

# FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive  
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THOMAS J. LITWILER  
(312) 252-1508  
tlitwiler@fletcher-sippel.com

April 15, 2019

247492

## 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 20423-0001

ENTERED  
Office of Proceedings  
April 15, 2019  
Part of  
Public Record

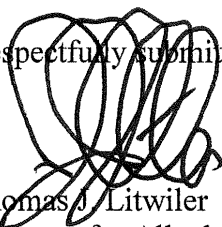
Re: **Docket No. FD 36282**  
**Allegheny Valley Railroad Company -- Acquisition**  
**Exemption -- Lines of CSX Transportation, Inc.**

Dear Ms. Brown:

Attached for filing in the above-captioned proceeding is the **Verified Notice of Exemption of Allegheny Valley Railroad Company Pursuant to 49 C.F.R. § 1150.42**, dated April 15, 2019. A check in the amount of \$2,000.00, representing the appropriate fee for this filing, is being delivered to the Board today under separate cover.

If you have any questions regarding this filing, please feel free to contact me.  
Thank you for your assistance on this matter.

Respectfully submitted,



Thomas J. Litwiler  
Attorney for Allegheny Valley  
Railroad Company

TJL:tl

Attachment **FEE RECEIVED**  
**April 15, 2019**  
**SURFACE**  
**TRANSPORTATION BOARD**

**FILED**  
**April 15, 2019**  
**SURFACE**  
**TRANSPORTATION BOARD**

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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DOCKET NO. FD 36282

ALLEGHENY VALLEY RAILROAD COMPANY  
-- ACQUISITION EXEMPTION --  
LINES OF CSX TRANSPORTATION, INC.

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**VERIFIED NOTICE OF EXEMPTION  
OF  
ALLEGHENY VALLEY RAILROAD COMPANY  
PURSUANT TO 49 C.F.R. § 1150.42**

Thomas J. Litwiler  
Fletcher & Sippel LLC  
29 North Wacker Drive  
Suite 800  
Chicago, Illinois 60606-3208  
(312) 252-1500

**ATTORNEY FOR ALLEGHENY VALLEY  
RAILROAD COMPANY**

Dated: April 15, 2019

BEFORE THE  
SURFACE TRANSPORTATION BOARD

---

DOCKET NO. FD 36282

ALLEGHENY VALLEY RAILROAD COMPANY  
-- ACQUISITION EXEMPTION --  
LINES OF CSX TRANSPORTATION, INC.

---

**VERIFIED NOTICE OF EXEMPTION  
OF  
ALLEGHENY VALLEY RAILROAD COMPANY  
PURSUANT TO 49 C.F.R. § 1150.42**

Pursuant to 49 C.F.R. § 1150.41, *et seq.*, Allegheny Valley Railroad Company (“AVR”), a Class III rail carrier, hereby files this Verified Notice of Exemption to acquire from CSX Transportation, Inc. (“CSXT”) approximately 47.5 miles of rail line in and around Pittsburgh, Pennsylvania (the “Subject Rail Lines”) that AVR has leased and operated since 2003. AVR also will amend and extend existing, incidental trackage rights over CSXT related to the Subject Rail Lines. Based on projected revenues for the Subject Rail Lines, AVR expects to remain a Class III rail carrier after consummation of the transaction proposed herein.

In accordance with the requirements of 49 C.F.R. § 1150.43, AVR submits the following information:

**Name and Address of Applicant: 49 C.F.R. § 1150.43(a)**

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

Allegheny Valley Railroad Company  
Building 1, Suite 100  
519 Cedar Way  
Oakmont, PA 15139  
(412) 426-2800

**Applicant's Representative: 49 C.F.R. § 1150.43(b)**

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

Thomas J. Litwiler  
Fletcher & Sippel LLC  
29 North Wacker Drive  
Suite 800  
Chicago, Illinois 60606-3208  
(312) 252-1500

**Statement Concerning Agreement: 49 C.F.R. § 1150.43(c)**

AVR and CSXT will shortly execute a Purchase and Sale Agreement and related agreements providing for AVR's acquisition of the Subject Rail Lines.

**Operation of the Property: 49 C.F.R. § 1150.43(d)**

AVR will continue to be the operator of the Subject Rail Lines, which AVR has leased from CSXT since 2003.

**Summary of the Transaction: 49 C.F.R. § 1150.43(e)**

AVR is a Class III common carrier by rail which owns or operates approximately 77 miles of rail line in southwestern Pennsylvania. AVR began operations in 1995. *Allegheny Valley Railroad Company -- Acquisition and Operation Exemption -- Lines of Consolidated Rail Corporation*, Docket No. FD 32783 (ICC served Nov. 17, 1995). AVR is a wholly-owned subsidiary of Carload Express, Inc., a non-carrier holding company which also controls three other Class III rail carriers operating in Pennsylvania, Ohio, Maryland, Delaware and Virginia. *See Carload Express, Inc. -- Continuance in Control Exemption -- Delmarva Central Railroad Company*, Docket No. FD 36072 (STB served Dec. 2, 2016).

AVR has leased and provided all rail freight service on the Subject Rail Lines since 2003 (and, with respect to one short segment of trackage, since 2001). *Allegheny Valley Railroad Company -- Lease, Operation and Trackage Rights Exemption -- Lines of CSX Transportation, Inc.*, Docket No. FD 34431 (STB served Nov. 26, 2003); *Allegheny Valley Railroad Company -- Lease and Operation Exemption -- Line of CSX Transportation, Inc.*, Docket No. FD 34095 (STB served Sep. 27, 2001).

CSXT is a Class I common carrier by rail which owns or operates approximately 21,000 miles of rail line in the States of Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia and West Virginia, in the District of Columbia, and in the Provinces of Ontario and Quebec in Canada.

Pursuant to the Purchase and Sale Agreement to be executed by the parties, AVR will acquire the Subject Rail Lines from CSXT, as follows:

- The W&P Sub from milepost BO 5.00 at Glenwood Junction in Pittsburgh, Pennsylvania to milepost BO 38.14 in Washington, Pennsylvania, a distance of approximately 33.14 miles;
- The Tylerdale Connecting Track from the connection with the W&P Sub at milepost BOA 0.0 to milepost BOA 0.83 in Washington, Pennsylvania, a distance of approximately 0.83 miles;<sup>1</sup>

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<sup>1</sup> The Tylerdale Connecting Track was abandoned beyond milepost BOA 0.83 in 1992. *Tylerdale Connecting Railroad Company -- Abandonment Exemption -- In Washington County, PA*, Docket No. AB-366X (ICC served Feb. 24, 1992); *see CSX Transportation, Inc. -- Corporate Family Merger Exemption -- Atlanta, Knoxville & Northern Railway Company, Cincinnati Inter-Terminal Railroad Company, and Tylerdale Connecting Railroad*

- The P&W Sub No. 2 Main from milepost BF 322.8 at Glenwood Junction to milepost BF 326.3 at East Schenley in Pittsburgh, a distance of approximately 3.5 miles;
- The P&W Sub from milepost BG 1.0 at Field in Pittsburgh to milepost BG 10.4 in Glenshaw, Pennsylvania, a distance of approximately 9.4 miles;
- The River Branch from station 6+50 near 41<sup>st</sup> Street to station 40+94 near 33<sup>rd</sup> Street in Pittsburgh, including the ramp connection to the P&W Sub at 33<sup>rd</sup> Street, a distance of approximately 0.65 miles;<sup>2</sup>
- Portions of CSXT's Glenwood Yard extending generally from Glenwood Junction to Laughlin Junction in Pittsburgh.

The total distance of the rail lines being acquired by AVR (excluding the portions of Glenwood Yard) is approximately 47.5 miles. AVR will acquire all track and rail assets comprising the Subject Rail Lines from CSXT, and will acquire a permanent rail freight easement over the underlying rights-of-way. The proposed acquisition of rail lines which AVR has leased for more than 15 years will not result in changes to AVR's existing rail service and operations on the Subject Rail Lines.

In connection with the proposed acquisition transaction, AVR will amend, restate and extend the agreement governing its existing overhead and limited local trackage rights over

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*Company*, Docket No. FD 35448 (STB served Dec. 3, 2010). Exempt trackage remains beyond milepost BOA 0.83 to switch shipper facilities, and AVR is acquiring CSXT's interests in the rail line corridor to former milepost BOA 1.47.

<sup>2</sup> The River Branch extends an additional approximately 0.85 miles to a terminus near 24<sup>th</sup> Street. This portion of the River Branch is out of service and is not included in the proposed acquisition transaction. CSXT and AVR will shortly file an appropriate joint notice of exemption for, respectively, the abandonment of and discontinuance of service over this out-of-service segment of the River Branch.

CSXT's rail line between milepost BF 326.3 at East Schenley and milepost BG 1.0 at Field in Pittsburgh, Pennsylvania. These incidental trackage rights connect the third and fourth line segments listed above, and are authorized in conjunction with the underlying acquisition transaction pursuant to 49 C.F.R. § 1150.41(d).

The complete name and address of the entity conveying the Subject Rail Lines to AVR is as follows:

CSX Transportation, Inc.  
500 Water Street  
Jacksonville, Florida 32202

AVR intends to consummate its acquisition of the Subject Rail Lines from CSXT on or shortly after May 15, 2019.

**Map: 49 C.F.R. § 1150.43(f)**

A map showing the Subject Rail Lines and the surrounding area is attached as Exhibit A to this Notice.

**Certificate of Compliance: 49 C.F.R. § 1150.43(g)**

A Certificate of Compliance with the provisions of 49 C.F.R. § 1150.43(g) is attached as Exhibit B to this Notice.

**Interchange Commitments: 49 C.F.R. § 1150.43(h)**

AVR's proposed acquisition of the Subject Rail Lines does not involve any provision or agreement that would limit future interchange with a third-party connecting carrier.

**Advance Notice: 49 C.F.R. § 1150.42(e)**

AVR has leased and operated the Subject Rail Lines for more than 15 years, and as a result there are no CSXT "employees on the affected line(s)" as contemplated by 49 C.F.R.

§ 1150.42(e). On April 11, 2019, AVR posted a notice of the proposed acquisition transaction at the workplace of AVR employees who already work on the Subject Rail Lines and certified that action to the Board.<sup>3</sup> A copy of the notice and certification as filed with the Board is attached as Exhibit C to this Notice.

The proposed acquisition transaction will simply convert AVR's leasehold interest in the Subject Rail Lines to an ownership interest, and will not result in any changes to the rail operations of AVR or CSXT or have any effect on AVR or CSXT employees. Accordingly, and consistent with precedent, AVR is filing concurrently herewith a petition for waiver of the requirements of Section 1150.42(e) as necessary to allow the transaction to proceed 34 days after posting of the notice to AVR employees.

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

Under 49 C.F.R. § 1105.6(c)(2), AVR's proposed acquisition of the Subject Rail Lines does not require preparation of environmental documentation. 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), AVR's acquisition of the Subject Rail Lines also is excepted from historic preservation reporting requirements. The proposed transaction is for the purpose of continued rail operations. Further Surface Transportation Board approval is required to abandon or discontinue any service and there are no plans to dispose of or alter properties subject to Board jurisdiction that are fifty years old or older.

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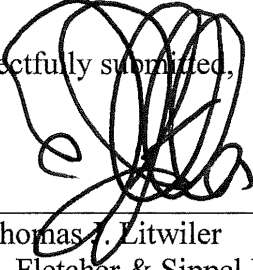
<sup>3</sup> AVR employees are not represented by any labor union.

**Caption Summary: 49 C.F.R. § 1150.44**

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

Respectfully submitted,

By: \_\_\_\_\_

  
Thomas J. Litwiler  
Fletcher & Sippel LLC  
29 North Wacker Drive  
Suite 800  
Chicago, Illinois 60606-3208  
(312) 252-1500

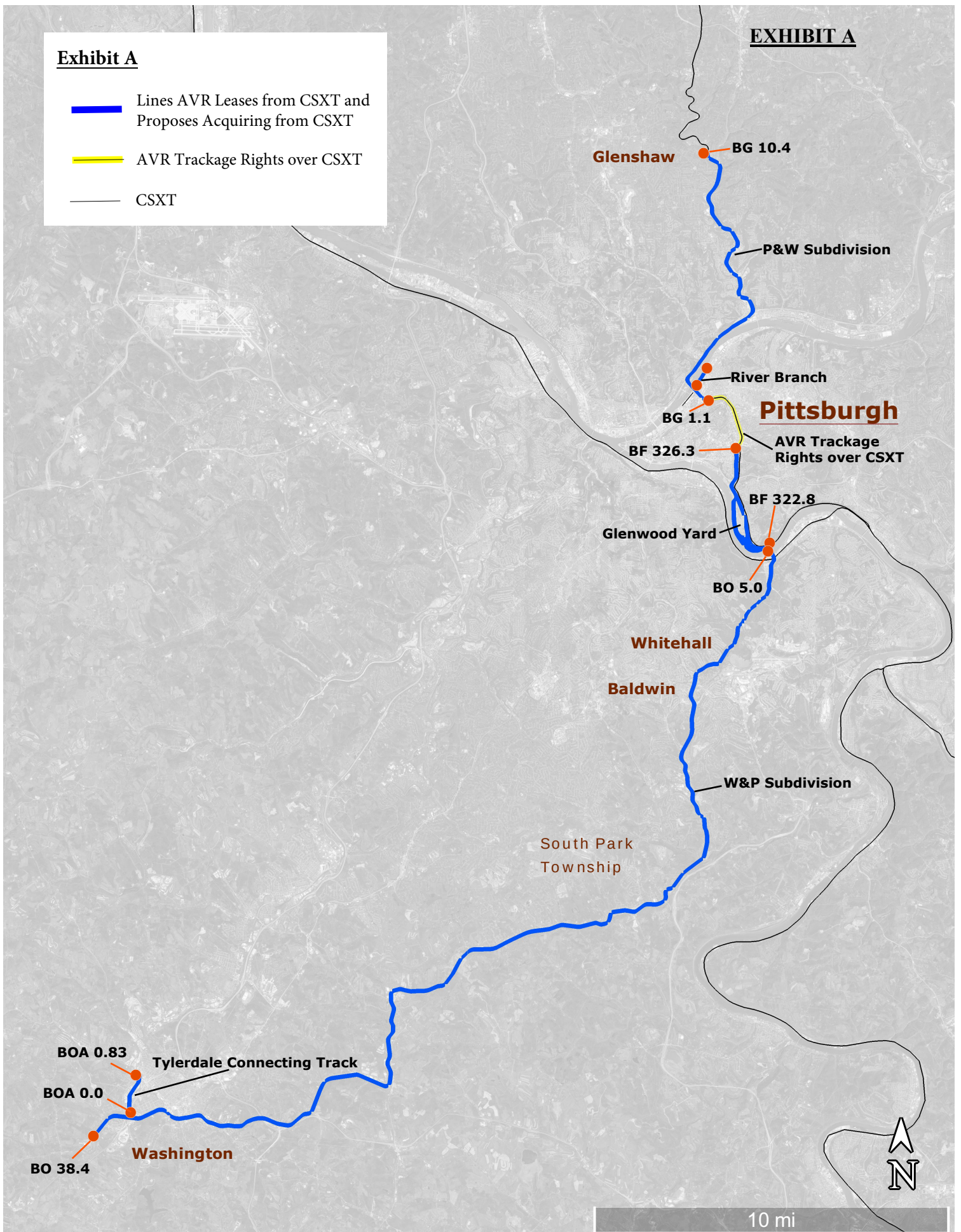
**ATTORNEY FOR ALLEGHENY VALLEY  
RAILROAD COMPANY**

Dated: April 15, 2019

**EXHIBIT A**

**Exhibit A**

-  Lines AVR Leases from CSXT and Proposes Acquiring from CSXT
-  AVR Trackage Rights over CSXT
-  CSXT



**CERTIFICATION**

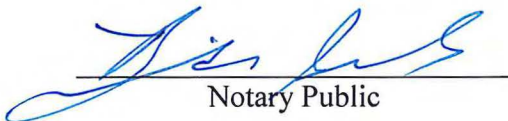
Commonwealth of Pennsylvania     )  
                                                      )  
County of Allegheny                    )     SS:

Mark A. Rosner, being duly sworn, hereby certifies that the projected annual rail revenues of Allegheny Valley Railroad Company as a result of the transaction proposed herein will not result in the creation of a Class II or a Class I rail carrier under the provisions of 49 C.F.R. § 1201 (1-1).



Mark A. Rosner  
President

SUBSCRIBED AND SWORN TO  
before me this 11 day  
of April, 2019.

  
Notary Public

My Commission expires:

03-28-2023

|                                                                                                                                                                                                                   |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Commonwealth of Pennsylvania - Notary Seal<br>Brian Ickes, Notary Public<br>Allegheny County<br>My commission expires March 28, 2023<br>Commission number 1232201<br>Member, Pennsylvania Association of Notaries |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

# FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

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

THOMAS J. LITWILER  
(312) 252-1508  
tlitwiler@fletcher-sippel.com

## EXHIBIT C

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

April 11, 2019

### 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 20423-0001

Re: **Docket No. FD 36282**  
**Allegheny Valley Railroad Company – Acquisition**  
**Exemption -- Lines of CSX Transportation, Inc.**

Dear Ms. Brown:

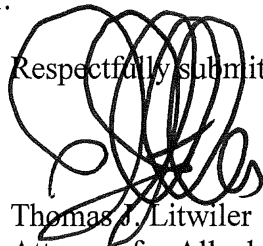
Pursuant to 49 C.F.R. § 1150.42(e), Allegheny Valley Railroad Company (“AVR”) hereby certifies that on April 11, 2019 the attached Notice was posted at the following workplace of AVR employees:

Glenwood Yard Office  
35 Vespuccius Street  
Pittsburgh, PA 15207

AVR employees are not represented by any labor union.

If you have any questions regarding this filing, please feel free to contact me.  
Thank you for your assistance on this matter.

Respectfully submitted,

  
Thomas J. Litwiler  
Attorney for Allegheny Valley  
Railroad Company

TJL:tl

Attachment

**ALLEGHENY VALLEY RAILROAD COMPANY**  
**Bldg. 1, Suite 100**  
**519 Cedar Way**  
**Oakmont, PA 15139**

**NOTICE**

Pursuant to regulations of the Surface Transportation Board ("STB") at 49 C.F.R. § 1150.42(e), Allegheny Valley Railroad Company ("AVR"), a Class III rail carrier, hereby gives notice to its employees that on or about May 15, 2019, AVR intends to acquire and thereafter continue operation of the following rail lines of CSX Transportation, Inc. ("CSXT") currently leased by AVR (the "Subject Rail Lines"):

- The W&P Sub from milepost BO 5.00 at Glenwood Junction in Pittsburgh, Pennsylvania to milepost BO 38.14 in Washington, Pennsylvania;
- The Tylerdale Connecting Track from the connection with the W&P Sub at milepost BOA 0.0 to milepost BOA 0.83 in Washington, Pennsylvania;
- The P&W Sub No. 2 Main from milepost BF 322.8 at Glenwood Junction to milepost BF 326.3 at East Schenley in Pittsburgh;
- The P&W Sub from milepost BG 1.0 at Field in Pittsburgh to milepost BG 10.4 in Glenshaw, Pennsylvania;
- The River Branch from station 6+50 near 41<sup>st</sup> Street to station 40+94 near 33<sup>rd</sup> Street in Pittsburgh, including the ramp connection to the P&W Sub at 33<sup>rd</sup> Street;
- Portions of CSXT's Glenwood Yard extending generally from Glenwood Junction to Laughlin Junction in Pittsburgh.

AVR has leased and provided all rail freight service on the Subject Rail Lines since 2003 or earlier. AVR's acquisition of the Subject Rail Lines will have no effect on existing rail operations or employees of AVR or CSXT.

In connection with the proposed transaction, AVR will amend and restate the agreement governing its existing trackage rights over CSXT's rail line between milepost BF 326.2 at East Schenley and milepost BG 1.0 at Field in Pittsburgh, Pennsylvania.

A notice of exemption to authorize the proposed transaction will be filed with the STB on or shortly after April 12, 2019 in Docket No. FD 36282. AVR anticipates that it will concurrently seek waiver of the normal 60-day waiting period for this advance notice, so as to allow the transaction to be consummated 30 days after filing of the notice of exemption.

AVR does not expect to hire any additional employees as a result of the proposed transaction. Employees desiring further information regarding the transaction may contact John Ashbridge, Vice President and Chief Operating Officer, at (412) 426-4800.

4/11/19

SURFACE TRANSPORTATION BOARD

**NOTICE OF EXEMPTION**

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DOCKET NO. FD 36282

ALLEGHENY VALLEY RAILROAD COMPANY  
-- ACQUISITION EXEMPTION --  
LINES OF CSX TRANSPORTATION, INC.

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Allegheny Valley Railroad Company ("AVR"), a Class III rail carrier, has filed a Verified Notice of Exemption to acquire from CSX Transportation, Inc. ("CSXT") the following lines of railroad currently leased to and operated by AVR:

- The W&P Sub from milepost BO 5.00 at Glenwood Junction in Pittsburgh, Pennsylvania to milepost BO 38.14 in Washington, Pennsylvania, a distance of approximately 33.14 miles;
- The Tylderdale Connecting Track from the connection with the W&P Sub at milepost BOA 0.0 to milepost BOA 0.83 in Washington, Pennsylvania, a distance of approximately 0.83 miles;<sup>1</sup>
- The P&W Sub No. 2 Main from milepost BF 322.8 at Glenwood Junction to milepost BF 326.3 at East Schenley in Pittsburgh, a distance of approximately 3.5 miles;
- The P&W Sub from milepost BG 1.0 at Field in Pittsburgh to milepost BG 10.4 in Glenshaw, Pennsylvania, a distance of approximately 9.4 miles;
- The River Branch from station 6+50 near 41<sup>st</sup> Street to station 40+94 near 33<sup>rd</sup> Street in Pittsburgh, including the ramp connection to the P&W Sub at 33<sup>rd</sup> Street, a distance of approximately 0.65 miles;<sup>2</sup>

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<sup>1</sup> AVR's acquisition includes exempt trackage and abandoned right-of-way beyond milepost BOA 0.83 extending to former milepost BOA 1.47.

<sup>2</sup> An extension of the River Branch from 33<sup>rd</sup> Street to its terminus near 24<sup>th</sup> Street is not included in the proposed acquisition transaction and will be the subject of a forthcoming abandonment and discontinuance of service notice of exemption by CSXT and AVR.

- Portions of CSXT's Glenwood Yard extending generally from Glenwood Junction to Laughlin Junction in Pittsburgh.

The total distance of the rail lines being acquired by AVR (excluding the portions of Glenwood Yard) is approximately 47.5 miles.

In connection with the proposed acquisition transaction, AVR also will acquire incidental amended and restated overhead and limited local trackage rights over CSXT's rail line between milepost BF 326.3 at East Schenley and milepost BG 1.0 at Field in Pittsburgh, Pennsylvania. Those amended and restated rights, which connect the third and fourth line segments listed above, extend the term of an existing trackage rights arrangement between the parties.

AVR expects to consummate the proposed acquisition transaction on or shortly after May 15, 2019.

Comments must be filed with the Board and served on:

Thomas J. Litwiler  
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. § 1150.41. 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.

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

Decided: May 1 \_\_, 2019

By the Board, Allison C. Davis, Acting Director, Office of Proceedings

**VERIFICATION**

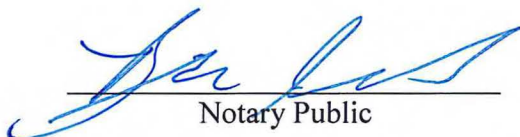
Commonwealth of Pennsylvania    )  
                                                  )    SS:  
County of Allegheny                )

Mark A. Rosner, being duly sworn, deposes and says that he is President of Allegheny Valley 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.



Mark A. Rosner

SUBSCRIBED AND SWORN TO  
before me this 11 day  
of April, 2019.

  
Notary Public

My Commission expires:

03-28-2023

|                                                                                                                                                                                                                   |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Commonwealth of Pennsylvania - Notary Seal<br>Brian Ickes, Notary Public<br>Allegheny County<br>My commission expires March 28, 2023<br>Commission number 1232201<br>Member, Pennsylvania Association of Notaries |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|