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KARI MORELL

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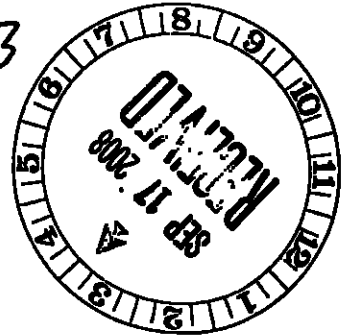
SEP 18 2008

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kmorell@dc.bjlp.com

September 16, 2008

223623



BY HAND DELIVERY

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

Re: STB Finance Docket No. 35173, Pacific Sun Railroad, LLC –
Lease and Operation Exemption – BNSF Railway Company

Dear Acting Secretary Quinlan:

Attached for filing are the original and ten copies of a Verified Notice of Exemption under 49 C.F.R. § 1150.31 and a check covering the \$1,800 filing fee. Also enclosed is a Disc containing the Notice and Summary.

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

- If you have any questions, please contact me.

Sincerely yours,

Karl Morell

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SEP 17 2008

**SURFACE
TRANSPORTATION BOARD**

Enclosures

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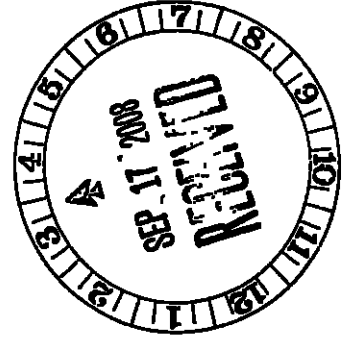
BEFORE THE

SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 35173

PACIFIC SUN RAILROAD, L.L.C.
--LEASE AND OPERATION EXEMPTION--
BNSF RAILWAY COMPANY

VERIFIED NOTICE OF EXEMPTION
Pursuant to 49 C.F.R. § 1150.31, Et Seq.



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Suite 225
1455 F Street, N.W.
Washington, D.C. 20005
(202) 638-3307

Attorney for:
PACIFIC SUN
RAILROAD, L.L.C.

Dated: September 16, 2008

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 35173

PACIFIC SUN RAILROAD, L.L.C.
--LEASE AND OPERATION EXEMPTION--
BNSF RAILWAY COMPANY

VERIFIED NOTICE OF EXEMPTION
Pursuant to 49 C.F.R. § 1150.31, Et Seq.

Pacific Sun Railroad, L.L.C. ("PSRR"), a non-carrier, files this Notice of Exemption pursuant to 49 C.F.R. Part 1150, Subpart D--Exempt Transactions, to permit PSRR to lease from BNSF Railway Company ("BNSF") and operate rail lines located in California totaling approximately 21.5 miles in length, not including yard tracks. PSRR will also obtain incidental trackage rights over a 45.49-mile rail line.

In support of this Notice of Exemption, PSRR submits the following information as required by 49 C.F.R. § 1150.33:

(a) Full name and address of applicant:

Pacific Sun Railroad, L.L.C.
315 W. 3rd Street
Pittsburg, Kansas 66762

(b) Applicant's Representative:

**Karl Morell
Of Counsel
BALL JANIK LLP
Suite 225
1455 F Street, N.W.
Washington, DC 20005
(202) 638-3307**

(c) Statement of Agreement:

PSRR and BNSF have been negotiating an agreement and are expected to finalize the agreement in the very near future.

(d) The operator of the property:

PSRR will be the operator of the leased lines and the rail freight easements.

(e) Summary of proposed transaction:

(1) The name and address of the company leasing the subject property:

**BNSF Railway Company
2650 Lou Menk Drive
Fort Worth, Texas 67131**

(2) The involved transaction is expected to be consummated on or about October 24, 2008.

(3) PSRR will lease BNSF's reserved rail freight service easement over the Escondido Subdivision rail corridor between Milepost 0 0, at Oceanside Junction, CA, and Milepost 21.2, at the end of the corridor, in Escondido, CA. PSRR will also lease the BNSF-owned Miramar Spur and rail yard located east of Milepost 252.9 on the BNSF San Diego Subdivision. In addition, PSRR will be granted a trackage rights license to provide local service over BNSF's reserved rail freight service easement on the San Diego Subdivision between

Milepost 252.9, near San Diego, CA and Milepost 207.41, at the San Diego County and Orange County border, including the Stuart Mesa Yard.

(4) The length of the Escondido Subdivision rail service easement being leased by PSRR is approximately 21.2 miles. The length of the BNSF-owned rail lines being leased is approximately 0.3 miles, not including the yard tracks. The length of the trackage rights license over the San Diego Subdivision is approximately 45.49 miles not including the yard tracks..

(f) A map of the rail service easements and rail lines being leased and the incidental trackage rights license is attached as Exhibit A.

(g) PSRR hereby certifies that PSRR's projected revenues as a result of this transaction will not result in PSRR becoming a Class II or Class I rail carrier. PSRR further certifies that the projected annual revenue of PSRR will not exceed \$5 million as a result of this transaction. Accordingly, the requirements of 49 C.F.R. § 1150.42(c) do not apply to this transaction.

(h) The Lease, Trackage Rights and Switching Agreement between BNSF and PSRR will not contain any provision that prohibits PSRR from interchanging traffic with a third party.

A caption summary, as required by 49 C.F.R. § 1150.34, is attached.

ENVIRONMENTAL AND HISTORIC IMPACTS

PSRR is leasing the rail lines and rail freight easements and obtaining the trackage rights license from BNSF for continued rail operations. Further Board approval is required for PSRR to discontinue any service and there are no plans to dispose of or alter properties subject to Board jurisdiction that are 50 years old or older. Hence, this Notice of Exemption does not require an historic report under 49 C.F.R. § 1105.8(b)(1).

PSRR's lease and operation of the rail lines will not result in significant changes in carrier operations. There will not be a diversion of: (1) more than 1,000 rail carloads a year to motor carriage; or (2) an average of 50 carloads per mile per year for any part of this line to motor carriage. This transaction will not result in: (1) an increase in rail traffic of at least 100 percent or an increase of at least eight trains a day on any segment of the line; (2) an increase of rail yard activity of at least 100 percent; or (3) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day. PSRR's lease and operation of the rail lines will not affect a Class I or nonattainment area under the Clean Air Act. In any event, the thresholds of 49 C.F.R. § 1105.7(e)(5)(ii) will not be exceeded. Finally, the transportation of ozone depleting materials is not contemplated. Therefore, no environmental documentation is required under 49 C.F.R. § 1105.6(c)(2).

This action will not significantly affect either the quality of the human environment or energy conservation.

Respectfully submitted,



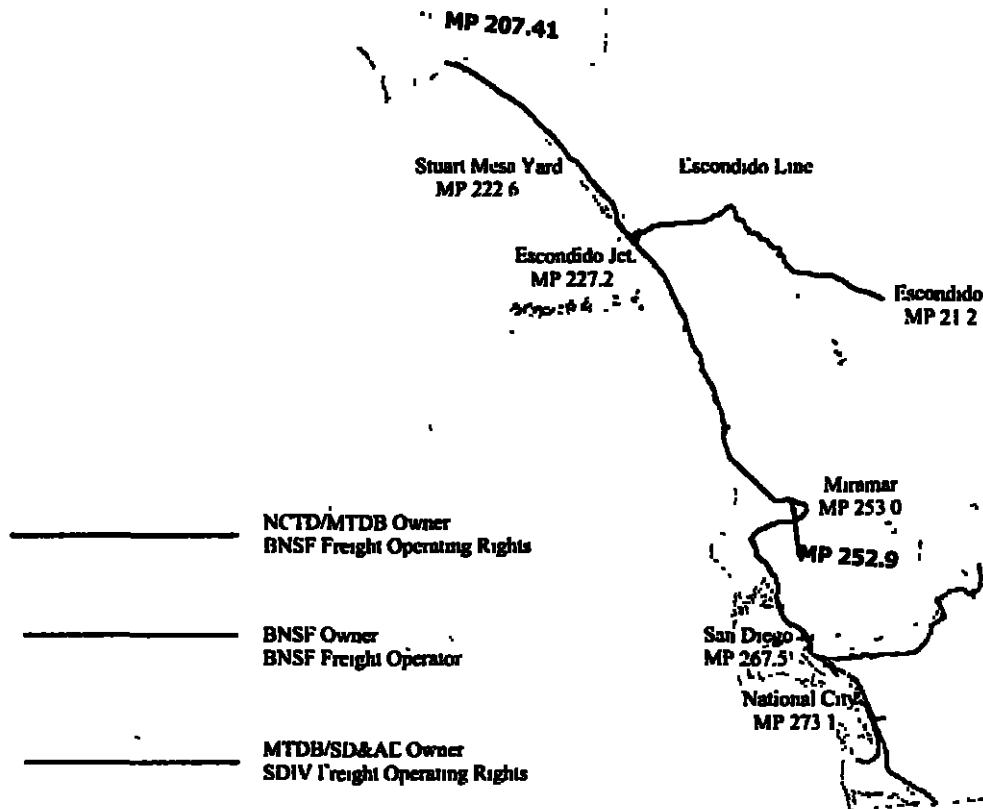
KARL MORELL
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1455 F Street, N.W.
Washington, DC 20005
(202) 638-3307

Attorney for:
PACIFIC SUN RAILROAD, L.L.C.

Dated: September 16, 2008

EXHIBIT A

San Diego County Rail Lines



SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

STB FINANCE DOCKET NO. 35173

**PACIFIC SUN RAILROAD, L.L.C.
--LEASE AND OPERATION EXEMPTION--
BNSF RAILWAY COMPANY**

Pacific Sun Railroad, L.L.C. ("PSRR"), a non-carrier, has filed a notice of exemption to lease from BNSF Railway Company ("BNSF") and operate BNSF-owned rail lines and BNSF's retained rail freight easement in California totaling approximately 25.5 miles in length. PSRR will lease BNSF's reserved rail freight service easement over the Escondido Subdivision rail corridor between Milepost 0.0, at Oceanside Junction, CA, and Milepost 21.2, at the end of the corridor, in Escondido, CA. PSRR will also lease the BNSF-owned Miramar Spur and rail yard located east of Milepost 252.9 on BNSF's San Diego Subdivision. In addition, PSRR will be granted a trackage rights license to operate local service over BNSF's reserved rail freight service easement on the San Diego Subdivision between Milepost 252.9, near San Diego, CA and Milepost 207.41, at the San Diego County and Orange County border, including the Stuart Mesa Yard.

This transaction is related to STB Docket No. 35174, Watco Companies, Inc., -- Continuance In Control Exemption -- Pacific Sun Railroad, LLC, wherein Watco Companies, Inc., has concurrently filed a verified notice to continue in control of PSRR upon PSRR becoming a Class III rail carrier.

Comments must be filed with the Board and served on Karl Morell, Of Counsel, BALL JANIK LLP, Suite 225, 1455 F Street, N.W., Washington, DC 20005, (202) 638-3307.

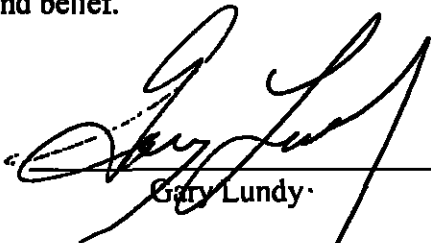
This notice is filed under 49 C.F.R. 1150.31. If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

VERIFICATION

STATE OF KANSAS
COUNTY OF CRAWFORD

)
) **SS**
)

I, Gary Lundy, being duly sworn depose and state that I am Executive Vice President of Pacific Sun Railroad, L.L.C., that I am authorized to make this verification, and that I have read the foregoing Notice of Exemption and know the facts asserted therein are true and accurate as stated to the best of my knowledge, information, and belief.



Gary Lundy

SUBSCRIBED AND SWORN TO before me this 11th day of September, 2008, in the County of Crawford, State of Kansas.

My Commission Expires: 8/16/2012



Notary Public

