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December 27, 2012



Via HAND DELIVERY

Ms. Cynthia T. Brown
Chief, Section of Administration,
Office of Proceedings
Surface Transportation Board
395 E Street, S.W
Washington, DC 20423

ENTERED
Office of Proceedings

DEC 27 2012

Part of
Public Record

**Re: Finance Docket No. 35708, Koch Industries, Inc. – Acquisition of Control
Exemption – Texas South-Eastern Railroad Company**

Dear Ms. Brown,

Enclosed for filing in the above-captioned docket are the original plus ten copies of a Notice of Exemption of non-carrier Koch Industries, Inc. filed with respect to its control of the Texas South-Eastern Railroad Company, a Class III rail carrier, pursuant to 49 CFR 1180.2(d). Also enclosed is a check for the filing fee of \$1,300. An additional 20 copies of the relevant maps are also included.

A motion for protective order is also enclosed, together with a copy of the Agreement subject to that motion, which is submitted under seal.

Please date stamp the additional copy of this Notice and return it with our messenger.

If you have any questions, please feel free to contact me.

Respectfully,

David H. Coburn / KPD

David H. Coburn
Attorney for Koch Industries, Inc.

Enclosures

FILED
DEC 27 2012
SURFACE
TRANSPORTATION BOARD

233595

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 35708

KOCH INDUSTRIES, INC.
- ACQUISITION OF CONTROL EXEMPTION -
TEXAS SOUTH-EASTERN RAILROAD COMPANY



VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1180.2(d)(2)

Color Maps Included

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**SURFACE
TRANSPORTATION BOARD**

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Counsel for Koch Industries, Inc

December 27, 2012

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TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 35708

KOCH INDUSTRIES, INC.
– ACQUISITION OF CONTROL EXEMPTION –
TEXAS SOUTH-EASTERN RAILROAD COMPANY

VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1180.2(d)(2)

Pursuant to the regulations of this Board at 49 C.F.R. § 1180.2(d)(2) and 1180.4(g), non-carrier Koch Industries, Inc (“Koch”), a Kansas corporation, files this Verified Notice of Exemption from the prior approval requirements of 49 U.S.C. §§ 11323-11325 with respect to its indirect acquisition of control of Class III rail carrier Texas South-Eastern Railroad Company (“TSE”), a Texas corporation.

In support of this Verified Notice, Applicant hereby submits the following information.

49 C.F.R. § 1180.6(a)(1)(i): A brief summary of the proposed transaction, the name of applicants, their business address, telephone number, and the name of the counsel to whom questions regarding the transaction can be addressed.

A Purchase Agreement dated December 12, 2012 was entered between non-carriers International Paper Company (“International Paper”), a New York corporation; Georgia-Pacific Building Products LLC (“GP Building Products”), a Delaware limited liability company; and Georgia-Pacific LLC (“GP”), a Delaware limited liability company and an indirect wholly-owned subsidiary of Koch. Under that Agreement, GP Building Products agreed to purchase from International Paper certain assets used in connection with, and certain equity interests relating to, Temple-Inland, Inc.’s (“Temple-Inland”) building products business. Through various intermediaries, International Paper wholly owns Temple-Inland, a Delaware corporation.

Temple-Inland, through an intermediary subsidiary, owns TSE. The right to purchase the shares of TSE is provided to GP Building Products under the Purchase Agreement, and that right will be assigned to GP or to another subsidiary of GP prior to the closing.

TSE is a Class III common carrier by rail whose address is 515 Pine Valley Road Diboll, TX 75941-1422. TSE owns and operates approximately two (2) miles of common carrier mainline operating track in Diboll, Texas and some connecting exempt industrial spurs to shipper facilities. It also owns an adjoining approximately ten (10) miles of exempt track which is now used for rail car storage only and not for transportation purposes.¹ See Exhibit 1, which includes a map and aerial photo showing these TSE tracks.

TSE's only connection is with the Union Pacific Railroad at Diboll. TSE serves wood products manufacturing facilities owned by a Temple-Inland subsidiary, but to be purchased by GP Building Products as part of the transaction described above. Various wood products, including lumber, particleboard and fiberboard are transported on the line for the account of the facilities. A variety of other products (including other wood products and bulk products) are transported for four other unrelated shippers located on the TSE line. A total of about 450 carloads per year are transported on the TSE. Service to the other shippers on the line will not be impacted by the planned transaction.

For reasons unrelated to transportation services, IP will retain an easement over certain property underlying two of the exempt industrial spurs, but provide rights to TSE to operate over

¹. For the Board's information, in 1996, the Angelina & Neches River Railroad Company ("ANR"), based in Lufkin, Texas, acquired control of the TSE through a purchase agreement STB Finance Docket No. 32888, *Angelina & Neches Railroad Company – Purchase Exemption – Texas South-Eastern Railroad Company* (served May 29, 1996). IP acquired control of ANR in 2000. See *International Paper Company – Acquisition of Control Exemption – Moscow, Camden & San Augustine Railroad and Angelina & Neches River Railroad Company*, STB Finance Docket No. 33890 (served July 6, 2000). The current transaction does not involve the ANR, with which the TSE used to connect. That connection is no longer operational.

that track. IP will not be providing any rail service over that track.

Upon completion of the transaction, and assignment of its stock by GP Building Products to GP or a wholly-owned affiliate of GP, TSE will be wholly owned by GP or its wholly-owned affiliate. As noted above, GP is an indirect wholly owned subsidiary of Koch.

Koch currently controls, pursuant to STB exemption, four other Class III railroads.

These are as follows:

Blue Rapids Railway Company, LLC ("BRR"), which operates a 10-mile shortline railroad between Marysville, Kansas and Bestwall, Kansas, connecting at Marysville with the Union Pacific Railroad. BRR's direct parent is Georgia-Pacific Gypsum LLC, which is an indirect wholly-owned subsidiary of Koch Industries

KM Railways, LLC ("KMR") owns an approximately 2.5-mile short-line railroad in Mississippi. The rail line is located in Perry County and extends between New Augusta (Station No. FSAC 10) and Augusta (Station No. FSAC 20). There are no branch lines and no mile posts. The line serves a pulp mill and connects with the Canadian National Railway Company.

Old Augusta Railroad, LLC ("OAR"), operates the above-described short-line railroad in Mississippi owned by KMR. OAR operates the line pursuant to a lease agreement with KMR.

Moscow Camden and San Augustine Railroad, LLC ("MCSA") is a 6.9-mile short-line railroad that operates between the lumber and plywood plants at Camden, Texas and Moscow, Texas, where it connects with the Union Pacific Railroad. MCSA's direct parent is Georgia-Pacific Wood Products South LLC, an indirect wholly owned subsidiary of Koch.

Koch's control over these railroads was exempted from the Board's regulatory approval requirements in *Koch Industries, Inc – Continuance in Control Exemption – KM Railways, LLC*, STB Finance Docket No. 35320 (served Dec. 4, 2009); *Koch Forest Products, Inc and Koch*

Industries, Inc. – Acquisition of Control Exemption – Gloster Southern R.R. Co. & Blue Rapids Ry Co., STB Finance Docket No. 34784 (served Dec. 28, 2005); *Old Augusta Railroad, LLC – Acquisition and Operation Exemption – Assets of Old Augusta Railroad Co ,* STB Finance Docket No. 34493 (served Apr. 21, 2004); *Koch Industries, Inc – Continuance in Control Exemption – Moscow Camden and San Augustine Railroad LLC,* STB Finance Docket No. 34991 (served Feb. 16, 2007).

This transaction satisfies the criteria for class exemption for control set forth at 49 C.F.R. § 1180.2(d)(2). TSE does not connect with any railroads owned or controlled by Koch. this transaction is not part of a series of anticipated transactions that would connect any of the Koch-controlled railroads with each other or with TSE, and the transaction does not involve a Class I carrier

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

Koch Industries, Inc.
4111 East 37th Street North
Wichita, KS 67220

Any questions concerning this Notice should be sent to Koch Industries' representative at the following address

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

49 C.F.R. § 1180.6(a)(1)(ii): The proposed time schedule for consummation of the proposed transaction.

Pending regulatory approvals. International Paper and GP Building Products intend to close the transaction on or about February 1, 2013. Pursuant to 49 C.F.R. § 1180.4(g), the

transaction will not be consummated before a date which is at least 30 days from the filing date of this Verified Notice of Exemption.

49 C.F.R. § 1180.6(a)(1)(iii): The purpose sought to be accomplished by the proposed transaction, e.g., operating economies, eliminating excess facilities, improving service, or improving the financial viability of the applicants.

Koch's planned indirect acquisition of TSE is not a transportation-related transaction. The transaction is part of an agreement, valued at approximately \$750 million, in which GP Building Products, an indirect wholly owned subsidiary of Koch Industries, is purchasing from International Paper certain assets used in connection with, and certain equity interests relating to, Temple-Inland's building products business. The transaction was based on a variety of considerations that relate to the non-transportation markets in which GP Building Products and International Paper operate. The transaction is not designed to have either a material operational or financial impact on the operations of TSE or on any of the four other railroads controlled by Koch. The transaction will not have an adverse impact on rail competition.

49 C.F.R. § 1180.6(a)(5): A list of the State(s) in which any part of the property of each applicant carrier is situated.

TSE operates only in Texas

49 C.F.R. § 1180.6(a)(6): Map (exhibit 1). Submit a general or key map indicating clearly, in separate colors or otherwise, the line(s) of applicant carriers in their true relations to each other, short line connections, other rail lines in the territory, and the principal geographic points in the region traversed. If a geographically limited transaction is proposed, a map detailing the transaction should also be included. In addition to the map accompanying each application, 20 unbound copies of the map shall be filed with the Board.

Maps illustrating the rail lines indirectly controlled by Koch, including the TSE rail line that Koch will indirectly acquire, are attached as Exhibit 1. One of the TSE maps shows the TSE mainline and industrial track; the other is an aerial photo which shows the approximately 10 mile storage track. Koch is filing 20 unbound copies of the maps with the Board.

49 C.F.R. § 1180.6(a)(7)(ii): Agreement (exhibit 2). Submit a copy of any contract or other written instrument entered into, or proposed to be entered into, pertaining to the proposed transaction.

A copy of the December 12, 2012 Purchase Agreement between International Paper, GP Building Products, and GP is being submitted to the STB under separate cover with an accompanying motion for protective order in view of the business confidences in that Agreement.

Labor Protection.

Because the TSE is a Class III rail carrier, and will remain a Class III carrier, like each of the other railroads controlled by Koch, no labor protection may be imposed on this transaction pursuant to 49 U.S.C. § 11326(c).

Environmental and Historic Impacts:

Pursuant to 49 C.F.R. § 1105.6(c)(2), environmental documentation normally need not be prepared for a transaction that will not result in a diversion of (1) more than 1,000 rail carloads a year to motor carriage, or (2) an average of 50 carloads per mile year for any part of the rail line to motor carriage or for a transaction that will not result in (a) 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 lines, (b) an increase of rail yard activity of at least 100 percent, or (c) an average increase in truck traffic or more than 10 percent of the average daily traffic or 50 vehicles a day. This transaction will not meet any of the above thresholds nor result in any operational changes. Also, this transaction does not contemplate any changes relative to the transportation of any ozone depleting materials. Therefore, no environmental documentation is required under 49 C F R. § 1105.6(c)(2).

Pursuant to 49 C.F.R. § 1105.8(b)(1), the reporting requirements of 49 C.F.R. § 1105.8(a) do not apply to “[a] sale, lease or transfer of a rail line for the purpose of continued rail

operations where further STB approval is required to abandon any service and there are no plans to dispose of or alter properties subject to STB jurisdiction that are 50 years old or older.” See 49 C F R § 1105.8(b)(3). No historic report is required here because the transaction satisfies the conditions specified in 49 C.F.R. § 1105.8(b)(1).

CONCLUSION

For the foregoing reasons, the Koch Industries, Inc. requests that the Board determine that this transaction is exempt from regulation pursuant to §49 C.F.R. §1180.2(d)(2) and issue a notice of this exemption.

Respectfully submitted,



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1330 Connecticut Avenue, NW
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(202) 429-8063

Counsel for Koch Industries, Inc.

December 27, 2012

VERIFICATION

I, James Mahoney, Executive Vice President of Koch Industries, Inc., verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file the foregoing document.

Executed on December 24, 2012.

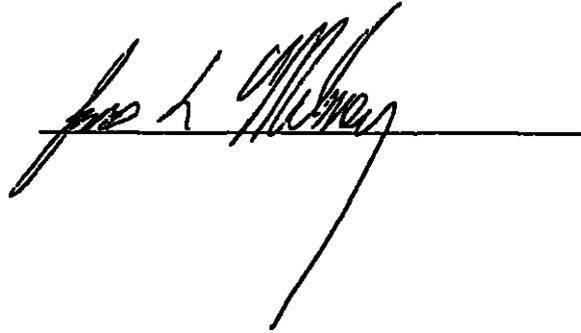
A handwritten signature in black ink, appearing to read "James Mahoney", is written over a solid horizontal line. The signature is cursive and extends above and below the line.

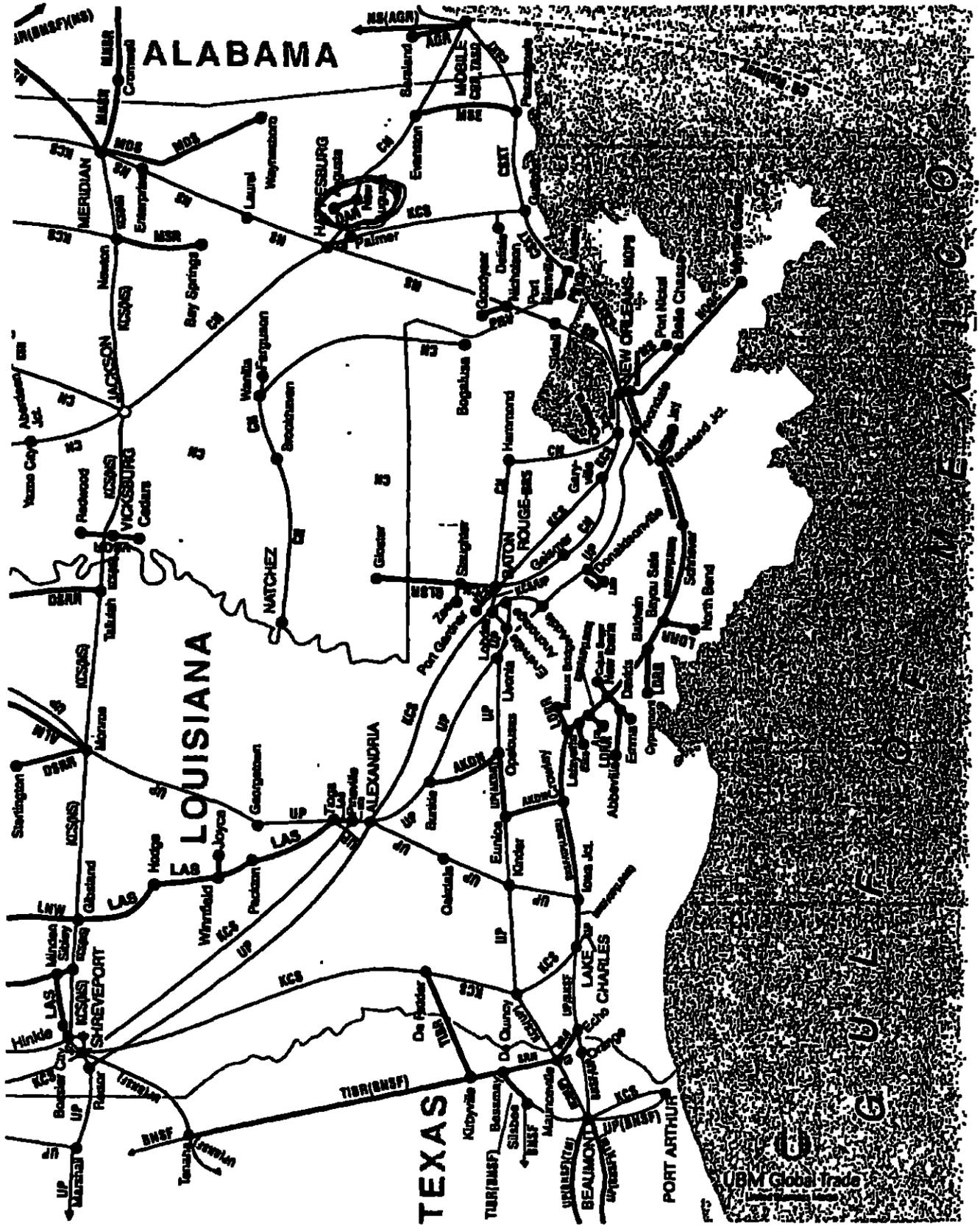
EXHIBIT 1

MAP OF RAILROADS

EXHIBIT 1

TEXAS SOUTH-EASTERN RAILROAD COMPANY

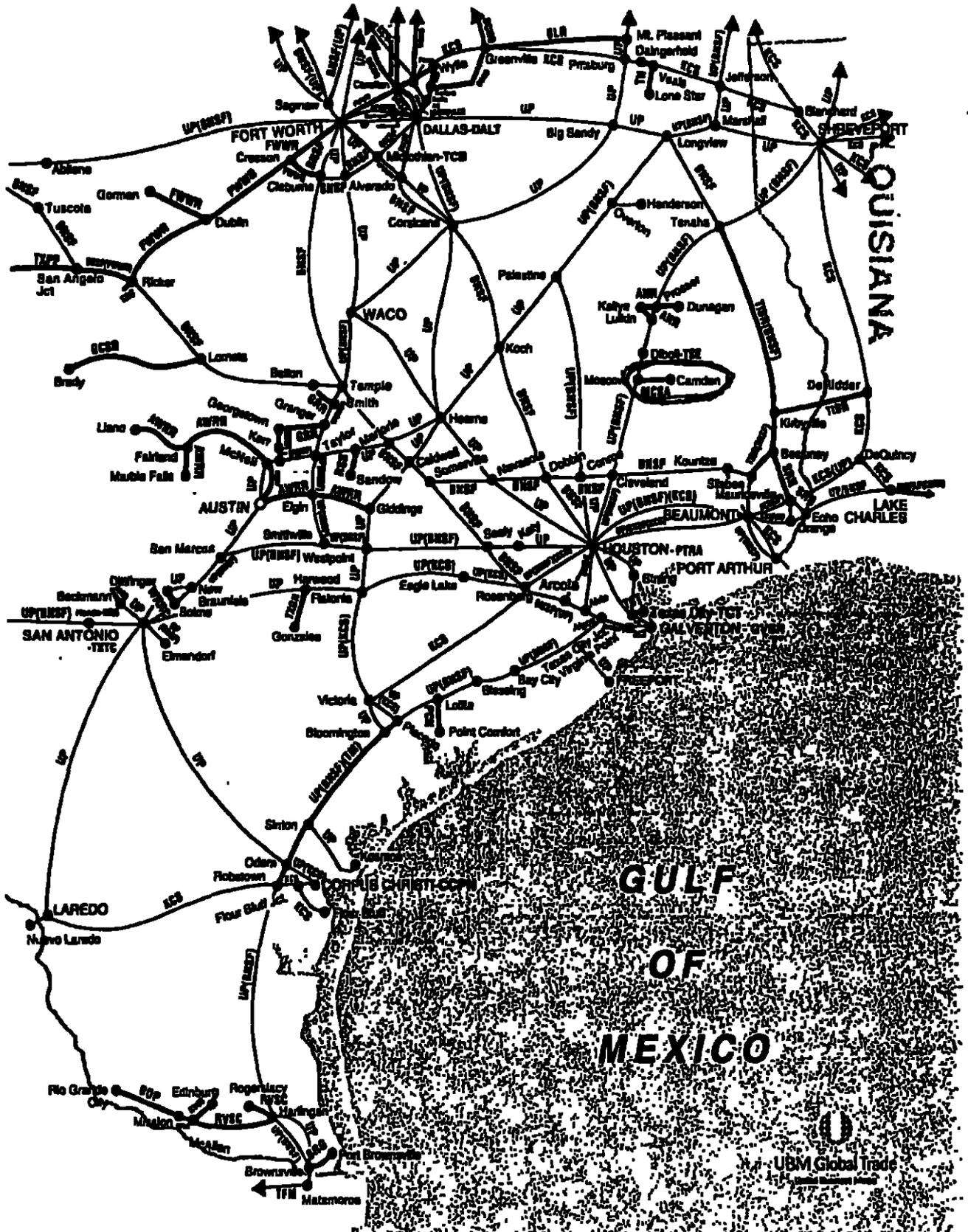




MOSCOW, CAMDEN & SAN AUGUSTINE RAILROAD

REGION 20/21

OK/TX



UBM Global Trade

EXHIBIT 2

PURCHASE AGREEMENT

(Filed under separate cover with Motion for a Protective Order)