

DID 0102119001 207077

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January 21, 2003

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



ENTERED
Office of Proceedings
JAN 21 2003
Public Record

Re: STB Finance Docket No.34309
The Kansas City Southern Railway Company--Trackage Rights Exemption--
Illinois Central Railroad Company.

Dear Secretary Williams:

Enclosed for filing in the above-captioned proceeding are an original and 10 copies of the Verified Notice of Exemption (the "Notice") of The Kansas City Southern Railway Company ("KCS"), pursuant to 49 C.F.R. § 1180.2(d)(7). In accordance with 49 C.F.R. § 1180.6(a)(6), also enclosed for filing in this proceeding are an additional 20 copies of the map that is attached to the Notice as Exhibit 1. A check in the amount of \$1,000.00 is enclosed to cover the cost of processing the Notice of Exemption.

The trackage rights agreement (the "Agreement") between KCS and the Canadian National Railway Company ("CN") referred to in the Notice is confidential material subject to a requests for a protective order. Concurrent with this filing, KCS has filed with the STB in this proceeding (i) the Agreement, "Under Seal," and (ii) a Motion for Protective Order.

Please acknowledge receipt of this filing by date-stamping the enclosed acknowledgment copy and returning it to our messenger.

Very truly yours,

FILED

JAN 21 2003

**SURFACE
TRANSPORTATION BOARD**

William A. Mullins

FEE RECEIVED

JAN 21 2003

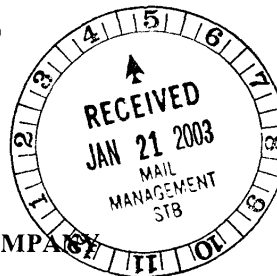
**SURFACE
TRANSPORTATION BOARD**

ATLANTA • HONG KONG • LONDON • NORFOLK • RICHMOND
TYSONS CORNER • VIRGINIA BEACH • WASHINGTON, D.C.

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 34309

THE KANSAS CITY SOUTHERN RAILWAY COMPANY
--TRACKAGE RIGHTS EXEMPTION--
ILLINOIS CENTRAL RAILROAD COMPANY



VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1180.2(d)(7)

FILED

JAN 21 2003

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JAN 21 2002

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TRANSPORTATION BOARD

ENTERED
Office of Proceedings
JAN 22 2003
Part of
Public Record

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Attorneys for The Kansas City Southern
Railway Company

January 21, 2003

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 34309



THE KANSAS CITY SOUTHERN RAILWAY COMPANY
--TRACKAGE RIGHTS EXEMPTION--
ILLINOIS CENTRAL RAILROAD COMPANY

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1180.2(d)(7)**

The Kansas City Southern Railway Company (hereinafter referred to as "User" or "KCS") hereby submits this Notice of Exemption, pursuant to 49 C.F.R. § 1180.2(d)(7), from the prior approval and authorization requirements of 49 U.S.C. § 11323 to permit it to implement operations pursuant to overhead trackage rights using approximately 92.5 miles of rail line owned by the Illinois Central Railroad Company (hereinafter referred to as "IC" or "Owner"). In support of this Notice of Exemption and in compliance with 49 C.F.R. § 1180.4 (g), the parties state the following:

***49 C.F.R. § 1180.6(a)(1)(i)
Description of the proposed transaction***

Pursuant to a May 1, 1998 agreement between The Kansas City Southern Railway Company ("KCS") and the Canadian National Railway Company ("CN") and contingent upon CN obtaining approval to own and control IC, CN agreed to cause Illinois Central, if IC became its wholly owned subsidiary, to grant overhead trackage rights to User between the connection at approximately Milepost 160.0 at Jackson, MS and Milepost 67.5 at Palmer, MS (near Hattiesburg, MS), a distance of approximately 92.5 miles (the "Subject Line"). CN was granted

approval to own and control IC in *Canadian National Railway Company, Grand Trunk Corporation, and Grand Trunk Western Railroad Incorporate--Control--Illinois Central Corporation, Illinois Central Railroad Company, Chicago, Central and Pacific Railroad Company, and Cedar River Railroad Company*, STB Finance Docket No. 33556, Decision No. 37 (STB served May 25, 1999)(“CN/IC”). Because KCS was able to operate via haulage rights between Jackson and Palmer over the Subject Line, KCS did not exercise its right, granted in the May 1, 1998 agreement, to convert those haulage rights to trackage rights and thus never sought authority from the STB to implement its contractual right to operate over the IC via trackage rights. Now, due to a change in KCS’s operations and marketing plans, KCS desires to exercise its contractual right to implement trackage rights over the Subject Line.

The full name and address of the applicant carrier is:

The Kansas City Southern Railway Company
Cathedral Square
427 West 12th Street
Kansas City, MO 64105
816-983-1303

The representative of The Kansas City Southern Railway Company to receive correspondence in this matter is:

William A. Mullins
TROUTMAN SANDERS LLP
401 Ninth Street
Suite 1000
Washington, D.C. 20004-2134
202-274-2953

49 C.F.R. 1180.6(a)(1)(ii)
Proposed Time Schedule For Consummation

It is anticipated the proposed transaction will be consummated on or about February 1, 2003.

49 C.F.R. 1180.6(a)(1)(iii)
Propose Sought to be Accomplished

The proposed transaction will allow KCS to use the above described trackage rights to handle traffic currently handled for KCS by IC pursuant to a haulage agreement. As KCS moves toward more of a scheduled railroad and seeks to increase the economic attractiveness of the Port of Gulfport, KCS desires to convert those haulage rights to trackage rights. Doing so should allow KCS to improve its operating efficiency in the Jackson, MS to Gulfport, MS market.

49 C.F.R. 1180.6(a)(5)
States in Which Applicant's Property is Located

User owns rail property located in the States of: AL, IL, MO, KS, OK, AR, TX, MS, LA, and TN.

49 C.F.R. 1180.6(a)(6)
Map - Exhibit 1

A map of the rail line over which the applicant proposes to acquire trackage rights is attached hereto as Exhibit 1

49 C.F.R. 1180.6(a)(7)(ii)
Agreement - Exhibit 2

A copy of the May 1, 1998 trackage rights agreement is being filed under seal, along with a corresponding motion for a protective order. The agreement was part of the overall settlement agreement and Alliance Agreement in the *CN/IC* merger proceeding and was never made public in that proceeding. It contains confidential financial terms that would be detrimental to KCS and the Port of Gulfport if such terms were released to the public.

49 C.F.R. §1180.4(g)(i)
Labor Protection:

KCS anticipates that any employees adversely affected by this transaction will be afforded the level of protection set forth in *Norfolk and Western Ry. Co.--Trackage Rights--*

BN, 354 I.C.C 605 (1978), as modified in *Mendocino Coast Ry., Inc.--Lease and Operate*,
360 I.C.C 653 (1980).

49 C.F.R. 1180.4(g)(2)(i)
Caption Summary

In accordance with §1180.4(g)(2)(i), a caption summary suitable for publication in the
Federal Register is attached to this Notice of Exemption as Exhibit 3.

49 C.F.R. 1180.4(g)(3)
Environmental and historic reporting requirements:

The proposed trackage rights operations will not result in any significant changes in User's
operations and thus environmental documentation does not need to be prepared in accordance
with 49 C.F.R. §1105.(6)(c)(4). In addition, because KCS's exercise of the subject trackage
rights will not have a substantial, adverse effect on the maintenance level of the Subject Line, a
historic report is not required for this filing. 49 C.F.R. §1105.8(b)(3)

Respectfully submitted,



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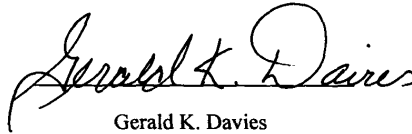
Attorney for The Kansas City Southern Railway
Company

Dated: January 21, 2003

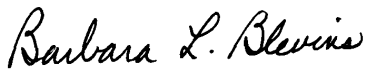
STATE OF MISSOURI)
) ss:
COUNTY OF JACKSON)

VERIFICATION

Gerald K. Davies, being duly sworn, deposes and says that he is the Executive Vice President and Chief Operating Officer of The Kansas City Southern Railway Company, he has read the foregoing Notice of Exemption and knows the facts asserted therein, and that the same are true as stated.


Gerald K. Davies

SUBSCRIBED AND SWORN TO
before me this 20 day of January, 2003

Notary Public 
My Commission expires: 10-04-03

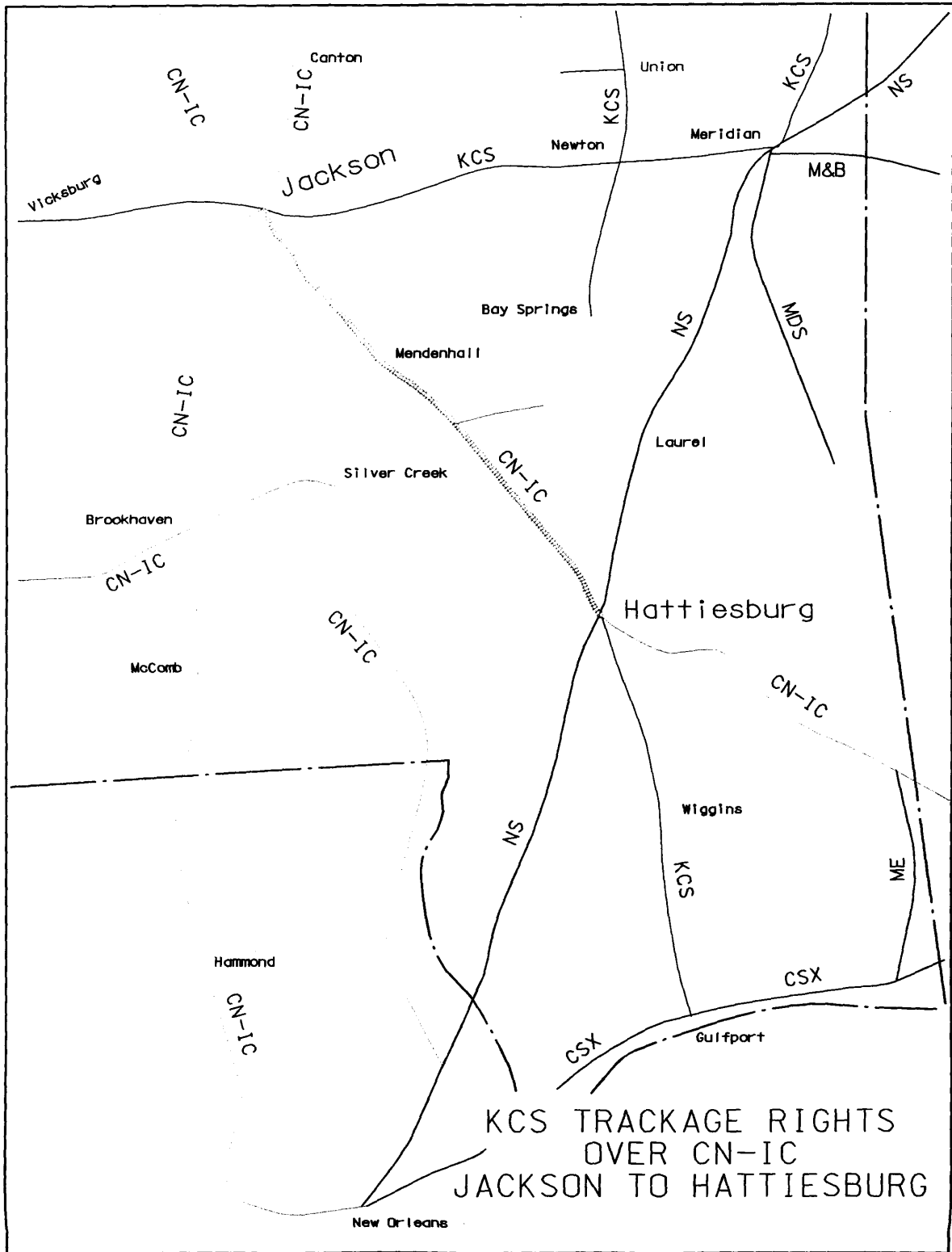
**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 11 80.2(d)(7)**

STB FINANCE DOCKET NO. 34309

**THE KANSAS CITY SOUTHERN RAILWAY COMPANY
--TRACKAGE RIGHTS EXEMPTION--
ILLINOIS CENTRAL RAILROAD COMPANY**

EXHIBIT 1

MAP



**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 11 80.2(D)(7)**

STB FINANCE DOCKET NO. 34309

**THE KANSAS CITY SOUTHERN RAILWAY COMPANY
--TRACKAGE RIGHTS EXEMPTION--
ILLINOIS CENTRAL RAILROAD COMPANY**

EXHIBIT 2

**TRACKAGE RIGHTS AGREEMENT
FILED UNDER SEAL**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 11 80.2(D)(7)**

STB FINANCE DOCKET NO. 34309

**THE KANSAS CITY SOUTHERN RAILWAY COMPANY
--TRACKAGE RIGHTS EXEMPTION--
ILLINOIS CENTRAL RAILROAD COMPANY**

EXHIBIT 3

CAPTION SUMMARY

CAPTION SUMMARY

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

NOTICE OF EXEMPTION

FINANCE DOCKET NO. 34309

**THE KANSAS CITY SOUTHERN RAILWAY COMPANY
--TRACKAGE RIGHTS EXEMPTION--
ILLINOIS CENTRAL RAILROAD COMPANY**

Canadian National Railway Company ("CN") has agreed to cause its wholly owned subsidiary, Illinois Central Railroad Company ("IC"), to grant overhead trackage rights to The Kansas City Southern Railway Company ("KCS") over trackage owned by IC between the connection to KCS at approximately Milepost 160.0 at Jackson, MS and approximately Milepost 67.5 at Palmer, MS (near Hattiesburg, MS). The distance of the Subject Line is approximately 92.5 miles.

The trackage rights are anticipated to become effective February 1, 2003

This notice is filed under 49 C.F.R. § 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at anytime. The filing of a petition to revoke will not stay the transaction.

Dated:

By the Board.

Vernon A. Williams,
Secretary