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via Hand Delivery

Hon. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423

October 1, 2002
ENTERED
Office of Proceedings
OCT 2 2002
Part of
Public Record



**Re: WILMINGTON TERMINAL RAILROAD, L.P.
-- ACQUISITION AND OPERATION EXEMPTION --
NORTH CAROLINA PORTS RAILWAY COMMISSION
AND NORTH CAROLINA STATE PORTS AUTHORITY
FINANCE DOCKET NO. 34257**

Dear Secretary Williams:

Enclosed for filing in the above referenced docket are the original and ten (10) copies of the Wilmington Terminal Railroad, L.P.'s Verified Notice Exemption. Simultaneous with this filing, the North Carolina State Ports Authority has filed a related Notice of Exemption and Motion to Dismiss in Finance Docket 34258.

A check in the amount of \$1,300 is enclosed to cover the filing fee.

Please date stamp the extra copy of this cover letter and return it to the messenger who delivered this filing.

Sincerely,


Betty Jo Christian

Enclosures

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FILED

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TRANSPORTATION BOARD

WASHINGTON

PHOENIX

LOS ANGELES

LONDON

FILED

BEFORE THE
SURFACE TRANSPORTATION BOARD



SECTION
TRANSPORTATION BOARD

FINANCE DOCKET NO. 34257

WILMINGTON TERMINAL RAILROAD, L.P.
-- ACQUISITION AND OPERATION EXEMPTION --
NORTH CAROLINA PORTS RAILWAY COMMISSION AND
NORTH CAROLINA STATE PORTS AUTHORITY

WILMINGTON TERMINAL RAILROAD, L.P.
VERIFIED NOTICE OF EXEMPTION
FROM 49 U.S.C § 10902

ENTERED
Office of Proceedings
OCT 2 2002
Part of
Public Record

Wilmington Terminal Railroad, L.P. (WTR), a Class III rail carrier, hereby files this Verified Notice of Exemption under 49 C.F.R. § 1150.41(a)(1) to acquire from the North Carolina Ports Railway Commission (PRC) a permanent and exclusive easement over certain rail lines and to operate over those lines pursuant to an operating agreement with the North Carolina State Ports Authority (SPA).¹ The subject lines are located in Wilmington, New Hanover County, North Carolina and include the following: (1) The Front Street Spur, extending from the east line of Third Street at CSX Rail Valuation Station 91+37.3 and extending generally in a northerly direction a distance of 0.66 miles, more or less, to CSX Rail Valuation Station 56+39; (2) the New River Spur, extending from the CSX Rail Valuation Station 0+00, also being Rail Valuation Station 86+20 on the Front Street Spur at the west line of Second Street and extending generally in a southerly direction a distance of 3.5 miles, more or less, to CSX Rail Valuation

¹ The impetus for this transaction is the enactment by the North Carolina legislature of SB1115, ratified September 20, 2002. Among other things, the new legislation requires the transfer of the PRC's assets and liabilities, except its common carrier obligation, to the SPA and abolishes the PRC.

Station 185+00; and (3) the line extending from the north entrance to the Port of Wilmington at Transit Road, near its intersection with Burnett Blvd., to the south entrance to said Port, at River Road near its intersection with Shipyard Blvd., through and including the classification yards and including all of the railroad tracks on said Port, whether denominated as spurs, side tracks, industrial tracks, or otherwise (but excluding crane rails). WTR currently operates the subject lines.

WTR expects to consummate the above described transactions with the PRC and the SPA by November 20, 2002.

In support of this Verified Notice of Exemption and pursuant to 49 C.F.R. § 1150.43, CRS submits the following information:

(a) Full name and address of applicant:

Wilmington Terminal Railroad, L.P.
2605 Thomas Drive
Panama City Beach, FL 32408

(b) Applicant's representative:

Donald G. Avery
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

(c) Statement of agreement:

WTR and PRC have tentatively reached agreement as to the terms of the permanent and exclusive easement over the subject lines. WTR and SPA have tentatively reached agreement as to the terms of a new operating agreement to permit WTR to operate common carrier service over the subject lines. Drafts of the agreement and the easement are

attached to SPA's Motion to Dismiss the Verified Notice of Exemption that was filed in Finance Docket 34258 concurrently with the filing of this Notice.

(d) The operator of the property:

WTR will operate the subject lines, pursuant to a permanent and exclusive rail operating easement and an operating agreement with the SPA.

(e) Brief summary of proposed transaction:

(1) Name and address of railroad transferring subject property:

North Carolina Ports Railway Commission²
1717 Woodbine Street
Wilmington NC 28401

(2) Proposed time schedule for consummation of the transaction:

It is anticipated that the easement and the operating agreements will be executed no later than November 20, 2002, but in no event prior to the effective date of this Notice of Exemption.

(3) The mile-posts of the subject property, including any branch lines:

- a. The Front Street Spur, extending from the east line of Third Street at CSX Rail Valuation Station 91+37.3 and extending generally in a northerly direction a distance of 0.66 miles, more or less, to CSX Rail Valuation Station 56+39, in Wilmington, New Hanover County, North Carolina.

² While exempt from regulation under the Interstate Commerce Act, PRC has a residual common carrier obligation. *See North Carolina Ports Railway Commission — Petition for Declaratory Order or Prospective Abandonment Exemption*, Finance Docket No. 31248 (ICC Decided Sept. 21, 1988).

- b. The New River Spur, extending from the CSX Rail Valuation Station 0+00, also being Rail Valuation Station 86+20 on the Front Street Spur at the west line of Second Street and extending generally in a southerly direction a distance of 3.5 miles, more or less, to CSX Rail Valuation Station 185+00, in Wilmington, New Hanover County, North Carolina.
- c. The line extending from the north entrance to the Port of Wilmington at Transit Road, near its intersection with Burnett Blvd., to the south entrance to said Port, at River Road near its intersection with Shipyard Blvd., through and including the classification yards and including all of the railroad tracks on said Port, whether denominated as spurs, side tracks, industrial tracks, or otherwise, (but excluding crane rails) all in Wilmington, New Hanover County, North Carolina.

(4) The total route miles being acquired:

18, more or less

(f) A map that clearly indicates the area to be served, including origins, terminal stations, cities, counties, and States:

See Exhibit A attached hereto.

(g) Revenue certification:

WR's projected revenues do not exceed those that would qualify it as a Class III carrier. In addition, WR's projected annual revenues will not exceed \$5,000,000. Therefore, 49 CFR 1150.42(e) does not apply to this transaction.

(h) Environmental and historic preservation reporting requirements:

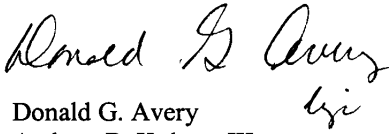
Under 49 C.F.R. § 1105.6(c)(2)(i), the proposed transaction is exempt from environmental reporting requirements. The transaction will not result in significant changes in carrier operations, i.e., changes that exceed the thresholds established in 49 C.F.R. § 1105.7(e)(4)

or (5). Under 49 C.F.R. § 1105.8(b), the proposed transaction is also exempt from historic preservation reporting requirements.

(i) Caption summary:

A caption summary in the appropriate form is attached as Exhibit B hereto.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Donald G. Avery".

Donald G. Avery
Andrew B. Kolesar III
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

Verification

I, K. Earl Durden, verify under penalty of perjury that I am Chairman and CEO of Rail Management Corporation, General Partner of Wilmington Terminal Railroad, L.P., that the foregoing Verified Notice of Exemption pursuant to 49 C.F.R. § 1150.41 is true and correct to the best of my knowledge and belief, and that I am authorized to verify this Notice on behalf of Wilmington Terminal Railroad, L.P.

Date: September 27th, 2002



EXHIBIT A

**MAP WILL BE SCANNED
AT A LATER DATE**

EXHIBIT B

SURFACE TRANSPORTATION BOARD

Notice of Exemption

FINANCE DOCKET NO. 34257

**WILMINGTON TERMINAL RAILROAD, L.P.
-- ACQUISITION AND OPERATION EXEMPTION --
NORTH CAROLINA PORTS RAILWAY COMMISSION AND
NORTH CAROLINA STATE PORTS AUTHORITY**

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industrial tracks, or otherwise (but excluding crane rails). The WTR currently operates the subject lines.

Comments must be filed with the Board and served on [].

This notice is filed under §1150.41. If this 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 a petition to revoke will not automatically stay the transaction.

Dated: September __, 2002

By the Board

Vernon A. Williams
Secretary

CERTIFICATE OF SERVICE

I hereby certify that I have on this 1st day of October, 2002, served copies of this Verified Notice of Exemption by regular mail, postage pre-paid, on the following parties:

Apex Oil
P.O. Box 3127
Wilmington, NC 28406
Attn: John Joyner,
Terminal Manager

Boke Trading
810 Sunnyvale Drive
Wilmington, NC 28412
Attn: Robert Alston

Cape Fear Bonded
P.O. Box 292
Wilmington, NC 28402
Attn: William Stanfield

Cape Fear Bulk
2217 Jump'in Run
Wilmington, NC 28403
Attn: Eric Higgins

Carolina Rail Service
100 Terminal Road
State Port
Morehead City, NC 28557

CSX Transportation
P.O. Box 44057
Jacksonville, FL 32231
Attn: Director - Operations

Colonial Terminals, Inc.
Cape Fear Terminal
1002 South Front Street
Wilmington, NC 28401
Attn: Ronald G. Hart,
Terminal Manager

Flint Hills Resources
P.O. Box 3958
Wilmington, NC 28406
Attn: Cliff Ruark,
Terminal Manager

International Longshoreman's
Association, AFL-CIO
c/o Gleason & Mathews, P.C.
26 Broadway, 17th Floor
New York, NY 10004-1864

Nooter/Eriksen
1509 Ocello Drive
Fenton, MO 63026
Attn: Leo Deterding,
Mgr. of Transportation

Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510-2191
Attn: Dr. Robert Martinez,
VP Ports & Development

North Carolina Department of
Transportation
1501 Mail Service Center
Raleigh, NC 27699-1501
Attn: David King,
Deputy Secretary, Transit

North Carolina Ports Railway
Commission
Attn: William Kincheloe, Chairman
516 Paul Street
PO Box 671
Rocky Mount, NC 27802

PCS Phosphate
PO Box 48
Aurora, NC 27806
Attn: Keith Thornton, General Manager

Rescar Companies
3333 River Road
Wilmington, NC 28412
Attn: Rex Greer

S&R Packing and Crating
P.O. Box 2551
Wilmington, NC 28402
Attn: Steve Thompson

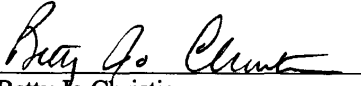
South Wilmington Terminal Exxon
P.O. Box 1350
Wilmington, NC 28402
Attn: Mike Mayhugh,
Terminal Manager

Touchstone Shipping and Logistics, Inc.
17350 S.H. 249, Suite 320
Houston, TX 77064
Attn: Lynn Stewart

U.S. Army Military Ocean Terminal
6280 Sunny Point Road
Southport, NC 28461
Attn: Brenda Hewett

Vopak Terminal Wilmington, Inc.
P.O. Box 896
Wilmington, NC 28402
Attn: Al Smeilus,
Terminal Manager

Wilmington Terminal Railroad
1717 Woodbine Street
Wilmington, NC 28401
Attn: Billy Tucker


Betty Jo Christian