

242073

ENTERED
Office of Proceedings
November 17, 2016
Part of
Public Record

LAW OFFICE
THOMAS F. McFARLAND, P.C.
208 SOUTH LASALLE STREET - SUITE 1666
CHICAGO, ILLINOIS 60604-1228
TELEPHONE (312) 236-0204
mcfarland@aol.com

November 17, 2016

By e-filing

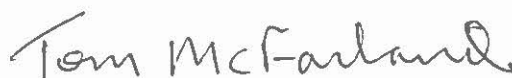
Ms. Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

Re: Finance Docket No. 36070, *Kokomo Rail, LLC -- Acquisition and Operation
Exemption -- Rail Line of Indian Creek Railroad Company in Madison County, IN*

Dear Ms. Brown:

Hereby transmitted is an Amended Notice of Exemption Under 49 C.F.R. § 1150.41 for filing with the Board in the above referenced matter.

Respectfully submitted,



Thomas F. McFarland
Thomas F. McFarland, P.C.
208 South LaSalle Street
Suite 1666
Chicago, IL 60604-1228
(312) 236-0204
mcfarland@aol.com

TMcF:kl:1741-A\efSTB4

BEFORE THE
SURFACE TRANSPORTATION BOARD

KOKOMO RAIL, LLC -- ACQUISITION)
AND OPERATION EXEMPTION -- RAIL) FINANCE DOCKET
LINE OF INDIAN CREEK RAILROAD) NO. 36070
COMPANY IN MADISON COUNTY, IN)

AMENDED NOTICE OF EXEMPTION
UNDER 49 C.F.R. § 1150.41

KOKOMO RAIL, LLC
1002 West Morgan Street
Kokomo, IN 46901

Applicant

THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1666
Chicago, IL 60604-1228
(312) 236-0204
mcfarland@aol.com

Attorney for Applicant

DATE FILED: November 17, 2016

BEFORE THE
SURFACE TRANSPORTATION BOARD

KOKOMO RAIL, LLC -- ACQUISITION	)	
AND OPERATION EXEMPTION -- RAIL	)	FINANCE DOCKET
LINE OF INDIAN CREEK RAILROAD	)	NO. 36070
COMPANY IN MADISON COUNTY, IN	)	

**AMENDED NOTICE OF EXEMPTION
UNDER 49 C.F.R. § 1150.41**

Pursuant to 49 C.F.R. § 1150.41 *et seq.*, KOKOMO RAIL, LLC (KR), a Class III rail carrier^{1/}, hereby provides notice of its class exemption from 49 U.S.C. § 10902 for its acquisition from Indian Creek Railroad Company (ICRK) and operation of a rail line that extends between a point of connection to Norfolk Southern Railway Company (NS) at or near Florida Station and the end of track northwest of Anderson, a distance of 4.55 miles in Madison County, Indiana (the Rail Line). The Rail Line does not have milepost designations. A map of the Rail Line from a Railroad Atlas of Indiana is attached to this Notice as Appendix 1.

EXPLANATION OF AMENDMENT

The Notice of Exemption in this proceeding is being amended to accurately identify the selling party as Indian Creek Railroad Company (ICRK) instead of Kokomo Rail Co., Inc. (KRC). The amendment is necessary because KRC's corporate identity has been dissolved.

^{1/} KR is a rail carrier as a result of KRC's transfer to it of KRC's authority to own and operate a rail line between Marion and Amboy, IN. See Notice of Exemption in Finance Docket No. 36069 filed on October 27, 2016.

In STB Finance Docket No. 36054, *Kokomo Rail Co., Inc. – Acq. & Oper. Exempt. – Rail Line of Indian Creek Railroad Company*, Notice of Exemption served August 18, 2016, KRC was authorized to acquire and operate ICRK's rail line. That was an error on the part of counsel because, as noted, KRC had been dissolved as a corporation. However, the authority in that proceeding was not consummated. Steps are being taken to withdraw the Notice of Exemption in that proceeding.

That action paves the way for this corrective amendment identifying the selling party as ICRK, not the dissolved corporation, KRC.

INFORMATION REQUIRED BY 49 C.F.R. § 1150.43

(a) The full name and address of the Class III rail carrier applicant;

Applicant is Kokomo Rail, LLC, 1002 West Morgan Street, Kokomo, IN 46901.

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

Applicant's representative is Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1666, Chicago, IL 60604-1228, (312) 236-0204, mcfarland@aol.com.

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

An agreement has been reached for transfer of the Rail Line by ICRK to KR.

(d) The operator of the property;

KR will operate the Rail Line or contract with an experienced rail operator to operate it.

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

(1) The name and address of the railroad transferring the subject property to the Class III rail carrier applicant;

The transferor of the Rail Line is Indian Creek Railroad Company, 7878 West 600 North, Frankton, IN 46044.

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

The proposed acquisition and operation will not be consummated before this Notice of Exemption becomes effective.

(3) The mileposts of the subject property, including any branch lines; and

The Rail Line does not have milepost numbers.

(4) The total route miles being acquired.

Approximately 4.55 miles of Rail Line are proposed to be transferred.

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

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

(g) A certificate that applicant's projected revenues as a result of the transaction will not result in the creation of a Class II or Class I rail carrier so as to require processing under Sec. 1150.45.

The required certificate is contained in the Verification of Mr. Thomas F. McFarland, attorney for KR, which is attached to this Notice as Appendix 2.

(h) Interchange Commitments. (1) The filing party must certify whether or not a proposed acquisition or operation of a rail line 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 proposed acquisition and operation do not involve any interchange commitments.

CAPTION SUMMARY

The caption summary required by 49 C.F.R. § 1150.44 is attached to this Notice as Appendix 3.

ENVIRONMENTAL AND HISTORIC MATTERS

By virtue of 49 C.F.R. § 1105.6(c)(2) and 49 C.F.R. § 1105.8(b)(1), no environmental or historic reporting is required in conjunction with the proposed acquisition and operation.

LABOR PROTECTION

By virtue of 49 U.S.C. § 10902©, no labor protective conditions are to be imposed in conjunction with this Notice.

ANNUAL REVENUES

The certificate required by 49 C.F.R. § 1150.42(e), (annual revenues will not exceed \$5 million), is contained in Appendix 2 attached to this Notice.

VERIFICATION

A general verification of all factual assertions in this Notice is contained in Appendix 2.

CONCLUSION AND REQUESTED RELIEF

WHEREFORE, within 16 days after the filing of this Notice, the Director of the Board's Office of Proceedings should arrange for publication of notice of the filing of this Notice in the *Federal Register*.

Respectfully submitted,

KOKOMO RAIL, LLC
1002 West Morgan Street
Kokomo, IN 46901

Applicant

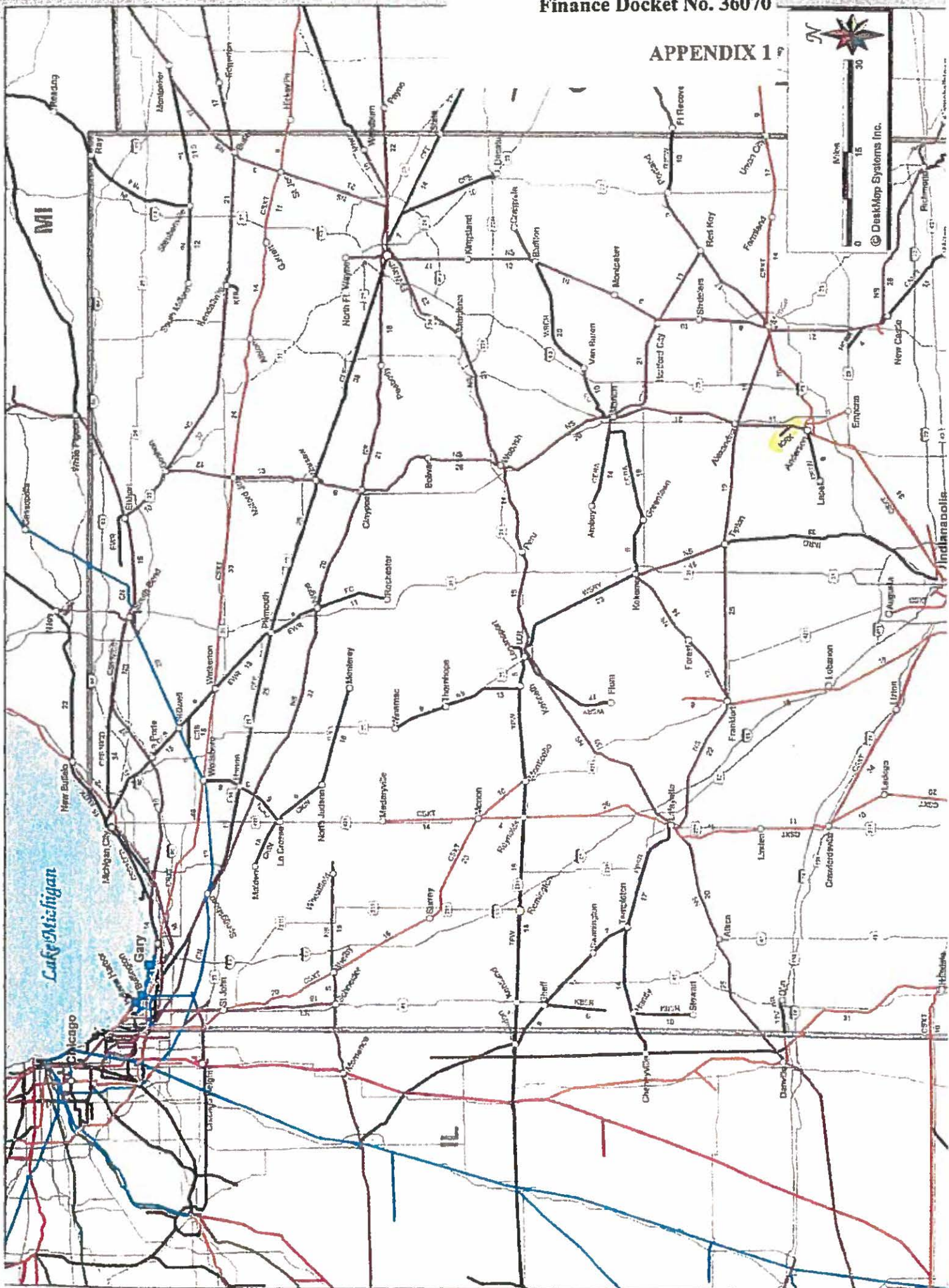
Thomas F. McFarland

THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1666
Chicago, IL 60604-1228
(312) 236-0204
mcfarland@aol.com

Attorney for Applicant

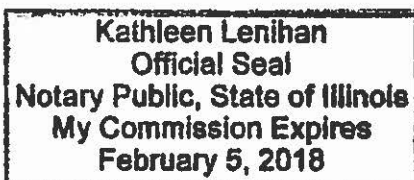
DATE FILED: November 17, 2016

APPENDIX 1



VERIFICATION

THOMAS F. McFARLAND, being duly sworn, states that he is an attorney for Kokomo Rail, LLC (KR) ; that he has read the foregoing Amended Notice of Exemption under 49 C.F.R. § 1150.41 being filed by KR; that the projected annual revenue of the rail line being acquired by KR, together with KR's annual revenues, do not exceed \$5 million; that KR's projected revenues as a result of the proposed acquisition will not result in the creation of a Class I or Class II rail carrier; that the proposed acquisition does not involve any interchange commitment as defined in 49 C.F.R. § 1150.43(h); and that all allegations of fact contained in KR's Notice of Exemption are true and correct.



Thomas F. McFarland
THOMAS F. McFARLAND

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

SUBSCRIBED and SWORN to before me
this 17th day of November, 2016.

Kathleen Lenihan
Notary Public

My Commission expires: 2/5/2018

CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

Amended Notice of Exemption

FINANCE DOCKET NO. 36070

***KOKOMO RAIL, LLC – ACQUISITION AND
OPERATION EXEMPTION – RAIL LINE
OF INDIAN CREEK RAILROAD COMPANY
IN MADISON COUNTY, IN***

Kokomo Rail, LLC (KR), a Class III rail carrier, has filed a Notice of Exemption to acquire from Indian Creek Railroad Company (ICRK) and operate a rail line that extends between a point of connection to Norfolk Southern Railway Company (NS) at or near Florida Station and the end of track northwest of Anderson, a distance of 4.55 miles in Madison County, Indiana. Comments must be filed with the Board and be served on KR's representative, Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1666, Chicago, IL 60604-1228, (312) 236-0204.

The Notice is filed under 49 C.F.R. § 1150.41. 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

Dated:

(SEAL)

Cynthia T. Brown
Chief, Section of Administration