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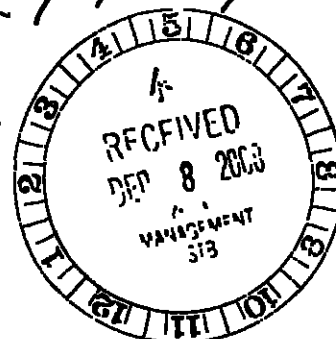
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William A. Mullins
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Direct Dial (202) 663-7823



December 8, 2008

VIA HAND DELIVERY

The Honorable Anne K. Quinlan, Acting Secretary
Surface Transportation Board
395 E Street, S W
Washington, DC 20423-0001

ENTERED
Office of Proceedings
DEC 9 2008
Part of
Public Record

Re Finance Docket No 35163
*Kansas City Southern, The Kansas City Southern Railway Company, and The
Texas Mexican Railway Company - Exemption For Transactions Within A
Corporate Family*

Dear Acting Secretary Quinlan

Enclosed on behalf of Kansas City Southern ("KCS"), The Kansas City Southern Railway Company ("KCSR"), and The Texas Mexican Railway Company ("Tex Mex") are an original and eleven copies of a Notice of Exemption ("Notice") filed under 49 CFR 1180.2(d)(3) for an exemption from the prior approval and authorization requirements governing a transaction within a corporate family. In accordance with 49 CFR 1002(f)(38)(iv), a check in the amount of \$1,700 is enclosed to cover the filing fee for the Notice.

Please note that Exhibit A contains a color map. Consistent with the Board's regulations at 49 CFR 1104.2(d), a black and white of that map is inserted with the text of Exhibit A and the color copy is attached to the very end of the filing.

Please acknowledge filing of this Notice by date stamping the extra copy thereof and returning that copy to the courier for return to my offices. If there are any questions concerning this filing, please contact me by telephone at (202) 663-7823 or by e-mail at wamullins@bakerandmiller.com.

Sincerely,

William A. Mullins

Enclosures

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 35163

**KANSAS CITY SOUTHERN, THE KANSAS CITY SOUTHERN RAILWAY COMPANY,
AND THE TEXAS MEXICAN RAILWAY COMPANY – EXEMPTION FOR
TRANSACTIONS WITHIN A CORPORATE FAMILY**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 CFR §1180.2(d)(3)**

**ENTERED
Office of Proceedings**

DEC 9 - 2008

**Part of
Public Record**

FILED
DEC 8 - 2008
**SURFACE
TRANSPORTATION BOARD**

**W. James Wochner
David C. Reeves
Adam J. Godderz
THE KANSAS CITY SOUTHERN
RAILWAY COMPANY
P.O. Box 219335
Kansas City, MO 64121-9335
Telephone: (816) 983-1303
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**Attorneys for Kansas City Southern, The Kansas
City Southern Railway Company, and The Texas
Mexican Railway Company**

December 8, 2008

CONTAINS A COLOR MAP

FEE RECEIVED

DEC 8 - 2008

**SURFACE
TRANSPORTATION BOARD**

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 35163

**KANSAS CITY SOUTHERN, THE KANSAS CITY SOUTHERN RAILWAY COMPANY,
AND THE TEXAS MEXICAN RAILWAY COMPANY – EXEMPTION FOR
TRANSACTIONS WITHIN A CORPORATE FAMILY**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 CFR §1180.2(d)(3)**

Kansas City Southern (“KCS”), The Kansas City Southern Railway Company (“KCSR”), and Texas Mexican Railway Company (“Tex Mex”) (collectively, “Parties”) hereby submit this notice, pursuant to 49 CFR §1180.2(d)(3), for an exemption from the prior approval and authorization requirements of the Surface Transportation Board (“STB” or “Board”) of a transaction within a corporate family. The transaction encompassed in this Notice of Exemption involves KCSR’s acquisition by lease and operation of Tex Mex’s right-of-way and rail line facilities extending between milepost 2.5 (near Rosenberg, TX) and milepost 87.0 (near Victoria, TX), and the related assignment to KCSR of Tex Mex’s existing overhead trackage rights over certain lines of the Union Pacific Railroad Company (“UP”) between milepost 0.0 and milepost 2.5 (near Rosenberg) and between milepost 87.0 at and milepost 90.8 (near Victoria).¹ As a result of the proposed transaction, KCSR will obtain the right to operate over a contiguous, approximately 90.8-mile rail line (owned in part by Tex Mex and in part by UP) extending from milepost 0.0 at its northern end near Rosenberg, TX, to milepost 90.8 at its southern end in Victoria, TX. (See maps attached as Exhibit A.) As such, KCSR

¹ Tex Mex acquired its Victoria to Rosenberg line (the “Rosenberg Line”) and the overhead trackage rights to reach that line in Texas Mexican Railway Company – Purchase Exemption – Union Pacific Railroad Company, STB Finance Docket No. 33914 (STB served Dec. 11, 2000). In connection with that transaction, Tex Mex also acquired the use of existing interchange tracks between UP and BNSF Railway Company (“BNSF”) at Rosenberg which tracks permit Tex Mex to interchange certain trains with BNSF.

will be able to reduce its transits times between Beaumont, TX and Laredo, TX In support of this Notice of Excmption and in compliance with 49 CFR §1180 4(g), the Parties provide the following information.

49 CFR §1180.6(a)(1)(i) – Description of Transaction and Parties Thereto:

a. Description of Transaction

KCS is a privately-held non-carrier holding company, with both rail and non-rail assets KCS currently controls three common carriers subject to the jurisdiction of the STB KCSR, Tex Mex, and Gateway Eastern Railway Company (“GWER”) ² KCSR is a Class I common carrier railroad that owns and operates approximately 3,226 miles of main line track in ten states GWER is a Class III common carrier railroad that owns and operates approximately 17 miles of main line track between East Alton, IL and East St. Louis, IL Tex Mex is a Class II common carrier railroad that owns approximately 157 miles of rail line between Laredo and Corpus Christi, TX, approximately 84.5 miles of rail line between Rosenberg and Victoria, TX, including overhead trackage rights over UP between milepost 0 0 and milepost 2 5 (near Rosenberg) and between milepost 87.0 and milepost 90 8 (near Victoria),³ and possesses overhead trackage rights over UP-owned rail lines between Beaumont-Houston-Corpus Christi.⁴

² KCS’s control of KCSR and its then-existing rail carrier subsidiaries was found not to require ICC approval in Kansas City Southern Industries, Inc. – Control – Kansas City Southern Railway Company, 317 I.C.C. 1 (1962) KCS received authority to commonly control KCSR and GWER in Kansas City Southern Industries, Inc., KCS Transportation Company, and The Kansas City Southern Railway Company – Control – Gateway Western Railway Company and Gateway Eastern Railway Company, STB Finance Docket No. 33311 (STB served May 1, 1997). KCS received authority to commonly control KCSR, GWER, and Tex Mex in Kansas City Southern – Control – The Kansas City Southern Railway Company, Gateway Eastern Railway Company, and The Texas Mexican Railway Company, STB Finance Docket No. 34342 (STB served Nov. 29, 2004).

³ By letter dated October 1, 2008, UP consented to the assignment of Tex Mex’s Victoria and Rosenberg trackage rights to KCSR.

⁴ Such trackage rights from Beaumont-Houston-Corpus Christi were granted to Tex Mex as part of the UP/SP merger proceeding Tex Mex has previously assigned those rights to KCSR and granted KCSR trackage rights over Tex Mex’s own lines between Corpus Christi and Laredo See Kansas City Southern, The Kansas City Southern Railway Company, and the Texas Mexican

Pursuant to 49 CFR §1180 2(d)(3), the Parties invoke the Board's class exemption from the prior approval requirements of 49 U.S.C. §11323 for a transaction within the corporate family. The transaction involves KCSR acquiring by lease and operating the right-of-way and rail line owned by Tex Mex between milepost 2.5 near Rosenberg, TX, and milepost 87.0 near Victoria, TX,⁵ and acquiring by assignment Tex Mex's overhead trackage rights over UP-owned lines between milepost 0.0 and milepost 2.5 (near Rosenberg) and between milepost 87.0 and milepost 90.8 at (near Victoria), along with Tex Mex's rights to interchange with BNSF at Rosenberg.⁶ The result of the proposed transaction will be that KCSR will possess sufficient rights to operate and provide common carrier service over a contiguous rail line bounded by Kansas City, MO, at the north end and Laredo, TX, at the south end. The proposed corporate family transaction will not result in adverse changes in service levels, significant operational changes, or changes in the competitive balance with carriers outside the KCS corporate family.

b. Names, Addresses, and Phone Numbers of Involved Parties

KANSAS CITY SOUTHERN
P.O. Box 219335
Kansas City, MO 64121-
9335
Tel. (816) 983-1303
Fax (816) 983-1227

THE KANSAS CITY
SOUTHERN RAILWAY
COMPANY
P.O. Box 219335
Kansas City, MO 64121-
9335
Tel. (816) 983-1303
Fax (816) 983-1227

THE TEXAS MEXICAN
RAILWAY COMPANY
1610 Woodstead Court
The Woodlands, TX
77380
Tel. (281) 465-7186

Railway Company – Exemption for Transactions Within a Corporate Family, STB Finance Docket No. 34849 (STB served Apr. 17, 2006), The Kansas City Southern Railway Company – Trackage Rights Exemption – The Texas Mexican Railway Company, STB Finance Docket No. 34848 (STB served Apr. 17, 2006) (“April 17 2006 Decisions”). The Rosenberg Line was not part of those transactions.

⁵ The rail line segment between milepost 2.5 and milepost 87.0 owned by Tex Mex will be referred to herein as the “Lease Segment.”

⁶ The rail line segments between milepost 0.0 and milepost 2.5 and between milepost 87.0 and milepost 90.8 owned by UP will be referred to collectively herein as the “Trackage Rights Segments.”

c **Names of Counsel to Whom Questions Can Be Addressed.**

Correspondence with respect to this Verified Notice of Exemption should be addressed to

W. James Wochner
David C. Reeves
Adam J. Godderz
THE KANSAS CITY SOUTHERN
RAILWAY COMPANY
P.O. Box 219335
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Suite 300
Washington, D.C. 20037
Tel. (202) 663-7823
Fax (202) 663-7849

49 CFR §1180.6 (a) (1) (ii) – Consummation Schedule.

The Parties propose to consummate the transaction on or after January 5, 2009.

49 CFR §1180.6 (a) (1) (iii) – Purpose of the Transaction.

The purpose of this transaction is to enable KCSR to provide common carrier service on and over the so-called "Rosenberg Line," which Tex Mex acquired from UP in 2001. By acquiring by lease the Lease Segment and by taking assignment of Tex Mex's right to operate over the Trackage Rights Segments, KCSR will be able to operate both local and overhead service over the Rosenberg Line segment. In so doing, KCSR will reduce its dependence on trackage rights over UP and will reduce its overall route from Beaumont to Laredo by approximately 70 miles compared to the route by which KCSR trains currently travel between these two points on UP lines. (See maps attached as Exhibit A). The transaction will therefore reduce operating costs, improve efficiency, and enable KCSR to provide seamless service over the various parts of its system. This transaction is, in effect, a continuation of a series of transactions undertaken in 2006 which have allowed KCSR to provide single-line service from Kansas City to Laredo and to market the route as a KCSR route without having to include Tex Mex in the routing or the bill of lading.⁷

⁷ See April 17, 2006 Decisions.

49 CFR §1180.6 (a) (5) – List of States in Which the Parties' Property is Located.

The states in which KCSR's rail lines are located are Illinois, Kansas, Missouri, Oklahoma, Arkansas, Texas, Louisiana, Mississippi, Tennessee, and Alabama. KCSR also conducts rail business, through haulage rights, in the states of Nebraska and Iowa. Tex Mex's lines and the lines of UP (as relevant to the subject transaction) are located within the state of Texas

49 CFR §1180.6 (a) (6) – Map - Exhibit A.

Maps showing the locations of the Lease Segment and the connecting Trackage Rights Segments are attached as Exhibit A

49 CFR §1180.6 (a) (7) (ii) – Agreements - Exhibit B.

The proposed transaction is governed by a lease agreement between KCSR and Tex Mex. A copy of this agreement is attached as Exhibit B

49 CFR §1180.4(g)(1)(i) – Level of Labor Protection

The Lease Segment has been out of service and is currently being rehabilitated to return it to service. KCSR will begin providing common carrier service on and over any portion of the Lease Segment as soon as this Notice becomes effective and upon such portion becoming operable. As a consequence of the transaction, and upon complete rehabilitation of the entire Lease Segment, KCSR will be able to divert trains away from a roughly parallel (but far more circuitous) UP main line route between Victoria and Rosenberg and reduce KCSR's dependence upon trackage rights over UP between Beaumont, TX, and Robstown, TX. As the transaction merely shifts trains and crews that currently operate over the UP line between Victoria and Rosenberg to the Rosenberg Line, the parties do not anticipate any adverse labor impacts because of the transaction.

Nonetheless, as a condition of this exemption, KCSR agrees to the imposition of the employee protective conditions established in Mendocino Coast Ry., Inc. – Lease and Operate, 354 I.C.C. 732 (1978) and 360 I.C.C. 653 (1980), as clarified in Wilmington Term RR, Inc. – Pur. and

Lease – CSX Transp., Inc., 6 I.C.C. 2d 799, 814-26 (1990) for purposes of protecting employees adversely affected by KCSR's lease of the Lease Segment. KCSR also agrees to the imposition of the employee protective conditions established in Norfolk and Western Ry. Co. -- Trackage Rights - - BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980) for purposes of protecting employees adversely affected by KCSR taking assignment of Tex Mex's trackage rights over the Trackage Rights Segments

49 CFR §1105.6 through 1105.8 – Environmental and Historic Report.

The proposed transaction effectively substitutes KCSR for Tex Mex as the operator of the Lease Segment and holder of the overhead trackage rights on the Trackage Rights Segments. Consequently, KCSR intends to operate trains over the Rosenberg Line as Tex Mex would have done in the absence of the transaction. The proposed transaction merely substitutes one corporate affiliate (KCSR) for another (Tex Mex) with respect to the rehabilitation, maintenance, and future operations of the Rosenberg Line. As a result, the transaction is exempt from the requirement to provide environmental documentation pursuant to 49 CFR §1105.6(c)(2) and (4). See Union Pacific Railroad Company—Petition for Declaratory Order—Rehabilitation of Missouri-Kansas-Texas Railroad Between Jude and Ogden Junction, TX, 3 S.T.B. 646 (STB served Aug. 21, 1998) and Missouri Central Railroad Company—Acquisition and Operation Exemption—Lines of Union Pacific Railroad Company, STB Finance Docket No. 33508, et al., slip op. at 7 (STB served Apr. 30, 1998), aff'd sub nom. Lee's Summit, Mo. v. STB, 231 F.3d 39 (D.C. Cir. 2000) ("Lee's Summit")⁸

Similarly, because the notice contemplates KCSR's acquisition of common carrier operating rights over the Rosenberg Line for continued rail operations, further Board approval would be

⁸ Regardless of the holding in Lee's Summit, the transaction will not result in KCSR undertaking operations that would exceed the thresholds at 49 C.F.R. §1105.7(e)(4) or (5).

required for KCSR to discontinue its lease and trackage rights operations and for Tex Mex to abandon the Lease Segment. In such circumstances, KCSR understands that a Historic Report pursuant to the provisions of 49 CFR §1105.8 is not required. See 49 CFR §1105.8(b)(1)-(3).

Respectfully submitted,

W James Wochner
David C Reeves
Adam J Godderz
THE KANSAS CITY SOUTHERN
RAILWAY COMPANY
P O. Box 219335
Kansas City, MO 64121-9335
Telephone (816) 983-1303
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Washington, D.C. 20037
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Fax (202) 663-7849

Attorneys for Kansas City Southern, The Kansas City
Southern Railway Company, and The Texas Mexican
Railway Company

DATED December 8, 2008

VERIFICATION

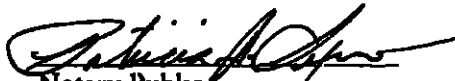
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STATE OF MISSOURI)
) ss
COUNTY OF JACKSON)

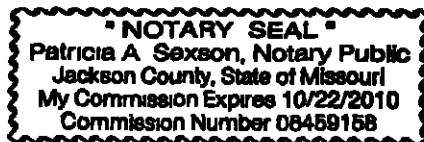
Larry M Lawrence, being duly sworn, deposes and says that he is Executive Vice President & Assistant to Chairman of Kansas City Southern, and that he has read the foregoing Notice of Exemption, knows the contents thereof, and that the same are true as stated to the best of his knowledge, information, and belief


Larry M Lawrence

Subscribed and sworn to before me this 8th day of December, 2008


Notary Public

My Commission expires. _____



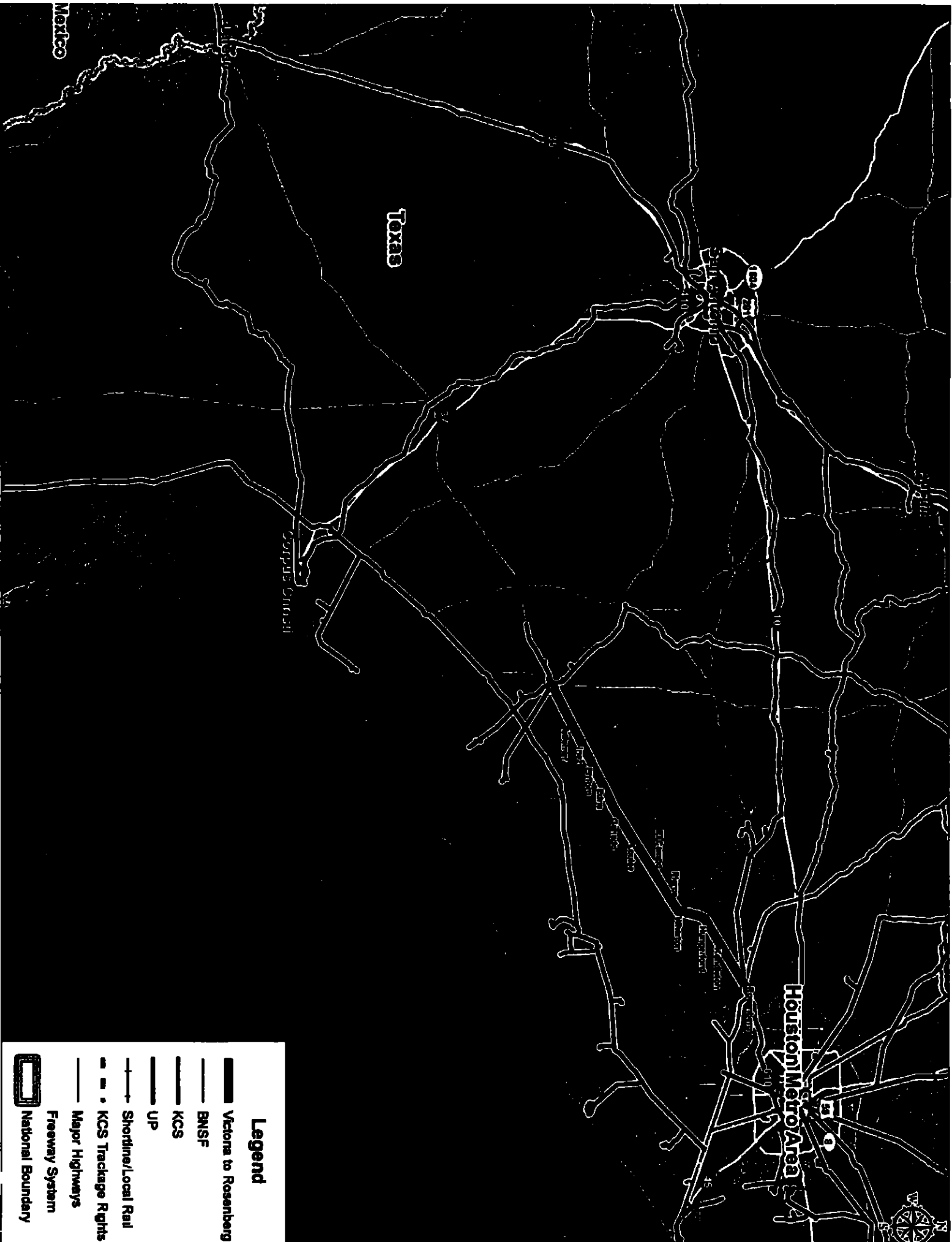
**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 35163

**KANSAS CITY SOUTHERN, THE KANSAS CITY SOUTHERN RAILWAY
COMPANY, AND THE TEXAS MEXICAN RAILWAY COMPANY – EXEMPTION
FOR TRANSACTIONS WITHIN A CORPORATE FAMILY**

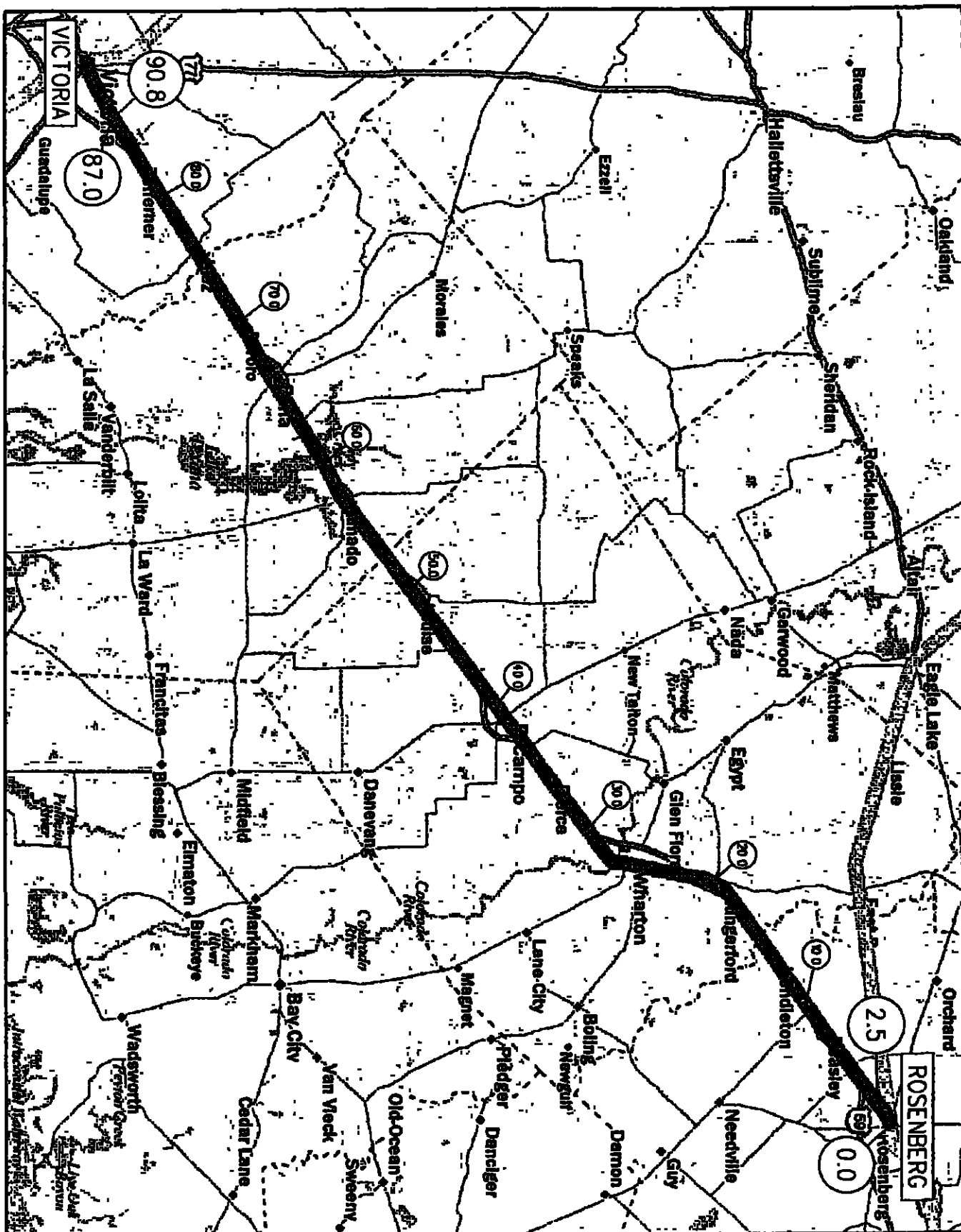
**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 CFR §1180.2(d)(3)**

49 CFR §1180.6 (a) (6) – Maps Exhibit A



Legend

- Victoria to Rosenberg
- BNSF
- KCS
- UP
- Shoreline/Local Rail
- - - KCS Trackage Rights
- Major Highways
- Freeway System
- ▭ National Boundary



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 35163

**KANSAS CITY SOUTHERN, THE KANSAS CITY SOUTHERN RAILWAY
COMPANY, AND THE TEXAS MEXICAN RAILWAY COMPANY – EXEMPTION
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**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 CFR §1180.2(d)(3)**

49 CFR §1180.6 (a) (7) (ii) – Lease Agreement Exhibit B

LEASE AGREEMENT

Between

THE KANSAS CITY SOUTHERN RAILWAY COMPANY

and

THE TEXAS MEXICAN RAILWAY COMPANY

Covering right-of-way and facilities and track located thereon, of The Texas Mexican Railway Company in the State of Texas between Milepost 87.0 near Victoria, Texas to Milepost 2.5 near Rosenberg, Texas.

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease"), dated as of this 1st day of January, 2008 (the "Effective Date"), by and between **THE TEXAS MEXICAN RAILWAY COMPANY**, a Texas corporation (referred to herein as "TEXMEX"), and **THE KANSAS CITY SOUTHERN RAILWAY COMPANY**, a Missouri corporation (referred to herein as "KCSR").

RECTALS

A TEXMEX owns the right of way (the "TEXMEX ROW") and track and other facilities located thereon between Milepost 87.0 near Victoria, Texas and Milepost 2.5 near Rosenberg, Texas as more accurately marked and described in Exhibit A attached hereto and incorporated by reference herein.

B KCSR intends to lease from TEXMEX the TEXMEX ROW, along with the track and other facilities currently located thereon (collectively referred to as the "Leased Premises")

C TEXMEX is willing to lease the Leased Premises to KCSR on the terms and conditions set forth in this Lease.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, intending to be legally bound, the parties do hereby agree as follows

SECTION I. LEASED PREMISES

SECTION 1.1 TEXMEX does hereby lease to KCSR and KCSR does hereby lease from TEXMEX the Leased Premises, including the property described in Section 1.2

SECTION 1.2 The Leased Premises include, without limitation, any tracks, rails, ties, ballast, other track materials, switches, crossings, bridges, culverts, buildings, crossing warning devices and any and all improvements or fixtures affixed to the TEXMEX ROW. KCSR expressly acknowledges that TEXMEX may have previously leased and/or licensed portions of the Leased Premises. This Lease is made subject to those leases and/or licenses. To the extent that there exists, on the Leased Premises, property included in or owned by said prior licensees, said property may remain on the Leased Premises to the extent permitted by the terms of the lease or license under which it was placed on the Leased Premises

SECTION 1.3 KCSR shall take the Leased Premises in an "AS IS, WHERE IS" CONDITION AND WITHOUT ANY EXPRESS OR IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF

TITLE, MERCHANTABILITY, HABITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

SECTION II. LEASE TERM

Unless this Lease is terminated earlier as provided herein, KCSR shall have and hold the Leased Premises unto itself, its permitted successors and assigns, for a term of ninety-nine (99) years, beginning upon the Effective Date set forth in this Lease.

SECTION III. RAIL SERVICE

Beginning on the Effective Date and throughout the term of this Lease, KCSR and TEXMEX both shall be entitled to use the Leased Premises for the operation of common carrier rail service. TEXMEX further warrants that as of the date of this Lease, there is no other rail carrier to which TEXMEX has granted rights to use the Leased Premises other than pursuant to joint facility agreements or arrangements that are superior to those granted herein to KCSR.

SECTION IV. RENT

SECTION 4.1 KCSR agrees to pay TEXMEX rent for the Leased Premises, payable annually in advance on the anniversary of this Lease, the amount of [REDACTED] Dollars (\$ [REDACTED]).

SECTION 4.2 KCSR shall pay when due all rent payments, and all other payments required by this Lease, to TEXMEX at 427 West 12th Street, P.O. Box 219335, Kansas City, Missouri 64121-9335, or at such other location or individual as may be designated by TEXMEX in writing from time to time.

SECTION V. CONDITIONS-PRECEDENT

SECTION 5.1 Prior to the date that KCSR commences providing rail freight services to shippers over the Leased Premises:

5.1.1 There shall not be a work stoppage imminent or in effect on the lines of TEXMEX, KCSR or any of their affiliated companies as a result of the execution and/or implementation of this Lease.

5.1.2 KCSR shall have acquired, at KCSR's cost, the right to conduct rail freight service over the Leased Premises from the STB and shall have obtained such judicial, administrative agency or other regulatory approvals, authorizations or exemptions as may be necessary to enable it to undertake its obligations hereunder. KCSR, at its sole expense, shall prepare and file such

documents as may be required (if any) to secure approval, or exemption from approval of this transaction by any federal, state or local regulatory agencies, including but not limited to the STB.

SECTION VI. MAINTENANCE, MODIFICATIONS AND IMPROVEMENTS

SECTION 6.1 During the term of this Lease, TEXMEX, at TEXMEX's own cost and expense, shall:

6.1.1. Maintain the Leased Premises in compliance with all state and federal statutes, rules and regulations, and to a standard and in a condition that railroad services can be safely conducted over the Leased Premises.

6.1.2. Protect the Leased Premises against all encroachments or unauthorized uses

SECTION 6.2 In the event KCSR notifies TEXMEX in writing that TEXMEX has failed to perform any of its maintenance obligations under this Lease, TEXMEX shall, within thirty (30) days of its receipt of such notice, commence necessary repairs and maintenance and shall proceed to complete same with reasonable diligence. Any rehabilitation or reconstruction, including but not limited to that necessitated by an Act of God, will be the sole responsibility of TEXMEX. Such maintenance shall include any function which TEXMEX, but for this Lease, would be required to perform pursuant to any applicable laws or regulations.

SECTION 6.3 TEXMEX's maintenance obligations hereunder shall include, but shall not be limited to, buildings, crossings (both public and private), grade crossing protection devices, bridges, culverts and other structures, sub-roadbed and all other improvements and facilities on the Leased Premises.

SECTION 6.4 In connection with its use of the Leased Premises, KCSR shall have the right to renew or replace all or any portion of the Leased Premises, including but not limited to renewal and replacement of any tracks that are a part of the Leased Premises, along with the construction of any additional tracks and other facilities on the TEXMEX ROW. Subject to any prior liens which may exist on the TEXMEX ROW or facilities thereon, KCSR shall have the right to apply the net proceeds from salvaged materials to maintenance or improvement of the Leased Premises; provided that any such net proceeds not reinvested in the Leased Premises shall be paid to TEXMEX.

SECTION 6.5 KCSR may relocate switches and industry tracks from one location on the Leased Premises to another location on the Leased Premises and construct any new or additional switches or industry tracks on the Leased Premises. TEXMEX shall have no obligation to bear any cost of materials, construction or maintenance of said switches, sidetracks or industrial spur tracks. For any industry or

customer track on the Leased Premises, KCSR shall be entitled to any and all track rentals derived therefrom during the term of this Lease.

SECTION 6.6 Title and ownership to any tracks, sidetracks or industrial spur tracks, and any other improvements or facilities constructed on the TEXMEX ROW by KCSR at any time shall reside in KCSR. Nothing herein shall grant TEXMEX ownership in any such property. KCSR shall have the right to sell, transfer, lease, dispose, pledge or otherwise encumber any tracks, sidetracks or industrial spur tracks, and any other improvements or facilities constructed on the TEXMEX ROW by KCSR as KCSR shall deem necessary in its sole discretion. Notwithstanding anything herein to the contrary, title and ownership of such property by KCSR shall be not affect TEXMEX's right and obligation to maintain the Leased Premises pursuant to this Lease.

SECTION VII OBLIGATIONS OF THE PARTIES

SECTION 7.1 During the term of this Lease, both parties will comply with all applicable federal, state and municipal laws, ordinances, and regulations, and neither party will knowingly do, or permit to be done, upon or about the Leased Premises, anything forbidden by law, ordinance or regulation. KCSR further agrees to use its best efforts to secure all necessary governmental authority for it to commence operations under this Lease and discontinue operation on the Leased Premises at the expiration or termination of this Lease, as applicable.

SECTION 7.2 During the term of this Lease, each party will comply with all federal, state, and local laws, rules, regulations, and ordinances controlling air, water, noise, hazardous waste, solid waste, and other pollution or relating to the storage, transport, release, or disposal of hazardous materials, substances, waste, or other pollutants. KCSR at its own expense will make all modifications, repairs, or additions to the Leased Premises, install and bear the expense of any and all structures, devices, or equipment, and implement and bear the expense of any remedial action which may be required under any such laws, rules, regulations, ordinances, or judgments related to actions occurring during the term of this Lease. During the term of this Lease, KCSR will not dispose of any wastes of any kind, whether hazardous or not, on the Leased Premises.

SECTION VIII INDEMNIFICATION

KCSR AGREES TO DEFEND, INDEMNIFY AND HOLD TEXMEX HARMLESS FROM ANY ACTIONS, CLAIMS, DAMAGE OR OTHER LIABILITY OR CHARGES RESULTING FROM OR ARISING IN CONNECTION WITH:

(A) KCSR'S AND/OR KCSR'S EMPLOYEES' ACTIVITIES IN CONNECTION WITH THIS LEASE OR BREACH THEREOF, EXCEPT

TO THE EXTENT CAUSED BY THE NEGLIGENCE, INTENTIONAL ACTS OR BREACH OF THIS LEASE BY TEXMEX, ITS OFFICERS, AGENTS, DIRECTORS, EMPLOYEES OR SUBCONTRACTORS AFTER THE EFFECTIVE DATE OF THIS LEASE (EXCLUDING KCSR AND ITS SUBCONTRACTORS);

(B) THE VIOLATION OR ALLEGED VIOLATION OF ANY LAWS, ORDINANCES, ORDERS OR REGULATIONS TO THE EXTENT CAUSED OR PERMITTED BY KCSR;

(C) ANY VIOLATION OF ANY FEDERAL, STATE, OR LOCAL LAW, RULE, REGULATION, OR ORDINANCE CONTROLLING AIR, WATER, NOISE, HAZARDOUS WASTE, SOLID WASTE, OR OTHER POLLUTION OR RELATING TO THE STORAGE, TRANSPORT, RELEASE, OR DISPOSAL OF HAZARDOUS MATERIALS, SUBSTANCES, WASTES, OR OTHER POLLUTANTS ARISING OUT OF KCSR'S OPERATION OF THE LEASED PREMISES AND FROM ANY VIOLATIONS OF THIS LEASE, INCLUDING ANY LIABILITY, COSTS, INCLUDING BUT NOT LIMITED TO CLEAN UP COSTS, EXPENSES, FINES, OR PENALTIES. THE OBLIGATIONS CONTAINED IN THIS SUBSECTION SHALL NOT APPLY TO THE EXTENT THE CONDITION EXISTED ON THE EFFECTIVE DATE OR TO THE EXTENT CAUSED BY THE NEGLIGENCE, WILLFUL ACTS OR OMISSIONS, VIOLATIONS OF LAW OR THE BREACH OF THIS LEASE BY TEXMEX OR ITS OFFICERS, AGENTS, EMPLOYEES, DIRECTORS, OR THIRD PARTIES ACTING UNDER TEXMEX'S AUTHORITY, OCCURRING AFTER THE EXECUTION OF THIS LEASE.

SECTION IX. TAXES

It is understood and agreed that KCSR shall be responsible for all taxes and assessments, general and special or otherwise which may be levied, assessed or imposed upon the Leased Premises during the Lease Term. If TEXMEX is required to pay such taxes and assessments directly to the taxing authorities, KCSR shall promptly reimburse TEXMEX for any such taxes paid by TEXMEX upon receipt from TEXMEX of appropriate documentation of the assessment of such taxes and payment thereof.

SECTION X. EASEMENTS, LEASES AND LICENSES

KCSR shall have the right to grant easements, licenses, agreements and leases affecting the Leased Premises. KCSR shall be responsible for all duties, maintenance, costs, fencing, insurance, taxes (income, ad valorem, or otherwise), special assessments

and liabilities owed to, on or for said revenues, easements, leases, licenses, or other agreements.

SECTION XI. TERMINATION

SECTION 11.1 This Lease may be terminated upon mutual consent of the parties.

SECTION 11.2 TEXMEX shall fully cooperate with KCSR in preparing, and will file a statement of support for, any application or other filing by KCSR before any pertinent regulatory agency to terminate KCSR's operations under this Lease. The termination or expiration of this Lease will not affect or impair the rights or obligations of either party arising under this Lease prior to such termination or expiration.

SECTION 11.3 Upon termination or expiration of this Lease, KCSR shall vacate the Leased Premises in an orderly manner, and TEXMEX, at any time thereafter, may re-enter, take possession of and use the Leased Premises.

SECTION 11.4 KCSR shall submit all necessary applications, petitions and/or notices to the STB or any successor agency, and shall make when and where due all related ancillary submissions (including but not limited environmental reports) required to effectuate a termination of this Lease and a discontinuance of KCSR's operations hereunder.

SECTION 11.5 Upon expiration or termination of this Lease, KCSR will bear any and all costs of protection of its current or future employees, including former employees of TEXMEX that may be employed by KCSR, arising from any labor protective conditions imposed by the STB, any other regulatory agency or statute as a result of KCSR's lease or operation of the Leased Premises and any related agreements or arrangements, or arising as a result of the termination of this Lease. Nothing contained herein is intended to be for the benefit of any such employee nor should any employee be considered a third party beneficiary hereunder. Nothing in this Lease shall be construed as an assumption by KCSR of any obligations to TEXMEX's current or former employees under collective bargaining or other agreements that may exist or have existed between TEXMEX and its employees, or any of them.

SECTION XII. FORCE MAJEURE

SECTION 12.1 The prompt and timely performance of all obligations and covenants under this Lease, including the obligation to make prompt and timely payment of each installment of rent or any other payment of any nature, is and shall be of the essence of this Lease.

SECTION 12.2 Either party shall be excused from its obligations under this Lease, to the extent its performance is prevented by an event of Force Majeure.

For purposes of this Lease an event of Force Majeure shall include: strikes, lockouts, labor disputes, casualties, acts of God, war, terrorist acts, court orders, work stoppages, nuclear incidents, riots, public disorder, acts of a public enemy, criminal acts, floods, storms, earthquakes, hurricanes, tornadoes, or other severe weather or climactic conditions, blockade, insurrection, vandalism or sabotage, fire, accident, wreck, derailment, washout or explosion, embargoes, Association of American Railroads, STB or FRA orders, other governmental laws, orders or regulations or other such causes beyond the reasonable control of said party (each a "Force Majeure"). In the event either party is prevented from performing its obligations under this Lease by a Force Majeure, the party so prevented will promptly notify the other party of such Force Majeure and shall be excused from its obligations under this Lease, other than payment of rent, to the extent such performance was prevented by such Force Majeure. The party experiencing Force Majeure shall take prompt action to remove such causes of Force Majeure insofar as practicable with all reasonable dispatch, and its obligation to perform the provisions of this Lease shall resume immediately after such causes have been removed.

SECTION XIII. DEFEASANCE.

Except as otherwise allowed under this Lease, KCSR shall not make any use of the TEXMEX ROW inconsistent with TEXMEX's right, title and interest in the TEXMEX ROW and which may cause TEXMEX's ownership interest in the TEXMEX ROW to become subject to any interest held by any third party. TEXMEX and KCSR shall make all reasonable efforts to defend TEXMEX's title to the TEXMEX ROW against any adverse claims.

SECTION XIV. EVENTS OF DEFAULT AND BREACH

SECTION 14.1 The following shall be Events of Default:

14.1.1 Failure by KCSR to make payments of rent when due or a breach by either party of any material term or obligation set forth herein.

14.1.2. Failure by KCSR to prepare and file such documents as may be required (if any) to secure approval, or exemption from approval of this transaction by any federal, state or local regulatory agencies, including but not limited to the STB.

SECTION 14.2 Upon the occurrence of a default included in 14.1, the injured party shall notify the breaching party in writing and specify the breach and what corrective action is required to cure the breach.

SECTION 14.3 If, upon the expiration of ten (10) days from the receipt of said notice, the breach has not been cured (or, if such breach cannot be cured within 10 days, steps have not been taken to effect such cure and pursued with all due

diligence within said period and said breach has not been cured within 60 days from receipt of said notice), the injured party shall have the right, at its sole option, to either cure the breach if possible and be reimbursed by the breaching party for the cost thereof, including any and all reasonable attorney's fees, or terminate this Lease.

SECTION 14.4 Nothing herein shall prevent the injured party from resorting to any other remedy permitted under this Lease or at law or equity, including seeking damages and/or specific performance, as shall be necessary or appropriate to make the injured party whole in the premises. Failure of the injured party to demand or enforce a cure for breach in one instance shall not be deemed a waiver of its right to do so for any subsequent breach by the breaching party.

SECTION 14.5 The failure of either party hereto to enforce at any time any of the provisions of this Lease or to exercise any right or option which is herein provided shall in no way be construed to be a waiver of such provisions as to the future, nor in any way to affect the validity of this Lease or any part hereof or the right of either party to thereafter enforce each and every such provision and to exercise any such right or option. No waiver of any breach of this Lease shall be held to be a waiver of any other or subsequent breach.

SECTION XV. COMPENSATION FOR SERVICES ON LEASED PREMISES

For the term of this Lease, KCSR agrees to comply with and be legally bound by the terms and provisions of the Association of American Railroads' practices, rules, agreements, and circulars such as, but not limited to, Circular OT-5, claim handling, as it applies to lading and equipment damage occurring while in KCSR's possession.

SECTION XVI. RESERVED

SECTION XVII. CONFIDENTIALITY

SECTION 17.1 Each party hereto covenants that all information and documents concerning the other party known to, or received or reviewed by, the first party, its employees, agents or representatives, in connection with this Lease and the transactions contemplated hereby shall be maintained in confidence and not disclosed or utilized (other than in connection with the transactions contemplated hereby) by the first party, its employees, agents or representatives, without the other party's prior written consent, unless (i) such information and documents were, are now, or become generally available to the public (but not as a result of a breach of any duty of confidentiality by which the first party, or any of its employees, agents and representatives, is bound), (ii) such information and documents as were known to the first party prior to their disclosure to the first party by the other party in connection with this Lease, as demonstrated by the first party's written records, (iii) such information and documents as are disclosed by a third party, or (iv) such items as are required to be

disclosed pursuant to a judicial order or applicable law, rule or regulation or to the parties' insurers. Notwithstanding anything herein to the contrary, each party may disclose (without prior notification to, or approval or consent by, the other party), to taxing authorities and/or to such party's representatives, outside counsel and advisors, any confidential information that is required to be disclosed in connection with such party's tax filings, reports, claims, audits, and litigation.

SECTION 17.2 In the event that either party hereto, or any of its employees, agents, representatives, becomes legally compelled to disclose any such information or documents, the disclosing party shall provide the other party with prompt notice before such disclosure so that the other party may seek a protective order or other appropriate remedy or waive compliance with the provisions of this Lease, or both. In the event that such protective order or other remedy is not obtained, or that the other party waives compliance with the provisions of this Lease, the disclosing party shall furnish only that portion of the information or documents that it is advised by written opinion of counsel is legally required.

SECTION XVII. MISCELLANEOUS

SECTION 18.1 Entire Agreement. This Lease expresses the entire agreement between the parties and supersedes all prior oral or written agreements, commitments, or understandings with respect to the matters provided for herein. No modification of this Lease shall be binding upon the party affected unless set forth in writing and duly executed by the affected party.

SECTION 18.2 Notices. Notices provided under this Agreement must be in writing and delivered by (i) certified mail, return receipt requested, (ii) hand delivered, (iii) facsimile with receipt of a "Transmission OK" acknowledgment, (iv) e-mail, or (v) delivery by a reputable overnight carrier service (in the case of delivery by facsimile or e-mail the notice must be followed by a copy of the notice being delivered by a means provided in (i), (ii) or (v)). The notice will be deemed given on the day the notice is received. In the case of notice by facsimile or e-mail, the notice is deemed received at the local time of the receiving machine, and if not received, then the date the follow-up copy is received. Notices must be delivered to the following addresses or at such other addresses as may be later designated by notice:

KCSR:
President
The Kansas City Southern Railway Company
Cathedral Square Headquarters Building
427 West 12th Street
Kansas City, Missouri 64105

TEXMEX:
President
The Texas Mexican Railway Company

Cathedral Square Headquarters Building
427 West 12th Street
Kansas City, Missouri 64105

SECTION 18.3 **Employee Claims.** KCSR indemnifies and holds harmless TEXMEX from any expenses including attorney's fees resulting from claims of any of KCSR's employees alleging they are employees of TEXMEX.

SECTION 18.4 **Binding Effect.** This Lease shall be binding upon and inure to the benefit of TEXMEX and KCSR, and shall be binding upon the successors and assigns of KCSR, subject to the limitations hereinafter set forth. Neither party may assign its rights under this Lease or any interest therein without the prior written consent of the other party.

SECTION 18.5 **Severability.** If fulfillment of any provision hereof or any transaction related hereto shall involve transcending the limit of validity prescribed by law, then the obligation to be fulfilled shall be reduced to the limit of such validity; and if any clause or provision herein contained operates or would prospectively operate to invalidate this Lease in whole or in part, then such clause or provision only shall be held ineffective, as though not herein contained, and the remainder of this Lease shall remain operative and in full force and effect.

SECTION 18.6 **Headings.** Article headings used in this Lease are inserted for convenience of reference only and shall not be deemed to be a part of this Lease for any purpose.

SECTION 18.7 **Governing Law.** This Lease shall be governed and construed in accordance with the laws of the State of Missouri. The Parties hereby incorporate the requirements of 41 C.F.R. §§ 60-1.4(a)(7), 60-250.5, 60-741.5, and 29 C.F.R. Part 470, if applicable.

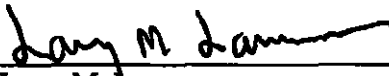
SECTION 18.8 **Amendment.** No modification, addition, deletion, change, or amendments to this Lease shall be effective unless and until such modification, addition or amendment is in writing and signed by the parties.

SECTION 18.9 **Counterparts.** This Lease may be executed in any number of 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.

[signature page following]

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be duly executed.

**THE KANSAS CITY SOUTHERN RAILWAY
COMPANY**

A handwritten signature in dark ink, appearing to read "Larry M. Lawrence", is written over a horizontal line.

By: Larry M. Lawrence
Title: Executive Vice President

THE TEXAS MEXICAN RAILWAY COMPANY

A handwritten signature in dark ink, appearing to read "Paul Weyandt", is written over a horizontal line.

By: Paul Weyandt
Title: Senior Vice President

Exhibit "A"

[As described in the Property Description attached hereto.]

PROPERTY DESCRIPTION

The TexMex begins its operation at the International Bridge at Milepost 0.0 in Laredo, Webb County, TX, where connections are made to Union Pacific and the Mexican railway system. Mexrail owns the north half of the bridge. The line roughly parallels Route 359 between Laredo and Alice. Leaving Laredo and South Laredo, the line runs generally eastward through Aguilares, where it crosses Route 359, Mirando City, where it crosses Road 649, and Bruni, crossing into Duval County, then quickly into Jim Hogg County as it turns southeastward to Hebbronville, crossing Routes 359 and 16. The TexMex then turns northeastward, crossing back into Duval County, crossing Route 359 twice and running through Realitos, Norway, and Benavides, where it crosses Roads 2295 and 3196 on its way to San Diego.

At San Diego, where Route 44 joins Route 359, the line turns eastward, crossing Route 44 and passing into Jim Wells County. It is at this point that the geology along the line changes. The range and range lands with their underlying caliche soil give way to rich agricultural soils that are primarily in farming usage.

The line continues eastward, running to Alice, where it crosses Route 281. Leaving Alice, the line parallels Route 44, running generally eastward, crossing into Nueces County and passing through Agua Dulce, Banquete, where it crosses Road 666, and Rabb to Robstown, where it crosses Route 77. Here trackage rights connections are made to Houston for connections to Burlington Northern and Beaumont for connections to Kansas City Southern. The TexMex continues eastward crossing Road 1694, going to Violet and Clarkwood, before reaching its connections in Corpus Christi at Milepost 158.0, where interchanges are made to Union Pacific and the Corpus Christi Terminal Railroad. (The former Naval Air Station Spur diverged from the main line just east of this interchange point.). The line continues along Route 44 into Corpus Christi, to its terminus at about Milepost 161.4, passing through a mixture of agricultural, commercial, residential, and industrial uses.

The Victoria-Rosenberg right-of-way begins in at Milepost 87.0 in Victoria, Victoria County, near its intersection with the former Southern Pacific line from Flatonia. The line runs northeastward parallel to US Route 59, through Telfener and Inez, where it crosses into Jackson County. The route runs through El Toro, Edna, and Ganado before entering Wharton County. The corridor runs through the towns of Louise, Hillje, El Campo, Pierce, and Wharton, where it intersects with a Burlington Northern Santa Fe line. The line continues northeastward through Hungerford, before crossing into Fort Bend County, where it continues through Kendleton and Beasley, to Milepost 2.5 west of McHattie, near the intersection with the former Southern Pacific line to Houston at Rosenberg.

CONDITION OF TITLE

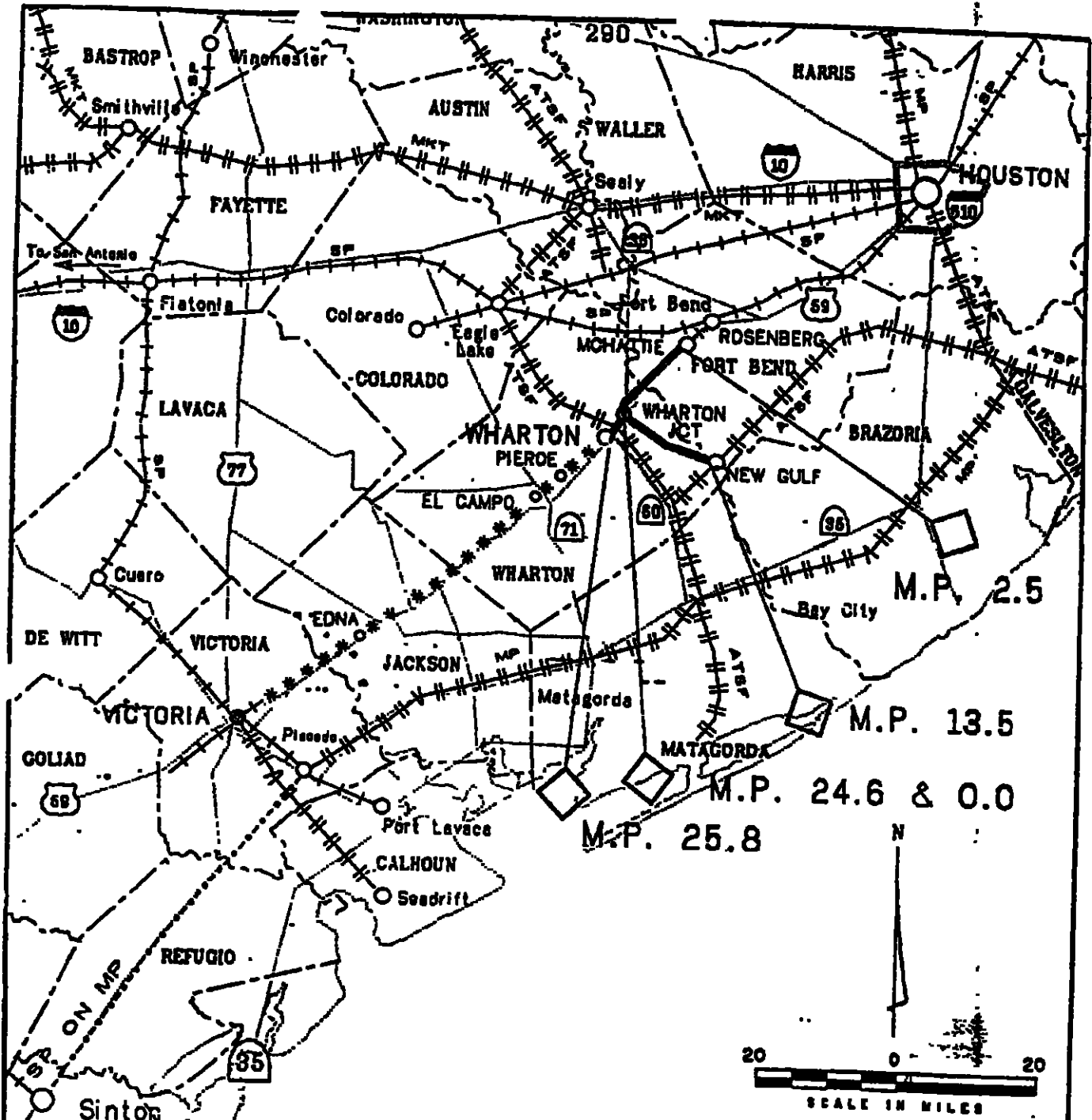
Railroad Valuation Maps containing a plotting of the subject rail line together with a summary listing of the deeds of conveyance were made available by TexMex. The line was assembled by the acquisition of contiguous parcels from adjacent land owners commencing in the 1870's and 1880's. The parcel assembly was by fee and easement deeds. Acquisitions by "Warranty Deed" from the fee owners are viewed as conveying good, marketable title. The easement conveyance must be considered to have been granted for railroad purposes and in many instances an applicable Texas statute is cited in the title schedule. Most of the land considered to have significant value is located in Laredo and Corpus Christi. Most the land in these cities was acquired in Fee Simple. The rural lands are a mixture of fee and easement, but have limited value. When valued as a rail corridor, no adjustments for potentially poor title need to be made, since the easements are specifically granted for railroad or transportation purposes. No analysis has been made of the title along the Rosenberg line.

COMPUTATION OF ACREAGE

Using the valuation maps and renderings provided by TexMex, the acreage of the line has been estimated. The line is approximately 161.4 miles in length. The corridor varies in width, but is generally 100' in most places. We have estimated that the line contains about 2646 acres of land. The acreage on the Rosenberg line has been estimated at 1032 acres, which would indicate an average corridor width of 100'. Acreage detail for this line was only available at the county level.

LOCATION AND ZONING DATA

The southern and northern termini of the TexMex line (Laredo & Corpus Christi) run through urban and suburban areas. In those localities it runs through industrial, commercial, and residential zoned areas. The majority of the remainder of the line runs through rural ranch and agricultural areas, although there are some commercial and residential districts in small towns. The Rosenberg line has many of the same characteristics, but the entire line is more developed and the north end is more suburban in nature.



LEGEND

- PROPOSED ABANDONMENT
- FREEWAYS
- SPT CO. TRACK
- *** SPT CO. TRACK ABANDONED
- SPT CO. TRACKAGE RIGHTS ON MP
- OTHER RAILROADS

SP Southern Pacific
Transportation Bureau
Engineering - 6425 Bureau
EN.M.DIST-SER.VICTORIA-11

SOUTHERN PACIFIC LINES

PROPOSED ABANDONMENT
ROSENBERG TO WHARTON
M.P. 2.5 TO M.P. 25.8
WHARTON JCT TO NEW GULF
M.P. 0.0 TO M.P. 13.5

SCALE	AS SHOWN	ENGINEERING - 6425 BUREAU
DRAWN BY	CHERRY	CHECKED BY
DATE	FEB. 22, 1964	DATE



