

LAW OFFICES
JOHN D. HEFFNER, PLLC
1750 K STREET, N.W.
SUITE 200
WASHINGTON, D.C. 20006
PH: (202) 296-3333
FAX: (202) 296-3939

228932

ORIGINAL



FILED

MAR 4 - 2011

**SURFACE
TRANSPORTATION BOARD**

BY HAND

March 4, 2011

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20324-0001

FEE RECEIVED

MAR 4 - 2011

**SURFACE
TRANSPORTATION BOARD**

**ENTERED
Office of Proceedings**

MAR 4 2011

**Part of
Public Record**

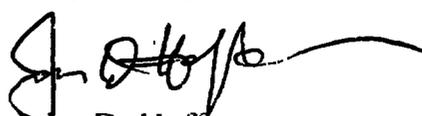
**RE: Finance Docket No. 35475, Port of Ivory, LLC-Operation-Line of
Railroad in Tulare County, CA**

Dear Ms. Brown:

On behalf Port of Ivory, LLC, I am filing an original and ten copies of a Verified Notice of Exemption for the operation of a rail line pursuant to 49 U.S.C. 10901 and 49 CFR 1150.31. I am also enclosing a copy of this filing on a computer disk and a check for \$1800 to cover the filing fee.

Please address any questions to the undersigned and date stamp and return one copy of this filing.

Respectfully submitted,


John D. Heffner

.. ..
Enclosure

cc: Mr. Chuck Littlefield

228932

ORIGINAL

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB FINANCE DOCKET NO. 35475

**PORT OF IVORY, LLC
- OPERATION EXEMPTION -
LINE OF RAILROAD IN TULARE COUNTY, CA**



VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 U.S.C. 10901 and 49 CFR 1150.31

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Submitted By:

John D. Heffner
John D. Heffner, PLLC
1750 K Street, N.W.
Suite 200
Washington, D.C. 20006
(202) 296-3334

Counsel for Petitioner

Dated: March 4, 2011

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**SURFACE
TRANSPORTATION BOARD**

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



STB FINANCE DOCKET NO. 35475

**PORT OF IVORY, LLC
- OPERATION EXEMPTION -
LINE OF RAILROAD IN TULARE COUNTY, CA**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 U.S.C. 10901 and 49 CFR 1150.31**

Port of Ivory, LLC (“Port”), a limited liability company and noncarrier, 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 permit Port to operate about 1500 track feet of existing railroad trackage (“the Line”) inside an existing industrial facility it owns in Tulare County, CA. Currently a private switching carrier, Port would provide common carrier rail service to at least two customers located inside that facility.

INFORMATION REQUIRED BY 49 CFR 1150.33

Name and Address of Applicant

49 CFR 1150.33(a)

Port of Ivory, LLC
P.O. Box 817
Reedley, CA 93654

Applicant's Representative

49 CFR 1150.33(b)

John D. Heffner
John D. Heffner, PLLC
1750 K Street, N.W.
Suite 200
Washington, D.C. 20006
(202) 296-3334

Statement of Agreement

49 CFR 1150.33(c)

N.A. Port Ivory already owns the track and underlying right of way. It desires to convert its present private switching railroad operation to common carrier railroad service.

Operator of the Property

49 CFR 1150.33(d)

Port will be the common carrier railroad providing service over the Line.

Brief Summary of Transaction

49 CFR 1150.33(e)

Port currently owns 110 acres of real estate zoned for heavy industrial use and located in Tulare County, CA, between the towns of Dinuba and Reedley. Current rail facilities on Port's property consist of two sidings that connect with a rail line operated by the San Joaquin Valley Railroad Company ("SJVR") at point known as Ivory (milepost 232.3 on SJVR's Exeter Subdivision). Port presently operates a multimodal rail-to-truck and truck-to-rail transload facility there which it intends to significantly expand to handle traffic destined to or from the Ports of Long Beach, Los Angeles, and Oakland. Upon receipt of the requested exemption, Port intends to reconstruct and upgrade the existing trackage and extend it as

indicated on the map attached as Exhibit A. Once completed, Port expects to handle 5,000 car loads of traffic per year initially and seeks to increase that traffic level to 8,000 car loads per year eventually. SJVR has orally indicated it has no objection to Port's initiation of common carrier rail service.

Port seeks to convert its present private switching operation into a common carrier rail service so it can aggressively hold out as a common carrier soliciting traffic in interstate and foreign commerce. Moreover, Port believes that conversion of its operation to a common carrier status will render it eligible to obtain rehabilitation funding under the Federal Railroad Administration's Railroad Rehabilitation Improvement Fund as well as to claim federal class III railroad tax credits for privately funded improvements. Port's conversion of private shipper trackage to common carrier rail service is consistent with Board precedent in cases such as Effingham Railroad Company - Petition for Declaratory order - Construction at Effingham, IL, 2 S.T.B. 606 (1997).

Two shippers that would utilize Port's service including Sierra Feeds and Richard Best Transfer, Inc., have submitted support letters attached here as Exhibits E and F. The latter shipper currently moves at least 3,000 cars of traffic by rail per year, primarily agricultural traffic. The traffic they would tender to Port and, through it, to SJVR, includes dried distillers grain, canola, corn, whole cotton seed, corn germ, corn gluten, and lumber.

Other information required:

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

Port currently owns the property upon which it desires to initiate common carrier rail service. Its address is Port of Ivory, LLC, P.O. Box 817, Reedley, CA 93654

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

Port intends to consummate this transaction 30 days from the filing date of this notice.

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

There are none as the Line is located inside an industrial facility

(4) The total route miles to be acquired and operated:

About 1/3 of a mile, 1500 track feet.

Map

49 CFR 1150.33(f)

A map depicting the railroad trackage to be operated is attached as Exhibit A and a map showing the relationship between this trackage and other rail lines is attached as Exhibit B.

Certificate of Carrier Classification **49 CFR 1150.33(g)**

Port certifies that, with this acquisition, its projected annual revenues will be less than \$5,000,000 annually. A certificate complying with the provisions of 49 CFR 1150.33(g) is attached as Exhibit C to this notice.

Transactions Imposing Interchange Commitments **49 CFR 1150.33(h)**

Not applicable. There is no agreement containing language limiting Port's ability to interchange with other carriers. Furthermore, the Line only connects with lines of SJVR.

Disclosure of Intent to Transport Waste

Port does not presently intend to provide facilities for the collecting, sorting, loading, unloading, transferring, or transporting of municipal solid waste ("MSW") or construction and demolition ("C&D") material.

Labor Protection

Labor protective conditions are not applicable to transactions under 49 U.S.C. 10901.

Caption Summary **49 CFR 1150.34**

A caption summary in the prescribed form is attached as Exhibit D 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 1105.7(e) (4) or (5).

In addition, this transaction is exempt from historic review under 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.

Submitted By:

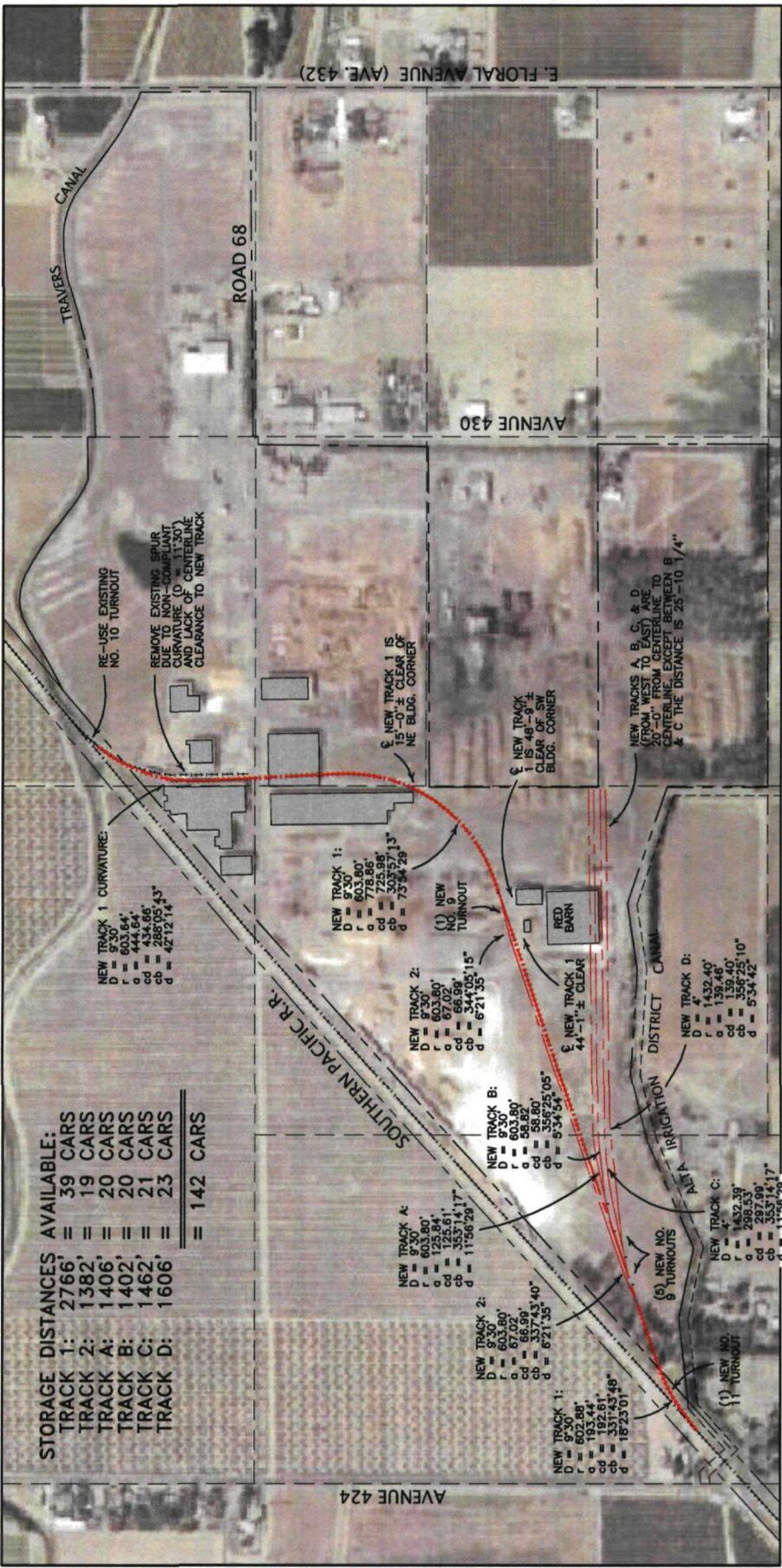


John D. Heffner
John D. Heffner, PLLC
1750 K Street, N.W.
Suite 200
Washington, D.C. 20006
(202) 296-3334

Counsel for Petitioner

Dated: March 4, 2011

EXHIBIT A



STORAGE DISTANCES AVAILABLE:

TRACK 1:	2766'	=	39 CARS
TRACK 2:	1382'	=	19 CARS
TRACK A:	1406'	=	20 CARS
TRACK B:	1402'	=	20 CARS
TRACK C:	1462'	=	21 CARS
TRACK D:	1606'	=	23 CARS
			= 142 CARS

1 EXISTING SITE PLAN WITH PROPOSED IMPROVEMENTS

SCALE: 1" = 400'-0"



ALL AMERICAN TRACK TAMPING, INC.
 P.O. BOX 186
 ASH FORK, AZ. 86320

Richard Best Transfer Inc.
 6801 Avenue 430
 Reedley, CA. 93654
 www.rbtincca.com

Date	By	Revisions

JDMcGee, Inc.
 Engineering & Surveying
 1215 Main Street
 Philomath, OR 97370
 (503) 825-4226
 (503) 825-4227 fax

Job #	11-31
Date	2/9/11
Drawn	KDS
Checked	JDM
Filed	

EXHIBIT B

TO
SAN FRANCISCO,
PORTLAND

TO
SAN FRANCISCO



Part of Ivory
rail facility

CALIFORNIA

SAN JOAQUIN VALLEY RAILROAD	
TULARE VALLEY RAILROAD	
BURLINGTON NORTHERN and SANTA FE	
UNION PACIFIC	

EXHIBIT C

Certification

I, Charles L. Fife, certify that I am CEO (state position) of The Post of Iowa, 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: 2/18 2011

Signature

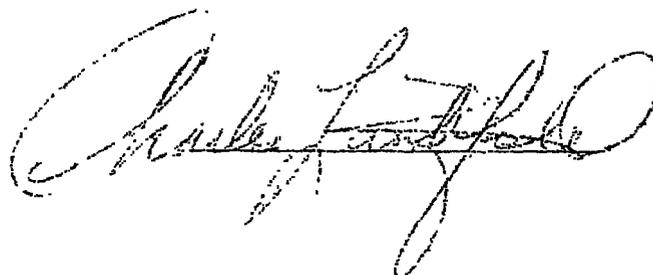
A handwritten signature in cursive script, appearing to read "Charles L. Fife", written over a horizontal line.

EXHIBIT D

EXHIBIT D

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB FINANCE DOCKET NO. 35475

**PORT OF IVORY, LLC
- OPERATION EXEMPTION -
LINE OF RAILROAD IN TULARE COUNTY, CA**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 U.S.C. 10901 and 49 CFR 1150.31**

Port Ivory, LLC (“Port”), a limited liability company and noncarrier, has filed a Verified Notice of Exemption under 49 CFR 1150.31 to operate a 1500-foot long line of railroad located at an industrial facility it owns Tulare County, CA, between Dinuba and Reedley, CA. (“the Line”). Port presently conducts operations as a private railroad over its property but wishes to hold itself to the public as a railroad common carrier to solicit traffic from other customers moving in interstate or foreign commerce. Inasmuch as this trackage is inside an industrial facility, there are no mileposts.

Port plans to consummate this transaction within 30 days from the date of this notice.

Port certifies that its projected annual revenues as a result of this transaction would not exceed those that would qualify it as a Class III rail carrier and further certifies that its projected annual revenues 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 March __, 2011 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Finance Docket No. 35475, 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., John D. Heffner, PLLC, 1750 K Street, N.W. – Suite 200, Washington, D.C. 20006, Telephone: (202) 296-3334.

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.

EXHIBIT E

SIERRA FEEDS

February 23, 2011

To Whom It May Concern,

Sierra Feeds is in total support of the railroad designation for the location at Port of Ivory We are currently operating our business from this location with plans of expansion which includes increase use of the Ivory Rail facility

If you have any questions please feel free to contact me at the number below

Sincerely,

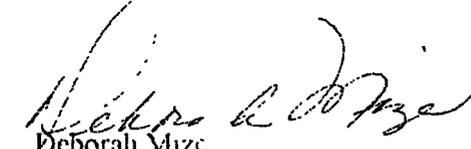

Deborah Mizc
Manager, Sierra Feeds

EXHIBIT F



Richard Best Transfer Inc.

"First, we will be the Best then we will be First"

Charles Littlefield, Chief Operating Officer 6801 Avenue 430, Reedley, CA 93654
Office: 559-591-1075 Fax: 559-591-1981 Cell: 559-991-9784 Email: chuck@rbtinca.com

Date: February 23, 2011

To Whom It May Concern:

RBT INC is a transloading/logistics company that offloads over 4000 railcars a year at the Port of Ivory. Presently, the SJVR gives RBT INC one spot a day. RBT INC requires numerous rail moves a day.

RBT INC is expecting rail volumes to increase substantially after signing a 3-year contract with Archer-Daniels-Midland (ADM). RBT offloads and stores agricultural commodities primarily for the California Dairy Industry. RBT INC is solely dependent upon timely rail service and supports the Port of Ivory, LLC becoming its own railroad company in order to provide just in time rail service to RBT INC.

Respectfully yours,

A handwritten signature in cursive script, appearing to read "Charles Littlefield", is written over a printed name and title.

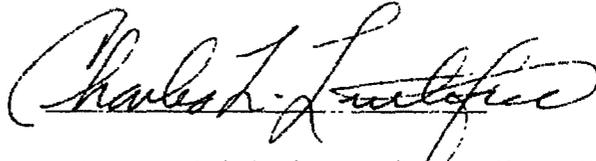
Charles Littlefield, COO
RBT INC.

VERIFICATION

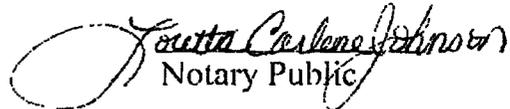
STATE OF CALIFORNIA)
CITY OF DINUBA)

SS

CHARLES LITTLEFIELD, being duly sworn according to law,
hereby deposes and states that (s)he is holds the position of CEO
with petitioner, is authorized to make this Verification, has read the
foregoing document, and knows the facts asserted therein are true an
accurate as stated, to the best of (her) his knowledge, information, and
belief.



Subscribed to and sworn to before me, a Notary Public, in and for the City of
DINUBA in the State of CA, this 23 day of FEBRUARY, 2011.


Notary Public

My commission expires: March 26, 2013

