

According to Pan Am, MBR, a Class III rail carrier, has been operating over the Line pursuant to a trackage rights agreement dated June 22, 1992, which Pan Am claims expired in 2004.<sup>1</sup> Pan Am asks that the Board terminate MBR's operating authority so that Pan Am may repossess its property, after which Pan Am states it would provide service over the Line.

According to Pan Am, the Line does not contain federally granted rights-of-way. Any documentation in Pan Am's possession will be made available promptly to those requesting it. Pan Am's entire case-in-chief for adverse discontinuance was filed with the application.

In a decision served June 23, 2017, Pan Am was granted exemptions from several statutory provisions as well as waivers of certain Board regulations that were not relevant to its adverse discontinuance application or that sought information not available to Pan Am.

Any interested person may file written comments or protests (including protestant's entire opposition case) concerning the proposed adverse discontinuance by May 29, 2018. Persons who may oppose the proposed adverse discontinuance but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments. Persons opposing the proposed adverse discontinuance who wish to participate actively and fully in the process should file a protest, observing the filing, service, and content requirements of 49 CFR 1152.25. Pan Am's reply is due by June 12, 2018.

All filings in response to this notice must refer to Docket No. AB 1256 and must be sent to: (1) Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001; and (2) Robert B. Burns, 1700 Iron Horse Park, North Billerica, MA 01862.

Filings may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should comply with the instructions found on the Board's "www.stb.gov" website, at the "E-FILING" link. Any person submitting a filing in the traditional paper format should send the original and 10 copies of the filing to the Board with a certificate of service. Except as otherwise set forth in 49 CFR pt. 1152, every document filed with the Board must be served on all parties to this

adverse discontinuance proceeding. 49 CFR 1104.12(a).

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full discontinuance regulations at 49 CFR pt. 1152. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Board decisions and notices are available on our website at "WWW.STB.GOV."

Decided: April 30, 2018.

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

**Kenyatta Clay,**

*Clearance Clerk.*

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## **SURFACE TRANSPORTATION BOARD**

**[Docket No. AB 1264X]**

### **Kasgro Rail Corp.—Discontinuance of Service Exemption—in Lawrence County, Pa.**

On April 13, 2018, Kasgro Rail Corp. (Kasgro) filed with the Board a petition under 49 U.S.C. 10502 for exemption from the prior approval requirements of 49 U.S.C. 10903 to discontinue its lease operations over approximately four miles of rail line owned by EASX Corporation (EASX) in Lawrence County, Pa. (the Line).

The Line consists of three segments. The New Castle Branch begins at New Castle Monumented Base Line (MBL), at Survey Station 10+00, opposite the former Pittsburgh and Lake Erie Railroad's (P&LE) Main Line MBL Survey Station 2580+10, and extends in a generally northeasterly direction to the former P&LE Valuation Station 146+10. The Big Run Branch begins at P&LE New Castle Branch Baseline of Survey, at Survey Station 84+44, and extends in a generally southwesterly direction to a connection with CSX Transportation, Inc. (CSXT). The Sample Spur begins at Valuation Station 2+00 off of CSXT's main line between Cumberland, Md., and Willard, Ohio, and continues in a generally northward direction to Valuation Station 40+75.7, where it connects with New Castle Industrial Railroad (NCIR), formerly known as ISS Rail, Inc. (ISS). The Line is located entirely within the New Castle station. The Line traverses United States Postal Service Zip Codes 16101 and 16102.

Kasgro states that, based on inquiry of EASX and information in Kasgro's

possession, the Line does not contain any federally granted rights-of-way. Kasgro states that any documentation in its possession will be made available to those requesting it.

Kasgro states that it acquired authority to lease the Line in June 2000.<sup>1</sup> During that time, ISS and ISS's successor, NCIR, operated over the Line, as required by the lease. On April 3, 2018, Kasgro gave EASX written notice of its intent to exit the lease 30 days after the STB authorizes Kasgro to discontinue service. Kasgro states that following Kasgro's proposed discontinuance, NCIR will continue to operate the Line for EASX.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by August 1, 2018.

Because this is a discontinuance proceeding and not an abandonment proceeding, trail use/rail banking and public use conditions are not appropriate. Because there will be environmental review during abandonment, this discontinuance does not require an environmental review. See 49 CFR 1105.6(c)(5), 1105.8(b).

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) to subsidize continued rail service will be due no later than August 13, 2018, or 10 days after service of a decision granting the petition for exemption, whichever occurs sooner.<sup>2</sup> Each OFA must be accompanied by a \$1,800 filing fee. See 49 CFR 1002.2(f)(25).

All filings in response to this notice must refer to Docket No. AB 1264 and must be sent to: (1) Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001; and (2) Jeffrey O. Moreno, Thompson Hine LLP, 1919 M Street NW, Suite 700, Washington, DC 20036. Replies to this petition are due on or before May 23, 2018.

<sup>1</sup> See *Kasgro Rail Corp.—Lease & Operation Exemption—EASX Corp. & Rail Servs. Corp.*, FD 33882 (STB served June 22, 2000).

<sup>2</sup> The Board modified its OFA procedures effective July 29, 2017. Among other things, the OFA process now requires potential offerors, in their formal expression of intent, to make a preliminary financial responsibility showing based on a calculation using information contained in the carrier's filing and publicly-available information. See *Offers of Financial Assistance*, EP 729 (STB served June 29, 2017); 82 FR 30,997 (July 5, 2017).

<sup>1</sup> See *Milford-Bennington R.R.—Trackage Rights Exemption—Boston & Me. Corp.*, FD 32103 (ICC served July 9, 1992).

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment and discontinuance regulations at 49 CFR pt. 1152. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Board decisions and notices are available on our website at [WWW.STB.GOV](http://WWW.STB.GOV).

Decided: April 30, 2018.

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

**Kenyatta Clay,**  
Clearance Clerk.

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket Number FRA-2018-0041]

#### Petition for Waiver of Compliance

Under part 211 of Title 49 of the Code of Federal Regulations (CFR), this provides the public notice that on April 18, 2018, the Port Authority Trans-Hudson Corporation (PATH) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 214. FRA assigned the petition docket number FRA-2018-0041.

PATH is requesting relief from the definition of "fouling a track" found in 49 CFR 214.7 at certain locations within PATH's tunnel system if certain conditions are met. PATH seeks the waiver to allow tunnel bench walls to be considered a "place of safety" under § 214.329, *Train Approach Warning*, for the safety and efficiency of roadway maintenance procedures at that those locations. If approved, when train approach warning or foul time is used as the method of protection, roadway workers may move to a previously arranged place of safety designated as a "Clearance Area." Due to track and physical structure configurations, the designated "Clearance Area" can be less than the required four feet from the near running rail, yet still provides a place of safety, protecting roadway workers from the risk of being struck by moving trains or on-track equipment. PATH states safety will be improved by reducing the distance roadway workers must walk to reach a compliant place of safety upon

receiving warning of an approaching train. PATH also contends roadway maintenance procedures will be more efficient by increasing the number of clearing locations, thereby reducing time spent moving to and from places of safety.

PATH is a rapid transit system, with 13.8 route miles, of which 7.4 miles are composed of an underground tunnel system that operates between the states of New York and New Jersey. The current tunnel system was built between 1873 and 1901. As such, the physical structure and track configurations within the tunnel system provide many locations where it is physically impossible to clear outside four feet of the near rail. PATH explains that the historical use and safety record of bench walls as a place of clearance for close to half a century without incident show that, under certain conditions, they can be used as a place of safety within the four-foot fouling envelope.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at [www.regulations.gov](http://www.regulations.gov) and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Ave. SE, W12-140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- **Website:** <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Fax:** 202-493-2251.
- **Mail:** Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12-140, Washington, DC 20590.
- **Hand Delivery:** 1200 New Jersey Avenue SE, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by June 18, 2018 will be considered by FRA before

final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacyNotice> for the privacy notice of [www.regulations.gov](http://www.regulations.gov).

**Robert C. Lauby,**

*Associate Administrator for Railroad Safety, Chief Safety Officer.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket Number FRA-2009-0015]

#### Petition for Waiver of Compliance

Under part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that on April 13, 2018, Ritron, Inc. (Ritron) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 232.409(d). FRA assigned the petition Docket Number FRA-2009-0015.

Ritron is seeking to extend its waiver of compliance from 49 CFR 232.409(d) for three models of its two-way transceiver radios used for the link modules inside Head-of-Train (HOT) and End-of-Train (EOT) devices. These three models are DTX-445, DTX-454, and DTX-460. These models use a master reference oscillator to determine the frequency stability of the transmitted signal. The actual transmitted signal is phase-locked to this master oscillator by a phase-locked loop. This self-calibrating procedure eliminates the need for yearly recalibrations. Ritron states that if the radio is operating, it is within specifications. Ritron originally received a waiver of compliance on July 21, 2010. Ritron received an updated waiver, to add another radio to that included in the original request, on September 4, 2013.