

234651

Strasburger

ATTORNEYS AT LAW

August 8, 2013

JOHN D. HEFFNER
Direct Phone 202-742-8607
Direct Fax 202-742-8697
Email: john.heffner@strasburger.com

VIA HAND DELIVERY

Ms. Cynthia A. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings
AUG 08 2013
Part of
Public Record



RE: FD 35754 RSL Railroad, LLC-Lease and Operation Exemption-Norfolk Southern Railway Company

Dear Ms. Brown:

On behalf of RSL Railroad, LLC, applicant herein, I am filing an original and ten copies of a verified Notice of Exemption under 49 U.S.C. §10902 and 49 CFR §1150.41 for the lease and operation of a line of railroad.

In addition, I am enclosing a copy of this filing on a CD in word format as well as a filing fee check payable to the Board for \$1800. Please date stamp and return to our messenger one copy of this filing.

Sincerely yours,

John D. Heffner

FILED

AUG 08 2013

**SURFACE
TRANSPORTATION BOARD**

Enclosure
cc: Mr. Baxter Wellmon

FEE RECEIVED

AUG 08 2013

**SURFACE
TRANSPORTATION BOARD**

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Strasburger & Price, LLP

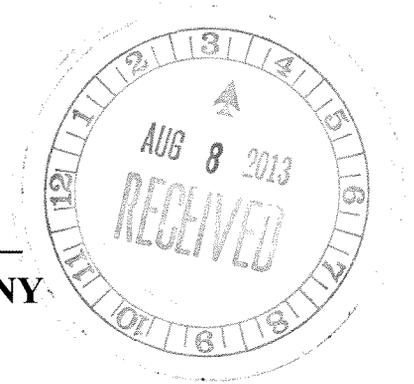
234651

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 35754

**RSL RAILROAD, LLC
—LEASE AND OPERATION EXEMPTION—
NORFOLK SOUTHERN RAILWAY 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
1700 K Street, N.W.
Suite 640
Washington, D.C. 20006
(202) 742-8607

Counsel for Petitioner

Dated: August 8, 2013

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SURFACE TRANSPORTATION BOARD**

FD 35754

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



RSL Railroad, LLC, (“RSL”), an existing Class III railroad common carrier, 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. The trackage that is the subject of this notice known as the South Massillon IT and extends about 1.4 miles between MT 0.0 and milepost MT 1.4 at Massillon, OH (“the Line”). The Line is currently owned and operated by Norfolk Southern Railway Company (“NSR”). Once this notice becomes effective, RSL will provide all common carrier railroad service over the Line connecting with and interchanging traffic with NSR at milepost MT 0.0.

INFORMATION REQUIRED BY 49 CFR §1150.43

Name and Address of Applicant **49 CFR §1150.43(a)**

RSL Railroad, LLC
1554 Paoli Pike, #179
West Chester, PA 19380

Applicant's Representative **49 CFR §1150.43(b)**

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

Statement of Agreement **49 CFR §1150.43(c)**

RSL and NSR have executed a lease agreement dated July 26, 2013.

Operator of the Property **49 CFR §1150.43(d)**

As noted above, RSL will provide all common carrier rail operations over the Line.

Brief Summary of Transaction **49 CFR §1150.43(e)**

RSL is a class III short line railroad common carrier that was established in 2012 for the purpose of providing common carrier railroad service over a short (1.27 mile long) segment of track owned by the Massillon Energy & Technology Park in Massillon, OH. By this transaction, RSL will extend its operations by 1.4 additional miles so as to reach a new connection and interchange point with NSR. To that extent, RSL will replace NSR as the operator on the Line.

Other information required

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

No physical property will be transferred as a result of this filing; only a leasehold interest and operating rights will be granted to RSL.

Norfolk Southern Railway
Three Commercial Place
Norfolk, VA 23510

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

RSL intends to consummate this transaction at least 30 days from the date of this notice, probably around September 8, 2013.

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

The Line extends between RSL's existing connection with NSR at milepost MT 1.4, in Massillon, OH, and the proposed future interchange with NSR at milepost MT 0.0.

The total route miles to be operated:

About 1.4 miles of railroad.

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)**

RSL 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)**

Neither the lease agreement nor the interchange agreement contains any provision imposing interchange commitments or restricting RSL's ability to interchange traffic with other carriers.

Labor Protection

Labor protective conditions are not applicable to transactions under 49 U.S.C. §10902.

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,



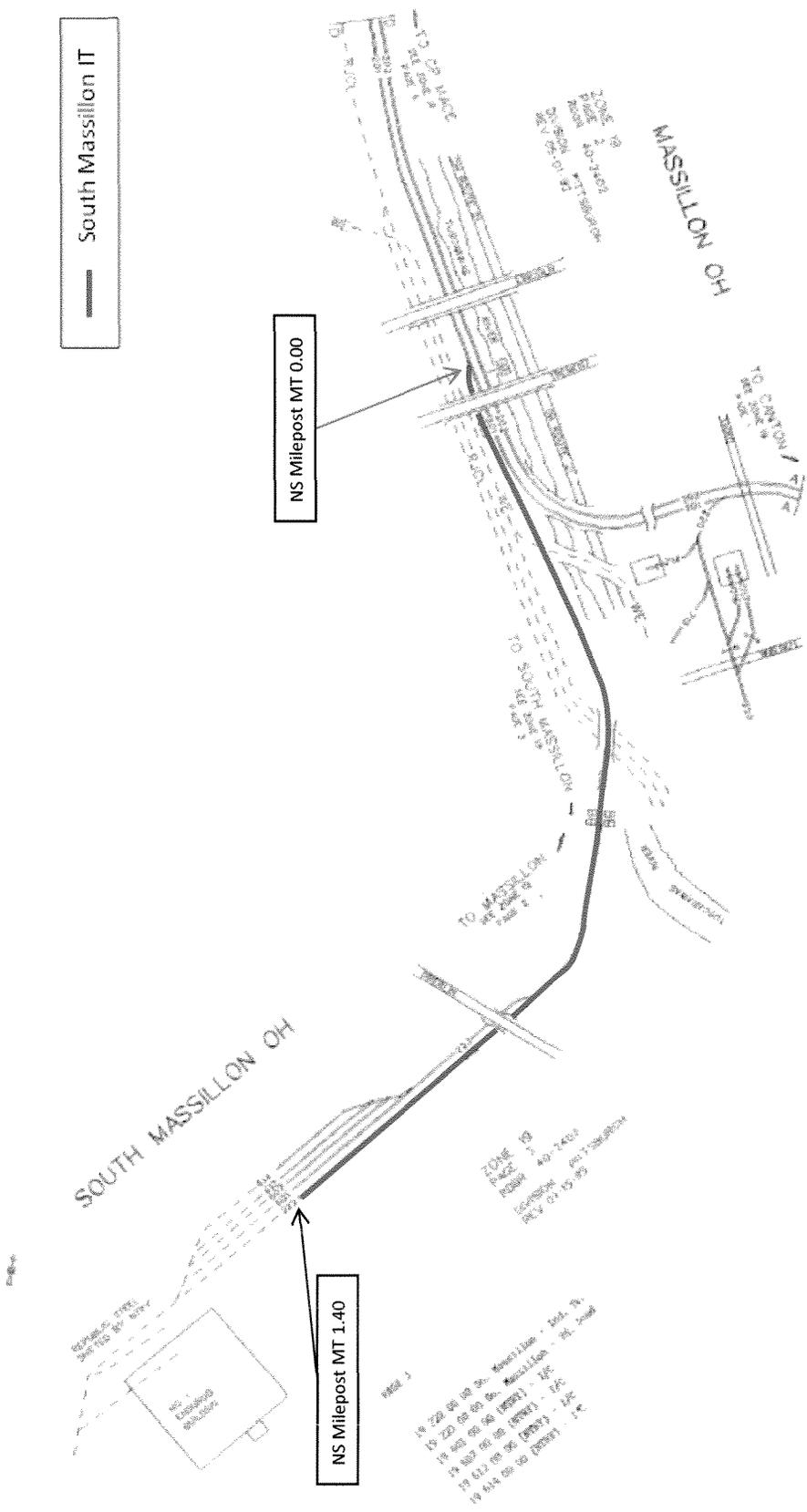
John D. Heffner
Strasburger & Price, LLP
1700 K Street, N.W.
Suite 640
Washington, D.C. 20006
(202) 742-8607

Counsel for Petitioner

Dated: August 8, 2013

EXHIBIT A

South Massillon Industrial Track



South Massillon Industrial Track

NS Milepost MT 0.00

South Massillon IT

NS Milepost 1.40

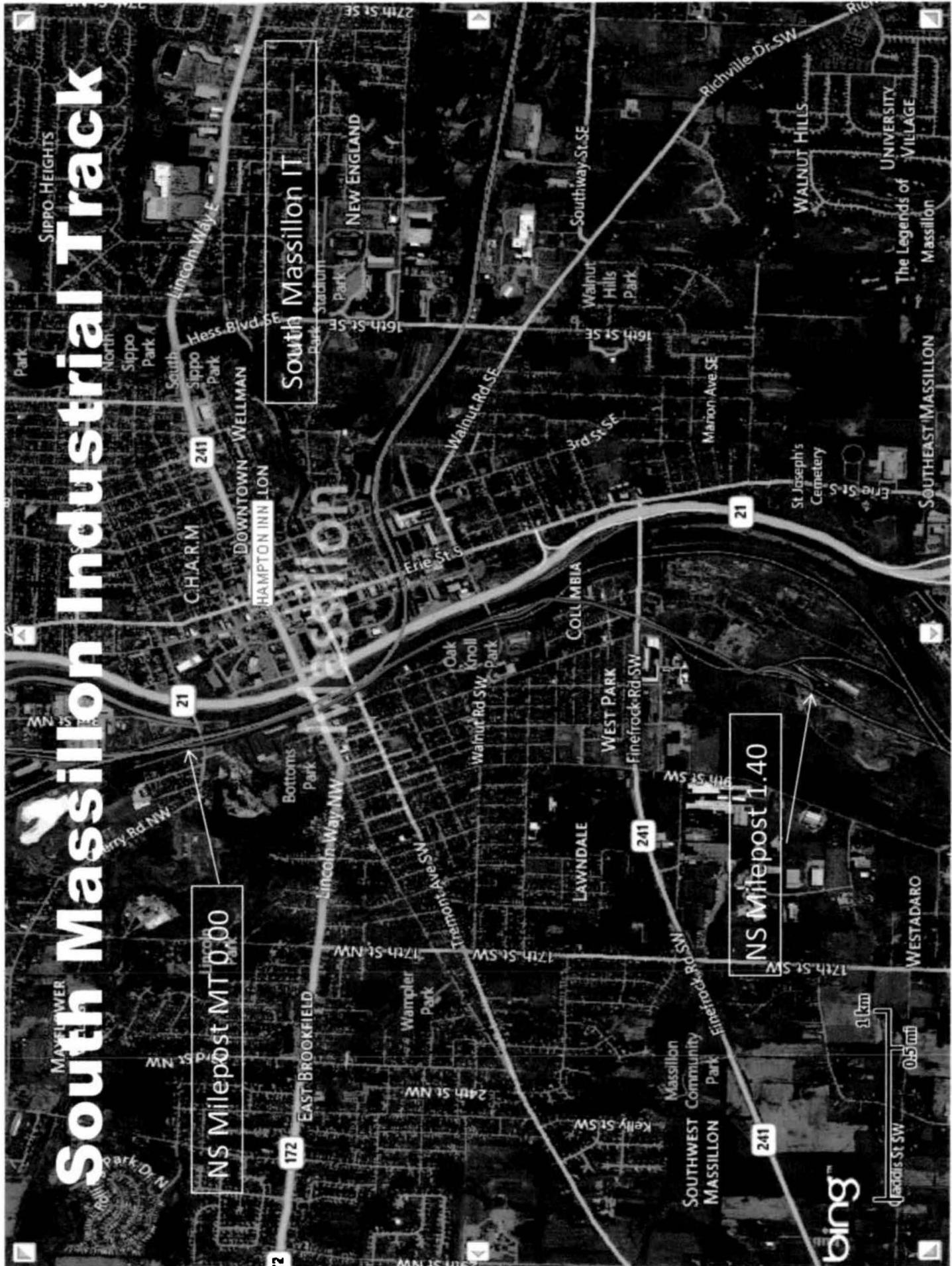


Exhibit B

Certification

I, BAXTER WELLMAN, certify that I am MANAGING MEMBER (state position) of RSL RAILROAD LLC (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).

Dated: Aug. 1, 2013

Signature



Amber Nicole Krol

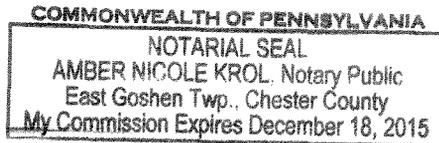


EXHIBIT C

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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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 September 1, 2013 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to FD 35754, 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, 1700 K Street, N.W. – Suite 640, Washington, D.C. 20006, Telephone: (202) 742-8607, counsel for RSL.

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 PENNSYLVANIA)
CITY OF WEST CHESTER)

SS

Baxter Newman, being duly sworn according to law, hereby deposes and states that (s)he holds the position of Planning Member 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 (her)his knowledge, information, and belief.

Baxter Newman

Subscribed to and sworn to before me, a Notary Public, in and for the City of Chester in the State of PA, this 31 day of July 2013.

County
Chester

Amber Nicole Krol
Notary Public

My Commission expires:

