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SERVICE DATE – OCTOBER 26, 2012

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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35678]

Turtle Creek Industrial Railroad, Inc.—Acquisition and Operation Exemption—
Consolidated Rail Corporation

Turtle Creek Industrial Railroad, Inc. (TCKR), a noncarrier and a wholly owned corporate subsidiary of Dura-Bond Industries, Inc. (Dura-Bond), has filed a verified notice of exemption under 49 C.F.R. § 1150.31 to acquire from Consolidated Rail Corporation (Conrail) and to operate approximately 9.8 miles of rail line between milepost 0.9 at or near Trafford, and milepost 10.7 at or near Export, in Westmoreland County, Pa.¹

¹ TCKR states that it acquired the involved line from Conrail in 1982. Applicant indicates that it obtained a certificate of public convenience and necessity from the Pennsylvania Public Utility Commission “under the misconception that the Commonwealth of Pennsylvania had authority to regulate intrastate rail transportation,” apparently thinking it needed no additional authority. According to TCKR, it has operated as a Class III common carrier providing interstate rail service, primarily for Dura-Bond, without first obtaining authority from the Board’s predecessor, the Interstate Commerce Commission (ICC). TCKR states that a significant portion of its track was washed out in 2009 and that no rail service has been provided since that time. TCKR further states that it now wishes to abandon the line and convey the right-of-way to Westmoreland County for recreational trail purposes. In order to proceed with its objectives, TCKR has filed this notice to correct its failure to obtain authority from the ICC. While the verified notice indicates that TCKR is seeking an exemption to authorize the acquisition “nunc pro tunc” (retroactively), TCKR’s authority will be effective prospectively from November 9, 2012.

The transaction may not be consummated prior to November 9, 2012 (30 days after the notice of exemption was filed).

TCKR certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed \$5 million.

If the verified 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 effectiveness of the exemption. Petitions to stay must be filed no later than November 2, 2012 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35678, 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 Richard R. Wilson, 518 N. Center St., Ste. 100, Ebensburg, PA 15931.

Board decisions and notices are available on our website at “WWW.STB.DOT.GOV.”

Decided: October 23, 2012.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.