

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36203]

The Indiana Rail Road Company and CSX Transportation, Inc.—Joint Relocation Project
Exemption—Terre Haute, Ind.

On September 27, 2018, the Indiana Rail Road Company (INRD) filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(5) to enter into a joint project with CSX Transportation, Inc. (CSXT), involving the relocation of a segment of INRD's rail line in Terre Haute, Ind.

The purpose of the joint relocation project is to allow for the removal of the existing crossing diamond at Spring Hill Interlocking on the southeast side of Terre Haute, reduce maintenance expenses, and simplify track configuration and train operations at the crossing. The joint relocation project notice covers the following actions:

(1) INRD will acquire overhead trackage rights on CSXT's CE&D subdivision extending from the connection with INRD's Hulman Lead at approximately CSXT milepost 0ZA 182.09 to the newly constructed INRD Connection at CSXT milepost 0ZA 182.13 at Spring Hill, a distance of approximately 0.04 miles in Terre Haute.

(2) INRD will relocate and reconfigure approximately 800 feet of track southeast of Spring Hill crossing to create the new INRD Connection.

(3) The diamond at Spring Hill and approximately 1000 feet of INRD track northwest of Spring Hill crossing will be removed.

INRD states that there are no shippers on the involved trackage, and existing INRD service and operations will be preserved. Thus, INRD states no shippers will be adversely affected by the proposed joint relocation project or lose access to any rail service currently provided by INRD.

The Board will exercise jurisdiction over the abandonment, construction, or sale components of a joint relocation project, and require separate approval or exemption, only where the removal of track affects service to shippers or the construction of new track or transfer of existing track involves expansion into new territory, or a change in existing competitive situations. See City of Detroit v. Canadian Nat'l Ry., 9 I.C.C.2d 1208 (1993), aff'd sub nom. Detroit/Wayne Cty. Port Auth. v. ICC, 59 F.3d 1314 (D.C. Cir. 1995); Flats Indus. R.R. & Norfolk S. Ry.—Joint Relocation Project Exemption—in Cleveland, Ohio, FD 34108 (STB served Nov. 15, 2001). Line relocation projects may embrace trackage rights transactions such as the one involved here. See Detroit, Toledo & Ironton R.R.—Trackage Rights—Between Wash. Court House & Greggs, Ohio—Exemption, 363 I.C.C. 878 (1981).

Under these standards, the incidental trackage rights and construction components require no separate approval or exemption when the relocation project, as here, will not disrupt service to shippers and thus qualifies for the class exemption at 49 C.F.R. § 1180.2(d)(5).

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc., 354 I.C.C. 605 (1978), as modified in Mendocino Coast Railway—Lease & Operate—California Western Railroad, 360 I.C.C. 653 (1980).

The transaction may be consummated on or after October 27, 2018, the effective date of the exemption (30 days after the verified notice was filed).

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. Petitions to stay must be filed by October 19, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36203, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Thomas J. Litwiler, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606-3208.

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Decided: October 9, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.