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SURFACE TRANSPORTATION BOARD

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Public Record

FINANCE DOCKET NO. 36524

SAVAGE TOOEELE RAILROAD COMPANY
— ACQUISITION AND OPERATION EXEMPTION IN TOOEELE COUNTY, UTAH —
UNION PACIFIC RAILROAD COMPANY

CORRECTION

TO VERIFIED NOTICE OF EXEMPTION

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Date: November 12, 2021

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TO VERIFIED NOTICE OF EXEMPTION

Savage Tooele Railroad Company (“**STR**”) is filing this Correction to correct a factual misstatement in its Verified Notice of Exemption in this docket, with respect to the environmental character of the area in which STR seeks to operate. The correction does not alter STR’s environmental reporting obligations.

On September 2, 2021, STR filed its Verified Notice of Exemption under 49 C.F.R. § 1150.31 to acquire, construct and operate a rail line approximately 12 miles in length, and provide rail common carrier service on the line, in Tooele County, Utah (the “Acquisition Notice”). Pursuant to the Board’s decision served September 30, 2021, STR filed a Verified Supplement on October 19, 2021 to clarify that (i) based on Board precedents, STR’s entire line will constitute mainline track under 49 U.S.C. § 10901 and no portion will be “excepted track” (spur, industrial, etc. track) described in 49 U.S.C. § 10906; and (ii) STR will provide rail common carrier service over the entire line.

In the Acquisition Notice (page 5), STR stated that “STR’s operations will not affect a Class I or nonattainment area under the Clean Air Act.” The statement that STR will not operate

in a “nonattainment area” under the Clean Air Act is incorrect. STR mistakenly investigated the character of its proposed operation area, and regrets the error.¹

In fact, a portion of Tooele County, UT is a “nonattainment area” under the Clean Air Act. STR proposes to operate within the portion of Toole County designated as nonattainment with the 2015 8-hour ozone standard. Tooele County is so identified on the U.S. EPA’s list of nonattainment areas in Utah as of 2021. www3.epa.gov/airquality/greenbook/anayo_ut.html.

For attainment areas under the Clean Air Act, an applicant seeking to construct and operate a rail line pursuant to exemption under 49 C.F.R. § 1150.31 is not required to make any environmental report so long as it will operate fewer than eight trains per day. *See* 49 C.F.R. §§ 1105.6(c)(1)(i), 1105.7(e)(5)(i)(A), (C). STR accurately stated in the Acquisition Notice that its operations will not involve (i.e., will not result in an *increase* of) eight or more trains per day. For nonattainment areas such as the portion of Tooele County where STR proposes to operate, no environmental reporting is required so long as there will not be an increase of three or more trains per day. *See* 49 C.F.R. § 1105.7(e)(5)(ii)(A), (C).

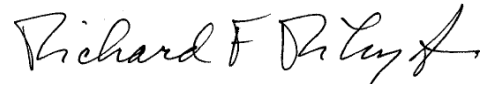
STR hereby states that it will operate fewer than three trains per day (i.e., a maximum of two trains per day) on its line, and STR will be the only rail operator on the line. Thus, there will not be an increase of three or more trains per day on the line, and the Board’s regulation, 49 C.F.R. § 1105.7(e)(5), accordingly provides that no environmental reporting is required.

¹ STR also stated that its proposed service area is not a “Class I” area under the Clean Air Act. *See* Acquisition Notice at 5. That statement is correct. Class I areas include national parks, national wilderness areas and national monuments designated pursuant to Section 169A of the Clean Air Act, as well as tribal lands that the U.S. Environmental Protection Agency (“EPA”) has designated as Class I areas. There are five Class I areas in Utah, none of which is in or near Tooele County where STR proposes to operate. *See* www.nps.gov/subjects/air/npsclass1.htm.

A notarized Verification signed by the President & CEO of STR, certifying as to all factual statements in this Correction, is attached as Exhibit A.²

Respectfully submitted,

SAVAGE TOOEELE RAILROAD COMPANY



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² A related exemption proceeding is pending in *Savage Companies – Continuance in Control Exemption – Savage, Bingham & Garfield Railroad Company and Savage Tooele Railroad Company*, STB FD 36525 (notice of exemption filed September 2, 2021) (“Control Notice”). As stated in the Control Notice (page 5), transactions involving corporate changes such as the transaction described in the Control Notice (control of two Class III rail carriers, STR and Savage, Bingham & Garfield Railroad Company, by a common parent company under the class exemption of 49 C.F.R. § 1180.2(d)(2)) are generally exempt from environmental reporting pursuant to 49 C.F.R. § 1105.6(c)(1)(ii). Thus, STR believes no correction is needed in the Control Notice docket.

Exhibit A

VERIFICATION

VERIFICATION

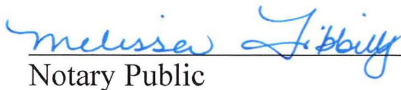
STATE OF UTAH)
) SS.
COUNTY OF SALT LAKE)

Kirk W. Aubry, being duly sworn, deposes and says that he is the President & CEO of Savage Tooele Railroad Company; that he has read the foregoing Correction to Verified Notice of Exemption in Surface Transportation Board Finance Docket No. 36524; and that the facts set forth in such Correction are true and correct to the best of his knowledge and belief.



Kirk W. Aubry
President & CEO, Savage Tooele Railroad Company

Subscribed and sworn to before me this 12 day of November, 2021.



Notary Public

