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January 16, 2020

300292

## VIA E-FILING

Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street SW  
Washington, DC 20024

ENTERED  
Office of Proceedings  
January 16, 2020  
Part of  
Public Record

Re: STB Docket No. FD 36379  
Louisiana & Delta Railroad, Inc.  
-Lease Amendment and Operation Exemption-

Dear Ms. Brown:

Enclosed for e-filing on behalf of Louisiana & Delta Railroad, Inc. ("LDRR") is a Notice of Exemption being filed under 49 USC 10902 and 49 CFR 1150.41. The filing fee of \$2,100 was paid using Pay.gov.

Please let me know if there are any questions regarding this filing.

Sincerely,



Justin J. Marks  
*Counsel for Louisiana & Delta Railroad, Inc.*

Enclosures

FEE RECEIVED  
January 16, 2020  
SURFACE  
TRANSPORTATION BOARD

FILED  
January 16, 2020  
SURFACE  
TRANSPORTATION BOARD

**Before the**  
**SURFACE TRANSPORTATION BOARD**

STB Docket No. FD 36379

**LOUISIANA & DELTA RAILROAD, INC.**  
**- LEASE AMENDMENT AND OPERATION EXEMPTION –**  
**UNION PACIFIC RAILROAD COMPANY**

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**VERIFIED NOTICE OF EXEMPTION**  
**UNDER 49 U.S.C. §10902**

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*(includes color images)*

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*Counsel for Louisiana & Delta Railroad,  
Inc.*

Dated: January 16, 2020

**Before the**  
**SURFACE TRANSPORTATION BOARD**

STB Docket No. FD 36379

**LOUISIANA & DELTA RAILROAD, INC.**  
**- LEASE AMENDMENT AND OPERATION EXEMPTION -**  
**UNION PACIFIC RAILROAD COMPANY**

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**VERIFIED NOTICE OF EXEMPTION**  
**UNDER 49 U.S.C. §10902**

Louisiana & Delta Railroad, Inc. (“LDRR”), a Class III railroad, files this Notice of Exemption under 49 U.S.C. § 10902 to exempt from regulation LDRR’s entry into a new lease agreement (the “Consolidated Lease”) to amend, supersede and replace the leases entered into between LDRR and Union Pacific Railroad Company (“UPRR”) on January 17, 1992, as amended (the “Lockport Branch Line Lease”) and September 10, 1996, as amended, (the “Breaux Bridge Lines Lease”).

LDRR and UPRR wish to consolidate the Lockport Branch Line Lease and the Breaux Bridge Lines Lease under the Consolidated Lease for the following rail lines (“Rail Lines”): from (a) Milepost 0.35 at or near BR Jct, to the end of track at Milepost 7.78 being the west line of Berard Street at or near Breaux Bridge (Breaux Bridge Branch); (b) the switch on the Breaux Bridge line near Milepost 7.678 to a point on the St. Martinsville Branch near Milepost 19.381 to the end of track at Milepost 19.680 (St. Martinsville Branch); (c) Milepost 0.50 at or near Alex. Jct, to the end of track at Milepost 1.00, also including the Extension Track from Milepost 144.90 to Milepost 145.30 (Alexandria Branch); and (d) Milepost 0.1 at Raceland Junction, Louisiana to Milepost 1.7.

## **Notice**

In accordance with 49 C.F.R. §1150.43, LDRR hereby provides the following information:

- (a) The full name and address of Applicant: Louisiana & Delta Railroad, Inc. 13901 Sutton Park Dr., S., Suite 175, Jacksonville, FL 32224.
- (b) The name, address, and telephone number of the representative of LDRR who should receive correspondence: Eric M. Hocky, Esq., Clark Hill, PLC, Two Commerce Square, 2001 Market St., Suite 2620, Philadelphia, PA 19103; (215) 640-8500.
- (c) LDRR and UPRR entered into the Consolidated Lease for the Rail Lines as of January 1, 2020.
- (d) The current operator of the Rail Lines is LDRR, and LDRR will continue to be the operator after the transaction.
- (e) Brief Summary of the Proposed Transaction: LDRR is currently operating under two separate leases with UPRR: the Lockport Branch Line Lease and the Breaux Bridge Lines Lease. This proposed transaction consolidates those leases under a single agreement, updates the terms of the leases, extends their terms and makes them coterminous.
  - (1) The name and address of the company leasing the Rail Lines is Union Pacific Railroad Company, 1400 Douglas Street, Mailstop 1350, Omaha, Nebraska 68179.
  - (2) The Consolidated Lease will be effective upon the effective date of this Notice of Exemption, thirty days after filing. LDRR is currently operating the Rail Lines under the terms of the original leases, and will continue to do so until

the Consolidated Lease becomes effective.

- (3) The mileposts of the Rail Lines are: from (a) Milepost 0.35 at or near BR Jct, to the end of track at Milepost 7.78 being the west line of Berard Street at or near Breaux Bridge (Breaux Bridge Branch); (b) the switch on the Breaux Bridge line near Milepost 7.678 to a point on the St. Martinsville Branch near Milepost 19.381 to the end of track at Milepost 19.680 (St. Martinsville Branch)<sup>1</sup>; (c) Milepost 0.50 at or near Alex. Jct, to the end of track at Milepost 1.00, also including the Extension Track from Milepost 144.90 to Milepost 145.30 (Alexandria Branch); and (d) Milepost 0.1 at Raceland Junction, Louisiana to Milepost 1.7.
- (4) The total mileage to be acquired and operated is approximately 10.43 miles.
- (f) Attached as Exhibit A to this Notice of Exemption is a map of the Rail Lines.
- (g) LDRR certifies that its projected revenues as a result of the transaction will not exceed those that would qualify it as a Class III carrier.
- (h) LDRR certifies that the Consolidated Lease does not include an interchange commitment.
- (i) In addition to the information set forth above, LDRR certifies that its revenues currently exceed \$5,000,000. However, since LDRR will continue to be the operator of the Rail Lines both before and after the transaction, LDRR is requesting a waiver of the labor notice requirements under 49 C.F.R. §1150.42(e). See request for waiver set forth below.

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<sup>1</sup> The total length of the combined segments is approximately 0.5 miles.

### **Labor Protection**

LDRR is a Class III carrier, and pursuant to 49 U.S.C. §10902(d), approval of this transaction may not be subjected to labor protection conditions. Additionally, since LDRR is already the operator of the Rail Lines, there will be no employees adversely affected by the new consolidated lease arrangements.

### **Environmental and Historic Reports**

This is a consolidation of two leases for continued rail operations that will not result in changes in carrier operations that will exceed the thresholds established in 49 C.F.R. §1105.7(e)(4) or (5). Further Board approval is required for LDRR to discontinue (or for UPRR to abandon) service, or to dispose of or alter properties subject to the Board's jurisdiction that are 50 years old or older. Accordingly, no environmental or historic documentation is required. See 49 C.F.R. §1105.6(c)(2); 49 C.F.R. §1105.8(b)(1).

### **Caption Summary**

Attached hereto as Exhibit B is the caption summary required by 49 C.F.R. §1150.44.

### **Request for Waiver of Notice Requirements of 49 C.F.R. §1150.42(e)**

As noted above, while LDRR's total revenues will exceed \$5,000,000 after the transaction Under the Board's regulations at 49 C.F.R. §1150.42(e), LDRR would be required to give sixty days' notice to employees of UPRR working on the Rail Lines (and the national offices of their collective bargaining representatives). However, the Board has held: "The purpose of 49 CFR 1150.42(e) is to ensure that rail labor unions and employees who would be affected by the transfer of a line are given sufficient notice of the transaction before consummation." *Belt Line Division of Tacoma Public Utilities – Operation Exemption – In Pierce, Thurston and Lewis Counties, WA*, STB Finance Docket No. 33666 (served October 30,

1998) at 2. *See also Acquisition of Leased Lines under 49 USC 10901 and 10902 – Advance Notice of Proposed Transactions* (“*Advanced Notice of proposed Transactions*”), 2 STB 592 (1997). In adopting the notice requirement, the Board specifically recognized that “exceptional situations may occur necessitating acquirer requests for waiver of the 60 day notice provision ...” *Advanced Notice of Proposed Transactions*, *supra* at 601.

In this instance, LDRR should not be required to comply with the requirements of Section 1150.42(e) because there will be no changes for any employees working on the Rail Lines. LDRR already leases the Rail Lines and the Consolidated Lease is merely an effort to bring up-to-date the lease agreements between UPRR and LDRR. The Consolidated Lease extends the term of LDRR’s leaseholds under restated terms, and LDRR will continue to be the sole common carrier operator of the Rail Lines. No employees of the transferring carrier, UPRR have worked on any of the Rail Lines since 1996, and there are no employees of UPRR who will be affected or have to make any career choices as a result of the extended term of the Consolidated Lease. Posting notices on the Rail Lines would not provide notice to any UPRR employees since none work on the Rail Lines. Further, there will be no operational changes, and no employees of LDRR will be affected.<sup>2</sup> Thus, under the circumstances of this transaction, compliance with the notice requirements will not further the purposes of the rule and should be waived. Granting LDRR a waiver would be consistent with other circumstances in which the Board has granted waivers from the labor notice requirements when a common carrier has filed to extend the term of its operation of a line it was previously leasing and to remain as the common carrier operator on the line. *See North Carolina & Virginia Railroad Company, LLC*,

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<sup>2</sup> Notwithstanding that there will be no effect on employees of LDRR, LDRR is providing notice of the Consolidated Lease to the national office of the union that represents employees working on the Rail Lines by serving it with a copy of this Notice of Exemption.

*Chesapeake & Albemarle Railroad Division – Lease Amendment Exemption – Norfolk Southern Railway Company*, STB Docket No. FD 35564 (Sub-No. 1) (served December 23, 2011). *See also Louisiana Southern Railroad, LLC – Lease Exemption containing Interchange Commitment – The Kansas City Southern Railway Company*, STB Docket No. FD 35983 (served February 18, 2016); *San Joaquin Valley Railroad Co. – Lease Amendment and Operation Exemption including Interchange Commitment – BNSF Railway Company*, STB Docket No. FD 35772 (served May 28, 2015).

LDRR asks that the waiver of the labor notice requirements be granted expeditiously so that this Notice of Exemption can become effective as scheduled 30 days after it is filed.

## **Conclusion**

Accordingly, LDRR requests that the Board issue a notice allowing the Consolidated Lease to become effective 30 days from the filing of this Notice of Exemption.

Respectfully submitted,



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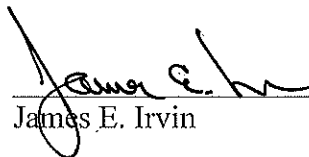
*Counsel for Louisiana & Delta Railroad, Inc.*

Dated: January 16, 2020

## VERIFICATION

I, James E. Irvin, President of Louisiana & Delta Railroad, Inc., verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file the foregoing document.

Executed on January 16, 2020

  
James E. Irvin

# **EXHIBIT A**

## **MAP**

## Genesee & Wyoming Railroads



**Louisiana & Delta Railroad, Inc.**  
**402 West Washington Street**  
**New Iberia, Louisiana 70560**  
**337-364-9625**

● Port Operations

Dashed line indicates Trackage Rights; gray line indicates Out of Service.

## Southern Region Railroads

|             |                                         |
|-------------|-----------------------------------------|
| <b>AGR</b>  | Alabama & Gulf Coast Railway LLC        |
| <b>AN</b>   | AN Railway, L.L.C.                      |
| <b>BAYL</b> | The Bay Line Railroad, L.L.C.           |
| <b>CAGY</b> | Columbus and Greenville Railway Company |
| <b>CCH</b>  | Columbus & Chattahoochee Railroad, Inc. |
| <b>CCKY</b> | Chattooga & Chickamauga Railway Co.     |
| <b>CIRR</b> | Chattahoochee Industrial Railroad       |
| <b>COEH</b> | Conecuh Valley Railway, L.L.C.          |
| <b>EARY</b> | Eastern Alabama Railway, LLC            |
| <b>GSWR</b> | Georgia Southwestern Railroad, Inc.     |
| <b>HAL</b>  | Hilton & Albany Railroad, Inc.          |
| <b>KWT</b>  | KWT Railway, Inc.                       |
| <b>LDRR</b> | Louisiana & Delta Railroad, Inc.        |
| <b>LXVR</b> | Luxapalila Valley Railroad, Inc.        |
| <b>MNBR</b> | Meridian & Bigbee Railroad, L.L.C.      |
| <b>TNHR</b> | Three Notch Railway, L.L.C.             |
| <b>VR</b>   | Valdosta Railway, L.P.                  |
| <b>WGCR</b> | Wiregrass Central Railway, L.L.C.       |

## **EXHIBIT B**

### **CAPTION SUMMARY**

SURFACE TRANSPORTATION BOARD

**Notice of Exemption**

STB Docket No. FD 36379

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- LEASE AMENDMENT AND OPERATION EXEMPTION –  
UNION PACIFIC RAILROAD COMPANY**

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Comments must be filed with the Board and served on LDRR’s representative, Eric M. Hocky, Esq., Clark Hill, PLC, Two Commerce Square, 2001 Market St., Suite 2620, Philadelphia, PA 19103; (215) 640-8500.

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 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.

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

Decided: January \_\_, 2020.

By the Board, Allison C. Davis, Director, Office of Proceedings.

## **CERTIFICATE OF SERVICE**

I hereby certify that on this date a copy of the foregoing document was served by U.S. first class mail, postage pre-paid on the following national representative of labor working on the lines:

International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART)

National Headquarters  
1750 New York Avenue, NW  
6th Floor  
Washington, D.C. 20006

SMART Transportation Division (SMART-TD)  
24950 Country Club Blvd.  
Ste. 340  
North Olmsted, OH 44070-5333



Justin J. Marks

Dated: January 16, 2020