

CLARK HILL

246981

Eric M. Hocky
T 215.640.8523
F 215.640.8501
Email: ehocky@clarkhill.com

ENTERED
Office of Proceedings
January 28, 2019
Part of
Public Record

Clark Hill PLC
One Commerce Square
2005 Market Street
Suite 1000
Philadelphia, PA 19103
T 215.640.8500
F 215.640.8501
clarkhill.com

December 28, 2018

VIA E-FILING

Cynthia T. Brown
Chief, Section of Administration - Office of
Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

Re: Central Railroad Company of Indianapolis -
Change in Operators Exemption -
Kokomo Rail, LLC
STB Docket No. FD 36256

Dear Ms. Brown:

Enclosed for filing in the above-referenced proceeding is a Change in Operators Exemption notice filed on behalf of Central Railroad Company of Indianapolis.

Also enclosed as a confidential document is a credit card authorization for the filing fee of \$2000 representing the filing fee for this notice.

FEE RECEIVED
January 28, 2019
SURFACE
TRANSPORTATION BOARD

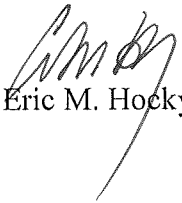
FILED
January 28, 2019
SURFACE
TRANSPORTATION BOARD

Cynthia T. Brown
December 28, 2018
Page 2

Please let me know if there are any questions regarding this filing. Thank you for your assistance.

Respectfully,

CLARK HILL PLC



Eric M. Hocky

EMH/e
Enclosures

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB DOCKET NO. FD 36256

CENTRAL RAILROAD COMPANY OF INDIANAPOLIS

- CHANGE IN OPERATORS EXEMPTION -

KOKOMO RAIL, LLC

**VERIFIED NOTICE OF EXEMPTION
UNDER 49 U.S.C. § 10902**

(color images included)

ERIC M. HOCKY
CLARK HILL PLC
One Commerce Square
2005 Market Street, Suite 1000
Philadelphia, PA 19103
(215) 640-8500
ehocky@clarkhill.com

Dated: December 28, 2018

Attorneys for
Central Railroad Company of Indianapolis

**CENTRAL RAILROAD COMPANY OF INDIANAPOLIS
- CHANGE IN OPERATORS EXEMPTION -
KOKOMO RAIL, LLC**

**VERIFIED NOTICE OF EXEMPTION
UNDER 49 U.S.C. 10902**

This Verified Notice of Exemption (the "Notice") is filed pursuant to 49 U.S.C. §10902 and 49 C.F.R. §1150.41 by Central Railroad Company of Indianapolis ("CERA"), a Class III carrier, to exempt from regulation CERA's lease and operation of the line of railroad (the "Rail Line") described on Exhibit A and shown on the map attached as Exhibit B. The Rail Line is currently owned by Kokomo Rail, LLC ("Kokomo Rail"), and was previously leased to and operated by U S RAIL Corporation ("US RAIL). The total mileage of the Rail Line is approximately 12.59 miles.

Notice

In accordance with 49 C.F.R. §1150.43, CERA hereby states as follows:

- (a) The full name and address of Applicant: Central Railroad Company of Indianapolis, 4349 Easton Way, Suite 110, Columbus, OH 43219.
- (b) The name, address and telephone number of the representative of CERA who should receive correspondence: Eric M. Hocky, Esquire, Clark Hill PLC, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia, PA 19103; (215) 640-8500.
- (c) CERA will be entering into a lease agreement with Kokomo Rail to cover operation of the Rail Line. Under the lease, CERA will have authority to operate over the Rail Line as of February 1, 2019, after the effective date of this Notice.

(d) CERA will be the operator of the Rail Line. CERA's operations will replace those of US RAIL whose lease has expired.¹ Upon commencement of operations by CERA, US RAIL will have no further common carrier obligations with respect to the Rail Line.

(e) Brief Summary of the Proposed Transaction:

US RAIL was previously authorized to lease and operate the Rail Line. *US RAIL Corporation – Lease and Operation Exemption – Winamac Southern Railway Company and Kokomo Grain Co., Inc.*, STB Finance Docket No. 35205 (served January 15, 2009).² The US RAIL lease expired on November 25, 2018. Kokomo Rail decided not to extend the US RAIL lease, and selected CERA as the new operator. Since the US RAIL lease expired, Kokomo Rail, as the residual carrier-owner of the Rail Line, has been providing the common carrier service on an interim basis.³ CERA will provide common carrier service over the Rail Line pursuant to a lease to be executed shortly, and will begin operations on receipt of all regulatory approvals or exemptions, anticipated to be thirty days after the date of the filing of this Notice. US RAIL is not objecting to the proposed

¹ As discussed more fully in section (e) below, Kokomo Rail, as the residual carrier-owner of the Rail Line, has been operating the Rail Line on an interim basis since the US RAIL lease expired.

² The caption at that time should have shown Kokomo Rail Co., Inc. and not its parent Kokomo Grain as the lessor of the Amboy Line. *See See Kokomo Rail Co., Inc. and Central Railroad Company of Indianapolis – Acquisition and Operation Exemption – Line of CSX Transportation, Inc. between Marion and Amboy, IN*, ICC Finance Docket No. 32231 (served April 16, 1993). The line was subsequently acquired by Kokomo Rail, LLC. *Kokomo Rail, LLC – Acquisition and Operation Exemption – Rail Line of Kokomo Rail Co., Inc.*, STB Docket No. FD 36069 (served November 23, 2016) (issuing a notice of exemption in a new sub docket covering acquisition of the Amboy line), 1993 WL 115252 (ICC).

³ Because Kokomo Rail does not currently have railroad employees or equipment, it has retained CERA to perform the common carrier service in the name and on behalf of Kokomo Rail.

change in operators and will no longer operate over the Rail Line.

- (1) The name and address of the owner of the Rail Line who has granted CERA operating rights: Kokomo Rail, LLC, 1002 West Morgan Street, PO Box 745, Kokomo, IN 46903-0745. As discussed above, the current operator is Kokomo Rail. The name and address of the previous lessee was US RAIL Corporation, c/o United Rail, 9480 S. Eastern Ave., Suite 208, Las Vegas, NV 89123.
 - (2) CERA expects to commence operations on or after February 1, 2019, more than thirty days after the filing of this Notice.
 - (3) Milepost descriptions of the Rail Lines are shown on Exhibit A attached hereto. All of the lines are located in Indiana.
 - (4) The total mileage of the Rail Lines to be leased and operated is approximately 12.59 miles.
- (f) Attached as Exhibit B to this Notice of Exemption is a map of the Rail Line.
- (g) CERA certifies that its projected revenues as a result of the transaction will not exceed those that would qualify it as a Class III carrier.⁴
- (h) The Rail Line connects with lines of Norfolk Southern Railway ("NSR") at NSR's Marion Goodman Yard, and with existing CERA operated lines in Marion. There are no existing interchange commitments with any connecting carriers, and none will be required as part of this transaction.

⁴ CERA additionally certifies that its projected revenues after the transaction will not exceed \$5,000,000 per year. Accordingly, no advanced notice to the employees of US RAIL is required.

Notice to Shippers

Pursuant to 49 C.F.R. §1150.42(b), CERA is providing notice of the change in operators to the only known shipper on the Rail Line by serving it with a copy of this Notice. The shipper is shown on the attached certificate of service.

Environmental and Historic Reports

Pursuant to 49 C.F.R. §1105.6(c)(2)(i), no environmental documentation should be required because this proceeding involves authority for a lease under 49 U.S.C. §10902 for continued operations that will not exceed the thresholds established in 49 C.F.R. §1105.7(e)(4) or (e)(5).

No historic report under 49 C.F.R. §1105.8(b)(1) should be required because the transaction merely involves a lease for continued rail operations, and further Board approval is required to discontinue or abandon any service. CERA has no plans to dispose of or alter properties subject to the Board's jurisdiction that are 50 years old or older.

Labor Protection

Pursuant to 49 U.S.C. §10902(d), approval of this transaction may not be subjected to labor protection conditions.

Caption Summary

Attached hereto as Exhibit C is the caption summary required by 49 C.F.R. §1150.44.

Conclusion

Accordingly, CERA requests that the Board issue a notice permitting CERA to lease and operate the Rail Line at any time after thirty days from the filing of this Notice.

Respectfully submitted,



ERIC M. HOCKY
CLARK HILL PLC
One Commerce Square
2005 Market Street, Suite 1000
Philadelphia, PA 19103
(215) 640-5000
ehocky@clarkhill.com

Dated: December 28, 2018

Attorneys for
Central Railroad Company of Indianapolis

VERIFICATION

I, Martin Pohlod, President of Central Railroad Company of Indianapolis, verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file the foregoing document.

Executed on December 27, 2018.

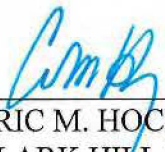
A handwritten signature in blue ink, appearing to read "Martin Pohlod", is written over a horizontal line.

Martin Pohlod

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of December, 2018, I served a copy of the foregoing
Verified Notice of Exemption on the shipper listed below by first class mail, postage prepaid:

Kokomo Grain
11505 S. 800 E
Amboy, IN 46911



ERIC M. HOCKY
CLARK HILL PLC
One Commerce Square
2005 Market Street, Suite 1000
Philadelphia, PA 19103
(215) 640-5000
ehocky@clarkhill.com

EXHIBIT A

DESCRIPTION OF RAIL LINE

Kokomo Rail, LLC			
Rail Line			
Amboy Line			
Amboy	M.P.	147.07	
Marion	M.P.	134.48	
TOTAL MILEAGE			12.59

EXHIBIT B

MAP



EXHIBIT C

CAPTION SUMMARY

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB DOCKET NO. FD 36256

**CENTRAL RAILROAD COMPANY OF INDIANAPOLIS
- CHANGE IN OPERATORS EXEMPTION -
KOKOMO RAIL, LLC**

Central Railroad Company of Indianapolis (“CERA”), a Class III carrier, has filed a Notice of Exemption to lease from Kokomo Rail, LLC, and to operate, the following rail line in Indiana: between M.P. 147.07 at Amboy, and M.P. 134.48 at Marion. The total mileage to be leased and operated is approximately 12.59 miles. The current operator of the rail line is Kokomo Rail; the previous lessee of the rail line was U S RAIL Corporation.

Comments must be filed with the Board and served on CERA’s representative, Eric M. Hocky, Esquire, Clark Hill PLC, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia, PA 19103; (215) 640-8500.

The Notice is filed under 49 C.F.R. §1150.41. If the Notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. §10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.