

ENTERED
Office of Proceedings
May 12, 2023
Part of
Public Record

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB DOCKET NO. FD 36702

**CHESAPEAKE AND INDIANA RAILROAD COMPANY, LLC—LEASE AND
OPERATION EXEMPTION—
NORTHERN INDIANA RAILROAD COMPANY, LLC**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1150.41**

**Terence M. Hynes
Allison C. Davis
Marc A. Korman
Sidley Austin LLP
1501 K Street N.W.
Washington, DC 20005
(202) 736-8000
thynes@sidley.com**

Attorneys for Chesapeake & Indiana Railroad Company, LLC

**FILED
May 12, 2023
SURFACE
TRANSPORTATION BOARD**

Dated May 12, 2023

**Filing Contains Color Images
FEE RECEIVED
May 12, 2023
SURFACE
TRANSPORTATION BOARD**

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB DOCKET NO. FD 36702

**CHESAPEAKE AND INDIANA RAILROAD COMPANY, LLC—LEASE AND
OPERATION EXEMPTION—
NORTHERN INDIANA RAILROAD COMPANY, LLC**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1150.41**

Chesapeake & Indiana Railroad Company, LLC (“CKIN”), an existing Class III railroad, files this Notice of Exemption under 49 C.F.R. § 1150.41, to permit it to continue to lease and operate 27.92 miles of rail line that extend between milepost CF 0.23, at or near Lacrosse, Ind., and milepost CF 15.23, at or near Wellsboro, Ind., and between milepost CI 218.0, at or near English Lake, Ind., and milepost CI 230.92, at or near Malden, Ind., in LaPorte, Porter, and Starke Counties, Ind. (the “Line”). The Line is shown on the map attached as Exhibit A. The Line is currently owned by Northern Indiana Railroad, LLC (“NIRC”) and operated under lease by CKIN.

CKIN predecessor, Chesapeake & Indiana Railroad, Inc.,¹ first obtained authorization to operate approximately 32.97 miles of track (including the Line and

¹ CKIN was recently acquired by Gulf & Atlantic Railways, LLC (an affiliate of Macquarie Infrastructure Partners V GP, LLC). As part of that transaction, CKIN was converted to a limited liability company through an asset transfer. *See Macquarie Infrastructure Partners V GP, LLC, et al.—Control Exemption—Camp Chase Rail, LLC, Chesapeake and Indiana Railroad Company, Inc., and Vermilion*

an additional 5.45 mile segment) in 2004 pursuant to a lease with the Line's former owner, the Town of North Judson, Ind.² An amended lease between CKIN and the Town was subsequently filed with the Board and went into effect in 2017.³ CKIN subsequently filed a notice of exemption to discontinue service on the additional 5.45 mile segment.⁴ In 2021, NIRC acquired from the Town the entire 32.97 miles of rail line (including both the Line and the 5.45 mile segment over which service had been discontinued).⁵ As a result of the transaction, NIRC assumed the lease with CKIN.

In connection with the sale transaction in STB Docket No. FD 36685,⁶ CKIN and NIRC entered into a new lease agreement amending the terms under which

Valley R.R. Co., Inc., STB Docket No. FD 36685, *Verified Notice of Exemption Pursuant to 49 C.F.R. § 1180.2(d)(2)*, at 3, n.5 (filed March 22, 2023). Both the current CKIN (LLC) and its predecessor (CKIN Inc.) are referred to herein as CKIN.

² *Chesapeake & Indiana Railroad Company, Inc.—Operation Exemption—The Town of North Judson, IN*, STB Docket No. FD 34529 (STB served Aug. 20, 2004).

³ *Chesapeake and Indiana Railroad Company—Amended Operation Exemption—Town of North Judson, Ind.*, STB Docket No. FD 36147 (STB served Oct. 20, 2017).

⁴ *Chesapeake and Indiana Railroad Company—Discontinuance of Service Exemption—in Starke County, Ind.*, STB Docket No. AB 1259X (STB served Nov. 28, 2018) (the discontinued segment extended between milepost CI 212.55, at or near North Judson, Ind., and milepost CI 218.0, at or near English Lake, Ind., in Starke County, Ind.).

⁵ *Northern Indiana Railroad Company, LLC—Acquisition Exemption—Town of North Judson, Ind.*, STB Docket No. FD 36499 (STB served April 2, 2021).

⁶ See n.1 *supra*.

CKIN will continue its existing operations on the Line. The new lease agreement will become effective as of the effective date of this Verified Notice of Exemption.

Because CKIN is a Class III railroad and is seeking to lease and operate the rail property of a third party over which CKIN already operates, the new lease transaction is within the scope of the exemption set out in Section 1150.41.⁷

SPECIFIC INFORMATION REQUIRED BY THE REGULATIONS

49 C.F.R. §1150.43 specifies certain information that must be included in a Verified Notice of Exemption filed pursuant to 49 C.F.R. §1150.41. The required information is presented below, preceded by the subsection of the Board's regulations to which it is responsive.

1150.43(a) *The full name and address of the Class III rail carrier applicant*

Chesapeake and Indiana Railroad, LLC
c/o Gulf & Atlantic Railways, LLC
245 Riverside Avenue, Suite 250
Jacksonville, FL 32202

1150.43(b) *The name, address, and telephone number of the representative of the applicant who should receive correspondence:*

Correspondence with respect to this Verified Notice of Exemption should be addressed to:

⁷ See, e.g., *C&S Railroad Corporation—Lease and Operation Exemption—Reading Blue Mountain & Northern Railroad Company*, STB Docket No. FD 36517 (STB served May 28, 2021) (use of Section 1150.41 exemption for a new lease on the same line); *Portland & Western Railroad, Inc.—Amended Lease and Operation Exemption Containing Interchange Commitment—BNSF Railway Company*, STB Docket No. FD 36391 (STB served April 16, 2020) (same).

Terence M. Hynes
Sidley Austin LLP
1501 K St N.W.
Washington, DC 20005
(202) 736-8198

1150.43(c) *A statement that an agreement has been reached or details about when an agreement will be reached:*

CKIN and NIRC have entered into a lease agreement that will become effective as of the effective date of this Verified Notice of Exemption.

1150.43(d) *The operator of the property.*

CKIN is the current operator of the Line, and will continue to operate the Line under the new lease.

1150.43(e) *Brief summary of the proposed transaction.*

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

The owner of the Line (and lessor under the new lease agreement with CKIN) is:

Northern Indiana Railroad Company, LLC
10100 North Ambassador Drive, Suite 105
Kansas City, MO 64152
Attn: Brad Miller

The Line is currently operated under lease by CKIN, and CKIN will continue to operate the Line under the new lease.

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

The Parties intend to consummate the proposed transaction as soon as practicable after the effective date of this Verified Notice of Exemption.

(3) *The mileposts of the subject property, including any branch lines.*

The Line extends between milepost CF 0.23, at or near Lacrosse, Ind., and milepost CF 15.23, at or near Wellsboro, Ind., and between milepost CI 218.0, at or near English Lake, Ind., and milepost CI 230.92, at or near Malden, Ind., in LaPorte, Porter, and Starke Counties, Ind.

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

The Line consists of 27.92 route miles.

1150.43(f) *A map that clearly indicates the area to be served, including origins, termini, stations, cities, counties, and states.*

A map depicting the Line is attached as Exhibit A.

1150.43(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 § 1150.45.*

The required Certificate is attached to this Verified Notice of Exemption as Exhibit B along with the verification.

1150.43(h) *Transactions Imposing Interchange Commitments*

Neither the new lease agreement nor the prior lease agreement contains any provision or agreement that may limit future interchange with a third party connecting carrier, nor is the Line otherwise subject to any agreement that imposes such an interchange commitment.

ENVIRONMENTAL AND HISTORIC REPORTS

The new lease that is the subject of this Verified Notice of Exemption will not result in the disposal or alteration of any sites and structures that are 50 years old

or older. Accordingly, the requirements set forth at 49 C.F.R. § 1150.42(d) are not applicable.

Moreover, 49 C.F.R. § 1105.6(c) provides that no environmental documentation will normally be prepared where a transaction will not result in a “significant change in carrier operations” and does not exceed the thresholds in 49 C.F.R. § 1105.7(e)(4) or (5). Here, this is a new lease for continued rail operations that will not result in changes in carrier operations that will exceed the thresholds.

Specifically, the new lease will not cause a diversion of: (1) more than 1,000 rail carloads a year to motor carriage; or (2) an average of 50 carloads per mile per year for any part of those lines to motor carriage. Nor will the new lease result in: (1) an increase in rail traffic of at least 100 percent or an increase of at least eight trains a day on any segment of the lines; (2) an increase of rail yard activity of at least 100 percent; or (3) an average increase in truck traffic of more than 10 percent of the average daily traffic, or 50 vehicles a day. The new lease will not exceed the thresholds of 49 C.F.R. § 1105.7(e)(5)(ii), nor will it result in the transportation of any ozone depleting materials. This action will not affect either the quality of the human environment or energy conservation. established in 49 C.F.R. §1105.7(e)(4) or (5). Accordingly, no environmental documentation is required.

LABOR

CKIN is a Class III carrier, and pursuant to 49 U.S.C. §10902(d), exemption of this transaction may not be subjected to labor protection conditions. Moreover, CKIN certifies that its projected annual revenues as a result of the transaction will

not exceed \$5,000,000. *See* Exhibit B. Accordingly, no advance notice is required under 49 C.F.R. §1150.42(e).

* * *

For the foregoing reasons, Applicant CKIN respectfully requests that the Board publish the requisite Notice of Exemption.

Respectfully submitted,

/s/ Terence M. Hynes

Terence M. Hynes

Allison C. Davis

Marc A. Korman

Sidley Austin LLP

1501 K Street N.W.

Washington, DC 20005

(202) 736-8000

thynes@sidley.com

Attorneys for Chesapeake & Indiana Railroad Company, LLC

Dated May 12, 2023

CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

Notice of Exemption

STB DOCKET NO. FD 36702

CHESAPEAKE AND INDIANA RAILROAD COMPANY, LLC—LEASE AND OPERATION EXEMPTION— NORTHERN INDIANA RAILROAD COMPANY, LLC

Chesapeake and Indiana Railroad Company, LLC (“CKIN”), a Class III railroad, files this Notice of Exemption under 49 C.F.R. § 1150.41, to permit it to continue to lease from the Northern Indiana Railroad Company, LLC and operate an approximately 27.92 mile line of railroad. The line extends between milepost CF 0.23, at or near Lacrosse, Ind., and milepost CF 15.23, at or near Wellsboro, Ind., and between milepost CI 218.0, at or near English Lake, Ind., and milepost CI 230.92, at or near Malden, Ind., in LaPorte, Porter, and Starke Counties, Ind.

CKIN has certified that as a result of the transaction it will not become a Class I or Class II carrier, and that its projected annual revenues will not exceed \$5 million.

Comments must be filed with the Board and served on Terence M. Hynes, Sidley Austin LLP, 1501 K. Street, N.W., Washington, DC 20007. The notice is filed under 49 CFR 1150.41. If the notice contains false or misleading information, the exemption is *void ab initio*. The filing of a petition to revoke will not automatically stay the transaction.

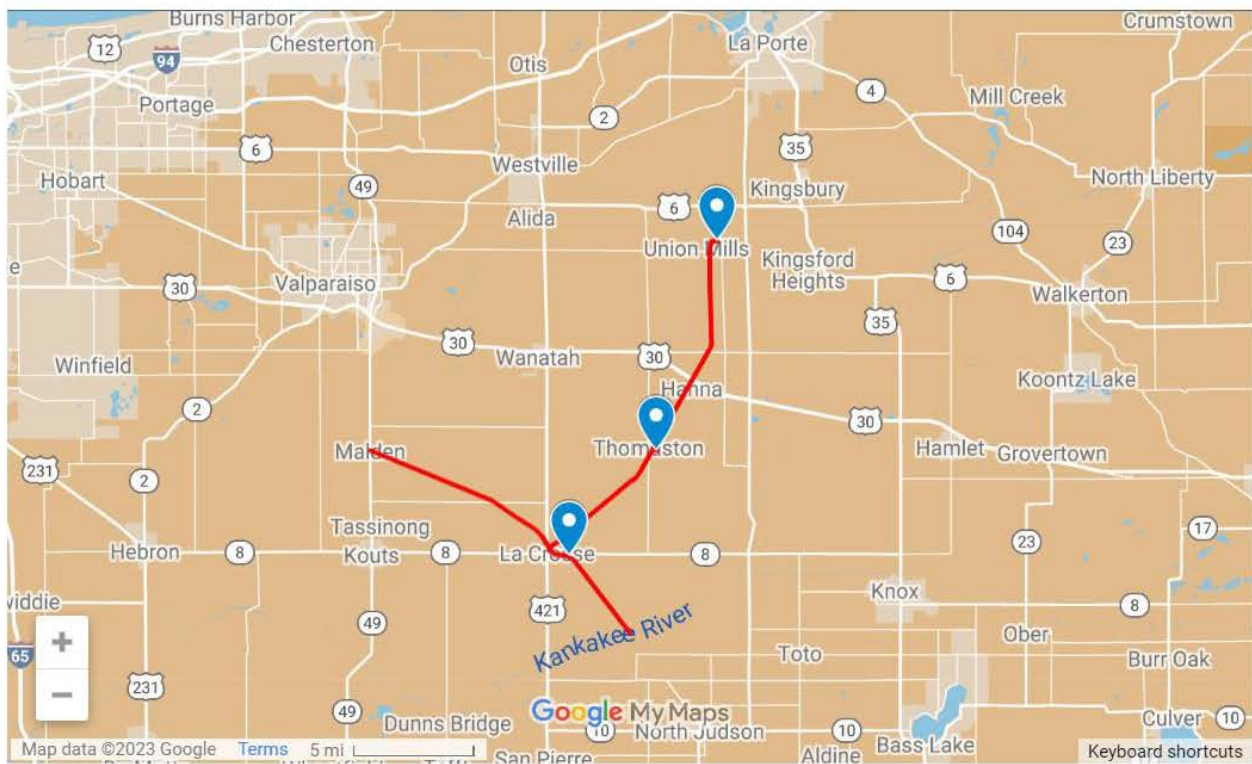
**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB DOCKET NO. FD 36702

**CHESAPEAKE AND INDIANA RAILROAD COMPANY, LLC—LEASE AND
OPERATION EXEMPTION—
NORTHERN INDIANA RAILROAD COMPANY, LLC**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1150.41**

**EXHIBIT A
MAP**



STB DOCKET NO. FD 36702

**CHESAPEAKE AND INDIANA RAILROAD COMPANY, LLC—LEASE AND
OPERATION EXEMPTION—
NORTHERN INDIANA RAILROAD COMPANY, LLC**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1150.41**

**EXHIBIT B
VERIFICATION AND CERTIFICATE**

VERIFICATION AND CERTIFICATE

I, Ryan Ratledge, being duly sworn, state that I am President of Chesapeake and Indiana Railroad Company, LLC (“CKIN”) and that I am an officer duly authorized to execute , verify, and file this Verified Notice of Exemption.

I hereby certify pursuant to 49 CFR § 1150.43(g) that the transaction that is the subject of this Verified Notice of Exemption will not result in the creation of a Class II or Class I rail carrier. Following consummation of the transaction, CKIN will continue to be a Class III rail carrier and will have revenue that will not exceed \$5 million.

I have knowledge of the matters contained herein, and the statements made herein are true and correct to the best of my knowledge, information, and belief.



Name: Ryan Ratledge
Title: President