

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36333]

City of Chicago—Acquisition Exemption—Chicago Terminal Railroad

The City of Chicago (City) has filed a verified notice of exemption under 49 CFR 1150.31 to acquire the right to reactivate rail service from Chicago Terminal Railroad (CTM) on approximately 2.725 miles of rail line, consisting of (1) an approximately 2.625 mile segment from the western right of way line of North Elston Avenue to a terminus near the intersection of Chicago Avenue and Halsted Street in the Goose Island district of Chicago (the Goose Island Segment), and (2) an approximately 0.1 mile segment of the Bloomingdale line between the western right of way line of North Elston Avenue and the Union Pacific North Avenue Yard (the North Elston Segment) (collectively, the Line).

The Board granted an application by Alloy Property Company, LLC (Alloy) for adverse abandonment of the Goose Island Segment in 2018, *see Alloy Property Co., LLC—Adverse Aban.—Chi. Terminal R.R. in Chicago, Ill.*, AB 1258 (STB served Apr. 30, 2018), and authorized abandonment of the North Elston Segment in 2018, *see Chi. Terminal R.R.—Abandonment Exemption—in Chicago, Ill.*, AB 1268X (STB served Sept. 28, 2018). The City states that the Board issued a Certificate of Interim Trail Use (CITU) for the Goose Island Segment and a Notice of Interim Trail Use (NITU) for the North Elston Segment, and the City and CTM have been negotiating a trail use agreement pursuant to the National Trails System Act, 16 U.S.C. 1247(d). The trail use negotiation period in both proceedings has been extended to September 23, 2019. *Alloy Property Co., LLC—Adverse Aban.—Chi. Terminal R.R. in Chicago, Ill.*, AB 1258 et al. (STB served Apr. 15, 2019).

The City's verified notice describes three agreements, under which the City and CTM will both consummate their trail use agreement regarding the Line and transfer CTM's right to reactivate freight service to the City upon or shortly after the effective date of this verified notice of exemption. First, the City states that the Line will be the subject of a trail use agreement between the City as the trail sponsor and CTM, which is currently the residual common carrier rights holder. Second, the City states that CTM and Alloy have negotiated and are prepared to enter into an Asset Purchase Agreement through which CTM has committed to

convey its easement and other property interests in the Line to Alloy. Finally, the City states that it and Alloy anticipate entering into an agreement through which Alloy may direct CTM, per the terms of the Asset Purchase Agreement, to transfer directly to the City certain easement and other property interests in the Line for purposes of carrying out certain trail uses as the trail use sponsor. According to the City, it will thereby acquire both CTM's real property interests and the right to reactive rail service on the Line.

The City certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier. The City further certifies that the proposed transaction does not involve a provision or agreement that would limit future interchange with a third-party connecting carrier.

The transaction may be consummated on or after August 18, 2019, the effective date of the exemption (30 days after the verified notice was filed).

If the verified 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 effectiveness of the exemption. Petitions to stay must be filed no later than August 9, 2019 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36333, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street SW, Washington, DC 20423-0001. In addition, a copy of each pleading must be served on the City's representative, Charles A. Spitulnik, Kaplan Kirsch & Rockwell LLP, 1634 I (Eye) Street NW, Suite 300, Washington, DC 20006.

According to the City, this action is categorically excluded from environmental reporting requirements under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b)(1).

Board decisions and notices are available at www.stb.gov.

Decided: July 30, 2019.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Jeffrey Herzig,
Clearance Clerk.

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SURFACE TRANSPORTATION BOARD

[Docket No. FD 36334]

Golden Isles Terminal Railroad, Inc.—Trackage Rights Exemption—CSX Transportation, Inc.

Golden Isles Terminal Railroad, Inc. (GITM), a Class III railroad, has filed a verified notice of exemption under 49 CFR 1180.2(d)(7) to acquire trackage rights on a line of railroad owned by CSX Transportation, Inc. (CSXT), between milepost A489± near Georgia Ports Authority Garden City Terminal and milepost S500± at or about the entrance to CSXT's Savannah Yard, plus sufficient head or tail room (i) from the north entrance to Old Savannah Yard, through Loricks Lead, out on Number One Main to milepost A492±, and (ii) from the south entrance of Old Savannah Yard, through the Blossom signal, out on Mainline to milepost S504±, in Chatham County, Ga.¹ According to GITM, the trackage rights agreement replaces a previous trackage rights agreement between CSXT to GITM that has expired.²

The verified notice states that the proposed transaction will allow GITM to bridge intermodal traffic between the Garden City Terminal and Savannah Yard for CSX Intermodal Terminals, Inc., and to provide supporting switching services.

The proposed transaction may be consummated on or after August 17, 2019, the effective date of the exemption (30 days after the verified notice of exemption was filed).

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc.*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad*, 360 I.C.C. 653 (1980).

If the verified 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

¹ A redacted version of the agreement between GITM and CSXT was filed with GITM's verified notice of exemption. GITM simultaneously filed a motion for a protective order to protect the confidential and commercially sensitive information in the unredacted version of the agreement, which GITM submitted under seal. That motion will be addressed in a separate decision.

² See *Golden Isles Terminal R.R.—Trackage Rights Exemption—CSX Transp., Inc.*, FD 34432 (STB served Nov. 20, 2003). GITM states that, although the trackage rights agreement expired, the trackage rights were not discontinued and by agreement of the parties, GITM continues to use the trackage rights under the terms of the expired agreement.