



May 6, 2002

Michael J. Barron, Jr.
Counsel
Legal Department.

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Via Overnight Delivery

DID#0101942003

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K. Street, N.W.
Washington, D.C. 20423-0001

205332

FEE RECEIVED

MAY 10 2002

Re: Finance Docket No. 34196
Illinois Central Railroad Company – Trackage Rights
Exemption – The City of New Orleans, Louisiana

**SURFACE
TRANSPORTATION BOARD**

Dear Secretary Williams:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of the **Verified Notice of Exemption Pursuant to 49 C.F.R. § 1180.2(d)(7)** of Illinois Central Railroad Company dated May 6, 2002. A disk containing the Caption Summary is enclosed. A check in the amount of \$850.00 representing the appropriate fee for this filing is also enclosed.

I have included an extra copy of this transmittal letter and would request that you date-stamp this to show receipt of this filing and return it to me in the envelope provided.

Please feel free to contact me should any questions arise regarding this filing. Thank you for your assistance on this matter.

Respectfully submitted,

Michael J. Barron

Michael J. Barron, Jr.
Counsel for Illinois Central Railroad Company

ENTERED
Office of the Secretary

MAY 10 2002

Part of
Public Record

FILED

MAY 10 2002

**SURFACE
TRANSPORTATION BOARD**

Encls.

cc: General Manager, Public Belt Railroad Commission, City of New Orleans
Executive Director, New Orleans Building Corporation

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34196

ILLINOIS CENTRAL RAILROAD COMPANY
— TRACKAGE RIGHTS EXEMPTION —
THE CITY OF NEW ORLEANS, LOUISIANA



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VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1180.2(d)(7)

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**SURFACE
TRANSPORTATION BOARD**

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**SURFACE
TRANSPORTATION BOARD**

Michael J. Barron, Jr.
Counsel
Canadian National/Illinois Central Railroad
455 North Cityfront Plaza Drive
Chicago, IL 60611-5317
(312) 755-7954

ATTORNEY FOR
ILLINOIS CENTRAL RAILROAD COMPANY

Dated: May 6, 2002

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34196

ILLINOIS CENTRAL RAILROAD COMPANY
— TRACKAGE RIGHTS EXEMPTION —
THE CITY OF NEW ORLEANS, LOUISIANA

VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1180.2(d)(7)

Pursuant to an agreement (attached herein) among Illinois Central Railroad Company ("IC"), the City of New Orleans, Louisiana ("NO") and the New Orleans Public Belt Railroad Commission for the City of New Orleans ("PB"), IC files this Verified Notice of Exemption under 49 C.F.R. § 1180.2(d)(7) for the acquisition of trackage rights over a line of railroad owned by NO, from a connection between NO's railroad and IC near Southport Junction Interlocking to Union Passenger Terminal, including station tracks, via the Western Connection, the 2nd Main and the Outbound Main; from a connection between NO's railroad and IC at a point 580 feet north of the centerline of Dupre Street to Union Passenger Terminal via the Earhart Running Track and the Backup Main; and from North Wye Junction to South Wye Junction via the Wye Track, all in the City of New Orleans, Louisiana.

Pursuant to 49 C.F.R. § 1180.4(g), IC submits the following information:

SECTION 1180.6(a)(1)(i)

DESCRIPTION OF THE PROPOSED TRANSACTION

Pursuant to an agreement ("Agreement") to be executed by IC, NO and PB (attached herein), IC proposes to acquire non-exclusive trackage rights over NO's line of railroad from a connection between NO's railroad and IC near Southport Junction Interlocking to Union Passenger Terminal, including station tracks, via the Western Connection, the 2nd Main and the Outbound Main; from a connection between NO's railroad and IC at a point 580 feet north of the centerline of Dupre Street to Union Passenger Terminal via the Earhart Running Track and the Backup Main; and from North Wye Junction to South Wye Junction via the Wye Track ("Joint Trackage"), a distance of approximately 5.3 miles, all in the City of New Orleans, Louisiana.

The full name and address of the applicant carrier is:

Illinois Central Railroad Company
455 North Cityfront Plaza Drive
Chicago, IL 60611-5317

Any questions concerning this Notice should be sent to the applicant's representative at the following address:

Michael J. Barron, Jr.
Counsel for Illinois Central Railroad Company
Canadian National/Illinois Central Railroad
455 North Cityfront Plaza Drive
Chicago, IL 60611-5317
(312) 755-7954

SECTION 1180.6(a)(1)(ii) PROPOSED TIME SCHEDULE FOR CONSUMMATION

The applicant intends on consummating this transaction no sooner than May 14, 2002.

SECTION 1180.6(a)(1)(iii)
PURPOSE SOUGHT TO BE ACCOMPLISHED

Subject to the terms and conditions herein contained, NO grants to IC the right to use the Joint Trackage for the local and overhead operation of its freight trains, locomotives, cabooses and rail cars (including business cars) and roadway equipment in its account over the subject line in common with the granting party and such other railroad company or companies as may be at any time admitted to the joint use of all or any part of the subject line, including the right of IC to operate business cars into the Union Passenger Terminal in the City of New Orleans.

STATES IN WHICH APPLICANT'S PROPERTY IS LOCATED

IC owns rail property located in the States of Illinois, Kentucky, Tennessee, Mississippi, Alabama and Louisiana.

SECTION 1180.6(a)(6)
MAP - EXHIBIT 1

A map of the rail line over which the applicant proposes to acquire trackage rights is attached hereto as Exhibit 1.

SECTION 1180.6(a)(7)(ii)
AGREEMENT - EXHIBIT 2

A copy of the Agreement that will be executed by IC, NO and PB is attached hereto as Exhibit 2. The agreement will replace a 1947 agreement governing operations in and around Union Passenger Terminal in the City of New Orleans that the applicant and other carriers will be terminating.

SECTION 1180.4(g)(1)(i)
LABOR PROTECTIVE CONDITIONS

As a condition of this exemption, the applicant agrees to imposition of the employee protective conditions established in Norfolk and Western Ry. Co. – Trackage Rights – Burlington Northern, Inc., 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry. Inc. – Lease and Operate, 360 I.C.C. 653 (1980).

SECTION 1180.4(g)(2)(i)
CAPTION SUMMARY

A caption summary of this transaction suitable for publication in the Federal Register is attached hereto.

SECTION 1180.4(g)(3)
ENVIRONMENTAL AND HISTORIC PRESERVATION MATTERS

Under 49 C.F.R. § 1105.6(c)(4), the proposed acquisition of trackage rights is exempt from environmental reporting requirements. Under 49 C.F.R. § 1105.8(b)(3), the proposed acquisition of trackage rights also is exempt from historic preservation reporting requirements. The proposed trackage rights will not substantially change the level of maintenance of any railroad property.

Respectfully submitted,

By 

Michael J. Barron, Jr.
Counsel
Canadian National/Illinois Central Railroad
455 North Cityfront Plaza Drive
Chicago, IL 60611-5317
(312) 755-7954

ATTORNEY FOR
ILLINOIS CENTRAL RAILROAD COMPANY

Dated: May 6, 2002

VERIFICATION

State of Illinois)
) SS:
County of Cook)

Myles Tobin, being duly sworn, deposes
and says that he is VP U.S. Legal Affairs & Secretary of Illinois Central Railroad
Company, that he has read the foregoing Notice of Exemption and knows the
facts asserted therein, and that the same are true as stated.

Myles L. Tobin

Subscribed and Sworn to
Before me this 22nd day of
April, 2002.

Carol Brandenburg
Notary Public

My Commission Expires:



Caption Summary

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34196

ILLINOIS CENTRAL RAILROAD COMPANY
— TRACKAGE RIGHTS EXEMPTION —
THE CITY OF NEW ORLEANS, LOUISIANA

Pursuant to an agreement among Illinois Central Railroad Company ("IC"), the City of New Orleans, Louisiana ("NO") and the New Orleans Public Belt Railroad Commission for the City of New Orleans ("PB"), NO has agreed to grant to IC trackage rights over NO's line of railroad from a connection between NO's railroad and IC near Southport Junction Interlocking to Union Passenger Terminal, including station tracks, via the Western Connection, the 2nd Main and the Outbound Main; from a connection between NO's railroad and IC at a point 580 feet north of the centerline of Dupre Street to Union Passenger Terminal via the Earhart Running Track and the Backup Main; and from North Wye Junction to South Wye Junction via the Wye Track, all in the City of New Orleans, Louisiana, a distance of approximately 5.3 miles. The trackage rights are anticipated to become effective May 14, 2002.

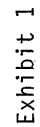
This Notice is filed under 49 C.F.R. § 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Dated: _____

By the Board.

Vernon A. Williams

Secretary



TRACKAGE RIGHTS AGREEMENT

THIS AGREEMENT, made and entered into as of the day of , 2002, by and between **ILLINOIS CENTRAL RAILROAD COMPANY**, a corporation organized under the laws of the State of Illinois, appearing through Terrence R. McManaman, Vice President-Gulf Division, duly authorized, hereinafter called "IC", and **THE CITY OF NEW ORLEANS**, appearing herein and through Marc H. Morial, its Mayor, duly authorized, hereinafter called "City", and the **NEW ORLEANS PUBLIC BELT RAILROAD COMMISSION FOR THE CITY OF NEW ORLEANS**, appearing herein and through James E. Bridger, its General Manager.

WITNESSETH:

Whereas, City, IC and other carriers made and entered into a certain agreement dated October 22, 1947 covering the construction and use of a Union Passenger Terminal in the City of New Orleans, Louisiana; and

Whereas, City, IC and the other carriers will be terminating the 1947 agreement by an agreement of even date and City and IC desire to provide for the continued use of certain tracks by IC in order for IC to be able to continue to serve existing and future industries in New Orleans;

The parties hereto, intending to be legally bound, **AGREE AS FOLLOWS:**

1. City hereby grants trackage rights to IC over certain rail properties of City, as described below. The parties hereto agree, subject to the terms and conditions herein provided, that IC shall have the right to operate its freight trains, locomotives, cars and equipment with its own crews, in either direction, over the following segment of City's railroad (hereinafter referred to as the "Joint Trackage"):

From a connection between City's railroad and IC near Southport Junction Interlocking to Union Passenger Terminal, including station tracks, via the Western Connection, the 2nd Main and the Outbound Main; from a connection between City's railroad and IC at a point 580 feet north of the centerline of Dupre Street to Union Passenger Terminal via the Earhart Running Track and the Back-up Main; and from North Wye Jct. to South Wye Jct. via the Wye Track, all in New Orleans, Louisiana, and all as shown in red on Exhibit A attached hereto and made a part hereof and including, but not limited to, bringing business cars into Union Passenger Terminal.

IC acknowledges that the Joint Trackage is the property of City and this Agreement does not vest any right of ownership in IC.

2. IC may seek the approval of and/or exemption from regulation by the Surface Transportation Board, and the parties hereto shall seek such approval or exemption with any expense being shared equally among the parties hereto. Each party agrees to assist and support the other party in securing such approval or exemption therefrom. The date on which IC commences operations over the Joint

Trackage, pursuant to this Agreement, shall be deemed the effective date of this Agreement, hereinafter referred to as the "Commencement Date".

3. Except as otherwise provided below, this Grant of Trackage Rights is subject to and shall be governed by the "General Conditions Form A" ("General Conditions") which are attached hereto and which are incorporated herein by reference with the same effect as if set forth fully herein. This Agreement shall not be effective unless the parties hereto, in addition to executing this Agreement, have also executed said General Conditions, in the space provided therefor at the end thereof.

4. Any notice required or permitted to be given by one party to the other under this Agreement shall be addressed as follows:

- a. If to IC, c/o Vice President Gulf Division, Canadian National/Illinois Central Railroad Company, 800 Woodlands Parkway, Suite 105, Ridgeland, MS 39157.
- b. If to City, c/o General Manager, Public Belt Railroad Commission, City of New Orleans, 4822 Tchoupitoulas Street, New Orleans, LA 70115; AND c/o Executive Director, New Orleans Building Corporation, 2 Canal Street, Suite 1843, New Orleans, LA 70130.
- c. Either party may provide to the other by personal service or by certified mail any changes in or additions to these addresses.

5. The trackage rights hereby granted are to provide IC the exclusive rights to provide freight (not including mail or express) service to existing and future industries along the Joint Trackage and a non-exclusive right to switch cars to and from National Railroad Passenger Corporation. IC shall not use any part of the Joint Trackage for the purpose of storage of cars or making or breaking up of trains. IC shall not have the right to permit other railroads to operate over or upon the Joint Trackage. All detour movements over the Joint Trackage shall be arranged for by City.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunder duly authorized as of the day and year first above written.

ILLINOIS CENTRAL RAILROAD COMPANY

By _____
Terrence R. McManaman
Vice President Gulf Division

**CITY OF NEW ORLEANS, BY AND THROUGH
THE PUBLIC BELT RAILROAD COMMISSION
FOR THE CITY OF NEW ORLEANS**

By _____
James E. Bridger
General Manager

THE CITY OF NEW ORLEANS, LOUISIANA

By _____
Marc H. Morial
Mayor

GENERAL CONDITIONS - FORM A

1. Use of Joint Trackage

- a. IC's use of the Joint Trackage shall be subordinate to any rights NRPC (Amtrak) or other passenger carriers may have under law and the right of passenger carriers to use the Joint Trackage shall not be diminished by this Agreement. City shall have the right to grant trackage rights in the Joint Trackage to other entities, provided that only IC shall be allowed to serve any existing or future industry track springing from the Joint Trackage and providing IC's operating rights shall not be materially impaired thereby.
- b. City shall have exclusive control of the management and operation of the Joint Trackage.

2. Additions, Retirements and Alterations

- a. City, from time to time, may make such changes in, additions and betterments to, or retirements from the Joint Trackage as shall, in its judgment, be necessary or desirable for the economical or safe operation thereof, or as shall be required by federal or state law, rule or regulation provided IC's operating rights shall not be materially impaired thereby. IC shall have the right to request City to construct turnouts for future industries locating adjacent to the Joint Trackage, with the cost of such construction, and subsequent maintenance of such turnouts, being borne by IC. Such additions and betterments shall become part of the Joint Trackage and such retirements shall be excluded from the Joint Trackage.

3. Consideration

- a. City grants to IC the right to use the Joint Trackage owned by it Redacted
Deals with compensation for maintenance, rental and repair except as provided in this Article 3 and Article 8 hereof. City shall maintain and repair the Joint Trackage with its own supervision and labor. City shall maintain all existing clearances at no less than those in effect on this date. City shall keep and maintain the Joint Trackage in appropriate condition (FRA Class I or better) for the use herein contemplated, but City does not guarantee the condition of the Joint Trackage or that operation thereover will not be interrupted. In the event City fails to repair any defect or maintain the Joint Trackage, IC may after a reasonable time after giving written notice of the specific defect or lack of maintenance, make the necessary repairs and bill City, which bill City agrees to pay within thirty (30) days of receipt. City shall also perform, at the sole expense of IC, such additional maintenance as IC may request. Commencing February 1, 2010, if IC moves more than five hundred (500) locomotives and/or freight cars per year (February 1 to January 31) on the Joint Trackage, it shall pay to the City Fifty Dollars (\$50.00) for each additional locomotive and/or freight car moved.

4. Management and Operation

- a. IC shall comply with the provisions of the Federal Locomotive Inspection Act and the Federal Safety Appliance Act, as amended, and any other laws, regulations or rules, state or federal, respecting the operation, condition, inspection or safety of its trains, locomotives, cars and equipment while such trains, locomotives, cars and equipment are operated over the Joint Trackage. IC shall defend, indemnify, protect and save City, and all other entities using the Joint Trackage ("Other Users") harmless from all fines, penalties and liabilities imposed upon City and/or Other Users under any such laws, rules and regulations by any public authority or court having jurisdiction in the premises, to the extent attributable to the failure of IC to comply with its obligations in this regard.
- b. IC agrees that in its use of the Joint Trackage it will comply in all respects with the operating rules and regulations of City and of the entity designated by the City to have operational control (the "Controller") of the Joint Trackage, and that the movement of IC's trains, locomotives, cars and equipment over the Joint Trackage shall at all times be subject to the orders of City and the Controller.
- c. IC shall make such arrangements with City and/or the Controller as may be required to have all of its employees who shall operate its trains, locomotives, cars and equipment over the Joint Trackage qualified for operation thereover. In addition, City and/or the Controller will furnish IC with Switch Keys, Timetables, Rule Books, Rule Interpretation Books and Safety Books.
- d. It is understood that the trains, locomotives, cars and equipment of IC and Other Users shall be operated without prejudice or partiality to any party and in such manner as will afford each party the most economical and efficient manner of movement of its traffic consistent with total traffic moving upon the Joint Trackage or any portion thereof and industry practice, provided, however, that passenger trains shall at all times be given preference over freight trains. IC shall be given substantially the same advance notice of maintenance plans and schedules as is provided to Other Users.
- e. If the use of the Joint Trackage shall at any time be interrupted or traffic thereon or thereover delayed for any cause, neither party shall have or make any claim against the other for loss, damage or expense of any kind, caused by or resulting from such interruption or delay.

5. Violation of Operating Rules

- a. In the event of any investigation or hearing concerning the violation of any operating rules or practice of Controller by IC's employees, IC shall be notified in advance of any such investigation or hearing, and such investigation or hearing may be attended by an official designated by IC, and any such investigation or hearing shall be conducted in accordance with the collective bargaining agreements, if any, that pertain to IC's employees or employees required to attend such hearings.
- b. Controller shall have the right to exclude from the Joint Trackage any employee of IC, determined by Controller, as a result of such investigation or hearing described above, to be in violation of Controller's rules, regulations, orders, practices or instructions issued by Bulletin, Timetable or otherwise. IC shall release, indemnify, defend and save harmless City and Controller and their respective officers, agents and employees from and against any and all claims and expenses resulting from such exclusion.
- c. If the disciplinary action is appealed by the employee of IC to the National Railroad Adjustment Board or other tribunal lawfully created to adjudicate such cases, and if the decision of such board or tribunal sustains the employee's position, such employee shall not be barred from service on the Joint Trackage by reason of such occurrence.

6. Per Diem

- a. All mileage and per diem charges accruing for cars in IC's trains on the Joint Trackage shall be assumed by IC and reported and paid by it direct to the owners of such cars, or other appropriate payees.

7. Clearing of Wrecks

- a. Whenever IC's use of the Joint Trackage requires rerailing, wrecking service or wrecking train service, Controller shall, in the absence of any agreement between IC and the Controller to the contrary, perform such service, including the repair and restoration of roadbed, track and structures. The cost and expenses thereof, including without limitation loss of, damage to and destruction of any property whatsoever and injury to the death of any person or persons whomsoever resulting therefrom, shall be apportioned in accordance with the provisions of Article 8 hereof. All locomotives, cars and equipment and salvage from the same so picked up and removed which are owned by or under the management and control of or used by IC at the time of such wreck shall be promptly picked up by IC or delivered to IC and all cost and expense therefor shall be in accordance with the provisions of Article 8 hereof.

8.

Redacted

Deals with liability and claims

9.

Redacted

Deals with liability and claims

10.

11. **Payment of Bills**

- a. Bills tendered pursuant to the provisions of this Agreement shall include direct labor and material costs, together with the surcharges, overhead percentages and equipment rentals in effect at the time any work is performed by either party, as specified in the then current Joint Facility Schedule of Rates and Surcharges for Billing Railroads and Others for Use of Facilities, Service and Equipment as published by the billing party.

12. Arbitration

- a. Any dispute arising between the parties hereto with respect to any of the provisions of this Agreement which cannot be settled by the parties themselves shall be settled by arbitration. The parties shall attempt to agree on an impartial arbitrator familiar with the customs and practices of the railroad industry. In the event that the parties are unable to agree on an arbitrator within sixty days of notice of arbitration, the dispute shall be referred to the American Arbitration Association. In either event, the arbitration shall be conducted under the rules and practices of the American Arbitration Association.
- b. The decision of the arbitrator shall be final and conclusive upon the parties hereto. Each party to the arbitration shall pay the compensation, costs, fees and expenses of its own witnesses, exhibits and counsel. The compensation, costs and expense of the arbitrator, if any, shall be borne equally by the parties hereto.

13. Term

- a. This Agreement shall continue in full force and effect as long as the use is required by IC to serve industries; provided, however, that IC shall have the right on giving 12 months' advance notice to City, to terminate this Agreement.

14. Successors and Assigns

- a. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective successors, lessees and assigns; provided, however, that IC may not assign the rights herein granted to any other railroad or person unless such assignment is first approved by City. City's approval will not be unreasonably withheld.

IN WITNESS WHEREOF, the parties hereto have caused these General Conditions to the Trackage Rights Agreement dated as of the date of said Agreement to be executed by their respective Officers, duly authorized.

ILLINOIS CENTRAL RAILROAD COMPANY

By _____
Terrence R. McManaman
Vice President Gulf Division

**CITY OF NEW ORLEANS, BY AND THROUGH
THE PUBLIC BELT RAILROAD COMMISSION
FOR THE CITY OF NEW ORLEANS**

By _____
James E. Bridger
General Manager

THE CITY OF NEW ORLEANS, LOUISIANA

By _____
Marc H. Morial
Mayor