

TRANSPORT COUNSEL PC

ATTORNEYS AT LAW

May 7, 2014

236005

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. 35814, Pacific Harbor Line, Inc. -- 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/ETJ

Rose-Michele Nardi



FILED
May 7, 2014
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
May 7, 2014
SURFACE
TRANSPORTATION BOARD

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

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

STB FINANCE DOCKET No. 35814

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 lease agreement with Union Pacific Railroad Company ("UP"), a Class I rail carrier (the "Lease"). The Lease primarily refers to PHL leasing an UP-owned track, referred to as the Santa Ana Bypass Track, for the purpose of performing certain, non-exclusive rail operations thereover. (PHL's lease of the Santa Ana Bypass Track is described in a separate notice of exemption filed with the Surface Transportation Board under Finance Docket No. 35789). However, the Lease also provides that PHL shall access the Santa Ana Bypass Track via non-exclusive rail operations over the Rail Corridor Portion and Drill Track Portion (each as defined below and together referred to herein as "Subject Track"). UP operates over both the Rail Corridor Portion and the Drill Track Portion¹. The Subject Track is owned by the City of Los Angeles, acting by and through its Board of Harbor Commissioners ("POLA"), and the City of Long Beach, acting by and through its Board of Harbor Commissioners ("POLB"). Rail operations over the Rail Corridor Portion is governed by an agreement among UP, BNSF, POLA, POLB and Alameda Corridor

¹ BNSF Railway Company ("BNSF") also operates over the Rail Corridor Portion (but not the Drill Track Portion). PHL's acquisition of operating rights for the Subject Track comes through UP and not BNSF.

Transportation Authority (ACTA"). Rail operations over the Drill Track Portion are governed by an agreement among UP, POLA, POLB and ACTA. POLA, POLB and ACTA have consented to UP's nonexclusive grant of certain operating rights to PHL over the Subject Track (the "Consent").

Operator of the property:

PHL seeks authority to operate over the Subject Track (as described below) pursuant to the Lease and the Consent.²

Brief summary of the proposed transaction:

The address of UP is: Union Pacific Railroad Company, 1400 Douglas Street, Omaha, NE 68179. POLA's address is Port of Los Angeles, 425 South Palos Verdes Street, San Pedro, CA 90733. POLB address is the Port of Long Beach, 4801 Airport Plaza Drive, Long Beach, CA 90815. The Subject Track consists of the following rail lines: (1) the rail line totaling approximately 5.5 miles that extends from approximate milepost 10.6 (CP Compton) to approximate milepost 16.1 (CP West Thenard), in Los Angeles County, California (the "Rail Corridor Portion");³ and (2) the rail line used by UP as an industrial lead that extends less than a quarter mile in length and is located on the west side of the Rail Corridor Portion, in Los Angeles County, California ("Drill Track Portion").

Map:

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

Related Proceeding:

In connection with this proceeding, PHL will be filing in STB Finance Docket No. 35789 a notice of exemption, pursuant to 49 C.F.R. § 1150.41, to operate the Santa Ana Bypass Track pursuant to the Lease.

Interchange Commitments:

The Lease between PHL and UP does not contain any provision that may limit future interchange with a third-party connecting carrier⁴.

² UP and BNSF also conduct rail operations over all or a portion of the Subject Track. See footnote 1, *supra*.

³ UP and PHL anticipate operations over the Rail Corridor Portion will occur over a combination of Main Tracks 1, 2 and 3, as approved from time to time by UP, POLB, POLA and ACTA.

⁴ As discussed in Finance Docket Number 35789, PHL's operating rights under the Lease 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.

Labor Notice Requirements/Consummation of Operations:

Because the projected annual revenue of PHL (including the projected annual revenue generated by PHL's operation of the Subject Track) exceeds \$5 million, PHL has provided notice to labor pursuant to 49 C.F.R. § 1150.42(e) with respect to UP employees.⁵ 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.

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. § 1105.6(c)(2).

PHL's operations over the Subject Track 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 trackage rights or similar actions are exempt from the historic report requirements of 49 C.F.R. § 1105.8(a) if the maintenance level of the railroad property will not change substantially. *See* 49 C.F.R. § 1105.8(b)(3). Because the maintenance level of the Subject Tracks will not change substantially, no historic documentation is required for this Verified Notice of Exemption.

⁵ As noted above, BNSF is not granting PHL any operating rights with respect to the Subject Track.

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 / esy

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

Attorneys for Pacific Harbor Line, Inc.

VERIFIED NOTICE OF EXEMPTION

PURSUANT TO 49 C.F.R. §1150.41

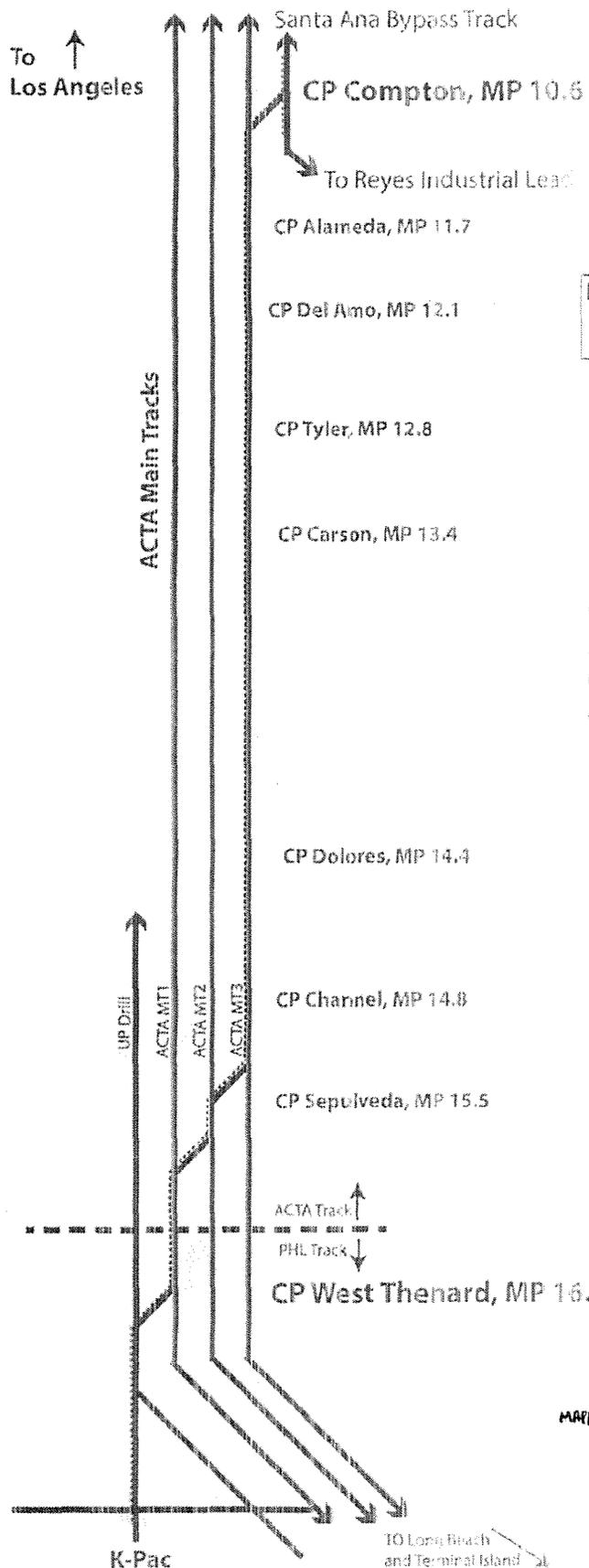
STB Finance Docket No. 35814

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

EXHIBIT A

**MAP OF
SUBJECT TRACK**

Exhibit A



PHL will use Alameda Corridor (ACTA) Main Tracks 1, 2, 3 between CP West Thenard, MP 16.1 and CP Compton, MP 10.6 (5.5 total miles)

From K-Pac at CP West Thenard, Eastward trains will travel from UP Drill Track, crossing over to ACTA MT1 at CP West Thenard and then crossing over to MT2 and MT3 at CP Sepulveda, entering the Santa Ana Bypass Track at CP Compton

----- = Route of travel

MAP IS NOT TO SCALE

VERIFIED NOTICE OF EXEMPTION

PURSUANT TO 49 C.F.R. §1150.41

STB Finance Docket No. 35814

**PACIFIC HARBOR LINE, INC.
-OPERATION EXEMPTION-
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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 Clatt II
Name: OL Clatt II
Title: President
Date: 5/17/2014

**SURFACE TRANSPORTATION
BOARD**

***VERIFIED NOTICE OF
EXEMPTION***

STB Finance Docket No. 35814

**PACIFIC HARBOR LINE, INC.
-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 perform non-exclusive rail operations over certain track structure owned by the City of Los Angeles, CA acting by and through its Board of Harbor Commissioner ("POLA") and the City of Long Beach, CA acting by and through its Board of Harbor Commissioners ("POLB"), and over which Union Pacific Railroad Company ("UP") operates,¹ which totals approximately 5.75 miles of track (the "Subject Track"). More specifically, the Subject Track consists of the following rail lines: (1) the rail line totaling approximately 5.5 miles that extends from approximate milepost 10.6 (CP Compton) to approximate milepost 16.1 (CP West Thenard) in Los Angeles County, California ("Rail Corridor Portion");² and (2) the rail line used by UP as an industrial lead that extends less than a quarter mile in length and is located on the west side of the Rail Corridor Portion, in Los Angeles County, California ("Drill Track Portion").

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.

¹ BNSF Railway Company ("BNSF") also operates over the Rail Corridor Portion (as defined below), but not the Drill Track Portion (as defined below). PHL's acquisition of operating rights for the Subject Track comes through UP and not BNSF.

² UP and PHL anticipate operations over the Rail Corridor Portion will occur over a combination of Main Tracks 1, 2 and 3, as approved from time to time by UP, POLB, POLA and ACTA.

This proceeding is related to Finance Docket No. 35789, Pacific Harbor Line, Inc. - Lease and Operation Exemption - Union Pacific Railroad Company, whereby PHL will obtain the authority to lease and operate over certain track in Los Angeles County, California known as the Santa Ana Bypass Track.

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,

