

ORIGINAL

ENTERED
Office of Proceedings

MAY 2 2003

Part of
Public Record

BALL JANIK LLP

A T T O R N E Y S

1455 F STREET, NW, SUITE 225
WASHINGTON, D.C. 20005

www.balljanik.com

TELEPHONE 202-638-3307
FACSIMILE 202-783-6947

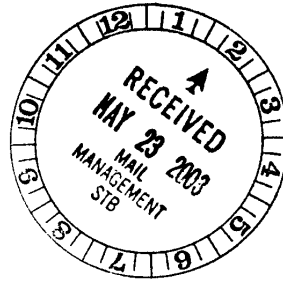
LOUIS E. GITOMER
OF COUNSEL
(202) 466-6532

lgitomer@dc.bjllp.com

May 23, 2003

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Suite 700
Washington, DC 20423

207873



RE: Finance Docket No. 34323, *Alabama Gulf Coast Railway LLC—Acquisition and Operation Exemption—The Burlington Northern and Santa Fe Railway Company*

Dear Secretary Williams:

Enclosed for filing are the original and ten copies of a Verified Notice of Exemption under 49 CFR § 1150.41, three diskettes with the file Notice.doc, and a check covering the \$1,300.00 filing fee. Please time and date stamp the extra copy of this letter and the Verified Notice of Exemption and return them with our messenger.

If you have any questions, please contact me.

Sincerely yours,

Louis E. Gitomer
Attorney for Alabama Gulf Coast
Railway LLC

FEE RECEIVED

MAY 23 2003

Enclosures

**SURFACE
TRANSPORTATION BOARD**

FILED

MAY 23 2003

**SURFACE
TRANSPORTATION BOARD**

ENTERED
Office of Proceedings

MAY 2 2003

Part of
Public Record

BEFORE THE

SURFACE TRANSPORTATION BOARD

Finance Docket No. 34323



ALABAMA GULF COAST RAILWAY LLC—ACQUISITION AND OPERATION
EXEMPTION—THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

VERIFIED NOTICE OF EXEMPTION

Pursuant to 49 C.F.R. § 1150.41, *et seq.*

FEE RECEIVED

MAY 23 2003

**SURFACE
TRANSPORTATION BOARD**

Gary A. Laakso, Esq.
Vice President Regulatory Counsel
RailAmerica, Inc.
5300 Broken Sound Boulevard N.W.
Second Floor
Boca Raton, FL 33487
(561) 994-6015

Louis E. Gitomer, Esq.
Of Counsel
BALL JANIK LLP
1455 F Street, N.W., Suite 225
Washington, D.C. 20005
(202) 638-3307

Attorneys for ALABAMA GULF COAST
RAILWAY LLC

Dated: May 23, 2003

FILED
MAY 23 2003
**SURFACE
TRANSPORTATION BOARD**

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34323



ALABAMA GULF COAST RAILWAY LLC—ACQUISITION AND OPERATION
EXEMPTION—THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

VERIFIED NOTICE OF EXEMPTION
Pursuant to 49 C.F.R. § 1150.41, *et seq.*

Alabama Gulf Coast Railway LLC (“AGR”), a Class III rail carrier, with annual revenues exceeding \$5 million, files this Verified Notice of Exemption pursuant to 49 C.F.R. Part 1150, Subpart E, *Exempt Transactions Under 49 U.S.C. 10902 for Class III Rail Carriers*, from the prior approval requirements of 49 U.S.C. § 10902 to permit AGR, pursuant to contract, to acquire and operate about 272.1 miles of railroad line from The Burlington Northern and Santa Fe Railway Company (“BNSF”) in the States of Alabama and Mississippi.

§ 1150.43 Information to be contained in notice for small line acquisitions.

- (a) The full name and address of the Class III rail carrier applicant.

Alabama Gulf Coast Railway LLC
136 North Mount Pleasant Avenue
Monroeville, AL 36461

- (b) The name, address, and telephone number of the representative of the applicant who should receive correspondence.

Louis E. Gitomer, Esq.
Of Counsel
Ball Janik LLP
1455 F Street, NW, Suite 225
Washington, DC 20005
(202) 638-3307

(c) A statement that an agreement has been reached or details about when an agreement will be reached.

An agreement between AGR and BNSF has been reached.

(d) The operator of the property.

AGR will operate the property.

(e) A brief summary of the proposed transaction, including:

(1) The name and address of the railroad transferring the subject property to the Class III rail carrier applicant.

The Burlington Northern and Santa Fe Railway Company
2500 Lou Menk Drive
Fort Worth, TX 76131-0039

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

AGR plans to acquire and operate the line of railroad on or after June 1, 2003.

(3) The mileposts of the subject property, including any branch lines.

AGR's rail line acquisition includes: (1) the purchase and sale of the rail line between milepost 654.005 near Whitbury, MS and milepost 776.1, near Gulf, AL, a distance of 122.095 miles; (2) the lease of the rail line between milepost 649.3 near Columbus, MS and milepost 654.005 near Whitbury, MS, a distance of 4.705 miles; (3) the grant of overhead trackage rights between BNSF's Amory, MS Yard, milepost 612.32 and Columbus, MS, milepost 649.3, a distance of 36.98 miles; (4) assignment of BNSF's trackage rights over Norfolk Southern Railway Company ("NS") between Kimbrough, AL and Mobile, AL (TASAD Switch), a distance of about 102.55 miles;¹ (5) lease between near M&T Chemical, AL, milepost 851.4

¹ NS's predecessor granted BNSF's predecessor trackage rights. *Burlington Northern Railroad Company—Trackage Rights Exemption—Southern Railway Company*, ICC Finance Docket No. 30739 (ICC served November 5, 1985); and *Burlington Northern Railroad Company—Trackage*

and Mobile, AL, milepost 873.5; and (6) sublease of certain facilities of the Terminal Railway Alabama State Docks. BNSF has retained overhead trackage rights on the sold portion of the line and trackage rights on the leased and subleased segments.

(4) The total route miles being acquired.

AGR is acquiring approximately 288.43 route miles.

(f) A map that clearly indicates the area to be served, including origins, termini, stations, cities, counties, and states.

See Exhibit C (colored map).

(g) A certificate that applicant's projected revenues as a result of the transaction will not result in the creation of a Class II or Class I rail carrier so as to require processing under §1150.45.

AGR hereby certifies that AGR's projected revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier.

(h) Certification that the projected annual revenue of the rail lines to be acquired and operated together with the acquiring carrier's projected annual revenues will not exceed \$5 million.

Not applicable. The projected annual revenue of the rail lines to be acquired and operated from BNSF together with the AGR's projected annual revenues will exceed \$5 million. On March 11, 2003, AGR certified to the Board that it had complied with the notice requirements of 49 C.F.R. § 1150.42(e). See Exhibit A.

(i) Labor protection.

Under 49 U.S.C. § 10902(d), labor protection is not to be imposed since a Class III railroad is acquiring the Line.

Rights Exemption—Southern Railway Company, ICC Finance Docket No. 30739 (Sub-No. 1) (ICC served May 5, 1994).

(j) Environmental and historic documentation.

This transaction qualifies for classification under 49 C.F.R. §1105.6(c)(2) and thus neither an Environmental Assessment nor a Historic Report is required to be filed.

(k) Caption Summary.

See Exhibit B.

Gary A. Laakso, Esq.
Vice President Regulatory Counsel
RailAmerica, Inc.
5300 Broken Sound Boulevard N.W.
Second Floor
Boca Raton, FL 33487
(561) 994-6015

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Louis E. Gitomer", followed by a stylized flourish or initials.

Louis E. Gitomer, Esq.
Of Counsel
BALL JANIK LLP
1455 F Street, N.W., Suite 225
Washington, D.C. 20005
(202) 638-3307

Attorneys for ALABAMA GULF COAST
RAILWAY LLC

Dated: May 23, 2003

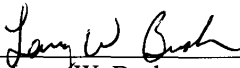
1

2

VERIFICATION

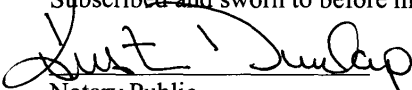
State of Florida)
)ss
County of Palm Beach)

I, Larry W. Bush, being duly sworn, depose and state that I am Vice President and
Treasurer of Alabama Gulf Coast Railway L L C , that I am authorized to make this
verification, and that I have read the foregoing Notice of Exemption, and know the facts asserted
therein are true and accurate to the best of my knowledge, information and belief.



Larry W. Bush

Subscribed and sworn to before me this 22nd day of May 2003.



Notary Public

 Kristin Dunlap
My Commission DD087657
Expires December 27, 2006

My Commission expires: Dec. 27, 2005

PERSONALLY KNOWN,
PRODUCED I.D.: 

EXHIBIT A – LABOR NOTICE

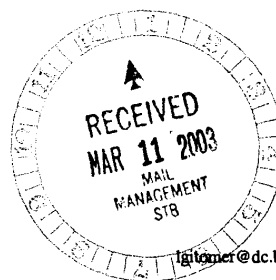
BALL JANIK LLP

A T T O R N E Y S

1455 F STREET, NW, SUITE 225
WASHINGTON, D.C. 20005

www.balljanik.com

TELEPHONE 202-638-3307
FACSIMILE 202-783-6947



LOUIS E. GITOMER
OF COUNSEL
(202) 466-6532

lgitomer@dc.bjllp.com

March 11, 2003

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Suite 700
Washington, DC 20423

RE: Finance Docket No. 34323, *Alabama & Gulf Coast Railway L.L.C.—Acquisition and Operation Exemption—The Burlington Northern and Santa Fe Railway Company*

Dear Secretary Williams:

Alabama & Gulf Coast Railway L.L.C. ("AGR") hereby certifies that on March 10, 2003, AGR posted the attached Notice at the workplace of the employees on the rail line that is the subject of this transaction and on March 11, 2003 AGR served a copy of the Notice on the national offices of all labor unions with employees on the affected line. An original and ten copies of this letter and attachment are enclosed.

Please time and date stamp the extra copy of this letter and return it with our messenger.

If you have any questions, please call or email me.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Louis E. Gitomer".

Louis E. Gitomer
Attorney for Alabama & Gulf Coast
Railway L.L.C.

Enclosure

NOTICE

Pursuant to Surface Transportation Board regulations at 49 C.F.R. § 1150.42(e), Alabama & Gulf Coast Railway LLC ("AGR") hereby provides notice to the employees of The Burlington Northern & Santa Fe Railway Company ("BNSF") that subject to satisfaction of certain conditions of closing, including receipt of any required regulatory approvals, AGR intends to undertake the following proposed transactions:

- 1)- receive overhead trackage rights between BNSF's Amory, MS Yard, Milepost 612.3 and Milepost 649.3, near Columbus, MS;
- 2)- lease from BNSF the rail line from Milepost 649.3 near Columbus, MS and Milepost 654.005 near Whitbury, MS;
- 3)- purchase the rail line from Milepost 654.005 near Whitbury, MS to Milepost 776.1 near Gulf, AL;
- 4)- receive an assignment of certain BNSF joint facility rights and obligations between Milepost 654.005 near Whitbury, MS and Mobile, AL;
- 5)- receive an assignment of BNSF's trackage rights over Norfolk Southern between Kimbrough, AL and the connection at Mobile, AL (TASD Switch); and
- 6)- lease and sublease BNSF's switching operations in Mobile, AL. (together, items 1-6 are the "Mobile Line").

As information, BNSF retains but has not present plans to utilize reserved trackage rights between Columbus, MS and Gulf, AL and the Mobile area.

AGR applying conservative traffic assumptions, plans to have employment opportunities in the areas shown on the attached list. The number of employment positions shown on the attached list is preliminary and represents AGR's current good faith estimate of the positions it is planning to have available. The number of positions shown on the attached list may be more or less, perhaps significantly more or less, than the actual number of positions that AGR may have available and will be dependent largely on the rail traffic levels in place at the start of its operations of the Mobile Line. AGR is still in the process of finalizing internal projections about the anticipated level of traffic that will be in place at the time of the start of its planned operations. The actual number of employees hired will depend in part on the results of those projections and may be higher or lower than the number of positions set forth on the attached list.

With respect to benefits, AGR plans to offer:

- Medical and dental insurance
- Life insurance

- Holidays
- Vacation
- 401(k) plan
- Employee assistance program
- Profit Sharing Plan

AGR plans to select employees on the basis of some or all of the following criteria and other considerations (1) demonstrated work ethic that is customer-driven and customer-oriented; (2) commitment and ability to work within a team environment; (3) demonstrated stable work history and commitment to safety; (4) commitment to being accountable for work product; (5) ability to communicate effectively, both orally and in writing; (6) relevant work experience and ability to perform duties, with or without reasonable accommodation, required for particular job; (7) results of personal interview(s) and (8) demonstration of relevant work skills through non-discriminatory testing. No one factor listed above would be determinative in the employee selection process.

The most qualified candidates are planned to be selected from the available pool of applicants without regard to race, creed, color, religion, national origin, sex, age, marital status, disability, veteran National Guard or military reserve status, and any other protected characteristic. Successful applicants who have been conditionally offered positions would be required to pass a pre-employment drug and alcohol screen, complete a medical questionnaire, and pass a physical exam.

Any BNSF employee interested in obtaining an application for employment or further information concerning positions that AGR is planning to make available should contact Mike Brigham, President & General Manager of AGR at (251) 575-5008.

Under the proposed transactions, BNSF employees in the Mobile area currently entitled to certain labor protection under the existing Alabama Tennessee & Northern labor agreement with BNSF shall continue to remain employed by BNSF after closing and shall be placed under the supervision of AGR in the continued performance of services between Kimbrough and Mobile, AL

This notice is being posted in accordance with the requirements of 49 C.F.R. § 1150.42(e) which requires the posting of a notice of intent to undertake a proposed transaction under 49 U.S.C. § 10902 and 49 C.F.R. § 1150.45 that will result in the creation of a Class II rail carrier with projected annual revenues in excess of \$5 million at the workplace of the employees of the affected railroad line(s) at least 60 days before the notice of exemption relating to the proposed transaction becomes effective. A copy of this notice is being served by overnight delivery on the national offices of the labor unions with employees on the affected railroad line(s), and service concurrently certified to the Surface Transportation Board.

MANPOWER REQUIREMENTS FOR MOBILE LINE

Job Description	Approximate Number to be Hired			Approximate Pay Range (Hourly)
	Location	Position	Quantity	
ENGINEER/CONDUCTOR	Amory, MS	Engineer	5	15.95
		Conductor	5	15.95
	Columbus, MS	Engineer	1	15.95
		Conductor	1	15.95
	Demopolis, AL	Engineer	1	15.95
		Conductor	1	15.95
	Magnolia, AL	Engineer	2	15.95
		Conductor	1	15.95
	Mobile, AL	Engineer	3	15.95
		Conductor	3	15.95
		TOTAL	23	
MOW	Demopolis, AL	Foreman	2	15.84
		Laborer	4	12.89
		Track Inspector	2	15.00
		Asst. Roadmaster	1	TBD
		Machine Operator	2	TBD
	Mobile, AL	Foreman	1	15.84
		Laborer	1	12.89
		TOTAL	13	
MECHANICAL	Magnolia, AL	Carman	1	14.04
	Mobile, AL	Carman	1	14.04
	Fountain, AL	Electrician	1	TBD
		Mechanics	2	TBD
		TOTAL	5	
CLERKS	Fountain, AL	INFO Clerk	2	13.46
	Mobile, AL	INFO Clerk	1	13.46
		TOTAL	3	
TRAINMASTER	Magnolia, AL	Trainmaster	1	TBD
		GRAND TOTAL	45	

EXHIBIT B – CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

Notice of Exemption

STB FINANCE DOCKET NO. 34323

ALABAMA GULF COAST RAILWAY LLC—ACQUISITION AND OPERATION
EXEMPTION—THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

Alabama Gulf Coast Railway LLC (“AGR”), a Class III rail carrier has filed a notice of exemption to acquire from The Burlington Northern and Santa Fe Railway Company the rail line which includes: (1) the purchase and sale of the rail line between milepost 654.005 near Whitbury, MS and milepost 776.1, near Gulf, AL, a distance of 122.095 miles; (2) the lease of the rail line between milepost 649.3 near Columbus, MS and milepost 654.005 near Whitbury, MS, a distance of 4.705 miles; (3) the grant of overhead trackage rights between BNSF’s Amory, MS Yard, milepost 612.32 and Columbus, MS, milepost 649.3, a distance of 36.98 miles; (4) assignment of BNSF’s trackage rights over Norfolk Southern Railway Company (“NS”) between Kimbrough, AL and Mobile, AL (TASAD Switch), a distance of about 102.55 miles;² (5) lease between near M&T Chemical, AL, milepost 851.4 and Mobile, AL, milepost 873.5; and (6) sublease of certain facilities of the Terminal Railway Alabama State Docks, a distance of about 288.43 miles. BNSF has retained overhead trackage rights on the sold portion of the line and trackage rights on the leased and subleased segments. Comments must be filed with the Board and served on Louis E. Gitomer, Of Counsel, Ball Janik LLP, Suite 225, 1455 F Street, N.W., Washington, DC 20005, (202) 638-3307.

² NS’s predecessor granted BNSF’s predecessor trackage rights. *Burlington Northern Railroad Company—Trackage Rights Exemption—Southern Railway Company*, ICC Finance Docket No. 30739 (ICC served November 5, 1985); and *Burlington Northern Railroad Company—Trackage Rights Exemption—Southern Railway Company*, ICC Finance Docket No. 30739 (Sub-No. 1) (ICC served May 5, 1994).

This notice is filed under 49 CFR 1150.41. 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.

EXHIBIT C – MAP

