

TRANSPORT COUNSEL PC

ATTORNEYS AT LAW

May 7, 2014

236006

BY HAND

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E. Street, SW
Washington, DC 20423-0001

ENTERED
Office of Proceedings
May 7, 2014
Part of
Public Record

Re: STB Finance Docket No. 35789, Pacific Harbor Line, Inc. -- Lease and Operation Exemption --
Union Pacific Railroad Company

Dear Ms. Brown,

Enclosed for filing in the above-referenced proceeding are an original and 10 copies of the verified notice of exemption of Pacific Harbor Line, Inc., pursuant to 49 C.F.R. § 1150.41, as well as a check in the amount of \$1,900 to cover the cost of the filing.

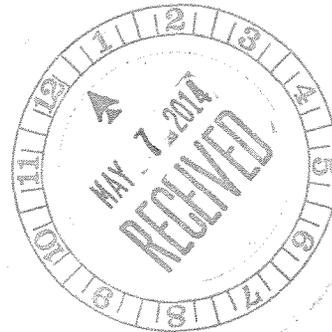
Please acknowledge receipt of this letter by date-stamping the enclosed acknowledgment copy.

Respectfully submitted,

Rose - Michele Nardi / ESY

Rose-Michele Nardi

FILED
May 7, 2014
SURFACE
TRANSPORTATION BOARD



FEE RECEIVED
May 7, 2014
SURFACE
TRANSPORTATION BOARD

PACIFIC HARBOR LINE, INC.
-LEASE AND OPERATION EXEMPTION-
UNION PACIFIC RAILROAD COMPANY

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

STB FINANCE DOCKET No. 35789

Applicant's name and current mailing address:

Pacific Harbor Line, Inc.
705 N. Henry Ford Ave.
Wilmington, California 90744

Applicant's representative to receive correspondence:

Rose-Michele Nardi
Transport Counsel PC
1701 Pennsylvania Avenue, NW Suite 300
Washington, D.C. 20006
(202)349-3660

Information concerning the agreement:

Pacific Harbor Line, Inc. ("PHL"), a Class III rail carrier, has entered into a non-exclusive lease agreement (the "Lease") with Union Pacific Railroad Company ("UP"), a Class I rail carrier. Pursuant to the Lease, PHL will conduct certain rail operations over certain UP-owned property in Los Angeles County, California, commonly known as the "Santa Ana Bypass Track".

Operator of the property:

PHL seeks authority of operate over the Subject Line (as described below) pursuant to the Lease. Under the terms of the Lease, PHL shall only use the Subject Line for: (1) the pick-up and set-out and handling of rail cars being moved in switch service by PHL on behalf of UP, and (2) switching and storage of rail cars (including without limitation spotting and picking up loaded and empty rail cars at customers that can be served from the Subject Line). All such services performed by PHL over the Subject Line shall be exclusively for UP and the customers served via the Subject Line.

Under the terms of the Lease, UP retains the exclusive right to handle (a) unit train traffic to and from customers served from the Subject Line, and (b) all traffic to and from the Subject Line that is interchanged with third party railroads in or near the Port of Los Angeles or Port of Long Beach.

Brief summary of the proposed transaction:

The address of UP is: Union Pacific Railroad Company, 1400 Douglas Street, Omaha, NE 68179. The Subject Line consists of track structure totaling approximately 30,820 feet¹ in Los Angeles County, CA that is commonly known as the "Santa Ana Bypass Track". More specifically, the Subject Line extends from the surface level adjacent to the east side of the Alameda Corridor trench from the north side of the Compton Creek Bridge (approximate Mile Post 21.7 at CP Compton) to Firestone Park (approximate Mile Post 15.9) and connections to existing industry customers.²

Map:

A map of the Subject Line is attached hereto as Exhibit A.

Related Proceeding:

In connection with this proceeding, PHL will be filing in STB Finance Docket No. 35814 a notice of exemption, pursuant to 49 C.F.R. § 1150.41, to operate over certain track segments, which operation is necessary for PHL to access the Subject Line.

Interchange Commitments:

The lease between PHL and UP does not contain any provision that may limit future interchange with a third-party connecting carrier³.

Labor Notice Requirements/Consummation of Lease:

Because the projected annual revenue of PHL (including the projected annual revenue generated by PHL's lease of the Subject Line) exceeds \$5 million, PHL has provided notice to labor pursuant to 49 C.F.R. § 1150.42(e). PHL will not consummate the Lease until (1) thirty (30) days or more after filing this notice of exemption, and (2) sixty (60) days or more after filing its certification with the STB, pursuant to section 1150.42(e), on April 30, 2014.

¹ This total amount includes some side track that may be governed by section 10906 of the ICC Termination Act of 1995.

² The applicable Engineering Stations are 357 + 00 on the north to and including Engineering Station 665 + 20 on the south.

³ As explained above, UP's grant of operating rights to PHL over the Subject Line excludes certain types of traffic, for which UP will retain the exclusive common carrier obligation. There are no provisions that limit interchange with respect to the traffic for which PHL will have a common carrier obligation to handle.

Environmental/Historical Issues:

Environmental documentation normally need not be prepared for transactions that do not involve the diversion from rail to motor carriage of more than (A) 1,000 rail carloads a year, or (B) an average of 50 rail carloads per mile per year for any part of the affected line (49 C.F.R. § 1105.7(e)(4)), on the one hand, or that do not involve (A) an increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, (B) an increase in rail yard activity of at least 100 percent (measured by carload activity), or (C) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment (49 C.F.R. § 11057(e)(5)), on the other hand. *See* 49 C.F.R. §1 105.6(c)(2).

The Lease will not result in changes in carrier operations that exceed the above-listed thresholds. Therefore, no environmental documentation is required for this Verified Notice of Exemption.

Transactions involving a sale, lease or transfer of a rail line for the purpose of continued rail operations are exempt from the historic report requirements of 49 C.F.R. § 1105.8(a) if termination of such operations requires further approval by the Board and "there are no plans to dispose of or alter properties subject to [the Board's] jurisdiction that are 50 years old or older." *See* 49 C.F.R. §1105.8(b)(1).⁴

Board approval will be required to terminate PHL's common carrier operations over the Subject Line. PHL does not plan on disposing or altering 50-year old properties or older, over which the Board has jurisdiction.

Certificate of projected revenue:

In accordance with 49 C.F.R. § 1150.43(g), a certificate concerning PHL is attached as Exhibit B.

Respectfully Submitted

Rose-Michele Nardi /EJY

Rose-Michele Nardi
Transport Counsel PC
1701 Pennsylvania Avenue NW, Suite 300
Washington, D.C. 20006

Attorneys for Pacific Harbor Line, Inc.

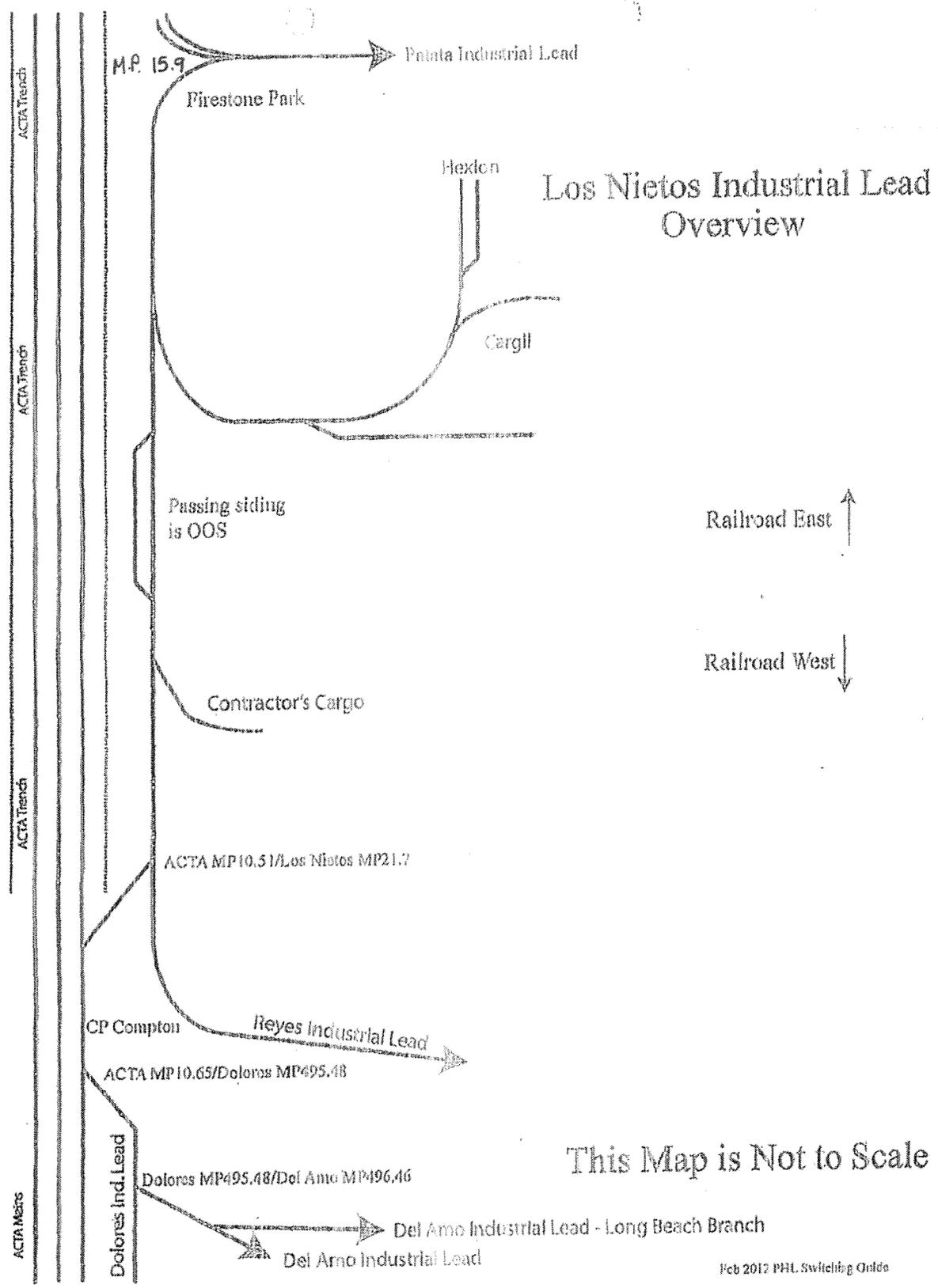
⁴ In addition, the maintenance level of the Subject Line will not change substantially.

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. §1150.41
STB Finance Docket No. 35789**

**PACIFIC HARBOR LINE, INC.
-LEASE AND OPERATION EXEMPTION-
UNION PACIFIC RAILROAD COMPANY**

EXHIBIT A

**MAP OF SUBJECT
TRACK**



Los Nietos Industrial Lead Overview

Railroad East ↑
Railroad West ↓

This Map is Not to Scale

VERIFIED NOTICE OF EXEMPTION

PURSUANT TO 49 C.F.R. §1150.41

STB Finance Docket No. 35789

**PACIFIC HARBOR LINE, INC.
-LEASE AND OPERATION EXEMPTION-
UNION PACIFIC RAILROAD COMPANY**

EXHIBIT B

**CERTIFICATE OF
REVENUE**

CERTIFICATE OF REVENUE

In accordance with 49 C.F.R § 1150.43(g), I do hereby certify that the projected revenues of Pacific Harbor Line, Inc. as a result of this transaction will not result in the creation of a class II or class I rail carrier.

Signature: OL Claff II
Name: OL Claff II
Title: President
Date: 5/7/2014

**SURFACE TRANSPORTATION
BOARD**

***VERIFIED NOTICE OF
EXEMPTION***

STB Finance Docket No. 35789

**PACIFIC HARBOR LINE, INC.
-LEASE AND OPERATION EXEMPTION-
UNION PACIFIC RAILROAD COMPANY**

Pacific Harbor Line, Inc., a class III rail carrier, has filed a notice of exemption under 49 C.F.R. § 1150.41 to lease non-exclusively and perform certain rail operations over, as more particularly described in the notice of exemption filed in this proceeding, certain track structure owned by Union Pacific Railroad Company in Los Angeles County, CA, which totals approximately 30,820 feet¹ of track commonly known as the "Santa Ana Bypass Track" (the "Subject Line"). More specifically, the Subject Line extends from the surface level adjacent to the east side of the Alameda Corridor trench from the north side of the Compton Creek Bridge (approximate Mile Post 21.7 at CP Compton) to Firestone Park (approximate Mile Post 15.9) and connections to existing industry customers.²

Comments must be filed with the Surface Transportation Board, Office of the Secretary, 1925 K Street, N.W., Washington, D.C. 20423-0001 and served on Rose-Michele Nardi, Transportation Counsel PC, 1701 Pennsylvania Avenue NW, Suite 300, Washington, D.C. 20006.

This proceeding is related to Finance Docket No. 35814, Pacific Harbor Line, Inc. - Operation Exemption - Union Pacific Railroad Company, whereby PHL will obtain the authority to operate over certain track, which operations are necessary for PHL to access the Subject Line.

¹ This total amount includes some side track that may be governed by section 10906 of the ICC Termination Act of 1995.

² The applicable Engineering Stations are 357 + 00 on the north to and including Engineering Station 665 + 20 on the south.

This notice is filed under 49 C.F.R. § 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.

Decided:

By the Board,

VERIFICATION

I, Otis Cliatt, certify under penalty of perjury that the foregoing notice of exemption is true and correct to the best of my knowledge, information and belief. Further, I certify that I am qualified and authorized to cause this Verified Notice of Exemption to be filed.



Otis Cliatt, President
Pacific Harbor Line, Inc.

Dated: 5/7, 2014