

WEINER BRODSKY SIDMAN KIDER PC

FILED

AUG 25 2005

**SURFACE
TRANSPORTATION BOARD**

214590
1300 NINETEENTH STREET NW
FIFTH FLOOR
WASHINGTON DC 20036 1609
TEL 202 628 2000
FAX 202 628 2011

ENTERED
Office of Proceedings

AUG 25 2005

Part of
Public Record

August 25, 2005

BY HAND DELIVERY

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423

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AUG 25 2005

**SURFACE
TRANSPORTATION BOARD**



Re: Finance Docket No. 34748, Morehead & South Fork Railroad Co., Inc. –
Acquisition and Operation Exemption – Carolina Rail Service, LLC

Finance Docket No. 34749, Gulf & Ohio Railway Holdings Co., Inc., H.
Peter Claussen and Linda C. Claussen – Continuance in Control
Exemption – Morehead & South Fork Railroad Co., Inc.

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceedings are an original and 10 copies of each of (i) the verified notice of exemption of Morehead & South Fork Railroad Co., Inc., pursuant to 49 C.F.R. § 1150.31, and (ii) the verified notice of exemption of Gulf & Ohio Railways Holding Co., Inc. and H. Peter Claussen and Linda C. Claussen, pursuant to § 1180.2(d)(2) (the “Control Filing”). Also enclosed, pursuant to 49 C.F.R. § 1180.6(a)(6), are 20 additional copies of the maps attached to the Control Filing. Also enclosed are checks in the amounts of \$1,500 and \$1,100 to cover the filing fees for these proceedings.

Please acknowledge receipt of this letter by date-stamping the enclosed acknowledgment copy and returning it to our messenger.

Sincerely,

Rose-Michele Nardi
Rose-Michele Nardi

Enclosures

214590



**MOREHEAD & SOUTH FORK RAILROAD CO., INC.
--ACQUISITION AND OPERATION EXEMPTION--
CAROLINA RAIL SERVICE, LLC**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1150.31**

STB FINANCE DOCKET NO. 34748

Applicant's name and current mailing address:

Morehead & South Fork Railroad Co., Inc.
401 Henley Street, Suite 5
Knoxville, Tennessee 37902
(865) 525-9400

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TRANSPORTATION BOARD

Applicant's representative to receive correspondence:

Rose-Michele Nardi, Esq.
Weiner Brodsky Sidman Kider PC
1300 19th Street, NW
Fifth Floor
Washington, D.C. 20036-1609
(202) 628-2000

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Information concerning the agreement:

Morehead & South Fork Railroad Co., Inc. ("MHSF"), a non-carrier, and Carolina Rail Service, LLC ("CRS"), a class III carrier, are close to reaching an agreement whereby CRS will assign to MHSF its exclusive freight easement over certain rail property owned by North Carolina State Ports Authority ("SPA").¹ MHSF will operate over the rail property pursuant to an operating agreement with SPA.

Operator of the property:

MHSF will be the operator of the rail property that is the subject of this notice of exemption.

¹ The Surface Transportation Board ("Board") previously determined that SPA's acquisition of the subject rail property was outside of the Board's jurisdiction. See Finance Docket No. 34258, *North Carolina State Ports Authority - Acquisition Exemption - North Carolina Ports Railway Commission*, served October 31, 2002.

Brief summary of the proposed transaction:

CRS's mailing address is 4420 Oleander Drive, Suite 203, Myrtle Beach, SC 29557. MHSF and CRS expect to consummate the transactions described in this notice of exemption on or after September 1, 2005. MHSF will acquire the exclusive freight easement over all railroad tracks on the Port of Morehead City. The rail property includes approximately 0.87 miles of rail line in Carteret County, North Carolina from approximate milepost 0.0 (in or near Morehead City) to approximate milepost 0.87 at Gallants Channel (in or near Morehead City), serving the intermediate stations of Marsh Island and Radio Island, as well as all spur tracks, yard tracks, side tracks, interchange tracks and industrial tracks located on the Port. The rail property includes approximately 4 miles of intra-terminal track. A map of the rail property is attached hereto as Exhibit A

Related proceedings:

In connection with this proceeding, Gulf & Ohio Railways Holding Co., Inc. ("G&O"), a noncarrier corporation and H. Peter Claussen and Linda C. Claussen, noncarrier individuals, have filed in STB Finance Docket No. 34749 a verified notice of exemption, pursuant to 49 C.F.R. § 1180.2(d)(2), to continue in control of MHSF once MHSF becomes a carrier.²

Environmental Issues:

Environmental documentation normally need not be prepared for an acquisition that does not "cause diversions from rail to motor carriage of more than: (A) 1,000 rail carloads a year; or (B) An average of 50 rail carloads per mile per year for any part of the affected line" (49 C.F.R. § 1105.7(e)(4)), on the one hand, or that does not "result in either: (A) An increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or (B) An increase in rail yard activity of at least 100 percent (measured by carload activity), or (C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment" (49 C.F.R. § 1105.7(e)(5)), on the other hand. See 49 C.F.R. § 1105.6(c)(2).

The subject transaction will not result in changes in carrier operations that exceed the above-listed thresholds. Therefore, no environmental documentation is required for this Verified Notice of Exemption.

Transactions involving "[a] sale, lease or transfer of a rail line for the purpose of continued rail operations" are exempt from the historic report requirements of 49 C.F.R. § 1105.8(a) if termination of such operations requires further approval by the Surface Transportation Board (the "Board") and "there are no plans to dispose of or alter

² MHSF will be wholly owned by G&O, which controls several other class III carriers. G&O, in turn, is wholly owned by H. Peter Claussen and Linda C. Claussen (together the "Claussens"). The Claussens also own and control another class III railroad, H&S Railroad, Inc.

properties subject to [the Board's] jurisdiction that are 50 years old or older." *See* 49 C.F.R. § 1105.8(b)(1).

Common carrier service on the regulated subject rail property will be continued. MHSF does not plan on altering or disposing properties that are 50 or more years old over which the Board has jurisdiction. Therefore, a historic report is not required for this filing. *See* 49 C.F.R. § 1105.8(a), (b).

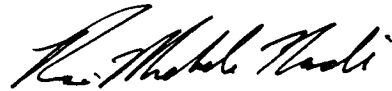
Certificate of projected revenue:

In accordance with 49 C.F.R. § 1150.33(g), a certificate concerning MHSF's projected revenue is attached as Exhibit B.

Labor Notice:

The projected annual revenue will not exceed 5 million dollars. Accordingly the requirements of 49 C.F.R. § 1150.32(e) do not apply to this transaction.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rose-Michele Nardi".

Rose-Michele Nardi
Weiner Brodsky Sidman Kider PC
1300 19th Street, NW
Fifth Floor
Washington, DC 20036-1609

Attorneys for:

Morehead & South Fork Railroad Co., Inc.

Dated: August 25, 2005

VERIFICATION

I, Ronald E. McKenzie, certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief. Further, I certify that I am qualified and authorized to cause this Verified Notice of Exemption to be filed.

A handwritten signature in cursive script, reading "Ronald E. McKenzie", written over a horizontal line.

Ronald E. McKenzie

President

Morehead & South Fork Railroad Co., Inc.

Dated: August 25, 2005

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1150.31**

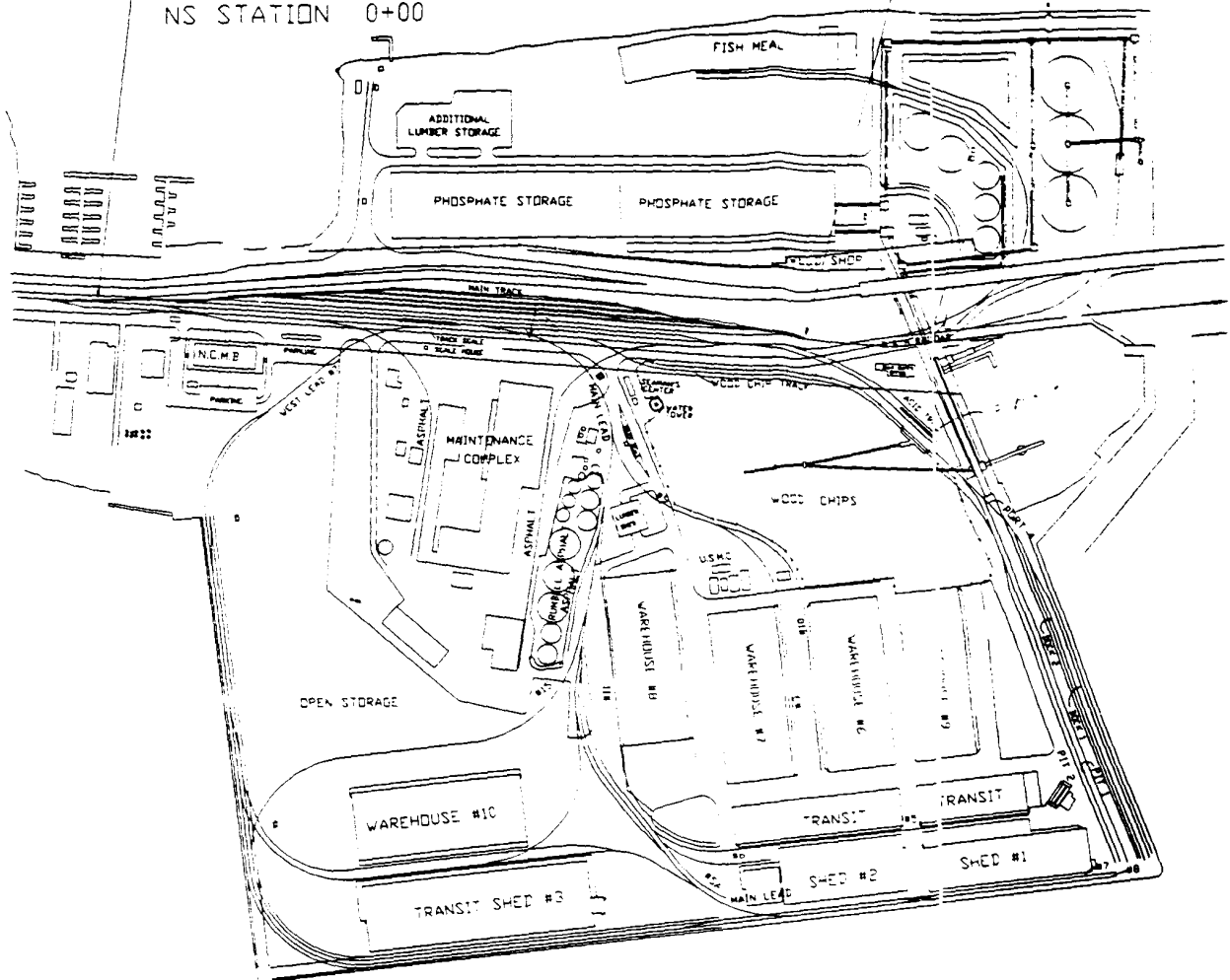
STB Finance Docket No. 34748

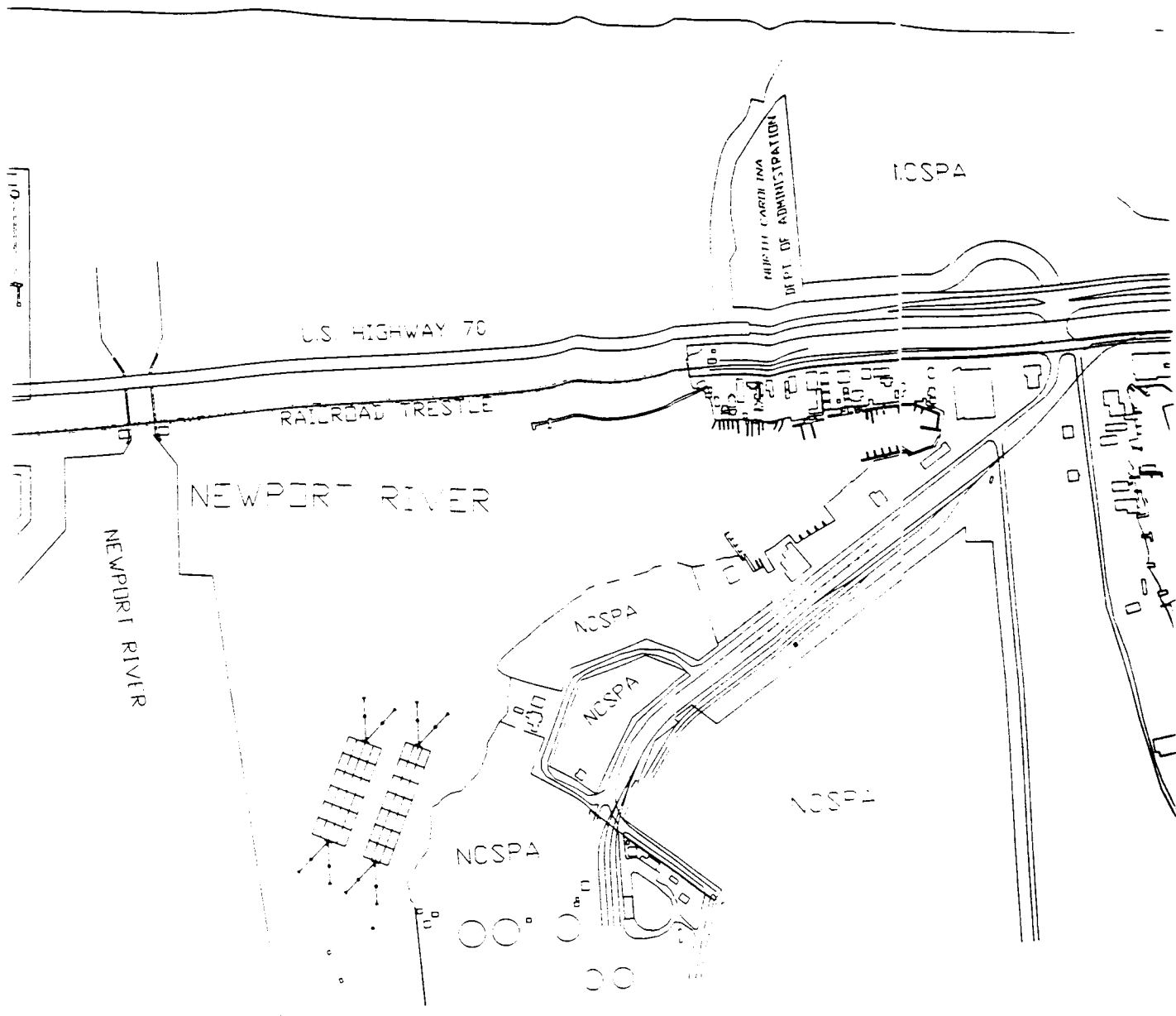
**MOREHEAD & SOUTH FORK RAILROAD CO., INC.
-- ACQUISITION AND OPERATION EXEMPTION --
CAROLINA RAIL SERVICE, LLC**

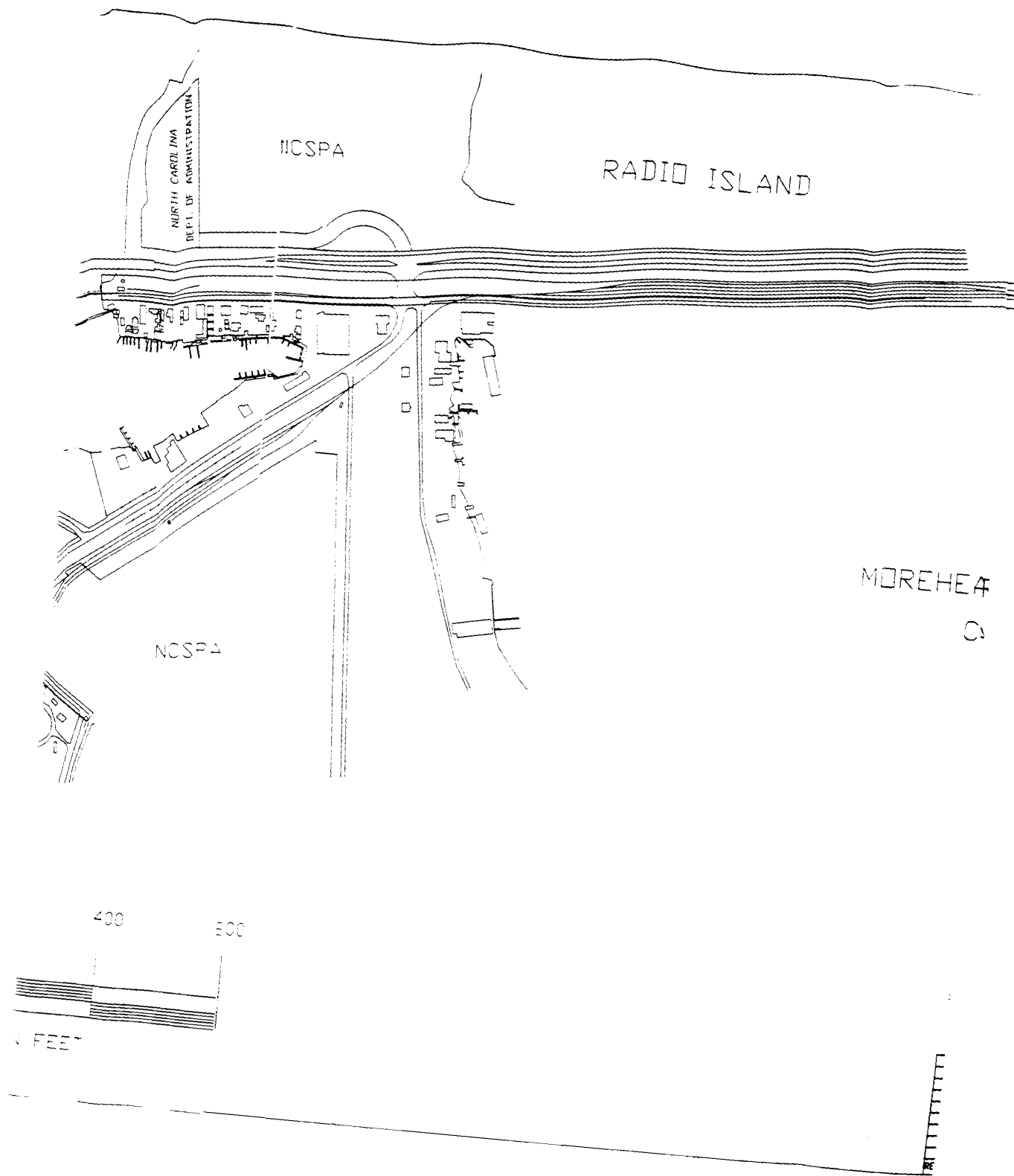
EXHIBIT A

MAP OF RAIL PROPERTY

- BEGIN TRACK
STATION NUMBER
0.00







DID ISLAND

END TRACK
STATION NUMBER
00.87 MI

BEAUFORT CHANNEL

MOREHEAD CITY, NORTH CAROLINA
CARTERET COUNTY

Exhibit B
to Rail Operating Agreement

DEPARTMENT OF ENGINEERING

PORT OF MOREHEAD CITY AND
RADIO ISLAND RAILROAD



CHIEF ENGINEER JERREL FREEMAN, P.E.	
PROJ. No.	R.D.S.
DESIGN	
DRWN	
CHK	
DATE: 9/25/02	
SCALE: AS SHOWN	
SHEET 1 OF 1	

SEAL

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1150.31**

STB Finance Docket No. 34748

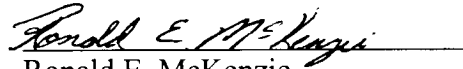
**MOREHEAD & SOUTH FORK RAILROAD CO., INC.
-- ACQUISITION AND OPERATION EXEMPTION --
CAROLINA RAIL SERVICE, LLC**

EXHIBIT B

CERTIFICATE OF REVENUE

CERTIFICATE OF REVENUE

The undersigned hereby certifies that the projected annual revenues of Morehead & South Fork Railroad Co., Inc. do not exceed those that would qualify it as a class III carrier.

A handwritten signature in cursive script, reading "Ronald E. McKenzie", is written over a horizontal line.

Ronald E. McKenzie

President

Morehead & South Fork Railroad Co., Inc.

Dated: August 25, 2005

SURFACE TRANSPORTATION BOARD

VERIFIED NOTICE OF EXEMPTION

STB FINANCE DOCKET NO. 34748

**MOREHEAD & SOUTH FORK RAILROAD CO., INC.
-- ACQUISITION AND OPERATION EXEMPTION --
CAROLINA RAIL SERVICE, LLC**

Morehead & South Fork Railroad Co., Inc. ("MHSF"), a noncarrier, has filed a notice of exemption under 49 C.F.R § 1150.31 to acquire from Carolina Rail Service, LLC its exclusive freight easement over all railroad tracks on the Port of Morehead City, which tracks are owned by North Carolina State Ports Authority ("SPA")¹. The rail property includes approximately 0.87 miles of rail line in Carteret County, North Carolina from approximate milepost 0.0 (in or near Morehead City) to approximate milepost 0.87 at Gallants Channel (in or near Morehead City), serving the intermediate stations of Marsh Island and Radio Island, as well as all spur tracks, yard tracks, side tracks, interchange tracks and industrial tracks located on the Port. The rail property includes approximately 4 miles of intra-terminal track. MSRF will operate over the rail property pursuant to an operating agreement with SPA.

Comments must be filed with the Surface Transportation Board, Office of the Secretary, 1925 K Street, N.W., Washington, D.C. 20423 and served on Rose-Michele Nardi, Esq., Weiner Brodsky Sidman Kider PC, 1300 19th Street, NW, Fifth Floor, Washington, DC 20036-1609.

This proceeding is related to: *Gulf & Ohio Railways Holding Co., Inc; H. Peter Claussen and Linda C. Claussen. – Continuance in Control Exemption – Morehead & South Fork Railroad Co., Inc.*, Finance Docket No. 34749, wherein Gulf & Ohio Railways Holding Co., Inc.

¹ The Surface Transportation Board previously determined that SPA's acquisition of the Subject Line was outside of the Board's jurisdiction. See Finance Docket No. 34258, *North Carolina State Ports Authority – Acquisition Exemption – North Carolina Ports Railway Commission*, served October 31, 2002.

("G&O") and H. Peter Claussen and Linda C. Claussen, all non-carriers, have filed a verified notice of exemption to continue to control MHSF upon its becoming a carrier.

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. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.