

DILLON & NASH, LTD.
Attorneys at Law

David C. Dillon, M.B.A., J.D.

September 20, 2017

Surface Transportation Board
Chief Section of Administration
395 East Street S.W.
Washington, D.C. 20432

In Re: Finance Docket Number 36145 - Scrap Metal Services Terminal Railroad
Company (Indiana), LLC - Verified Notices of Exemption Under 49 C.F.R.
§1150.31

Dear Sir or Madam:

Our office represents Scrap Metal Services Terminal Railroad Company (Indiana), LLC. Enclosed please find an original and 9 copies of the Verified Notices of Exemption along with pertinent Certifications. We understood that the filing fee for such matters was \$1,800. We have since learned it is \$2,000. Accordingly, please find two checks totaling the \$2,000 filing fee.

If you have any questions or need any further information, please do not hesitate to contact our office.

FILED
September 21, 2017
SURFACE
TRANSPORTATION BOARD

Very truly yours,



David C. Dillon

Enclosures

ENTERED
Office of Proceedings
September 21, 2017
Part of
Public Record
3100 Dundee Road
Suite 508
Northbrook, Illinois 60062
Telephone: (847) 498-3000
Fax: (847) 291-3415



FEE RECEIVED

September 21, 2017
SURFACE
TRANSPORTATION BOARD

DILLON & NASH, LTD.

Attorneys at Law

David C. Dillon, M.B.A., J.D.

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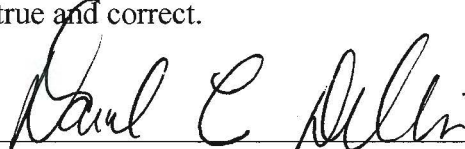
Re: Certification Relative to Verified Notices of Exemption Under 49 C.F.R.
§1150.31 - Scrap Metal Services Terminal Railroad Company (Indiana), LLC

Dear Sir or Madam:

Our office represents Scrap Metal Services Terminal Railroad Company (Indiana), LLC.
I hereby certify the following:

- 1) The annual revenue of Scrap Metal Services Terminal Railroad Company (Indiana), LLC will not exceed \$5,000,000 (Five Million Dollars) per year.
- 2) The specific location of Scrap Metal Services Terminal Railroad Company (Indiana), LLC is at 415 East 151st Street, East Chicago, Indiana, along Indiana Harbor Belt Railroad Right of Way (to the south).
- 3) The delivery of rail cars to, and removal of railcars from, the Scrap Metal Services Terminal Railroad Company (Indiana), LLC tracks on its site are made by Indiana Harbor Belt Railroad Company.

I certify that the above statements are true and correct.



David C. Dillon, Attorney for Scrap Metal Services
Terminal Railroad Company (Indiana), LLC

SUBSCRIBED AND SWORN to before me
this 20th day of September, 2017.



Notary Public



-1-

Finance Docket Number:
FD 36145

Pursuant to 49 C.F.R. § 1150.31, *et. seq.* and 49 U.S.C. § 10502(a), Scrap Metal Services Terminal Railroad (Indiana), LLC (SMSRRIN), a noncarrier, hereby provides verified notice of exemption from 49 U.S.C. § 10901 for SMSRRIN's acquisition by Operating Agreement from Scrap Metal Services, LLC (Scrap Metal Services), and operation pursuant to operating agreement with SMSRRIN of approximately 2,115 feet (0.40 mile) of existing railroad right-of-way and trackage and transloading facilities owned SMS Realty (East Chicago), LLC, in East Chicago, Indiana ("East Chicago Transload Facility trackage"). The East Chicago Transload Facility trackage is more specifically described and depicted in Appendix 1-A (description) and Appendix 1-B (map) attached to this notice.

SCRAP METAL SERVICES TERMINAL RAILROAD COMPANY (INDIANA), LLC IS A LINE OF RAILROAD THAT QUALIFIES FOR THE CLASS EXEMPTION FROM 49 U.S.C. § 10901, RATHER THAN TRACK EXCEPTED FROM BOARD ACQUISITION AND OPERATION AUTHORITY UNDER § 10906

SMS Realty (East Chicago), LLC owns the East Chicago Transload Facility trackage, and leases the East Chicago Transload Facility to Scrap Metal Services. The trackage is used in

conjunction with interchanging to and from Indiana Harbor Belt Railroad, carloads of inbound scrap metal for processing, recycling, and other scrap metal-related services for transloading into trucks for final delivery to metal working manufacturers.

There is currently 2,115 linear feet of track located on the East Chicago Transload Facility.

In this circumstances, the East Chicago Transload Facility trackage is properly considered to be a line of railroad under 49 U.S.C. § 10901 pursuant to the Board's tenant-use test, rather than spur, switching or side tracks excepted from Board authority over their acquisition and operation by virtue of 49 U.S.C. § 10906. The tenant-use test is described in the Board's decision denying reconsideration in *Effingham Railroad Company - Petition for Declaratory Order - Construction at Effingham, IL*, STB Docket No. 41986 and embraced proceedings, 1998 STB LEXIS 253, decision served September 18, 1998; *aff'd sub nom. United Transp. Union v. Surface Transportation Board.*, 183 F.3d 606 (7th Cir. 1999).

In that case, as here pertinent, Agracel Corporation transloaded beer from rail to truck at a warehouse that it operated in an industrial park at Effingham, IL. Agracel owned approximately 206 feet of right-of-way and track that extended between its warehouse and trackage owned and operated by Conrail. Previously, Conrail had operated over the Agracel trackage to provide service to Agracel. It was proposed that Effingham Railroad Company (ERRC), a noncarrier, substitute for Conrail as provider of the rail service over the Agracel trackage. ERRC filed a notice of exemption under 49 C.F.R. § 1150.31 for its operation over that trackage. The United Transportation Union (UTU) contended that the Board lacked authority over the proposed operation because Agracel trackage is spur, switching or side track excepted from Board operation authority under 49 U.S.C. § 10906.

In finding that the Agracel trackage was a line of railroad under 49 U.S.C. § 10901, the Board said (1998 STB LEXIS 253, at 8-9 (emphasis in original)):

...(I)n those cases where a tenant railroad's intended use of a track segment is different from the use made by the railroad owning the track, we have determined that the tenant's use, rather than the character of the trackage itself, is controlling with regard to its own operations, subject to consideration of the purpose and effect of the construction under *Texas & Pacific* (citations omitted).

In the initial notice, even under its new approach, ERRC became the operator of a line of track connecting Conrail to the site of the industrial park. Conrail clearly had operated this short track segment as an exempt siding or spur. However, because it was ERRC's initial railroad operation, this track segment became ERRC's entire line of railroad and was not, as to ERRC, a siding or spur. This small piece of trackage initiated ERRC's service from a connection or interchange point with Conrail to a shipper's facility within the industrial park. Thus ERRC's becoming the operator was the proper subject of the initial notice of exemption and was not statutorily exempt under section 10906.

It is apparent from the Board's decision in that case that the tenant-use test also applies when a new rail carrier is using trackage pursuant to an operating agreement rather than a lease, and when the prior use of the track was by a third-party carrier rather than by the shipper-owner of the trackage. In upholding the Board's decision in that case, the reviewing court held that it was reasonable for the Board to classify the trackage by virtue of the tenant's use. *United Transp. Union vs. Surface Transportation Bd.*, *supra*. 193 F.3d at 614. *Accord: Chicago Rail Link LLC - Lease & Oper. - Union Pacific R.R. Co.*, 2 S.T.B. 534 (1997), *aff'd sub nom. United Transp. Union - Illinois v. Surface Transp.*, 169 F.3d 474 (7th Cir. 1999).

Inasmuch as the subject transaction will be SMSRRIN's initial railroad acquisition, and the East Chicago Transload Facility trackage will constitute the entire line of railroad of SMSRRIN, it follows that the East Chicago Transload Facility trackage is a line of railroad under 49 U.S.C. § 10901, rather than spur, switching or side tracks excepted from Board acquisition and operation authority by virtue of 49 U.S.C. § 10906.

INFORMATION REQUIRED BY 49 C.F.R. § 1150.33

(a) *The full name and address of the applicant;*

The full name and address of the applicant in Finance Docket Number 36145 is Scrap Metal Services Terminal Railroad (Indiana), LLC, 415 East 151st Street, East Chicago, Indiana, 46312.

(b) *The name, address, and telephone number of the representative of the applicant who should receive correspondence;*

SMSRRIN representative is David C. Dillon, Dillon & Nash, Ltd., 3100 Dundee Road, Suite 508, Northbrook, Illinois, 60062.

(c) *A statement that an agreement has been reached or details when an agreement will be reached;*

An Operating Agreement was between Scrap Metal Services and Scrap Metal Services Terminal Railroad (Indiana), LLC, concerning the East Chicago Transload Facility trackage will be reached within thirty (30) days, and an agreement in principle has been reached. A copy of draft of the Operating Agreement is provided herewith.

(d) *The operator of the property;*

SMSRRIN will be the operator of the property.

(e) *A brief summary of the proposed transaction, including:*

(1) *The name and address of the railroad transferring the subject property,*

The above entity in Finance Docket Number 36145 is Scrap Metal Services, a non-railroad corporation, 415 East 151st Street, East Chicago, Indiana.

(2) *The proposed time schedule for consummation of the transaction,*

Scrap Metal Services Terminal Railroad Company (Indiana), LLC will enter into an Operating Agreement with Scrap Metal Services within the next 30 days. Operations are proposed to be consummated on or about September 15, 2017.

(3) *The mile-posts of the subject property, including any branch lines, and*

The East Chicago Transload Facility trackage is not described by milepost numbers.

That trackage is described and depicted in Appendix 1-A and 1-B attached to this Notice.

(4) *The total route miles being acquired;*

A total of approximately 2,115 feet/.40 mile of trackage is to be operated by SMSRRIN.

(f) *A map that clearly indicates the area to be served, including origins, termini, stations, cities, counties, and States:*

The required map is attached to this Notice as Appendix 1-B.

(g) *A certificate that applicant's projected revenues do not exceed those that would qualify it as a Class III carrier.*

The required certificate is attached to this Notice as Appendix 2.

CAPTION SUMMARY

A caption summary required by 49 C.F.R. § 1150.34 for Finance Docket Number FD36145 is attached to this Notice as Appendix 3.

ENVIRONMENTAL AND HISTORIC REPORT

The proposed acquisition and operation do not require environmental and historic reporting. See 49 C.F.R. § 1105.6(c)(2)(i) and 49 C.F.R. § 1105.8(b)(1).

LABOR PROTECTION

Pursuant to 49 U.S.C. § 10901(c), labor protection requirements do not apply to this transaction.

VERIFICATION

The verification is attached to this Notice as Appendix 4.

CONCLUSION AND REQUESTED RELIEF

WHEREFORE, within 30 days of the filing of this Notice, the Director of the Board's Office of Proceedings should publish notices in the Federal Register of the filing of notices of exemption in Finance Docket No. 36145. See 49 C.F.R. § 1150.32(b).

Respectfully submitted,

By: David C. Dillon Scrap Metal Services Terminal Railroad (Indiana), LLC
Dillon & Nash, Ltd.
3100 Dundee Road, Suite 508
Northbrook, Illinois 60062
(847) 498-3000

*Attorney for Applicant
in Finance Docket No. FD 36145*

Applicant in Finance Docket No. FD 36145

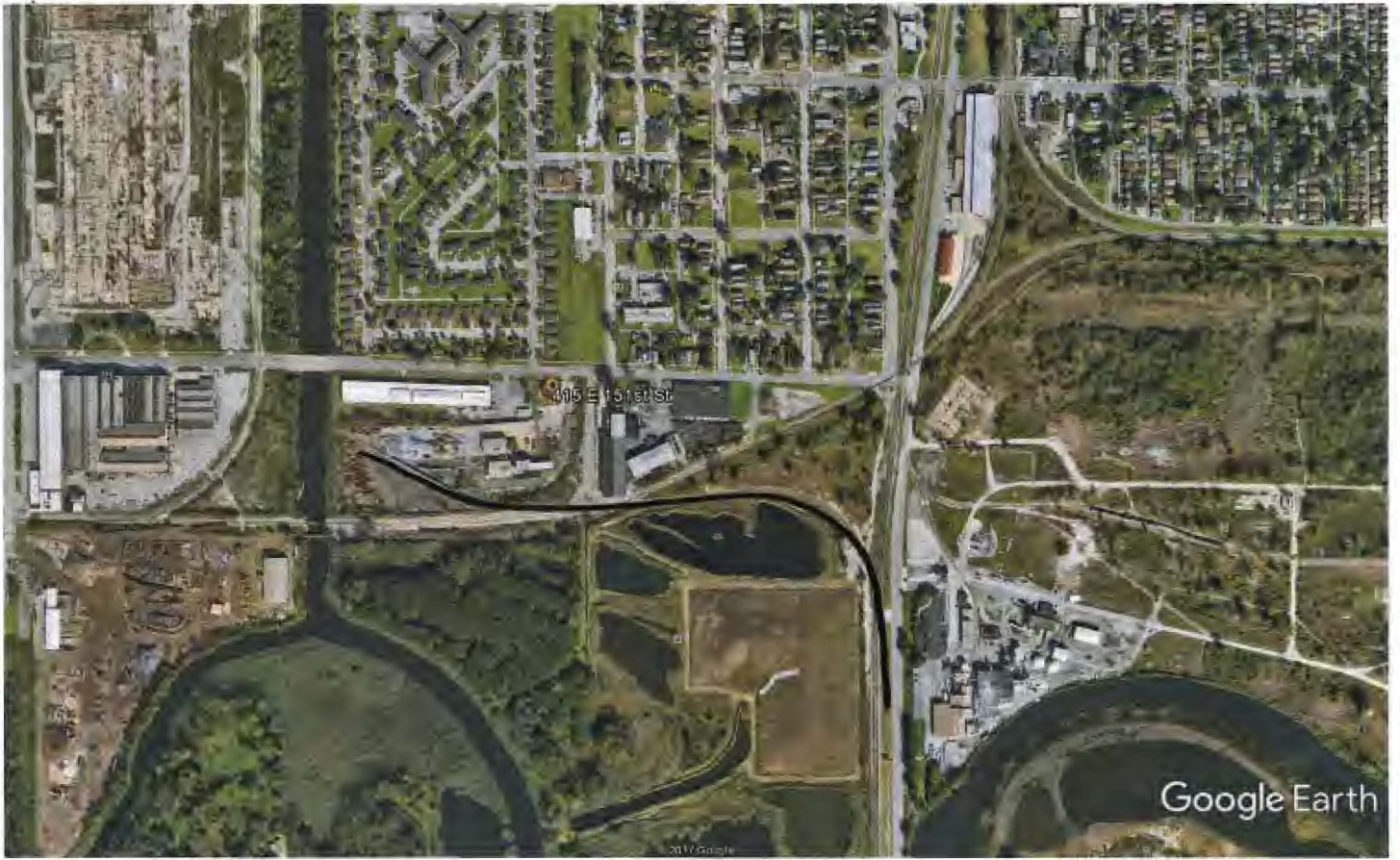
DATE FILED: September 20, 2017

Finance Docket Number: FD 36145

Appendix 1-A

LENGTH OF SCRAP METAL SERVICES TERMINAL RAILROAD (INDIANA), LLC
EAST CHICAGO TRANSLOAD FACILITY

Total Track: 2,1115 linear feet = 0.40 mile of track



Google Earth

feet
meters





ALTA/NSPS LAND TITLE SURVEY
PREPARED AS PER CHICAGO TITLE INSURANCE COMPANY TITLE COMMITMENT ORDER NO. 489629 DATED 08/20/2018

[illegible][illegible][illegible]

SHEET 0 OF 11	CLIENT: COLLIERS INTERNATIONAL	DATE: JANUARY 5, 2017	ALTANSPS LAND TITLE SURVEY PART OF NW 1/4 OF SEC. 33-37-9 415 EAST 151ST STREET EAST CHICAGO, INDIANA 46312 LAKE COUNTY	TORRENGA SURVEYING, LLC PROFESSIONAL LAND SURVEYORS 907 RIDGE ROAD, MUNSTER, INDIANA 46321 TEL. NO: (219) 836-4018 WEBSITE: WWW.TORRENGA.COM	
	JOB NO: 2016-0727				
	DRAWN: AJF/RB				
	SCALE: 1"=60'				
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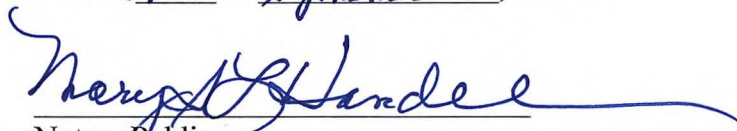
CERTIFICATION UNDER 49 C.F.R. § 1150.33(g)

Scrap Metal Services Terminal Railroad (Indiana), LLC hereby certifies under 49 C.F.R. § 1150.33(g), that the projected revenues from the acquisition and operation proposed in this matter do not exceed those that would qualify it as a Class III rail carrier, and will not exceed Five Million Dollars (\$5,000,000).



David C. Dillon
Authorized Representative of
Scrap Metal Services Terminal Railroad (Indiana), LLC

SUBSCRIBED AND SWORN TO before
me this 20th of September, 2017.


Notary Public

CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

Notice of Exemption

FINANCE DOCKET NO. FD 36145

SCRAP METAL SERVICES TERMINAL RAILROAD (INDIANA), LLC
- ACQUISITION EXEMPTION -
RAIL LINE OF SCRAP METAL SERVICES, LLC
AT EAST CHICAGO TRANSLOAD FACILITY, EAST CHICAGO, INDIANA

Scrap Metal Services Terminal Railroad (Indiana), LLC (SMSRRIN), has filed a Notice of Exemption to acquire and operate from Scrap Metal Services, LLC, a non-carrier, approximately 2,115 feet (0.40 mile) of right-of-way and trackage at Scrap Metal Services, LLC's East Chicago Transload Facility in East Chicago, Indiana. Comments must be filed with the Board and be served on SMSRRIN's representative, David C. Dillon, Dillon & Nash, Ltd., 3100 Dundee Road, Suite 508, Northbrook, Illinois, 60062, (847) 498-3000.

This Notice is filed under 49 C.F.R. § 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.

By the Board

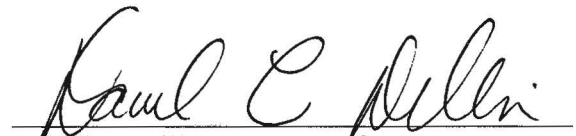
(Seal)

Chief, Section of Administration
Office of Proceedings
Surface Transportation Board

VERIFICATION

STATE OF ILLINOIS)
)
COUNTY OF COOK)

David C. Dillon, being duly sworn, states that he is an attorney for Scrap Metal Services Terminal Railroad (Indiana), LLC; that he is familiar with the factual allegations made in the foregoing Notice of Exemption on behalf of SMSRRIN; and that such allegations are true as stated.

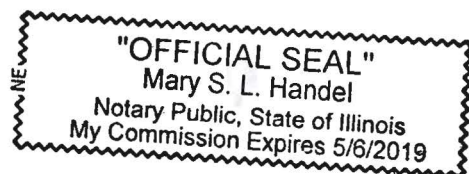


David C. Dillon, Attorney for
Scrap Metal Services Terminal
Railroad (Indiana), LLC

SUBSCRIBED AND SWORN to before
me this 28th day of September, 2017.



Notary Public



THIS AGREEMENT CONTAINS AN AUTOMATIC RENEWAL PROVISION

OPERATING AGREEMENT

THIS AGREEMENT, made and entered into as of the _____ day of _____, 2017, between SCRAP METAL SERVICES (SMS) and SCRAP METAL TERMINAL RAILROAD COMPANY (INDIANA), LLC (SMSRRIN).

WITNESSETH:

WHEREAS, SMSRRIN has acquired by Access Agreement from Scrap Metal Services approximately 2,115 linear feet (0.40 mile) of right-of-way and trackage located at Scrap Metal Services's East Chicago Transload Facility, in East Chicago, Indiana, more particularly described in Appendix 1 attached hereto ("the East Chicago Transload Facility trackage"); and

WHEREAS, SMSRRIN desires to operate and maintain the East Chicago Transload Facility trackage for the provision of rail service in the name of, and in behalf of, Scrap Metal Services; and

WHEREAS, Scrap Metal Services is agreeable to such operation and maintenance upon the terms and conditions herein contained.

NOW, THEREFORE, in consideration of the covenants and conditions contained herein the parties hereto agree as follows:

ARTICLE ONE

**GRANT OF RIGHT TO OPERATE AND
MAINTAIN THE
EAST CHICAGO TRANSLOAD FACILITY TRACKAGE**

Subject to the terms and conditions provided in the Access Agreement between Scrap Metal Services and Scrap Metal Services Terminal Railroad Company (Indiana), LLC, (i) Scrap Metal Services hereby grants to SMSRRIN the right to operate its trains, locomotives, cars, and equipment

with its crews over the East Chicago Transload Facility trackage for the purpose of providing rail service to shippers and receivers located on such lines and to transport shipments by rail over such lines, and to maintain the East Chicago Transload Facility trackage, and (ii) SMSRRIN agrees to operate and maintain the East Chicago Transload Facility trackage. SMSRRIN reserves the right to operate trains, locomotives, cars, and equipment on an as-needed basis, using a leased locomotive or a substitute, using its own personnel. SMSRRIN will perform all necessary freight car switching at the East Chicago Transload Facility and will operate all freight car loading and unloading facilities.

ARTICLE TWO

TERM; TERMINATION

Section 2.01 Term. Subject to earlier termination as provided herein, the term of this Agreement shall be one year from the date of this Agreement shown above; provided, however, that this Agreement will be renewed automatically for additional one year periods unless, no later than 60 days before its expiration, either Scrap Metal Services or SMSRRIN provides written notice to the other party of its intent not to renew this agreement.

Scrap Metal Services may terminate this Agreement upon ten (10) calendar days written notice if by any reason most of the circulating shares in SMSRRIN with right to a vote are no longer property of Scrap Metal Services, or its parent or affiliated companies, or if any shares in SMSRRIN are owned, directly or indirectly, by a competitor of Scrap Metal Services.

Section 2.02 Termination For Default. Either party may terminate this Agreement by written notice if the other party fails to perform any obligation required of it hereunder and fails to remedy such default within thirty (30) days after receipt of written notice of such default.

Section 2.03 Termination for Bankruptcy, Etc. Either party may immediately terminate this Agreement by written notice if the other party enters into or is placed in bankruptcy or receivership

or is nationalized, become insolvent, or makes an assignment for the benefit of its creditors.

ARTICLE THREE

SCOPE OF OPERATIONS AND MAINTENANCE AND COMPENSATION THEREFORE

The scope of operations and maintenance and the agreed compensation therefore are contained in Appendix 2 attached hereto. The parties may amend Appendix 2 from time to time by executing an amended scope of operations and maintenance and compensation.

ARTICLE FOUR

GOVERNMENT APPROVAL, ETC.

SMSRRIN at its own expense shall obtain any and all governmental approvals, authorizations, permits, licenses, and exemptions that may be required for its operation and maintenance of the East Chicago Transload Facility trackage.

ARTICLE FIVE

INSURANCE

SMSRRIN shall be required to obtain and keep in force a commercial general liability insurance policy covering SMSRRIN's operation and maintenance of the East Chicago Transload Facility trackage, including public liability, personal injury, property damage, and contractual liability with per occurrence and aggregate limits of not less than \$2 million. Scrap Metal Services shall be named as an additional insured in such policy. Upon reasonable request, SMSRRIN shall make such policy available for inspection and review by Scrap Metal Services.

ARTICLE SIX

MANAGEMENT AND OPERATIONS

SMSRRIN shall comply with the provisions of the Federal Safety Appliance Act, as amended, and all other federal, state, and local laws, regulations and rules respecting (i) the

operations and maintenance of the East Chicago Transload Facility trackage, (ii) the operation, condition, inspection and safety of SMSRRIN's trains, locomotives, cars, and equipment while such trains, locomotives, cars, and equipment are being operated over the East Chicago Transload Facility trackage. SMSRRIN shall indemnify, protect, defend, and save harmless Scrap Metal Services and its officers, agents and employees from and against all fines, penalties and liabilities imposed upon SMSRRIN or its officers, agents and employees under such laws, rules and regulations by any public authority or court having jurisdiction in the premises, when attributable in any manner to the failure of SMSRRIN to comply with its obligations under this article.

ARTICLE SEVEN

LIABILITY AND INDEMNITY

Whenever any loss of, damage to, or destruction of any property whatsoever, or injury or death of any person or persons whomsoever, occurs with the trains, locomotives, cars, or equipment of, or in the account of SMSRRIN, SMSRRIN shall assume all liability therefore, and shall forever protect, defend, indemnify and save harmless Scrap Metal Services and its officers, agents and employees from and against any such liability, cost and expense, except if such loss, damage, injury or death was caused by SMSRRIN.

ARTICLE EIGHT

ENVIRONMENTAL CONDITIONS

Scrap Metal Services shall indemnify SMSRRIN for any and all Losses resulting from environmental conditions existing on the East Chicago Transload Facility trackage as of the commencement of operations by SMSRRIN. SMSRRIN shall indemnify Scrap Metal Services for any and all Losses resulting from environmental conditions occurring or arising on the East Chicago

Transload Facility trackage during the term of this Agreement except to the extent caused by the act or omission of Scrap Metal Services.

ARTICLE NINE

THIRD PARTY CLAIMS RELATING TO OWNERSHIP OPERATION

SMSRRIN shall not cause any lien, claim, or encumbrance to be placed against the East Chicago Transload Facility trackage. If any such lien, claim or encumbrance shall be filed or placed against the East Chicago Transload Facility trackage or any part thereof, SMSRRIN agrees to discharge the same within 30 days after SMSRRIN has notice thereof. If SMSRRIN fails to do so, Scrap Metal Services shall have the right (but not the obligation) to pay or discharge any such liens, claims or encumbrances without inquiry as to their validity and any amount so paid, including interest, fees, charges, and expenses, shall be paid by SMSRRIN to Scrap Metal Services, as applicable.

ARTICLE TEN

FINANCIAL STATEMENTS

If Scrap Metal Services shall so request, SMSRRIN shall be required on a quarterly basis to provide statements reflecting its financial condition, such as a balance sheet and profit-loss statement.

ARTICLE ELEVEN

CONFIDENTIALITY

SMSRRIN will keep secret and confidential at all times and will not disclose, divulge, or communicate any confidential or proprietary information provided by Scrap Metal Services

hereunder, in any manner, directly or indirectly, to any third party, except as permitted by this Agreement, and except where that information:

- (a) is or later become publicly known under circumstances involving no breach of this Agreement by SMSRRIN;
- (b) was already known to SMSRRIN at the time it was received from Scrap Metal Services, not under an obligation of confidentiality, as evidenced by written documents in the possession of SMSRRIN; or
- (c) is made available to SMSRRIN by a third party without secrecy obligations and without breach of an obligation to Scrap Metal Services.

SMSRRIN may disclose confidential information only to those of its directors, officers, and employees who legitimately require it for the purposes permitted by this Agreement, and will use its best efforts to prevent any unauthorized disclosure by them.

Notwithstanding the termination of this Agreement, the obligations of SMSRRIN under this Section 11 shall continue in force for ten (10) years after termination.

ARTICLE TWELVE

REAL PROPERTY TAXATION

SMSRRIN agrees to file Illinois Department of Revenue Railroad Railroad Property Tax Returns (including but not limited to PTAX 500 through 513 and 520A through 523, and 537), listing the East Chicago Transload Facility property as “railroad operating property” as defined in the applicable Illinois statutes. SMSRRIN shall pay the resulting property taxes or immediately fully reimburse Scrap Metal Services if Scrap Metal Services pays such taxes.

ARTICLE THIRTEEN

AMENDMENTS

This Agreement represents the entire understanding between the parties and supersedes and replaces any and all prior agreements between the parties relating to the subject matter hereof. This Agreement may not be amended except by a written instrument signed on behalf of each party by its authorized representatives.

ARTICLE FOURTEEN

ASSIGNMENT

Neither party may assign this Agreement without the prior written consent of the other, except that Scrap Metal Services may assign this Agreement to any entity which succeeds, by sale, merger, acquisition, transfer, or otherwise, to all or substantially all of its assets or business at its East Chicago Transload Facility.

ARTICLE FIFTEEN

MISCELLANEOUS

Section 15.01 Any notices, requests, or other communications hereunder shall be in writing and shall be deemed to have been duly given when made upon a party by personal service at any place where they may be found or by mailing such notices, requests, or communications by certified mail, postage prepaid and return receipt requested, or by nationally recognized courier, or by transmitting such notice by facsimile, in each case to the following addresses or facsimile numbers, as the case may be:

- (a) If to Scrap Metal Services:
- (b)

- (a) If to SMSRRIN:
- (b)

Either party may provide changes in the above addresses to the other party by a notice given to the other party in this Section 15.01.

Section 15.02 Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Illinois.

Section 15.03. Severability. If any provision in this Agreement shall for any reason be determined to be invalid or unenforceable, the balance of such provision and the remaining provisions of this Agreement shall nevertheless continue to be valid and enforceable as though the invalid or unenforceable provision had not been a part hereof.

Section 15.4 Titles. The title of the sections and subsections of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

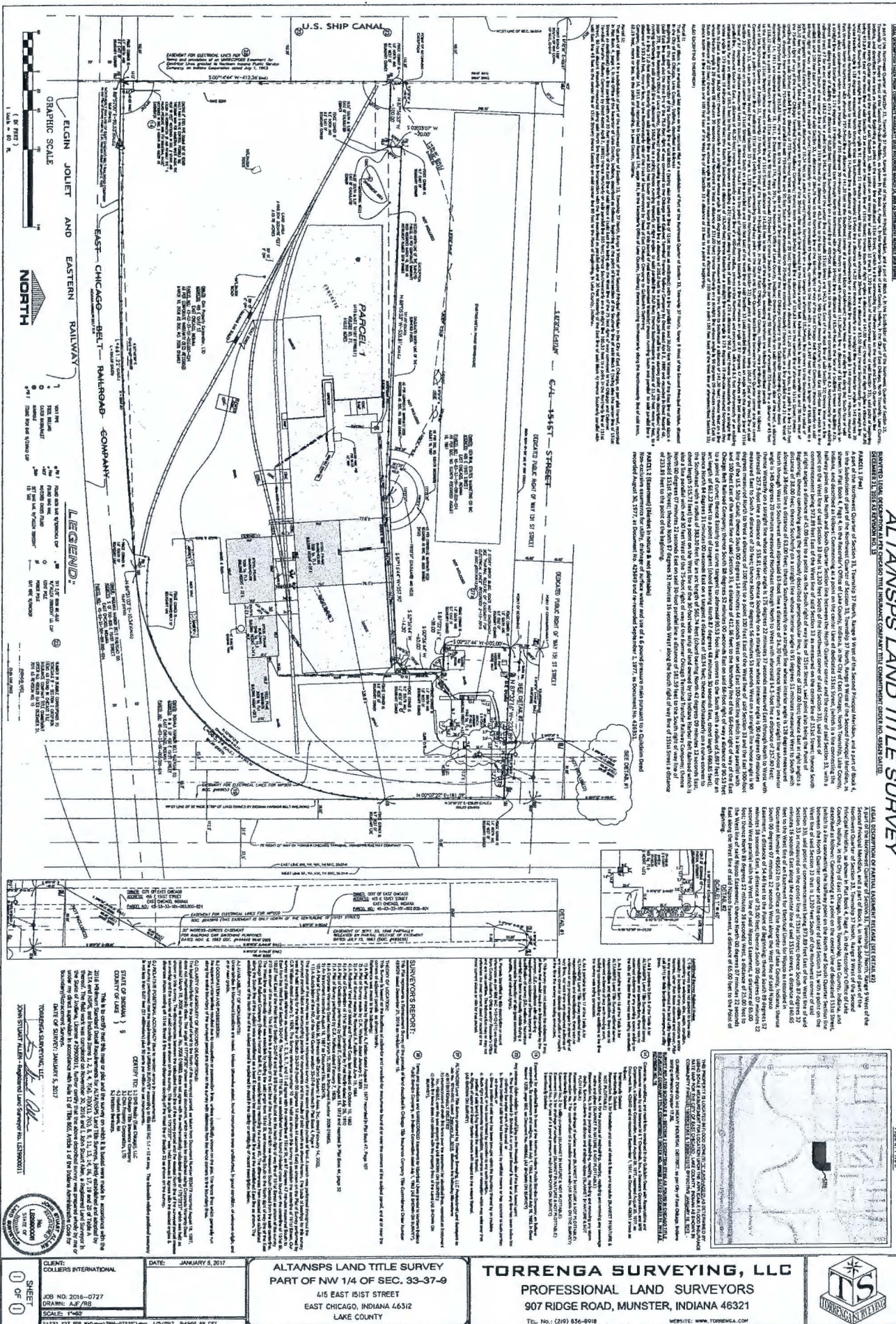
IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto on the day and year first above written.

SCRAP METAL SERVICES

By: _____
Authorized Representative

SCRAP METAL SERVICES TERMINAL
RAILROAD (INDIANA), LLC

By: _____
Authorized Representative



SCOPE OF WORK

SCRAP METAL SERVICES (SMS) and SCRAP METAL SERVICES TERMINAL RAILROAD COMPANY (INDIANA), LLC (SMSRRIN) hereby agree to the following scope of work in accordance with Article Three of the Operating Agreement between them made and entered into as of September 1, 2017.

A. Operation

SMSRRIN will furnish a properly trained and qualified locomotive engineer and railroad switchman (collectively, operating crew) or a crew consisting of qualified remote control operators (as qualified and certified according to federal transportation standards) to provide railroad switching service at the East Chicago Transloading Facility, East Chicago, Illinois (work site). It is expected that the operating crew will work eight hours a day, Monday through Friday (full time) or as required. If such railroad switching service does not occupy that number of hours of operation on any day, the operating crew shall utilize the remaining hours of any such day doing one or more of the following activities: (1) hand check track gauge within all tracks and turnouts; (2) clean and lubricate moving parts of all switches; (3) hand check bolts within switch and track area; (4) perform other railroad-related projects as needed. At the reasonable request of SMS from time to time, the operating crew will work a greater number of hours per day than the numbers identified above.

SMSRRIN will furnish a locomotive capable of performing the railroad switching service identified above. SMSRRIN will maintain that locomotive in such manner that it is in condition adequate to perform the rail switching service identified above. SMSRRIN will provide for use by operating crew: (1) a contractor vehicle with small tools and a generator; and (2) a set of hand radios.

B. **Maintenance**

The operating crew will perform light track maintenance and daily inspection of the trackage at the work site. SMSRRIN will provide sufficient properly trained and qualified maintenance personnel to perform other maintenance activity, as needed (collectively, maintenance crew). The number of persons in a maintenance crew will vary depending on the maintenance work to be done. However, in most cases, a maintenance crew will consist of four persons. SMSRRIN will provide equipment and tools as required for maintenance activity.

CERTIFICATION



TO: United States Surface Transportation Board

DATE: September 20, 2017

IN RE: Scrap Metal Services Terminal Railroad Company (Indiana), LLC
"Transactions Imposing Interchange Commitments"

DOCKET #: **FD 36145**

This is the Certify as Requested by the U.S. Code Section 49 CFR 1150.33, Transactions Imposing Interchange Commitments, that:

Sec. 1150.33 - Information to be contained in notice—transactions that involve creation of Class III carriers.

- (a) The full name and address of the applicant;
- (b) The name, address, and telephone number of the representative of the applicant who should received correspondence;
- (c) A statement that an agreement has been reached or details about when an agreement will be reached;
- (d) The operator of the property;
- (e) A brief summary of the proposed transaction, including:
 - 1. The name and address of the railroad transferring the subject property;
 - 2. The proposed time schedule for consummation of the transaction;
 - 3. The mile-posts of the subject property, including any branch lines, and
 - 4. The total route miles being acquired;
- (f) A map that clearly indicates the area to be serve, including origins, termini, stations, cities, counties, and states; and
- (g) A certificate that applicant's projected revenues do not exceed those that would qualify it as a Class III carrier.
- (h) Transactions imposing interchange commitments. "(1) If a proposed acquisition or operation of a rail line or change of operators involves a provision or agreement that may limit future interchange with a third-party connecting carrier, whether by outright prohibition, per-car penalty, adjustment in the purchase price or rental, positive economic inducement, or other means ("interchange commitment"), the following additional information must be provided:
 - (I) The existence of that provision or agreement and identification of the affected interchange points;"

The undersigned hereby certifies that there are no such provisions or agreements.

David C. Dillon, Attorney for Scrap Metal Services
Terminal Railroad Company (Indiana), LLC