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ENTERED
Office of Proceedings
March 12, 2018
Part of
Public Record

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March 9, 2018

VIA OVERNIGHT DELIVERY

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20024



Re: Docket No. AB-1262X
Alliance Terminal Railroad – Discontinuance of Service and
Trackage Rights Exemption – In Denton and Tarrant Counties, Tex.

Dear Ms. Brown:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of a **Verified Notice of Exemption of Alliance Terminal Railroad, LLC (“the Notice”)**, pursuant to 49 C.F.R. § 1152.50. An electronic version of the Notice has been copied to the enclosed disc. A check for the filing fee of \$4,100.00 is also enclosed.

The proposed action entails the discontinuance of rail common carrier service over the subject rail line, rather than abandonment of that line. Accordingly, no Environmental or Historic Report has been prepared as part of this proceeding.

If you have any questions regarding this filing, please feel free to contact me at either bsmith@fletcher-sippel.com or (312) 252-1516. Thank you for your assistance on this matter. Kind regards.

Respectfully submitted,

Bradon J. Smith
Bradon J. Smith
Attorney for Alliance Terminal Railroad, LLC

BJS:dg
Enclosures

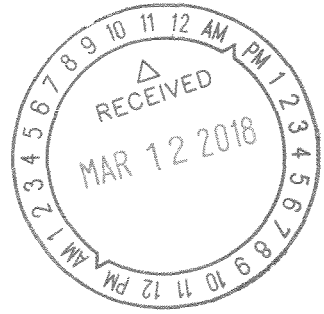
FEE RECEIVED
March 12, 2018
SURFACE
TRANSPORTATION BOARD

FILED
March 12, 2018
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-1262X

ALLIANCE TERMINAL RAILROAD, LLC
– DISCONTINUANCE OF SERVICE EXEMPTION –
IN DENTON AND TARRANT COUNTIES, TEX.



**VERIFIED NOTICE OF EXEMPTION OF
ALLIANCE TERMINAL RAILROAD, LLC
PURSUANT TO 49 C.F.R. § 1152.50**

Bradon J. Smith
Fletcher & Sippel LLC
29 North Wacker Drive
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Chicago, Illinois 60606-2832
(312) 252-1500

**ATTORNEY FOR ALLIANCE TERMINAL
RAILROAD, LLC**

Dated: March 9, 2018

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-1262X

ALLIANCE TERMINAL RAILROAD, LLC
– DISCONTINUANCE OF SERVICE EXEMPTION –
IN DENTON AND TARRANT COUNTIES, TEX.

**VERIFIED NOTICE OF EXEMPTION OF
ALLIANCE TERMINAL RAILROAD, LLC
PURSUANT TO 49 C.F.R. § 1152.50**

Alliance Terminal Railroad, LLC (“ATR”) hereby submits this Verified Notice of Exemption under 49 C.F.R. § 1152.50 for the discontinuance of service over approximately 23.9 miles of railroad track (hereinafter, the “Line”) owned by BNSF Railway Company (“BNSF”) in Denton and Tarrant Counties, Texas. The description of the Line and the scope of ATR’s common carrier operations over it (which were governed by its since-terminated sublease of a roughly 12.9-mile portion of the Line and its acquisition of incidental trackage rights over the balance of the Line), is generally set forth in Alliance Terminal Railroad, LLC – Lease and Operation Exemption – Quality Terminal Services, LLC, Docket No. FD 34537 (STB Served Sep. 16, 2004) (“Alliance Terminal”). By virtue of the termination of the aforementioned sublease, ATR suspended all operations over the Line more than two years ago. The Line that is the subject of this discontinuance of service notice of exemption constitutes the entirety of ATR’s past operations; ATR is currently a dormant carrier.

In accordance with the requirements of 49 C.F.R. § 1152.50(d)(2), ATR submits the following information:

Certification for Class Exemption (49 C.F.R. § 1152.50(b)):

ATR qualifies to invoke the Board's discontinuance of service class exemption at 49 C.F.R. § 1152.50 in order to terminate its common carrier status and obligations over railroad lines owned and operated by a third-party rail carrier (BNSF).¹ See Certification and Verification of Hubert Gassner, Secretary of ATR, attached hereto and made part hereof as Exhibit A.

Additional Information Required: (49 C.F.R. §§ 1152.22(a)(1)-(2), (7)-(8) and (e)(4)):

Exact name of applicant (49 C.F.R. § 1152.22(a)(1):

Alliance Terminal Railroad, LLC

Whether applicant is a common carrier by railroad (49 C.F.R. § 1152.22(a)(2)):

ATR is a common carrier by railroad subject to the Board's jurisdiction under 49 U.S.C. Subtitle IV. See Alliance Terminal.

Relief sought (49 C.F.R. § 1152.22(a)(3)):

ATR seeks to discontinue common carrier service over the Line, consisting of – (a) roughly 12.9 miles of subleased track² (owned by BNSF and previously leased to Quality Terminal Services, LLC – the latter of which is a non-carrier corporate affiliate of ATR) in Haslet, Texas and (b) an additional 11 miles of incidental, overhead trackage rights over BNSF Main Line Track #2 in Haslet and Saginaw, Texas, splitting from BNSF Main Line #1 at milepost 359.0 and rejoining BNSF Main Line #1 at milepost 370.0. See Alliance Terminal.

¹ See Delaware and Hudson Railway Company – Discontinuance of Trackage Rights Exemption – In Broome County, N.Y., et al., Docket No. AB-156 (Sub-No. 27X) (STB Served Apr. 17, 2015).

² The subleased track lies adjacent to BNSF Main Line #2. There are no mileposts associated with the subleased track or BNSF Main Line #2, but the 12.9 miles of subleased track lies approximately between mileposts 362.2 and 365.0 on BNSF Main Line #1.

The purpose behind ATR's invocation of the discontinuance of service class exemption is to undo the transaction covered by the aforementioned Alliance Terminal exemption notice by relinquishing ATR's respective sub-leasehold and incidental trackage rights interests in the Line.

Map (49 C.F.R. § 1152.22(a)(4)):

A map depicting the location of the Line is attached hereto as Exhibit B.

ATR's representative (49 C.F.R. § 1152.22(a)(7)):

ATR's representative to whom correspondence regarding this discontinuance should be sent to:

Bradon J. Smith
Fletcher & Sippel LLC
29 N. Wacker Drive
Suite 920
Chicago, IL 60606-2832
312-252-1500

ZIP codes traversed (49 C.F.R. § 1152.22(a)(8)):

The Line traverses United States Postal Service ZIP Code territories 76052 and 76247.

Suitability for other public purposes (49 C.F.R. § 1152.22(e)(4)):

The informational requirement of Section 1152.22(e)(4) (alternative public uses of rail property) is pertinent only where a railroad proposes to abandon rail property, not where

(as here) the railroad proposes solely to discontinue service.³ Nevertheless ATR is unaware of any alternative public use for which the trackage rights might be suitable.

Consummation Date (49 C.F.R. § 1152.50(d)(2)):

ATR will consummate the discontinuance no earlier than May 1, 2018.

Labor Protection (49 C.F.R. § 1152.50(d)(2)):

If ATR is authorized to discontinue rail service over the Line, no corporate affiliate of ATR will undertake or continue substantially similar rail operations. Moreover, no corporate parent of ATR will realize any substantial financial benefits beyond that gained by relieving ATR of its common carrier obligation over a line that ATR has not operated over in more than two years. In those circumstances and where, as here, ATR intends to end the entirety of its operations and relinquish all rights and obligations over the Line that comprises its entire system, the Board normally does not impose employee protective conditions. See New York and Eastern Railway, LLC – Discontinuance Exemption – In Dutchess County, NY, Docket No. AB-873X, et al. (STB Served Oct. 15, 2004) (applying the “entire system” labor protection standards of Northampton and Bath R. Co. – Abandonment, 354 I.C.C. 784 (1978) in the context of a discontinuance of service notice of exemption). The Board should adhere to that precedent here.

Certifications (49 C.F.R. § 1152.50(d)(1)):

A certificate that the newspaper publication and advance notice provisions of 49 C.F.R. §§ 1105.12 and 1152.50(d)(1), respectively, have been satisfied is attached hereto as Exhibit C. For reasons set forth in the “Environmental and Historic Report” section below, the

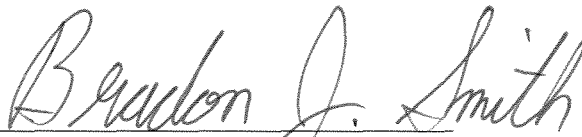
³ See, e.g., Columbus and Greenville Railway Company – Discontinuance of Service Exemption – In Greenwood, MS, Docket No. AB-297 (Sub-No. 103X) (STB served July 3, 2007) at 2 n.2 (“Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate”).

certification of service requirement at 49 C.F.R. § 1105.11 (transmittal of Environmental and Historic Reports) is inapplicable here.

Environmental and Historic Report (49 C.F.R. §§ 1105.7 and 1105.8):

A notice of exemption to discontinue service over (rather than to abandon) a line of railroad under the class exemption does not require the preparation or submission of an Environmental/Historic Report.⁴

Respectfully submitted,

By: 

Bradon J. Smith
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2832
(312) 252-1500

**ATTORNEY FOR ALLIANCE TERMINAL
RAILROAD, LLC**

Dated: March 9, 2018

⁴See, e.g., Indiana Harbor Belt Railroad Co. – Discontinuance of Trackage Rights Exemption – In Lake County, Ind. (STB served Mar. 30, 2010) Docket No. AB-317 (Sub. No. 6) n.3 (“Because this is a discontinuance proceeding and not an abandonment . . . no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively.”)

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-1262X

ALLIANCE TERMINAL RAILROAD, LLC
– DISCONTINUANCE OF SERVICE EXEMPTION –
IN DENTON AND TARRANT COUNTIES, TEX.

EXHIBIT A

**CERTIFICATION PURSUANT TO
49 C.F.R. § 1152.50(b) AND
VERIFICATION**

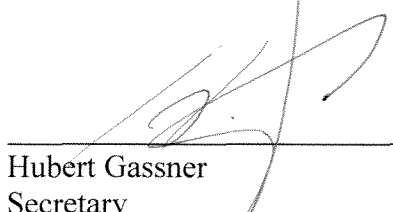
ALLIANCE TERMINAL RAILROAD, LLC
– DISCONTINUANCE OF SERVICE EXEMPTION –
IN DENTON AND TARRANT COUNTIES, TEX.

STATE OF COLORADO)
COUNTY OF DENVER) ss

1. Alliance Terminal Railroad, LLC (“ATR”) seeks to discontinue common carrier service over approximately 23.9 miles of railroad track (“the Line”) owned by BNSF Railway Company (“BNSF”) in Denton and Tarrant Counties, Texas, as is set forth in the foregoing notice of exemption.
2. ATR has handled no local traffic over the Line for at least two years, and there will be no effect on overhead traffic; and
3. No formal complaint filed by a user of rail service (or a state or local government entity acting on behalf of such user) regarding ATR’s cessation of service over the Line is either pending with the Surface Transportation Board or any U.S. District Court or has been decided in favor of the complainant within the past two years.

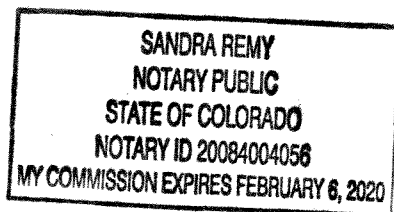
4. I have read the foregoing discontinuance of service notice of exemption; know the facts asserted therein are true and accurate as stated to the best of my knowledge, information, and belief; and state that I am duly authorized to make such verification on behalf of ATR.

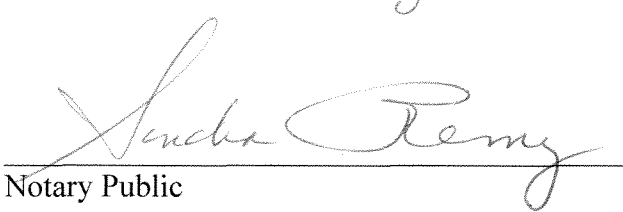
Dated: February 26, 2018



Hubert Gassner
Secretary
Alliance Terminal Railroad, LLC
252 Clayton Street
Denver, CO 80206

Subscribed and sworn to before me this 26th day of February, 2018.





Notary Public

BEFORE THE
SURFACE TRANSPORTATION BOARD

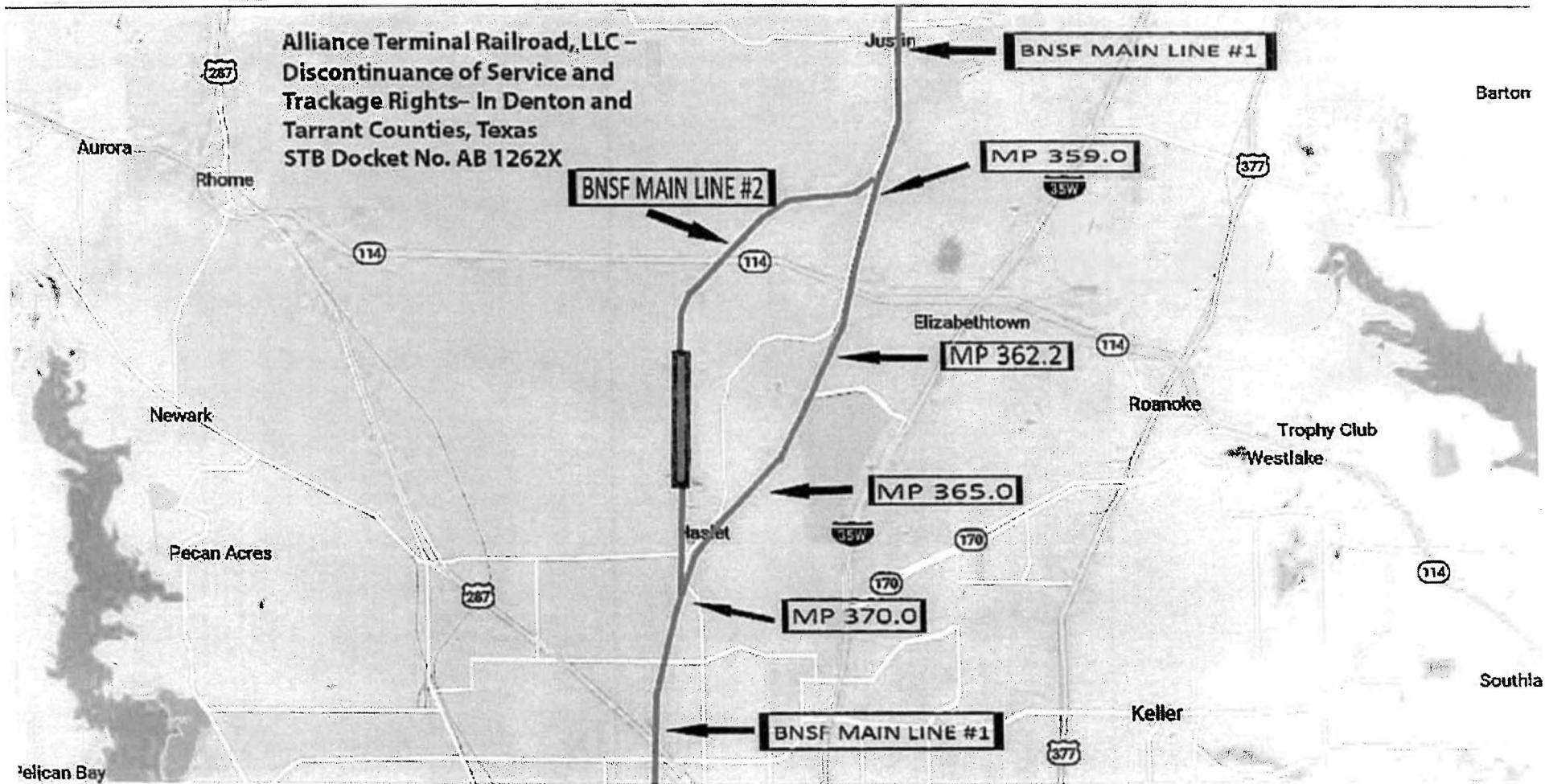
DOCKET NO. AB-1262X

ALLIANCE TERMINAL RAILROAD, LLC
– DISCONTINUANCE OF SERVICE EXEMPTION –
IN DENTON AND TARRANT COUNTIES, TEX.

EXHIBIT B

MAP

EXHIBIT B



-  BNSF Main Line
-  Subleased line

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SURFACE TRANSPORTATION BOARD

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ALLIANCE TERMINAL RAILROAD, LLC
– DISCONTINUANCE OF SERVICE EXEMPTION –
IN DENTON AND TARRANT COUNTIES, TEX.

EXHIBIT C

**CERTIFICATES OF
SERVICE/PUBLICATION**

DOCKET NO. AB-1262X
ALLIANCE TERMINAL RAILROAD, LLC
– DISCONTINUANCE OF SERVICE EXEMPTION –
IN DENTON AND TARRANT COUNTIES, TEX.

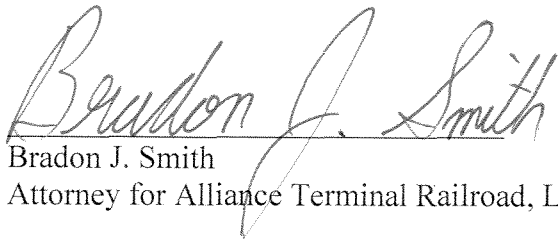
CERTIFICATE OF SERVICE AND PUBLICATION

I, Bradon J. Smith, an attorney for Alliance Terminal Railroad, LLC hereby certify that, for the proceeding before the Surface Transportation Board known as Docket No. AB-1262X, Alliance Terminal Railroad, LLC – Discontinuance of Service Exemption – In Denton and Tarrant Counties, Tex.:

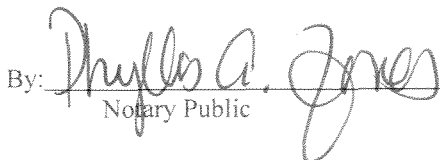
(1) The advance notice requirements of 49 C.F.R. § 1152.50(d)(1) have been satisfied, to wit: On February 7, 2018, written notice of the proposed discontinuance of rail service was mailed to the (a) United States Department of Defense, MSDDC-TEA, Attn: Railroads for National Defense; (b) U.S. Department of Agriculture, Chief of the Forest Service; (c) National Center for Recreation and Conservation, National Park Service; and (d) the Rail Division of the Texas Department of Transportation,

(2) A newspaper notice was published on February 5, 2018 in the *Denton Record Chronicle*, a newspaper of general circulation in Denton County, Texas, and on February 14, 2018 in the *Keller Citizen*, a newspaper of general circulation in Tarrant County, Texas.

Dated this 9TH day of March 2018.


Bradon J. Smith
Attorney for Alliance Terminal Railroad, LLC

SUBSCRIBED AND SWORN to
before me this 9th day of March, 2018

By: 
Notary Public

