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October 13, 2006

217814

BY HAND DELIVERY

The Honorable Vernon Williams
Surface Transportation Board
1925 K Street NW
Suite 715
Washington, DC 20423-001

ENTERED
Office of Proceedings
OCT 13 2006
Part of
Public Record

Re: STB Docket No. AB-998X, Timber Rock Railroad, Inc. --
Discontinuance Exemption -- In Burleson, Brazos, Grimes,
Montgomery, Liberty, Hardin and Jefferson Counties, Texas

Dear Secretary Williams:

Attached for filing are the original and ten copies of a Petition for Exemption under 49 U.S.C. § 10502. Also attached is a check covering the \$5,300 filing fee.

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

If you have any questions, please call me.

Sincerely,

A handwritten signature in cursive script that reads "Karl Morell".

Karl Morell

FILED
OCT 13 2006
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Enclosures

FILED
OCT 13 2006
SURFACE
TRANSPORTATION BOARD

BEFORE THE

SURFACE TRANSPORTATION BOARD

STB DOCKET NO. AB-998X

TIMBER ROCK RAILROAD, INC
--DISCONTINUANCE EXEMPTION--
IN BURLESON, BRAZOS, GRIMES, MONTGOMERY, LIBERTY, HARDIN AND
JEFFERSON COUNTIES, TEXAS

PETITION FOR EXEMPTION

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Karl Morell
Of Counsel
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Suite 225
Washington, D.C. 20005
(202) 638-3307

Attorney for:
Timber Rock Railroad, Inc.

Dated: October 13, 2006

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB DOCKET NO. AB-998X

TIMBER ROCK RAILROAD, INC
--DISCONTINUANCE EXEMPTION--
IN BURLESON, BRAZOS, GRIMES, MONTGOMERY, LIBERTY, HARDIN AND
JEFFERSON COUNTIES, TEXAS

PETITION FOR EXEMPTION

Timber Rock Railroad, Inc. ("TIBR") petitions the Surface Transportation Board ("STB" or "Board") to exempt, under 49 U.S.C. § 10502, from the prior approval requirements of 49 U.S.C. § 10903, TIBR's discontinuance of its: (1) lease operations over approximately 116 miles of rail line owned by BNSF Railway Company ("BNSF"); and (2) trackage rights operations over 54.72 miles of rail line owned by BNSF located in Burleson, Brazos, Grimes, Montgomery, Liberty, Hardin and Jefferson Counties, Texas.

PROPOSED TRANSACTION

TIBR proposes to discontinue its operations over the three rail lines leased from BNSF that are located between: (1) milepost 149.5, near Silsbee, TX, and milepost 52.5, near Dobbin, TX; (2) milepost 20.70, near Silsbee, TX, and milepost 4.5, near Beaumont, TX; and (3) milepost 149.5 and milepost 152.30 and track No. 498 in the Silsbee Yard, near Silsbee, TX (the "Leased Lines"). TIBR also proposes to discontinue its overhead trackage rights operations over the two BNSF rail lines located between: (1) milepost 52.5, near Dobbin, TX, and milepost 144.0, on the BNSF Galveston Subdivision, at Somerville, TX; and (2) milepost 4.5, near

Beaumont, TX, and milepost 2.28, at Beaumont, TX, (the "Trackage Rights Lines")(collectively the "Lines"). The Lines traverses U.S. Postal Service Zip Codes 77703, 77708, 77713, 77657, 77709, 77656, 77625, 77374, 77376, 77369, 77368, 77327, 77328, 77301, 77302, 77304, 77306, 77316, 77356, 77333, 77363, 77868, 77869, and 77879. A map of the Lines is attached as Exhibit A.

Based on information in TIBR's possession, the Lines do not contain any federally granted right-of-way. Any documentation in TIBR's possession will be made available to those requesting it.

STATEMENT OF FACTS

In Finance Docket No. 34503, *Timber Rock Railroad, Inc. – Lease Exemption – The Burlington Northern and Santa Fe Railway Company* (not printed), served July 14, 2004 and October 8, 2004, TIBR was authorized to lease and operate approximately 117.82 miles of BNSF rail lines located: (1) between milepost 4.5, near Beaumont, TX, and milepost 21.8, near Silsbee, TX; (2) between milepost 52.5, near Dobbin, TX, and milepost 152.56, at Silsbee, TX; and (3) between milepost 0.5 and milepost 0.96 near Kirbyville, TX. TIBR also acquired incidental overhead trackage rights over 54.72 miles of BNSF rail lines located: (1) between milepost 4.5 near Beaumont, TX and milepost 2.28 at Beaumont, TX; and (2) between milepost 52.5, near Dobbin, TX and milepost 144 on the BNSF Galveston Subdivision at Somerville,

TX.¹

In July 2004, TIBR commenced operations over the Lines. During the past two years, TIBR has provided local service to eight customers located on the Lines and has handled bridge traffic for BNSF.

The following eight active rail shippers are located on the Leased Lines: Maverick Tube, at Conroe, TX, Huntsman at Conroe, TX, Charles Emmons, at Cleveland, TX, Pavers at Conroe, TX, Union Tank at Cleveland, TX, Georgia Pacific at Cleveland, TX, Drilling Specialties at Conroe, TX and Quality Materials at Beaumont, TX.

In mid-2004, the lease transaction made sense from an operational and economic standpoint. The local traffic was relatively small given the length of the Lines and more conducive to a short line operation. In mid-2004, the bridge traffic averaged somewhat less than 1,300 carloads a month. Since mid-2004, however, the BNSF overhead traffic has, in most months, significantly increased. In addition, the volume of bridge traffic has become erratic with volumes varying by over 200 percent on a month to month basis. The significant increase in bridge traffic and the erratic volumes have undermined the original intended operational savings.

¹ TIBR originally acquired the BNSF rail line located between milepost 0.96, near Kirbyville, TX, and milepost 39.36, at DeRidder, LA, and acquired incidental overhead trackage rights over the BNSF line between milepost 0.96, near Kirbyville, TX and milepost 21.0, at Silsbee, TX. See STB Finance Docket No. 33618, *Timber Rock Railroad, Inc. – Acquisition and Operation Exemption – Lines of The Burlington Northern and Santa Fe Railway Company* (not printed) served July 15, 1998. In 2002, TIBR leased the BNSF rail line located between milepost 51.0, near Kirbyville, TX, and milepost 150.2, near Tenaha, TX, and acquired incidental trackage rights over the BNSF rail line located between milepost 150.2, near Tenaha, and milepost 152.69, at BNSF's Tenaha Yard. See STB Finance Docket No. 34245, *Timber Rock Railroad, Inc. – Lease Exemption – The Burlington Northern and Santa Fe Railway Company* (not printed), served September 16, 2002. Subsequently, TIBR leased the BNSF rail line located between milepost 51.0, near Kirbyville, TX, and milepost 21.8, near Silsbee, TX and acquired incidental trackage rights over the BNSF line between milepost 21.8 and milepost 21.0, near Silsbee. See STB Finance Docket No. 34443, *Timber Rock Railroad, Inc. – Lease Exemption – The Burlington Northern and Santa Fe Railway Company* (not printed), served March 3, 2004.

The double interchange of these large volumes of bridge traffic is producing inefficiencies for both BNSF and TIBR. In addition, the significant increase in overhead traffic has undermined the economics of the original transaction.

In light of these developments, BNSF and TIBR decided to reconsider their 2004 Lease Agreement. Primarily for operational reasons, BNSF and TIBR have agreed to amend their 2004 Lease Agreement so that BNSF will resume providing both the local and overhead operations on the Lines. TIBR will continue to lease the line segment between mileposts 152.3 and 152.56 at Silsbee, TX, the segment between mileposts 20.70 and 21.8 at Silsbee, and the Silsbee Yard Tracks, except for Track No. 498, in order better to accommodate the continued interchange of traffic between BNSF and TIBR at Silsbee.

Under the amended Lease Agreement, the eight local customers on the Leased Lines will continue to receive rail service from BNSF as they did in the past. The BNSF overhead traffic will continue to move as it does now only in a more operationally efficient manner since the double interchange with TIBR will be eliminated.

EXEMPTION REQUESTED

TIBR seeks an exemption under 49 U.S.C. § 10502 from the applicable requirements of 49 U.S.C. § 10903 in order for TIBR to discontinue service over the Lines.

Under 49 U.S.C. § 10502, the Board must exempt a transaction from regulation when it finds that:

- (1) regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. § 10101; and
- (2) either:
 - (a) the transaction or service is of limited scope; or

(b) regulation is not necessary to protect shippers from the abuse of market power. 49 U.S.C. § 10502(a)

The legislative history of Section 10502 reveals a clear Congressional intent that the Board should liberally use its exemption authority to free certain transactions from the administrative and financial costs associated with continued regulation. In enacting the Staggers Act of 1980, Pub. L. No. 96-448, 94 Stat. 1895, Congress encouraged the Board's predecessor to liberally use the expanded exemption authority under former Section 10505:

The policy underlying this provision is that while Congress has been able to identify broad areas of commerce where reduced regulation is clearly warranted, the Commission is more capable through the administrative process of examining specific regulatory provisions and practices not yet addressed by Congress to determine where they can be deregulated consistent with the policies of Congress. The conferees expect that, consistent with the policies of this Act, the Commission will pursue partial and complete exemption from remaining regulation.

H.R. Rep. No. 1430, 96th Cong. 2d Sess. 105 (1980). See also Exemption From Regulation – Boxcar Traffic, 367 I.C.C. 424, 428 (1983), vacated and remanded on other grounds, Brae Corp. v. United States, 740 F.2d 1023 (D.C. Cir. 1984). Congress reaffirmed this policy in the conference report accompanying the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which re-enacted the rail exemption provisions as Section 10502. H.R. Rep. 422, 104th Cong., 1st Sess. 168-69 (1995).

A. The Application of 49 U.S.C. § 10903 Is Not Necessary to Carry Out The Rail Transportation Policy.

Detailed scrutiny of this transaction is not necessary to carry out the rail transportation policy. An exemption would minimize the unnecessary expenses associated with the filing of a formal abandonment application, expedite regulatory decisions and reduce regulatory barriers to

exit [49 U.S.C. § 10101(2) and (7)]. See, e.g., *Norfolk & W. Ry. Co. – Abandonment Exem. – Cinn., Hamilton County, OH*, 3 S.T.B. 110 (1998); STB Docket No. AB-367 (Sub-No. 2X), *Georgia Central Railroad, L.P. – Abandonment Exemption – In Chatham County, GA* (not printed), served September 17, 1997 (“*Georgia Central*”); STB Docket No. AB-6 (Sub-No. 409X), *The Burlington Northern and Santa Fe Ry. Co. – Abandonment Exemption – In Jefferson, Thayer and Nuckolls Counties, NE* (not printed), served July 23, 2004. By discontinuing TIBR’s service over the Lines and allowing BNSF to resume operations, the overall operating efficiencies of both TIBR and BNSF will significantly improve in the area. Granting the exemption will thus foster sound economic conditions and encourage efficient management. 49 U.S.C. § 10101(5) and (9). See, e.g., STB Docket No. AB-318 (Sub-No. 4X), *Louisiana & Delta Railroad, Inc. – Abandonment Exemption – In Lafourche and Assumption Parishes, LA* (not printed), served August 26, 1997; STB Docket No. AB-497 (Sub-No. 1X), *Minnesota Northern Railroad, Inc. – Abandonment Exemption – In Red Lake and Polk Counties, MN* (not printed), served November 14, 1997. Also, the proposed discontinuance will promote a safe and efficient rail system by operationally improving the BNSF overhead movements over the Lines. [49 U.S.C. § 10101(3)]. In addition, granting the requested exemption will provide for the expeditious handling and resolution of proceedings before the Board. [49 U.S.C. § 10101(15)]. Other aspects of the rail transportation policy are not affected adversely. For example, competition and the continuation of a sound rail transportation system are not affected since all of the local shippers on the Leased Lines will continue to receive rail service from BNSF as they have in the past and BNSF will be able to handling the current volumes of overhead traffic more efficiently.

Where, as here, trackage rights are overhead and local service is not affected, the Board and its predecessor have consistently found that formal regulation of a proposed discontinuance is not necessary to carry out the rail transportation policy. *See, e.g.,* Docket No. AB-102 (Sub-No. 25X), *Missouri-Kansas-Texas R. Co. – Exemption – Discontinuance of Trackage Rights in Labette and Cherokee Counties, KS* (not printed), served February 9, 1990. As the Board’s predecessor noted: “We have long recognized that operating arrangements designed by carriers to promote more efficient or economical operations promote the national [rail] transportation policy and should be encouraged.” Finance Docket No. 30703, *Soo Line R. Co. – Joint Use of Lines – Chesapeake and Ohio Ry. Co.* (not printed), served August 22, 1986, slip op. at 9.

B. This Transaction Is Of Limited Scope

In determining whether a proposed transaction is of limited scope, the Board considers a variety of factors, such as the length of the rail line, the number of shippers on the line and the traffic volume. *See, e.g.,* Docket No. AB-347 (Sub-No. 1X), *Florida West Coast Railroad Company – Abandonment Exemption – Gilchrist and Levy Counties, FL* (not printed), served January 16, 1992; Docket No. AB-6 (Sub No. 349X), *Burlington Northern Railroad Company – Abandonment Exemption – In Greene and Polk Counties, MO* (not printed), served August 27, 1993.

The proposed transaction is of limited scope. TIBR seeks to discontinue lease operations over approximately 116 miles of rail line and discontinue overhead trackage rights over 54.72 miles of rail line. The discontinuance of the trackage rights is clearly of limited scope. *See* Finance Docket No. 31088 and Docket No. AB-43 (Sub-No. 148X), *Southern Ry. Co. and Norfolk Southern Corp. – Purchase – Illinois Central R. Co. Line between Fulton, KY and Haleyville, AL – And Trackage Rights – Illinois Central R. Co. Line between Fulton, KY and*

Centralia, IL (not printed), served May 9, 1988 (discontinuance of overhead trackage rights limited in scope).

While TIBR seeks to discontinue operations over a total of approximately 171 miles of rail line, the length of the track involved in a proposed discontinuance is not dispositive of whether the transaction or service is limited in scope. Docket No. AB-6 (Sub-No. 347), *Burlington Northern R. Co. – Abandonment and Discontinuance of Trackage Rights Exemption – In Greene, Sumter, Choctow, Washington and Mobile Counties, AL* (not printed), served July 6, 1993 (“*BN Discontinuance*”) (length of line not necessarily dispositive). *See also Norfolk and Western Ry. Co. – Purchase – Illinois Terminal R. Co.*, 363 I.C.C. 882, 895 (1981) (abandonment of overhead trackage rights on line segments totaling more than 200 miles found of limited scope).

Of greater relevance to the “limited scope” issue is the number of shippers, if any, that would be adversely affected by the proposed discontinuance. *See, e.g., BN Discontinuance* (discontinuance limited in scope where traffic would be handled under a haulage arrangement); Docket No. AB-290 (Sub-No. 2X), *Southern Ry. Co. – Discontinuance of Trackage Rights Operations Between Greenwood and Piedmont, South Carolina* (not printed), served June 20, 1990 (transaction found to be limited in scope because shippers would be served by a new carrier).

As previously noted, there are only eight active rail shippers located on the Leased Lines. Because BNSF will resume its former local service on the Leased Lines once TIBR stops service, not one shipper will lose service or otherwise be adversely affected by TIBR’s discontinuance of operations. Because the proposed discontinuance will not adversely affect rail service to any shipper, the proposed discontinuance should be found limited in scope.

C. This Transaction Will Not Result In An Abuse of Market Power

There are eight shippers located on the Leased Lines. No shipper will lose rail service or experience a reduction in the number of carriers with access to its facilities. All of the local shippers will continue to receive rail service from BNSF. Prior to July 2004, these customers were exclusively served by BNSF. From July 2004 until the present, these customers were exclusively served by TIBR. Once TIBR discontinues its operations over the Leased Lines, these customers will again be exclusively served by BNSF. Consequently, the proposed discontinuance will not reduce the number of rail options available to any shipper. Therefore, regulation is not necessary to protect shippers from an abuse of market power. *See, e.g.,* STB Docket No. AB-55 (Sub-No. 576), *CSX Transportation, Inc. – Abandonment Exemption – In Guernsey County, OH* (not printed), served November 22, 1999; STB Docket No. AB-55 (Sub-No. 563X), *CSX Transportation, Inc. – Abandonment Exemption – In Harrison County, WV* (not printed), served September 25, 1998; *Georgia Central*. The proposed discontinuance will simply result in the substitution of one carrier (BNSF) for the service currently provided by another carrier (TIBR). *See* STB Docket No. AB-566X, *Gateway Western R. Co. – Discontinuance of Service Exemption – In Jackson County, MO* (not printed), served July 21, 2000, slip op. at 2 (“Because service is being continued by the owner of the line, regulation is not necessary to protect shippers from the abuse of market power.”); STB Docket No. AB-554X, *Perry County Port Authority D/B/A Hoosier Southern RR – Discontinuance Exemption – In Spencer County, IN* (not printed), served October 19, 1998 (Discontinuance of lease and trackage rights operations exempted where owner cancelled lease and resumed complete operation, maintenance and control of line). The new arrangement between BNSF and TIBR will improve the efficiencies of the overhead movements without any adverse competitive consequences. *See,*

e.g., Docket No. AB-6 (Sub-No. 340X), *Burlington Northern R. Co. – Discontinuance of Trackage Rights Exemption – Between East Dubuque, IL and Dubuque, IA* (not printed), served September 1, 1992 (regulation not necessary to protect shippers from abuse of market power where service would continue under car haulage agreement).

ENVIRONMENTAL AND HISTORIC REPORTING REQUIREMENTS

This proceeding is exempt from environmental reporting requirements under 49 C.F.R. 1105.6(c)(2) and (6). Because BNSF will assume all of the operations currently provided by TIBR, the proposed discontinuance will not result in significant changes in carrier operations. Because the Trackage Rights Lines will continue to be operated by BNSF, the discontinuance of the overhead trackage rights is exempt from environmental reporting requirements.

Also, because BNSF will assume the all of the operations currently provided by TIBR further Board approval is required for BNSF to abandon or discontinue any service on the Lines and there are no plans to dispose of or alter properties subject to Board jurisdiction that are 50 years old or older. Hence, the proposed discontinuance does not require an historic report under 49 C.F.R. 1105.8(b). As such, this transaction will not significantly affect either the quality of the human environment or the conservation of energy resources.

FEDERAL REGISTER NOTICE

A draft Federal Register notice is attached to this Petition as Exhibit B.

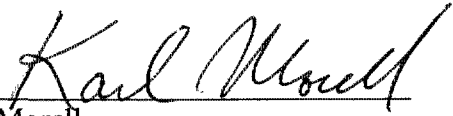
LABOR PROTECTION

The interests of railroad employees who may be adversely affected by the proposed abandonment will be adequately protected by the labor protection conditions in Oregon Short Line R. Co. – Abandonment – Goshen, 360 I.C.C. 91 (1979).

CONCLUSION

Application of the regulatory requirements and procedures of 49 U.S.C. § 10903 is not required to carry out the rail transportation policy set forth in 49 U.S.C. § 10101, as previously described in this Petition. Nor is Board regulation required to protect shippers from the abuse of market power. Moreover, this discontinuance is of limited scope. Accordingly, TIBR respectfully urges the Board to grant the discontinuance.

Respectfully submitted,

A handwritten signature in cursive script, reading "Karl Morell", written over a horizontal line.

Karl Morell
Of Counsel
Ball Janik LLP
1455 F Street, N.W.
Suite 225
Washington, D.C. 20005
(202) 638-3307

Dated: October 13, 2006



Lease 
Incidental Overhaul 
Trackage Rights 

GULF

EXHIBIT A

EXHIBIT B

SURFACE TRANSPORTATION BOARD

STB DOCKET NO. AB-998X

**TIMBER ROCK RAILROAD, INC.
--DISCONTINUANCE EXEMPTION--
IN BURLESON, BRAZOS, GRIMES, MONTGOMERY, LIBERTY, HARDIN AND
JEFFERSON COUNTIES, TEXAS**

On October 13, 2006, Timber Rock Railroad, Inc. (TIBR) filed with the Surface Transportation Board a petition under 49 U.S.C. 10502 for exemption from the provision of 49 U.S.C. 10903 for TIBR to discontinue its operations over the three rail lines leased from BNSF Railway Company (BNSF) that are located between: (1) milepost 149.5, near Silsbee, TX, and milepost 52.5, near Dobbin, TX; (2) milepost 20.70, near Silsbee, TX, and milepost 4.5, near Beaumont, TX; and (3) milepost 149.5 and milepost 152.30 and track No. 498 in the Silsbee Yard, near Silsbee, TX. TIBR also proposes to discontinue its overhead trackage rights operations over the two BNSF rail lines located between: (1) milepost 52.5, near Dobbin, TX, and milepost 144.0, on the BNSF Galveston Subdivision, at Somerville, TX; and (2) milepost 4.5, near Beaumont, TX, and milepost 2.28, at Beaumont, TX. The rail lines over which TIBR seeks to discontinue operations traverses U.S. Postal Service Zip Codes 77703, 77708, 77713, 77657, 77709, 77656, 77625, 77374, 77376, 77369, 77368, 77327, 77328, 77301, 77302, 77304, 77306, 77316, 77356, 77333, 77363, 77868, 77869, and 77879, and are located in Burleson, Brazos, Grimes, Montgomery, Liberty, Hardin and Jefferson Counties, Texas. The stations on the line are Dobbin, Montgomery, Conroe, Youens, Waukegan, Security, Fostoria, Cleveland, Hightower, Rayburn, Dollen, Romayor, Votaw, Bragg, Honey Island and Kountze.

The line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

The interests of railroad employees will be protected by the conditions set forth in Oregon Short Line R. Co. – Abandonment – Goshen, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued within 90 days (by January __, 2007).

Any offer of financial assistance under 49 C.F.R. 1152.27(b)(2) to subsidize continued rail service will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer of financial assistance must be accompanied by the filing fee, which currently is set at \$1,300. *See* 49 C.F.R. 1002.2(f)(25).

All filings in response to this notice must refer to STB Docket No. AB-998X and must be sent to: (1) Office of the Secretary, Case Control Unit, Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001, (2) Karl Morell, Of Counsel, Ball Janik LLP, 1455 F Street, N.W., Suite 225, Washington, DC 20005.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment or discontinuance regulations at 49 C.F.R. Part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis at (202) 565-1545 [TDD for the hearing impaired is available at (202) 565-1695.]

Decided: _____ 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings,
Vernon A. Williams

EXHIBIT C

CERTIFICATE OF SERVICE

Pursuant to 49 C.F.R. § 1152.60(d), the undersigned hereby certifies that the Petition for Exemption in STB Docket No. AB-998X was mailed via first class mail on October 13, 2006, to the following parties:

State Public Service Commission Governor's Office of Budget and Planning P.O. Box 12428 Austin, TX 78711 Texas Railroad Commission P.O. Box 12967 Austin, TX 78711-2967 Military Traffic Management Command MTMCTEA ATTN: Railroads for National Defense 720 Thimble Shoals Blvd., Suite 130 Newport News, VA 23606-2574 National Park Service Chief of National Recreation and Trails U.S. Dept. of Interior - Nat'l. Park Service Recreation Resources Assistance Division 1849 C Street, NW Washington, DC 20240-0001 National Park Service National Park Service 12795 W. Alameda Parkway Denver, CO 80225-0287	U.S. Department of Agriculture U.S. Department of Agriculture Chief of the Forest Service 4th Floor N.W., Auditors' Building 14th St. and Independence Ave., S.W. Washington, DC 20250 Local Customers Maverick Tube Ron Longwell P.O. Box 659 Conroe, TX 77301 Huntsman John Weeks 10003 Woodlock Forest Drive The Woodlands, TX 77380 Charles Emmons 100 South Road P.O. Box 409 Cleveland, TX 77329 Pavers Robert Gibson P.O. Box 2671 Conroe, TX 77305 Union Tank Mark Baumgardner 604 County Road 2205 Cleveland, TX 77327
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CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that notice of the proposed discontinuance in STB Docket No. AB-998X was published on October 5, 2006, in the Burleson County Tribune, a newspaper of general circulation in Burleson County, Texas; on October 4, 2006, in The Bryan College Station Eagle, a newspaper of general circulation in Brazos and Grimes Counties, Texas; on September 29, 2006, in The Montgomery County News, a newspaper of general circulation in Montgomery County, Texas; on September 29, 2006, in the Big Thicket, a newspaper of general circulation in Liberty County, TX; on September 29, 2006, in The Hardin County News, a newspaper of general circulation in Hardin County, TX; and on October 2, 2006, in the Port Arthur News, a newspaper of general circulation in Jefferson County, TX, as required by 49 C.F.R. § 1105.12.

Dated: October 13, 2006


Karl Morell