



## SURFACE TRANSPORTATION BOARD

[Docket No. FD 36489, Docket No. FD 36723, Docket No. FD 36723 (Sub-No. 1)]

Savannah Industrial Transportation, LLC—Operation Exemption—In Effingham County, Ga.; Savannah Industrial Logistics, LLC—Construction Exemption—In Effingham County, Ga.; Savannah Industrial Transportation, LLC—Lease and Operation Exemption—Line of Savannah Industrial Logistics, LLC—In Effingham County, Ga.

In a filing submitted on September 28, 2023, Savannah Industrial Logistics, LLC (SIL), a noncarrier affiliate of Savannah Industrial Transportation, LLC (SIT), seeks an after-the-fact exemption, under 49 U.S.C. 10502, from the prior approval requirements of 49 U.S.C. 10901 for the construction of a rail line (the Line) located in an industrial park (the Facility) near Rincon, in Effingham County, Ga. (Pet. 1, Sept. 28, 2023, FD 36723 et al.) The Line, which has no mileposts, extends from a connection with Norfolk Southern Railway Company (NSR) near NSR milepost 16.6 to a connection with CSX Transportation, Inc. (CSXT), near CSXT milepost S484.0, a distance of approximately 11,404 feet. (*Id.* at 4.)

In the same filing, SIT seeks an after-the-fact exemption, under section 10502, from the prior approval requirements of section 10901 to lease and operate the Line pursuant to a lease with SIL. (*See* Pet. 2, Sept. 28, 2023, FD 36723 et al.) SIT and SIL are each holdings of OmniTRAX Holdings Combined, Inc. (OmniTRAX). (*Id.* at 2 n.1.)

By decision served on December 27, 2023, the Board instituted a proceeding under 49 U.S.C. 10502(b) in both dockets. Savannah Indus. Transp.—Lease & Operation Exemption—Line of Savannah Indus. Logistics in Effingham Cnty., Ga., FD 36723 et al., slip op. at 2 (STB served Dec. 27, 2023). No comments opposing either petition have been filed.

The Board's Office of Environmental Analysis (OEA) issued a Draft

Environmental Assessment (Draft EA) in both dockets on April 11, 2025, in which it analyzed the potential environmental impacts of the construction and operation of the Line and requested public comments, as required by the National Environmental Policy Act (NEPA), 42 U.S.C. 4321-4370m-11. A Final Environmental Assessment (Final EA), which incorporated the Draft EA by reference and responded to the only comment received on the Draft EA, was issued on May 23, 2025. The Final EA recommended that one environmental condition be imposed to avoid, minimize, or mitigate the potential environmental impacts of the after-the-fact construction and lease and operation of the Line.

After considering both the rail transportation merits and the potential environmental impacts, the Board will grant SIL's petition for exemption for after-the-fact authority to construct the Line and SIT's petition for exemption for after-the-fact authority to lease and operate the Line, subject to the environmental mitigation measure recommended in the Final EA.

## BACKGROUND

Before the petitions in Docket Nos. FD 36723 and FD 36723 (Sub-No. 1) were filed, SIT filed a petition for an exemption from the prior approval requirements of section 10901 to operate as a common carrier over the Line, which it leased from SIL. (Pet. 1, May 11, 2021, FD 36489.)<sup>1</sup> SIT stated that SIL completed construction of the Line in 2020 as part of a larger project involving the Facility, which is located approximately 11 miles northwest of the Port of Savannah, Ga., and has access to existing NSR and CSXT rail lines. (Id. at 2-3.) The petition stated that the Facility's dual access to NSR and CSXT "ma[de] the location highly attractive to rail shippers," and SIL and SIT "expect[ed] to be able to attract numerous railroad service-dependent customers to the Facility." (Id. at 3.)

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<sup>1</sup> These proceedings are not consolidated. A single decision is being issued for administrative convenience.

According to SIT, the Line was constructed without Board authority because, during the planning and construction of the Facility and the Line, SIT and SIL anticipated that SIT would function as a private switching carrier within the Facility. (Id. at 3, 5-6.) SIT's petition stated that it believed at that time that acting as a private carrier would offer certain cost and administrative advantages over becoming a common carrier. (Id. at 3, 6.) SIT asserted that it had anticipated that NSR and CSXT would be the origin or destination carriers on the waybills for shipments to or from the Facility. (Id. at 3.) According to SIT, NSR and CSXT had proposed to pay SIT a per-car private carriage switching allowance for SIT's placement and retrieval of cars within the Facility, which was initially acceptable to SIT. (Id. at 3, 6.) SIT represented that after the Line was completed, it discovered that NSR and CSXT intended to transmit payment to SIT for its services only once or twice a year. (Id.) SIT stated that being paid, at best, twice a year would not provide it with the cash flow necessary to sustain its operations. (Id. at 6.) SIT determined that it would be paid more regularly if it became a common carrier, which prompted it to seek Board authority to operate the Line. (Id.)

In a decision served August 1, 2023, the Board found that, based on OmniTRAX's prior statements to OEA and other evidence filed in the case, SIT and its parent company, OmniTRAX, intended to operate the Line as a common carrier rail line, for which Board authority should have been obtained under section 10901 before construction commenced. See Savannah Indus. Transp., LLC—Operation Exemption—in Effingham Cnty., Ga. (August 2023 Decision), FD 36489, slip op. at 4-5 (STB served Aug. 1, 2023). As a result, the Board held SIT's petition for operating authority in abeyance and ordered SIL to file for after-the-fact construction authority and SIT to file for after-the-fact acquisition authority. Id. at 7-8. The Board also granted SIT a limited exemption to continue providing service to any shippers located on the Line as of August 1, 2023, during the pendency of the after-the-fact authority proceedings. Id. at 6,

7. On August 30, 2023, SIT informed the Board that, as of that date, it was providing rail service to only one shipper on the Line, Quantix SCS, Inc. (Quantix), f/k/a A&R Logistics, Inc. (SIT Suppl. 1, Aug. 30, 2023, FD 36489.)

As noted above, on September 28, 2023, SIL and SIT submitted a joint filing in Docket Nos. FD 36723 and FD 36723 (Sub-No. 1), seeking after-the-fact exemptions permitting SIL to construct, and SIT to lease and operate, the Line.<sup>2</sup> On December 27, 2023, the Board instituted a proceeding under section 10502(b) in those dockets and held SIT's petition for lease and operating authority in abeyance during the pendency of SIL's construction proceeding. See Savannah Indus. Transp., FD 36723 et al., slip op. at 2 (STB served Dec. 27, 2023).<sup>3</sup>

In their requests for after-the-fact construction and lease and operation authority, SIL and SIT state that exemptions under section 10502 from the prior approval requirements of section 10901 would, among other things, ensure the development and continuation of a sound rail transportation system by fostering effective competition among rail carriers and with other modes to meet the needs of the public. (Pet. 8, Sept. 28, 2023, FD 36723 et al.) They state that the requested exemptions would foster

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<sup>2</sup> Because SIL would become a rail carrier if its request for after-the-fact authority to construct the Track were granted, OmniTRAX and HGS Railway Holdings, Inc. (together, Omni-HGS), both noncarriers, filed a verified notice of exemption to continue in control of SIL upon SIL becoming a rail carrier. See OmniTRAX Holdings Combined, Inc.—Continuance in Control Exemption—Savannah Indus. Logistics, LLC, FD 36723 (Sub-No. 2). Notice of the exemption was served and published in the Federal Register on October 13, 2023 (88 Fed. Reg. 71,071), and the exemption became effective on October 28, 2023. Omni-HGS filed for authority to continue in control of SIT in 2021 when SIT filed for operating authority in Docket No. FD 36489. See OmniTRAX Holdings Combined, Inc.—Control Exemption—Savannah Indus. Transp., LLC, FD 36490 (STB served May 27, 2021) (86 Fed. Reg. 28,671).

<sup>3</sup> In a decision served on May 28, 2024, the Board denied a petition from SIL and SIT seeking authority for SIT to serve additional shippers during the pending construction and lease and operation proceedings. See Savannah Indus. Transp., FD 36489 et al., slip op. at 3 (STB served May 28, 2024). The Board reiterated that the August 2023 Decision allowed SIT to provide rail service only to Quantix—the one shipper that was already located on the line and receiving rail service. Id.

continued alternative transportation options for all current and future tenants at the Facility who are, and will be, afforded nearby connections to NSR and CSXT. (Id.) SIL and SIT further assert that applications for construction and lease and operation authority under section 10901 are not necessary to carry out the rail transportation policy (RTP), see 49 U.S.C. 10101, that the exemptions would promote several provisions of the RTP, and that requiring applications under section 10901 is not necessary to protect shippers from an abuse of market power. (Pet. 8-10, Sept. 28, 2023, FD 36723 et al.)

## DISCUSSION

Rail Transportation Policy Analysis. The construction of a new rail line requires prior Board authorization, either through a certificate under section 10901 or, as requested here, an exemption under 49 U.S.C. 10502(a) from the prior approval requirements of section 10901. “In either case, the [statute] expresses a clear presumption in favor of approving railways.” Seven Cnty. Infrastructure Coal. v. Eagle Cnty., 145 S. Ct. 1497, 1519 (2025) (Sotomayor, J., concurring); see also N. Plains Res. Council v. STB, 668 F.3d 1067, 1091-92 (9th Cir. 2011) (agreeing that there is a statutory “presumption for construction”); Mid States Coal. for Progress v. STB, 345 F.3d 520, 552 (8th Cir. 2003) (same). Under 49 U.S.C. 10901(c), the Board must grant a rail construction proposal unless it finds the proposal is “inconsistent with the public convenience and necessity.” See Alaska R.R.—Constr. & Operation Exemption—A Rail Line Extension to Port MacKenzie, Alaska, FD 35095, slip op. at 5 (STB served Nov. 21, 2011) (describing the Board’s construction exemption process), aff’d sub nom. Alaska Survival v. STB, 705 F.3d 1073 (9th Cir. 2013). In addition, the lease and operation of a rail line by a Class III rail carrier requires prior approval from the Board under 49 U.S.C. 10902 or, as requested here, an exemption under section 10502(a) from the

prior approval requirements of section 10902.<sup>4</sup>

Under section 10502(a), the Board shall, to the maximum extent permissible, exempt a proposal to construct a new rail line from the prior approval requirements of section 10901 when the Board finds that: (1) those procedures are not necessary to carry out the RTP; and (2) either (a) the proposal is of limited scope, or (b) the full application procedures are not necessary to protect shippers from an abuse of market power. The same exemption standard applies to a proposal to lease and operate a rail line filed by a Class II or Class III rail carrier that would otherwise require approval under section 10902.

Based on the record, the proposed after-the-fact construction, lease, and operation—which are unopposed—qualify for exemptions under section 10502 from the formal application procedures of section 10901 and 10902. Detailed scrutiny of the proposed transactions through applications for review under sections 10901 and 10902 is not necessary here to carry out the RTP. The record shows that the Line would provide a rail transportation option to current and future tenants at the Facility. By providing the Facility’s shippers with a freight rail option that does not currently exist (except for the limited exemption previously granted to serve Quantix during the pendency of these proceedings), the Line would foster the development and continuation of a sound rail transportation system with effective competition and coordination between rail carriers and other transportation modes and meet the needs of the public (49 U.S.C. 10101(4), (5)). Also, by supporting truck-to-rail diversions, the rail transportation on the Line would increase energy efficiency across modes, thereby encouraging and promoting

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<sup>4</sup> Although SIT filed its petition for lease and operation authority under 49 U.S.C. 10901, SIT has been operating as a Class III rail carrier pursuant to the limited exemption granted to it by the Board in August 2023 Decision, FD 36489, slip op. at 6, 7. SIT’s petition is therefore more appropriately considered under section 10902, which applies to lease and operation transactions, among other transaction types, filed by Class II and Class III rail carriers.

energy conservation (49 U.S.C. 10101(14)). In addition, exempting the proposed transactions would promote the RTP by minimizing the need for federal regulatory control over the rail transportation system, reducing regulatory barriers to entry, and providing for the expeditious handling and resolution of regulatory proceedings (49 U.S.C. 10101(2), (7), (15)). Other aspects of the RTP will not be adversely affected. No issues about the Line's current or future financial viability have been raised.

Moreover, consideration of the proposed construction of the Line under section 10901 and the proposed lease and operation of the Line under section 10902 is not necessary to protect shippers from an abuse of market power.<sup>5</sup> As explained, the Line would enhance competition, thereby creating an alternative mode of transportation for current and future shippers at the Facility.<sup>6</sup>

Environmental Analysis. NEPA requires federal agencies to examine the environmental impacts of proposed federal actions and to inform the public concerning those effects. See Balt. Gas & Elec. Co. v. Nat. Res. Def. Council, 462 U.S. 87, 97 (1983). Under NEPA and related environmental laws, the Board must consider significant potential beneficial and adverse environmental impacts in deciding whether to authorize the construction of a new rail line as proposed, deny the proposal, or grant it with conditions (including environmental mitigation conditions). Lone Star R.R.—Track Constr. & Operation Exemption—in Howard Cnty., Tex., FD 35874, slip op, at 4 (STB served Mar. 3, 2016). The Board has “substantial discretion” in assessing the facts relevant to its environmental review and the relevant impacts. Seven Cnty., 145 S. Ct. at 1512. It also has “broad latitude” to “draw a ‘manageable line’” regarding the scope if its

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<sup>5</sup> Given this finding regarding the lack of need for shipper protection, the Board need not determine whether the transaction is limited in scope. 49 U.S.C. 10502(a)(2).

<sup>6</sup> In light of the lease and operation exemption in Docket No. FD 36723 (Sub-No. 1), the Board finds SIT's previously filed petition for operating authority in Docket No. FD 36489 to be moot, and that proceeding will be discontinued.

inquiry. Id. at 1513 (citing DOT v. Public Citizen, 541 U.S. 752, 767 (2004)). NEPA does not require that the Board evaluate potential environmental effects arising from “future or geographically separate projects,” “particularly” those over which the Board does not “exercise regulatory authority.” Seven Cnty., 145 S. Ct. at 1515-17; see also id. at 1515 (“Importantly the textually mandated focus of NEPA is the ‘proposed action’— that is, the project at hand, not other future or geographically separate projects that may be built (or expanded) as a result of or in the wake of the immediate project under consideration.”) (citing 42 U.S.C. 4332(2)(C)).

Moreover, while NEPA prescribes a process that must be followed, it does not mandate a particular result. See Seven Cnty., 145 S. Ct. at 1510 (citing Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 350 (1989)). Nor does NEPA otherwise impose any “*substantive* constraints on the agency’s ultimate decision to build, fund, or approve a proposed project.” Seven Cnty., 145 S. Ct. at 1511; see also Robertson, 490 U.S. at 350-51. Rather, in making such decisions the Board may “weigh environmental consequences as [it] reasonably sees fit under its governing statute and any relevant substantive environmental laws,” and may conclude that “other values outweigh the environmental costs.” See Seven Cnty., 145 S. Ct. at 1507, 1510 (citing Robertson, 490 U.S. at 350).

OEA has conducted a thorough environmental and historic review in this case. The Draft EA considered both the proposed action (after-the-fact construction and lease and operation as a common carrier)<sup>7</sup> and the no-action alternative (in which operations would cease). (Draft EA S-2–S-3.) OEA analyzed both the potential environmental impacts that could have resulted from construction of the Line, where possible, and the environmental potential impacts that could result from the continued operation of the

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<sup>7</sup> As explained above and in the Draft EA, the proposed action would not involve any new rail construction, as the Line was constructed in 2020.

Line. (Draft EA S-3.) In the Draft EA, OEA concluded that the proposed action would have no or de minimis impacts in most environmental resource areas, including air quality, energy, transportation, land use, noise, hazardous materials, and cultural resources, (id. at S3 to S4), and that it would have had minor impacts on biological resources from construction of the Line and would have de minimis impacts from continued operations, (id. at 43). OEA also concluded that the proposed action would have minimal impacts on water and recommended one mitigation measure, requiring SIT to inspect all project-related culverts semi-annually (or more frequently, as seasonal flows dictate) for debris accumulation and remove and properly dispose of debris, to further minimize or avoid impacts to water from continued rail operations. (Id. at 51, 63.) In addition, OEA explained in the Draft EA that an Environmental Impact Statement (EIS) is unnecessary and that an EA is the appropriate level of environmental documentation for these proceedings. (Id. at 4-5.)

OEA received one comment on the Draft EA from the U.S. Fish and Wildlife Service (USFWS), indicating that it had no concerns with the statements or Endangered Species Act (ESA) determinations in the Draft EA. (See Final EA 2.) USFWS reaffirmed its earlier comment in response to OEA's preliminary consultation that the project is not anticipated to impact species listed under the ESA. (Id.) The Final EA, issued on May 23, 2025, summarized USFWS's new comment and determined that the comment did not require any changes to the analysis in the Draft EA or the recommended mitigation. (Id. at 2, 5.)

The Board will adopt the analysis and conclusions made by OEA in both the Draft EA and Final EA, including OEA's final recommended environmental mitigation measure set forth in the Appendix to this decision. The Board is satisfied that OEA has taken the requisite hard look at the potential environmental impacts associated with the after-the-fact construction and lease and operation of the Line and properly determined

that, with the final recommended environmental mitigation, the proposed action will not result in potentially significant environmental impacts, and that preparation of an EIS is unnecessary.

Employee Protection. Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. However, 49 U.S.C. 10901(c) states that when authorizing a transaction governed by section 10901 the Board may require compliance with conditions “other than labor protective conditions” that are necessary in the public interest. Further, 49 U.S.C. 10902(d) precludes the Board from imposing labor protection for Class III carriers (such as SIT) receiving authority under 49 U.S.C. 10902. Accordingly, the Board may not impose labor protective conditions here.

#### CONCLUSION

The after-the-fact construction and lease and operation of the Line will give shippers an additional freight rail option, which will support competition to meet the needs of the public, and there will be no potential for significant environmental effects. After carefully considering the transportation merits and OEA’s environmental analysis and recommendations, the Board, considering the entire record, finds that the petitions for after-the-fact exemptions for SIL’s construction of the Line and SIT’s lease and operation of the Line should be granted, subject to compliance with the environmental mitigation measure recommended in the Final EA and set forth in the Appendix to this decision.

This action, as conditioned, will not significantly impact the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Under 49 U.S.C. 10502, the Board exempts SIL’s construction of the Line from the prior approval requirements of 49 U.S.C. 10901.

2. Under 49 U.S.C. 10502, the Board exempts SIT's lease and operation of the Line from the prior approval requirements of 49 U.S.C. 10902.

3. Docket No. FD 36489 is discontinued.

4. The Board adopts the environmental mitigation measure set forth in the Appendix to this decision and imposes it as a condition to the exemptions granted here.

5. Notice will be published in the Federal Register.

6. Petitions for reconsideration must be filed by August 27, 2025.

7. This decision is effective September 6, 2025.

Decided: August 4, 2025.

By the Board, Board Members Fuchs, Hedlund, Primus, and Schultz. Board Member Primus concurred with a separate expression.

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BOARD MEMBER PRIMUS, concurring:

I support today's decision, which will finally allow customers, in addition to Quantix, to benefit from SIT's common carrier service within the Facility, over five years after the Line was constructed. This long delay was the result of SIL and its parent, OmniTRAX's, ill-fated decision to construct the Line ostensibly as private track, despite earlier representations to OEA that the Line would be jurisdictional common carrier track. Moreover, once the Board ordered SIL and SIT to seek after-the-fact authority for the construction and acquisition of the Line, the proceedings were further delayed because SIL and SIT took six months to select a third-party contractor to assist OEA in conducting the environmental review.

OmniTRAX, a sophisticated entity with considerable experience in the rail industry, should have known that Board authority was necessary prior to commencing construction of this Line. The resulting delay has been detrimental not only to the parties involved in these proceedings, but also to potential customers interested in locating

within the Facility to take advantage of the connections to the larger NSR and CSXT networks. I sincerely hope that the experience of this case will dissuade any future attempts to evade the Board's licensing processes and the accompanying environmental review.

## **APPENDIX**

### **Water Resources**

**WAT-MM-1.** During rail operations, SIT shall ensure that all culverts and bridges along the previously constructed rail line are clear of debris to avoid flow blockages, flow alteration, and increased flooding. SIT shall inspect all culverts and bridges semi-annually (or more frequently, as seasonal flows dictate) for debris accumulation and shall remove and properly dispose of debris promptly.

Stefan Rice,

Clearance Clerk.

[FR Doc. 2025-15012 Filed: 8/6/2025 8:45 am; Publication Date: 8/7/2025]