

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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Office of Proceedings
November 20, 2017
Part of
Public Record

STB Finance Docket No. FD 36158

**OLD AUGUSTA RAILROAD, LLC
— ACQUISITION AND OPERATION EXEMPTION—
KM RAILWAYS, LLC**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1150.41**

David H. Coburn
Christopher G. Falcone
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1330 Connecticut Avenue, N.W.
Washington, DC 20036
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202-429-8063

Attorneys for Old Augusta Railroad, LLC

Dated: November 20, 2017

FILED
November 20, 2017
SURFACE TRANSPORTATION BOARD

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November 20, 2017
SURFACE TRANSPORTATION BOARD

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— ACQUISITION AND OPERATION EXEMPTION—
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**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1150.41**

Pursuant to the provisions of 49 U.S.C. § 10502 and 49 C.F.R. § 1150.41, Old Augusta Railroad, LLC (“OAR”), a Class III rail carrier, files this Verified Notice of Exemption from the requirements of 49 U.S.C. § 10902 for OAR to purchase and continue operating a line of railroad from KM Railways, LLC (“KMR”). KMR is a Class III railroad that is commonly owned with OAR by Koch Industries, Inc. The line at issue consists of 2.5 miles of rail track in Perry County, Mississippi (“the Line”).

OAR currently leases the Line from KMR and operates the Line. Prior to the current situation in which KMR owns the Line and OAR leases and operates the Line, OAR was the owner and operator of the Line. In late 2009, the parties filed notices of exemption for KMR to purchase the Line and for OAR to lease and continue operating the Line. *Old Augusta Railroad, LLC—Lease and Operation Exemption—KM Railways, LLC*, STB Finance Docket No. 35319 (served Dec. 4, 2009); *KM Railways, LLC--Acquisition Exemption--Old Augusta Railroad, LLC*,

STB Finance Docket No. 35321 (served Dec. 4, 2009). OAR now seeks to purchase the Line from KMR. Following the purchase of the Line, OAR will continue to operate the Line.

This transaction is an internal reorganization for corporate purposes and there will be no change in the operations presently conducted on the Line by OAR following the purchase. OAR and KMR intend to execute an Asset Purchase Agreement by December 5, 2017, subject to obtaining the necessary regulatory approvals

In support of this Notice of Exemption, OAR submits the following information as required by 49 C.F.R. § 1150.43:

Name and Address of Applicant: 49 C.F.R. § 1150.43(a)

The full name and address of the rail carrier applicant is as follows:

Old Augusta Railroad, LLC
P.O. Box 329
Buck Creek Road
New Augusta, MS 39462
Attn: Al Fordham
(601) 964-7318

Applicant's Representative: 49 C.F.R. § 1150.43(b)

Any questions concerning this Notice should be sent to OAR's representative at the following address:

David H. Coburn
Steptoe & Johnson LLP
1330 Connecticut Avenue, N.W.
Washington, DC 20036
dcoburn@steptoe.com
202-429-8063

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

OAR and KMR intend to execute an Asset Purchase Agreement for OAR to acquire, among other things, certain of the assets, including the track, over which the OAR operates.

Subject to obtaining the necessary regulatory approvals, the parties intend to execute the Asset Purchase Agreement by December 5, 2017 and to consummate the Asset Purchase Agreement on or after December 20, 2017.

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

The Line is currently leased by OAR from KMR and operated by OAR, providing rail common carrier service over the 2.5 miles of track. After consummation of the Asset Purchase Agreement, OAR will own the Line and continue to operate the Line in the same manner as it currently does.

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

1. The name and address of the railroad transferring the subject property:

KM Railways, LLC
4111 East 37th Street North
Wichita, KS 67220

2. Subject to obtaining the necessary regulatory approvals, the proposed schedule for consummation of the Asset Purchase Agreement is on or after December 20, 2017.

3. The Line that OAR will purchase from KMR extends approximately 2.5 miles from New Augusta, Mississippi (Station No. FSAC 10) to Augusta, Mississippi (Station No. FSAC 20). There are no branch lines and no mile posts. The OAR transports freight between a paper mill and a Canadian National Railway line. *See Old Augusta R.R., LLC—Acquisition & Operation Exemption—Assets of Old Augusta R.R. Co.*, STB Finance Docket No. 34493 (served Apr. 21, 2004).

4. OAR is purchasing 2.5 miles of track from KMR and will continue operating the Line and all ancillary trackage and property in the same manner as it currently does.

Maps of Subject Property: 49 C.F.R. § 1150.43(f)

A map of the Line is attached hereto as Exhibit A to this Notice.

Class III Revenue Certification: 49 C.F.R. §§ 1150.43(g)

The projected annual revenue of OAR as a result of this transaction will not exceed the annual revenue of a Class III railroad, and will not result in the creation of a Class II or Class I rail carrier that would require processing under 49 C.F.R. § 1150.45. The Applicant's certification is attached hereto as Exhibit B.

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

The proposed purchase and continued operation of the 2.5 miles of rail trackage by OAR does not involve any provision or agreement that would limit future interchange with a third-party connecting carrier.

Historic Preservation:

Applicant's purchase and continued operation of 2.5 miles of rail trackage from KMR is exempt from historic preservation reporting requirements of 49 C.F.R. § 1105.8(b)(1). The proposed transaction is an internal reorganization for corporate reasons, and there will be no planned change in the operations presently conducted by OAR over the 2.5 miles of rail trackage.

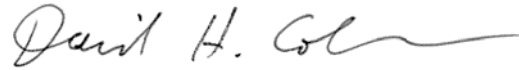
Environmental Impacts:

The proposed transaction will not result in any changes in carrier operations. Accordingly, no environmental documentation is required under the criteria of 49 C.F.R. § 1105.6(b)(4) and (c)(2) because the proposed transaction continues rail service on existing tracks and will not cause operating changes that exceed the thresholds in 49 C.F.R. § 1105.7(e)(4) or (5).

Caption Summary: 49 C.F.R. § 1150.44

A caption summary of the proposed transaction suitable for publication in the Federal Register is attached hereto as Exhibit C.

Respectfully submitted,



David H. Coburn
Christopher G. Falcone
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, N.W.
Washington, DC 20036
dcoburn@steptoe.com
202-429-8063

Attorneys for Old Augusta Railroad, LLC

November 20, 2017

VERIFICATION

State of Georgia)

County of Fulton)

Patrick J. Boushka, being duly sworn, deposes and says that he is the President of Old Augusta Railroad, LLC, that he has read the foregoing Notice of Exemption, that he has personal knowledge of the facts asserted therein, and that he certifies the same are true as stated.

Executed on November 20, 2017.

Patrick J. Boushka
Patrick J. Boushka
President
Old Augusta Railroad, LLC *mbw*

SUBSCRIBED AND SWORN TO

Before me this 20 th day of November, 2017

Marvin L. Waldrep
Notary Public

My commission expires: 05/16/2019

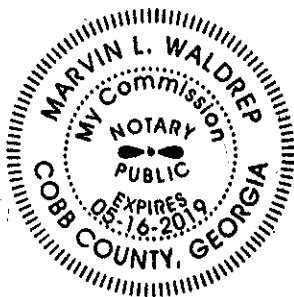


EXHIBIT A

**ATTACHED MAP OF RAIL LINE TO BE
ACQUIRED FROM KM RAILWAYS, LLC**

KM RAILWAYS, LLC

REGION 12

AR/LA/MS

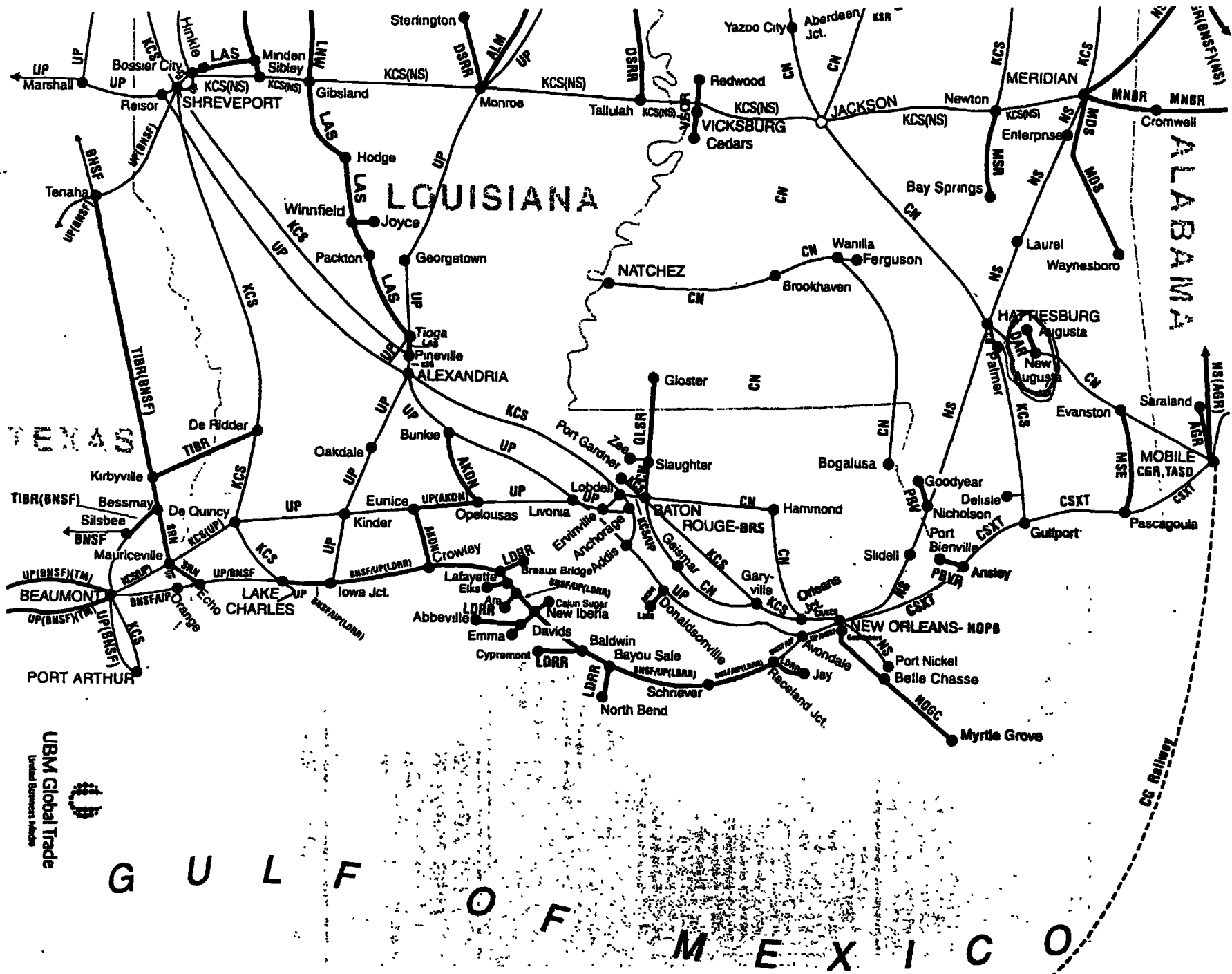
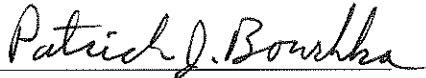


EXHIBIT B

CERTIFICATION

CERTIFICATION

Patrick J. Boushka, President of Old Augusta Railroad, LLC, being duly sworn certifies that the projected revenues for Old Augusta Railroad, LLC upon consummation of the proposed transaction will not result in creation of a Class I or Class II rail carrier and the projected annual revenue will not exceed \$5 million.


Patrick J. Boushka
President
Old Augusta Railroad, LLC *MLW*

Dated: November 20, 2017

EXHIBIT C

ATTACHED NOTICE OF EXEMPTION

Surface Transportation Board

Notice of Exemption

STB Finance Docket No. FD 36158

Old Augusta Railroad, LLC—Acquisition and Operation Exemption—KM Railways, LLC

Old Augusta Railroad, LLC (“OAR”), an existing Class III short line railroad common carrier, has filed a Verified Notice of Exemption to acquire from KM Railways, LLC (“KMR”) and continue operating a 2.5 mile rail line that extends from Augusta, Mississippi to New Augusta, Mississippi, where it connects to the tracks of Canadian National Railway Company. Comments must be filed with the Board and served on OAR’s representative, David H. Coburn, Steptoe & Johnson LLP, 1330 Connecticut Ave., Washington, DC 20036; telephone number (202) 429-8063.

This 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.

Dated: November __, 2017

By the Board,

Cynthia T. Brown,
Chief, Section of Administration, Office of
Proceedings