § 1180.4(g) specifies certain information that must be included in a Verified Notice of Exemption filed pursuant to 49 C.F.R. § 1180.2(d)(3). The required information is provided below, preceded by the subsection of the Board’s regulations to which it is responsive.

1180.6(a)(1)(i) ***Brief summary of the proposed transaction, the name of applicants, their business address, telephone number, and the name of counsel to whom questions regarding the transaction can be addressed.***

The rail line acquisition that was the subject of *Omal Line Acquisition Exemption* was part of a broader real estate transaction pursuant to which ORPS acquired certain industrial property (including the land upon which the Omal Line is located) from Hannibal Development LLC (“Hannibal Development”). The Parties originally contemplated that ORP would acquire and operate the Omal Line, while ORPS would acquire the other real property from Hannibal Development. However, as consummated, the transaction resulted in ORPS becoming the owner of all of the property conveyed by Hannibal Development, including the Omal Line.

In order to vest both fee title to the Omal Line and the right (and common carrier obligation) to operate the Omal Line in a single entity, the Parties propose to merge ORP with and into its parent, ORPS. This transaction within a corporate family will not result in any

² In Finance Docket No. 35985, Fortress was authorized to continue in control of ORP and certain other rail carriers controlled by other companies managed by affiliates of Fortress following consummation of the proposed transaction.

adverse change in service levels or significant operational changes, because ORP has not yet commenced operations over the Omal Line. Nor will the merger of ORP with and into ORPS result in any change in the competitive balance with carriers outside the corporate family. Accordingly, the proposed transaction qualifies for the Board's class exemption procedure for a transaction within a corporate family pursuant to 49 C.F.R. § 1180.2(d)(3).

The business address and telephone number for ORP is:

Ohio River Partners LLC
c/o FIG LLC
1345 Avenue of the Americas, 45th Floor
New York, NY 10105
Attn: Ken Nicholson
(212) 479-5350

The business address and telephone number for ORPS is:

Ohio River Partners Shareholders LLC
c/o FIG LLC
1345 Avenue of the Americas, 45th Floor
New York, NY 10105
Attn: Ken Nicholson
(212) 479-5350

Correspondence with respect to this verified notice of exemption should be addressed to:

Terence M. Hynes
Sidley Austin LLP
1501 K St N.W.
Washington, DC 20005
(202) 736-8198

1180.6(a)(1)(ii) *Consummation Schedule*

The Parties propose to consummate the proposed merger as soon as practicable after the effective date of the exemption that is the subject of this Notice.

11.80.6(a)(1)(iii) *Purpose of the Transaction*

The purpose of this transaction is to vest both fee title to the Omal Line and the right (and common carrier obligation) to operate the Omal Line in a single entity (ORPS). The transaction will streamline administration and enhance corporate efficiency for the Parties, which are already closely integrated. For example, the proposed merger will eliminate the need for ORP and ORPS to prepare separate tax returns and to maintain separate corporate records.

1180.6(a)(5) *List of States in which the Parties' Property is Located*

The property acquired by ORPS from Hannibal Development, including the Omal Line, is located entirely within the State of Ohio.

1180.6(a)(6) *Map (Exhibit A)*

A map of the Omal Line is attached as Exhibit A.

1180.6(a)(7)(ii) *Agreement (Exhibit B)*

A copy of the proposed Agreement of Merger between ORP and ORPS is attached as Exhibit B.

1180.4(g)(1)(i) *Level of Labor Protection*

Because an affiliate of Fortress manages investment funds which own a Class II carrier (FECR), employees affected by this transaction may be deemed to be entitled to labor protection in accordance with the provisions of 49 U.S.C. §11326(b).

1180.4(g)(4) *Transactions imposing interchange commitments.*

The transaction does not impose or involve any interchange commitment by, or affecting, the Parties.

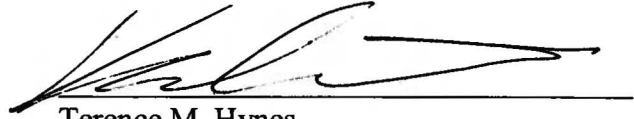
Environmental and Historic Preservation Matters.

The merger of ORP with and into ORPS will not result in any material change to rail operations over the Omal Line. ORP has not yet commenced rail operations over the Omal Line. The transaction will not cause a diversion of: (1) more than 1,000 rail carloads per year to motor carriage; or (2) an average of 50 carloads per mile per year for any part of the Omal Line to motor carriage. The Parties anticipate that ORPS's efforts to attract new industries to the property it acquired from Hannibal Development will eventually generate additional rail traffic moving to and from those industries. However, that traffic does not exist today. Accordingly, the proposed transaction will not result in: (1) an increase in rail traffic of at least 100 percent or an increase of at least eight trains a day on any segment of the lines; (2) an increase of rail yard activities of at least 100 percent; or (3) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day. The transaction will not affect a Class I or nonattainment area under the Clean Air Act, nor will the thresholds of 49 C.F.R. § 1105.7(e)(5)(ii) be exceeded. ORPS does not contemplate that it will transport any ozone depleting materials. Therefore, no environmental documentation is required under 49 C.F.R. § 1105.6(c)(2).

ORPS plans to operate the entire 12.2-mile Omal Line. Prior Board approval or exemption would be required if, in the future, ORPS sought to abandon or discontinue rail service over any portion of the Omal Line. ORPS has no plans to dispose of or to alter any

property that is subject to the Board's jurisdiction and is 50 years old or older. Accordingly, this Verified Notice of Exemption does not require an historic report under 49 C.F.R. § 1105.8(b)(1).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Terence M. Hynes', is written over a horizontal line.

Terence M. Hynes
Hanna M. Chouest
Sidley Austin LLP
1501 K Street, N.W.
Washington, D.C. 20005
(202) 736-8000

Attorneys for Ohio River Partners Shareholder LLC and Ohio River Partners LLC

Dated: October 16, 2017

VERIFICATION

I, Robert Wholey, being duly sworn, state that I am President of Ohio River Partners Shareholder LLC ("ORPS"), and that I am duly authorized to execute, verify and file this Verified Notice of Exemption on behalf of ORPS and ORP. I have knowledge of the matters contained herein, and the statements made herein are true and correct to the best of my knowledge, information and belief.



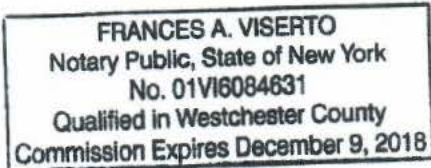
Robert Wholey
President

State of New York } ss!
County of New York }

Subscribed and sworn to before me this 12 day of October 2017, by Robert Wholey,
personally known to me.

Frances A. Viserto
Notary Public

My Commission expires: 12/09/2018



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**EXHIBIT A
SYSTEM MAP**

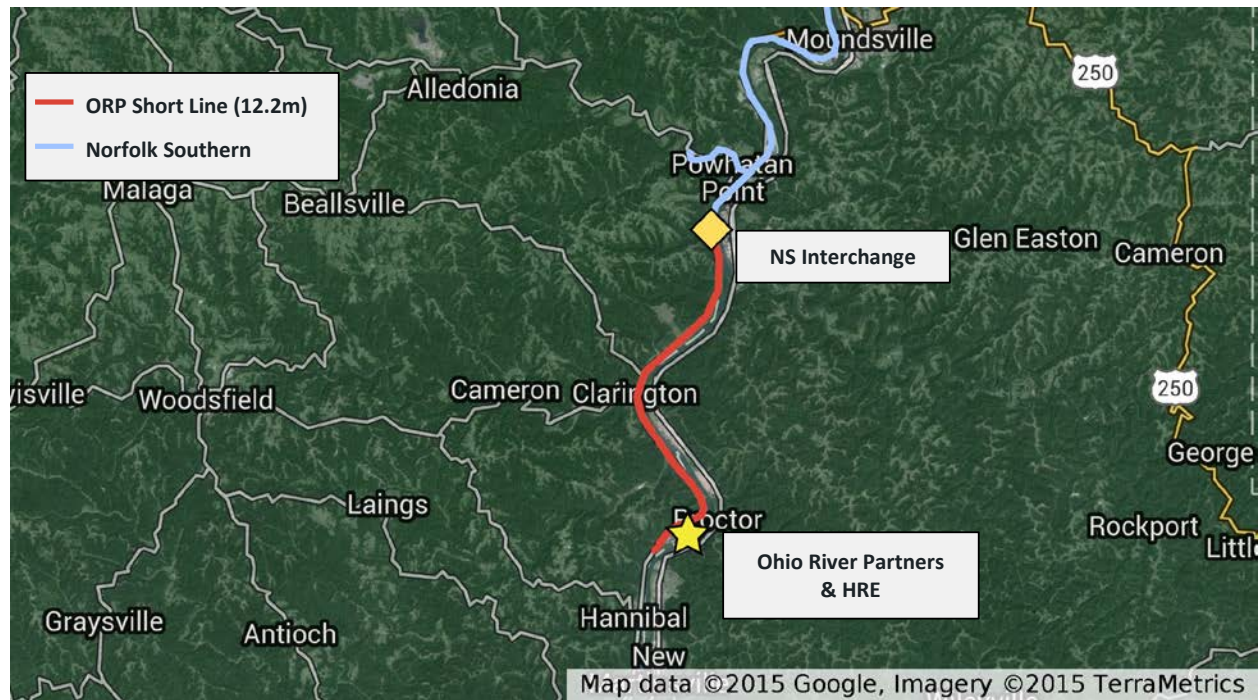


Exhibit A

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**EXHIBIT B
AGREEMENT OF MERGER**

AGREEMENT OF MERGER

This AGREEMENT OF MERGER (this “Agreement”) is dated as of _____, 2017, and is entered into between Ohio River Partners Shareholder LLC, a Delaware limited liability company (“ORPS LLC”), and Ohio River Partners LLC, a Delaware limited liability company (“ORP LLC” and together with ORPS LLC, the “Constituent LLCs”).

WHEREAS, ORPS LLC is the sole member of ORP LLC;

WHEREAS, the sole member of ORPS LLC and the sole member of ORP LLC (i) deem it advisable and in the best interests of ORPS LLC and ORP LLC, respectively, for ORP LLC to be merged with and into ORPS LLC, with ORPS LLC being the surviving limited liability company (the “Merger”), and (ii) have duly approved the Merger; and

WHEREAS, the Board of Directors of ORPS LLC and the Board of Directors of ORP LLC (i) deem the Merger advisable and in the best interests of ORPS LLC and ORP LLC, respectively, and (ii) have duly approved the Merger.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements contained herein, the parties hereto hereby agree as follows:

1. The Merger.

(a) ORP LLC shall merge with and into ORPS LLC, with ORPS LLC being the surviving limited liability company, and ORPS LLC shall file a certificate of merger (the “Certificate of Merger”) with the Secretary of State of the State of Delaware. The Merger shall become effective upon the filing of the Certificate of Merger with the Secretary of State of the State of Delaware (the “Effective Time”).

(b) At the Effective Time, ORP LLC shall be merged with and into ORPS LLC, whereupon the separate existence of ORP LLC shall cease, and ORPS LLC shall be the surviving limited liability company of the Merger (the “Surviving LLC”) in accordance with Section 18-209 of the Delaware Limited Liability Company Act.

(c) The name of the Surviving LLC shall be Ohio River Partners Shareholder LLC.

2. Certificate of Formation and Limited Liability Company Agreement. The certificate of formation and limited liability company agreement of ORPS LLC in effect immediately prior to the Effective Time shall be the certificate of formation and limited liability company agreement of the Surviving LLC after the Effective Time, unless and until amended in accordance with their respective terms and applicable law.

3. Board of Directors and Officers. The Board of Directors and Officers of ORPS LLC in effect immediately prior to the Effective Time shall be Board of Directors and Officers of the Surviving LLC after the Effective Time.

Time: 4. Property and Liabilities of the Constituent LLCs. From and after the Effective

(a) All of the rights, privileges and powers of each of the Constituent LLCs, and all property, real, personal and mixed, and all debts due to either of the Constituent LLCs, as well as all other things and causes of action belonging to each of Constituent LLCs, shall be vested in the Surviving LLC, and shall thereafter be the property of the Surviving LLC as they were of each of the Constituent LLCs, and the title to any real property vested by deed or otherwise in either of the Constituent LLCs shall not revert or be in any way impaired by reason of the Merger; and

(b) All rights of creditors and all liens upon any property of either of the Constituent LLCs shall be preserved unimpaired, and all debts, liabilities and duties of each of the Constituent LLCs shall thenceforth attach to the Surviving LLC, and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it.

5. Limited Liability Company Interests of the Constituent LLCs.

(a) Each limited liability company interest of ORP LLC outstanding immediately prior to the Effective Time shall, at the Effective Time, by virtue of the Merger and without any action on the part of the holder thereof, be cancelled without consideration.

(b) Each limited liability company interest of ORPS LLC outstanding immediately prior to the Effective Time shall, at the Effective Time, by virtue of the Merger and without any action on the part of the holder thereof, remain unchanged and continue to remain outstanding as a limited liability company interest in the Surviving LLC.

6. Miscellaneous.

(a) This Agreement cannot be altered or amended except pursuant to an instrument in writing signed by all of the parties hereto.

(b) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

(c) This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without regard to any principles of conflicts of law that would require the application of the laws of any other jurisdiction.

(d) This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument, and signatures transmitted by facsimile or other electronic means shall be treated as original signatures for purposes of this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, each of the Constituent LLCs has caused this Agreement of Merger to be duly executed on its behalf as of the day and year first above written.

OHIO RIVER PARTNERS SHAREHOLDER LLC

By: _____
Name:
Title:

OHIO RIVER PARTNERS LLC

By: _____
Name:
Title: