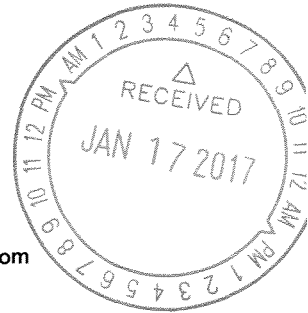


January 17, 2017

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ENTERED
Office of Proceedings
January 17, 2017
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Public Record

JOHN D. HEFFNER
(202) 742-8607
Direct Fax (202) 742-8697
John.Heffner@strasburger.com



BY HAND

Ms. Cynthia T. Brown
Chief of Administration
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

RE: FD 36084, West Branch Intermediate Holdings, LLC, and Continental Rail LLC –Acquisition of Control Exemption – Cimarron Valley Railroad, L.C., Clarkdale Arizona Central Railroad, L.C., Wyoming And Colorado Railroad Company, Inc.

RE: FD 36085, New Mexico Central Railroad, LLC - Acquisition and Operation Exemption - Southwestern Railroad, Inc., Whitewater Division

RE: FD 36087, West Branch Intermediate Holdings, LLC, and Continental Rail LLC – Continuance in Control Exemption – New Mexico Central Railroad, LLC

Dear Ms. Brown:

On behalf of the applicants shown above, West Branch Intermediate Holdings, LLC, Continental Rail LLC, and New Mexico Central Railroad, LLC, I am enclosing for filing in the above-captioned proceedings an original and ten copies of three verified notices of exemption as well as a Motion for a Protective Order for the exemption in FD 36084. Additionally, I am submitting in the envelop marked “confidential” a copy of a confidential Letter of Intent governing New Mexico Central’s acquisition of the three carriers identified in FD 36084.

Please date stamp and return copy of each filing as well a copy of the Motion for a Protective Order and the extra confidential Letter of Intent as well as

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Strasburger & Price, LLP

Strasburger
ATTORNEYS AT LAW

Ms. Cynthia T. Brown

January 17, 2017

Page 2

a copy of each filing on a compact disk. A check for \$4,700 representing the combined filing fees is enclosed as well. Please contact me if you have any questions.

Sincerely yours,

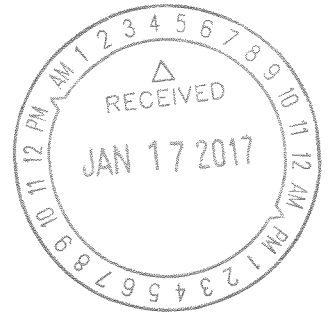
A handwritten signature in dark ink, appearing to read "John D. Heffner", with a long, sweeping horizontal flourish extending to the right.

John D. Heffner

Enclosures

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 36085



**NEW MEXICO CENTRAL RAILROAD, LLC
—ACQUISITION AND OPERATION EXEMPTION—
SOUTHWESTERN RAILROAD, INC., WHITEWATER DIVISION**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 U.S.C. §10901 and 49 CFR §1150.31**

Submitted By:

John D. Heffner
Strasburger & Price, LLP
1025 Connecticut Avenue, N.W.
Suite 717
Washington, D.C. 20036
(202) 742-8607

Counsel for Applicant

Dated: January 17, 2017

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 36085

**NEW MEXICO CENTRAL RAILROAD, LLC
—ACQUISITION AND OPERATION EXEMPTION—
SOUTHWESTERN RAILROAD, INC., WHITEWATER DIVISION**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 U.S.C. §10901 and 49 CFR §1150.31**

New Mexico Central Railroad, LLC (“NMCR” or “Buyer”), a newly established non-carrier, files this Notice of Exemption, pursuant to 49 C.F.R. §1150.31, et. seq., with the Surface Transportation Board (the “Board”) to permit it to acquire and operate a series of lines of railroad (“the Lines” or “the Whitewater Division”) currently owned or leased and operated by Southwestern Railroad, Inc. (“Southwestern” or “Seller”), an existing Class III common carrier short line railroad. The total miles involved are approximately 116 miles. A map depicting the Lines is shown on the attached Exhibit A.

INFORMATION REQUIRED BY 49 CFR §1150.33

Name and Address of Applicant **49 CFR §1150.33(a)**

New Mexico Central Railroad, LLC
c/o Continental Rail Corp.
2929 E. Commercial Boulevard, Suite PH-D
Fort Lauderdale, Florida 33308

Name and Address of Applicant's Representative 49 CFR §1150.33(b)

John D. Heffner
Strasburger & Price, LLP
1025 Connecticut Ave., N.W.
Suite 717
Washington, D.C. 20036
(202) 742-8607

Statement of Agreement 49 CFR §1150.33(c)

Buyer and Seller have executed a letter of intent for Buyer to purchase certain assets of the Seller, including the Lines that are the subject of this transaction. Buyer and Seller are currently negotiating a purchase and sale agreement governing the purchase of the Lines as well as certain other assets. The parties expect to reach agreement shortly.

Operator of the Property 49 CFR §1150.33(d)

Southwestern is currently the operator. Upon consummation of the proposed transaction, NMCR will become the operator of the Whitewater Division.

Brief Summary of Transaction 49 CFR §1150.33(e)

NMCR is a newly established non-carrier owned by West Branch Intermediate Holdings, LLC ("West Branch"), and managed by Continental Rail Corp. ("Continental"), which currently control through stock ownership one existing Class III common carrier short line railroad, Delta Southern Railroad, Inc.

(“Delta”). NMCR proposes to acquire the Lines as part of a unified business strategy to acquire and operate short line common carrier railroads with growth potential.

Southwestern currently operates two disconnected lines of railroad. It owns and operates the Whitewater Division (also known as the Whitewater Branch). The Lines connect Deming with Whitewater, NM, and then fork into a series of branches radiating from Whitewater to Tyrone, Fierro, and Santa Rita, NM. The Lines to be operated by NMCR also include a line that Southwestern currently leases from BNSF Railway Company and operates between Deming and Rincon, NM. The total Southwestern mileage that NMCR will acquire (by purchase or lease) and operate is approximately 116 miles.

Southwestern also leases and operates a BNSF Railway line known as the Carlsbad Subdivision, which consists of approximately 227.6 miles of railroad linking Clovis, Carlsbad, and Loving, NM. Prior to 2017, Southwestern was the exclusive operator of the Carlsbad Division. BNSF and Southwestern have amended their lease agreement to allow BNSF to resume operations in January 2017. *See Southwestern Railroad, Inc. – Amended Lease and Operation Exemption – BNSF Railway Company*, FD 34533 (Sub-No. 1) (STB served Aug. 12, 2016). NMCR is not acquiring Southwestern’s operating rights over the Carlsbad Division. Those rights will remain with Southwestern.

Other information required

(1) Name and address for the party transferring the subject property:
Southwestern Railroad, Inc.

3811 Airport Road
Ogden, Utah 84405

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

NMCR intends to consummate this transaction once this notice becomes effective and the 60-day period required under the Board's requirement for providing notice to potential employees under 49 CFR §1150.32(e) has expired.

(3) The mileposts of the subject property, including any branch lines:
Leasehold interest to be transferred:

- Deming (MP 1134) to Rincon (MP 1080)

Ownership:

- Deming (MP 0.0) to Peruhill (MP 5+3763 feet)
- Peruhill (MP 5+3763) to Whitewater (MP 30+2972)
- Whitewater (near MP 30+2972 feet) to the Tyrone Industrial Spur at Burro Mountain Jct. (near MP 33+5256 feet)
- Whitewater (MP 0+0750 feet) to Santa Rita (MP 16+1500 feet)
- Hanover, Jct. (MP 14+ 1345.4 feet) to the connecting line at the Fierro Industrial Spur at the Sharon Steel Plant (near MP 6+1804 feet)

(4) The total route miles being acquired:

Approximately 116 miles are being acquired.

Map 49 CFR §1150.33(f)

A map depicting the involved operation is attached as Exhibit A.

Certificate of Revenues 49 CFR §1150.33(g) and
Certification of Compliance with Employee and Labor Protections
49 C.F.R. §1150.32(e)

NMCR certifies that this transaction will not result in it becoming a Class II or Class I rail carrier. The projected annual railroad operating revenue of NMCR will exceed \$5,000,000. Consequently, NMCR has complied with the notice requirements of 49 CFR §1150.32(e). NMCR certified its compliance with Section 1150.32(e) on December 16, 2016. A certification of revenues and compliance with §1150.32(e) is attached as Exhibit B.

Interchange Commitments 49 CFR §1150.33(h)

Not applicable. The agreement between Buyer and Seller does not contain any provisions imposing any interchange commitments.

Related transactions

Concurrent with this filing, West Branch and Continental are submitting two verified notices of exemption under 49 CFR §1180.2(d) (2). FD 36084 covers Applicants' control of three disconnected Class III common carrier short line railroads currently owned and controlled by Seller: Cimarron Valley Railroad, L.C., Clarkdale Arizona Central Railroad, L.C., and Wyoming & Colorado Railroad, Inc. *See West Branch Intermediate Holdings, LLC and Continental Rail, LLC—Continuance in Control Exemption—Cimarron Valley Railroad, L.C.,*

Clarkdale Arizona Central Railroad, L.C., and Wyoming And Colorado Railroad Company, Inc. FD 36087 covers Applicants' continuance in control of NMCR once it becomes a carrier. *See West Branch Intermediate Holdings, LLC and Continental Rail, LLC—Continuance in Control Exemption—New Mexico Central Railroad, LLC.*

Caption Summary 49 CFR §1150.34

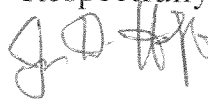
A caption summary in the prescribed form is attached as Exhibit C to this Notice.

Environmental and Historic Preservation Data 49 CFR §1105

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

In addition, this transaction is exempt from historic review under 49 CFR §1105.8(b) (1). Under this section, a sale, lease or transfer of a rail line is exempt if rail operations will continue. Further Board approval is required to abandon service, and there are no plans to dispose of or alter the properties subject to Board jurisdiction.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "J.D. Heffner", with a long horizontal flourish extending to the right.

John D. Heffner
Strasburger & Price, LLP
1025 Connecticut Avenue, N.W.
Suite 717
Washington, D.C. 20036
(202) 742-8607

Counsel for Applicant

Dated: January 17, 2017

EXHIBIT A

Southwestern Railroad

Whitewater Division



● Interchange Station

— SW

— Union Pacific

— BNSF Railway

— Other Railroads

Southwestern
Railcar Services



Connections: UP at Deming NM
BNSF at Rincon, NM

Miles



Copyright 2015, Southwestern Railroad, Inc. (505) 234-1300 www.southwesternrail.com

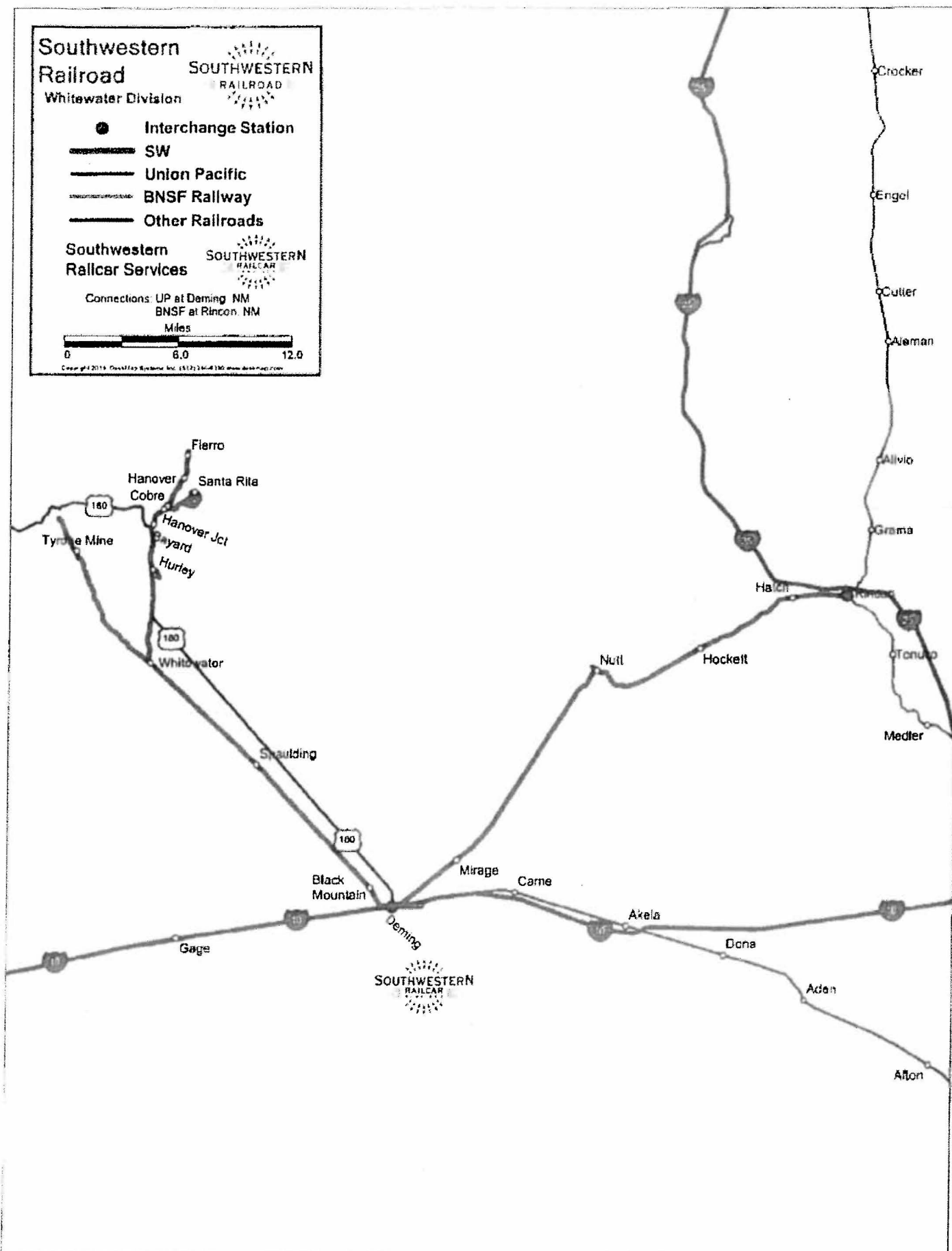


Exhibit B

Certification

I, John H. Marzullo, certify that this transaction will not result in the Applicant railroad becoming a Class I or Class II rail carrier. Applicant further certifies that its project annual revenues will exceed \$5 million. Consequently, Applicant has complied with the notice requirements of 49 CFR §1150.32(e), and has certified its compliance to the Board on June 11, 2017.

Dated: __, 2017


Signature

Strasburger
ATTORNEYS AT LAW

December 16, 2016

Writer's Direct Dial No:
(202) 742-8607
Direct Fax (202) 742-8697
John.Heffner@strasburger.com

BY E-FILING

Ms. Cynthia T. Brown
Chief of Administration
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

**RE: FD 36085, New Mexico Central Railroad, LLC, Acquisition and
Operation Exemption-Southwestern Railroad Whitewater Division**

Dear Ms. Brown:

On behalf of the New Mexico Central Railroad, LLC, a newly established noncarrier, I am certifying that the attached labor notice was posted at the work place of the employees of the Southwestern Railroad at Deming, NM. This notice has not been served on the national offices of the labor unions with employees who work on the affected line as there are no unionized employees employed by the Southwestern Railroad.

Please contact me if you have any questions.

Sincerely yours,



John D. Heffner

Enclosure

0521/211389 271/7428607/21516

Strasburger & Price, LLP

1105 Connecticut Ave., N.W., Suite 1100, Washington, DC 20036-2027 (202) 742-8600 (fax) (202) 742-8697 (fax) www.strasburger.com
Atlanta • Dallas • Denver • Houston • San Antonio • New York, N.Y. • Washington, D.C. • Western City • Strasburger & Price, S.L.

Labor Notice required under 49 CFR §1150.32(e)

On or about Feb. 16, 2017, New Mexico Central Railroad, LLC ("NMCR"), a newly established noncarrier, will be acquiring certain assets of Southwestern Railroad, Inc., known as its Whitewater Division. Pursuant to the regulations of the Surface Transportation Board, NMCR gives notice as required by 49 CFR §1150.32(e).

There are approximately 23 open positions at NMCR's office at the company location at 308 East First Street in Deming, New Mexico. These positions require the following minimum skills and/or qualifications as indicated in the descriptions below.

Operation Manager- (Salary range - \$60,000 - 72,000):

Approximately 1 position as follows: Deming, NM. This position requires the following minimum skills and/or qualifications:

- Supervises and coordinates activities of train crews engaged in switching-RR operations.
- Must possess a high school education or GED, and a minimum of 6 months job-related experience; or equivalent combination of education and experience.
- Must possess a valid Engineer's certificate issued by a program in compliance with 49 CFR Part 240.
- Must be able to meet all hearing and vision requirements of 49 CFR Part 240.
- Must have an understanding of air brake and mechanical systems of a train and locomotives, and pass a written test to verify competency.
- Must have a valid driver's license.

Administrative Assistant (Salary range - \$15.00 - 17.00 per hour):

Approximately 1 position as follows: Deming, NM. These positions require the following minimum skills and/or qualifications:

- Perform clerical and data input functions to support train operations.
- Perform clerical and data input functions to support payroll and accounting functions.
- Provide support to Operations Manager as required.
- Must possess a high school education or GED, and a minimum of 6 months job-related experience; or equivalent combination.
- Must have a minimum of one year's experience with MS Office products including Outlook, Word, and Excel.
- Must have a valid driver's license.

Crew Driver (Salary Range - \$10.00 - 12.00 per hour):

Approximately 1 position as follows: Deming, NM. This position requires the following minimum skills and/or qualifications:

- Must drive company vehicles safely to transport employees to various work locations in the region.
- Provide support to Operations Manager and Administrative Assistant as required.
- Must possess a high school education or GED, and a minimum of 6 months job-related experience; or equivalent combination.
- Must have a valid driver's license.

Conductor (Salary Range - \$18.00 - 27.00 per hour):

Approximately 5 positions in Deming, NM, Hurley, NM, and/or Tyrone, NM. These positions require the following minimum skills and/or qualifications:

- At least 1 year experience as a Conductor/Brakeman.
- Must have Qualifications on the General Code of Operating Rules (GCOR) and have passed a written test in the past 18 months.
- Must have an understanding of air brake and mechanical system of a train and locomotive and pass a written test to verify competency.

Engineer (Salary Range \$24.00 - 28.00 per hour):

Approximately 5 positions in Deming, NM, Hurley, NM, and/or Tyrone, NM. These positions require the following minimum skills and/or qualifications:

- At least 1 year experience as a Locomotive Engineer.
- Must possess a valid Engineer's certificate issued by a program in compliance with 49 CFR Part 240.
- Must be able to meet all hearing and vision requirements of 49 CFR Part 240.
- Must have an understanding of air brake and mechanical systems of a train and locomotives and pass a written test to verify competency.
- Preference for individual's holding dual qualification as Locomotive Engineer and Conductor.

Locomotive Supervisor (Salary Range \$19.50 to 22.50 per hour) :

1 position located in Deming, NM. This position requires the following minimum skills and/or qualifications:

- Directly supervise shop craft employees to safely execute maintenance plan.
- Ensure labor and equipment is positioned to inspect test and repair equipment to meet the needs of the daily plan.
- Must have previous mechanical department or equivalent industry experience.
- Must possess a high school education or GED, and a minimum of 12 months job-related experience or equivalent combination of education and experience.
- Comply with all FRA and company safety standards.
- Other duties as assigned.
- Must have a valid driver's license.

Locomotive Mechanical (Salary Range \$17.00 - 20.00 per hour):

Approximately 1 position located in Deming, NM. This position requires the following minimum skills and/or qualifications:

- Make repairs and perform scheduled maintenance to both inbound and outbound locomotives.
- Must have knowledge of and comply with FRA standards.
- Must possess a high school education or GED and a minimum of 12 months job-related experience or equivalent combination of education and experience.
- Prefer background in technical training in Diesel maintenance/repair or Electrical maintenance/repair.
- Demonstrate knowledge and ability in using required hand and power tools.
- Must have a valid driver's license.

Track Supervisor (Salary Range \$38,000 - \$45,000):

1 position located in Deming, NM. This position requires the following minimum skills and/or qualifications:

- Responsible for supervision of track inspection and maintenance in accordance with FRA standards.
- Inspect railroad track structure for compliance with railroad policy and federal/state regulations.
- Implement remedial action on defects pending repair.
- Oversee/direct production gang work.
- Inspect completed work to verify conformance to government regulations.
- Prepare inspection reports for management and government compliance.
- Must possess 3 years' experience in Railroad Track Maintenance.
- Must have a valid driver's license.

MoW laborer (Salary range - \$16.00 - \$22.00 per hour):

Approximately 7 positions as follows: Deming, NM and Hurley, NM. These positions require the following minimum skills and/or qualifications:

- Perform tasks associated with track work including but not limited to pulling and driving spikes, replacing ties, surfacing track, changing rail, bars, and other track apparatus.
- Must be willing to learn and apply FRA rules and regulations and be able to perform maintenance in a timely manner.
- Must be willing to learn to operate in a safe and efficient manner, all equipment and tools associated with track maintenance.
- Must possess a high school education or GED and a minimum of 12 months job-related experience or equivalent combination of education and experience.
- Should have a valid driver's license.

The most qualified candidates will be selected from the available pool of applicants without regard to race, creed, color, religion, national origin, sex, age, marital status, disability or veteran status. The selection criteria will be job-related skills and attributes as outlined above. Successful candidates must have a stable work record and exhibit safe work practices. The ability to work in a team environment with a focus on customer service is critical. Applicants must be able to read and comprehend regulations and instructions in English, as well as possess good oral communication skills. Successful applicants will be required to pass a pre-employment drug and alcohol screen and complete a medical questionnaire. Every employee is an at-will employee. All employees are expected to know and abide by standard code of Employee Conduct.

Positions will be filled sometime after February 16, 2017. All candidates will be notified of employment decisions.

Company provided benefits: participation in the Railroad Retirement Program, company-paid medical insurance and life insurance for employee and dependents, dependent medical, and family dental and vision provided at cost for employees, paid vacation, 401(k) Program, and 9 paid holidays.

All jobs will be posted on location at the workplace of NMCR at 308 East First Street in Deming, New Mexico and information can be obtained by calling Continental Railroad's Human Resources Director Martin Smith at 954-444-3331 or emailing him at martin.smith@continentalrail.us. Interested individuals should submit resumes or a company application for employment indicating their interest and for which position they are applying for not later than Monday, January 16, 2017. Applications can be obtained by email Martin Smith at the email address above.

EXHIBIT C

CAPTION SUMMARY

BEFORE THE SURFACE TRANSPORTATION BOARD

FD 36085 NEW MEXICO CENTRAL RAILROAD, LLC —ACQUISITION AND OPERATION EXEMPTION— SOUTHWESTERN RAILROAD, INC., WHITEWATER DIVISION

VERIFIED NOTICE OF EXEMPTION PURSUANT TO 49 U.S.C. §10901 and 49 CFR §1150.31

New Mexico Central Railroad, LLC (“NMCR” or “Buyer”), a newly established non-carrier, files this Notice of Exemption, pursuant to 49 C.F.R. §1150.31, et. seq., with the Surface Transportation Board (the “Board”) to permit it to acquire and operate approximately 116 miles of railroad (“the Lines”) currently owned or leased and operated by Southwestern Railroad, Inc. (“Southwestern” or “Seller”), an existing Class III common carrier short line railroad. As part of the transaction, NMCR intends to assume by assignment existing lease agreements between Southwestern and BNSF Railway Company. The Lines that NMCR will acquire or lease and operate connect Deming with Whitewater, NM, with branches radiating from Whitewater to Tyrone, Fierro, and

Santa Rita, NM. NMCR also intends to acquire Southwestern's leasehold interest in a line that Southwestern leases from BNSF Railway between Deming and Rincon, NM.

NMCR will take ownership of the following line segments: Deming (MP 0.0) to Peruhill (MP 5+3763 feet), Peruhill (MP 5+3763) to Whitewater (MP 30+2972), Whitewater (near MP 30+2972 feet) to the Tyrone Industrial Spur at Burro Mountain Jct. (near MP 33+5256 feet), Whitewater (MP 0+0750 feet) to Santa Rita (MP 16+1500 feet), and Hanover, Jct. (MP 14+ 1345.4 feet) to the connecting line at the Fierro Industrial Spur at the Sharon Steel Plant (near MP 6+1804 feet). NMCR intends to assume Seller's lease of a line of railroad owned by BNSF Railway extending from Deming (MP 1134) to Rincon (MP 1080). The total Southwestern mileage that NMCR will acquire or lease and operate is approximately 116 miles.

Concurrent with this filing, West Branch and Continental (collectively, "Applicants") are submitting two verified notices of exemption under 49 CFR §1180.2(d) (2). FD 36084 covers Applicants' control of three disconnected Class III common carrier short line railroads currently owned and controlled by Seller: Cimarron Valley Railroad, L.C., Clarkdale Arizona Central Railroad, L.C., and Wyoming & Colorado Railroad, Inc. *See West Branch Intermediate Holdings, LLC and Continental Rail, LLC—Continuance in Control Exemption—Cimarron*

Valley Railroad, L.C., Clarkdale Arizona Central Railroad, L.C., and Wyoming And Colorado Railroad Company, Inc., FD 36087 covers Applicants' continuance in control of NMCR once it becomes a carrier. *See West Branch Intermediate Holdings, LLC and Continental Rail, LLC—Continuance in Control Exemption—New Mexico Central Railroad, LLC.*

An original and ten copies of all pleadings referring to FD 36085 must be filed with the Board and served on NMCR's representative: John D. Heffner, Strasburger & Price, LLP, 1025 Connecticut Avenue, N.W., Suite 717, Washington, D.C. 20036, (202) 742-8607. This notice is filed under 49 C.F.R. § 1150.31, et. seq. If the notice contains false or misleading information, the exemption is void *ab initio*. The filing of a petition to revoke will not automatically stay the transaction.

Board decisions and notices are available on our website at
WWW.STB.GOV

Decided:

By the Board,

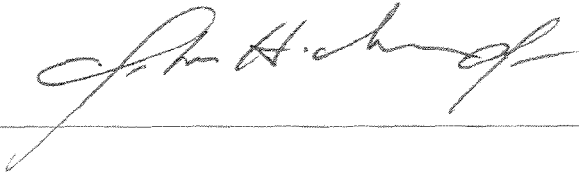
Daniel R. Elliott

VERIFICATION

STATE OF Virginia ,

CITY OF Alexandria)

John H. Maring being duly sworn according to law, hereby deposes and states that (s)he holds the position of - CEO - with applicant/petitioner, is authorized to make this Verification, had read the foregoing document, and knows the facts asserted therein are true and accurate as stated, to the best of (her)his knowledge, information, and belief.



Subscribed to and sworn to before me, a Notary Public, in and for the ^{city} Alexandria County of Alexandria in the State of VA, this 11th day of Jan.


Notary Public

My Commission expires: 06/30/19

