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BEFORE THE
SURFACE TRANSPORTATION BOARD

ENTERED
Office of Proceedings
July 9, 2019
Part of
Public Record

Finance Docket No. 36329

BUCYRUS INDUSTRIAL RAILROAD, LLC—
OPERATING EXEMPTION, BUCYRUS, OHIO

VERIFIED NOTICE OF EXEMPTION

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Counsel for Bucyrus Industrial
Railroad, LLC

Date: July 9, 2019

CONTAINS COLOR EXHIBIT

FILED
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Finance Docket No. 36329

BUCYRUS INDUSTRIAL RAILROAD, LLC—
OPERATING EXEMPTION, BUCYRUS, OHIO

VERIFIED NOTICE OF EXEMPTION

Pursuant to 49 C.F.R. § 1150.31 *et seq.*, Bucyrus Industrial Railroad, LLC ("BIR"), a non-carrier limited liability company organized under the laws of the State of Illinois files this Verified Notice of Exemption from the prior approval requirements of 49 U.S.C. 10901 to commence operation as a common carrier on approximately 26,400 feet (5.0 miles) of track owned by Bucyrus Railcar Repair, LLC ("BRR") in Bucyrus, Ohio (the "Line"), which connects to a Norfolk Southern rail line. The Line has no mileposts, and is currently operated by BRR as private excepted track under 49 U.S.C. § 10906. BIR will operate the Line in common carriage and as its entire line of railroad, and thus will become a rail carrier upon consummation of the proposed transaction.¹

BIR and BRR are affiliates under common ownership by Cathcart Rail, LLC, a non-carrier. The Line is currently used by BRR for private facility rail service. Pursuant to an operating agreement with BRR, BIR seeks to commence operation over the Line to provide common carrier rail service to BRR and the public.

The proposed transaction is similar to *Effingham*, where the petitioner sought to convert "switch track" that was formerly used as an industrial spur to a line of railroad. The Board found

¹ *Effingham R.R. Co.—Petition for Declaratory Order—Construction at Effingham, IL*, STB Docket No. 41986 (STB served Sept. 12, 1997), reconsideration denied (STB served Sept. 18, 1998), *aff'd sub nom. United Transp. Union v. STB*, 183 F.3d 606 (7th Cir. 1999) ("*Effingham*").

the transaction to fall within the exercise of its entry jurisdiction. Like the petitioner in *Effingham*, the line of railroad upon which BIR will provide common carrier service will constitute its entire operation once this exemption becomes effective.

Pursuant to 49 C.F.R. § 1150.33, BIR provides the following information:

Name and Address of Applicant, 49 C.F.R. § 1150.33(a).

Bucyrus Industrial Railroad, LLC,
PO Box 643
Bucyrus, Ohio 44820

Applicant's Representative, 49 C.F.R. § 1150.33(b).

BIR's representative to whom correspondence regarding this transaction should be sent is:

David F. Rifkind
Stinson LLP
1775 Pennsylvania Avenue, NW, Suite 800
Washington, D.C. 20006
(202) 969-4218.

Statement Concerning Agreement, 49 C.F.R. § 1150.33(c).

BIR and BRR have negotiated and entered into an operating agreement pursuant to which BIR will operate on the Line to provide common carrier service to BRR and the public.

Operator of the Property, 49 C.F.R. § 1150.33(d).

BIR will operate and provide all rail common carrier service to shippers on the Line.

Background and Summary of the Transaction, 49 C.F.R. § 1150.33(e).

BIR seeks authority to operate a rail common carrier using the existing trackage owned by Bucyrus Railcar Repair, LLC, P.O. Box 643, Bucyrus, Ohio 44820. The parties intend to consummate the transaction on or shortly after the effective date of the exemption. There are no mileposts on the subject tracks. This transaction involves 26,400 feet (5.0 miles) of track currently used by BRR for private rail operations. BIR's common carrier rail service will include provision

of rail service to BRR, as well as bulk transloading and container transfer services to the public. BIR will become a Class III short line railroad carrier once this exemption becomes effective.

Map, 49 C.F.R. § 1150.33(f).

A color map of the Line is attached as Exhibit 3. To comply with the Board's rules, it is placed at the end of this pleading.

Certification, 49 C.F.R. § 1150.33(g).

BIR certifies that its projected revenues will not exceed that of a Class III railroad. A certificate complying with the provisions of 49 CFR § 1150.33(g) is attached as Exhibit 1 to this Notice.

Interchange Commitments, 49 C.F.R. § 1150.34(h).

BIR certifies that the proposed operation does not involve a provision or agreement that may limit future interchange with a third-party connecting carrier. A certificate complying with the provisions of 49 CFR § 1150.33(h) is attached as Exhibit 1 to this Notice.

Notice, 49 C.F.R. §§ 1150.32(b), (e).

Notice to shippers is not required as BRR is the sole customer currently served by the Line and is a party to the subject operating agreement. Accordingly, the notice requirement of 49 CFR § 1150.32(b) is not applicable.

The annual revenues of BIR are not expected to exceed \$5 million. Accordingly, the advance notice requirement of 49 C.F.R. § 1150.32(e) is not applicable.

Environmental and Historic Preservation Data, 49 C.F.R. § 1105.

Under 49 C.F.R. § 1105.6(c)(1), BIR's proposed operation of the Line is exempt from environmental reporting requirements. The proposed transaction will not result in significant changes in carrier operations, *i.e.*, changes that exceed the thresholds established in 49 C.F.R. §§ 1105.7(e)(4),(5).

Under 49 C.F.R. § 1105.8(b)(2), BIR's operation of the Line also is exempt from historic preservation reporting requirements. The proposed transaction is for the purpose of commencement of common carrier rail operations. Further, Board approval will be required to discontinue any service, and there are no plans to dispose of or alter properties subject to STB jurisdiction that are fifty years old or older.

Caption Summary, 49 C.F.R. § 1150.32(a).

The caption summary required by 49 C.F.R. § 1150.34(a) is attached as Exhibit 2 to this Notice.

Respectfully submitted,

/s/ David F. Rifkind

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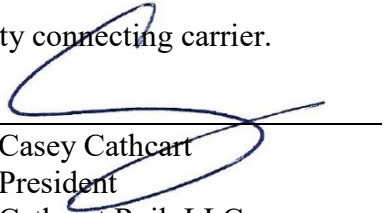
Attorneys for Bucyrus Industrial Railroad, LLC

EXHIBIT 1
VERIFICATION AND CERTIFICATION

I, Casey Cathcart, declare under penalty of perjury that I am the President of Cathcart Rail, LLC, sole managing member of Bucyrus Industrial Railroad, LLC ("BIR"), and that I have read the foregoing Verified Notice of Exemption, know the facts asserted therein, and that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this notice.

I hereby certify that BIR's projected annual revenues are not expected to exceed \$5 million, and therefore will not result in BIR becoming Class I or II rail carrier under the thresholds set forth at 49 C.F.R. § 1201(1-1).

I further certify that the BIR's proposed operation does not involve a provision or agreement that may limit future interchange with a third-party connecting carrier.



Casey Cathcart
President
Cathcart Rail, LLC
Dated: July 8, 2019

EXHIBIT 2
CAPTION SUMMARY

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 36329

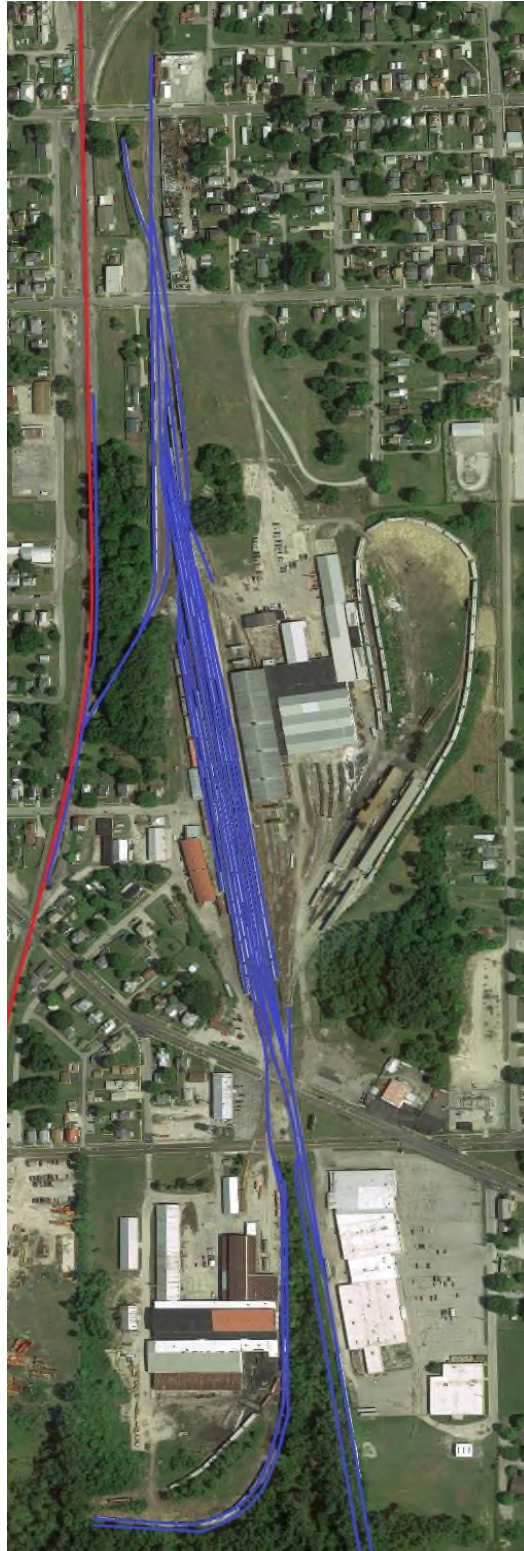
BUCYRUS INDUSTRIAL RAILROAD, LLC—
OPERATING EXEMPTION, BUCYRUS, OHIO
VERIFIED NOTICE OF EXEMPTION

Bucyrus Industrial Railroad, LLC ("BIR"), a non-carrier, has filed a Verified Notice of Exemption to operate Bucyrus Railcar Repair, LLC's ("BRR") line consisting of 26,000 feet of trackage in in Bucyrus, Ohio, currently operated as a private rail facility. BIR will provide common carrier service to BRR and the public.

Comments must be filed with the Surface Transportation Board, 395 E St. SW, Washington, DC 20423 and served on petitioner's representative, David F. Rifkind, Stinson LLP, 1775 Pennsylvania Avenue NW, Suite 800, Washington, D.C. 20006, (202) 969-4218.

This notice is filed under 49 § 1150.31. 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.

EXHIBIT 3
MAP OF THE BUCYRUS INDUSTRIAL RAILROAD



Bucyrus Industrial Railroad —————
Norfolk Southern Railway —————