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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**ENTERED
Office of Proceedings
April 4, 2016
Part of
Public Record**

FD 36007

**CENTRAL GULF ACQUISITION COMPANY
—ACQUISITION AND OPERATION EXEMPTION—
CG RAILWAY, INC.**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 U.S.C. §10901 and 49 CFR §1150.31**

Submitted By:

John D. Heffner
Strasburger & Price, LLP
1025 Connecticut Avenue, N.W.
Suite 717
Washington, D.C. 20036
(202) 742-8607

Counsel for Petitioner

Dated: April 4, 2016

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FILED
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Central Gulf Acquisition Company (“CGAC”), a newly established non-carrier, files this Notice of Exemption, pursuant to 49 C.F.R. Part 1150, Subpart D – Exempt Transactions, with the Surface Transportation Board (the “Board”) to permit it to provide an intermodal rail transportation service between the Terminal Railway Alabama State Docks (“ASD”) at Mobile, AL, and Coatzacoalcos, in Veracruz State, Mexico. CGAC will provide this service utilizing charters of railroad car ferries equipped with tracks. The distance involved is approximately 1,000 miles across the Gulf of Mexico. A map depicting the trackage is shown on the attached Exhibit A.

INFORMATION REQUIRED BY 49 CFR §1150.33

<u>Name and Address of Applicant</u>	49 CFR §1150.33(a)
Central Gulf Acquisition Company c/o Continental Rail LLC 2929 E. Commercial Boulevard, Suite PH-D Fort Lauderdale, Florida 33308	

Applicant's Representative

49 CFR §1150.33(b)

John D. Heffner
Strasburger & Price, LLP
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Statement of Agreement

49 CFR §1150.33(c)

CGAC expects to execute an agreement for purchase of specified assets of CG Railway, Inc. ("CGR") on or about April 4, 2016. As relevant, those assets will include the assignment of a Master Agreement dated November 22, 2006, between The Alabama State Port Authority ("ASPA"), the ASD, International Shipholding Corporation ("ISC") and its subsidiary CGR for the lease of 2,850 feet of track and land on ASPA's property at the Port of Mobile in Mobile, AL.

Operator of the Property

49 CFR §1150.33(d)

CGAC will be the sole entity providing this service, replacing a service that CGR has provided to date.

Brief Summary of Transaction

49 CFR §1150.33(e)

CGAC is a newly established entity owned by West Branch Intermediate Holdings, LLC ("West Branch"), which currently controls through stock

ownership one existing short line railroad, Delta Southern Railroad, Inc. (“DSR”).¹ The assets and operations of West Branch are currently managed by Continental Rail LLC (“Continental”). CGAC proposes to purchase CGR’s assets as part of its business strategy to acquire and operate common carrier railroads with growth potential.

CGR is an existing intermodal Class III common carrier railroad owned by ISC, a noncarrier. Established in 2000,² CGR presently provides rail service between facilities at the ASD at Mobile, AL, and Coatzacoalcos, in Veracruz State, Mexico.

The Board has jurisdiction to review and approve this exemption. The noncarrier class exemption at 49 CFR §1150.31 applies to *all* [emphasis supplied] acquisitions and operations under section 10901. *See, Class Exemption-Acq. & Oper. Of R. Lines Under 49 U.S.C. 10901*, 1 I.C.C. 810 (1985). Moreover, railroad operations conducted by means of a barge or car ferry constitute a “railroad” for the purpose of Board jurisdiction. The ICC Termination Act at 49 U.S.C. §10102(6) specifically states that a “railroad” includes—

“(A) a bridge, car float, lighter, ferry, and intermodal equipment used by or in connection with a railroad...” Furthermore, the Act provides that the Board has

¹ Because West Branch did not own and Continental did not manage any common carrier railroads at the time of the DSR acquisition, they were not required to obtain Board approval for that transaction.

² The company’s name was initially Central Gulf Railway, Inc. It subsequently changed its name to CG Railway, Inc.

jurisdiction over transportation by rail carrier that is “(B) by railroad and water, when the transportation is under common control, management, or arrangement for a continuous carriage or shipment” and includes transportation between a place in the United States and a place in a foreign country. 49 U.S.C. §10501(a)(2)(F); *New York New Jersey Rail LLC and New York Cross Harbor Railroad Terminal Corp.—Corporate Family Transaction Exemption*, FD 34813 (STB-served July 27, 2006). *See also, Sault Ste. Marie Bridge Co.*, 108 I.C.C. 342 (1926)(ICC approval of operation of a railroad bridge between the US and Canada); *Texas Pacifico Transportation, Ltd.—Acquisition and Operation Exemption—South Orient Railroad Company, Ltd.*, FD 33851 (STB-served March 3, 2000)(acquisition of line of railroad by short line controlled by a Mexican company from the Mexican border to points in Texas); *Carrizo Gorge Railway Inc.—Operation Exemption—Line of San Diego and Arizona Eastern Railway Company and San Diego & Imperial Valley Railroad Company, Inc.*, FD 34078 (STB-served Aug. 16, 2001)(short line to operate line of railroad between Mexican border and point in the United States); and *Central Maine & Quebec Railway US Inc.—Acquisition and Operation Exemption—Montreal, Maine & Atlantic Railway, Ltd.*, FD 35805 (STB-served Feb. 28, 2014)(acquisition and operation of American rail lines and services of bankrupt regional railroad operating between points in the United States and Canada).

Despite the intermodal and cross-border aspects of this acquisition, CGAC believes it is appropriate for handling by a class exemption under 49 CFR §1150.31 class exemption. The Board processed each of the above-cited transactions by means of either a §1150.31 class exemption or, in the case of the *New York New Jersey Rail* transaction, by a corporate family transaction class exemption at §1180.2(d)(3). CGAC does not anticipate any opposition to its request. Requiring that CGAC proceed by filing an individual petition would merely delay closing for several months without providing any public interest benefits.

Other information required

(1) Name and address for the party transferring the subject property:

CG Railway, Inc.
11 NORTH WATER STREET SUITE 18290
Mobile, AL. 36602

(2) The proposed time schedule for consummation of the transaction:

CGAC intends to consummate this transaction upon this exemption becoming effective.

The mileposts of the subject property, including any branch lines:

There are no mileposts as this is a railroad car ferry operation across the Gulf of Mexico.

Map

49 CFR §1150.33(f)

A map depicting the involved operation is attached as Exhibit A.

Certificate of Carrier Classification 49 CFR §1150.33(g)

CGAC certifies that this transaction will not result in it becoming a Class II or Class I rail carrier. The projected annual railroad operating revenue of CGAC will exceed \$5,000,000. Consequently, CGAC has complied with the notice requirements of 49 CFR §1150.32(e). CGAC certified its compliance with Section 1150.32(e) on April 4, 2016. A copy of this certification is attached as Exhibit B.

Transactions Imposing Interchange Commitments 49 CFR §1150.33(h)

Not applicable. There are no agreements applicable to the Line imposing any interchange commitments.

Related transaction

Concurrent with this filing, CGAC's corporate parent, West Branch, and its manager, Continental, are submitting a verified notice of exemption under 49 CFR §1180.2(d) (2) for continuance in control of CGAC and DSR. That notice has been docketed as FD 36006.

Labor Protection

The Board does not usually impose labor protective conditions on transactions under 49 U.S.C. §10901 and no need for conditions has been shown here.

Caption Summary 49 CFR §1150.34

A caption summary in the prescribed form is attached as Exhibit C to this Notice.

Environmental and Historic Preservation Data 49 CFR §1105

Pursuant to 49 CFR §1105.6(c) (2), the proposed transaction is exempt from environmental review under 49 CFR §1105(c) (2) (i), because the actions proposed herein will not cause any operating changes that exceed the thresholds established in 49 CFR §1105.7(e) (4) or (5).

In addition, this transaction is exempt from historic review under 49 CFR §1105.8(b) (1). Under this section, a sale, lease or transfer of a rail line is exempt if rail operations will continue. Further Board approval is required for the parties to abandon service, and there are no plans to dispose of or alter the properties subject to Board jurisdiction.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John D. Heffner", with a long horizontal flourish extending to the right.

John D. Heffner
Strasburger & Price, LLP
1025 Connecticut Avenue, N.W.
Suite 717
Washington, D.C. 20036
(202) 742-8607

Counsel for Petitioner

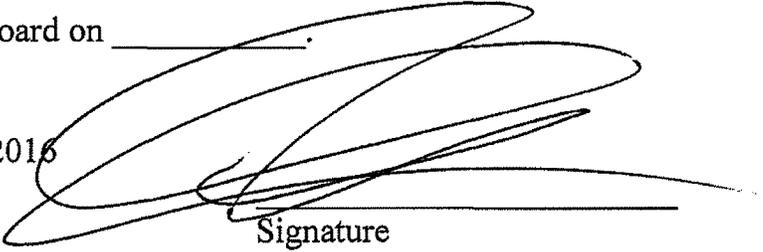
Dated: April 4, 2016

Exhibit B

Certification

I, Rajeev Amara, certify that this transaction will not result in the Applicant railroad becoming a Class I or Class II rail carrier. Applicant further certifies that its project annual revenues will exceed \$5 million. Consequently, Applicant has complied with the notice requirements of 49 CFR §1150.32(e), and has certified its compliance to the Board on _____.

Dated: April 4, 2016



Signature

**EXHIBIT C
CAPTION SUMMARY**

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CGAC certifies that this transaction will not result in it becoming a Class II or Class I rail carrier. If the verified 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 effectiveness of this exemption. Petitions to stay must be filed no later than April 28, 2016 (at least 7 days before the exemption becomes effective).

Concurrent with this filing, CGAC's corporate parent, West Branch Intermediate Holdings, LLC, and its manager, Continental Rail LLC, are submitting a verified notice of exemption under 49 CFR §1180.2(d) (2) for continuance in control of CGAC and Delta Southern Railroad, Inc. That notice has been docketed as FD 36006.

An original and 10 copies of all pleadings, referring to FD 36007 must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington D.C. 20423-0001. In addition, one copy of each pleading must be served on:

John D. Heffner
Strasburger & Price, LLP
1025 Connecticut Avenue, N.W.
Suite 717
Washington, D.C. 20036
(202) 742-8607

Counsel for Petitioner

Board decisions and notices are available on our website at WWW.STB.DOT.GOV.

Decided:

By the Board,
Daniel R. Elliot

