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October 8, 2015

ENTERED
Office of Proceedings
October 8, 2015

JOHN D. HEFFNER
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Part of
Public Record



BY HAND

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

RE: FD 35968, San Pedro Railroad Operating Company, LLC, d/b/a San Pedro & Southwestern Railroad – Lease and Operation Exemption – Union Pacific Railroad Company

Dear Ms. Brown:

I am submitting on behalf of the San Pedro Railroad Operating Company, LLC, d/b/a San Pedro & Southwestern Railroad, an original and ten copies of a verified notice of exemption under 49 CFR 1150.41 for San Pedro & Southwestern Railroad to lease and operate a line of railroad owned by the Union Pacific Railroad Company.

In addition, I am enclosing a filing fee check payable to the Board for \$1900 to cover this filing and a copy of the filing on a computer disk.

Please date stamp and return one copy of these documents for my files.

Sincerely yours,

John D. Heffner

FEE RECEIVED
October 8, 2015
SURFACE
TRANSPORTATION BOARD

FILED
October 8, 2015
SURFACE
TRANSPORTATION BOARD

7255855.1/SP/25124/0101/100615

Ms. Cynthia T. Brown

October 8, 2015

Page 2

Enclosures

cc: Mr. Scott Parkinson

ORIGINAL

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



FD35968

**SAN PEDRO RAILROAD OPERATING COMPANY, LLC
d/b/a SAN PEDRO & SOUTHWESTERN RAILROAD
-LEASE AND OPERATION EXEMPTION-
UNION PACIFIC RAILROAD COMPANY**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 U.S.C. §10902 and 49 CFR §1150.41**

Submitted By:

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

Patrick J. Larkin
Strasburger & Price, LLP
901 Main Street
Suite 4400
Dallas, TX 75202
(214) 651-2132

Counsel for Petitioner

Dated: October 8, 2015

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 35968

**SAN PEDRO RAILROAD OPERATING COMPANY, LLC
d/b/a SAN PEDRO & SOUTHWESTERN RAILROAD
-LEASE AND OPERATION EXEMPTION-
UNION PACIFIC RAILROAD COMPANY**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 U.S.C. §10902 and 49 CFR §1150.41**

San Pedro Railroad Operating Company, LLC, d/b/a San Pedro & Southwestern Railroad (“SPSR”), an existing Class III common carrier railroad, 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 lease and operate a line of railroad owned by the Union Pacific Railroad Company (“UPRR”). The trackage that is the subject of this notice is known as the Willcox Yard located at UPRR milepost 1074 in Willcox, AZ (“the Line”). A map depicting the Line is attached as Exhibit A.

INFORMATION REQUIRED BY 49 CFR §1150.43

Name and Address of Applicant	49 CFR §1150.43(a)
San Pedro Railroad Operating Company	
d/b/a San Pedro & Southwestern Railroad	
c/o ARG Transportation Services	
132 E. Broadway, Ste. 201	
Eugene, OR 97401	

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

49 CFR §1150.43(b)

Statement of Agreement 49 CFR §1150.43(c)

SPSR and UPRR had previously executed an agreement for the lease of the Line in 2005. This Agreement provides for a new five year term.

Operator of the Property 49 CFR §1150.43(d)

SPSR will continue to provide all common carrier railroad operations over the Line.

Brief Summary of Transaction 49 CFR §1150.43(e)

SPSR is an existing Class III common carrier railroad. SPSR has operated the Willcox Yard pursuant to a lease between SPSR and the UPRR dated June 29, 2005 (the "Initial Willcox Lease"). The Initial Willcox Lease will expire on or about November 1, 2015. SPSR and the UPRR have recently executed a lease providing for SPSR's continued operation of the Willcox Yard for another term of five years commencing on or about November 1, 2015 (the "New Willcox Lease"). SPSR and the UPRR did not initially seek an exemption under 49 CFR §1150.41 for the Initial Willcox Lease because both parties believed that the operations under the Initial Willcox Lease did not need Board authorization, inadvertently

believing the operations to be spur or yard track and exempt from licensing under 49 U.S.C. §10906. Upon realizing that Board authority was required, SPSR, acting in good faith, now files this notice of exemption to authorize its lease and operation of the line pursuant to the Initial Willcox Lease as well as the New Willcox Lease.

SPSR does not believe this exemption will be opposed or that any party will be adversely affected by this filing or by the delay in making a notice of exemption pursuant to 49 CFR §1150.41. Based upon past precedent, SFSR asks the Board to excuse its oversight and authorize this transaction. *Cf., The New Brunswick Railway Company—Continuance in Control Exemption—Maine Northern Railway Company*, FD 35520, STB served Sept. 26, 2011 (exempting a previously unauthorized railroad control transaction where the applicant acted in good faith in seeking after-the-fact authorization upon learning of the need for authority) and *David W. Wulfson—Control Exemption—Clarendon & Pittsford R.R.*, FD 33607 (STB served Aug. 20, 1998)(also approving a previously unauthorized control transaction where the petitioners acted in good faith).

Other information required

(1) The name and address of the party transferring the subject property:

Union Pacific Railroad Company
1400 Douglas Street
Mailstop 1350
Omaha, Nebraska 68179

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

SPSR intends to consummate this transaction 30 days from the date of this notice, on or about November 8, 2015.

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

The trackage that is the subject of this notice, known as the Willcox Yard, in Willcox, AZ. There are no mileposts.

The total route miles to be operated:

7422 feet of yard track.

Map 49 CFR §1150.43(f)

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

Certificate of Carrier Classification 49 CFR §1150.43(g)

SPSR certifies that with this transaction its projected annual revenues will be less than \$5,000,000 annually. A certificate complying with the provisions of 49 CFR §1150.43(g) is attached as Exhibit B to this notice.

Transactions Imposing Interchange Commitments 49 CFR §1150.43(h)

None

Labor Protection

Labor protective conditions are not generally applicable to transactions under 49 U.S.C. §10902 and are not warranted here as there will be no adverse employee impacts.

Caption Summary 49 CFR §1150.44

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,



John D. Heffner

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(202) 742-8607

Patrick J. Larkin
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901 Main Street
Suite 4400
Dallas, TX 75202
(214) 651-2132

Counsel for Petitioner

Dated: October 8, 2015

EXHIBIT A

EXHIBIT A

MAP

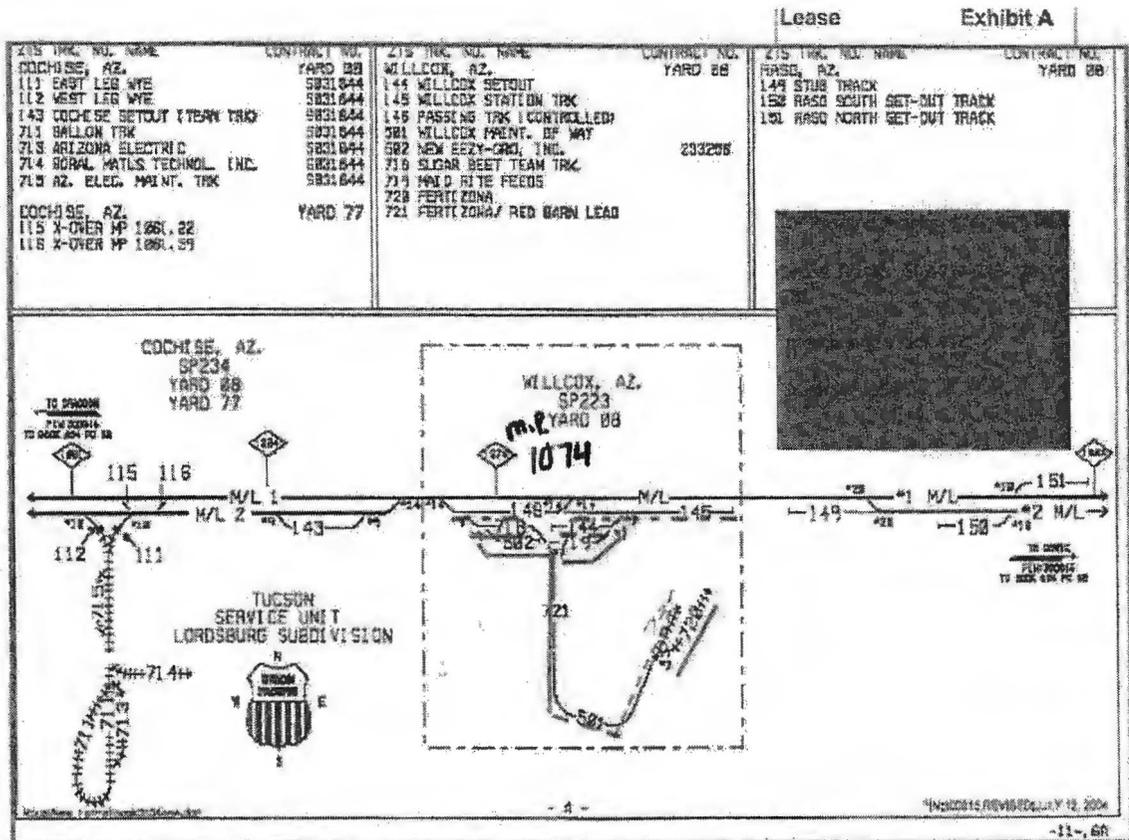


EXHIBIT B

Exhibit B

Certification

I, Scott C. Parkinson certify that I am President / (state position) of MANAGING MGR
San Pedro & Southwestern Railroad (name of carrier) 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).

1 October
Dated: __, 2015

Signature



EXHIBIT C

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 U.S.C. §10902 and 49 CFR §1150.41**

FD 35968

**SAN PEDRO RAILROAD OPERATING COMPANY, LLC
d/b/a SAN PEDRO & SOUTHWESTERN RAILROAD
-LEASE AND OPERATION EXEMPTION-
UNION PACIFIC RAILROAD COMPANY**

San Pedro Railroad Operating Company, LLC, d/b/a San Pedro & Southwestern Railroad (“SPSR”), an existing Class III common carrier railroad, files this Notice of Exemption, pursuant to 49 C.F.R. Part 1150, Subpart E – Exempt Transactions, with the Surface Transportation Board (“the Board”) to lease and operate a line of railroad. The trackage that is the subject of this notice, known as the Willcox Yard in Willcox, AZ.

SPSR certifies that its projected annual revenues as a result of this transaction 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 November 1, 2015 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to FD 35968, 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 SPSR.

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

