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**Bowles Rice
McDavid Graff & Love PLLC**

ATTORNEYS AT LAW

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September 9, 2002

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E-mail Address:
hharlan@bowlesrice.com

VIA AIRBORNE EXPRESS

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

Re: Finance Docket No. 34251
Notice of Exempt Transaction Under 49 C.F.R. § 1180.2(d)
Line of CSX Transportation, Inc.

Dear Williams:

In accordance with 49 C.F.R. § 1180.4(g), please find enclosed for filing with the Surface Transportation Board one original and ten (10) copies of a Notice of Exemption submitted on behalf of Elk River Railroad, Inc. to exercise, pursuant to that certain lease dated August 1, 1989, an option to purchase the property described herein from CSX Transportation, Inc. In addition, twenty (20) unbound copies of Exhibit A to the Notice are enclosed as required by 49 C.F.R. § 1180.6(a)(6).

Also enclosed is a check for the filing fee of \$1000.00, as provided in § 49 C.F.R. § 1002.2(f)(41)(iv). Finally, an additional copy of this letter is enclosed; please have it date stamped and returned to me at the above address.

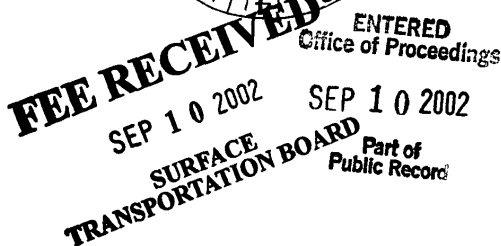
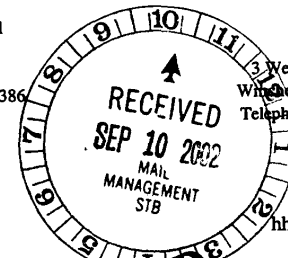
Very truly yours,



Heather G. Harlan

HGH/hgh
Enclosures

1051858.1



FILED

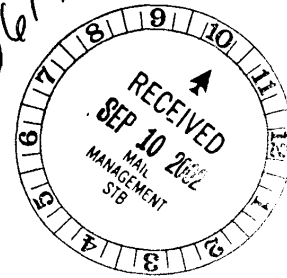
SEP 10 2002

**SURFACE
TRANSPORTATION BOARD**

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34251

THE ELK RIVER RAILROAD, INC.
NOTICE OF EXEMPT TRANSACTION UNDER 49 CFR 1180.2(d)
LINE OF CSX TRANSPORTATION, INC.



VERIFIED NOTICE OF EXEMPTION

ENTERED
Office of Proceedings

SEP 10 2002

Part of
Public Record

FEE RECEIVED
SEP 10 2002
SURFACE
TRANSPORTATION BOARD

F. T. Graff
Heather G. Harlan
BOWLES RICE MCDAVID GRAFF & LOVE, P.L.L.C.
600 Quarrier Street
Charleston, WV 25301
(304) 347-1100

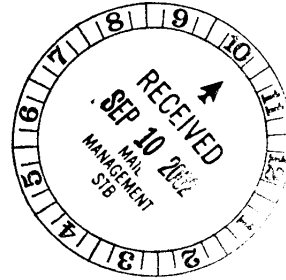
Attorneys for Elk River Railroad, Inc.

September 9, 2002

FILED
SEP 10 2002
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34251



THE ELK RIVER RAILROAD, INC.
NOTICE OF EXEMPT TRANSACTION UNDER 49 CFR 1180.2(d)
LINE OF CSX TRANSPORTATION, INC.

VERIFIED NOTICE OF EXEMPTION

On August 1, 1989, CSX Transportation, Inc. ("CSXT") leased that certain existing rail line described below (the "Line") to the Elk River Railroad, Inc. ("TERRI").¹ Under the terms of that Lease, TERRI was given an option to purchase the Line. TERRI now intends to exercise that option and accordingly, TERRI, hereby files this Verified Notice of Exemption pursuant to 49 C.F.R. § 1180.2(d)(1). In accordance with the requirements of 49 C.F.R. §§ 1180.4(g), TERRI submits the following information:

Summary of the Proposed Transaction: 49 C.F.R. § 1180.6(a)(1)(i)

- (1) The railroads transferring the subject property are:
CSX Transportation, Inc.
500 Water Street - J200
Jacksonville, FL 32202
- (2) TERRI intends to consummate the transaction on or about September 13, 2002.
- (3) The mile-posts of the subject property are as follows:

¹ On or about July 15, 1989, TERRI filed a Notice of Exemption with the Interstate Commerce Commission. That Notice, which was approved on July 21, 1989 can be found at Finance Docket No. 31497.

Elk River Subdivision between milepost 6.2, at or near Gilmer, and
milepost 67.2, at or near Hartland, in Gilmer, Braxton, and Clay Counties,
West Virginia.

Name and Address of the Applicant: 49 C.F.R. § 1180.6(a)(1)(i)

Elk River Railroad, Inc.
200 Greenbrier Road
Summersville, WV 26651
(304) 872-3000

Applicant's Representative: 49 C.F.R. § 1180.6(a)(1)(i)

F.T. Graff
Bowles Rice McDavid Graff & Love, PLLC
600 Quarrier Street
Charleston, WV 26301
(304) 347-1100

Proposed Time Schedule for Consummation of the Proposed Transaction:

49 C.F.R. § 1180.6(a)(1)(ii)

The transaction is scheduled to be consummated on or about September 13, 2002.

Purpose Sought to be Accomplished by Proposed Transaction:

49 C.F.R. § 1180.6(a)(1)(iii)

In operating the Line, TERRI intends to transport coal and other commodities.

State in Which any Part of the Property of Each Applicant Carrier is Situated:

49 C.F.R. § 1180.6(a)(5)

West Virginia is the only state in which the property of the Applicant is situated.

Map: 49 C.F.R. § 1180.6(a)(6)

A map has been provided in accordance with the above subsection and is attached hereto
as Exhibit A.

Statement Concerning Agreement: 49 C.F.R. § 1180.6(a)(7)(ii)

On August 1, 2002, TERRI and CSXT reached a final agreement whereby under the terms of that certain lease dated August 1, 1989 between CSXT and TERRI, TERRI intends to exercise its option to purchase the property described below. A copy of that Agreement is attached hereto as Exhibit B.

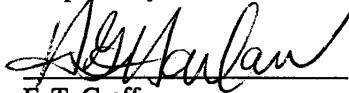
General Statement of Labor Impacts: 49 C.F.R. § 1180.4(g)

TERRI expects no impact upon labor as a result of its acquisition, as no service or operational changes will result from this transaction.

Environmental and Historic Preservation Data: 49 U.S.C. § 1105

Under 49 C.R.F. § 1105.6(c) (2), the proposed acquisition by TERRI is exempt from environmental reporting requirements. The proposed acquisition will not result in significant changes, *i.e.*, changes that exceed the thresholds established in 49 C.F.R. § 1105.7(e) (4) or (5). Further, under 49 C.F.R. § 1105.8(b) (1), the proposed acquisition is also exempt from historic preservation reporting requirements. TERRI's acquisition of the lines is for the purpose of continued rail operations. In addition, STB approval is required to abandon any service and there are no plans to dispose of or alter properties subject to Board jurisdiction that are fifty years old or older.

Respectfully submitted,



F. T. Graff

Heather G. Harlan

BOWLES RICE MCDAVID GRAFF & LOVE, P.L.L.C.

600 Quarrier Street

Charleston, WV 25301

(304) 347-1100

Attorneys for Elk River Railroad, Inc.

September 9, 2002

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of September, 2002, a copy of the foregoing Notice of Intent to File Notice of Exemption was served by first class mail, postage prepaid, upon:

Betty Jones
CSX Transportation, Inc.
500 Water Street - J200
Jacksonville, FL 32202



Heather G. Harlan

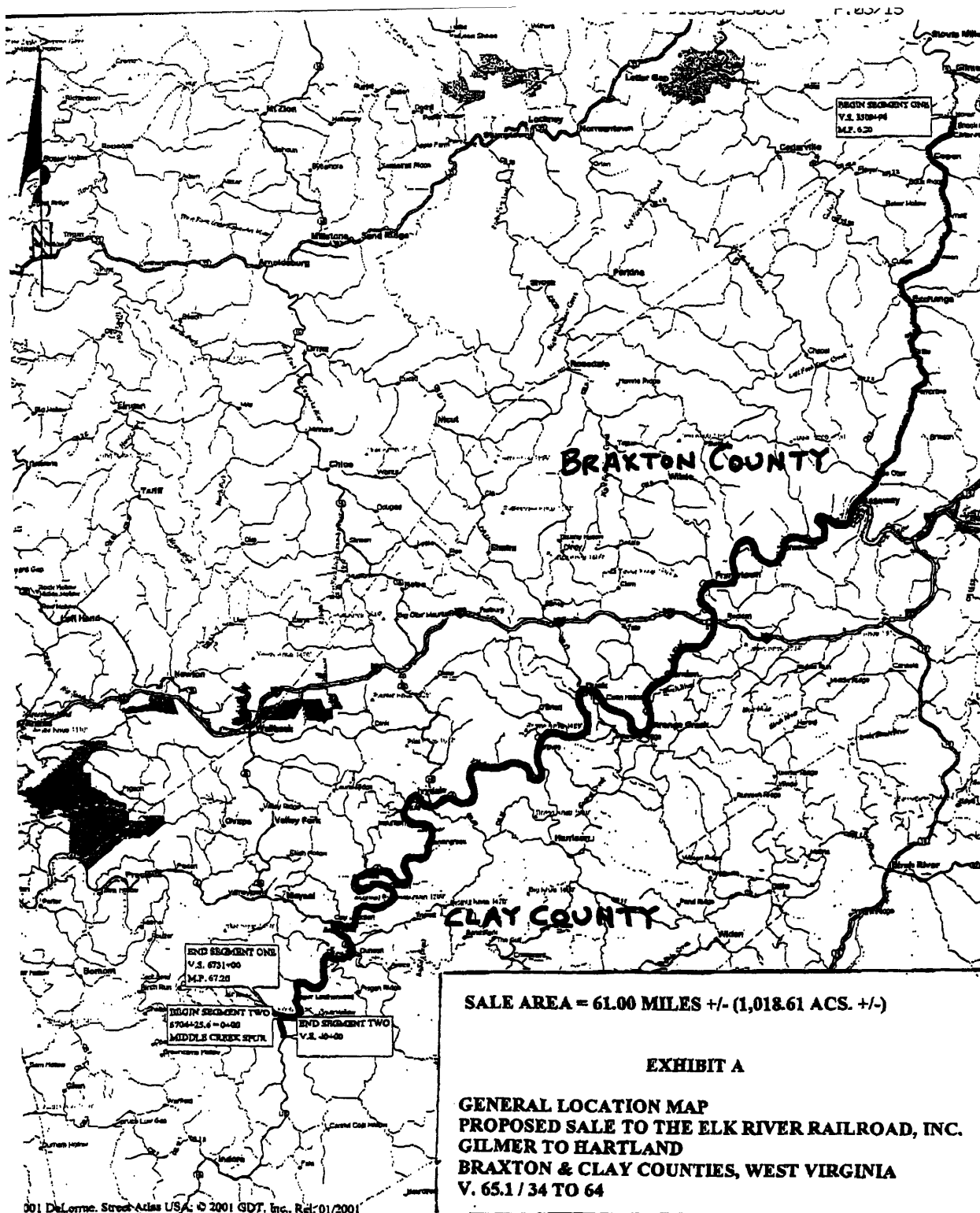


EXHIBIT
A

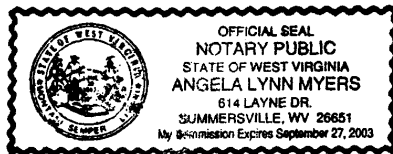
VERIFICATION

STATE OF WEST VIRGINIA
COUNTY OF NICHOLAS

I, Frank Jorgensen, being duly sworn, depose and state that I am Chief Executive Officer of Elk River Railroad, Inc., that I have read the foregoing Verified Notice of Exemption and know the facts asserted therein, that said facts are true as stated to the best of my knowledge, information, and belief, and that I am qualified and authorized to make this verification.


Frank Jorgensen

SUBSCRIBED AND SWORN TO before me this 6th day of
September, 2002.




Notary Public

My Commission expires: Sept. 27, 2003

1050442.1

NO. 334 P. 15/15

SEP. 5, 2002 5:39PM BOWLES RICE



Dave Geraci
Project Manager - Asset Management

500 Water Street - J200
Jacksonville, FL 32202
Phone: (904) 359-1086
Fax: (904) 359-1111
Email: Dave_Geraci@CSX.com

August 1, 2002

Mr. James (Jim) Davis
Elk River Railroad
PO Box 460
300 Greenbrier Road
Summersville, WV 26651

Re: Lease between CSX Transportation, Inc. (CSXT) and Elk River Railroad, Inc. (TERRI) dated August 1, 1989. Exercise of Option to Purchase Leased Property between Gilmer and Hartland, West Virginia.

Dear Mr. Davis:

This letter is in response to your letter dated July 26, 2002 to Joanna Griffith, notifying CSXT of TERRI's intention to exercise its Option to Purchase the Leased Property at the above location. All appropriate CSXT departments have been notified of your desire to close on August 7, 2002. Although this is an aggressive date, CSXT will work with TERRI to conclude this transaction on August 7, 2002 if at all possible. TERRI recognizes, however, that a good chance exists that CSXT will not be prepared to close on August 7, 2002 due to the short notice. CSXT recognizes that TERRI is only willing to exercise its option if CSXT and TERRI can close by September 15, 2002 at the latest.

In the event that either party is unable to close by September 15, 2002, this letter will become of no force and effect except for the provision set out in this paragraph and the parties will continue to operate in accordance with the terms of the August 1, 1989 Lease (the "Lease"). If the sale is not closed by September 15, 2002 for any reason and without regard to fault, it is understood that on September 15, 2002, TERRI will pay the \$100,942.00 rental payment due August 7, 2002 ("Rental Payment") pursuant to the Lease along with interest accrued on the Rental Payment at an annual rate of 8% for the period between August 7, 2002 and September 15, 2002.

The purchase price for said property, as allocated in the Lease, is \$2,321,023.00 to be paid by TERRI to CSXT. Conveyance will be by Quitclaim deed with the following closing provisions:

- Real Estate Taxes and any other similar charges and assessments for the 2002 year to be equitably prorated between CSXT and TERRI.

EXHIBIT

B

Mr. Jim Davis

-2-

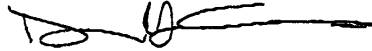
August 1, 2002

- Environmental Phase I Site Assessment to be paid by TERRI.
- All necessary Surface Transportation Board filings to be prepared and paid by TERRI.
- Deed Transfer Stamps to be paid by TERRI, *and CSXT, 50% each* (JED) except where applicable in matters regarding release of mortgage to be paid by CSXT.
- Deed Recording Cost to be paid by TERRI.
- Title Work and Title Insurance to be paid by TERRI.
- Deed preparation to be done by CSXT.
- Legal Fees - each entity shall be responsible for their own legal fees.

It is further understood that CSXT shall transfer the assets to TERRI free and clear of any financial liens and encumbrances.

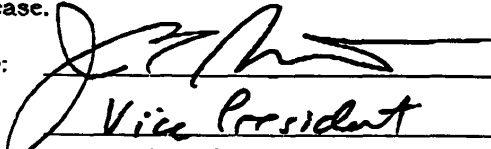
Please let me know if these terms are acceptable by returning one executed original of this letter to me at your earliest convenience. Upon receipt of an executed original of this letter, CSXT will be in contact with Mr. Tom Graff, at your request, to complete this transaction.

Sincerely,



Cc: Shirley Fink (TERRI)
Bobbie League
Joanna Griffith
Natalie Rosenberg
Bill Basney
Jim Shirecliff
Betty Jones

I hereby agree to the terms outlined above and to the terms of the option to purchase in said Lease.

Signature: 

Title: Vice President

Date: 8/2/02

Witnessed: 

Title: President