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THOMAS F. MCFARLAND

May 22, 2019

247808

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

ENTERED
Office of Proceedings
May 22, 2019
Part of
Public Record

Re: Finance Docket No. 36307, *Chicago, Rock Island & Pacific Railroad, LLC --
Lease and Operation Exemption -- Rail Line of Coahoma County, Mississippi
Near Swan Lake, MS*

Dear Ms. Brown:

Hereby transmitted is a Verified Notice of exemption Under 49 C.F.R. § 1150.31, *et seq.*
for filing with the Board in the above referenced matter.

The filing fee of \$2,000 was paid through Pay.gov.

FILED
May 22, 2019
SURFACE
TRANSPORTATION BOARD

Very truly yours,



Thomas F. McFarland
Attorney for Applicant

TMCF:kl:enc:1846\efSTB1

cc: (by e-mail)
T.J. Litwiler, Esq., *tlitwiler@fletcher-sippel.com*
Peter Pfohl, Esq., *pap@sloverandloftus.com*
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FEE RECEIVED
May 22, 2019
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

CHICAGO, ROCK ISLAND & PACIFIC)
RAILROAD, LLC -- LEASE AND) FINANCE DOCKET
OPERATION EXEMPTION -- RAIL LINE) NO. 36307
OF COAHOMA COUNTY, MISSISSIPPI)
NEAR SWAN LAKE, MS)

**VERIFIED NOTICE OF EXEMPTION
UNDER 49 C.F.R. § 1150.31 et seq.**

CHICAGO, ROCK ISLAND & PACIFIC
RAILROAD, LLC
165 West South Street, Suite 210
P.O. Box 601
Hernando, MS 38632

Applicant

THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1666
Chicago, IL 60604-1112
(312) 236-0204 (office)
mcfarland@aol.com

Attorney for Applicant

Date Filed: May 22, 2019

BEFORE THE
SURFACE TRANSPORTATION BOARD

CHICAGO, ROCK ISLAND & PACIFIC)
RAILROAD, LLC -- LEASE AND) FINANCE DOCKET
OPERATION EXEMPTION -- RAIL LINE) NO. 36307
OF COAHOMA COUNTY, MISSISSIPPI)
NEAR SWAN LAKE, MS

**VERIFIED NOTICE OF EXEMPTION
UNDER 49 C.F.R. § 1150.31 et seq.**

Pursuant to 49 C.F.R. § 1150.31(a), CHICAGO, ROCK ISLAND & PACIFIC RAILROAD, LLC (CRIP), a noncarrier, hereby provides notice of its class exemption from 49 U.S.C. § 10901 for its lease from COAHOMA COUNTY, MISSISSIPPI (the County), and operation over a rail line that extends between a point of connection to ILLINOIS CENTRAL RAILROAD COMPANY (IC) at Milepost 104.0 at or near Swan Lake, MS and the end of regulated track at Milepost 103.75, a distance of 0.25 miles near Swan Lake, MS (the Rail Segment).^{1/}

If the Board were to determine that this Verified Notice of Exemption supports a change of operators from C&J Railroad Company (C&J) to CRIP, the Board is respectfully requested to so provide in the Notice that will be issued in response to this Verified Notice of Exemption. There are no shippers on the line to be notified of that change.

^{1/} Interchange occurs at Milepost 105.35. CRIP will be able to operate over IC's track between Milepost 105.35 and Milepost 104.0 solely for the purpose of interchange.

BACKGROUND

The Rail Segment is a part of a rail line approximately 50 miles long between Swan Lake and Lula, MS (the Rail Line). Abandonment and discontinuance of service over the Rail Line were consummated in 2001. *See* Docket No. AB-579X, notice of consummation of abandonment by the County, served July 25, 2001, and Docket No. AB-580X, notice of consummation of discontinuance of service by Gulf & Ohio Railways, Inc., served on July 12, 2001.

The County then leased the Rail Line to C&J who operated the Line as a Contract Carrier.

In 2005, C&J obtained an exemption from the Board to operate the Segment, but not the rest of the Rail Line, as a common carrier. *See C&J Railroad Company -- Acquisition & Operation Exemption -- in Tallahatchie County, MS*, 2005 WL 1060882 (Docket No. F.D. 34673, decision served May 6, 2005). C&J obtained that exemption solely to comply with a requirement of IC that C&J interchange with IC through the RAILINC system by becoming a rail carrier.

C&J's lease of the Rail Line from the County was terminated for cause, effective on February 8, 2019. Shortly thereafter, the County leased the Rail Line to CRIP. After initially refusing to cooperate in an orderly transition of operations over the Rail Segment^{2/}, C&J recently stated that it does not object to CRIP's operation of the Rail Segment, and that CRIP does not require C&J's permission to operate over the Rail Segment.

^{2/} In view of C&J's refusal to cooperate, CRIP filed a Petition for Prescription of Alternative Rail Service under 49 C.F.R. § 1146.1(b)(3). *See* Docket No. 36292, *Chicago, Rock Island & Pacific Railroad, LLC -- Alternative Rail Service -- C&J Railroad Company*, filed on April 24, 2019. In view of C&J's recent cooperation, CRIP is simultaneously filing a Petition for Leave to Voluntarily Withdraw that Petition Without Prejudice.

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

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

The Applicant is CHICAGO, ROCK ISLAND & PACIFIC RAILROAD, LLC (CRIP),
165 West South Street, Suite 210, Hernando, MS 38632.

(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, ph (312) 236-0204,
mcfarland@aol.com.

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

Based on C&J's statement that it does not object to CRIP's operation over the Rail
Segment, it appears that there is agreement between C&J and CRIP for CRIP's operation of the
Segment.

(d) The operator of the property;

CRIP will operate the property.

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

(1) The name and address of the railroad transferring the subject operating authority,

C&J was the former operator. C&J's last known address is 110 Quarter Master
Court, Jeffersonville, IN 47130.

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

The transaction will not be consummated before the 30th day after this Verified Notice
of Exemption is filed.

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

The Rail Segment extends between Milepost 104.0 and 103.75.

(4) The total route miles being operated;

A total of 0.25 miles of rail line is to be operated.

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

A map of the property is attached as Appendix 1.

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

This is to certify that CRIP's projected revenues do not exceed those that would qualify it as a Class III rail carrier.

(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").

There are no interchange commitments involved in the lease.

REVENUES LESS THAN \$5 MILLION PER YEAR

In accordance with 49 C.F.R. § 1150.32(e), this is to certify that the annual revenues of CRIP to be created by the proposed lease and operation will not exceed \$5 million.

NO ENVIRONMENTAL AND HISTORIC REPORTING REQUIRED

By virtue of 49 C.F.R. § 1105.6(1)(i) and 1105.8(b)(1), no environmental or historic reporting is required.

NO LABOR PROTECTION REQUIRED

By virtue of 49 U.S.C. § 10901(c), no labor protective conditions are required.

VERIFICATION

The verification of Mr. Robert Riley, President of CRIP, is attached as Appendix 2, attesting to the truth of the facts asserted.

CONCLUSION AND REQUESTED RELIEF

WHEREFORE, for the reasons stated, the Board should accept this Verified Notice of Exemption for filing and publish such Notice in the *Federal Register* no later than 16 days after its filing.

Respectfully submitted,

CHICAGO ROCK ISLAND & PACIFIC
RAILROAD, LLC
165 West South Street, Suite 210
P.O. Box 601
Hernando, MS 38632

Applicant


THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1666
Chicago, IL 60604-1112
(312) 236-0204 (office)
mcfarland@aol.com

Attorney for Applicant

Date Filed: May 22, 2019

Appendix 1



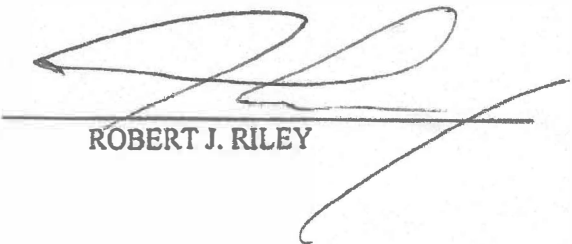
Finance Docket No. 36307

Appendix 2

VERIFICATION

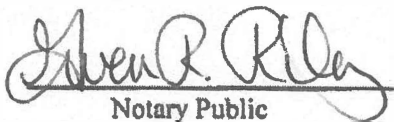
STATE OF MISSISSIPPI)
) SS:
COUNTY OF DESOTO)

ROBERT J. RILEY, being duly sworn, states that he is President of CHICAGO, ROCK ISLAND & PACIFIC RAILROAD, LLC (CRIP); that he has read the foregoing Verified Notice of Exemption; that the projected annual revenue of the rail line being leased and operated by CRIP does not exceed \$5 million; that CRIP's projected revenues as a result of the proposed lease and operation will not result in the creation of a Class I or Class II rail carrier; that the proposed lease and operation does not involve any interchange commitment as defined in 49 C.F.R. § 1150.33(h); and that all allegations of fact contained in CRIP's Notice of Exemption are true and correct.



ROBERT J. RILEY

SUBSCRIBED AND SWORN to
before me this 20th day
of May, 2019.



Notary Public

My Commission Expires:
October 30, 2020



Appendix 3

CAPTION SUMMARY

**SURFACE TRANSPORTATION BOARD
NOTICE OF EXEMPTION**

(Finance Docket No. 36307)

**CHICAGO, ROCK ISLAND & PACIFIC RAILROAD, LLC -- LEASE AND
OPERATION EXEMPTION -- RAIL LINE OF COAHOMA COUNTY,
MISSISSIPPI NEAR SWAN LAKE, MS**

CHICAGO, ROCK ISLAND & PACIFIC RAILROAD, LLC (CRIP), a noncarrier, has filed a notice of its exemption from 49 U.S.C. § 10901 for its lease from COAHOMA COUNTY, MISSISSIPPI, and operation over a rail line that extends between a point of connection to ILLINOIS CENTRAL RAILROAD COMPANY (IC) at Milepost 104.0 at or near Swan Lake, MS and the end of regulated track at Milepost 103.75, a distance of 0.25 miles near Swan Lake, MS (the Rail Segment).

Any comments must be filed with the Board and must be served on applicant's representative, Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1666, Chicago, IL 60604-1228, ph (312) 236-0204, mcfarland@aol.com.

This Verified Notice of Exemption 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.

(SEAL)

By the Board