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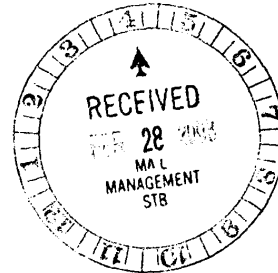
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MAR 03 2003

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February 28, 2003



BY HAND DELIVERY

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The Hon. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423

MAR 03 2003

SURFACE
TRANSPORTATION BOARD

Re: STB Finance Docket No. 34298, Chattahoochee & Gulf Railroad Co., Inc.
- Acquisition and Operation Exemption - Line of Central of Georgia
Railroad Company; and

STB Finance Docket No. 34299, Gulf & Ohio Railways Holding Co., Inc.,
H. Peter Claussen and Linda C. Claussen - Continuance in Control
Exemption - Chattahoochee & Gulf Railroad Co., Inc.

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceedings are an original and 10 copies of each of (i) the verified notice of exemption of Chattahoochee & Gulf Railroad Co., Inc. ("CGR") under 49 C.F.R. § 1150.31 for the acquisition and operation of a line of Central of Georgia Railroad Company, and (ii) the petition for exemption of Gulf & Ohio Railways Holding Co., Inc. and H. Peter and Linda C. Claussen under 49 U.S.C. § 11323 for the continuation in control of CGR.

Also enclosed, pursuant to 49 C.F.R. § 1180.6(a)(6), are 20 additional copies of the pertinent maps, and a check in the amount of \$8,200 to cover the filing fees for these proceedings.

WEINER BRODSKY SIDMAN KIDER PC

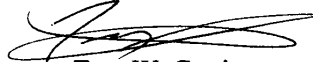
The Hon. Vernon A. Williams

- 2 -

February 28, 2003

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

Sincerely,



Troy W. Garris

Enclosures

cc: Pete Claussen

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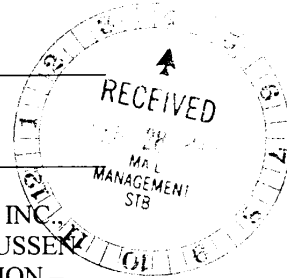
SURFACE
TRANSPORTATION BOARD

FILED

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 34299

GULF & OHIO RAILWAYS HOLDING CO., INC.
H. PETER CLAUSSEN AND LINDA C. CLAUSSEN
- CONTINUANCE IN CONTROL EXEMPTION -
CHATTAHOOCHEE & GULF RAILROAD CO., INC.



PETITION FOR EXEMPTION
FROM
49 U.S.C. § 11323

PETITION FOR EXEMPTION

EXPEDITED HANDLING REQUESTED

Gulf & Ohio Railways Holding Co., Inc. ("G&O"), and H. Peter and Linda C. Claussen (the "Claussens") (G&O and the Claussens together referred to herein as "Owners") pursuant to 49 U.S.C. § 10502 and 49 CFR Parts 1121 and 1180, hereby petition the Surface Transportation Board (the "Board") to exempt their acquisition of control over Chattahoochee & Gulf Railroad Co., Inc. ("CGR") from the prior approval requirements of 49 U.S.C. § 11323, upon CGR's becoming a rail carrier. CGR is a non-carrier company, which has filed a notice of exemption to become a rail carrier on or about March 7, 2003. See Chattahoochee & Gulf Railroad Co., Inc. - Acquisition and Operation Exemption - Line of the Norfolk Southern Railway Company, STB Finance Docket No. 34298. Owners currently control several carriers and CGR.

Simultaneous with CGR's becoming a carrier, Owners anticipate transferring control of CGR into a voting trust (as necessary) to prevent any unauthorized control until the Board issues its decision here.

STATEMENT OF FACTS

G&O is a non-carrier holding company, a Tennessee corporation with principal offices located at 401 Henley Street, Suite 5, Knoxville, TN 37902. G&O wholly owns the following class III rail carriers: Conecuh Valley Railroad Co., Inc., which operates in Alabama; Knoxville & Holston River Railroad Co., Inc., which operates in East Tennessee; Laurinburg & Southern Railroad Co., Inc., which operates in North Carolina; Lexington & Ohio Railroad Co., Inc., which operates in north-central Kentucky; Piedmont & Atlantic Railroad, Inc., which operates in northwestern North Carolina under the trade name of Yadkin Valley Railroad; Rocky Mount & Western Railroad Co., Inc., which operates in central North Carolina as Nash County Railroad; Three Notch Railroad Co., Inc., which operates in Alabama; and Wiregrass Central Railroad Company, Inc., which operates in southeast Alabama. The Claussens wholly own G&O and also one rail carrier, H&S Railroad Co., Inc. ("H&S"), which operates in southeast Alabama. Maps depicting the lines of the carriers are attached hereto as Exhibit A.

CGR, the company over which Owners seek continuance in control authority, is a non-carrier that will become a carrier upon its acquisition and operation of the rail line that is the subject of STB Finance Docket No. 34298. In that proceeding, CGR will acquire all of Central of Georgia Railroad Company's ("CGA's") interests in, and operate over, approximately 24.2 route-miles of rail line extending from approximately milepost J382.0, at or near Dothan, in Houston County, AL, via Henry County, AL, to approximately milepost J357.8, at or near Hilton, in Early County, GA (the "Subject Line"). CGA is a rail subsidiary of Norfolk Southern Railway Company. Maps depicting the Subject Line are attached hereto as Ex. B.

CGA and CGR are close to reaching an agreement on the terms of the proposed sale transaction. Under the proposal, ownership of the Subject Line would change, but it is

anticipated that the general nature and scope of the operations would remain the same or improve. Rail service will continue to be available to and from the same shippers, and future shippers can request common carrier service. No shipper currently located on the Subject Line will experience a reduction in its transportation options. Furthermore, as a member of a small family of shortlines, CGR likely can provide more flexible and responsive service to local shippers.

The proposed continuance in control transaction here does not involve any class I carrier. However, the continuance in control of CGR by G&O does not qualify for the class exemption under 49 CFR § 1180.2(d)(2), for the sole reason that CGR's tracks will connect with those of its indirect affiliate – H&S – at one location in or near Dothan. It is for this reason that Owners are proceeding through the instant petition.

ARGUMENT

I. EXEMPTION CRITERIA SATISFIED.

The acquisition of control of a rail carrier by a person that is not a carrier but that controls any number of carriers requires the prior approval of the Board. 49 U.S.C. § 11323(a)(5). As Owners are non-carriers that control other carriers, their continuance in control of CGR upon its becoming a carrier would be subject to the Board's prior approval requirements absent exemption.

Under 49 U.S.C. § 10502, the Board must exempt a transaction from its prior approval requirements when the Board finds that: (1) prior approval is not necessary to carry out the rail transportation policy of 49 U.S.C. § 10101 (the "RTP"); and (2) either (a) the transaction is of limited scope, or (b) regulation is not necessary to protect shippers from an abuse of market power. 49 U.S.C. § 10502. In this case, all three criteria are satisfied.

A. Regulation Is Not Needed to Carry Out the Rail Transportation Policy.

Detailed scrutiny of Owners' continuance in control over CGR is not needed to carry out the objectives of the RTP. To the contrary, an exemption from the prior approval requirements here will promote several of these objectives. By minimizing the expense and delay associated with the application process, and by permitting Owners to ensure the continuation of the rail service currently provided by CGA (without unnecessarily putting at risk the existing assets of Owners and the other companies in which they hold interests), exemption of this transaction will "minimize the need for Federal regulatory control over the rail transportation system," 49 U.S.C. § 10101(2), and "reduce regulatory barriers to entry into and exit from the industry," 49 U.S.C. § 10101(7).¹

Also, by allowing Owners to integrate CGR into Owners' existing family of shortlines – enabling a seamless connection between H&S and CGR – with the experience and administrative support Owners can offer, the exemption will "promote a safe and efficient rail transportation system by allowing carriers to earn adequate revenues" (49 U.S.C. § 10101(3)), "ensure the development and continuation of a sound rail transportation system . . . to meet the needs of the public and the national defense" (49 U.S.C. § 10101(4)), "foster sound economic conditions in transportation and [] ensure effective competition and coordination between rail carriers and other modes" (49 U.S.C. § 10101(5)), and "encourage honest and efficient management of railroads" (49 U.S.C. § 10101(9)).²

¹ Cf. RailAmerica, Inc. – Control Exemption – RailTex, Inc., STB Finance Docket No. 33813 (served Jan. 7, 2000) ("RailAmerica").

² Cf. RailAmerica, supra (permitting holding company to realize cost savings furthers the objectives of the RTP); Summit View, Inc. – Control Exemption – Mahoning Valley Railroad Company, STB Finance Docket No. 34026 (served May 11, 2001) (enabling carrier to become part of a family of small carriers furthers the RTP).

But for the single connection between H&S and CGR in or near Dothan, this transaction would qualify for the class exemption found at 49 CFR § 1180.2(d)(2) (“[t]he Board has found that its prior review and approval of these transactions is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101”). Under similar circumstances, exemptions have been deemed appropriate, including exemptions involving the Claussens. *See* H. Peter Claussen and Linda C. Claussen – Continuance in Control Exemption – Georgia & Florida Railroad Co., Inc., ICC Finance Docket No. 32681 (served June 23, 1995) (“Georgia”); H. Peter Claussen and Linda C. Claussen – Continuance in Control Exemption – Albany Bridge Company, Inc., ICC Finance Docket No. 32208 (served Jan. 27, 1993) (“Albany”).³ Indeed, in this case, the fact of the connection between H&S and CGR promotes elements of the RTP, as it will foster improved operating efficiency without foreclosing transportation options presently open to shippers. *Cf.* Summit, *supra* (transaction likely to enhance rail service options).

Finally, an exemption here would expedite handling and resolution of Board proceedings. 49 U.S.C. § 10101(15). Other aspects of the RTP will not be adversely affected. On the other hand, requiring a full-blown application proceeding in this case would contravene these very goals, while not being of benefit to anyone.

B. The Transaction Is Limited In Scope.

One indicator that a transaction is of limited scope is where the transaction involves a carrier operating in a limited geographical area. *See, e.g., Albany, supra; Pittsburgh, supra.*

³ *Cf. Genesee & Wyoming, Inc. – Continuance In Control Exemption – Pittsburgh & Shawmut Railroad, Inc.*, STB Finance Docket No. 32904 (served June 21, 1996) (“Pittsburgh”); *William T. Bright – Control Exemption – The Buffalo Creek Railroad Company*, ICC Finance Docket No. 31969 (served Mar. 9, 1992); *Steve May – Control Exemption – Lackawanna Valley Railroad Corporation and Lackawanna Railway, Inc.*, ICC Finance Docket No. 31937 (served Sept. 12, 1991).

Here, CGR will acquire and operate over just 24.2 route-miles of line in a discrete geographic area. Further, the continuance in control by Owners will not result in a reduction of transportation options on the Subject Line, and the common control of CGR, G&O and the affiliates will not affect the previously authorized operations of any of the other carriers.

When a transaction merely adds a separately incorporated class III carrier to an existing family of shortlines, a finding of limited scope is appropriate. *See Georgia supra*. Here, Owners' continued control of CGR will merely add to the group of class III carriers already under Owners' control, one additional, but corporately distinct, class III carrier. CGR will be separately managed, and assume the direct and indirect risks of owning and operating the 24.2 route-mile Subject Line. Business dealings, if any, between CGR and Owners and the affiliates will be contractual in nature, and will be based on fair, arms-length type arrangements.

Under these circumstances, a finding of limited scope clearly is warranted.

C. Regulation of the Transaction Is Not Needed to Protect Shippers From Abuse of Market Power.

Because Owners' proposed continued control over CGR is limited in scope, it is not even necessary to consider whether prior review is needed to protect shippers from an abuse of railroad market power. 49 U.S.C. § 10502(a)(2)(A). *See, e.g., Indiana Rail Road Company – Petition for Exemption – Acquisition and Operation – Illinois Central Railroad Company – Line Between Sullivan, IN and Browns, IL*, 6 I.C.C.2d 1004 (1990). In any event, there is no potential for such abuse here.

Through the proposed transaction, a small carrier operating in a discrete geographic area is simply being added to a group of separate class III carriers already controlled by Owners. There is no adverse material change in operations over the Subject Line planned, and no shipper located on the Subject Line will lose rail service options as a result of the transaction. *Cf.*

Albany, *supra*; Pittsburgh, *supra* (common control by a holding company of an additional class III carrier does not expose shippers to an abuse of market power where there is no significant change in service or competitive alternatives).

The transaction proposed here likely will enhance rail service, as the Subject Line will benefit from the more personalized, localized service. For these reasons, a finding of a lack of market power is proper.

II. NO LABOR PROTECTION PERMITTED.

Section 11326(c) of 49 U.S.C. does not provide for labor protection for transactions under sections 11324 and 11325 that involve only class III rail carriers. Because this transaction involves only class III rail carriers, the Board may not impose labor protective conditions for the proposed transaction.

III. NO SIGNIFICANT ENVIRONMENTAL OR HISTORIC IMPACT.

Under 49 CFR § 1105.6(2)(i), no environmental documentation need be prepared for a control transaction that will not result in (1) a traffic diversion from rail to motor carriage of more than 1000 carloads per year or 50 carloads per mile; (2) a 100 percent increase in rail traffic or rail yard activity; (3) increases of more than 10 percent or 50 vehicles per day in truck traffic; or (4) prescribed level increases in rail or truck traffic in class I or non-attainment areas under the Clean Air Act. *See* 49 CFR §§ 1105.7(e)(4) and (5). Owners' continuance in control of CGR, upon CGR's becoming a class III carrier basically involves a change in ownership of the Subject Line and will not lead to significant changes in rail operations or traffic volumes. As such, the threshold criteria for environmental documentation will not be met, and no such documentation is required.

Similarly, 49 CFR § 1105.8(b)(3) provides that a control transaction that will not substantially change the level of maintenance of railroad property is exempt from the requirement of preparing a historic report. As the transaction in question contemplates no significant changes in maintenance or operations over the Subject Line, no historic report is required.

IV. VOTING TRUST.

Owners anticipate the exemption in STB Finance Docket No. 34298 will become effective and the proposed transaction will be consummated, thereby rendering CGR a rail carrier, prior to the Board's decision in this proceeding. Accordingly, upon the occurrence of such events, Owners intend to transfer control of CGR into an independent, irrevocable voting trust to prevent any unauthorized control, until such time as the Board issues its decision in this matter. A copy of the form of voting trust agreement is attached hereto as Exhibit C.

V. EXPEDITED HANDLING NECESSARY.

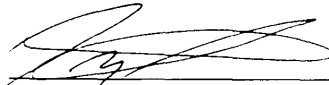
The Board has indicated that it will grant requests for expedited disposition in the appropriate circumstances. *See, e.g., Genesee & Wyoming Industries, Inc. – Continuance in Control Exemption – Allegheny & Eastern Railroad, Inc.*, ICC Finance Docket No. 32149 (served Oct. 23, 1992); *Steve May – Control Exemption – Lackawanna Valley Railroad Corporation and Lackawanna Railway, Inc.*, ICC Finance Docket No. 31937 (served Sept. 9, 1991). Here, the company that Owners seek to control, CGR, will file a notice of exemption under the Board's notice procedures at Subpart D, of Part 1150 of 49 CFR concurrent with the filing of the instant petition. Accordingly, CGR likely will obtain authority to acquire and operate the Subject Line seven days later. *See* 49 CFR §§ 1150.23(a), 1150.32(b). Because a similarly expeditious procedure is not available for Owners' control of CGR, Owners have had to file this petition. However, Owners' need for expeditious handling is paramount.

Successful operation of the Subject Line will require that Owners swiftly make critical business decisions regarding the Subject Line. Under such circumstances, interim control of the operations over the Subject Line by a trustee would prevent Owners from giving the Subject Line the specialized treatment it demands, and could only be detrimental. For this reason, Owners request that the Board expedite this matter, issuing a decision as soon as practicable.

CONCLUSION

For these reasons, Gulf & Ohio Railways Holding Co., Inc. and H. Peter and Linda C. Claussen request that their Petition for exemption to continue in control of Chattahoochee & Gulf Railroad Co., Inc. be granted.

Respectfully submitted,



Troy W. Garis
Weiner Brodsky Sidman Kider PC
1300 19th Street, NW
Fifth Floor
Washington, DC 20036-1609
(202) 628-2000

Attorneys for:

GULF & OHIO RAILWAYS
HOLDING CO., INC.,
H. PETER CLAUSSEN AND
LINDA C. CLAUSSEN

Dated: February 28, 2003

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BEFORE THE
SURFACE TRANSPORTATION BOARD

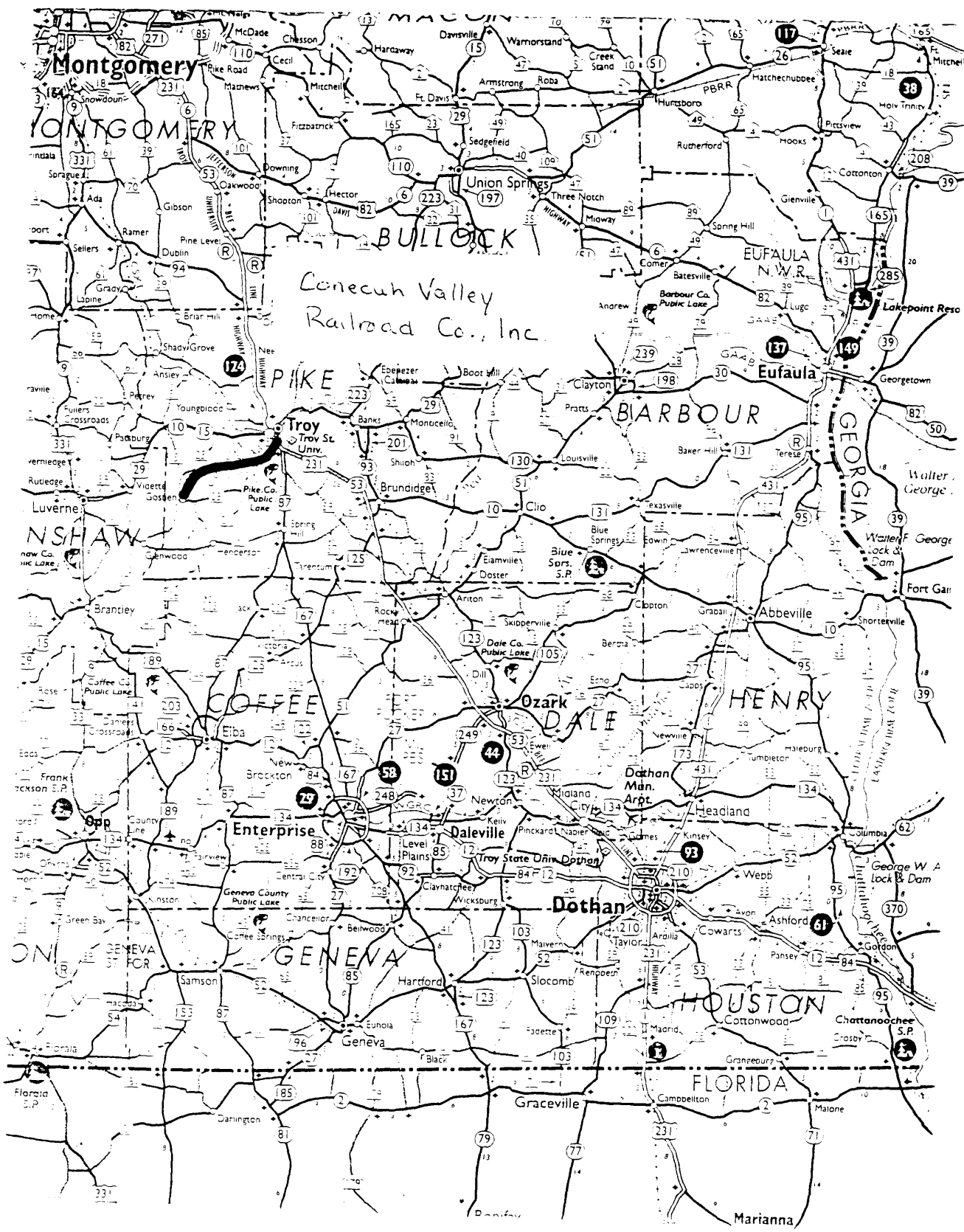
STB FINANCE DOCKET NO. 34299

GULF & OHIO RAILWAYS HOLDING CO., INC.,
H. PETER CLAUSSEN AND LINDA C. CLAUSSEN
– CONTINUANCE IN CONTROL EXEMPTION –
CHATTAHOOCHEE & GULF RAILROAD CO., INC.

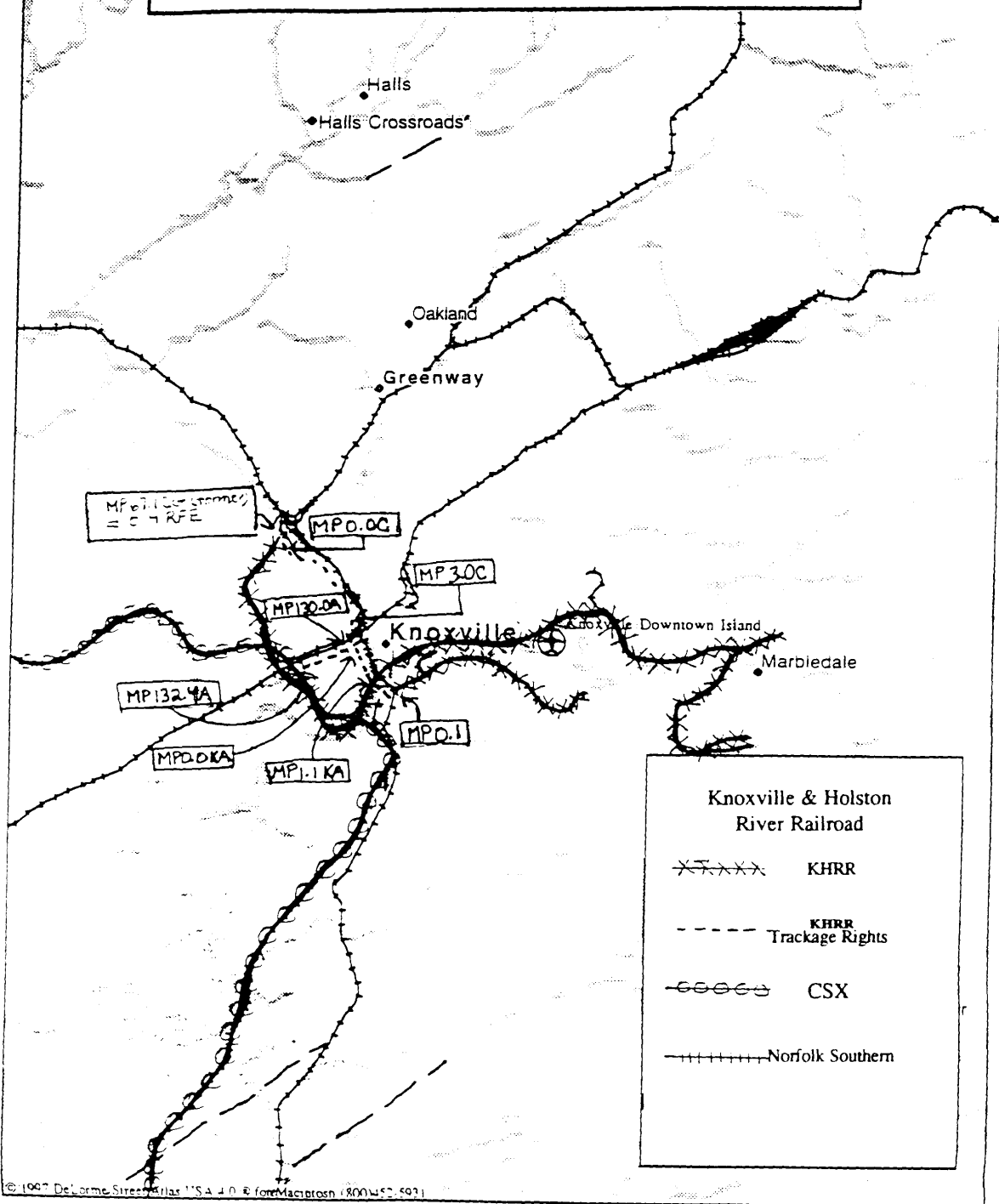
PETITION FOR EXEMPTION
FROM
49 U.S.C. § 11323

EXHIBIT A

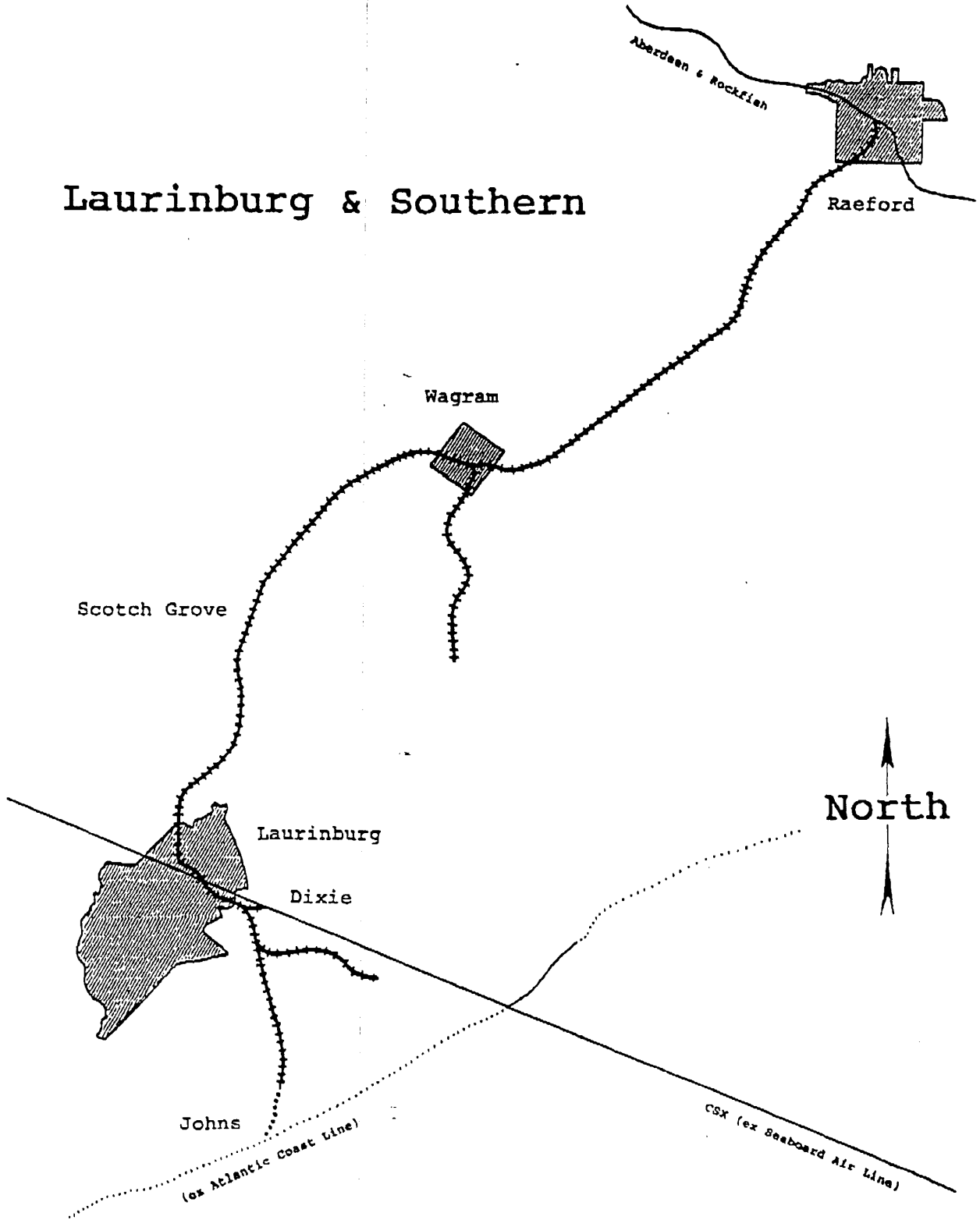
MAPS
DIRECT AND INDIRECT SUBSIDIARIES



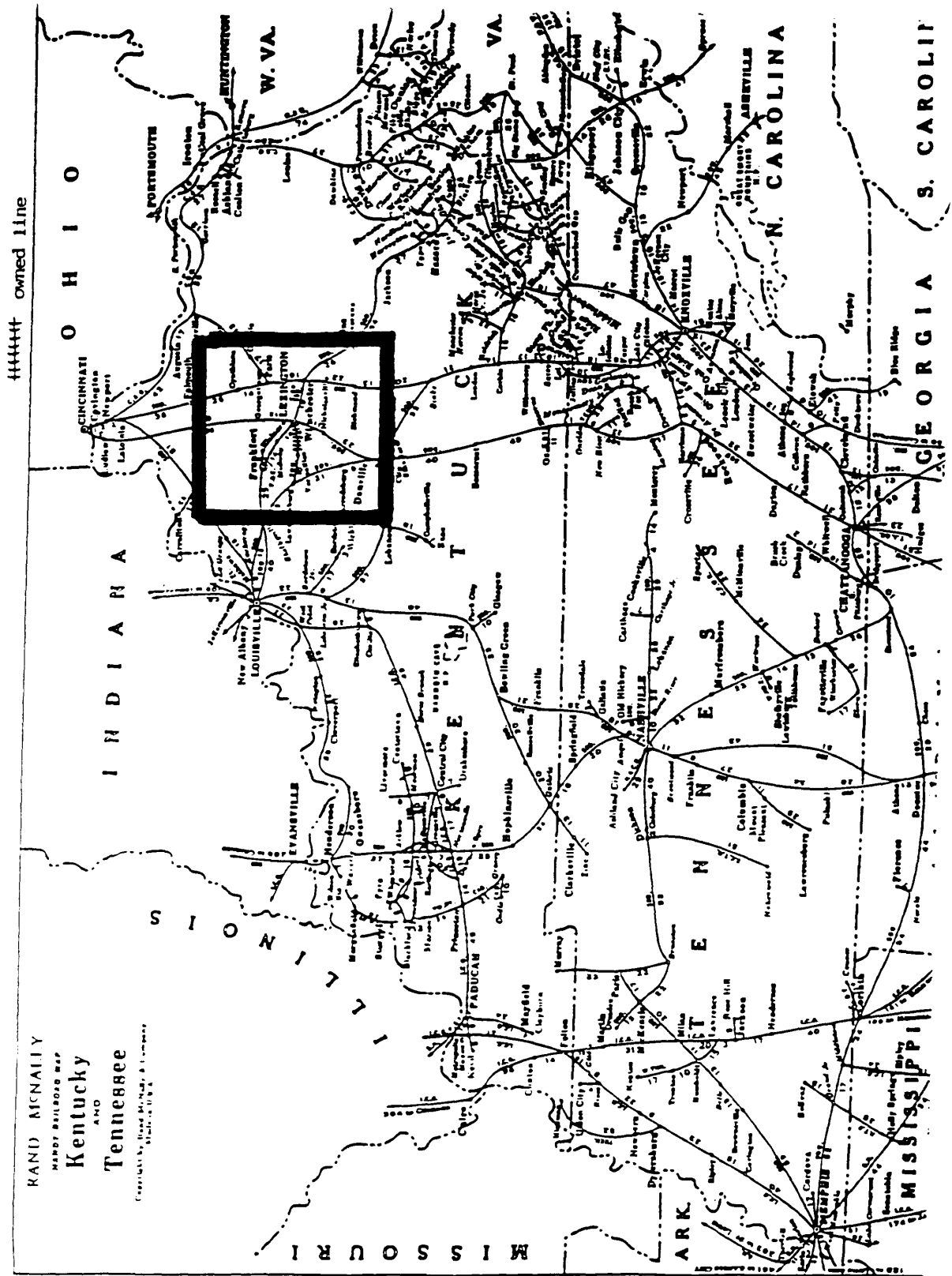
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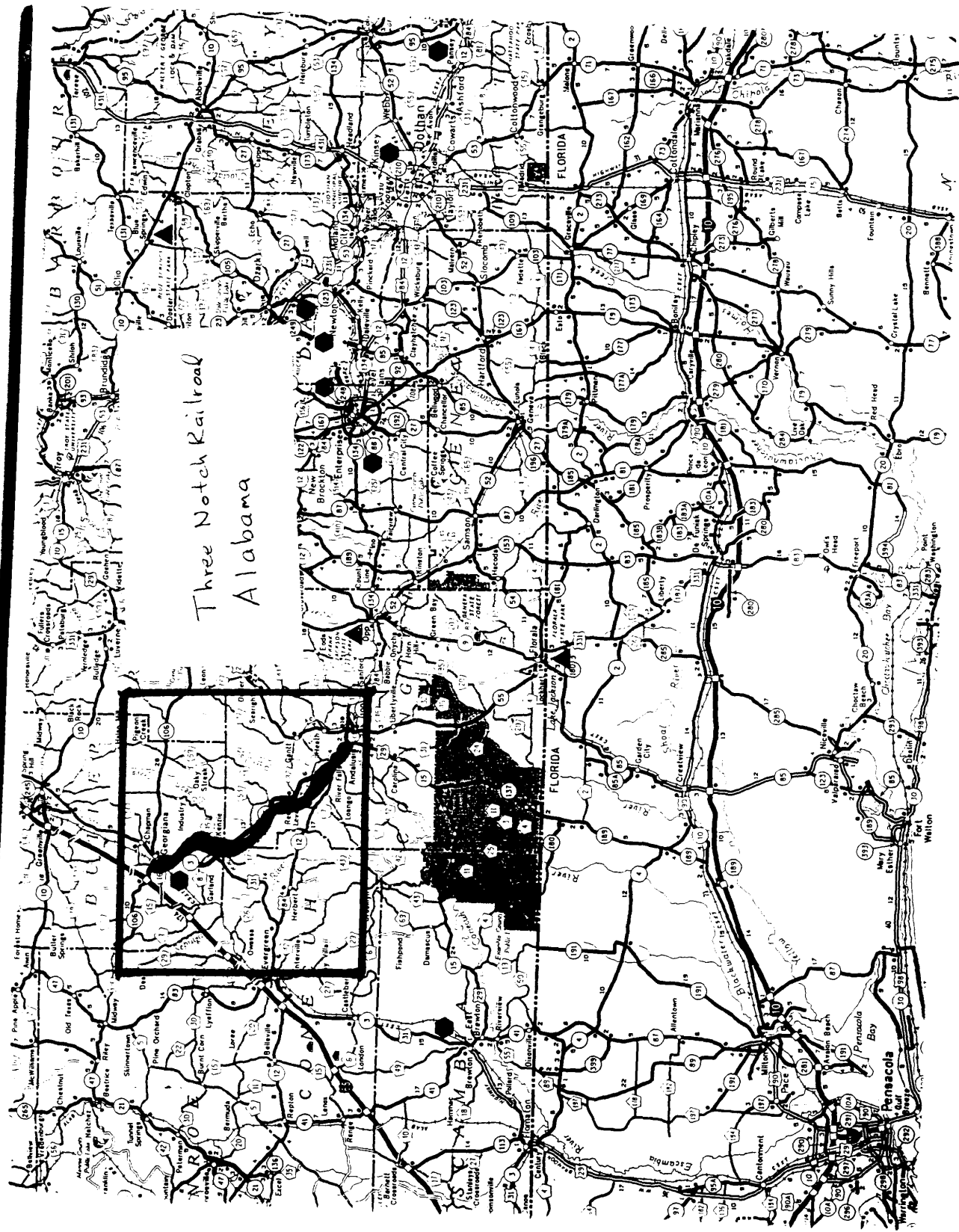


Laurinburg & Southern

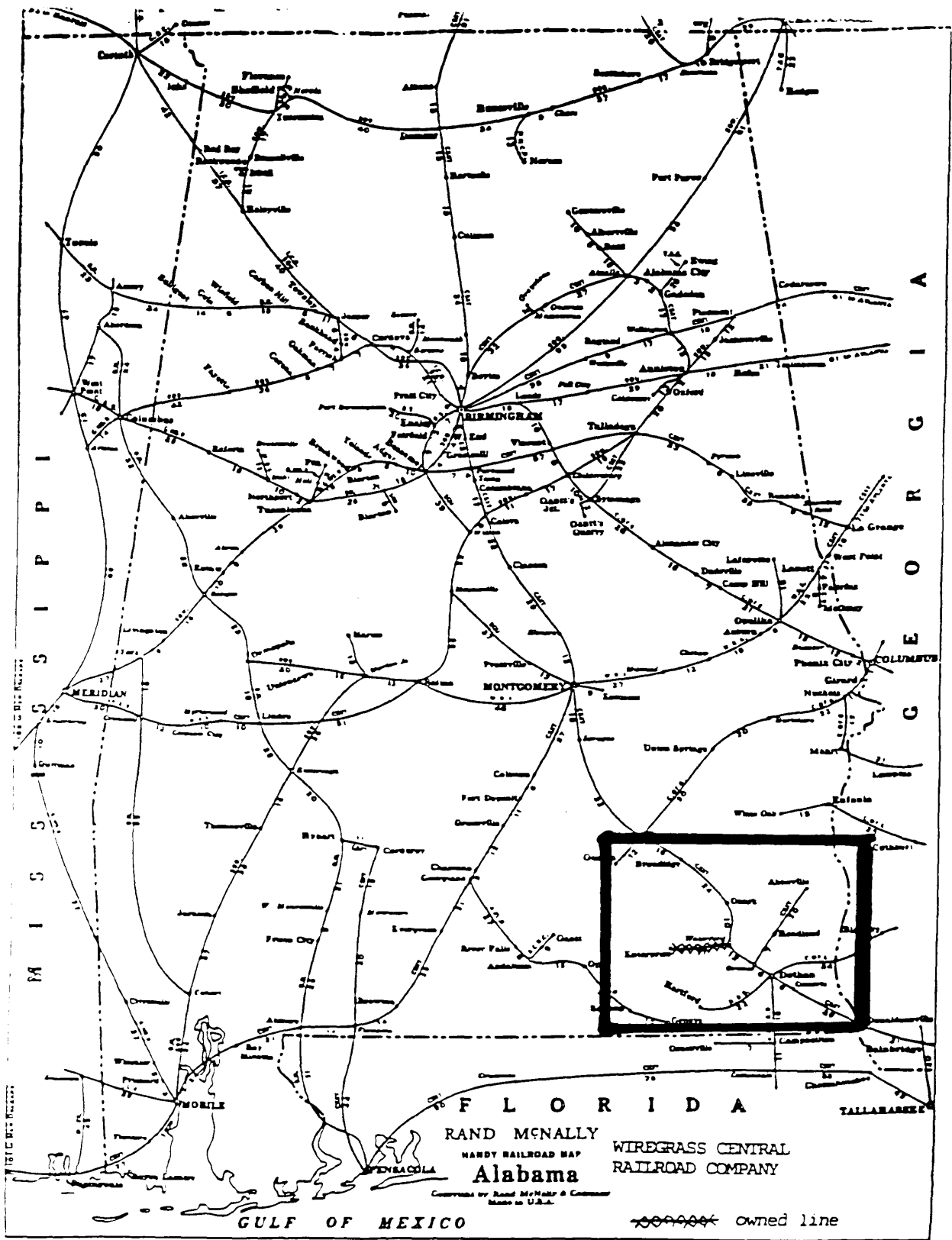


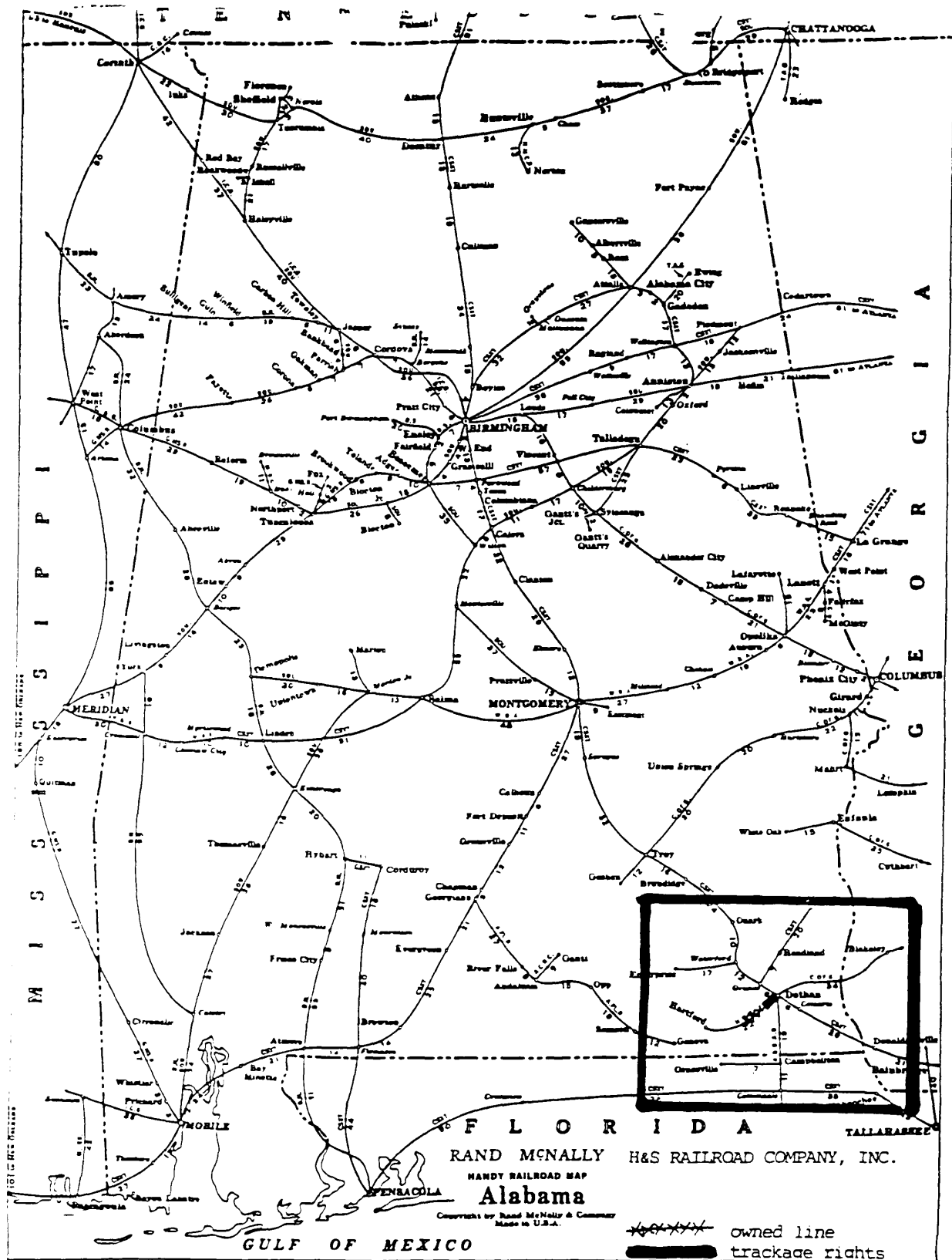
LEXINGTON & OHIO RAILROAD CO., INC.





Three Notch Railroad
Alabama





BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 34299

GULF & OHIO RAILWAYS HOLDING CO., INC.,
H. PETER CLAUSSEN AND LINDA C. CLAUSSEN
– CONTINUANCE IN CONTROL EXEMPTION –
CHATTAHOOCHEE & GULF RAILROAD CO., INC.

PETITION FOR EXEMPTION
FROM
49 U.S.C. § 11323

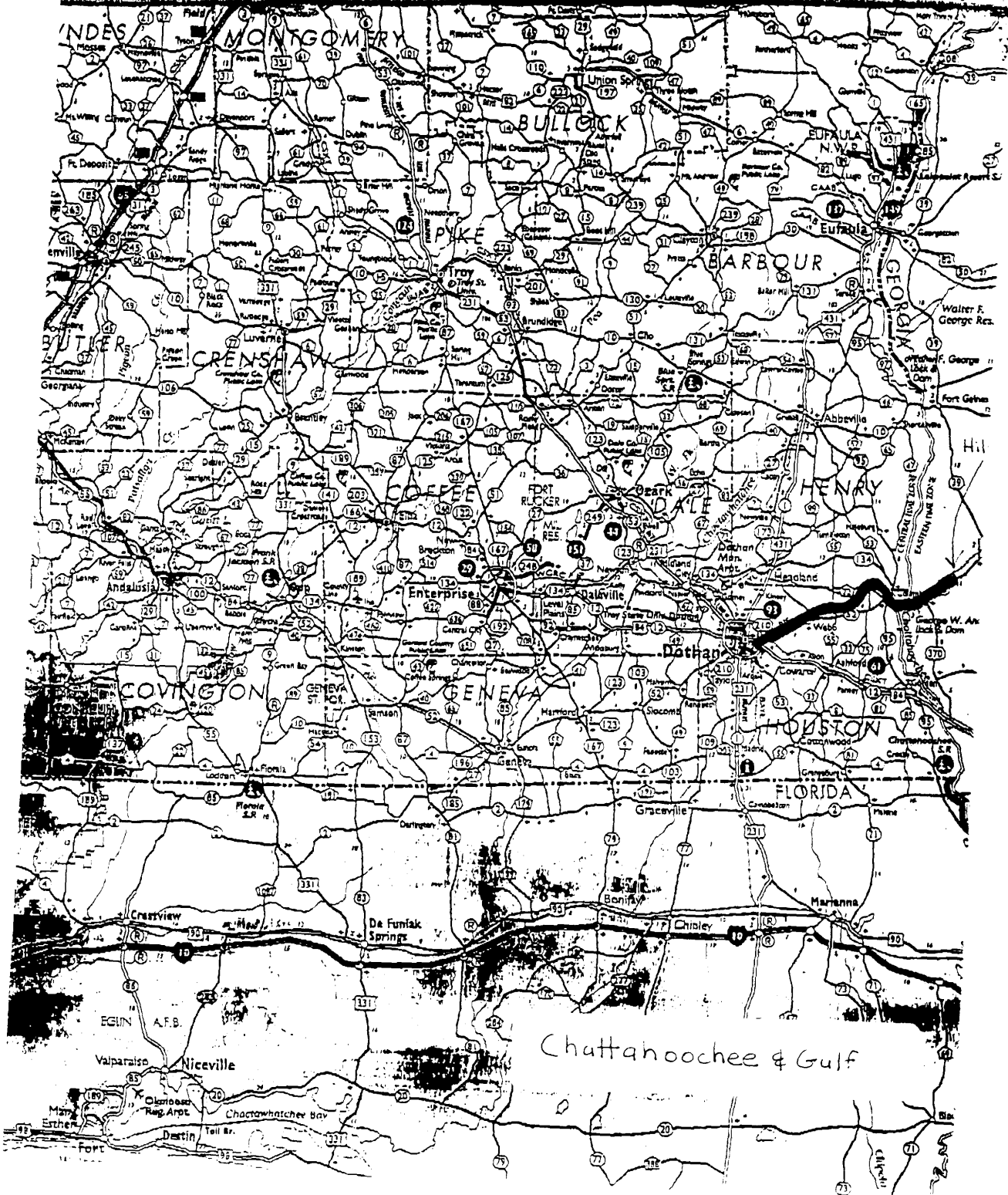
EXHIBIT B

MAPS
CHATTAHOOCHEE & GULF RAILROAD CO., INC.

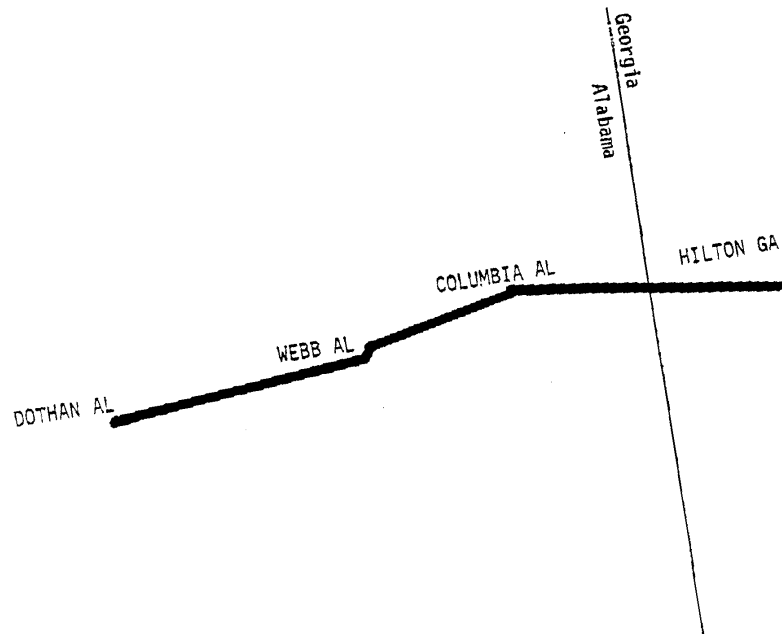
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GULF & OHIO RAILWAYS

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FEB. 25. 2003 5:44PM GULF & OHIO RAILWAYS



Chattahoochee & Gulf

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 34299

GULF & OHIO RAILWAYS HOLDING CO., INC.,
H. PETER CLAUSSEN AND LINDA C. CLAUSSEN
– CONTINUANCE IN CONTROL EXEMPTION –
CHATTAHOOCHEE & GULF RAILROAD CO., INC.

PETITION FOR EXEMPTION
FROM
49 U.S.C. § 11323

EXHIBIT C

VOTING TRUST AGREEMENT

VOTING TRUST AGREEMENT

THIS VOTING TRUST AGREEMENT (the "Voting Trust") is made and entered into this ____ day of _____, 200__, by and between Gulf & Ohio Railways Holding Co., Inc. ("G&O" or "Settlor"), a Tennessee corporation, and _____ ("Trustee"), whose address is _____. This Voting Trust is being entered into in accordance with the Guidelines for the Proper Use of Voting Trusts as set forth in 49 CFR Part 1013.

W I T N E S S E T H:

WHEREAS, G&O is a railroad holding company that directly controls the following freight rail common carriers: Conecuh Valley Railroad Co., Inc., Knoxville & Holston River Railroad Co., Inc., Laurinburg & Southern Railroad Co., Inc., Lexington & Ohio Railroad Co., Inc., Piedmont & Atlantic Railroad, Inc., which operates under the trade name of Yadkin Valley Railroad; Rocky Mount & Western Railroad Co., Inc., which operates under the trade name Nash County Railroad, Three Notch Railroad Co., Inc., and Wiregrass Central Railroad Company, Inc.,

WHEREAS, H. Peter and Linda C. Claussen (the "Claussens") directly control G&O and one freight rail common carrier, H&S Railroad Co., Inc.

WHEREAS, G&O also owns and controls Chattahoochee & Gulf Railroad Co., Inc. ("CGR"), a non-carrier company that, upon entering with the Norfolk Southern Railway Company ("NS") an agreement ("Agreement") for the acquisition and operation of an NS-owned rail line (the

“Subject Line”), combined with effective approval of that transaction (or exemption from regulation) by the Surface Transportation Board (“Board”), will become a rail carrier;

WHEREAS, it is possible that CGR will become a rail carrier prior to the Board’s issuance of any required approval or exemption respecting Settlor’s continued control over CGR;

WHEREAS, Settlor intends, simultaneously with or prior to CGR’s becoming a carrier, to cause the deposit of the shares of CGR into an independent irrevocable voting trust pursuant to the Board’s regulations, in order to avoid any allegation or assertion that Settlor is controlling or has power to control CGR prior to receipt of any requisite Board approval or exemption;

WHEREAS, Trustee is not a shareholder, officer or board member of G&O or any of Settlor’s subsidiaries or affiliates, and neither Settlor nor the Claussens have any direct business arrangements with Trustee (other than this Voting Trust), that could be construed as creating an indicium of control over Trustee;

WHEREAS, the Trustee is willing to act as voting trustee pursuant to the terms of this Voting Trust and the regulations of the Board.

NOW THEREFORE, in consideration of the premises and mutual undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Settlor hereby irrevocably appoints _____ as Trustee hereunder, and _____ hereby accepts said appointment and agrees to act as Trustee under this Voting Trust as provided herein.

2. This Voting Trust shall be irrevocable by Settlor and shall terminate only in accordance with the provisions hereof.

3. Settlor agrees that, prior to taking the requisite action that would render CGR a carrier, the shares of CGR will be assigned, transferred and delivered in trust to the Trustee, at _____, and any and all additional shares of CGR hereafter acquired during the term of this Voting Trust likewise will be assigned, transferred and delivered in trust to Trustee. All shares shall be duly endorsed or accompanied by proper instruments duly executed for transfer thereof to the Trustee, with all applicable transfer taxes and fees having been paid by Settlor, in exchange for Trust Certificates (as described in Paragraph 4 hereof). The delivery of certificates for such shares may be made at such other place as may be designated by the Trustee. All shares of CGR at any time in deposit with the Trustee hereunder are hereinafter referred to as the "Trust Stock."

4. The Trustee shall hold in trust and shall dispose of, under and pursuant to the terms and conditions of this Voting Trust, all Trust Stock which may now or afterwards from time to time be delivered by or for the account of Settlor. In exchange for the Trust Stock, the Trustee shall cause to be issued and delivered to Settlor, voting trust certificates ("Trust Certificates") substantially in the form attached hereto as Exhibit A, with the blanks therein appropriately filled.

5. The Trust Certificates issued by the Trustee may be transferred on the books of the Trustee by the registered holder or holders of Trust Certificates (the "Holder" or "Holders") upon the surrender thereof, properly endorsed by the Holder, in person or by an authorized attorney of the Holder, according to rules from time to time established for that purpose by the Trustee. Title to the Trust Certificates, when endorsed, shall, to the extent permitted by law, be transferable with the same effect as in the case of negotiable instruments. Delivery of the Trust Certificates, endorsed in blank, by a Holder, shall vest title to and all rights under the Trust Certificates in the transferee thereof to the same extent and for all purposes as would delivery under like circumstances of

negotiable instruments payable to bearer; provided, however, that the Trustee may treat the Holder of record, or, when presented endorsed in blank, the bearers, as the owners for all purposes whatsoever, and shall not be affected by any notice to the contrary; provided further, however, that the Trustee shall not be required to deliver any Trust Stock without the surrender and cancellation of the corresponding Trust Certificates. Except to the extent provided otherwise in Paragraph 12 hereof, every transferee of a Trust Certificate shall, upon the receipt of such properly endorsed Trust Certificate, become a party to this Voting Trust as though an original party, and shall assume all attendant rights and obligations under this Voting Trust. In connection with, and as a condition of making or permitting any transfer or delivery of any Trust Stock or Trust Certificates under any provision of this Voting Trust, the Trustee may require the payment of a sum sufficient to pay or reimburse the Trustee for any stamp tax or other governmental charge in connection with the transaction.

6. From the date first written above, and until such time as the Voting Trust shall terminate in accordance with the provisions herein, the Trustee shall, subject to the limitations contained herein, have the full right to vote and to execute consents with respect to the Trust Stock, and shall be duly bound to exercise such voting rights, either in person or by proxy, at all meetings of the shareholders of CGR for any purpose, and shall possess in respect of any and all the Trust Stock, and shall be entitled to exercise all the powers of absolute owners of the Trust Stock and all rights of every nature in respect of such Trust Stock, including the right to vote and to execute consents for every purpose and to receive dividends thereon, unless otherwise directed by a court of competent jurisdiction. The Trustee shall not exercise the voting powers of the Trust in any way so as to cause any dependence or intercorporate relationship between Settlor and the Claussens, or firms controlled or affiliated with such persons, on the one hand, and CGR or its affiliates on the

other hand, other than such dealings as permitted pursuant to Paragraph 7 hereof. (The term “affiliate” or “affiliates” wherever used in this Voting Trust shall have the meaning specified in 49 U.S.C. § 11323(c)). The Trustee may not vote the Trust Stock for any transaction that would result in a violation of 49 U.S.C. § 11323; provided, however, that the Trustee may, with the consent of the Holders of record of Trust Certificates representing at least two-thirds of the shares of CGR at the time held pursuant to this Voting Trust, vote with respect to the following:

- (a) the sale, lease or exchange of all or substantially all of the property and assets of CGR to any company other than a company controlled by or affiliated with Settlor or the Claussens;
- (b) the consolidation or merger of CGR with or into any company other than a company controlled by or affiliated with Settlor or the Claussens.

In the case of any sale, lease, exchange, consolidation, merger or dissolution so made with the consent of the Holders of record of Trust Certificates representing at least two-thirds of the shares of CGR at the time held in trust, the Trustee shall have the power to sell, exchange, surrender or otherwise dispose of all or any part of the ownership interest of CGR at the time held in trust, pursuant to the terms of or in order to carry into effect such sale, lease, exchange, consolidation, merger or dissolution. Subject to the provisions hereof and until termination of this Voting Trust, the Trustee may vote or consent, or issue proxies to vote or consent, at shareholders’ meetings of CGR and otherwise, as the Trustee shall determine in his uncontrolled discretion, and no voting or other right or power with respect to the Trust Stock and other securities held in trust shall pass to the Holders or to others by or under the Trust Certificates, or by or under this Voting Trust, or by or under any other agreement.

7. Neither the Trustee, nor any director, officer, or affiliate of the Trustee, may serve as an officer or member of the board of directors of Settlor, any affiliate of Settlor or any company controlled by the Claussens; or be a shareholder of Settlor, any affiliate of Settlor or any company controlled by the Claussens; or have any direct or indirect business arrangements or dealings, financial or otherwise, with Settlor, any affiliate of Settlor or any company controlled by the Claussens (other than this Voting Trust), that could be construed as creating an indicium of control by Settlor or the Claussens over Trustee. The Trustee has the responsibility to manage CGR through casting his votes for CGR's Board of Directors and to exercise the voting rights provided in paragraph 6 hereof. The Trustee's duties are therefore not merely custodial in nature. Nothing in this Voting Trust shall restrict the ability of companies controlled by Settlor and the Claussens to enter into or continue commercial dealings with CGR in the ordinary course of business, based on arm's-length bargaining, during the term of this Voting Trust, including without limitation the following:

- (a) the provision of rail service over the CGR's rail line by any company controlled by or affiliated with Settlor or the Claussens;
- (b) the leasing by CGR of rolling stock or other equipment or assets or services from any company controlled by or affiliated with Settlor or the Claussens, and
- (c) the provision by CGR of such documents and information as Settlor may reasonably request in connection with presenting its position regarding control of CGR to the Board or a court of competent jurisdiction.

8. In voting or giving directions for voting the Trust Stock, the Trustee will exercise his best judgment to elect suitable directors in the best interest of the affairs of CGR. The Trustee,

however, assumes no responsibility with respect to acts or omissions of the directors of CGR (other than the negligence or willful misconduct of the Trustee himself).

9. The Trustee shall be entitled to receive reasonable and customary compensation for all services rendered by Trustee under the terms hereof and shall be entitled to indemnity from Settlor against any and all expenses, claims and liabilities incurred in connection with or with respect to the performance of Trustee's duties under this Voting Trust; provided, that the indemnification of the Trustee by the Settlor shall not extend to expenses, claims or liabilities resulting from or in connection with the willful misconduct or gross negligence of the Trustee. Trustee shall submit to Settlor quarterly invoices for services with appropriate documentation, and Settlor shall pay such statements within thirty (30) days after receipt thereof.

10. From and after the deposit of the Trust Stock with Trustee, and until the termination of this Voting Trust pursuant to the terms hereof, a Holder shall be entitled to receive, from time to time, payment of any distributions, other than distributions that are in the form of ownership interest in CGR, having voting rights of any class, collected by the Trustee upon the ownership interests in CGR represented by the Trust Certificates, or upon any proceeds. Immediately following receipt of any such distribution, the Trustee shall pay the same over to or as directed by the transferee or Holder hereunder as then known to the Trustee.

11. In the event that any distribution paid in ownership interest in CGR, having voting rights of any class shall be received by the Trustee, such interest shall be held by the Trustee in accordance with the terms of this Voting Trust as though initially deposited with the Trustee by Settlor under this Voting Trust. With respect to such interest, the Trustee shall issue new or additional Trust Certificates to the Holders entitled to receive any such distribution.

12. (a) This Voting Trust is accepted by the Trustee subject to the right hereby reserved to Settlor at any time to sell or make any other disposition, in whole or in part, of Settlor's Trust Stock, whether or not an event described in subparagraph (b) below has occurred. The Trustee will at any time upon the receipt of written instructions from a Holder designating the person or entity to whom the Holder has sold or otherwise disposed of the whole or any part of such Holder's Trust Stock, and certifying in writing that such person or entity is not a shareholder, officer, director or affiliate of Settlor (upon which written certification the Trustee shall be entitled to rely), immediately transfer to such person or entity therein named all of the Trustee's right, title and interest in such amount of the Trust Stock as may be set forth in such instructions and shall cooperate with such person or entity in having such Trust Stock reissued in such person's name. If such instructions result in the transfer of all of the Trust Stock subject to this Voting Trust as of the date of such instructions, then upon transfer of the Trustee's right, title and interest therein, and in the event of a sale thereof, upon delivery of the proceeds of such sale, this Voting Trust shall cease and come to an end. If such instructions relate to only a part of the Trust Stock, then this Voting Trust shall cease as to such part upon such transfer, and the receipt of proceeds in the event of sale, but shall remain in full force and effect as to the remainder of the Trust Stock. In the event of a sale of Trust Stock by Settlor, the net proceeds of such sale shall be payable to the Trustee and upon receipt thereof the Trustee shall promptly pay or cause to be paid such net proceeds to Settlor. It is the intention of this subparagraph that no violations of 49 U.S.C. § 11323 will result from a termination of this Voting Trust.

(b) In the event that: (1) Title 49 of the United States Code or other controlling law is amended to allow Settlor and/or the Claussens to continue control of CGR upon CGR's becoming a carrier without obtaining Board or other governmental approval or exemption, (2) the

Board by final order approves or exempts the continued control by Settlor and/or the Claussens of CGR upon CGR's becoming a rail carrier, or (3) Settlor and/or the Claussens are entitled under the regulations of the Board to file a verified notice of exemption; then immediately upon the delivery of a copy of such order of the Board with respect thereto, or an opinion of independent counsel selected by the Trustee that no order of the Board or other governmental authority or exemption is required, the Trustee shall either vote the Trust Stock as directed in writing by the Holders, or transfer to the Holders or transfer upon the order of the Holders as then known to the Trustee, Trustee's right, title and interest in and to all of the Trust Stock or such part as may then be held by Trustee (as provided in subparagraph (a) hereof), and upon such transfer this Voting Trust shall cease and come to an end.

(c) In the event that: (1) the Board or a court of competent jurisdiction denies Settlor and/or the Claussens authority to continue in control of CGR upon CGR's becoming a carrier and that order becomes final after judicial review or failure to appeal, (2) the Board or a court of competent jurisdiction orders the Trustee to divest himself of the Trust Stock, and that order becomes final after judicial review or failure to appeal, or (3) the Holders determine in light of any other final order that the Trust Stock should be sold; the Trustee shall use best efforts to dispose of the Trust Stock under the terms of the Board or court order and in accordance with any instructions of Holders of Trust Certificates not inconsistent with the requirement of the terms of any Board or court order. To the extent that registration is required under the Securities Act of 1933 or any other applicable securities laws in respect of any distribution of Trust Stock as contemplated herein, the Holder shall reimburse the Trustee for any expenses incurred by Trustee. The proceeds of the sale shall be distributed, on a pro rata basis, to or upon the order of the Holders hereunder as then known to the Trustee. The Trustee may, in his reasonable discretion, require the

surrender to Trustee of the Trust Certificates hereunder before paying to the Holder such Holder's share of the proceeds.

(d) Unless sooner terminated pursuant to any other provision herein contained, this Voting Trust shall terminate one (1) year after the day and year first written above, so long as no violation of 49 U.S.C. § 11323 will result from such termination, and provided that this Voting Trust may be extended by the mutual agreement of the parties hereto pursuant to applicable state law, until such time as the ICC Termination Act of 1995 and the regulations promulgated thereunder by the Board, as presently in effect, shall no longer require that the Trust Stock be held in a voting trust. All Trust Stock and any other property held by the Trustee hereunder upon such termination shall be distributed to or upon the order of the Holders of Trust Certificates hereunder as then known to the Trustee. The Trustee may, in his reasonable discretion, require surrender to the Trustee of the Trust Certificates hereunder before the release or transfer of the Trust Stock evidenced thereby. Upon termination of this Voting Trust, the Holders' respective rights, titles and interests in and to the Trust Stock then held by the Trustee shall be transferred to such Holders in accordance with the terms and conditions of this Voting Trust, and upon such transfer, this Voting Trust shall cease and come to an end.

(e) The Trustee shall promptly inform the Board of any transfer or disposition of Trust Stock pursuant to this Paragraph 12.

13. The Trustee shall not, by reason of this Voting Trust, or by the exercise of any powers or duties pursuant to this Voting Trust, incur any responsibility as shareholder, manager, trustee or otherwise by reason of any error of judgment, or mistake of law or fact, or of any omission of any agent or attorney, or of any misconstruction of this Voting Trust, or for any action of any sort taken or omitted or believed by the Trustee to be in accordance with the terms of this

Voting Trust or otherwise, except for the individual willful misconduct or gross negligence of the Trustee. The Trustee shall not be responsible for the sufficiency or accuracy of the form, execution, validity or genuineness of the Trust Stock, or of any documents, or of any endorsement thereon, or for any lack of endorsement thereof, or for any description therein, nor shall the Trustee be responsible or liable in any respect on account of the identity, authority or rights of the persons executing or delivering or purporting to execute or deliver any such Trust Stock or document or endorsement on the Trust Stock, except for the execution and delivery of this Voting Trust by the Trustee. Settlor agrees that it will at all times protect, indemnify and save harmless the Trustee from any loss, cost, or expense of any kind or character whatsoever in connection with this Voting Trust except those, if any, arising from or in connection with the gross negligence or willful misconduct of the Trustee, and will at all times undertake, assume full responsibility for, and pay all costs and expenses of any suit or litigation of any character, with respect to the Trust Stock or this Voting Trust, and if the Trustee shall be made a party thereto, Settlor will pay all costs and expenses, including reasonable attorneys' fees, to which the Trustee may be subject by reason thereof. The Trustee may consult with counsel, and the opinion of such counsel shall constitute full and complete authorization and protection in respect of any action taken or omitted or suffered by the Trustee hereunder in good faith and in accordance with such opinion. Notwithstanding any provision herein to the contrary, and without limiting the foregoing, Settlor shall indemnify and save harmless Trustee from and against any and all liability, losses and expenses (including without limitation reasonable attorneys' fees) arising out of or in connection with claims asserted against CGR or Settlor, or related to the ownership or operation of CGR's properties, under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 *et seq.*), the Hazardous Materials Transportation Act (49 U.S.C. § 5105 *et seq.*), the Resource

Conservation and Recovery Act (42 U.S.C. § 6901 *et seq.*), the Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*), the Clean Air Act (42 U.S.C. § 7401 *et seq.*), the Toxic Substances Control Act (15 U.S.C. § 2601 *et seq.*) and analogous state or local laws (and regulations and orders issued thereunder); *provided*, that this indemnity shall not apply to the extent that such liability, losses or expenses arise out of or in connection with the gross negligence or willful misconduct of the Trustee.

14. The Trustee may at any time or from time to time appoint an agent or agents and may delegate to such agent or agents the performance of any administrative duty of the Trustee. The Trustee may at any time remove any agent so appointed by the Trustee and appoint a new agent to carry out the purposes herein.

15. The Trustee may at any time resign by delivering to Settlor and to the Holders, if different from the Settlor, Trustee's resignation in writing, such resignation to take effect the earlier of thirty (30) days after the date such notice is sent, or the date of the appointment of a successor trustee. Trustee shall cease to act as trustee hereunder effective upon the appointment of a successor trustee as hereinafter provided. Upon receiving notice of resignation, Settlor shall within fifteen (15) days appoint a successor trustee, who shall satisfy the requirements of Paragraph 7 hereof. If no successor trustee shall have been appointed and shall have accepted appointment within twenty (20) days after such notice of resignation, the resigning Trustee may petition any federal court for the appointment of a successor trustee consistent with the terms and conditions of this Agreement. In the event of death or inability to act on the part of the Trustee, the Settlor shall, within fifteen (15) days after such death or inability to act, appoint a successor trustee who shall satisfy the requirements of Paragraph 7 hereof. Upon written assumption by the successor trustee of the Trustee's powers and duties hereunder, Settlor and all Holders shall be notified of such

assumption, whereupon the Trustee shall be discharged of his powers and duties hereunder and the successor trustee shall become vested therewith. In the event of any material violation of the terms and conditions of this Voting Trust, the Trustee shall become disqualified from acting as Trustee hereunder as soon as a successor trustee hereunder shall have been selected in the manner provided by this paragraph.

16. Except as provided hereunder, the Trustee herein appointed, or any successor trustee, shall not, in the Trustee's individual capacity or otherwise, buy, sell or deal in the stock, shares or membership interests of CGR or of any company controlled by or affiliated with Settlor.

17. The Trustee accepts the powers and duties under this Voting Trust subject to all the terms, conditions and reservations contained herein and agrees to exercise the powers and perform the duties of Trustee as set forth herein.

18. All notices, demands, requests or other communications that may be or are required to be given, served or sent to the Trustee, Settlor, or Holders pursuant to this Voting Trust shall be in writing and shall be deemed to have been properly given or sent by mailing by registered or certified mail, return receipt requested, or by a national overnight delivery service, appropriately addressed to the Trustee, Settlor or Holders, as applicable, as follows:

If to the Trustee:

[INSERT]

If to Settlor:

Gulf & Ohio Railway Holding, Co., Inc.
401 Henley Street, Suite 5
Knoxville, TN 37902
ATTN.: H. Peter Claussen
phone (for confirmation) (865) 525-9400

With copies to:

Mark H. Sidman
Weiner Brodsky Sidman Kider PC
1300 Nineteenth Street, NW
Fifth Floor
Washington, D.C. 20036-1609
phone (for confirmation) (202) 628-2000

Each notice, demand, request or communication which shall be mailed by registered or certified mail, or sent by national overnight delivery service, in the manner aforesaid shall be deemed sufficiently given, served or sent for all purposes at the time such notice, demand, request or communication shall be either received by the addressee or refused by the addressee upon presentation. Upon Trustee's receipt of a notice to a Holder other than Settlor, or in the event Trustee is required to or sends notice to a Holder other than Settlor, Trustee shall forward or send such notice to the Holder of record at the last known address of such Holder listed on the books maintained by Trustee.

19. Copies of this Voting Trust shall be on file in the principal office of CGR in the State of Tennessee, and shall be open to any officer of Settlor or Holder of any Trust Certificate daily during normal business hours.

20. In order to permit Trustee to perform the duties and obligations of this Voting Trust, Settlor shall provide Trustee with all corporate records and Board orders affecting the stock of CGR, promptly upon Settlor's receipt or creation of such documents.

21. If, at any time, the Trustee is of the opinion that any tax or governmental charge is payable in respect of any Trust Stock held by the Trustee, or in respect of any distributions or other rights arising from or appurtenant to the subject matter of this Voting Trust, the Trustee may, but shall not be required to, pay such tax or governmental charge. The Trustee shall have a first lien, in

the sum of any amount so paid, along with interest at a rate of six percent (6%) per annum, against the Trust Stock held by the Trustee and/or against any dividends, distributions or other rights arising from or appurtenant to the subject matter of this Voting Trust, and may be satisfied therefrom.

22. If any term or provision of this Voting Trust is illegal, invalid or unenforceable under or inconsistent with present or future laws, including, but not limited to, the ICC Termination Act of 1995 and regulations promulgated thereunder by the Board, as may be then in effect, then in that event, it is the intention of the parties hereto that the remainder of this Voting Trust shall not be affected thereby and shall be valid and shall be enforced to the fullest extent permitted by law. In the event that the Board shall at any time hereafter by final order find that compliance with law requires any other or different action by the Trustee than is provided herein, the Trustee shall, upon receipt of such final order, act in accordance with such final order instead of the provisions of this Voting Trust.

23. This Voting Trust may be executed in counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

24. This Voting Trust shall be governed and construed in accordance with the laws of the State of Tennessee.

25. This Voting Trust may from time to time be modified or amended by agreement executed by the Trustee, Settlor and all Holders of Trust Certificates: (a) pursuant to an order of the Board; (b) with prior approval of the Board; (c) in order to comply with any order of the Board; or (d) upon receipt of an opinion of counsel satisfactory to Trustee and the Holders that an order of the Board approving such modification or amendment is not required, provided that a copy of such

modification or amendment shall have been provided to the Board, pursuant to 49 CFR Part 1013 or any successor provision.

26. This Voting Trust shall be binding upon the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Voting Trust as of the date first written above.

TRUSTEE:

SETTLOR:

GULF & OHIO RAILWAYS HOLDING CO., INC.

By: H. Peter Claussen

Its: Director and Chairman

EXHIBIT A

No. _____

_____ Shares

VOTING TRUST CERTIFICATE

FOR

OWNERSHIP INTEREST OF

THE STOCK OF CHATTAHOOCHEE & GULF RAILROAD CO., INC.

THIS IS TO CERTIFY that _____ will be entitled, on the surrender of this Certificate, to receive on the termination of the Voting Trust Agreement ("Voting Trust") hereinafter referred to, or otherwise as provided in Paragraph 12 of that Voting Trust dated _____, 200__, all right, title and interest in a certificate or certificates for _____ Class _____ shares of Chattahoochee & Gulf Railroad Co., Inc. ("CGR"). This Certificate is issued pursuant to said Voting Trust, which is by and between Gulf & Ohio Railways Holding Co., Inc. ("Settlor"), and _____ ("Trustee"). A copy of the Voting Trust is on file in the registered office of CGR, and open to inspection by the holder hereof. The Voting Trust, unless earlier terminated pursuant to the terms thereof, will terminate one year from the date on which it was made, as shown above, so long as no violation of 49 U.S.C. § 11323 will result from such termination.

The holder of this Certificate shall be entitled to the benefits of the Voting Trust, including the right to payments equal to the cash dividends, if any, paid by CGR on a pro rata basis with respect to the shares represented by this Certificate.

This Certificate shall be transferable only on the books of the undersigned Trustee or any successor, to be kept by such Trustee or successor, upon surrender hereof by the registered holder in person or by an attorney duly authorized in accordance with the provisions of the Voting Trust, and until so transferred, the Trustee may treat the registered holder as the owner of this Voting Trust Certificate for all purposes whatsoever, unaffected by any notice to the contrary.

By accepting this Certificate, the holder hereof assents to all provisions of, and becomes a party to, the Voting Trust.

IN WITNESS WHEREOF, the Trustee has signed this Certificate.

Signature: _____

Printed Name: _____

Dated: _____

VERIFICATION

I, H. Peter Claussen, certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief. Further, I certify that I am qualified and authorized to file this Petition for Exemption.



H. Peter Claussen

Dated: February 28, 2003