

212816
D.D #01041222001001

BALL JANIK LLP

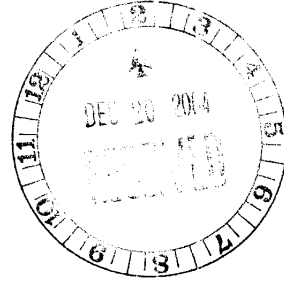
A T T O R N E Y S

1455 F STREET, NW, SUITE 225
WASHINGTON, D.C. 20005

www.balljanik.com

TELEPHONE 202-638-3307
FACSIMILE 202-783-6947

December 20, 2004



BY HAND DELIVERY

The Honorable Vernon Williams
Surface Transportation Board
1925 K Street, N.W., Suite 700
Washington, DC 20423-0001

FILED
DEC 21 2004
SURFACE
TRANSPORTATION BOARD

Re: Finance Docket No. 34634, Mission Mountain Railroad, Inc. –
Acquisition and Lease Exemption – The Burlington Northern And
Santa Fe Railway Company

Dear Secretary Williams:

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 \$1,500.00 filing fee. Also enclosed is a 3.5-inch diskette 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,

Karl Morell

Enclosures

ENTERED
Office of Proceedings
DEC 21, 2004
Part of
Public Record

FEE RECEIVED

DEC 21 2004

SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34634

MISSION MOUNTAIN RAILROAD, INC.
--ACQUISITION AND LEASE EXEMPTION--
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

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

ENTERED
Office of Proceedings

DEC 21 / 2004

Part of
Public Record

FILED

DEC 21 2004

SURFACE
TRANSPORTATION BOARD

FEE RECEIVED

DEC 21 2004

SURFACE
TRANSPORTATION BOARD

KARL MORELL
Of Counsel
BALL JANIK LLP
Suite 225
1455 F Street, N.W.
Washington, D.C. 20005
(202) 638-3307

Attorney for:
MISSION MOUNTAIN RAILROAD, INC.

Dated: December 20, 2004

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34634

MISSION MOUNTAIN RAILROAD, INC.
--ACQUISITION AND LEASE EXEMPTION--
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

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

The Mission Mountain Railroad, Inc. ("MMT"), a non-carrier, files this Notice of Exemption pursuant to 49 C.F.R. Part 1150, Subpart D--Exempt Transactions, to permit MMT to acquire and lease from The Burlington Northern and Santa Fe Railway Company ("BNSF") rail lines located in the state of Montana.

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

- (a) Full name and address of applicant:

Mission Mountain Railroad, Inc.
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:

MMT will shortly enter into agreements with BNSF for the acquisition and lease of the rail lines.

(d) The operator of the property:

MMT will be the operator of the acquired and leased lines.

(e) Summary of proposed transaction:

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

The Burlington Northern and Santa Fe Railway Company
2650 Lou Menk Drive
Fort Worth, Texas 76131

- (2) The involved transaction is expected to be consummated on or shortly after December 28, 2004.

- (3) The rail line that MMT is acquiring is located between Milepost 1249.35, near Stryker, and Milepost 1272.22, near Eureka, in Lincoln County, Montana.

The rail line that MMT is leasing is located between Milepost 1211.86, near Columbia Falls, and Milepost 1227.58, near Kalispell, in Flathead County, Montana.¹

- (4) The length of the rail line being acquired is approximately 22.87 miles.
The length of the rail line being leased is approximately 15.72 miles.

¹ BNSF is retaining the right to use the wye tracks at Columbia Falls that are being leased by MMT.

(f) A map of the rail line being acquired and the rail line being leased is attached as Exhibit A.

(g) MMT hereby certifies that MMT's projected revenues as a result of this transaction will not result in MMT becoming a Class II or Class I rail carrier. MMT further certifies that the projected annual revenue of MMT will not exceed \$5 million. Accordingly, the requirements of 49 C.F.R. § 1150.32(e), do not apply to this transaction. A caption summary, as required by 49 C.F.R. § 1150.34, is attached.

ENVIRONMENTAL AND HISTORIC IMPACTS

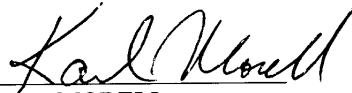
MMT is acquiring and leasing the lines from BNSF for continued rail operations. Further Board approval is required for MMT to abandon or discontinue any service and there are no plans to dispose of or alter properties subject to Board jurisdiction that are 50 years old or older. Hence, this Notice of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

MMT's acquisition and lease 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. MMT's acquisition and lease 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,

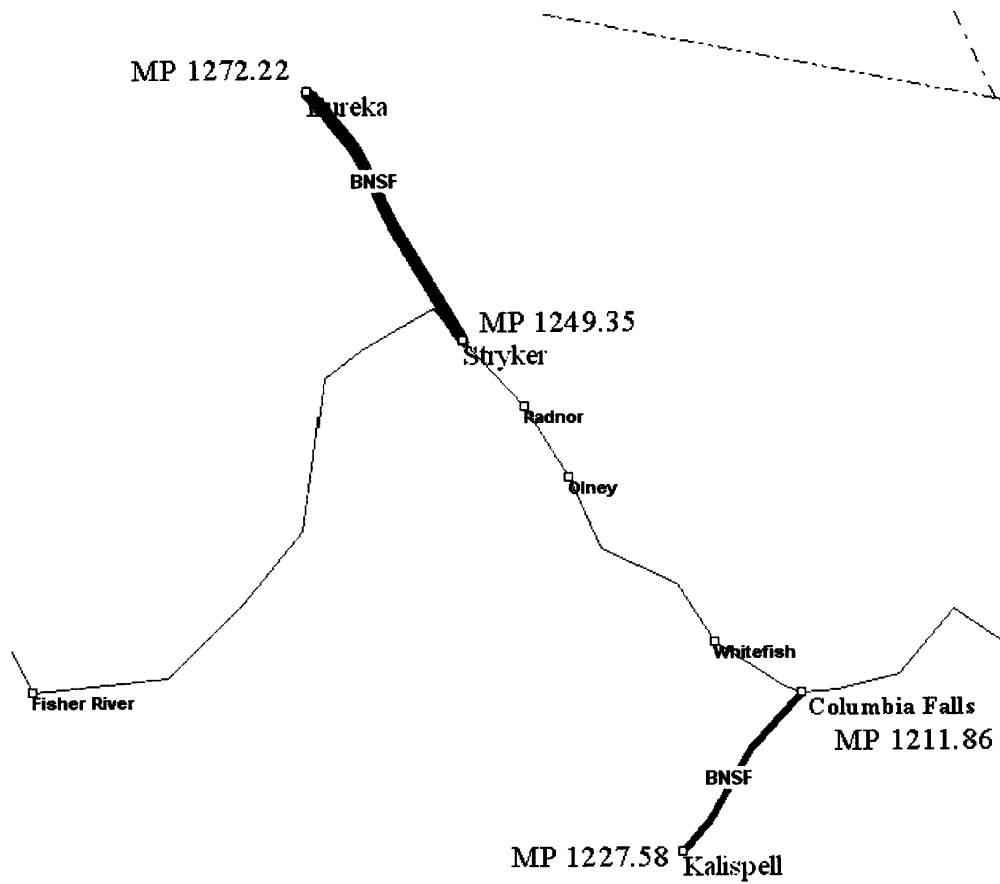
A handwritten signature in cursive script, appearing to read "Karl Morell", written in black ink.

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

Attorney for:
MISSION MOUNTAIN RAILROAD, INC.

Dated: December 20, 2004

EXHIBIT A



SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

FINANCE DOCKET NO. 34634

MISSION MOUNTAIN RAILROAD, INC.
--ACQUISITION AND LEASE EXEMPTION--
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

Mission Mountain Railroad, Inc. ("MMT"), a non-carrier, has filed a notice of exemption to acquire and lease from The Burlington Northern and Santa Fe Railway Company ("BNSF") rail lines in the state of Montana. The rail line that MMT is acquiring is located between Milepost 1249.35, near Stryker, and Milepost 1272.22, near Eureka, in Lincoln County, Montana. The rail line that MMT is leasing is located between Milepost 1211.86, near Columbia Falls, and Milepost 1227.58, near Kalispell, in Flathead County, Montana.

This transaction is related to STB Docket No. 34635, Watco Companies, Inc. – Continuance In Control Exemption – Mission Mountain Railroad, Inc., wherein Watco Companies, Inc., has concurrently filed a verified notice to continue in control of MMT upon MMT 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. The filing of a petition to revoke will not automatically stay the transaction.

VERIFICATION

STATE OF KANSAS

)

)

ss.

COUNTY OF CRAWFORD

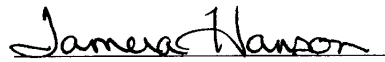
)

I, Arthur E. McKechnie III, being duly sworn depose and state that I am Assistant Secretary of Mission Mountain Railroad, Inc., 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.


Arthur E. McKechnie III

SUBSCRIBED AND SWORN TO before me this 15th day of December, 2004, in the County of Crawford, State of Kansas.

My Commission Expires: 11/12/2008


Notary Public