

PUBLIC VERSION

300771

BEFORE THE
SURFACE TRANSPORTATION BOARD

ENTERED
Office of Proceedings
June 19, 2020
Part of
Public Record

DOCKET NO. FD 36407

MISSISSIPPI SOUTHERN RAILROAD, L.L.C.
— OPERATION EXEMPTION WITH INTERCHANGE COMMITMENT —
THE KANSAS CITY SOUTHERN RAILWAY COMPANY

**VERIFIED NOTICE OF EXEMPTION OF
MISSISSIPPI SOUTHERN RAILROAD, L.L.C.
PURSUANT TO 49 C.F.R. PART 1150, SUBPART E**

FEE RECEIVED
June 19, 2020
SURFACE TRANSPORTATION BOARD

Robert A. Wimbish
Bradon J. Smith
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500

**ATTORNEYS FOR MISSISSIPPI SOUTHERN
RAILROAD, L.L.C.**

Dated: June 19, 2020

FILED
June 19, 2020
SURFACE TRANSPORTATION BOARD

PUBLIC VERSION

BEFORE THE SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36407

MISSISSIPPI SOUTHERN RAILROAD, L.L.C.
— OPERATION EXEMPTION WITH INTERCHANGE COMMITMENT—
THE KANSAS CITY SOUTHERN RAILWAY COMPANY

VERIFIED NOTICE OF EXEMPTION OF MISSISSIPPI SOUTHERN RAILROAD, L.L.C PURSUANT TO 49 C.F.R. PART 1150, SUBPART E

Pursuant to 49 C.F.R. Part 1150, subpart E, Mississippi Southern Railroad, L.L.C. (“MSR”), a Class III rail carrier, hereby files this Verified Notice of Exemption (the “Notice”) to – (1) extend its existing lease from The Kansas City Southern Railway Company (“KCS”), and continue its operation, of the “Bay Springs Branch” between Milepost 159.5 near Newton, Mississippi, to Milepost 133.0 near Bay Springs, Mississippi (approximately 26.5 route miles); and (2) acquire by lease from KCS, and operate, two additional, interconnected lines known, respectively, as the “Louisville Subdivision” extending from Milepost 87.2 at the switch south of the Columbus & Greenville Railway crossing near West Point, Mississippi, to Milepost 161.7 near Newton (approximately 114.2 route miles); and the “Pearl River Industrial Lead” extending from Milepost 0.0 near Union, Mississippi, to Milepost 15.5 near Sebastopol, Mississippi (approximately 15.5 route miles).¹ In accordance with the requirements of 49 C.F.R. § 1150.43, MSR submits the following information:

¹ Collectively, the Louisville Subdivision and the Pearl River Industrial Lead will be referred to as the “New Lines.” The Bay Springs Branch and the New Lines will be referred to, collectively, as the “Lines.”

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Name and Address of Applicant: 49 C.F.R. § 1150.43(a)

The full name and address of the applicant herein is as follows:

Mississippi Southern Railroad, L.L.C.
315 W. Third Street
Pittsburg, KS 66782

Applicant's Representative: 49 C.F.R. § 1150.43(b)

MSR's representative to whom correspondence regarding this transaction should be sent is as follows:

Bradon J. Smith
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, IL 60606-3208
(312) 252-1500

Statement Concerning Agreement: 49 C.F.R. § 1150.43(c)

KCS and MSR have negotiated and executed a lease for the New Lines. KCS and MSR are extending the lease term of the Bay Springs Branch via an amendment. The agreements will not become operative until the subject class exemption becomes effective.

Operator of the Property: 49 C.F.R. § 1150.43(d)

MSR will operate, and will provide all rail common carrier service to shippers on, the Lines.

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Background and Summary of the Transaction: 49 C.F.R. § 1150.43(e)

MSR has leased and operated the Bay Springs Branch since 2005. MSR and KCS have agreed to modify the underlying lease for the Bay Springs Branch, and to extend the term to run through November 30, 2034. The parties also have agreed that MSR will add the New Lines to its leasehold operations, under a separate lease agreement with a term expiring July 19, 2030.

MSR intends to consummate the transactions described herein on or shortly after the receipt of all requisite regulatory approvals.

The name and address of the railroad leasing the Lines to MSR is:

The Kansas City Southern Railway Company
427 W. Twelfth St.
Kansas City, MO 64105

Map: 49 C.F.R. § 1150.43(f)

A map showing the Lines is attached as Exhibit A to this Notice.

Certificate of Compliance: 49 C.F.R. § 1150.43(g)

The projected revenues will not result in the creation of a Class I or II rail carrier; a certification to this effect is made with the verification of this Notice.

Interchange Commitments: 49 C.F.R. § 1150.43(h)

(i) The agreements include interchange commitments. The only affected interchange is on the Louisville Subdivision with Columbus & Greenville Railway (“CAGY”) at West Point, MS. (There is, however, no current track connection between the Louisville Subdivision and CAGY’s railroad line at West Point, and the line segment leading to that location is currently out of service.) With the exception of CAGY, the Lines do not connect with those of any other rail carrier aside from KCS.

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(ii) Complete, confidential versions of the Leases and the Amendments thereto subject to this Notice are filed under seal as Exhibit B.

(iii) A list of shippers located on the Lines that have made use of rail service over the past two years is attached hereto as Exhibit C.

(iv) The confidential aggregate number of carloads originated or terminated on the Lines by the above-listed shippers is filed under seal as Exhibit D.

(v) MSR certifies that it has provided notice of the proposed transaction and interchange commitment to the above-listed shippers, under cover of the letters attached hereto as Exhibit E.

(vi) CAGY is the only third-party carrier that could physically interchange with MSR at the interchange point(s) mentioned at section (i).

(vii) KCS has informed MSR that it would not undertake the subject lease transactions with MSR absent the interchange commitments, and thus its value is inestimable.

(viii) MSR has filed this Notice with the existence of an interchange commitment designated in the caption.

Advance Notice: 49 C.F.R. § 1150.42(e)

MSR satisfied the advance notice requirements set forth 49 C.F.R. § 1150.42(e) in pursuant to the certification filed in this docket on May 20, 2020 for the New Lines. With regard to the Bay Springs Branch, the lease amendments will have no effect on the current MSR workforce, and the operative transaction – the transfer of railroad operations from KCS to MSR – occurred in 2005, upon the effectuation of MSR’s lease and operation of the Bay Springs Branch. Accordingly, and in keeping with applicable agency precedent, MSR is seeking a waiver of the

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advance notice requirement strictly for purposes of the Bay Springs Branch operations contemporaneous with this exemption.

Environmental and Historic Preservation Data: 49 C.F.R. § 1105

Under 49 C.F.R. § 1105.6(c)(2), the subject transaction is exempt from environmental reporting requirements – it will not result in significant changes in carrier operations, *i.e.*, changes that exceed the thresholds established in 49 C.F.R. § 1105.7(e)(4) or (5).

Under 49 C.F.R. § 1105.8(b)(1), the proposed transaction also is exempt from historic preservation reporting requirements. The proposed transaction is for the purpose of continued rail operations. Additional Surface Transportation Board approval would be required to discontinue any service, and there are no plans to dispose of or alter properties subject to Board jurisdiction that are fifty years old or older.

Caption Summary: 49 C.F.R. § 1150.42(a)

A caption summary in the appropriate form is attached as Exhibit F.

Respectfully submitted,

By: *R. A. Wimbish*

Robert A. Wimbish
Bradon J. Smith
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, IL 60606-3208
(312) 252-1500

**ATTORNEYS FOR MISSISSIPPI SOUTHERN
RAILROAD, L.L.C**

Dated: June 19, 2020

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

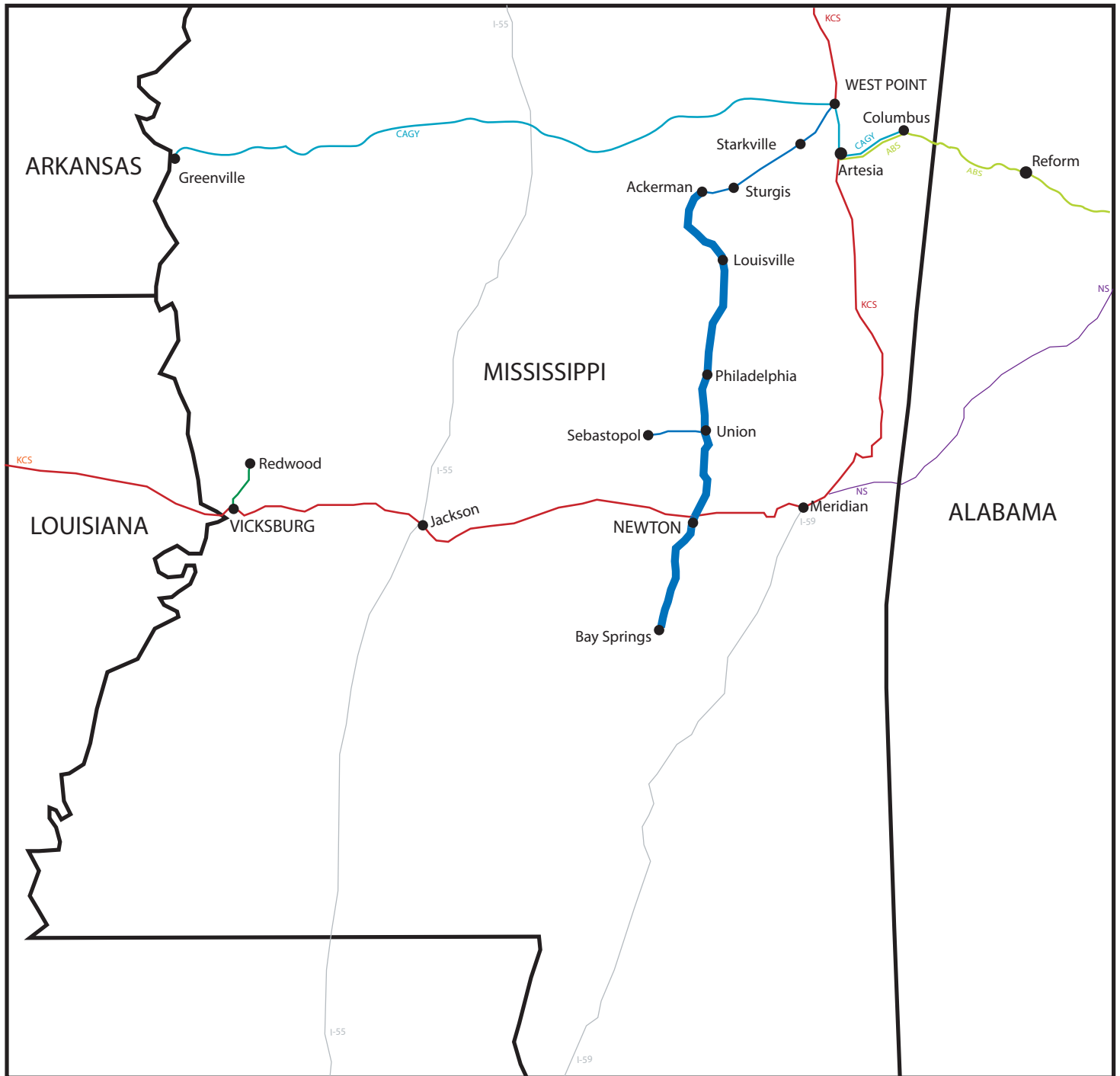
STB DOCKET NO. FD 36407

**MISSISSIPPI SOUTHERN RAILROAD, L.L.C.
— OPERATION EXEMPTION WITH INTERCHANGE COMMITMENT—
THE KANSAS CITY SOUTHERN RAILWAY COMPANY**

EXHIBIT A

MAP

PUBLIC VERSION



LEGEND:

Mississippi Southern RR (MSR)
Out of Service
Vicksburg Southern Railroad
Alabama Southern Railway
Columbus and Greenville Railway



Interchanges - Track miles 156

KCS - Newton
CAGY - West Point

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— OPERATION EXEMPTION WITH INTERCHANGE COMMITMENT—
THE KANSAS CITY SOUTHERN RAILWAY COMPANY**

EXHIBIT B

LEASES AND AMENDMENTS

CONFIDENTIAL

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— OPERATION EXEMPTION WITH INTERCHANGE COMMITMENT—
THE KANSAS CITY SOUTHERN RAILWAY COMPANY**

EXHIBIT C

LIST OF SHIPPERS

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LIST OF SHIPPERS PURSUANT TO 49 C.F.R. § 1150.43(h)(iii)

Attala Steel Industries
Biewer Sawmill
City of Louisville Transload
Dixie Mat
Esco
Georgia Pacific
Kloeckner Metals
Merritt Rail Car Services
Neshoba County Gin
Peco
Richardson Molding
Rives & Reynolds Lumber
Southeastern Timber Products
Thomasson Lumber
Tyson Foods
US Rail
Weyerhaeuser National Resources
Winston Plywood & Veneer
Yak Mat

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**MISSISSIPPI SOUTHERN RAILROAD, L.L.C.
— OPERATION EXEMPTION WITH INTERCHANGE COMMITMENT—
THE KANSAS CITY SOUTHERN RAILWAY COMPANY**

EXHIBIT D

AGGREGATE NUMBER OF CARLOADS

CONFIDENTIAL

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB DOCKET NO. FD 36407

**MISSISSIPPI SOUTHERN RAILROAD, L.L.C.
— OPERATION EXEMPTION WITH INTERCHANGE COMMITMENT—
THE KANSAS CITY SOUTHERN RAILWAY COMPANY**

EXHIBIT E

NOTIFICATION TEXT TO SHIPPERS

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NOTICE TO SHIPPERS ON BAY SPRINGS BRANCH

June 19, 2020

Re: Docket No. FD 36407
Mississippi Southern Railroad, L.L.C. — Operation
Exemption with Interchange Commitment —
The Kansas City Southern Railway Company

To Whom It May Concern

Mississippi Southern Railroad, L.L.C. (“MSR”) has filed a Verified Notice of Exemption (a public copy of which is attached) with the Surface Transportation Board (“STB”) to extend its existing lease from The Kansas City Southern Railway Company and continue its operation of the KCS “Bay Springs Branch” between Milepost 159.5 near Newton, Mississippi, to Milepost 133.0 near Bay Springs, Mississippi (approximately 26.5 route miles).

MSR is providing you with this notice pursuant to the requirements of the STB; you are not required to respond or to participate in the STB proceeding. If you have any questions regarding this matter, please feel free to contact me.

Very truly yours,

Robert A. Wimbish
Attorney for Mississippi Southern Railroad, L.L.C.

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NOTICE TO SHIPPERS ON NEW LINES

June 19, 2020

Re: **Docket No. FD 36407**
Mississippi Southern Railroad, L.L.C. — Operation
Exemption with Interchange Commitment —
The Kansas City Southern Railway Company

To Whom It May Concern:

Mississippi Southern Railroad, L.L.C. (“MSR”) has filed a Verified Notice of Exemption (a public copy of which is attached) with the Surface Transportation Board (“STB”) to lease from The Kansas City Southern Railway Company (“KCS”) the “Louisville Subdivision” extending from Milepost 87.2 at the switch south of the Columbus & Greenville railroad crossing near West Point, Mississippi, to Milepost 161.7 near Newton (approximately 114.2 route miles); and the “Pearl River Industrial Lead” extending from Milepost 0.0 near Union, Mississippi, to Milepost 15.5 near Sebastopol, Mississippi (approximately 15.5 route miles).

MSR anticipates commencing rail service to your facility as soon as July 20, 2020. MSR is providing you with this notice pursuant to the requirements of the STB; you are not required to respond or to participate in the STB proceeding. If you have any questions regarding this matter, please feel free to contact me.

Very truly yours,

Robert A. Wimbish
Attorney for Mississippi Southern Railroad, L.L.C.

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**MISSISSIPPI SOUTHERN RAILROAD, L.L.C.
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EXHIBIT F

DRAFT FEDERAL REGISTER NOTICE

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NOTICE OF EXEMPTION

MISSISSIPPI SOUTHERN RAILROAD, L.L.C.
— OPERATION EXEMPTION WITH INTERCHANGE COMMITMENT—
THE KANSAS CITY SOUTHERN RAILWAY COMPANY

Mississippi Southern Railroad, L.L.C., (“MSR”) a Class III carrier, has filed a notice of exemption (the “Notice”) to – (1) extend its existing lease from The Kansas City Southern Railway Company (“KCS”), and continue its operation, of the “Bay Springs Branch” between Milepost 159.5 near Newton, Mississippi, to Milepost 133.0 near Bay Springs, Mississippi (approximately 26.5 route miles); and (2) acquire by lease from KCS, and operate, two additional, interconnected lines known, respectively, as the “Louisville Subdivision” extending from Milepost 87.2 at the switch south of the Columbus & Greenville railroad crossing near West Point, Mississippi, to Milepost 161.7 near Newton (approximately 114.2 route miles); and the “Pearl River Industrial Lead” extending from Milepost 0.0 near Union, Mississippi, to Milepost 15.5 near Sebastopol, Mississippi (approximately 15.5 route miles).

Comments must be filed with the Board and served on:

Bradon J. Smith
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, IL 60606-3208
(312) 252-1500

The notice is filed under 49 C.F.R. § 1150.41. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under

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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.

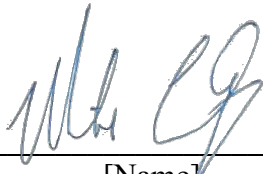
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CERTIFICATION AND VERIFICATION

Michael E. Gray, Assistant General Counsel, WATCO Companies, Inc. (“WATCO”), hereby certifies and verifies under penalty of perjury as follows:

1. I am the Assistant General Counsel of Watco Companies, Inc., the sole member and controlling interest in Mississippi Southern Railroad, L.L.C. (“MSR”), and I am duly authorized to make this certification and verification on behalf of MSR.
2. The projected annual revenues of MSR as a result of the railroad line transaction encompassed by this Notice of Exemption will not result in MSR becoming a Class I or II rail carrier
3. I have read the foregoing Notice of Exemption and know that the facts stated herein are true.

Dated: June 19, 2020



[Name]