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Expedited Processing Requested

October 24, 2003

VIA HAND DELIVERY

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



Re: Finance Docket No. 34423, M & B Railroad, L.L.C. –
Exemption – Acquisition and Operation of a Line of
Railroad in Lowndes, Dallas, Wilcox and Marengo
Counties, AL – CSX Transportation, Inc.

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceeding please find an original and ten (10) copies of the Petition for Partial Waiver of 49 C.F.R. § 1150.42(e) 60-Day Certification Requirement. M & B Railroad, L.L.C., is requesting expedited processing of this filing.

We have also enclosed an additional hard copy to be date-stamped and returned to the bearer of this letter. Thank you for your attention to this matter.

Respectfully submitted,

Kendra A. Ericson
An Attorney for Applicant M & B
Railroad, L.L.C.

Enclosures

cc: Parties of Record
Lou Gitomer

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Office of Proceedings

OCT 27 2003

Part of
Public Record

209213

Expedited Processing Requested
BEFORE THE
SURFACE TRANSPORTATION BOARD



In the Matter of)

M & B RAILROAD, L.L.C. – EXEMPTION –)

ACQUISITION AND OPERATION OF A)

LINE OF RAILROAD IN LOWNDES,)

DALLAS, WILCOX AND MARENGO)

COUNTIES, AL – CSX)

TRANSPORTATION, INC.)

Finance Docket No. 34423

PETITION FOR PARTIAL WAIVER OF 49 C.F.R. § 1150.42(e)
60-DAY CERTIFICATION REQUIREMENT

M & B RAILROAD, L.L.C.

Of Counsel:

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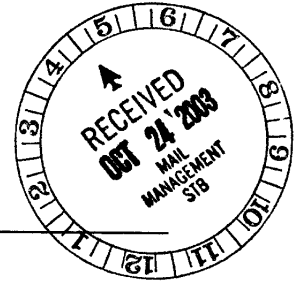
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Dated: October 24, 2003

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Expedited Processing Requested

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



In the Matter of)

M & B RAILROAD, L.L.C. – EXEMPTION –)
ACQUISITION AND OPERATION OF A)
LINE OF RAILROAD IN LOWNDES,)
DALLAS, WILCOX AND MARENGO)
COUNTIES, AL – CSX)
TRANSPORTATION, INC.)

Finance Docket No. 34423

**PETITION FOR PARTIAL WAIVER OF 49 C.F.R. § 1150.42(e)
60-DAY CERTIFICATION REQUIREMENT**

M & B Railroad, L.L.C. (“MNBR”), a Class III rail carrier, hereby respectfully requests a partial waiver of the requirement of 49 C.F.R. § 1150.42(e) that at least 60 days prior to the exemption, MNBR certify to the Surface Transportation Board (“Board” or “STB”) that it has provided the required notice of the proposed transaction to the employees of the affected line and their labor organizations. As will be shown, the required notice was in fact given to the potentially affected CSXT employees and the labor organizations representing them on a timely basis, but MNBR neglected to certify that fact to the Board until it filed its Notice of Exemption on October 21, 2003, twenty-four days before the intended consummation date of November 14, 2003.

Expedited Processing Requested

Expedited processing of this Petition is requested because the closing is scheduled to occur on November 14, 2003.

As set forth in its Notice of Exemption, MNBR intends to acquire by purchase and lease, and to operate, a line of railroad that runs between the cities of Burkeville and Myrtlewood in Alabama, a distance of approximately 96 miles. The line is presently owned and operated by CSXT. Section 1150.42(e) applies to the proposed transaction because MNBR projects that it will generate gross revenues in excess of \$5 million annually.

On August 22, 2003, MNBR duly served the Notice of Intent required by 49 C.F.R. § 1150.43(e) upon the national offices of each of the labor organizations that, according to CSXT, represent CSXT employees on the affected line. MNBR also provided a copy of the notice to CSXT, which CSXT duplicated and posted at the workplaces of employees on the subject line, as required by § 1150.43(e). A copy of the notice was attached as Exhibit B to the Verified Notice of Exemption. However, MNBR overlooked the requirement that it simultaneously certify to the Board that it had provided the required labor notice, and did not provide that certification until it filed its Notice of Exemption on October 21, 2003, only 24 days prior to the scheduled closing on November 14. MNBR apologizes for its oversight, and seeks waiver of the remaining 36 days of § 1150.43(e)'s certification requirement.

Expedited Processing Requested

As grounds for this waiver request, MNBR notes that because the required notice to CSXT employees and their unions was properly provided on August 22, almost 90 days prior to the scheduled closing date of November 14, no CSXT employee has been prejudiced by the delay in certification to the Board.

The Board has previously granted partial waivers of the 60-day certification requirement under similar circumstances, *i.e.*, when notice was in fact properly provided.

For example, in Arkansas and Missouri Railroad Company – Lease and Operation

Exemption – Union Pacific Railroad Company, STB Finance Docket No. 33843 (STB

Served June 29, 2000), the Board stated that

[b]ecause it appears that A&M has already provided much more than 60 days actual notice to affected employees and their unions, we will accept A&M's June 8 certification to the Board, grant the waiver request and waive the remainder of the 60 day requirement, as measured from the certification date to the Board, under 49 CFR § 1150.42(e) with respect to this transaction. Granting the waiver request will have the effect of making the exemption for the lease and operation transaction in this proceeding effective on the service date of this decision.

Id. at 3.

See also, Belt Line Division of Tacoma Public Utilities – Operation Exemption – in

Pierce, Thurston, and Lewis Counties, WA, STB Finance Docket No. 33666 (STB Served

October 30, 1998); Wisconsin & Southern Railroad Co. – Lease and Operation

Exemption – Soo Line Railroad Company d/b/a Canadian Pacific Railway, STB Finance

Docket No. 33571 (STB Served May 27, 1998); and The Canadian American Railroad

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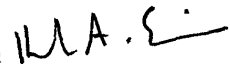
Company – Acquisition and Operation Exemption – Green Mountain Railroad Corporation, STB Finance Docket No. 33934 (STB Served October 10, 2000).

MNBR respectfully requests that the Board waive the remainder of the 60 day certification requirement of 49 C.F.R. 1150.42(e), accept the 26-day certification MNBR has provided as sufficient in this case, and allow MNBR and CSXT to consummate the lease and operation of the Line on November 14, 2003.

Respectfully Submitted,

Of Counsel:

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Dated: October 24, 2003

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