

BEFORE THE
SURFACE TRANSPORTATION BOARD

306974

FD 36718

ENTERED
Office of Proceedings
August 15, 2023
Part of
Public Record

EAST CHATTANOOGA BELT RAILWAY COMPANY, LLC
— ACQUISITION AND OPERATION EXEMPTION —
NORFOLK SOUTHERN RAILWAY COMPANY

**VERIFIED NOTICE OF EXEMPTION PURSUANT
TO 49 C.F.R. PART 1150, SUBPART E**

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive, Suite 800
Chicago, IL 60606-3268
Telephone: (312) 252-1504
rwimbish@fletcher-sippel.com

**ATTORNEY FOR EAST
CHATTANOOGA BELT RAILWAY
COMPANY, LLC**

Dated: August 15, 2023

FILED
August 15, 2023
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
August 15, 2023
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36718

EAST CHATTANOOGA BELT RAILWAY COMPANY, LLC
— ACQUISITION AND OPERATION EXEMPTION —
NORFOLK SOUTHERN RAILWAY COMPANY

**VERIFIED NOTICE OF EXEMPTION OF
EAST CHATTANOOGA BELT RAILWAY COMPANY, LLC
PURSUANT TO 49 C.F.R. PART 1150, SUBPART E**

East Chattanooga Belt Railway Company, LLC (“ECTB”),¹ a Class III rail carrier, files this Notice of Exemption under 49 C.F.R. part 1150, subpart E to lease and operate an additional railroad line (the “Line”) owned by Norfolk Southern Railway Company (“NSR”).

Pursuant to 49 C.F.R. § 1150.43, ECTB submits the following information:

Full name and address of applicant: 49 C.F.R. § 1150.43(a)

East Chattanooga Belt Railway Company, LLC
4119 Cromwell Road
Chattanooga, TN 37421

Applicant’s representative: 49 C.F.R. § 1150.43(b)

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive, Suite 800
Chicago, IL 60606-3268
(312) 252-1504;
rwimbish@fletcher-sippel.com

¹ Formerly, East Chattanooga Railway Company. See *East Chattanooga Belt Railway Company – Acquisition and Operation Exemption – Norfolk Southern Railway Company*, FD 34024 (STB served Apr. 10, 2001) (“*East Chattanooga – Exemption*”).

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

ECTB, a common carrier controlled by the Tennessee Valley Railroad Museum, and NSR recently have reached an agreement to supplement the terms of the original railroad line lease between them dated as of April 1, 2001. The supplemental agreement (the “Supplement”) that will govern the present transaction will expand ECTB’s leasehold interest by extending to ECTB the right to operate over, and the obligation to maintain, a roughly 0.24-mile segment of NSR-owned railroad line (the Line) that is proximate to a line that ECTB currently operates pursuant to the aforementioned April 1, 2001 lease agreement in *East Chattanooga – Exemption*.

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

ECTB will obtain the right to conduct overhead operations over the Line, and will assume the obligation to maintain the Line. By virtue of NSR’s extension of overhead rights only to ECTB as set forth in the Supplement, NSR will retain the obligation to provide local service on the Line in the event any such service demand were to emerge. No customer is currently located along the Line.

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

The name and address of the railroad granting the aforementioned, limited leasehold interest in the Line to ECTB is as follows:

Norfolk Southern Railway Company
650 West Peachtree Street NW
Atlanta, GA 30308

NSR will grant limited leasehold interests in the Line to ECTB as described above. The Line is located entirely within Chattanooga, Tennessee, and extends from milepost C448 in the vicinity of CP 23rd Street (at a point proximate to ECTB’s existing leasehold) to

milepost C447.7 (a point roughly 100 feet south of the southernmost bridge abutment of a bridge over Dobbs Branch aka Spring Branch), a total distance of roughly 0.24 route miles.²

ECTB and NSR have agreed to close on the subject transaction on or shortly after the effective date of the present class exemption.

Map: 49 C.F.R. § 1150.43(f)

A map of the Line and the area surrounding them is attached as Exhibit A.

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

ECTB certifies that its annual operating revenues qualify it as a Class III carrier eligible to use the class exemption procedures. See Certification and Verification (attached).

Transactions Imposing Interchange Commitments: 49 C.F.R. § 1150.43(h)

ECTB is not contractually limited in its ability to interchange of traffic with any third-party connecting carrier. See the attached Certification and Verification. As matters currently stand, ECTB's only interline connection is with NSR.

Advance notice (posting): 49 C.F.R. § 1150.42(e)

ECTB's current annual operating revenues do not exceed \$5 million, and they will not exceed \$5 million following consummation of the proposed transaction. For these reasons, the advance notice requirements of § 1150.42(e) are not applicable. See Certification and Verification (attached).

² Mileposts notwithstanding, the actual distance between the terminal points of the Lease has been calculated to be approximately 1,250 feet, which equates to 0.24 miles, not 0.3 miles.

Environmental and Historic Preservation Data: 49 C.F.R. § 1105

Pursuant to 49 C.F.R. § 1105.6(c)(2), ECTB's proposed lease and operation of the Line is exempt from environmental reporting requirements. The proposed transaction will not result in significant changes to rail freight operations, *i.e.*, changes which exceed the thresholds established at 49 C.F.R. §§ 1105.7(e)(4)-(5).

ECTB's proposed lease and operation of the Line will promote continued rail operations so as to exempt the acquisition from historical preservation reporting requirements under C.F.R. § 1105.8(b)(1). Neither ECTB nor NSR will discontinue service or abandon any part of the Line as a result of consummation of the proposed transaction. ECTB has no plans to dispose of or alter properties subject to the Board's jurisdiction which are fifty years old or older.

Caption Summary: 49 C.F.R. § 1150.44

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

Respectfully submitted,

/s/ *R. A. Wimbish*

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive, Suite 800
Chicago, IL 60606-3268
Telephone: (312) 252-1504
rwimbish@fletcher-sippel.com

**ATTORNEY FOR EAST CHATTANOOGA
BELT RAILWAY COMPANY, LLC**

Dated: August 15, 2023

BEFORE THE
SURFACE TRANSPORTATION BOARD

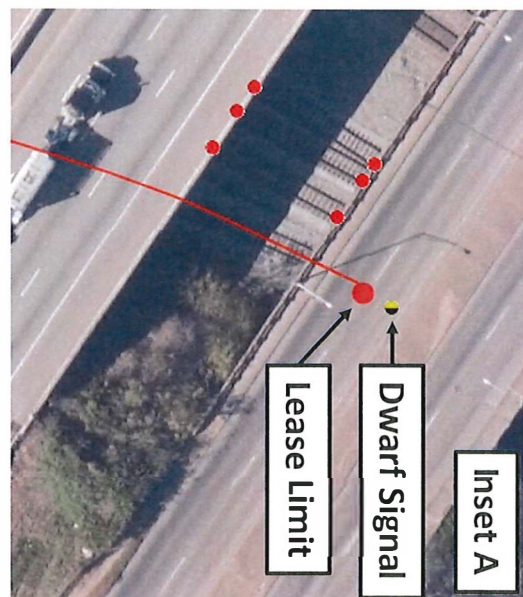
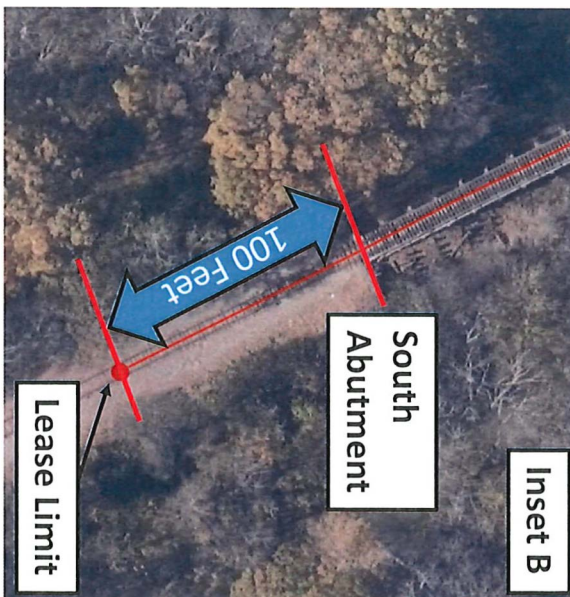
FD 36718

EAST CHATTANOOGA BELT RAILWAY COMPANY, LLC
— ACQUISITION AND OPERATION EXEMPTION —
NORFOLK SOUTHERN RAILWAY COMPANY

EXHIBIT A

MAP

East Chattanooga Railway Company, LLC



BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36718

EAST CHATTANOOGA BELT RAILWAY COMPANY, LLC
— ACQUISITION AND OPERATION EXEMPTION —
NORFOLK SOUTHERN RAILWAY COMPANY

EXHIBIT B

CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

Notice of Exemption

FD 36718

EAST CHATTANOOGA BELT RAILWAY COMPANY, LLC
— ACQUISITION AND OPERATION EXEMPTION —
NORFOLK SOUTHERN RAILWAY COMPANY

East Chattanooga Belt Railway Company, LLC (“ECTB”), a Class III carrier, has filed a verified notice of exemption under 49 C.F.R. part 1150, subpart E, to acquire by lease from Norfolk Southern Railway Company (“NSR”), and to operate over, approximately 0.24 route miles of railroad line extending between approximately milepost C448 in the vicinity of CP 23rd Street and milepost C447.7, a point roughly 100 feet south of the southernmost bridge abutment of a bridge over Dobbs Branch (aka Spring Branch).

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 re-open the proceeding to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption.

By the Board, _____, Director, Office of Proceedings.

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36718

EAST CHATTANOOGA BELT RAILWAY COMPANY, LLC
— ACQUISITION AND OPERATION EXEMPTION —
NORFOLK SOUTHERN RAILWAY COMPANY

CERTIFICATION AND VERIFICATION

CERTIFICATION AND VERIFICATION

I, Tim Andrews, being duly sworn, hereby certify and verify under penalty of perjury as follows:

1. I am president of East Chattanooga Belt Railway Company, LLC (“ECTB”), and I am authorized to make this certification and verification on behalf of ECTB;
2. I certify that ECTB’s anticipated annual freight common carrier revenues do not and will not by virtue of the transaction proposed herein exceed \$5 million annually, and, by extension, that ECTB is qualified, and will remain qualified (following consummation of the proposed transaction), to be deemed a Class III railroad carrier;
3. I also certify that the agreements do not contain any provision that would limit ECTB’s ability to interchange of traffic with any third-party connecting carrier
4. I hereby verify that I have read the foregoing notice of exemption, know the contents thereof, and that the same are true as stated to the best of my knowledge, information and belief.



Tim Andrews
President
East Chattanooga Belt Railway Company, LLC

Dated: August 15, 2023