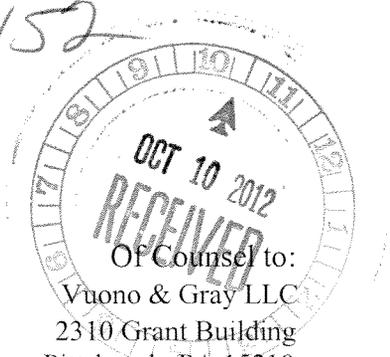


233152



RICHARD R. WILSON, P.C.

Attorney at Law

A Professional Corporation

518 N. Center Street, Ste. 1

Ebensburg, PA 15931

(814) 419-8152
888-454-3817 (Toll Free)
(814) 419-8156 FAX
rwilson@rrwilson.net – Email
www.rrwilsonesq.com - Website

Of Counsel to:
Vuono & Gray LLC
2310 Grant Building
Pittsburgh, PA 15219
(412) 471-1800
(412) 471-4477 FAX

FILED

OCT 10 2012

**SURFACE
TRANSPORTATION BOARD**

October 3, 2012

851 Twelfth Street
Oakmont, PA 15139

**ENTERED
Office of Proceedings**

OCT 10 2012

**Part of
Public Record**

The Honorable Cynthia T. Brown, Chief
Section of Administration
Surface Transportation Board
395 E Street, SW., Ste. 1260
Washington, DC 20423-0001

Re: Docket No. 35678– Turtle Creek Industrial Railroad Company –
Acquisition and Operation Exemption – Line of Consolidated Rail Corporation in
Westmoreland County, Pennsylvania)

Dear Ms. Brown:

Enclosed please find the original and ten (10) copies of a Verified Notice of Exemption (Nunc Pro Tunc) under 49 C.F.R. §1150.31 for filing with the Board in the above captioned matter. Also enclosed is a check in the amount of \$1,800.00 for the filing fee.

Please acknowledge receipt and filing of the enclosed on the duplicate copy of this letter and return it to the undersigned in the self addressed, stamped envelope provided for that purpose.

Very truly yours,

RICHARD R. WILSON, P.C.

Richard R. Wilson, Esq.
Attorney for Turtle Creek Industrial Railroad Co.

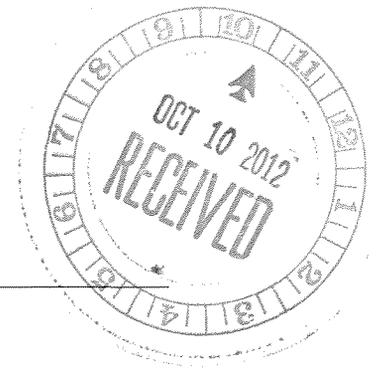
FEE RECEIVED

OCT 10 2012

**SURFACE
TRANSPORTATION BOARD**

RRW/bab
Enclosures
xc: Turtle Creek Industrial Railroad Company, Inc.

Before the
SURFACE TRANSPORTATION BOARD



DOCKET NO. 35678

**TURTLE CREEK INDUSTRIAL RAILROAD, INC. –
ACQUISITION AND OPERATION EXEMPTION –
RAIL LINE OF CONSOLIDATED RAIL CORPORATION IN
WESTMORELAND COUNTY, PENNSYLVANIA**

**VERIFIED NOTICE OF EXEMPTION (NUNC PRO TUNC)
UNDER 49 C.F.R. §1150.31**

ENTERED
Office of Proceedings
OCT 10 2012
Part of
Public Record

TURTLE CREEK INDUSTRIAL RAILROAD, INC.
2658 Puckety Drive
Export, PA 15632

RICHARD R. WILSON, ESQ.
Attorney for Applicant
518 N. Center Street, Ste. 100
Ebensburg, PA 15931
(814) 419-8152- PHONE
(814) 419-8156- FAX

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OCT 10 2012
SURFACE
TRANSPORTATION BOARD

October 3, 2012

Before the
SURFACE TRANSPORTATION BOARD

DOCKET NO. 35678

**TURTLE CREEK INDUSTRIAL RAILROAD, INC. –
ACQUISITION AND OPERATION EXEMPTION –
RAIL LINE OF CONSOLIDATED RAIL CORPORATION IN
WESTMORELAND COUNTY, PENNSYLVANIA**

**VERIFIED NOTICE OF EXEMPTION (NUNC PRO TUNC)
UNDER 49 C.F.R. §1150.31**

INTRODUCTION

Pursuant to 49 C.F.R. §1150.31 et seq. and 49 U.S.C. §10502(a) Turtle Creek Industrial Railroad, Inc. (“TCKR”), a wholly owned corporate subsidiary of Dura-Bond Industries, Inc., hereby files this Verified Notice of Exemption Nunc Pro Tunc from 49 U.S.C. §10901 for its acquisition of a rail line from Consolidated Rail Corporation (“Conrail”) and the operation of said rail line extending between M.P. 0.9 at or near Trafford, Pennsylvania and M.P. 10.7 at Export, Pennsylvania a distance of 9.8 miles in Westmoreland County, Pennsylvania. This line was acquired from Conrail by TCKR on May 24, 1982 and at that time TCKR obtained a certificate of public convenience and necessity from the Pennsylvania Public Utility Commission (see Order attached as Exhibit 1) under the misconception that the Commonwealth of Pennsylvania had authority to regulate intrastate rail transportation. From 1982 until approximately 2009, TCKR operated as a Class III common carrier public utility railroad company holding itself out to the public to provide common carrier railroad service in interstate commerce by its tariffs and interchange commitments with its Class I connecting carrier. Throughout that time period, Dura-Bond Industries was the primary shipper utilizing TCKR common carrier rail services although TCKR also provided occasional rail transportation services to a regional lumber distribution

company (now closed) and occasional team track deliveries. In 2009, a storm washed out a significant segment of TCKR track and no further rail service has been provided by TCKR since that time. TCKR now wishes to abandon its line of railroad and to convey its right of way to Westmoreland County for recreational trail purposes under an agreement of sale with the County.

In order to proceed with those objectives, TCKR seeks to correct its inadvertent failure in 1982 to obtain ICC acquisition and operating authority and accordingly files this Verified Notice of Exemption (nunc pro tunc).

INFORMATION REQUIRED BY 49 C.F.R. §1150.33

In accordance with 49 C.F.R. 1150.33, TCKR submits the following in support of this Notice of Exemption.

(a) The full name and address of Applicant:

The full name and address of the Applicant is Turtle Creek Industrial Railroad, Inc.
2658 Puckety Drive Export, PA 15632.

(b) The name, address and telephone number of the representative of the Applicant who should receive correspondence.

Applicant's representative to receive correspondence is Richard R. Wilson, Esq.,
518 N. Center Street, Ste. 1, Ebensburg, PA 15931. Telephone number 814-419-8152, 814-419-8156 – Facsimile, email: rwilson@rrwilson.net.

(c) A statement that an agreement has been reached or details about when an agreement will be reached.

An agreement was reached whereby TCKR acquired the subject rail line from Consolidated Rail Corporation on May 24, 1982 and operated the line as a Class III common carrier railroad in interstate commerce until 2009.

(d) The Operator of the line:

TCKR has operated the subject rail line from 1982 to 2009.

(e) A brief summary of the proposed transaction including

(1) The name and address of the railroad transferring the subject property to the

Applicant:

The transferor of the rail line was Consolidated Rail Corporation, 6 Penn Center Plaza, Market Street, Philadelphia, Pennsylvania 19104.

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

The proposed acquisition and operation transaction was consummated in 1982 under the misunderstanding that only authorization from the Pennsylvania Public Utility Commission was required.

(3) The Milepost for the subject property includes no branch lines and extends from M.P. 0.9 at or near Trafford, Pennsylvania and M.P. 10.7 at or near Export, Pennsylvania in Westmoreland County, Pennsylvania.

(4) The total route miles being operated.

A total of 9.8 route miles were acquired and operated.

(f) A map that clearly indicates the area to be served including origins including counties and states.

The required map is attached at Appendix 1

(g) A certificate that Applicant's projected revenues as a result of the transaction will not result in the creation of a Class I or Class II rail carrier so as to require processing under §1150.35. TCKR so certifies. See Verification attached as Appendix 2

(h) Transaction imposing interchange commitments.

Not applicable, the transaction does not impose any interchange commitments.

- (i) Verifications.

See Appendix 2

- (j) Environmental and Historical Considerations.

The proposed transaction does not require environmental or historic reporting or assessment. See 49 C.F.R. §1105.6(c)(2)(i) and 49 C.F.R. §1105.8(b)(1).

- (k) Notice under 49 C.F.R. §1150.32(e).

TCKR hereby certifies that its annual revenues did not exceed \$5 million.

- (l) Labor Protection

Pursuant to 49 U.S.C. §10901, labor protection requirements do not apply to the proposed transaction.

CAPTION SUMMARY

The caption summary required by 49 C.F.R. §1105.34 is attached hereto as Appendix 3.

CONCLUSION AND REQUESTED RELIEF

WHEREFORE, within sixteen (16) days of filing this notice, it is respectfully requested that the Director of the Office of Proceedings publish this Notice of Exemption in the Federal Register. See 49 C.F.R. §1150.32(b).

Respectfully submitted,

RICHARD R. WILSON, P.C.

By: 
Richard R. Wilson, Esq,
Turtle Creek Industrial Railroad, Inc.,
Applicant
2658 Puckety Drive
Export, PA 15632

Date: October 3, 2012

PUC 82

PENNSYLVANIA PUBLIC UTILITY COMMISSION

IN THE MATTER OF THE APPLICATION OF

TURTLE CREEK INDUSTRIAL RAILROAD, INC. for approval of the right to begin to offer or furnish rail freight service to the public on an appropriate daily basis, in the Boroughs of Export and Trafford, Penn Township, and the Municipality of Murraysville, all in Westmoreland County, subject to the conditions stated in the Commission's order.

**CERTIFICATE
OF
PUBLIC CONVENIENCE**

A. 00105299
Folder 1

The Pennsylvania Public Utility Commission hereby certifies that after an investigation and/or hearing had on the above entitled application, it has, by its report and order made and entered, a copy of which is attached hereto and made a part hereof, found and determined that the granting of said application is necessary or proper for the service, accommodation, convenience and safety of the public, and this certificate is issued evidencing its approval of the said application as set forth in said report and order.

In Testimony Whereof, The PENNSYLVANIA PUBLIC UTILITY COMMISSION has caused these presents to be signed and sealed, and duly attested by its Secretary at its office in the city of Harrisburg this 11th day of December 19 84.

Attest:

PENNSYLVANIA
PUBLIC UTILITY COMMISSION

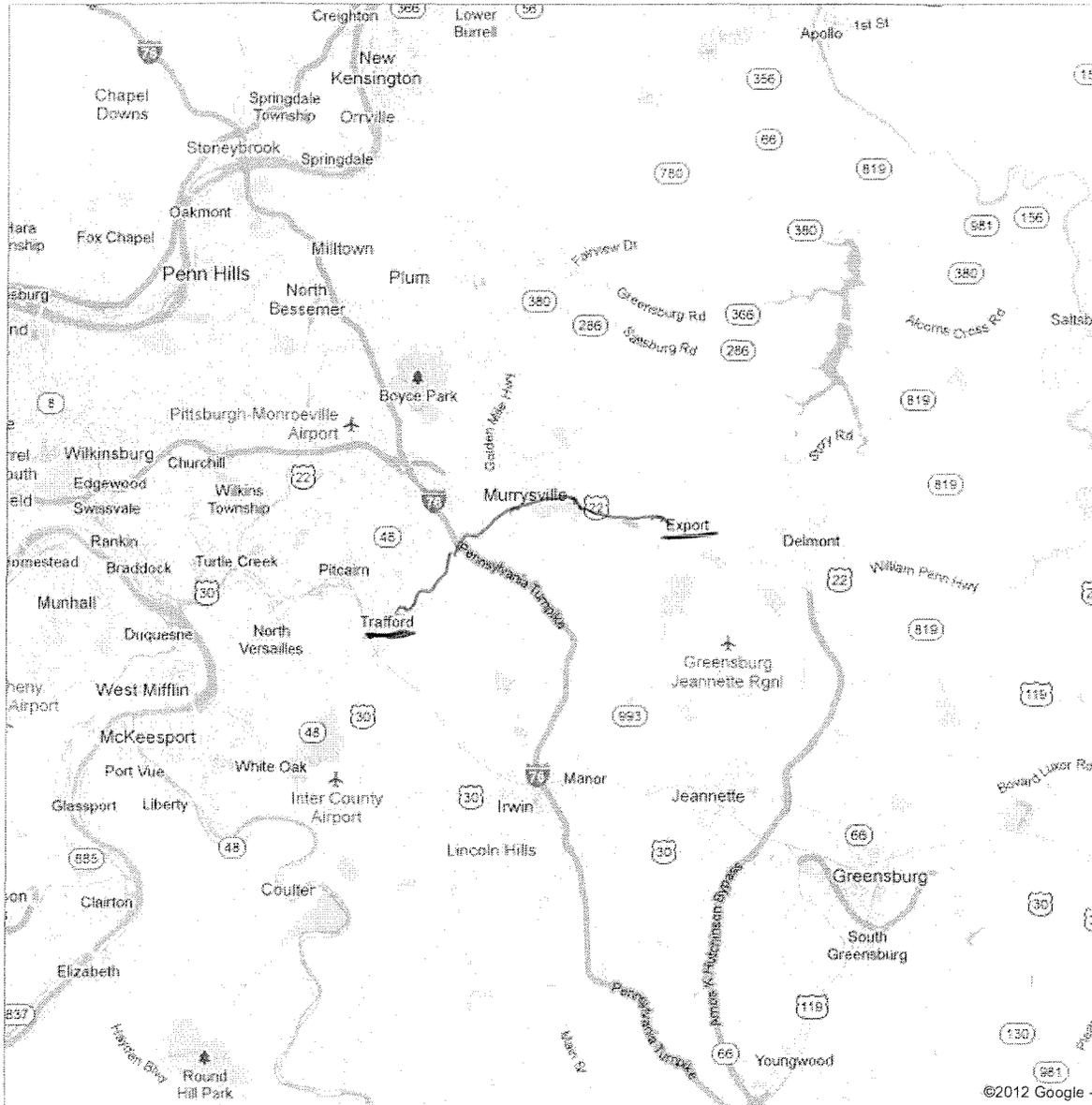


EXHIBIT 1



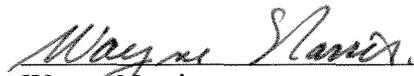
Get Google Maps on your phone

Text the word "GMAPS" to 466453



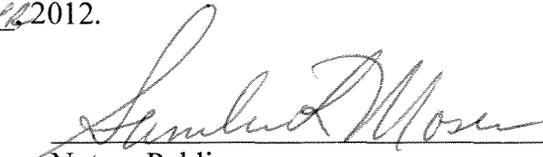
VERIFICATION

Wayne Norris, being duly sworn, states that he is an authorized representative of Turtle Creek Industrial Railroad, Inc., that he is familiar with the facts asserted in the foregoing Notice of Exemption (Nunc Pro Tunc) that all of those facts are true and correct, that the projected annual revenues for TCKR as a result of this transaction have not resulted in the creation of a Class I or Class II rail carrier, that TCKR's projected annual revenues did not exceed \$5 million, and that TCKR is not required to post a notice required by 49 C.F.R. §1150.32(e).



Wayne Norris

Sworn to before me this 28 day of September 2012.



Notary Public

My Commission expires:

31 day of MAY, 2013

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Sandra L. Moses, Notary Public
Export Boro, Westmoreland County
My Commission Expires May 31, 2013
Member, Pennsylvania Association of Notaries

Before the
SURFACE TRANSPORTATION BOARD

DOCKET NO. 35678

**TURTLE CREEK INDUSTRIAL RAILROAD, INC. –
ACQUISITION AND OPERATION EXEMPTION –
RAIL LINE OF CONSOLIDATED RAIL CORPORATION IN
WESTMORELAND COUNTY, PENNSYLVANIA**

**VERIFIED NOTICE OF EXEMPTION (NUNC PRO TUNC)
UNDER 49 C.F.R. §1150.31**

Turtle Creek Industrial Railroad, Inc. (“TCKR”) has filed a Notice of Exemption (Nunc Pro Tunc) for its 1982 acquisition from Consolidated Rail Corporation and the operation of rail lines between M.P. 0.9 at Trafford, Pennsylvania and M.P. 10.7 Export, Pennsylvania a distance of 9.8 miles in Westmoreland County, Pennsylvania. The rail line which has been acquired and operated constitutes TCKR’s entire length of rail line.

Comments must be filed with the Board and served on TCKR’s representative, Richard R. Wilson, Esq., 518 N. Center, Street, Ste. 1, Ebensburg, PA, 15931. Telephone Number 814-419-8152, Fax number 814-419-8156 and email: rwilson@rrwilson.net.

This Notice is filed under 49 C.F.R. §1150.31. If the Notice contains false or misleading information, the Exemption is void of an issue. The filing of a Petition to Revoke will not automatically stay the transaction.

By the Board: _____