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May 26, 2006

BY HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Room 711
Washington, D.C. 20423-0001

216624

ENTERED
Office of Proceedings

Part of
Public Record

Re: Finance Docket No. 34729 (Sub-No.1), Saginaw Bay Southern Railway
Company – Acquisition and Operation Exemption – Incidental Trackage
Rights over Rail Line in Saginaw County, Michigan

Dear Secretary Williams:

Enclosed for filing in the referenced docket please find an original and 10
copies of the Verified Notice of Exemption of Saginaw Bay Southern Railway Company
and an electronic copy of the Notice in WordPerfect format. We are also submitting a
check in the amount of \$1,500.00 to cover the required filing fee. This filing contains
COLOR COPIES.

An additional copy of the Notice also is enclosed. Kindly indicate receipt
of the filing by time-stamping this extra copy and returning it to the bearer of this letter.
Thank you for your consideration in this matter.

Sincerely,

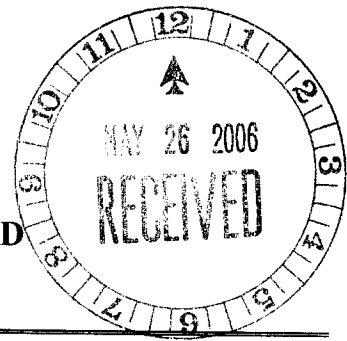
Andrew B. Kolesar III
An Attorney for Saginaw Bay Southern
Railway Company

Enclosures
cc: Parties of Record

FILED
MAY 26 2006
SURFACE
TRANSPORTATION BOARD

FILED
MAY 26 2006
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD



SAGINAW BAY SOUTHERN RAILWAY
COMPANY – ACQUISITION AND
OPERATION EXEMPTION – INCIDENTAL
TRACKAGE RIGHTS OVER RAIL LINE
IN SAGINAW COUNTY, MICHIGAN

Finance Docket No. 34729
(Sub-No. 1)

216624

FILED
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TRANSPORTATION BOARD

VERIFIED NOTICE OF EXEMPTION

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Office of Proceedings

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TRANSPORTATION BOARD

SAGINAW BAY SOUTHERN
RAILWAY COMPANY
P.O. Box 232
323 Newman Street
East Tawas, MI 48730

OF COUNSEL:

SLOVER & LOFTUS
1224 17th Street, N.W.
Washington, D.C. 20036

Dated: May 26, 2006

By: Kelvin J. Dowd
Andrew B. Kolesar III
Slover & Loftus
1224 17th Street, N.W.
Washington, D.C. 20036
(202) 347-7170

Attorneys & Practitioners

SAGINAW BAY SOUTHERN RAILWAY	)	
COMPANY – ACQUISITION AND	)	
OPERATION EXEMPTION – INCIDENTAL	)	Finance Docket No. 34729
TRACKAGE RIGHTS OVER RAIL LINE	)	(Sub-No. 1)
IN SAGINAW COUNTY, MICHIGAN	)	
	)	

Pursuant to 49 U.S.C. § 10902 and the Board’s implementing regulations set forth at 49 C.F.R. Part 1150.41, et seq., Saginaw Bay Southern Railway Company (“SBS”), a Class III carrier, files this Verified Notice of Exemption to permit SBS to acquire from CSX Transportation, Inc. (“CSXT”), CSXT’s contractual right to operate, via trackage rights, over approximately 6.84 miles of the rail line of the Huron & Eastern Railway Company, Inc. (“HESR”), extending from a point 440 feet northeast of GTW Milepost 40.96 along the Zilwaukee Spur at the Saginaw Station to Milepost CBE 7.72 at the Paines Station in Saginaw County, Michigan (“the Line”).

These trackage rights were the subject of the Board's decision served May 5, 2006 in Finance Docket No. 34729, Saginaw Bay Southern Railway Company – Acquisition and Operation Exemption – Rail Line of CSX Transportation, Inc. (STB served May 5, 2006) (the “Decision”), and SBS is filing this Notice in response to the Board's directive set forth therein. Id. at 2 (“Because SBS failed to include what would

appear to have been a grant of incidental trackage rights for the 6.4-mile HESR line in its notice of exemption filed on September 1, 2005, . . . SBS must make a new filing under a new docket subnumber accompanied by a new filing fee. SBS is directed to file its new notice of exemption to acquire authority to operate over the 6.4-mile HESR line under 49 CFR 1150.41 instead of 49 CFR 1150.31, because SBS is now a Class III carrier.”).

The mileage figure encompassed within this Notice is larger than the 6.4-mile figure that appears in the Board’s Decision, which itself was obtained from a Petition for Show Cause Order that HESR filed on March 15, 2006. This disparity exists because the instant Notice encompasses additional, incidental rights that HESR addressed in its Petition for Show Cause Order, but did not include in its 6.4-mile figure, and which were not specifically addressed in the Decision. These additional rights involve approximately 0.44 miles of HESR’s line north of Saginaw (Mershon). See HESR’s Petition for Show Cause Order filed in Finance Docket No. 34729 on March 15, 2006, at 3 n.3 (“Also omitted from SBS’s notice of exemption were separate trackage rights that CSXT held on HESR’s line north of Mershon. See CSX Transportation, Inc. – Trackage Rights – Grand Trunk Western Railroad Company, Finance Docket No. 31114 (ICC served September 29, 1987).”). Although referenced separately in HESR’s Petition, the trackage rights north of Mershon and the trackage rights between Mershon and Paines extend in a continuous manner along HESR’s rail line.

The underlying transaction to which the Board makes reference in the Decision involved SBS's October 28, 2005 acquisition of certain CSXT lines (the "October 2005 transaction"):

SBS will acquire from CSX Transportation, Inc. ("CSXT") and operate (through the use of its contract operator) a total of approximately 67 route miles of rail line in Bay, Saginaw, Genesee, and Midland Counties, Michigan including the rail line from: Milepost CC 0.0 at the Saginaw station to Milepost CC 26.2 at the Mt. Morris station; from Milepost CB 0.0 at the Saginaw station to Milepost CB 17.37 at the Midland station; from Milepost CBB 0.0 at the Saginaw station to Milepost CBB 16.7 at the Essexville station; from Milepost CBC 0.0 to Milepost CBC 2.0 both at the Saginaw Station; from Milepost CBD 2.2 to Milepost CBD 4.5 both at the Saginaw Station; from Milepost CSF 0.0 to Milepost CSF 0.82 both at the Saginaw Station; and from Milepost CBE 7.72 to Milepost CBE 10.09 both at the Paines Station. In order to effectuate the transaction, SBS will purchase the track along the Line from CSXT and will lease the underlying right-of-way.

See Finance Docket No. 34729, Verified Notice of Exemption of Saginaw Bay Southern Railway Company (filed Sept. 1, 2005), at 3.

By Assignment & Assumption Agreement dated as of February 16, 2006 and effective retroactively as of October 28, 2005 (i.e., the effective date of the October 2005 transaction), SBS acquired CSXT's trackage rights over the Line as incidental rights to the principal transaction.

Although the projected annual revenues of SBS following the subject acquisition will exceed \$5 million, SBS hereby requests waiver of the labor notice

requirement set forth at 49 C.F.R. § 1150.42(e). SBS previously notified all of the CSXT employees of its intended hiring with regard to the October 2005 acquisition, and the instant transaction is merely incidental to that acquisition, relating only to trackage rights service over HESR segments used to access the CSXT lines. Consequently, there is no purpose to be served by additional labor notification. See, e.g., Finance Docket No. 34531, The Indiana Rail Road Company – Acquisition Exemption – Line of Monon Rail Preservation Corp. [Request for Waiver of 49 CFR 1150.42(e)] (STB served Nov. 22, 2004).

In support hereof, SBS shows as follows:

a. Full Name and Address of Applicant

Saginaw Bay Southern Railway Company
P.O. Box 232
323 Newman Street
East Tawas, MI 48730

b. Name and Address of Applicant's Representative

Andrew B. Kolesar III
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

c. Statement Regarding Agreement

Agreement as to all essential terms has been reached between SBS and CSXT with respect to SBS's acquisition of the incidental trackage rights over the Line.

d. Operation of the Property

As was the case with respect to the October 2005 transaction, SBS will provide service over the Line through the use of a contract operator; namely, Lake State Railway Company, which like SBS, is controlled by James George and J&JG Holding Company. See Finance Docket No. 34730, James George and J&JG Holding Company, Inc. – Continuance in Control Exemption – Saginaw Bay Southern Ry. (STB served Oct. 17, 2005), at 2 n.3.

e. Summary of the Transaction

As indicated supra, this filing arises in response to the Board's May 5, 2006 Decision in Finance Docket No. 34729 addressing HESR's Petition for Show Cause Order. The essence of HESR's filing was that SBS's September 1, 2005 Notice of Exemption regarding its acquisition of track and its lease of underlying right-of-way from CSXT did not make reference to certain CSXT trackage rights over HESR's lines that SBS had begun to utilize following the October 2005 transaction in order to access the lines referenced in the Notice of Exemption. The principal focus of HESR's Petition was the operation over a "6.4-mile rail line between Mershon (Saginaw) and Paines, Michigan

now owned by HESR.” HESR Petition at 1. As HESR explained, “[t]he trackage rights were first granted in an Agreement dated April 2, 1878 between the Jackson, Lansing & Saginaw Railroad Company (as landlord and predecessor of HESR)[] and the Saginaw Valley & St. Louis Railroad Company (as trackage rights tenant and predecessor of CSXT).” Id. at 1-2. HESR’s Petition also observed that SBS’s Notice did not make reference to separate trackage rights that CSXT held over 0.44 miles of HESR’s line north of Mershon. Id. at 3 n.3.

The purpose of the instant filing is to rectify the omission of these incidental trackage rights references from SBS’s September 1, 2005 Notice of Exemption, as required by the Board’s May 5, 2006 Decision. SBS regrets any inconvenience that this oversight may have caused.

The incidental trackage rights encompassed within the instant notice extend over HESR’s line from a point 400 feet northeast of GTW Milepost 40.96 along the Zilwaukee Spur at the Saginaw Station to Milepost CBE 7.72 at the Paines Station in Saginaw County, Michigan. In light of the fact that there are multiple sets of milepost designations over the length of the Line, SBS has performed a hi-rail assessment of the Line and has determined that the total mileage at issue from the northernmost point in Saginaw (440 feet northeast of GTW Milepost 40.96 along the Zilwaukee Spur) to the southernmost point in Paines (Milepost CBE 7.72) is approximately 6.84 miles. At

Paines, the Line connects with the CSXT line that was identified in SBS's September 1, 2005 Notice of Exemption as extending from "Milepost CBE 7.72 to Milepost CBE 10.09 both at the Paines Station." September 1, 2005 Notice at 3.

Pursuant to Board regulations, SBS states that CSXT's corporate address is 500 Water Street, Jacksonville, Florida 32202. Moreover, HESR's corporate address is RailAmerica, Inc., 5300 Broken South Boulevard, Boca Raton, Florida 33487. The total number of additional miles of incidental trackage rights to be operated by SBS is approximately 6.84 miles.

SBS and CSXT have agreed to the grant of incidental trackage rights referenced in this Notice.

f. Map

See Exhibit No. 1.

g. Certificate of Projected Revenue

Pursuant to 49 C.F.R. Part 1150.43(g), SBS certifies that its projected revenues as a result of this transaction will not result in the creation of a Class I or a Class II rail carrier. SBS's revenues, however, will exceed \$5 million, but as indicated supra, SBS is requesting a waiver of the Board's labor notification requirement under 49 C.F.R. § 1150.42(e). Given the fact that SBS already provided notice in accordance with

49 C.F.R. § 1150.32(e) for the October 2005 transaction, any additional notice would be redundant, particularly insofar as the additional service addressed in this Notice relates only to operations over HESR lines.

h. Environmental and/or Historical Documentation

The proposed transaction qualifies under 49 C.F.R. Part 1105.6(c)(2), and as such, no environmental documentation is required. Likewise, SBS has no plans to alter or dispose of any assets that are fifty (50) years old or older, and as such, the transaction does not require an historic report. 49 C.F.R. Part 1105.8(b).

i. Caption Summary

See Exhibit No. 2.

Respectfully submitted,

SAGINAW BAY SOUTHERN
RAILWAY COMPANY
P.O. Box 232
323 Newman Street
East Tawas, MI 48730

OF COUNSEL:

SLOVER & LOFTUS
1224 17th Street, N.W.
Washington, D.C. 20036

Dated: May 26, 2006

By: Kelvin J. Dowd
Andrew B. Kolesar III 
Slover & Loftus
1224 17th Street, N.W.
Washington, D.C. 20036
(202) 347-7170

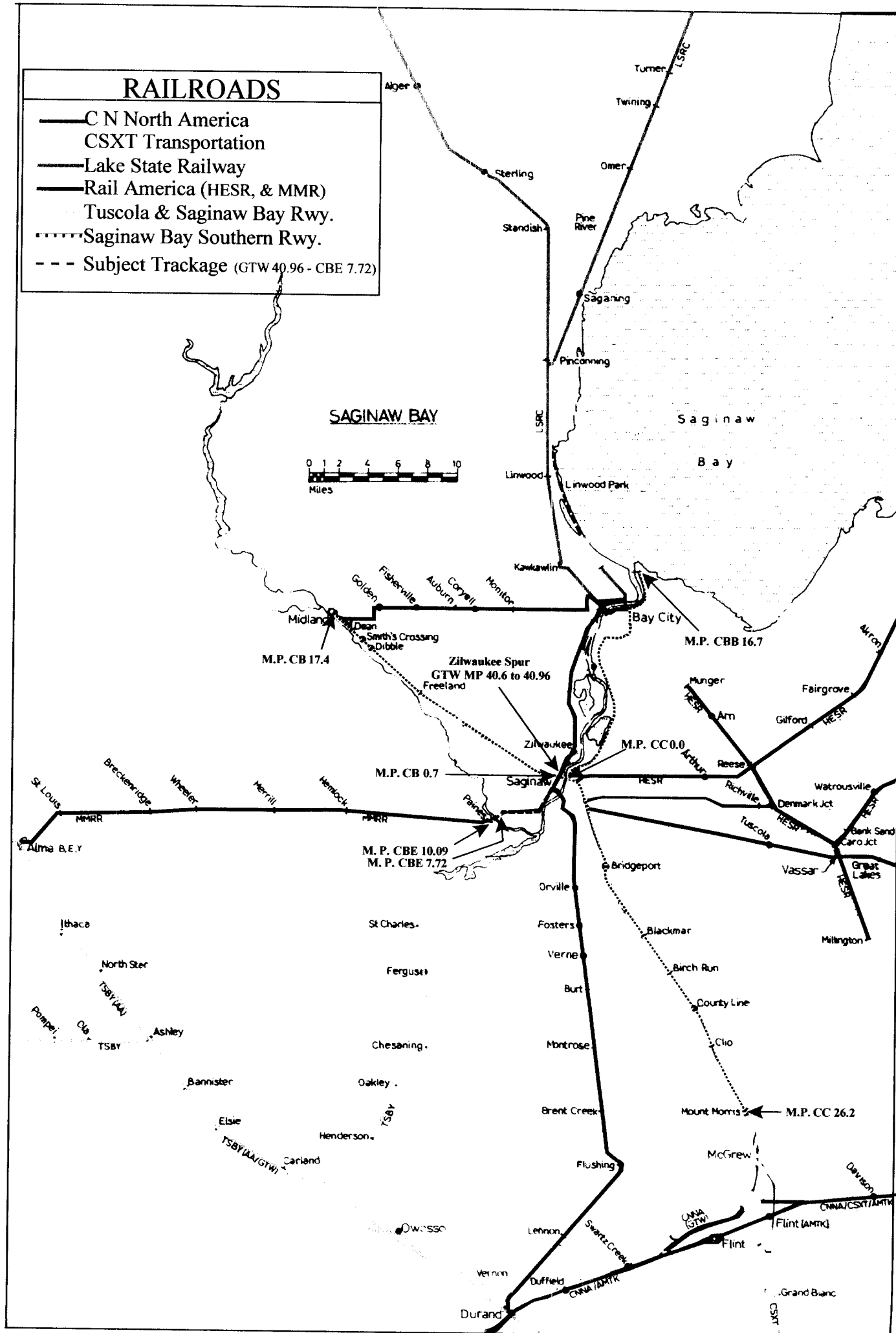
Attorneys & Practitioners

Exhibit No. 1

RAILROADS

————	C N North America
————	CSXT Transportation
————	Lake State Railway
————	Rail America (HESR, & MMR)
.....	Tuscola & Saginaw Bay Rwy.
.....	Saginaw Bay Southern Rwy.
- - -	Subject Trackage (GTW 40.96 - CBE 7.72)

— C N North America
 CSXT Transportation
 — Lake State Railway
 — Rail America (HESR, & MMR)
 Tuscola & Saginaw Bay Rwy.
 Saginaw Bay Southern Rwy.
 - - - Subject Trackage (GTW 40.96 - CBE 7.72)



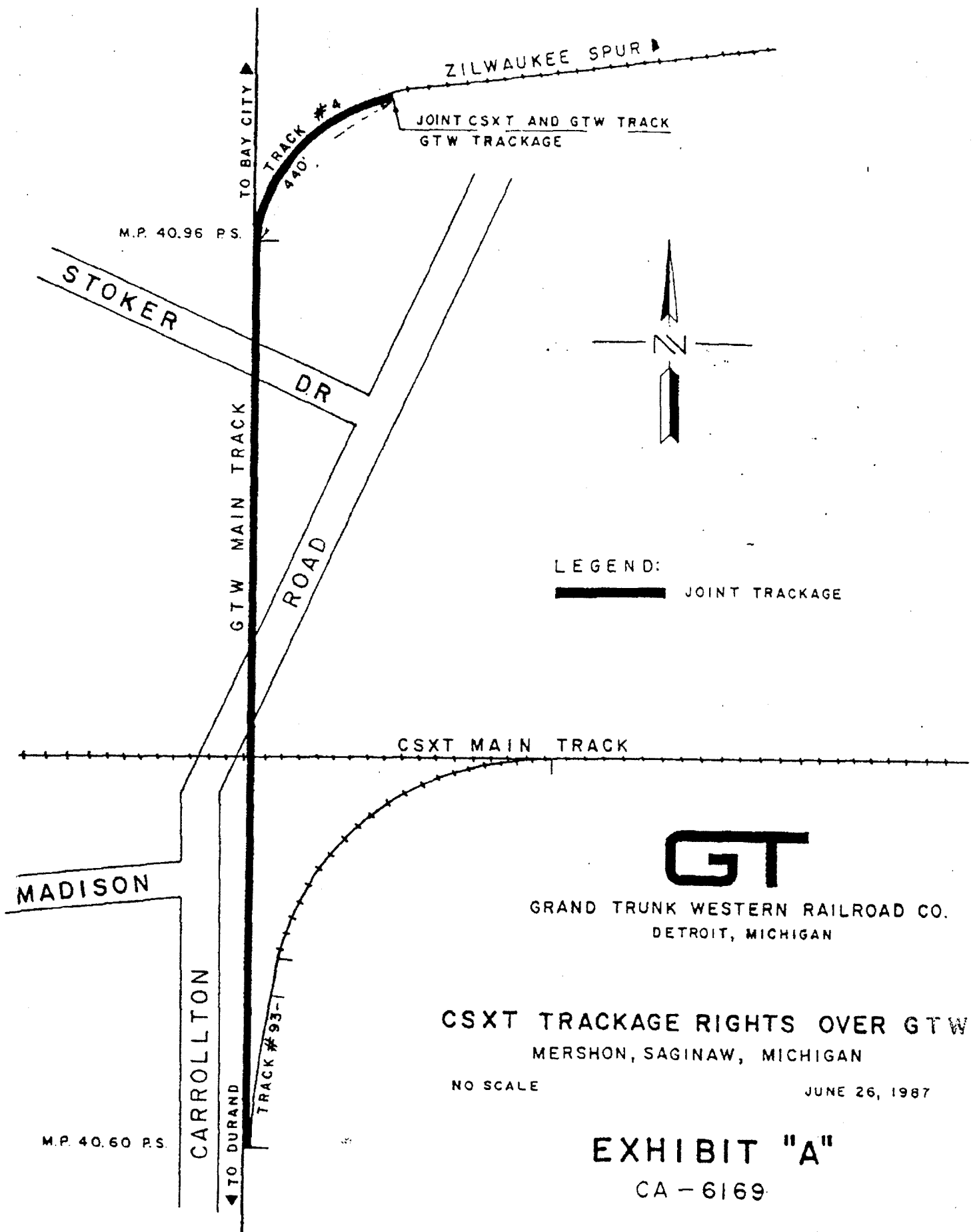


EXHIBIT "A"

CA - 6169

Finance Docket No. 34729 (Sub-No. 1)

**SAGINAW BAY SOUTHERN RAILWAY COMPANY
– ACQUISITION AND OPERATION EXEMPTION –
INCIDENTAL TRackage RIGHTS OVER RAIL LINE
IN SAGINAW COUNTY, MICHIGAN**

Saginaw Bay Southern Railway Company (“SBS”), a Class III rail carrier, has filed a Verified Notice of Exemption to acquire from CSX Transportation, Inc. (“CSXT”) the right to operate over approximately 6.84 miles of rail line owned by the Huron & Eastern Railway Company (“HESR”) in the vicinity of Paines and Saginaw, Michigan, extending from a point 440 feet northeast of GTW Milepost 40.96 along the Zilwaukee Spur at the Saginaw Station to Milepost CBE 7.72 at the Paines Station in Saginaw County, Michigan. CSXT and SBS have reached agreement on the transfer of these trackage rights as incidental to the acquisition described in Finance Docket No. 34729, Saginaw Bay Southern Railway Company – Acquisition and Operation Exemption – Rail Line of CSX Transportation, Inc. (Notice served Sept. 27, 2005). Comments must be filed with the Board and served on Andrew B. Kolesar III, Slover & Loftus, 1224 Seventeenth St., N.W., Washington, D.C. 20036 (202) 347-7170.

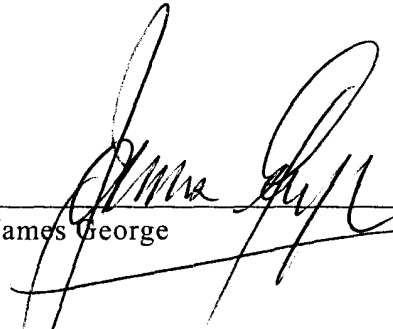
This Notice is filed under 49 C.F.R. Part 1150.41, et seq. If the Notice contains false or misleading information, the exemption is void ab initio. Petitions to

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.

VERIFICATION

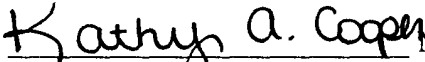
STATE OF MICHIGAN)
)
) ss:
COUNTY OF IOSCO)

James George, being duly sworn, deposes and says that he is President of
Saginaw Bay Southern Railway Company, that he has read the foregoing Notice and
knows the contents thereof, and that the same are true as stated to the best of his
knowledge, information and belief.



James George

Sworn and subscribed before me
this 12TH day of MAY, 2006

 Notary Public

KATHY A. COOPER

KATHY A. COOPER

Notary Public, Iosco County, MI

My Commission expires: My Commission Expires Feb. 24 2008