

BEFORE THE
SURFACE TRANSPORTATION BOARD

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Office of Proceedings
June 23, 2022
Part of
Public Record

MOUNTAIN PACIFIC RAILROAD LLC -)
- LEASE AND OPERATION) FINANCE DOCKET
EXEMPTION -- MOSS LANDING) NO. 36624
COMMERCIAL PARK, LLC AT MOSS)
LANDING, MONTEREY COUNTY, CA)

**VERIFIED NOTICE OF EXEMPTION
UNDER 49 C.F.R. § 1150.31**

MOUNTAIN PACIFIC RAILROAD LLC
200 Madrone Way
Felton, CA 95018

Applicant

THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
2230 Marston Lane
Flossmoor, IL 60422-1336
(708) 704-7679
mcfarland@aol.com

Attorney for Applicant

DATE FILED: June 23, 2022

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- LEASE AND OPERATION	)	FINANCE DOCKET
EXEMPTION -- MOSS LANDING	)	NO. 36624
COMMERCIAL PARK LLC AT MOSS	)	
LANDING, MONTEREY COUNTY, CA	)	

**VERIFIED NOTICE OF EXEMPTION
UNDER 49 C.F.R. § 1150.31**

Pursuant to 49 U.S.C. § 10501(a) and 49 C.F.R. § 1150.31, *et seq.*, MOUNTAIN PACIFIC RAILROAD LLC (MPR), a noncarrier^{1/}, hereby provides verified notice of its class exemption from 49 U.S.C. § 10901 for its acquisition by lease from MOSS LANDING COMMERCIAL PARK, LLC (MLCP) and operation of approximately 6818.7 feet of track (1.29 miles) located at Moss Landing Commercial Park, Moss Landing, Monterey County, CA (the Rail Line).

BACKGROUND

Attached as Appendix 1 is a map of the Rail Line. The Line is shown in green on that map. The Line extends from point of connection to Union Pacific Railroad Company (UP) near Dolan Road to track endings at several locations near California Highway 1.

^{1/} On February 11, 2021, MPR, a noncarrier, filed a verified notice of exemption pursuant to 49 CFR § 1150.31 for its sublease from St. Paul & Pacific Railroad LLC and operation of a rail-truck transloading site at Watsonville, CA. *See Mountain Pacific Railroad LLC -- Acquisition and Operation Exemption -- St Paul & Pacific Railroad LLC*, STB Finance Docket No. 36484. However, on February 24, 2021, MPR filed a request for leave to withdraw its verified notice pending determination of the ownership of the land and track sought to be acquired and operated. In a decision served March 12, 2021, MPR's request to withdraw the verified notice was granted. MPR did not consummate the sublease or operation authority. Consequently, MPR did not become a rail carrier as a result of the authority issued by the Board.

The Rail Line is currently private track of Moss Landing Commercial Park LLC. It appears that the track was constructed by UP predecessor, Southern Pacific Transportation Company (SP), over 50 years ago to serve manufacturing facilities of Kaiser Aluminum & Chemical Corporation (Kaiser). At an unknown date, Kaiser was succeeded as owner by Moss Landing Commercial Park LLC (MLCP).

Recently, MLCP has entered into a Lease Agreement with MPR that includes the Rail Line at Moss Landing.^{2/} The Lease Agreement provides as follows:

... Activities associated with the lease include, but are not limited to, operation of a (rail-truck) transloading, storage, and intermodal logistics facility. This also includes onsite product handling equipment as needed to receive, store, load, and unload inbound and outbound material. Materials to be handled include but are not limited to aggregate, steel, agricultural products, propane, sea salt, magnesium compounds, and other materials that can be shipped by rail. The activities at the site will include railcar movement and short term storage, plus other ground transportation traffic and other activities associated with standard Class 3 railroad operations ...

Initial operations will consist of transloading propane from railcars into trucks for local delivery. MPR will act as a rail common carrier holding itself out to provide rail transportation of all commodities tendered to it for that purpose.

^{2/} The Lease Agreement encompasses approximately 45,000 square feet between Building #20 and Tower including the exclusive use of approximately one acre of industrial land beginning near the Dolan Road access gate and wrapping around two sides of the existing cell tower facility and the aforesaid 6818.7 ft. of existing rail tracks.

INFORMATION REQUIRED BY 49 C.F.R. § 1150.33

(a) The full name and address of the applicant;

The Applicant is Mountain Pacific Railroad LLC (MPR), 200 Madrone Way, Felton, CA 95018.

(b) The name, address, and telephone number of the representative of the applicant who should receive correspondence;

Applicant's representative to receive correspondence is Thomas F. McFarland, Thomas F. McFarland, P.C., 2230 Marston Lane, Flossmoor, IL 60422-1336, ph (708) 704-7679, mcfarland@aol.com.

(c) A statement that an agreement has been reached or details about when an agreement will be reached;

A Lease Agreement has been reached between MPR and MLCP for acquisition and operation of the Rail Line.

(d) The operator of the property;

MPR will be the operator of the property.

(e) A brief summary of the proposed transaction, including:

(1) The name and address of the railroad transferring the subject operating authority,

The Lessor of the Rail Line is Moss Landing Commercial Park, LLC, 449 Alvarado Street, Monterey, CA 93940.

(2) The proposed time schedule for consummation of the transaction,

The proposed transaction will be consummated no earlier than the 30th day after this Notice is filed at the Board.

(3) The mile-posts of the subject property, including any branch lines, and

The Rail Line is not identified by milepost numbers.

(4) The total route miles being operated;

A total of approximately 6818.7 feet are proposed to be leased and operated.

(f) A map that clearly indicates the area to be served, including origins, termini, stations, cities, counties, and States; and

The required map is attached to this Notice as Appendix 1.

(g) A certificate that applicant's projected revenues do not exceed those that would qualify it as a Class III carrier.

Attached to this Notice as Appendix 2 is a Verification signed by Mr. Richard Kojak on behalf of MPR that includes a certification that MPR's projected revenues will not exceed those that would qualify it as a Class III rail carrier.

(h) Interchange Commitments.

(1) The filing party must certify whether or not a proposed acquisition or operation of a rail line involves a provision or agreement that may limit future interchange with a third-party connecting carrier, whether by outright prohibition, per-car penalty, adjustment in the purchase price or rental, positive economic inducement, or other means ("interchange commitment").

The proposed lease and operation does not involve a provision or agreement that may limit future interchange with a third party connecting rail carrier.

REVENUES LESS THAN \$5 MILLION PER YEAR

Mr. Kojak's Verification includes a certificate that MPR's annual revenues will not exceed \$5 million per year (Appendix 2).

VERIFICATION

Mr. Kojak's Verification includes a certification that all assertions in this Notice are true and correct (Appendix 2).

LABOR PROTECTION

Labor protective conditions are not required for the proposed lease and operation. *See* 49 U.S.C. § 10901(c).

ENVIRONMENTAL AND HISTORIC REPORTING

Environmental and historic reporting are not required for the proposed lease and operation. *See* 49 C.F.R. § 1105.6 and 49 C.F.R. § 1105.8.

CAPTION SUMMARY

A caption summary required by 49 C.F.R. § 1150.34 is attached to this Notice as Appendix 3.

CONCLUSION AND REQUESTED RELIEF

WHEREFORE, the Board should accept this Notice for filing, and should arrange for its timely publication in the *Federal Register* as notice to the general public.

Respectfully submitted,

MOUNTAIN PACIFIC RAILROAD LLC
200 Madrone Way
Felton, CA 95018

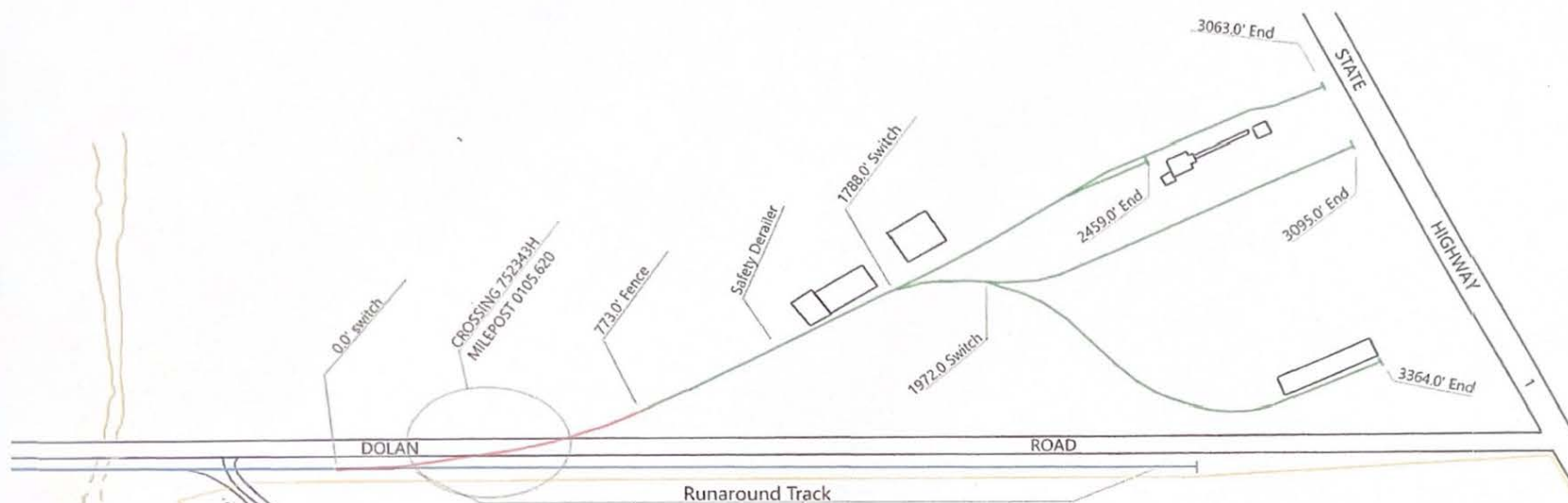
Applicant

/s/ Thomas F. McFarland

THOMAS F. McFARLAND
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Attorney for Applicant

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LEGEND

- UNION PACIFIC TRACKAGE
- PACIFIC GAS AND ELECTRIC SITE
- DOLAN RD CROSSING LOCATED OFF INDUSTRY PROPERTY
- INDUSTRY TRACKAGE LOCATED ON INDUSTRY PROPERTY

UNION PACIFIC
PACIFIC LINES
MOSS LANDING
TRACKAGE SERVING
MOSS LANDING COMMERCIAL P/

Appendix 1

Finance Docket No. 36624

Appendix 2

STATE OF CALIFORNIA)
) SS:
COUNTY OF SANTA CRUZ)

VERIFICATION

RICHARD KOJAK, being duly sworn, states that he is an authorized representative of MOUNTAIN PACIFIC RAILROAD LLC (MPR); that he has read the foregoing Notice of Exemption; that the projected annual revenues of the rail line being operated by MPR do not exceed \$5 million; that MPR's projected revenues as a result of the proposed operation will not result in the creation of a Class I or Class II rail carrier; that the proposed operation does not involve any interchange commitment as defined in 49 C.F.R. § 1150.33(h); and that all allegations of fact contained in MPR's Notice of Exemption are true and correct.


RICHARD KOJAK

SUBSCRIBED and SWORN to before me
this _____ day of _____, 2022.

*see Attached
Jurat*

Notary Public

My Commission Expires: 7/12/2023

CALIFORNIA JURAT

GOVERNMENT CODE § 8202

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Santa Cruz

Subscribed and sworn to (or affirmed) before me on

this 22nd day of June, 2022, by
Date Month Year

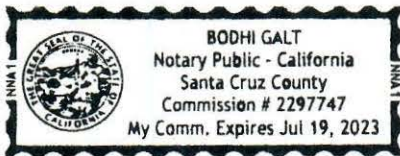
(1) Richard Kojak

(and (2) _____),
Name(s) of Signer(s)

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature Bodhi Galt
Signature of Notary Public

Place Notary Seal and/or Stamp Above



OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Verification

Document Date: 6/22/22 Number of Pages: 1

Signer(s) Other Than Named Above: None

Appendix 3

CAPTION SUMMARY

**SURFACE TRANSPORTATION BOARD
VERIFIED NOTICE OF EXEMPTION**

(Finance Docket No. 36624)

**MOUNTAIN PACIFIC RAILROAD LLC -- ACQUISITION AND
OPERATION EXEMPTION -- MOSS LANDING COMMERCIAL PARK,
LLC AT MOSS LANDING, MONTEREY COUNTY, CA**

MOUNTAIN PACIFIC RAILROAD LLC (MPR), a noncarrier, has filed a Verified Notice of Exemption for its acquisition by lease from MOSS LANDING COMMERCIAL PARK LLC and operation of a railroad-truck transloading site located at Moss Landing, CA. The transloading site consists of approximately 6818.7 feet of rail line.

Comments must be filed with the Surface Transportation Board and served on applicant's representative, Thomas F. McFarland, Thomas F. McFarland, P.C., 2230 Marston Lane, Flossmoor, IL 60422-1336, ph (708) 704-7679, mcfarland@aol.com.

This notice of exemption is filed under 49 C.F.R. § 1150.31. 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.

(SEAL)

By the Board