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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Proceedings
January 12, 2016
Part of
Public Record

STB Finance Docket No. FD35990

**RSL RAILROAD, LLC
—LEASE EXEMPTION CONTAINING INTERCHANGE COMMITMENT—
NORFOLK SOUTHERN RAILWAY COMPANY**

VERIFIED NOTICE OF EXEMPTION PURSUANT TO 49 C.F.R. § 1150.41, ET SEQ.

Submitted By:

Andy A. Ginella, Esq.
4096 Holiday Street NW
Canton, Ohio 44718
Phone: (330) 649-9600
Fax: (330) 649-9601
E-Mail: andy@ginellalaw.com
Ohio Supreme Court #: 0064377

Counsel for Petitioner

Dated: January 8, 2016

FEE RECEIVED
January 12, 2016
SURFACE
TRANSPORTATION BOARD

FILED
January 12, 2016
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STB Finance Docket No. FD35990

**RSL RAILROAD, LLC
—LEASE EXEMPTION CONTAINING INTERCHANGE COMMITMENT—
NORFOLK SOUTHERN RAILWAY COMPANY**

VERIFIED NOTICE OF EXEMPTION PURSUANT TO 49 C.F.R. § 1150.41, ET SEQ.

RSL Railroad, LLC (“RSL”), an existing Class III railroad common carrier, hereby files this Verified 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 is 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”). RSL previously received regulatory authority to operate the Line under a July 26, 2013, lease agreement (the “Lease Agreement”) with Norfolk Southern Railway Company (“NSR”).¹ RSL and NSR entered into an Amendment to their prior Lease Agreement on October 12, 2015. At RSL’s request, the Amendment modifies the lease rental provisions of the Lease Agreement to permit RSL to receive a lease credit against its fixed rental payment for each revenue carload RSL interchanges to and from NSR on the Line. RSL requested the Amendment to provide RSL the ability to earn a lower rental payment and to afford RSL the opportunity to invest in improvements on the Line to increase traffic levels.

¹ See *RSL Railroad, LLC – Lease and Operation Exemption – Norfolk Southern Railway Company*, Finance Docket No. 35754 (STB served Aug. 23, 2013).

In support of this Verified Notice of Exemption, RSL submits the following information as required by 49 C.F.R. § 1150.43:

(a) Full name and address of the Class III rail carrier applicant.

RSL Railroad, LLC
4084 Holiday Street NW
Canton, OH 44718

(b) Applicant's Representatives.

Andy A. Ginella, Esq.
4096 Holiday Street NW
Canton, Ohio 44718
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(c) Statement that an agreement has been reached or details about when an agreement will be reached.

RSL and NSR have executed an Amendment to their Lease Agreement, dated October 12, 2015.

(d) Operator of the property.

RSL will continue to provide all common carrier rail operations over the Line.

(e) Summary of Proposed Transaction.

The Amendment will modify the terms of RSL's Lease Agreement with NSR to permit RSL to receive lease credits for cars interchanged on the Line to/from NSR. All other terms and conditions of the Lease Agreement remain in full force and effect.

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

Norfolk Southern Railway Company will continue to provide RSL a leasehold interest.

Norfolk Southern Railway Company
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, on or around February 8, 2016.

(3) 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.

(4) The total route miles being acquired:

Approximately 1.4 miles of railroad.

(f) Map.

A map depicting the Line is attached as Exhibit A.

(g) Certificate of Compliance with the provisions of 49 C.F.R. § 1150.43(g).

Attached as Exhibit B is a certificate affirming that RSL's projected revenues as a result of the transaction will not result in the creation of a Class II or Class I rail carrier so as to require processing under 49 C.F.R. § 1150.45. RSL further certifies that after this transaction its projected annual revenues will continue to be less than \$5,000,000 annually.

(h) Interchange commitments.

The Lease Agreement originally provided for a fixed lease rental payment. At RSL's request, the parties have entered an Amendment that provides RSL the opportunity to receive lease credits against that fixed lease rental payment for every car it interchanges to/from NSR on the Line. The Board has previously indicated that "lease credits are a type of interchange commitment." *See Information Required in Notices Petitions Containing Interchange Commitments*, Ex Parte No. 714, slip op. at 8 (STB served Sept. 5, 2013). As a result, RSL provides the additional information required pursuant to 49 C.F.R. § 1150.43(h).

- (i) The affected interchange point is Massillon, OH.
- (ii) The confidential version of the original Lease Agreement and the Amendment are being filed with the Board by separate cover, under 49 C.F.R. § 1104.14(a).
- (iii) The following shippers or consignees located on the Line are currently using the Line to ship or receive freight by rail or have so used the Line in the last two years (together, the "Shippers"): BERG STEEL PIPE CORP.
- (iv) The aggregate number of carloads the Shippers originated or terminated within the last two years is being filed by separate cover, under 49 C.F.R. § 1104.14(a).

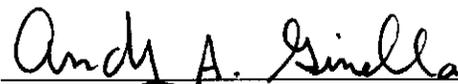
- (v) Attached hereto is Certificate of Service, certifying that the Shippers have been served a copy of this Verified Notice of Exemption.
- (vi) No third party railroad can physically interchange with the Line.
- (vii) An estimate of the difference between the lease price with and without the interchange commitment is being filed by separate cover, under 49 C.F.R. § 1104.14(a).
- (viii) The case caption of this Verified Notice of Exemption identifies the existence of an interchange commitment.

Other Information and Supporting Materials.

A caption summary, as required by 49 C.F.R. § 1150.34, is attached as Exhibit C to this notice. Pursuant to 49 C.F.R. § 1105.6(c)(2)(i), the proposed transaction is exempt from environmental review because the action proposed herein will not exceed any of the thresholds established in 49 C.F.R. § 1105.7(e)(4) or (5).

In addition, the transaction is exempt from historic review under 49 C.F.R. § 1105.8(b)(1), because RSL's lease and the subject Amendment are for the purpose of continued rail operations. Further STB approval would be required to abandon any service, and there are no plans to dispose or alter properties subject to STB jurisdiction that are 50 years or older. This action will not significantly affect the quality of the human environment or energy conservation.

Respectfully submitted,



Andy A. Ginella, Esq.
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Ohio Supreme Court #: 0064377
Counsel for Petitioner

Dated: January 8, 2016

EXHIBIT A

South Massillon Industrial Track

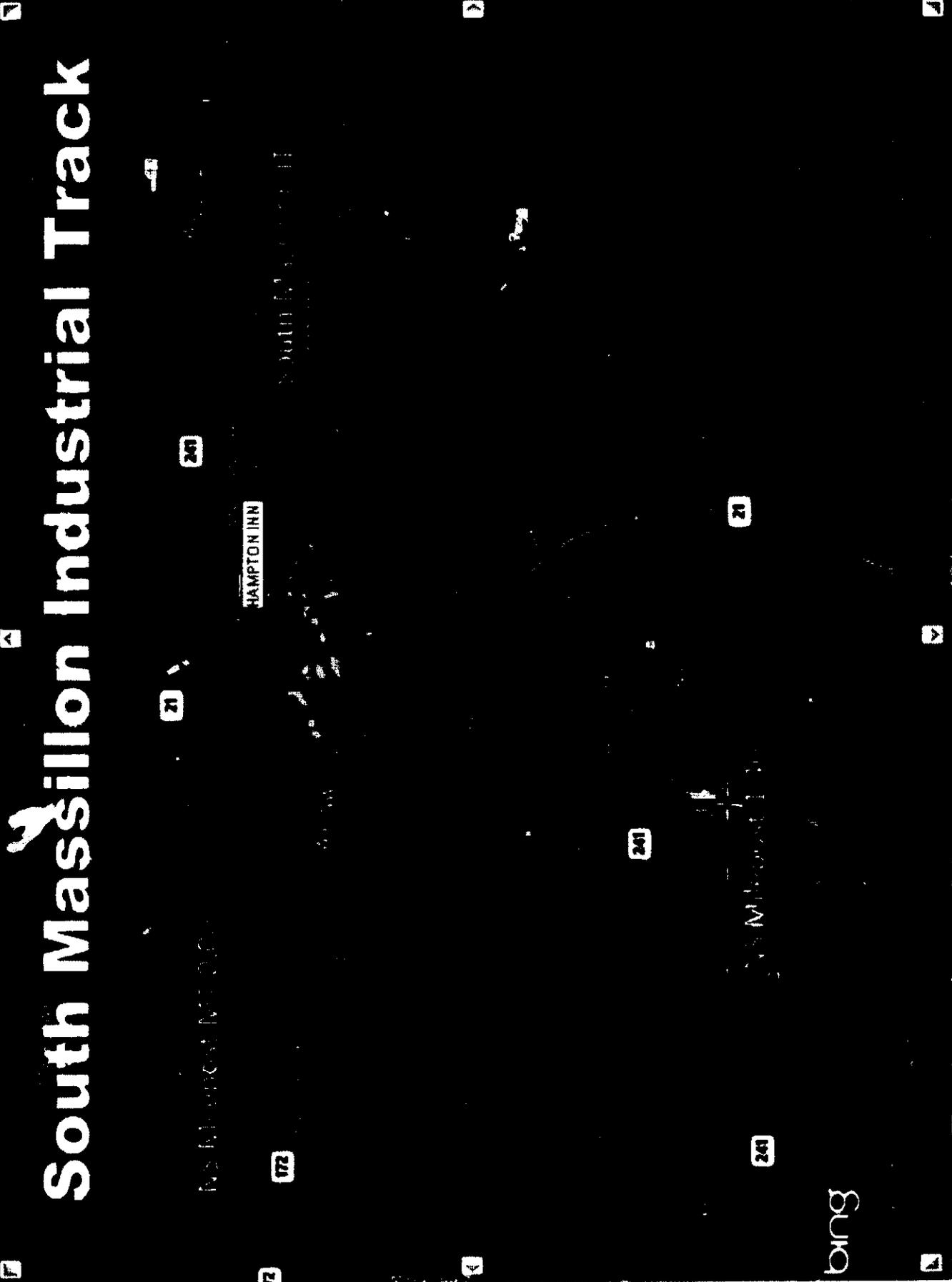


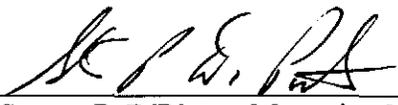
EXHIBIT B

VERIFICATION AND CERTIFICATE OF COMPLIANCE

I, Steven P. DiPietro, declare under penalty of perjury that I am Managing Member of RSL Railroad, LLC, that I have read the foregoing Notice of Exemption, know the facts asserted therein, and that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this notice.

I also hereby certify that RSL's projected annual revenues will not as a consequence of this transaction result in RSL becoming a Class II or Class I rail carrier so as to require processing of the foregoing notice of exemption under 49 C.F.R. § 1150.45, and that RSL's projected annual revenues, including the line to be operated pursuant to this notice, do not exceed \$5 million dollars.

Dated: January 6, 2016



Steven P. DiPietro, Managing Member

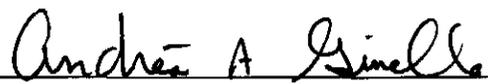
STATE OF OHIO)

STARK COUNTY)

Before me, a Notary Public in and for said County and State, personally appeared the above-named who acknowledged that the foregoing instrument was freely signed on this 6TH day of JAN 2016.



ANDREA A. GINELLA
Attorney at Law
Notary Public, State of Ohio
My Commission Has No Expiration
Section 147.03 R.C.



Notary Public

EXHIBIT C

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

STB Finance Docket No. FD35990

**RSL RAILROAD, LLC
—LEASE EXEMPTION CONTAINING INTERCHANGE COMMITMENT—
NORFOLK SOUTHERN RAILWAY COMPANY**

RSL Railroad, LLC (“RSL”), an existing Class III railroad common carrier, has filed a Notice of Exemption, pursuant to 49 C.F.R. Section 1150.41 et seq., to continue to lease and operate a rail line of Norfolk Southern Railway Company (“NSR”) known as the South Massillon IT and extending about 1.4 miles between MT 0.0 and milepost MT 1.4 at Massillon, OH (the “Line”).

Comments must be filed with the Surface Transportation Board, Office of the Secretary, 395 E Street, S.W., Washington, D.C. 20423-0001 and served on RSL’s representative:

Andy A. Ginella, Esq.
4096 Holiday Street NW
Canton, Ohio 44718
Phone: (330) 649-9600
Fax: (330) 649-9601
E-Mail: andy@ginellalaw.com
Ohio Supreme Court #: 0064377

The notice of exemption is filed under 49 C.F.R. § 1150.41. If the 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 effectiveness of the transaction.

Dated:

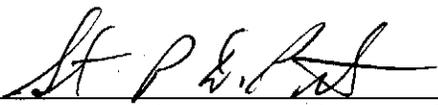
By the Board.

CERTIFICATE OF SERVICE

I hereby certify that, on January 6, 2016, a copy of the verified notice of exemption of RSL Railroad, LLC, in STB Finance Docket No. FD35990 was served by U.S. first-class mail, postage prepaid, on the following:

BERG STEEL PIPE CORP.
GEORGE N. PRICE, GENERAL MANAGER
P.O. BOX 59209
PANAMA CITY, FL 32412-0209

Dated: January 6, 2016



Steven P. DiPietro, Managing Member