

FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208

Phone: (312) 252-1500
Fax: (312) 252-2400
www.fletcher-sippel.com

ROBERT A. WIMBISH
(312) 252-1504
rwimbish@fletcher-sippel.com

December 20, 2019

300209

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20006

ENTERED
Office of Proceedings
December 20, 2019
Part of
Public Record

Re: **Docket No. FD 36366**
Patton-Lowe RR, Inc. – Acquisition Exemption –
Consolidated Rail Corporation

Dear Ms. Brown:

Attached for filing in the above-captioned proceeding is a **Verified Notice of Exemption of Patton-Lowe RR, Inc.** pursuant to 49 C.F.R. part 1150, subpart D. Payment of the applicable filing fee of \$2,100.00 has been tendered electronically with this filing via Pay.gov.

If you have any questions regarding this filing, please contact me at either rwimbish@fletcher-sippel.com or (312) 252-1504. Thank you for your assistance on this matter. Kind regards.

Respectfully submitted,



Robert A. Wimbish
Attorney for Patton-Lowe RR, Inc.

Enclosures

FILED
December 20, 2019
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
December 20, 2019
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36366

PATTON-LOWE RR, INC.
-- ACQUISITION EXEMPTION --
CONSOLIDATED RAIL CORPORATION

**VERIFIED NOTICE OF EXEMPTION OF
PATTON-LOWE RR, INC.
PURSUANT TO 49 C.F.R. PART 1150, SUBPART D**

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-2832
(312) 252-1500

ATTORNEY FOR PATTON-LOWE RR, INC.

Dated: December 20, 2019

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36366

PATTON-LOWE RR, INC.
-- ACQUISITION EXEMPTION --
CONSOLIDATED RAIL CORPORATION

**VERIFIED NOTICE OF EXEMPTION OF
PATTON-LOWE RR, INC.
PURSUANT TO 49 C.F.R. PART 1150, SUBPART D**

Pursuant to 49 C.F.R. part 1150, subpart D, Patton-Lowe RR, Inc. ("PLRI"), a non-carrier, hereby files this Verified Notice of Exemption (the "Notice") to acquire by purchase from Consolidated Rail Corporation ("Conrail") an approximately 0.37-mile rail line (the "Line"). Based upon projected annual revenues, PLRI expects to be a Class III rail carrier following consummation of the proposed transaction, and it anticipates that its annual operating revenues will be below \$5 million.

In accordance with the requirements of 49 C.F.R. § 1150.33, PLRI submits the following information:

Name and Address of Applicant: 49 C.F.R. § 1150.33(a)

The full name and address of the rail carrier applicant herein is as follows:

Patton-Lowe RR, Inc.
2372 State Road 46
Greensburg, IN 47240

Applicant's Representative: 49 C.F.R. § 1150.33(b)

PLRI's representative to whom correspondence regarding this transaction should be sent is as follows:

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive, Suite 800
Chicago, IL 60606-3208
(312) 252-1500

Statement Concerning Agreement: 49 C.F.R. § 1150.33(c)

PLRI is a corporate subsidiary of Lowe's Pellets & Grain, Inc. ("Lowe's"), a rail-served business located near the western end of the Line. The Central Railroad Company of Indiana ("CIND") had for several years operated over the Line to provide direct rail service to Lowe's under color of right to use the Line. More recently, however, CIND has declined to provide service over the Line, advising Lowe's that it appeared that the Line in question was owned by Conrail, not CIND. Accordingly, CIND believes that it was not obligated to provide service over the Line. Concerned about the prospect of the permanent loss of direct rail service, Lowe's created PLRI, which has negotiated terms to purchase the Line from Conrail, which has confirmed its ownership of the subject railroad assets. Conrail and PLRI agree that the proposed transaction involves the sale of a railroad line subject to the Board's jurisdiction.

Operator of the Property: 49 C.F.R. § 1150.33(d)

PLRI would be entitled to provide common carrier service itself (and may elect to do so should the need arise), but PLRI contemplates reaching an accord with CIND under which CIND would resume switching operations over the Line.

Summary of the Transaction: 49 C.F.R. § 1150.33(e)

To preserve Lowe's direct access to the interstate rail network, PLRI has negotiated terms with Conrail for the transfer of the Line. The Line extends roughly 0.37 route miles from milepost 64.43 at Craig¹ (east of the at-grade crossing of Indiana SR 46, at a point of connection with CIND's Westport Industrial Track near CIND milepost 225.0) to milepost 64.80 also at Craig (near the intersection of N. County Road 250 W and West Base Road). Although PLRI would be entitled to commence operations in its own name, PLRI anticipates that CIND will agree to provide switching services over the Line to serve Lowe's and any other customers that may locate along the Line in the future.

The complete name and address of the owner/seller of the Line is as follows:

Consolidated Rail Corporation
1717 Arch Street, Suite 1310
Philadelphia, PA 19103

PRLI plans to consummate the subject transaction at such time as this Notice takes effect (presumably, 30 days from the date of the filing of this Notice) or shortly thereafter.

Map: 49 C.F.R. § 1150.33(f)

A map showing the Line and the surrounding area is attached as Exhibit A.

Certificate of Compliance: 49 C.F.R. § 1150.33(g)

The appropriate certification of eligibility to invoke the Board's class exemption procedures is attached as Exhibit B.

¹ Craig is an unincorporated railroad location located immediately west of the boundary of the City of Greensburg, Indiana.

Interchange Commitments: 49 C.F.R. § 1150.33(h)

The proposed railroad line transaction does not involve, and the agreement between PLRI and the Conrail does not include, any provision or agreement that would limit future interchange with a third-party connecting carrier.

Advance Notice: 49 C.F.R. § 1150.32(e)

The projected annual revenue of PLRI is not expected to exceed \$5 million, and, accordingly, the advance notice requirements of 49 C.F.R. § 1150.32(e) are inapplicable. See Exhibit B.

Environmental and Historic Preservation Data: 49 C.F.R. § 1105

Under 49 C.F.R. § 1105.6(c)(1)(i), PLRI's proposed purchase of the Line is exempt from environmental reporting requirements. The proposed transaction will not result in significant changes in carrier operations, i.e., changes that exceed the thresholds established in 49 C.F.R. § 1105.7(e)(4) or (5).

Under 49 C.F.R. § 1105.8(b)(1), PLRI's purchase of the Line also is exempt from historic preservation reporting requirements. The proposed transaction is for the purpose of continued rail service. Additional Surface Transportation Board approval would be required to abandon the Line or discontinue railroad service over it, and there are no plans to dispose of or alter properties subject to Board jurisdiction that are fifty years old or older.

Caption Summary: 49 C.F.R. § 1150.34

A caption summary in appropriate form is attached as Exhibit C to this Notice.

Respectfully submitted,

By: R. A. Wimbish

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive, Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500

ATTORNEY FOR PATTON-LOWE RR, INC.

Dated: December 20, 2019

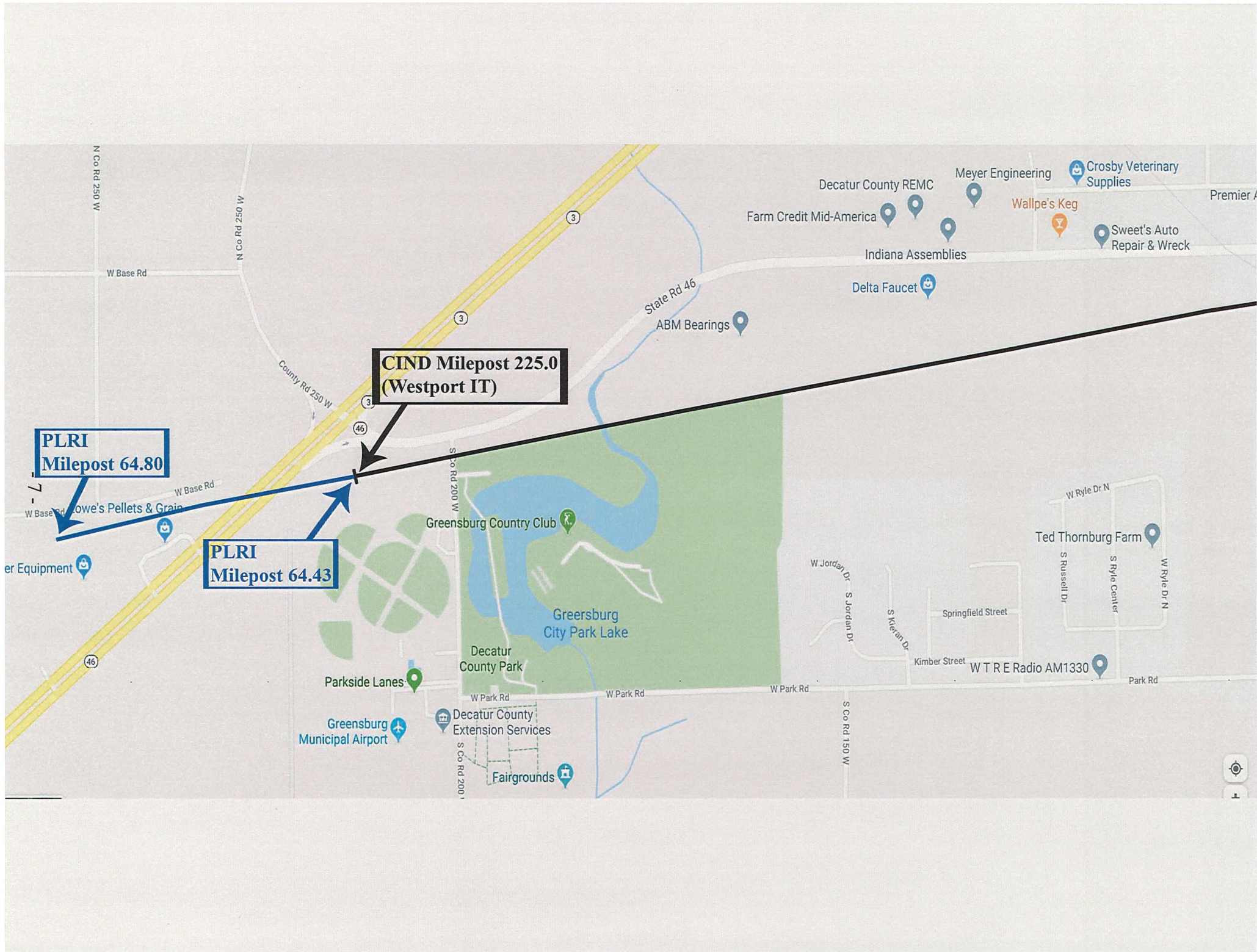
**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB DOCKET NO. FD 36366

**PATTON-LOWE RR, INC.
-- ACQUISITION EXEMPTION --
CONSOLIDATED RAIL CORPORATION**

EXHIBIT A

MAP



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB DOCKET NO. FD 36366

**PATTON-LOWE RR, INC.
-- ACQUISITION EXEMPTION --
CONSOLIDATED RAIL CORPORATION**

EXHIBIT B

CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

DOCKET NO. FD 36366

PATTON-LOWE RR, INC.
-- ACQUISITION EXEMPTION --
CONSOLIDATED RAIL CORPORATION

Patton-Lowe RR, Inc. ("PLRI"), a non-carrier, has filed a Verified Notice of Exemption to acquire approximately 0.37 miles of rail line (the "Line") extending from milepost 64.43 (at Craig – east of the at-grade crossing of Indiana SR 46, at a point of connection with CIND's Westport Industrial Track at about CIND milepost 225.0) to milepost 64.80 (also at Craig – near the intersection of N. County Road 250 W and West Base Road).²

PLRI expects to consummate the subject purchase transaction on or after January 19, 2020, once the subject exemption takes effect.

Comments must be filed with the Board and served on:

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500

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.

² Craig is an unincorporated railroad location located immediately west of the boundary of the City of Greensburg, Indiana.

Dated: January __, 2020

By the Board

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB DOCKET NO. FD 36366

**PATTON-LOWE RR, INC.
-- ACQUISITION EXEMPTION --
CONSOLIDATED RAIL CORPORATION**

CERTIFICATION AND VERIFICATION

CERTIFICATION AND VERIFICATION

I, F. Alan Lowe, hereby certify and verify under penalty of perjury as follows:

1. I am the president of Patton-Lowe RR, Inc. ("PLRI"), and, accordingly, I am qualified and authorized to make the subject "Certification and Verification" on behalf PLRI.
2. The annual rail revenues of PLRI are not expected to exceed \$5 million, and PLRI's anticipated revenues will not result in PLRI becoming Class I or II rail carrier under the thresholds set forth at 49 C.F.R. § 1201 (11).
3. I have read the foregoing Notice of Exemption, and verify that the facts stated therein are true and correct.

Executed on: December 20, 2019.



F. Alan Lowe