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October 12, 2012

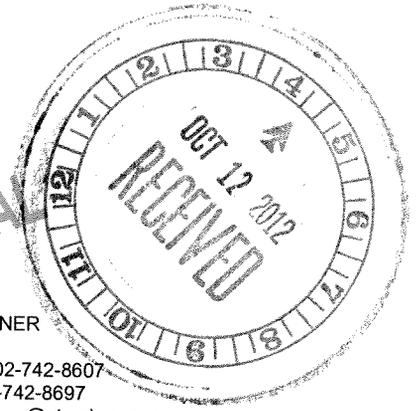
OCT 12 2012

SURFACE
TRANSPORTATION BOARD

ORIGINAL

JOHN D. HEFFNER

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VIA COURIER

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20324

FILED

OCT 12 2012

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Office of Proceedings

OCT 12 2012

Part of
Public Record

RE: FD 35684, Iowa Pacific Holdings, LLC, and Permian Basin Railways – Control Exemption – Cape Rail, Inc. And Massachusetts Coastal Railroad, LLC

Dear Ms. Brown:

On behalf of Iowa Pacific Holdings, LLC, and its wholly-owned subsidiary Permian Basin Railways (“Applicants”), I am filing an original and ten copies of the following documents:

- (1) a public version of a verified notice of exemption under 49 CFR §1180.2(d)(2) for the acquisition by Applicants of control of Cape Rail, Inc., and its carrier subsidiary Massachusetts Coastal Railroad, LLC;
- (2) a confidential version of the same verified notice of exemption under 49 CFR §1180.2(d)(2) for the acquisition by Applicants of control of Cape Rail, Inc., and its carrier subsidiary Massachusetts Coastal Railroad, LLC including the confidential purchase agreement; and
- (3) A motion for a protective order under 49 CFR §1104.14.

I am enclosing with this filing a CD containing these documents in MS word and a check payable to the Board for \$1300 to cover the applicable filing fee.

Ms. Cynthia T. Brown
October 12, 2012
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Please date stamp and return to our messenger one copy of each filing and the transmittal letter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "John D. Heffner", with a long horizontal flourish extending to the right.

John D. Heffner

Enclosures

cc: Robert Leavitt, Esq.
Mr. Kevin Busath

PUBLIC VERSION

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 35684



**IOWA PACIFIC HOLDINGS, LLC
AND PERMIAN BASIN RAILWAYS
-- CONTROL EXEMPTION --
CAPE RAIL, INC. AND
MASSACHUSETTS COASTAL RAILROAD, LLC
VERIFIED NOTICE OF EXEMPTION
UNDER 49 CFR § 1180.2(d) (2)**

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SURFACE
TRANSPORTATION BOARD

Submitted By:

John D. Heffner
Strasburger & Price, LLP
1700 K Street, N.W.
Suite 640
Washington, D.C. 20006
(202) 742-8607

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SURFACE
TRANSPORTATION BOARD

Counsel for Petitioner

Dated: October 12, 2012

PUBLIC VERSION

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 35684

**IOWA PACIFIC HOLDINGS, LLC
AND PERMIAN BASIN RAILWAYS
-- CONTROL EXEMPTION --
CAPE RAIL, INC. AND
MASSACHUSETTS COASTAL RAILROAD, LLC
VERIFIED NOTICE OF EXEMPTION
UNDER 49 CFR § 1180.2(d) (2)**

Come now Iowa Pacific Holdings, LLC (“IPH”), and its wholly-owned subsidiary Permian Basin Railways (“PBR”), Cape Rail, Inc. (“Cape”), Cape’s shareholders P. Christopher Podgurski and Andrew Reardon, and Massachusetts Coastal Railroad, LLC (“Mass Coastal”), and state as follows:

1. Pursuant to the provisions of Section 1180 of the Board's Railroad Consolidation Rules (49 C.F.R. §1180), Applicants hereby give notice of a transaction which qualifies for exemption under Section 1180.2(d) (2) of those rules.

2. As relevant here, IPH is a noncarrier short line railroad holding company that owns 100% of PBR, another noncarrier short line railroad holding

company. Through PBR, IPH owns seven common carrier short line railroads identified in paragraph 5 of this notice. Additionally, IPH directly owns 100% of Rusk, Palestine & Pacific Railroad (“RP&P”), an eighth common carrier short line railroad. Finally, IPH directly or indirectly owns several other railroad-related subsidiaries engaged in excursion passenger service, rail car and locomotive repairs, and railroad equipment ownership that are outside the Board’s regulatory jurisdiction.

3. Cape is a noncarrier short line railroad holding company owned by two individuals P. Christopher Podgurski and Andrew Reardon. Cape currently owns one class III short line railroad subject to the Board’s jurisdiction, Mass Coastal. In addition, it owns an intrastate passenger excursion railroad outside the Board’s regulatory jurisdiction, Cape Cod Central Railroad (“Cape Cod”).

4. On October 12, 2012, IPH executed an agreement with Messrs. Podgurski and Reardon, for IPH through PBR to acquire indirect control of Mass Coastal through the purchase 80% of Cape’s issued and outstanding stock. Messrs. Podgurski and Reardon will continue to own the remaining 20% of Cape’s shares.

5. IPH, through its wholly-owned subsidiary PBR, presently controls seven common carrier class III short line railroads serving the United States: (1) Austin & Northwestern Railroad Company, Inc., operating as the Texas-New

Mexico Railroad; (2) Chicago Terminal Railroad; (3) Mount Hood Railroad; (4) San Luis & Rio Grande Railroad; (5) Saratoga & North Creek Railway; (6) the West Texas & Lubbock Railway Company; and (7) the Santa Cruz and Monterey Bay Railway Company.¹ As noted above, IPH directly controls an eighth railroad, the Rusk, Palestine & Pacific Railroad.²

6. Pursuant to several decisions issued by the Board, Mass Coastal operates a network of about 100 miles of track and trackage rights in southeastern Massachusetts and on Cape Cod.³

7. The subsidiary carriers currently owned and operated by IPH, through

¹ Common control by PBR of these railroads was authorized by the Board in *San Luis & Rio Grande Railroad—Continuance in Control Exemption—Saratoga and North Creek Railway, LLC*, FD 35499, STB served June 1, 2011; *Permian Basin Railways, Inc. — Acquisition of Control Exemption — Mount Hood Railroad*, FD 35108, STB served Dec. 19, 2007; and *Iowa Pacific Holdings, LLC and Permian Basin Railways—Continuance in Control Exemption—Santa Cruz and Monterey Bay Railway Company*, FD 35632, STB served Aug. 17, 2012.

² Control by IPH of this carrier was authorized by the Board in *Iowa Pacific Holdings, LLC and Permian Basin Railways—Continuance in Control Exemption—Rusk, Palestine & Pacific Railroad, LLC*, FD 35668, STB served Sept. 14, 2012.

³ See, *Massachusetts Coastal Railroad, LLC—Modified Rail Certificate*, FD 35097, STB served Dec. 13, 2007, and *Massachusetts Coastal Railroad, LLC—Acquisition-CSX Transportation, Inc.*, FD 35314, STB served March 29, 2010.

PBR, or by IPH directly, will not connect with the lines currently operated by Mass Coastal as they are located hundreds, if not thousands, of miles apart and there are no plans to connect these lines. IPH's closest short line railroad subsidiary, the Saratoga & North Creek Railway, lies over 200 miles to the northwest of Mass Coastal's network.

8. Under section 1180.2(d) (2) of the Board's consolidation rules, certain transactions are automatically exempt from the prior approval requirements for common control. Specifically, section 1180.2(d) (2) exempts the acquisition of nonconnecting carriers where (i) the railroads will not connect with each other or any railroad in their corporate family, (ii) the acquisition is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (iii) the transaction does not involve a class I carrier.

9. In order to claim the section 1180.2(d)(2) exemption, section 1180.4(g) requires the filing of a verified notice of exemption furnishing the information requested in sections 1180.6(a)(1)(i) – (iii), 1180.6(a)(5) – (6), and 1180.6(a)(7)(ii) of those rules. That information is provided as follows:

Summary of Proposed Transaction: **49 CFR § 1180.6(a) (1) (i)**

IPH is currently in the process of acquiring indirect control of Mass Coastal through the purchase by PBR of an 80% stock interest in Mass Coastal's parent, Cape, from its two existing shareholders. Because business considerations required IPH to consummate this transaction as quickly as possible without waiting for Board approval, IPH established an independent voting trust to acquire Cape's stock from these two shareholders and to hold those shares until it obtains Board approval through this notice of exemption. IPH has engaged Mark Cane, an experienced transportation and railroad professional, to serve as Trustee and has executed an agreement with him to serve in that capacity. Moreover, on October 9, 2012, IPH submitted for informal Board review and approval a copy of the Voting Trust Agreement with Mr. Cane. IPH anticipates that the Trust will acquire Mass Coastal's shares imminently.

Applicant's name, address, and telephone number:

c/o Iowa Pacific Holdings, LLC
118 South Clinton Street,
Chicago, IL 60661
(312) 466-0900

Legal counsel to whom questions should be addressed:

John D. Heffner
Strasburger & Price, LLP
1700 K Street, N.W.
Suite 640
Washington, D.C. 20006
(202) 742-8607

Schedule for consummation: **49 CFR §1180.6(a) (1) (ii)**

The parties intend to consummate the proposed transaction 30 days from the date of this notice, on or about November 12, 2012.

Purpose to be accomplished by the transaction: **49 CFR §1180.6(a) (1) (iii)**

To improve the revenue base of Cape's two subsidiaries, Mass Coastal and Cape Cod Central, through access to IPH's greater freight and passenger marketing resources, and to achieve economies of scale through centralization of administrative functions.

State(s) in which the property of each carrier is situated: **49 CFR**

§1180.6(a) (5)

Massachusetts Coastal Railroad, LLC Massachusetts

IPH and PBR existing subsidiary railroads:

Chicago Terminal Railroad: Illinois

Mount Hood Railroad: Oregon

Rusk, Palestine & Pacific Railroad Texas

San Luis & Rio Grande Railroad: Colorado

Santa Cruz and Monterey Bay Railway Company: California

Saratoga & North Creek Railway: New York

Texas-New Mexico Railroad: New Mexico and Texas

West Texas & Lubbock Railway: Texas

Map: 49 CFR § 1180.6(a) (6)

Attached hereto as Exhibit A.

Copy of Agreement: **49 CFR § 1180.6(a) (7) (ii)**

A copy of the confidential purchase agreement is being submitted under seal as Exhibit B as part of the confidential version of this filing.

Other information / Certification:

Applicants hereby certify that (1) the line to be operated by the rail carrier to be controlled pursuant to this notice of exemption [Mass Coastal] does not connect with those of any other carriers controlled by IPH through PBR or by IPH directly, (2) the subject control proceeding is not a part of a series of anticipated transactions that would connect these railroads with each other, and (3) the transaction does not involve a class I carrier.

Environmental and historical considerations:

This control proceeding is exempt from environmental review under 49 CFR §1105.6(c) (2) (i) because the proposed action will not cause any operating changes that exceed the thresholds established in 49 CFR §1105.7(e) (4) or (5). In addition, this proceeding is exempt from historic review under 49 CFR §1105.8(b)(1) because there are no plans to dispose of or alter properties subject to Board jurisdiction that are at least 50 years old. Accordingly, no historic report is required.

Labor Protection to be Imposed

No labor protection applies on transactions involving only class III railroads.

See, 49 U.S.C. §11326(c).

Respectfully submitted,



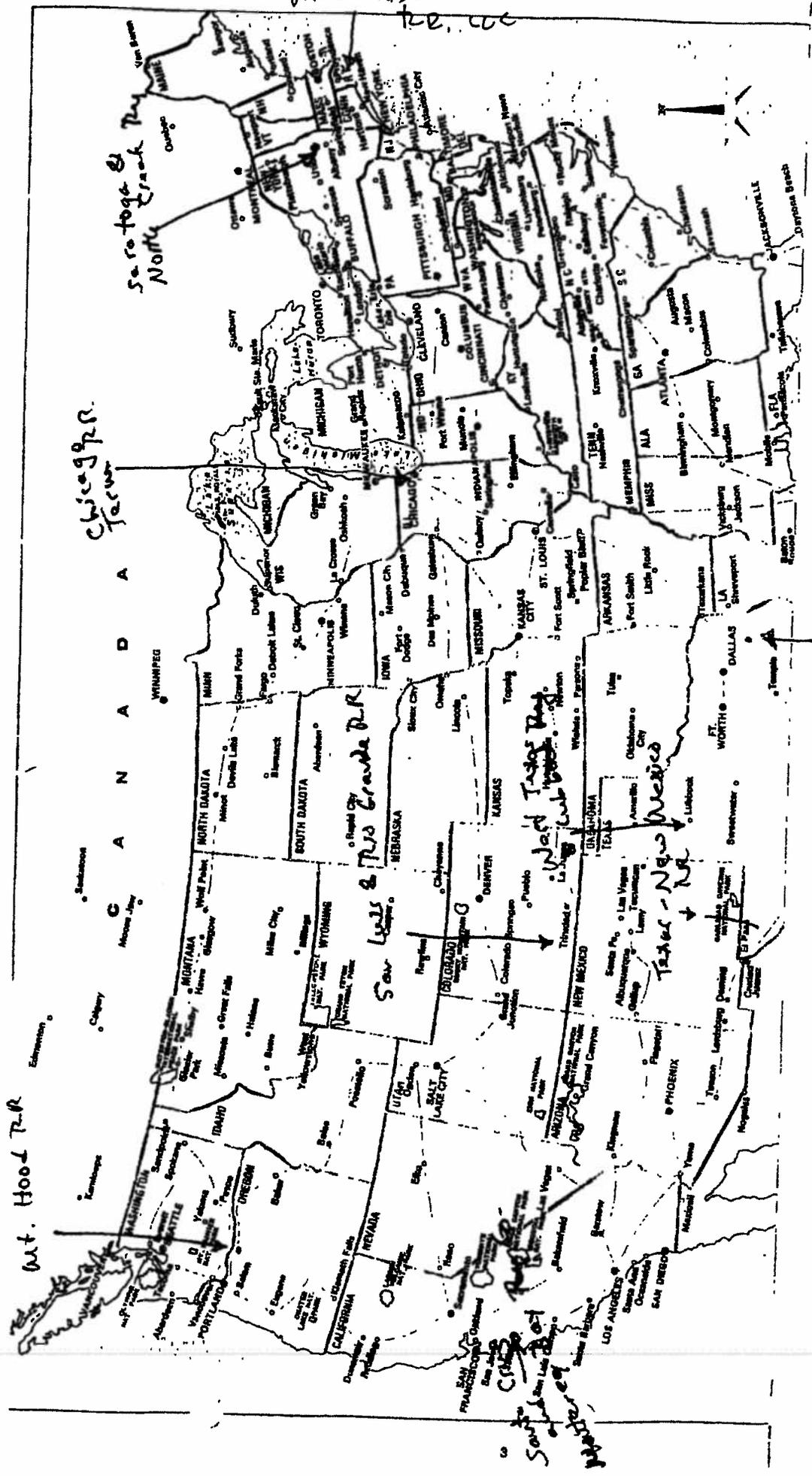
John D. Heffner
Strasburger & Price, LLP
1700 K Street, N.W.
Suite 640
Washington, D.C. 20006
(202) 742-8607

Counsel for Petitioner

Dated: October 12, 2012

EXHIBIT A

Massachusetts Coastal
R.R. Co



Rust Palestine &
Pacific Railroad, LLC

Mt. Hood R.R.

Chicago R.R.

North Crank R.R.

Saw Logs & Two Grada R.R.

Wad Taso R.R.

Tater - New Mexico

San Francisco
San Jose
San Diego
Los Angeles
Phoenix
Dallas
Fort Worth
Houston
New Orleans
Miami
Atlanta
Charlotte
Columbus
Indianapolis
Chicago
Detroit
Cleveland
Pittsburgh
Philadelphia
New York
Boston
Washington D.C.

EXHIBIT B

**Purchase
Agreement included
with Confidential
Version**
