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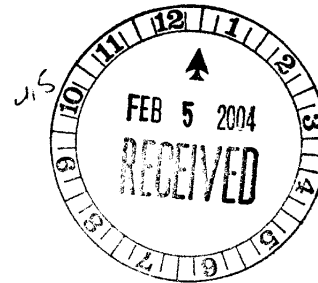
BALL JANIK LLP

A T T O R N E Y S

1455 F STREET, NW, SUITE 225
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TELEPHONE 202-638-3307
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February 5, 2004

BY HAND DELIVERY

The Honorable Vernon Williams
Surface Transportation Board
1925 K Street, N.W., Suite 700
Washington, DC 20423-0001

ENTERED
Office of Proceedings

FEB - 5 2004

Part of
Public Record

Re: Finance Docket No. 34443, Timber Rock Railroad, Inc. -- Lease
Exemption -- The Burlington Northern and Santa Fe Railway
Company

Dear Secretary Williams:

Attached for filing are the original and ten copies of a Verified Notice of Exemption under 49 C.F.R. 1150.41 and a check covering the \$1,400.00 filing fee. Also enclosed is a 3.5-inch diskette formatted for WordPerfect containing the Notice and Summary.

Please time and date stamp the extra copy of the Notice of Exemption and return it with our messenger.

If you have any questions, please contact me.

Sincerely,

Karl Morell

Enclosures

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TRANSPORTATION BOARD

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SURFACE
TRANSPORTATION BOARD

D.D # 01040205003001 210022

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34443

TIMBER ROCK RAILROAD, INC.
--LEASE EXEMPTION--
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

VERIFIED NOTICE OF EXEMPTION
Pursuant to 49 C.F.R. § 1150.41, Et Seq.



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

Attorneys for:
TIMBER ROCK RAILROAD, INC.

Dated: February 5, 2004

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34443

TIMBER ROCK RAILROAD, INC.
--LEASE EXEMPTION--
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

VERIFIED NOTICE OF EXEMPTION
Pursuant to 49 C.F.R. § 1150.41, Et Seq.

Timber Rock Railroad, Inc. ("TRRR"), a Class III rail carrier, files this Notice of Exemption pursuant to 49 C.F.R. Part 1150, Subpart E--Exempt Transactions Under 49 U.S.C. 10902, to permit TRRR to lease a 29.2-mile rail line from The Burlington Northern And Santa Fe Railway Company ("BNSF"). As part of this transaction, TRRR will also acquire incidental trackage rights over a 0.8-mile BNSF rail line in order to interchange traffic with BNSF at its Silsbee Yard.

In support of this Notice of Exemption, TRRR submits the following information as required by 49 C.F.R. § 1150.43:

- (a) Full name and address of applicant:

Timber Rock Railroad, Inc.
315 West 3rd Street
Pittsburg, Kansas 66762

(b) Applicant's Representative:

Karl Morell
Of Counsel
BALL JANIK LLP
Suite 225
1455 F Street, N.W.
Washington, DC 20005
(202) 638-3307

(c) Statement of Agreement:

TRRR has entered into an agreement with BNSF for the lease of the rail line and acquisition of the incidental trackage rights.

(d) The operator of the property:

TRRR will be the operator of the property.¹

(e) Summary of proposed transaction:

(1) The name and address of the railroad leasing the subject property is:

The Burlington Northern And Santa Fe Railway Company
2600 Lou Menk Drive
Fort Worth, Texas 76131

(2) TRRR's lease of the rail line is expected to be consummated on or shortly after February 16, 2004.

(3) The rail line being leased from BNSF by TRRR is located between Milepost 51.0, near Kirbyville, TX, and Milepost 21.8, near Silsbee, TX.

As part of the lease of this line, TRRR will also acquire incidental

¹ BNSF is retaining the right to operate certain overhead trains over the line being leased by TRRR.

overhead trackage rights between Milepost 21.8 and Milepost 21.0, near Silsbee for the purpose of interchanging traffic with BNSF.

- (4) The length of the rail line being leased is 29.2 miles and the length of the line over which TRRR is acquiring incidental trackage rights is 0.8 miles.
- (f) A map of the rail line being leased is attached as Exhibit A.
- (g) TRRR hereby certifies that TRRR's projected revenues as a result of this transaction will not result in TRRR becoming a Class II or Class I rail carrier. TRRR annual revenues will exceed \$5 million as a result of this transaction. Accordingly, TRRR has complied with the requirements of 49 C.F.R. § 1150.42(e), and certified its compliance to the Board on December 18, 2003. A copy of TRRR's letter is attached as Exhibit B.

A caption summary, as required by 49 C.F.R. § 1150.44, is attached.

ENVIRONMENTAL AND HISTORIC IMPACTS

TRRR is leasing the line from BNSF for continued rail operations. Further Board approval is required for TRRR to discontinue any service and there are no plans to dispose of or alter properties subject to Board jurisdiction that are 50 years old or older. Hence, this Notice of Exemption does not require an historic report under 49 C.F.R. § 1105.8(b)(1).

TRRR's lease will not result in significant changes in carrier operations. There will not be a diversion of: (1) more than 1,000 rail carloads a year to motor carriage; or (2) an average of 50 carloads per mile per year for any part of this line to motor carriage. This transaction will not result in: (1) an increase in rail traffic of at least 100 percent or an increase of at least eight trains a day on any segment of the line; (2) an increase of rail yard activity of at least 100 percent; or (3) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day. TRRR's lease of the rail line will not affect a Class I or nonattainment area under the Clean Air Act. In any event, the thresholds of 49 C.F.R. § 1105.7(e)(5)(ii) will not be exceeded. Finally, the transportation of ozone depleting materials is not contemplated. Therefore, no environmental documentation is required under 49 C.F.R. § 1105.6(c)(2).

This action will not significantly affect either the quality of the human environment or energy conservation.

Respectfully submitted,



KARL MORELL
Of Counsel
BALL JANIK LLP
Suite 225
1455 F Street, N.W.
Washington, DC 20005
(202) 638-3307

Attorneys for:
TIMBER ROCK RAILROAD, INC.

Dated: February 5, 2004



EXHIBIT A

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

KARL MORELL



December 18, 2003

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Suite 715
Washington, DC 20423-0001

Re: Finance Docket No. 34443, Timber Rock Railroad, Inc. – Lease Exemption
– The Burlington Northern And Santa Fe Railway Company

Dear Secretary Williams:

Timber Rock Railroad, Inc. ("TRRR"), hereby certifies that on December 15, 2003, TRRR had posted the attached Notice at the workplace of the employees on the rail line that is the subject of this transaction and on December 8, 2003 and December 18, 2003, TRRR served a copy of the Notice on the national offices of all labor unions with employees on the affected line.

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

If you have any questions regarding this matter, please contact me.

Sincerely,

Karl Morell

Enclosure

EXHIBIT B

NOTICE

Timber Rock Railroad, Inc. ("TRRR"), a Texas Corporation, will be leasing from The Burlington Northern And Santa Fe Railway Company the rail line located between Milepost 21.8, near Silsbee, Texas, and Milepost 51.0, near Kirbyville, Texas. TRRR will also acquire overhead trackage rights between Milepost 21.8, near Silsbee, and Milepost 21.0, at BNSF's Silsbee Yard.

TRRR will not be hiring any additional employees as a result of the lease of the Silsbee-Kirbyville rail line.

Timber Rock Railroad, Inc.
315 West 3rd Street
Pittsburg, Kansas 66762
(620) 231-2230



SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

FINANCE DOCKET NO. 34443

TIMBER ROCK RAILROAD, INC.

--LEASE EXEMPTION--

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

Timber Rock Railroad, Inc., a Class III rail carrier, has filed a notice of exemption to lease from The Burlington Northern And Santa Fe Railway Company ("BNSF") the rail line located between Milepost 51.0, near Kirbyville, Texas, and Milepost 21.8, near Silsbee, Texas. In conjunction with the lease of the rail line, TRRR will acquire incidental overhead trackage rights over BNSF's 0.8-mile rail line between Milepost 21.8, near Silsbee, and Milepost 21.0, at BNSF's Silsbee Yard.

Comments must be filed with the Board and served on Karl Morell, Of Counsel, BALL JANIK LLP, Suite 225, 1455 F Street, N.W., Washington, DC 20005, (202) 638-3307.

This notice is filed under 49 C.F.R. 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.

VERIFICATION

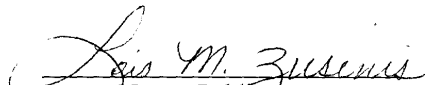
STATE OF KANSAS)
) ss.
COUNTY OF CRAWFORD)

I, Arthur E. McKechnie III, being duly sworn depose and state that I am Assistant Secretary of the Timber Rock Railroad, Inc., 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 as stated to the best of my knowledge, information, and belief.


Arthur E. McKechnie III

SUBSCRIBED AND SWORN TO before me this 5th day of December, 2003, in the County of Crawford, State of Kansas.

My Commission Expires: 5-7-05


Notary Public

