

238317

Strasburger

ATTORNEYS AT LAW

ENTERED
Office of Proceedings
May 5, 2015
Part of
Public Record

May 5, 2015



JOHN D. HEFFNER
(202) 742-8607
Direct Fax (202) 742-8697
John.Heffner@strasburger.com

BY HAND

Ms. Cynthia T. Brown
Chief of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, N.W.
Washington, D.C. 20423

**RE: FD 35917, LEWPAC, LLC, Lease and Operation Exemption Mount
Vernon Terminal Railway LLC**

Dear Ms. Brown:

On behalf of LEWPAC, LLC, applicant, I am enclosing an original and ten copies of a notice of exemption for lease and operation of a line of railroad pursuant to 49 U.S.C. §10901 and 49 CFR §1150.31. I am also submitting a check for \$1800 to cover the applicable filing fee and a copy of this filing on a computer disk.

Please date stamp and return to me one copy of this filing.

Sincerely yours,

John D. Heffner

Enclosure

cc: Thomas Jones

FEE RECEIVED
May 5, 2015
SURFACE

TRANSPORTATION BOARD

FILED
May 5, 2015
SURFACE

TRANSPORTATION BOARD

6813137.1/SP/37231/0101/050515

Strasburger & Price, LLP

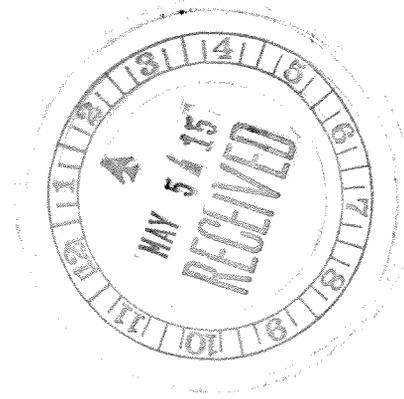
1025 Connecticut Ave., N.W. Suite 717 | Washington, DC 20036 | 202.742.8600 tel | 202.742.8699 fax | www.strasburger.com

Austin | Collin County | Dallas | Houston | San Antonio | New York, N.Y. | Washington, D.C. | Mexico City - Strasburger & Price, SC

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 35917

**LEWPAC, LLC
LEASE AND OPERATION EXEMPTION
MOUNT VERNON TERMINAL RAILWAY LLC**



**-----
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: May 5, 2015

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 35917

**LEWPAC, LLC
LEASE AND OPERATION EXEMPTION
MOUNT VERNON TERMINAL RAILWAY LLC**

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

LEWPAC, LLC (“LP”) a non-carrier files this Verified Notice of Exemption pursuant to the class exemption at 49 C.F.R. §§ 1150.31-1150.34 to lease and operate a line of railroad (“the Line”) owned by the Mount Vernon Terminal Railway LLC (“MVTR”), of Mount Vernon, Washington. The Line extends a total distance of .47 miles. A map illustrating the Line is attached as Exhibit A.

INFORMATION REQUIRED BY 49 CFR §1150.33

Name and Address of Applicant

49 CFR §1150.33(a)

LEWPAC, LLC
Mr. Thomas M. Jones, President
P.O. Box 732128
Puyallup, Washington 98373

Applicant's Representative

49 CFR §1150.33(b)

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

Statement of Agreement

49 CFR §1150.33(c)

LP and MVTR, have entered into an Exclusive Negotiation Agreement dated March 27, 2015, initiating negotiations between the parties. LP anticipates that the parties will reach agreement for the lease and operation of the railroad with an option to purchase MVTR's assets.

Operator of the Property

49 CFR §1150.33(d)

LP will replace MVTR as the common carrier providing all service on the Line.

Brief Summary of Transaction

49 CFR §1150.33(e)

LP, a non-carrier, intends to lease and operate a line of railroad currently owned and operated by MVTR. The subject line was originally constructed by the Puget Sound & Cascade Railway in 1916. It was subsequently acquired by MVTR in 1939 which currently operates between milepost 0.0 and milepost 0.47. MVTR's line connects with BNSF's Bellingham Subdivision at MP 70 in Mount Vernon, WA.

Other information required

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

Mount Vernon Terminal Railway LLC
615 N. 16th Street
Mount Vernon, WA
98273

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

LP intends to consummate this transaction on or about June 5, 2015, more than 30 days from the date of this notice.

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

Between milepost 0.0 and milepost 0.47

Map 49 CFR §1150.33(f)

A map depicting the railroad trackage to be operated is attached as Exhibit A.

Certificate of Carrier Classification 49 CFR §1150.33(g)

LP certifies that with this transaction its projected annual revenues will be less than \$5,000,000. A certificate complying with the provisions of 49 CFR §1150.33(g) is attached as Exhibit B to this notice.

Transactions Imposing Interchange Commitments 49 CFR §1150.33(h)

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

Labor Protection

Labor protective conditions are not generally applicable to transactions under 49 U.S.C. §10901 and should not be imposed here as no employees will be adversely affected.

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.

Submitted By:



John D. Heffner

Strasburger & Price, LLP

1025 Connecticut Avenue, N.W.

Suite 717

Washington, D.C. 20036

(202) 742-8607

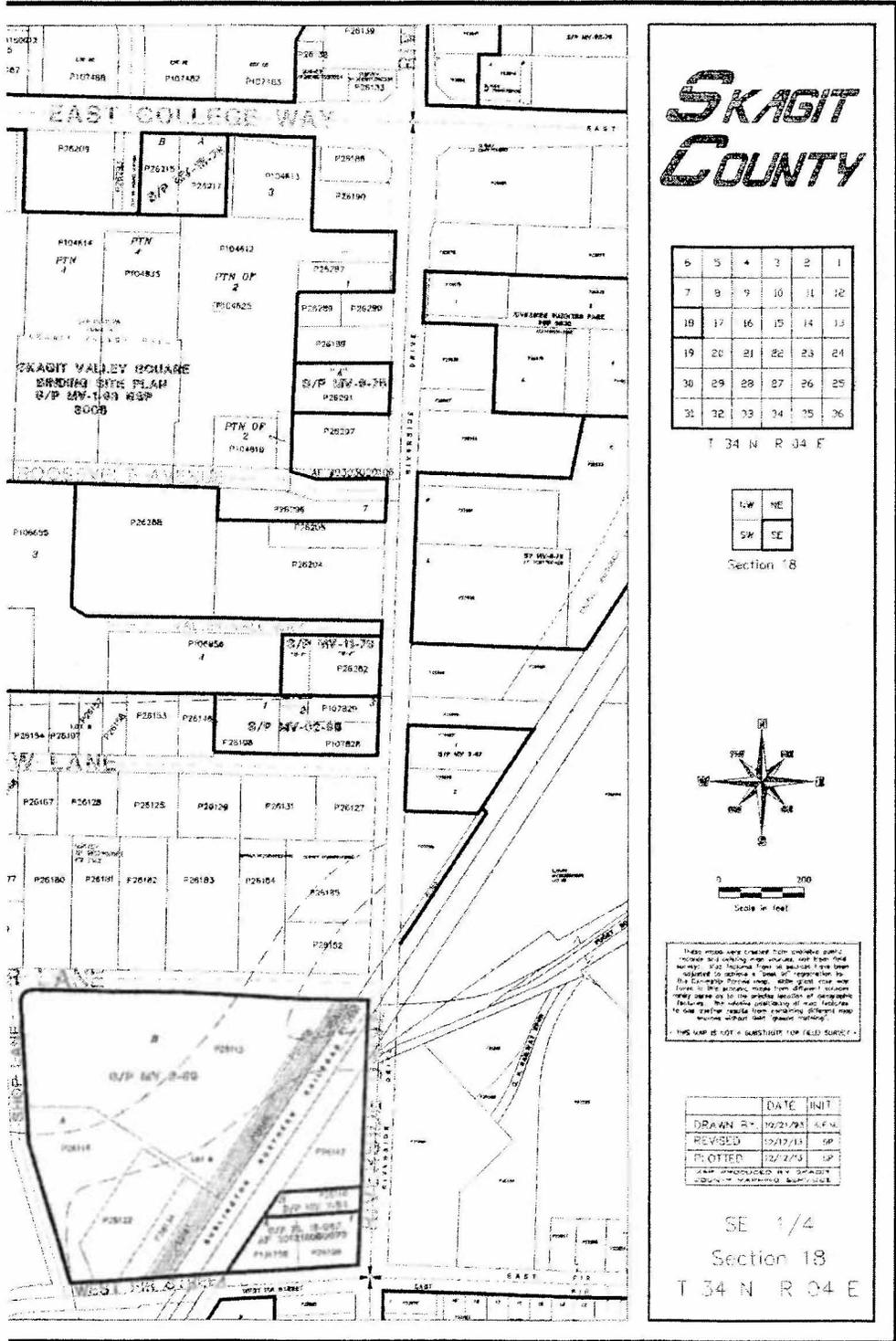
Counsel for Petitioner

Dated: May 5, 2015

EXHIBIT A

Mount Vernon Terminal Railway line between MP 1.172 and MP
Township 34N , Range 04, Section 18 and 19 in Skagit County,
Washington.

(Property Outlined in Green)



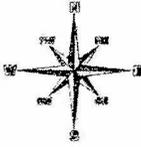
SKAGIT COUNTY

6	5	4	3	2	1
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13	14	15	16	17	18
19	20	21	22	23	24
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T 34 N R 04 E



Section 18

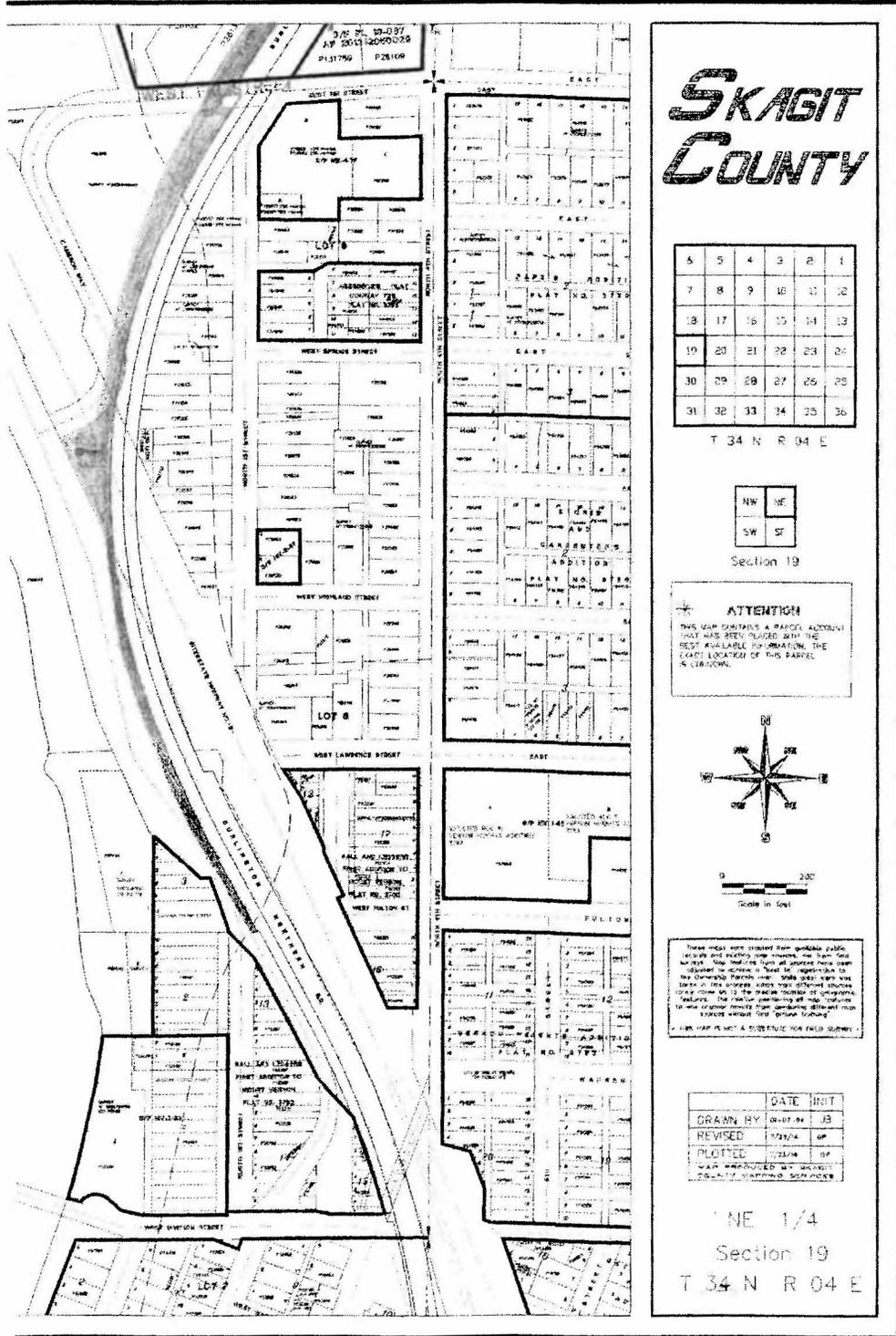


0 200
Scale in feet

These maps were created from available public records and field surveys. They are not intended to show a deed or other legal instrument. The Skagit County Assessor's Office is not responsible for the accuracy of the information shown on these maps. The user assumes all liability for any errors or omissions. This map is not a substitute for field survey.

	DATE	INIT
DRAWN BY	12/21/01	CPV
REVISED	12/12/11	SP
PLOTTED	12/14/11	LP
MAP PRODUCED BY SPADY COUNTY MAPPING SERVICE		

SE 1/4
Section 18
T 34 N R 04 E



SKAGIT COUNTY

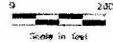
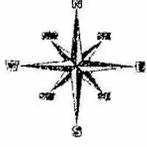
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19	20	21	22	23	24
25	26	27	28	29	30
31	32	33	34	35	36

T 34 N R 04 E



Section 19

ATTENTION
 THIS MAP CONTAINS A PARCEL ADDRESS THAT HAS BEEN PLACED WITH THE BEST AVAILABLE INFORMATION. THE EXACT LOCATION OF THIS PARCEL IS UNKNOWN.



These maps were created from available public records and existing map records. We have not conducted a field survey. All parcels shown are subject to change. It is the responsibility of the user to verify the accuracy of the information shown on this map. We are not responsible for any errors or omissions. The user assumes all liability for any use of this map. We are not responsible for any use of this map without first obtaining permission.

	DATE	INIT
DRAWN BY	04-07-94	J3
REVISED	12/17/94	GP
PLOTTED	12/17/94	TP

NE 1/4
 Section 19
 T 34 N R 04 E

Exhibit 6

Certification

I, Thomas M. Jones certify that I am President of LEWPAC, LLC and that applicant's projected revenues will not exceed \$5 million annually and will not result in the applicant becoming a Class I or Class II carrier under the provisions of 49 CFR 1201(1-1).

Dated: April 28, 2015

Signature

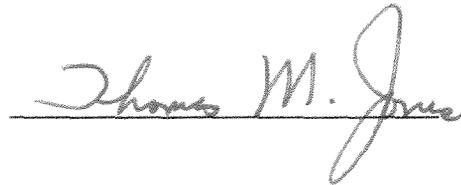
A handwritten signature in cursive script that reads "Thomas M. Jones". The signature is written in black ink and is positioned above a horizontal line.

EXHIBIT C

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 35917

**LEWPAC, LLC
LEASE AND OPERATION EXEMPTION
MOUNT VERNON TERMINAL RAILWAY LLC**

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LP certifies that its projected annual revenues as a result of this transaction would not exceed those that would qualify it as a Class III rail carrier and further certifies that its projected annual revenues will not exceed \$5 million. 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 the exemption. Petitions for stay must be filed no later than May 28, 2015 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to FD 35917, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on John D. Heffner, Esq., Strasburger & Price, 1025 Connecticut Ave., N.W. – Suite 717, Washington, D.C. 20036, Telephone: (202) 742-8607, counsel for LP.

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

Decided:

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

VERIFICATION

STATE OF Washington

CITY OF Woodinville

Thomas M. Jones, being duly sworn according to law, hereby deposes and states that he holds the position of President with applicant/petitioner, is authorized to make this Verification, had read the foregoing document, and knows the facts asserted therein are true and accurate as stated, to the best of his knowledge, information, and belief.

Thomas M. Jones

Subscribed to and sworn to before me, a Notary Public, in and for the County of King in the State of Washington, this 28TH day of APRIL, 2015

Diane C. Fulton
Notary Public

My Commission expires: 4-02-2018

