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AUG 29 2003

**SURFACE
TRANSPORTATION BOARD**

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FILED

AUG 29 2003

**SURFACE
TRANSPORTATION BOARD**

August 29, 2003



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KELVIN J. DOWD
ROBERT D. ROSENBERG
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FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PETER A. PFOHL
DANIEL M. JAFFE
KAREN HASSELL HERREN
KENDRA A. ERICSON

Mr. Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street NW
Washington, DC 20423

Re: Finance Docket No. 34404, East Tennessee Railway, L.P.--Exemption--
Acquisition and Operation of a Line of Railroad in Washington County,
TN--CSX Transportation, Inc.

Dear Mr. Secretary:

Enclosed for filing in the captioned docket please find an executed original and 10 copies of the Verified Notice of Exemption of East Tennessee Railway, L.P. to acquire and operate, pursuant to 49 U.S.C. § 10902 and 49 C.F.R. §§ 1150.41 *et seq.*, a line of railroad presently owned and operated by CSX Transportation, Inc. and located near Johnson City, TN.

Also enclosed please find a check for \$1,400.00 in payment of the filing fee for this Notice, and a 3.5" computer diskette with an electronic copy of the filing in Wordperfect 9.0 format.

Thank you for your consideration of this matter.

Sincerely,


Donald G. Avery
An Attorney for East Tennessee
Railway, L.P.

1755
10/1/2003
Part of

Encl.

FILED

AUG 29 2003

**SURFACE
TRANSPORTATION BOARD**

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

208806



In the Matter of)

EAST TENNESSEE RAILWAY, L.P.-
EXEMPTION--ACQUISITION AND
OPERATION OF A LINE OF RAILROAD
IN WASHINGTON COUNTY, TN--CSX
TRANSPORTATION, INC.)

) Finance Docket No. 34404

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Part of Proceeding

SEP 12 2003

VERIFIED NOTICE OF EXEMPTION

**SURFACE
TRANSPORTATION BOARD**

Part of Proceeding
The East Tennessee Railway, L.P. ("ETRY") hereby submits its Verified Notice of Exemption pursuant to 49 C.F.R. §§ 1150.41 *et seq.* to acquire by lease, and operate, a line of railroad presently owned and operated by CSX Transportation, Inc. and located near Johnson City, Tennessee. ETRY is a Class III rail carrier subject to the jurisdiction of the Surface Transportation Board, and the projected annual revenues of ETRY following the subject acquisition do not exceed \$5 million.¹

¹ Although ETRY is controlled by Rail Management Corporation (RMC), which also controls 13 other Class III carriers, ETRY is not operated as part of a system of railroads and no change in control of ETRY will result from the subject acquisition. Accordingly, ETRY's revenues are not consolidated with those of RMC's other carriers for classification purposes, and a companion Notice of Exemption under 49 C.F.R. § 1180.2(d) is not required.

Information Required by
49 U.S.C. § 1150.43

**(a) Full Name and Address of the
Class III Applicant**

East Tennessee Railway, L.P.
2605 Thomas Drive
Panama City Beach, FL 32408

**(b) Name and Address of Representatives
To Receive Correspondence**

Donald G. Avery
Kelvin J. Dowd
Slover & Loftus
1224 17th Street NW
Washington, DC 20036
phone (202) 347-7170
fax (202) 347-3619

(c) Statement Regarding Agreement

ETRY and CSXT have agreed on the terms of the lease that will cover this transaction, and expect to execute a written lease agreement prior to consummation of the acquisition.

(d) The Operator of the Property

ETRY will be the operator of the lines it is acquiring.

(e) Brief Summary of the Transaction, including

**(1) Name and Address of the Railroad Transferring the Property to
the Class III Applicant**

The railroad leasing the subject lines to ETRY is

CSX Transportation, Inc.
500 Water Street
Jacksonville, FL 32202

(2) Proposed Timetable

The parties intend to consummate the subject transaction as promptly as possible after this Notice of Exemption becomes effective.

(3) Mileposts of the Subject Property Including Branch Lines

See the map and property description attached hereto as Exhibits A and B.

(4) Total Route Miles Being Acquired

The lines being acquired total 5.0 miles in length, including two short spurs.

(5) Purpose of the Transaction

The primary purpose of this transaction is to enable ETRY, a small and efficient short line railroad with its operational headquarters in Johnson City and with its existing lines in the immediate vicinity, to maintain and improve rail service for shippers on the light density lines being acquired, which do not provide sufficient revenues for CSXT to justify its continued operation of them.

(f) Map

See Exhibit A, attached.

(g) Certificate Regarding Revenues

ETRY hereby certifies that its annual revenues following the subject acquisition will neither reach the level that would cause it to be classified as a Class I or II carrier, nor exceed \$5 million.

(h) Environment and Historic Preservation

Under 49 C.F.R. § 1105.6(c)(2), no environmental documentation is required for the subject acquisition, which does not involve construction or significant changes in rail operations. Under 49 C.F.R. § 1105.8(b)(1), no historic report is required

because the subject transaction is for continued rail service and any abandonment thereof would be subject to STB jurisdiction.

A Caption Summary prepared in accordance with 49 C.F.R. § 1150.44 is attached as Exhibit C. Additionally, all shippers who have received local rail service on the subject lines since January 1, 2002 have been or are being notified of the transaction and of this exemption proceeding, in accordance with 49 C.F.R. § 1150.42(b).

Respectfully submitted,

By: Donald G. Avery
Kelvin J. Dowd
Slover & Loftus
1224 17th Street NW
Washington DC 20036
(202) 347-7170

A handwritten signature in black ink, appearing to read "Donald G. Avery", is written over the typed name and address.

Of Counsel:

Slover & Loftus
1224 Seventeenth Street, NW
Washington, DC 20036

Dated: August 29, 2003

Attorneys for Applicant East Tennessee
Railway, L.P.

[illegible]

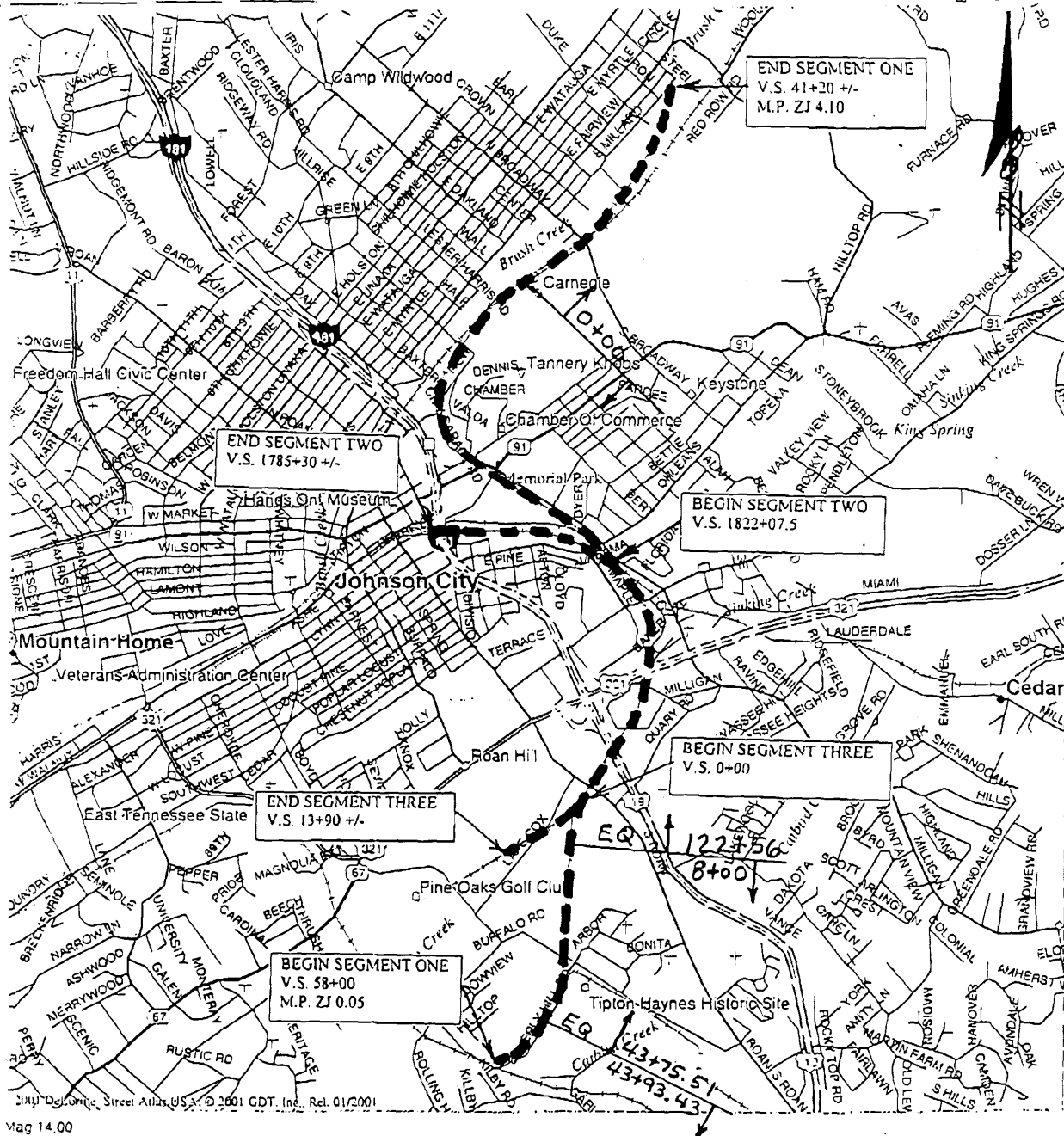
) SS:

Shirley G. Allen

Ann S. Sellers

My Commission expires: 2-15-04





Map 14.00

Mon Jul 28 07:48 2003

Scale 1:28,125 (at center)

2000 Feet

1000 Meters

Lease Area

- Local Road
- Major Connector
- State Route
- US Highway
- Interstate/Limited Access
- Exit
- Railroad
- Point of Interest

CSX REAL PROPERTY, INC.

EXHIBIT A

City: Johnson City
County: Washington
State: Tennessee
Primary Pin: 47179-0025
Sit ID: TN-179-0997680

VAL: V.Tenn I / 18, 18a & 18c
GIS: 03425, 28718 & 03449
Scale: as Noted
Date: 7-27-2003
Drawn By: JLS

EXHIBIT **B**

Description of lease property: Johnson City, Washington County, Tennessee
PIN: 47179-0025
Site ID: TN-179-0997680

All that certain land situate at or near the City of Johnson City, Washington County, Tennessee comprising what is commonly known as CSX Transportation's (CSXT's) Johnson City Lead as generally shown on a General Location Map marked Exhibit A, attached hereto, lying on either side of the following described centerlines:

SEGMENT ONE

Commencing at the point of intersection of the centerline of CSXT's main line railroad track known as the Kingsport Subdivision at or near Railroad Valuation Station 1791+50 with the centerline of Beverly Hills Road; thence in a general southeasterly direction along the centerline of the CSXT's main line railroad track a distance of 840 ft., more or less, to the point of switch of the Johnson City Lead railroad track; thence along the centerline of the Johnson City Lead railroad track in a general easterly direction a distance of 290 ft., more or less, to the **TRUE POINT OF BEGINNING** at the northerly operating property line of CSXT's Kingsport Subdivision at or near Railroad Valuation Station 58+00 (Railroad Milepost ZJ 0.05), such **BEGINNING POINT** being indicated on a fragment print of Railroad Valuation Map V-Tenn 1, sheet 18c, marked Exhibit B-1, attached hereto; thence extending generally in a northerly direction along the centerline of the Johnson City Lead railroad track a distance of 0.95 miles, more or less, to an equation point at Railroad Valuation Station 8+00 BACK, which is equal to Railroad Valuation Station 122+96 AHEAD; thence continuing generally in a northerly direction along the centerline of the Johnson City Lead railroad track a distance of 2.32 miles, more or less, to Railroad Valuation Station 0+00; thence continuing generally in a northerly direction along the centerline of the Johnson City Lead railroad track a distance of 0.78 miles, more or less, to the **ENDING POINT** at or near Railroad Valuation Station 41+20 (AKA 119+00), being the southerly line of lands conveyed to Johnson City Chemical Co. by deed dated March 11, 1996, also being 175 ft., more or less, (as measured along the centerline of the railroad track) from the east line of Iron Street (extended southeasterly), such **ENDING POINT** being indicated on a fragment print of Railroad Valuation Map V, Tenn 1, sheet 18a, marked Exhibit B-2, attached hereto.

SEGMENT TWO

BEGINNING at a junction with Segment One at Railroad Valuation Station 1822+07.5 (Railroad Valuation Station 75+74.3 on Segment One), being approximately 425 ft. southeast of (as measured along the centerline of Segment Two) the southeasterly line of Orleans Street, such **BEGINNING POINT** being indicated on a fragment print of Railroad Valuation Map V, Tenn 1, sheet 18, marked Exhibit B-3, attached hereto; thence extending in a general westerly direction along the centerline of the railroad track a distance of 0.70 miles, more or less, to the **ENDING POINT** at or near Railroad Valuation Station 1785+30, being approximately 180 ft. west of the centerline of

Division Street, such ENDING POINT being indicated on a fragment print of Railroad Valuation Map V. Tenn 1, sheet 18, marked Exhibit B-4, attached hereto.

SEGMENT THREE

BEGINNING at a junction with Segment One at Railroad Valuation Station 0+00 (Railroad Valuation Station 117+81.8 on Segment One), being approximately 159 ft, southwest of (as measured along the centerline of Segment One) the centerline of S. Roan Street, such BEGINNING POINT being indicated on a fragment print of Railroad Valuation Map V. Tenn 1, sheet 18c, marked Exhibit B-5, attached hereto; thence extending in a general southwesterly direction along the centerline of the railroad track a distance of 0.26 miles, more or less, to the **ENDING POINT** at or near Railroad Valuation Station 13+90, being the easterly line of lands conveyed to Stuart E. Wood, Jr. by deed dated March 11, 1994, such ENDING POINT being indicated on Exhibit B-5.

Containing a total area of 46 acre, more or less, all as shown on Railroad Valuation Maps V. Tenn 1, sheets 18, 18a and 18c, reduced copies of which are marked Exhibits C-1 through C-3, inclusive, attached hereto.

Caption Summary

SURFACE TRANSPORTATION BOARD

Notice of Exemption

STB Finance Docket No. 34404

EAST TENNESSEE RAILWAY, L.P.--
EXEMPTION--ACQUISITION AND
OPERATION OF A LINE OF RAILROAD
IN WASHINGTON COUNTY, TN--
CSX TRANSPORTATION, INC.

The East Tennessee Railway, L.P. (ETRY) has filed a notice of exemption to acquire from CSX Transportation, Inc. (CSXT) and operate a line of railroad extending from Milepost ZJ 0.05 to Milepost ZJ 4.10 near Johnson City in Washington County, Tennessee, a distance of 4.05 miles, together with the two short spurs extending east from said line in Johnson City and to the south of the city. The lines in question are known as CSXT's "Johnson City Lead" and "Carnegie Spur." The total length of the lines being acquired by ETRY, including the spurs, is 5.0 miles.

Comments must be filed with the Board and served on Applicant's representative: Donald G. Avery, Slover & Loftus, 1224 17th Street NW, Washington, DC 20036.

The notice is filed under 49 CFR 1150.41. If the notice contains false or misleading information, the exemption is void *ab initio*. The filing of a petition to revoke will not automatically stay the transaction.