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**SURFACE
TRANSPORTATION BOARD**

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Washington, D C 20004
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MARTIN SCHAEFERMEIER
martin.schaefermeier@dlapiper.com
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October 22, 2007

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
395 E Street, S W
Washington, D C 20423

**ENTERED
Office of Proceedings
OCT 22 2007
Part of
Public Record**



Re Finance Docket No 35099
Maryland Midland Railway, Inc – Acquisition and Operation Exemption
– Certain Assets of the Maryland Transit Administration

Dear Secretary Williams

On behalf of Maryland Midland Railway, Inc., enclosed for filing in the above-referenced docket please find an original and ten copies of the following documents (1) Notice of Exemption under 49 C F R § 1150.42, and (2) Certification of Posting of Labor Notice under 49 C F R § 1150.42(e) and Request for Partial Waiver of 60-Days Advance Notice Requirement. Checks in the amount of \$1,600 and \$500 to cover the applicable filing fees are also enclosed.

Finally, enclosed is an additional copy of this letter and the above-referenced documents. Please receipt-stamp these documents and return them to our messenger. Please feel free to contact me with any questions you may have.

Thank you for your assistance.

Very truly yours,

FEE RECEIVED

Martin Schaefermeier
Martin Schaefermeier

Enclosures

OCT 22 2007

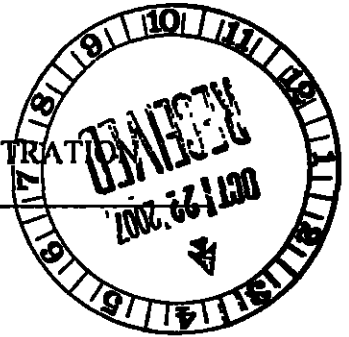
**SURFACE
TRANSPORTATION BOARD**

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 35099

**MARYLAND MIDLAND RAILWAY, INC
- ACQUISITION AND OPERATION EXEMPTION -
CERTAIN ASSETS OF THE MARYLAND TRANSIT ADMINISTRATION**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 CFR § 1150.42**



**R W. Smith, Jr
DLA Piper US LLP
6225 Smith Avenue
Baltimore, MD 21209**

**ATTORNEYS FOR MARYLAND MIDLAND
RAILWAY, INC.**

Dated October 22, 2007

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO 35099

MARYLAND MIDLAND RAILWAY, INC.
– ACQUISITION AND OPERATION EXEMPTION –
CERTAIN ASSETS OF THE MARYLAND TRANSIT ADMINISTRATION

VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 CFR § 1150.42

Pursuant to 49 CFR § 1150.41 et seq , Maryland Midland Railway, Inc (“MMID”) hereby files this Verified Notice of Exemption in connection with its acquisition of certain lines of railroad from the State of Maryland acting by and through the Maryland Transit Administration (“MTA”) MMID is a Class III rail carrier that owns and operates railroad line located in Maryland and Pennsylvania. On January 23, 2006, pursuant to a Purchase and Sale Agreement between MMID and MTA, MMID acquired a line of railroad between Walkersville and Taneytown, MD and a line of railroad between Cedarhurst and Westminster, MD (collectively, the “Active Lines”) that it had been operating for many years pursuant to authority obtained from the Interstate Commerce Commission (“ICC”) In that same transaction with MTA, MMID acquired the inactive line of railroad between Taneytown, MD and Littlestown, PA (the “Non-Active Line”)(the Actives Lines, together with the Non-Active Line, are collectively referred to herein as the “Subject Lines”) Due to an inadvertent error at the time of its acquisition from MTA, MMID did not file a notice of exemption to acquire the Active Lines

or to acquire and operate the Non-Active Line. Thus, MMID is filing this Notice of Exemption in order to correct that oversight.¹

In accordance with the requirements of 49 C F R §§ 1150 42, 1150 43, and 1150 44,
MMID submits the following information

Advance Notice: **49 C.F.R. § 1150.42(c)**

MMID's projected annual revenues exceed \$5 million. Therefore, concurrent with its filing of this Notice of Exemption, MMID has posted the labor notice required under 49 C.F.R. § 1150.42(e) at the workplace of those affected MMID employees on the Subject Lines. Those employees are not represented by national labor unions and therefore no notice has been provided to such unions. MMID also has certified to the Board as of the date hereof that it has provided the required notice to the affected employees.

In conjunction with its certification letter to the Board, MMID has sought a waiver of the usual requirement under 49 C F R § 1150.42(c) that a Notice of Exemption cannot become effective until 60 days after the posting and certification of the aforementioned labor notice. Since MMID employees have been operating the Active Lines for more than 15 years, and since there has been no traffic on the Non-Active Line for many years (and thus no affected employees on the Non-Active Line), MMID believes that this is one of those unusual situations where the Notice of Exemption should become effective 30 days (rather than 60 days) after it has been filed. MMID will continue to be the operator of the Active Lines after the Notice of Exemption becomes effective.

¹ Simultaneously herewith, in Finance Docket No. 35098, Genesee & Wyoming Inc. ("GWI") is filing a notice of exemption to acquire indirect control of MMID upon consummation of a merger agreement between GWI, MMID and related entities.

Name and Address of Applicant: **49 C.F.R. § 1150.43(a)**

Maryland Midland Railway, Inc
40 N Main Street
P.O. Box 1000
Union Bridge, MD 21791

Applicant's Representative: **49 C.F.R. § 1150.43(b)**

MMID's representative to whom correspondence regarding this transaction should be addressed is as follows:

R W Smith, Jr
DLA Piper US LLP
6225 Smith Avenue
Baltimore, MD 21209

Statement Concerning Agreement: **49 C.F.R. § 1150.43(c)**

In February 2005, MMID and MTA entered into a Purchase and Sale Agreement relating to MMID's purchase of the Subject Lines. The sale transaction was consummated on January 23, 2006 by Quitclaim Deed.

Operation of the Property: **49 C.F.R. § 1150.43(d)**

MMID has been and will continue to be the operator of the Active Lines and will obtain the authority to operate on the Non-Active Line after this Notice of Exemption becomes effective. MMID does not have any customers and does not provide any freight rail service on the Non-Active Line. MMID is acquiring operation authority over the Non-Active Line with the filing of this Notice of Exemption in order to preserve its ability to provide such service in the future, but it may exercise its right to seek any necessary abandonment or discontinuance authority if sufficient freight rail traffic on the Non-Active Line does not materialize.

Summary of the Transaction: **49 C.F.R. § 1150.43(e)**

Pursuant to the Purchase and Sale Agreement executed on February 16, 2005, and the Quitclaim Deed executed on January 23, 2006, MMID acquired the following lines of railroad

from MTA (i) the approximately 8-mile line of railroad between approximately milepost 32.6, at or near Westminster, MD and approximately milepost 24.3 at or near Cedarhurst, MD, and (ii) the approximately 20-mile line of railroad between approximately milepost 60.1 at or near Walkersville, MD and approximately milepost 39.6 at or near Littlestown, PA. MMID also obtained rights to use MTA's Keymar Connecting Track for the purpose of moving trains between MMID's east-west Highfield to Emory Grove line and north-south Littlestown to Walkersville line. The total distance of the Subject Lines is approximately 28 miles within Carroll and Frederick Counties, Maryland and Adams County, Pennsylvania. The closing of the sale transaction took place on January 23, 2006. The following description of the history of MMID's railroad operations and prior ICC filings provides important context for the recent transaction with MTA and the circumstances behind the filing of this Notice of Exemption.

In November 1979, MMID acquired designated operator authority from the ICC to provide freight service over the rail line between Walkersville, MD and Taneytown, MD (which is approximately 6 miles south of Littlestown, PA). See Certificate of Designated Operator – Maryland Midland Railway Company, D-OP-36 (USRA Line No. 198)(ICC served Nov. 16, 1979)². At the time, the line between Walkersville and Taneytown was owned by the Penn Central Corporation ("Penn Central") and was a portion of the Penn Central line known as the Frederick Secondary Track that was not transferred to the Consolidated Rail Corporation in the Final System Plan.

² The designated operator authority and subsequent authority to operate under a modified certificate was obtained by Maryland Midland Railway Company ("MMRC"), which at the time was a subsidiary of Maryland Midland Group, Inc. ("Midland Group"). In September 1983, Midland Group merged with MMRC and the surviving entity (and successor to the operating authority) changed its name to Maryland Midland Railway, Inc. (i.e. MMID, the term used herein for convenience). See Maryland Midland Railway, Inc. – Exemption From 49 U.S.C. § 11343 and 11301, Finance Docket No. 32037 (ICC served Jan. 6, 1987)

In 1981, the State of Maryland acquired the Walkersville-Taneytown line from Penn Central. In December 1981, MMID obtained a modified rail certificate of public convenience and necessity ("Modified Rail Certificate") from the ICC to continue its freight operations on the Walkersville-Taneytown line upon the January 1982 acquisition thereof by the State of Maryland acting by and through the Maryland Department of Transportation ("MDOT"). See Modified Rail Certificate – Maryland Midland Railway Company, Finance Docket No. 29811 (ICC served Jan. 25, 1982).³ MMID began operating freight service on the Walkersville-Taneytown line in May 1980 pursuant to its designated operator authority and has continued to operate over the line since obtaining its Modified Rail Certificate in 1981.

On July 15, 1983, MMID filed a Petition for Exemption with the ICC to authorize its acquisition of an approximately 37.1-mile line of railroad from the Western Maryland Railway Company ("Western Maryland") between Highfield, MD (approximately milepost 69.7) and Westminster, MD (approximately milepost 32.6) (the "Highfield-Westminster Line"). See Maryland Midland Railway, Inc. – Exemption From 49 U.S.C. § 11343 and 11301, Finance Docket No. 32037 (ICC served Jan. 6, 1987) (summarizing history of proceeding authorizing MMID to acquire and operate over the Highfield-Westminster Line). MMID acquired and began operations over the Highfield-Westminster Line on approximately October 1, 1983.

On November 30, 1987, MMID filed a Petition for Exemption with the ICC in connection with its acquisition and operation of approximately 4.4 miles of rail line owned by the Western Maryland between approximately milepost 19.9 at or near Emery Grove, MD and

³ The 1982 ICC decision acknowledging the Modified Rail Certificate described the endpoints of the MMID operation as approximately milepost 46.4 at or near Taneytown, MD and approximately milepost 62.7 at or near Walkersville, MD. These are Penn Central milepost designations. MMID subsequently adopted a different milepost system on its track charts which describes the point at or near Taneytown as approximately milepost 22.6 and the point at or near Walkersville as approximately milepost 6.2.

approximately milepost 24 3 at or near Cedarhurst, MD (the "Cedarhurst-Emery Grove Line")
See Maryland Midland Railway, Inc. – Exemption From 49 U.S.C. § 11343, Finance Docket No 31188 (ICC served Dec 31, 1987). At the same time, MMID filed a Notice of Exemption with the ICC to obtain operating authority on approximately 8 miles of rail line between approximately milepost 24 3 at or near Cedarhurst, MD and approximately milepost 32 6 at or near Westminster, MD (the "Westminster-Cedarhurst Line") The Cedarhurst-Westminster Line had been abandoned by the Western Maryland because of washouts but was purchased and rehabilitated by the State of Maryland acting by and through MDOT in April 1983 in order to preserve potential service between the CSX interchange at Emory Grove and the MMID line west of Westminster See Maryland Midland Railway, Inc. – Exemption Operation – Line of Western Maryland Railway Co., Finance Docket No 31177 (ICC served Dec 30, 1987) MMID acquired ownership of the Cedarhurst-Emory Grove Line and operating rights on the Westminster-Cedarhurst Line in order to facilitate the resumption of local and through service from points on its Highfield-Westminster Line to the CSX interchange at Emory Grove MMID began operations over the contiguous line of railroad between Westminster and Emory Grove in 1988 and has continued operating over that property since obtaining exemption authority from the ICC

As noted above, on January 23, 2006, MMID acquired the following lines of railroad from the State of Maryland acting by and through the MTA: (i) the approximately 8-mile line of railroad between approximately milepost 32 6, at or near Westminster, MD and approximately milepost 24 3 at or near Cedarhurst, MD,⁴ and (ii) the approximately 20-mile line of railroad

⁴ There are some slight discrepancies between the milepost designations used in the Purchase and Sale Agreement between MMID and MTA and the milepost designations used in previous MMID filings with the ICC Despite these discrepancies, the intent of the parties was to transfer

between approximately milepost 60.1 at or near Walkersville, MD and approximately milepost 39.6 at or near Littlestown, PA (which is approximately 6 miles north of Taneytown, MD). At the time of the acquisition, MMID had been operating the Walkersville-Taneytown Line for approximately 26 years and the Westminster-Cedarhurst Line for approximately 18 years pursuant to authority obtained from the ICC. In the 2006 transfer from MTA, MMID also acquired the inactive line of railroad extending north from Taneytown, MD (at approximately milepost 45.1 on the Penn Central milepost system) to Littlestown, PA (at approximately milepost 39.6 on the Penn Central milepost system).⁵ MMID has not provided freight service over the Taneytown-Littlestown segment (i.e., the Non-Active Line) since the acquisition from MTA because it has no customers north of Taneytown.

Due to an inadvertent oversight at the time of the acquisition from MTA on January 23, 2006, MMID failed to file a notice of exemption for acquisition authority on the Active Lines or acquisition and operation authority on the Non-Active Line. Therefore, MMID is filing this notice of exemption in order to correct this inadvertent error.

The names and address of the entity that transferred the Subject Lines to MMID is as follows:

Maryland Transit Administration
c/o Maryland Department of Transportation
Office of Freight Logistics
7201 Corporate Center Drive
P.O. Box 548
Hanover, MD 21076

ownership of the same lines (i.e., the Active Lines between Walkersville-Taneytown and Westminster-Cedarhurst) that MMID had been operating previously.

⁵ MMID also obtained rights from MTA to use MTA's Keymar Connecting Track for the purpose of moving trains between MMID's east-west Highfield to Emory Grove line and north-south Littlestown to Walkersville line.

Map:**49 C.F.R. § 1150.43(f)**

A map indicating the area served by the Active Lines and Non-Active Line is attached as Exhibit A to this Notice. The Active Lines are shown as solid black lines and the Non-Active Line is shown as a dotted black line on the larger scale version of the map.

Certification of Class III Status:**49 C.F.R. § 1150.43(g)**

A certificate complying with the provisions of 49 C.F.R. § 1150.43(g) is attached as Exhibit B to the Notice. Based on projected revenues from operation of the Subject Lines, MMID will not exceed the Class III revenue threshold.

Environmental/Historic Preservation Data: **49 C.F.R. Part 1105**

Under 49 C.F.R. § 1105.6(c)(2)(i), the proposed acquisition and operation of the Subject Lines by MMID is exempt from environmental reporting requirements because it will not result in significant changes in carrier operations (i.e., changes which exceed the thresholds established in 49 C.F.R. § 1105.7(e)(4) or (5)).

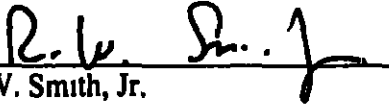
Under 49 C.F.R. § 1105.8(b)(1), the proposed acquisition and operation of the Subject Lines by MMID also is exempt from historic preservation reporting requirements. MMID's acquisition of the Active Lines is for the purpose of continued rail operations, and MMID's acquisition of the Non-Active Line is for the purpose of potential future rail service. Further Surface Transportation Board approval is required to abandon any service, and there are no current plans to dispose of or alter properties subject to Board jurisdiction that are fifty years old or older.

Caption Summary:

49 C.F.R. § 1150.44

A caption summary in the appropriate form is attached as Exhibit C to the Notice

Respectfully submitted,



R. W. Smith, Jr.

DLA Piper US LLP
6225 Smith Avenue
Baltimore, MD 21209

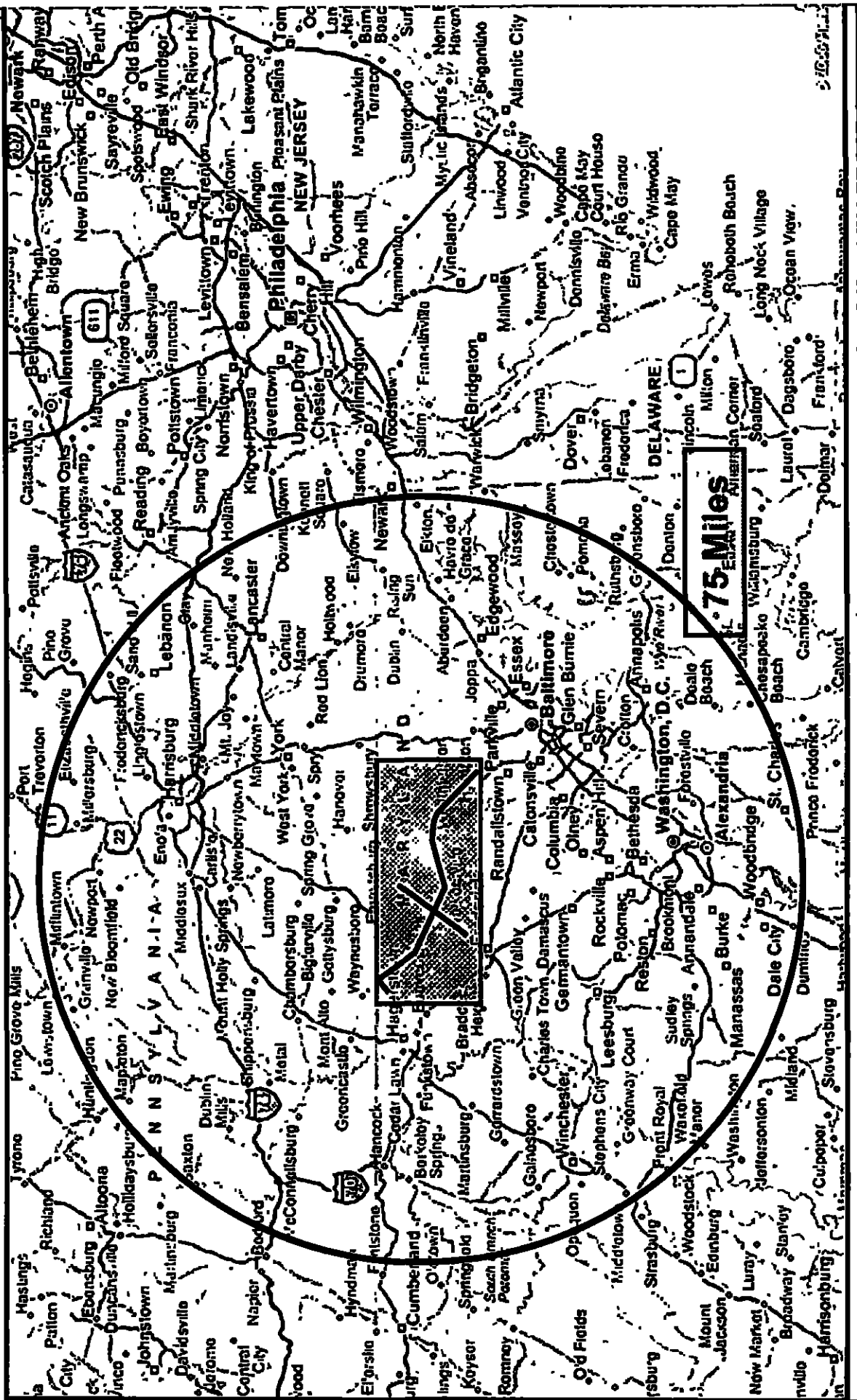
**ATTORNEYS FOR MARYLAND
MIDLAND RAILWAY, INC.**

Dated October 22, 2007

EXHIBIT A

MAPS OF RAIL ASSETS

Maryland Midland Overview



MMID Lines MMID MTA Lines Non-Active

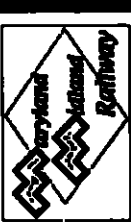
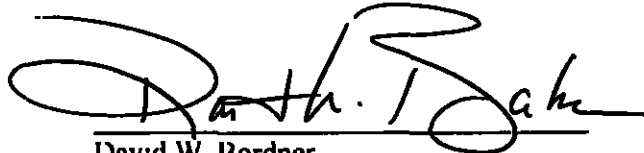


EXHIBIT B

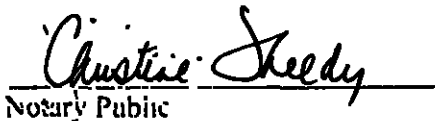
CERTIFICATION

David Bordner, being duly sworn, certifies that the projected freight rail revenues of Maryland Midland Railway, Inc. will not result in the creation of a Class I or Class II rail carrier under the provisions of 49 C.F.R. § 1201.1-1)



David W. Bordner
President, Maryland Midland Railway, Inc.

SUBSCRIBED AND SWORN TO
Before me this 18 day
of October 2007


Notary Public

My Commission expires

2/1/11

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

FINANCE DOCKET NO _____

**MARYLAND MIDLAND RAILWAY, INC
-- ACQUISITION AND OPERATION EXEMPTION --
CERTAIN ASSETS OF THE MARYLAND TRANSIT ADMINISTRATION**

Maryland Midland Railway, Inc. ("MMID"), a Class III rail carrier, has filed a Verified Notice of Exemption in connection with its 2006 acquisition of the following lines of railroad from the State of Maryland acting by and through the Maryland Transit Administration ("MTA") (i) the approximately 8-mile line of railroad between approximately milepost 32.6, at or near Westminster, MD and approximately milepost 24.3 at or near Cedarhurst, MD, and (ii) the approximately 20-mile line of railroad between approximately milepost 60.1 at or near Walkersville, MD and approximately milepost 39.6 at or near Littlestown, PA (the "Subject Lines") The total distance of the Subject Lines is approximately 28 miles within Carroll and Frederick Counties in Maryland and Adams County in Pennsylvania MMID also obtained rights to use MTA's Keymar Connecting Track for the purpose of moving trains between MMID's east-west Highfield to Emory Grove line and north-south Littlestown to Walkersville line The closing of the sale transaction took place on January 23, 2006 MMID has been operating the Subject Lines (except for the approximately 6-mile portion between Taneytown, MD and Littlestown, PA) pursuant to operating authority obtained from the Interstate Commerce Commission more than 15 years ago. Due to an inadvertent oversight at the time of its acquisition from MTA, MMID did not file a notice of exemption for acquisition authority (and

with respect to the segment between Taneytown and Littlestown, for acquisition and operating authority) with the Board. Thus, MMID has filed its Verified Notice of Exemption in this proceeding in order to correct that oversight.

Comments must be filed with the Board and served on R.W. Smith, Jr., DLA Piper US LLP, 6225 Smith Avenue, Baltimore, MD 21209.

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. Petitions to revoke the exemption under 49 U.S.C. § 10505(d) may be filed at any time. The filing of the petition to revoke will not automatically stay the transaction.

Date _____, 2007
By the Board
Vernon A. Williams – Secretary

VERIFICATION

I, David Bordner, 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 cause the foregoing document to be filed.



David W. Bordner
President
Maryland Midland Railway, Inc

Dated October 18, 2007