

306828

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Proceedings
August 8, 2023
Part of
Public Record

STB FINANCE DOCKET NO

36708

**JOHN HOWELL
CONTINUATION OF CONTROL EXEMPTION
WASHINGTON, IDAHO & MONTANA RAILWAY LLC**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1180.2 (d)(2).**

**John Howell
10401 North Saguaro Blvd Apt 126
Fountain Hills, Arizona 85268-5752**

Submitted By

**John K. Fiorilla, Esq.
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605 Main Street Suite 104
Riverton, N.J. 08077-1440
(609) 792-6851
EMAIL- jfiorilla@Dyerpeterson.com**

**FILED
August 8, 2023
SURFACE
TRANSPORTATION BOARD**

**FEE RECEIVED
August 8, 2023
SURFACE
TRANSPORTATION BOARD**

**BEFORE THE
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**JOHN HOWELL
CONTINUATION OF CONTROL EXEMPTION
WASHINGTON, IDAHO & MONTANA RAILWAY LLC**

VERIFIED NOTICE OF EXEMPTION

Pursuant to 49 C.F.R. 1180.4(g) (1) John Howell, a non-carrier hereby files this notice of exemption under 49 C.F.R. §1180.2(d) (2) for an exemption from the prior approval requirements of 49 U.S.C. § 11323 for his continuance in control of Washington, Idaho & Montana Railway, LLC (WIM) upon WIM becoming a rail carrier as a result of a Notice of Exemption for its operation of a rail line in Finance Docket # 36707 Washington, Idaho & Montana Railway, LLC Operation Exemption. Mr. Howell, the applicant has an office at 10401 North Saguaro Blvd, Apt 126, Fountain Hills, AZ 85268-5752 (630) 212-8660, Email johnh@davenporttrail.com . Mr. Howell submits the following information required by Board Regulations.

1. 49 C.F.R. §1180.6(a)(1)(i)

The person to whom correspondence with respect to the Notice of

Exemption should be addressed is John K. Fiorilla, Dyer & Peterson, P. C. 605 Main Street Suite 104 Riverton, N.J. 08077. Telephone 609-792-6851. Email jfiorilla@Dyerpeterson.com

The transaction is a class exemption from 49 U.S.C. 11323(a)(4) for Mr. Howell to continue in control of WIM upon WIM becoming a carrier as a result of the control of three other Class III rail carrier, i.e., West Erie Shortline Inc. (WESL) in Erie, Pennsylvania (which Mr. Howell controls through majority stock owned by Northern Illinois & Wisconsin Railway Corporation doing business as NIWX Corporation, a non-carrier (NIWX) and Blackwell Northern Gateway Railroad Company (BNG) which operates in portions of Kansas and Oklahoma. Mr. Howell's control of BNG is through a majority of shares owned either personally or through NIWX Corporation. Mr. Howell also holds a minority interest in Davenport Industrial Railroad (DIR) in Davenport, Iowa.

Acquisition of control of a carrier required Board approval under 49 U.S.C. § 11323 (a)(4)/ An application for such approval is required by 49 U.S.C. § 11324(a). However pursuant to 49 C.F.R. § 1180.2(d)(2) acquisition of such control is exempted from the prior approval requirements if:

- (1) The railroads would not connect with each other or any railroads in their corporate family.
- (2) The acquisition is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family.

Mr. Howell certifies that:

- 1) The rail properties operated by WESL and BNG and those to be operated by WIM do not connect with each other or any railroads in their corporate family; and

- 2) The continuance in control is not part of a series of anticipated transactions that would connect the rail lines WESL, BNG, DIR and WIM with each other or any railroads in the corporate family; and
- 3) The transaction does not involve a Class I or Class II rail carrier.

As such, the continuance in control qualifies for the class exemption under 49 C.F.R. 1180.2(d) (2).

2. 49 C.F.R. 1180.6

The acquisition of control will be consummated as soon as it is approved by the Board. .

3. 49 C.F.R. § 1180.6(a)(1)(iii)

The purposes sought to be accomplished by the proposed acquisition of control are to put into operation a line of railroad which is currently not being operated so as to improve rail service to the public.

4. 49 C.F.R. § 1180.6 (a)(5)

The railroads which are controlled by the applicant operate in the following States: WIM will operate wholly within the State of Idaho. WESL operates wholly in the Commonwealth Of Pennsylvania. BNG operates wholly in the States of Kansas and Oklahoma. DIR which Mr. Howell has a minority interest operates wholly in the State of Iowa.

5 49 C.F.R. 1180.6 @ (6)

Attached to this notice is an Appendix I-are three maps showing the rail lines to be operated by WIM. They are maps showing WESL, BNG and DIR. The rail lines are in different states and will not operate in relation to each other.

6. 49 C.F.R..E 1180. 7(ii)

The required copy of the Operating Lease under which WIM will operate is attached as Exhibit B. This Lease is subject to a Motion for a Protective Order.

Labor Protective Conditions

Pursuant to 49 U.S.C. S 10902, labor protective conditions do not apply and will not be imposed.

Environmental and Historic Preservation Matters

Pursuant to 49 CFR 1105.6 (c) (2), the proposed transaction is exempt from environmental review under 49 CFR 1105.6 (c) (2) (i), because the actions proposed herein will not cause any operating changes that exceed the thresholds established in 49 CFR 1105.7@) (4) or (5).

Verification

A verification of the facts in this notice is attached as Exhibit C

Dated: August 8, 2023

Respectfully Submitted,



John Howell,
10401 Nort Saguaro Blvd Apt 126
Fountain Hills, AZ 85268-5752
Applicant

John K. Fiorilla
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605 Main Street Suite 104
Riverton, N.J. 08077-1440
609-792-6851
Jfiorilla@dyerpeterperson.com
Attorney for Applicant

WESTERN ERIE SHORTLINE

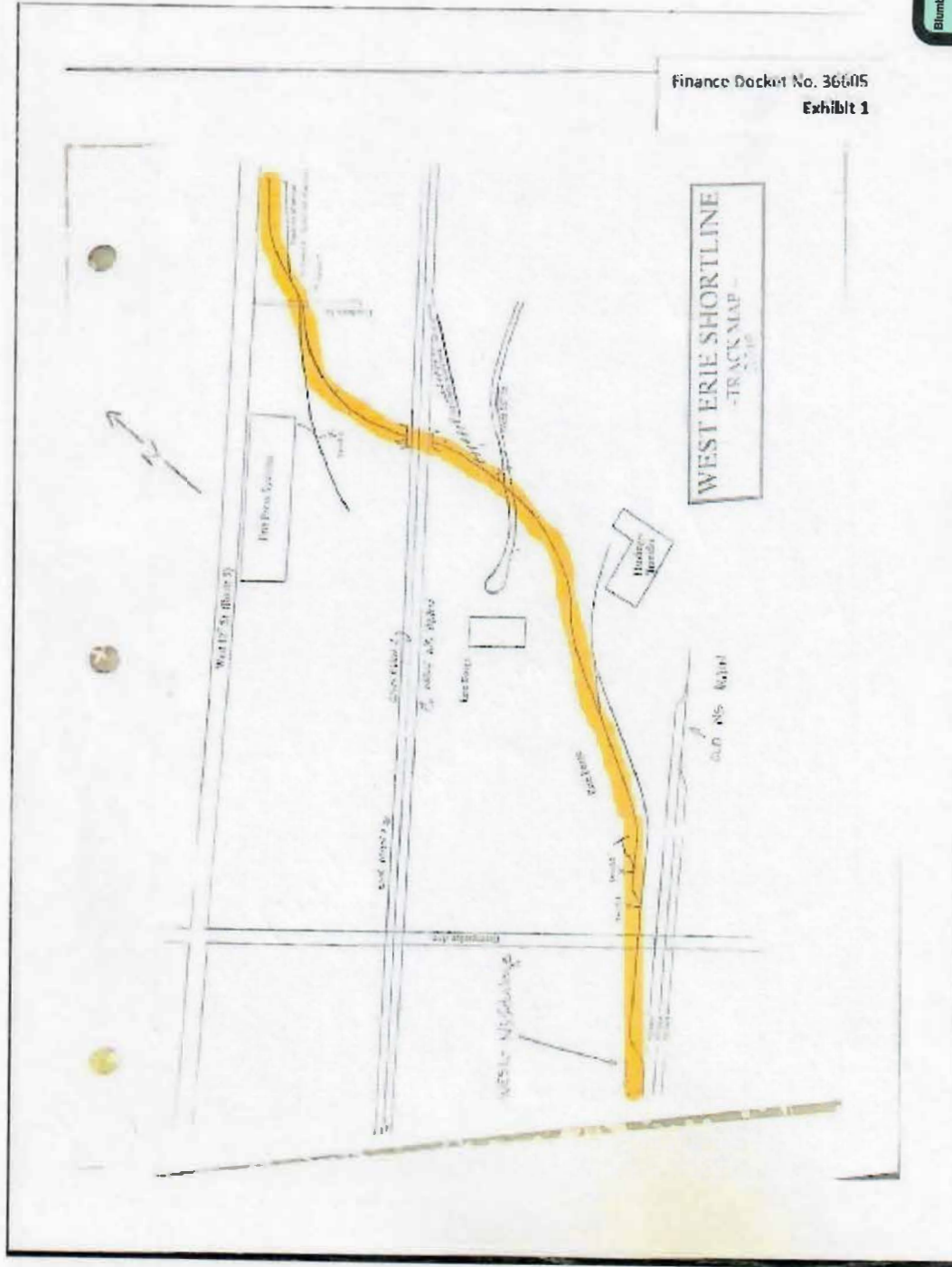
Blumberg No. 5119

EXHIBIT

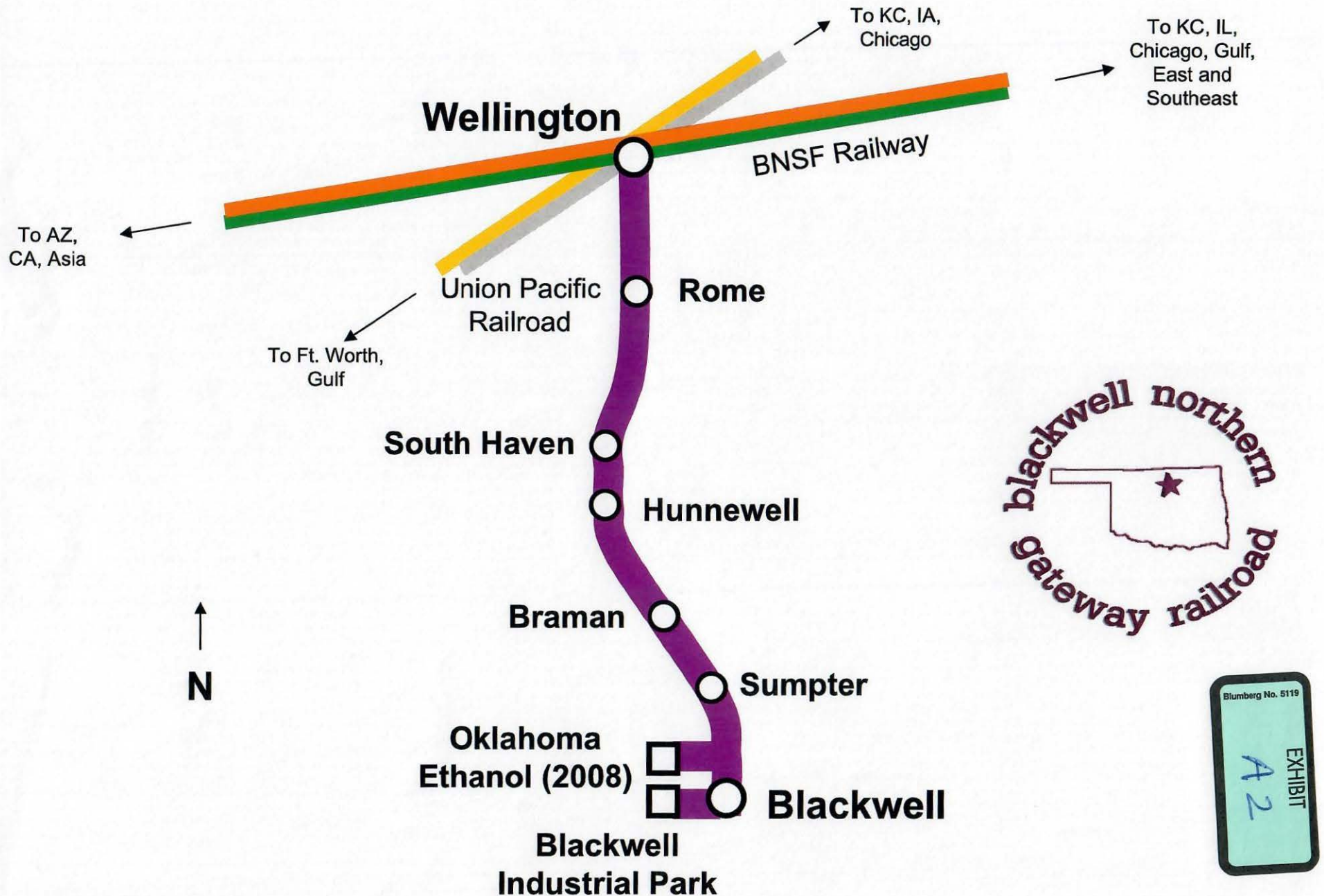
A1

Finance Docket No. 36605

Exhibit 1



Blackwell Northern Gateway Railroad



W 12th

Blumberg No. 5119
EXHIBIT
A3

NORTHERN ILLINOIS
+ WISCONSIN RAILWAY

290

Green Dr

Greengarden Blvd

Greengarden Blvd

Greengarden Blvd

W 16th St

W 18th St

WASHINGTON, IDAHO + MONTANA RAILWAY

Blumberg No. 5119

EXHIBIT

A4

Palouse River & Coulee City Railroad, L.L.C.

Sale Agreement:
Palouse River and Coulee City Railroad, L.L.C.
Buyer: Bennett Lumber Products, Inc.

City/County/State: Latah County, ID
Subdivision/Branch: WIM Industrial Load
Mile Posts: 3.32-47.06



— Proposed Sale
◆ Mileposts



0 2.5 5.1 7.6 10.2 Miles

Longitude:	-116.73
Latitude:	46.87
Date:	1/25/2023
Drawn By:	AB



This Exhibit is the Lease and Operation agreement between BLPI RR LLC and Wahington, Idaho & Montana Railway LLC for which a Motion for a Protective Order is being filed



VERIFICATION

I, John Howell the Applicant, hereby certifies that I have read the foregoing Notice of Exemption and am knowledgeable of facts stated therein, and that the same are true as stated to the best of my knowledge. I am aware that if any of the foregoing statements are willfully false, that I am subject to punishment.

A handwritten signature in black ink that reads "John K. Howell".

August 4, 2023

John Howell