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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 35668

232938
ENTERED
Office of Proceedings
September 7, 2012
Part of
Public Record

**IOWA PACIFIC HOLDINGS, LLC
AND PERMIAN BASIN RAILWAYS
-- CONTINUANCE IN CONTROL EXEMPTION --
RUSK, PALESTINE & PACIFIC RAILROAD, LLC
VERIFIED NOTICE OF EXEMPTION
UNDER 49 CFR § 1180.2(d) (2)**

Submitted By:

John D. Heffner
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(202) 742-8607

Counsel for Petitioner

Dated: August 30, 2012

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Come now Iowa Pacific Holdings, LLC (“IPH”), and its wholly-owned subsidiary Permian Basin Railways (“PBR”), and Rusk, Palestine & Pacific Railroad, LLC (“RP&P”) 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, RP&P is a noncarrier subsidiary acquired by short line railroad holding company IPH for the purpose of restoring common carrier freight railroad service over a line of railroad extending between Rusk and Palestine, TX (“the Line”).

3. On August 6, 2012, IPH acquired the ownership interest in American Heritage Railways of Texas, LLC (“American”), a noncommon carrier that has been operating an intrastate excursion passenger railroad over the Line outside the Board’s jurisdiction using the name Texas State Railroad since 2007. Upon acquisition, IPH changed American’s name to RP&P.¹

4. The Line of railroad is owned by the Texas Parks & Wildlife Authority and is leased to the Texas State Railroad Operating Authority (“the Rail Authority”) which in turn granted operating rights on the Line to American.

5. RP&P now plans to restore common carrier freight service over the Line and will provide that service using the name “Rusk, Palestine & Pacific Railroad.” RP&P will also continue the intrastate excursion passenger service that American has operated exempt from the Board’s jurisdiction. As with the service that American operated, RP&P will continue that service under the name “Texas State Railroad.”

6. IPH, through another wholly-owned subsidiary PBR presently

¹ Because American was not a common carrier railroad subject to the Board’s jurisdiction, there was no need for IPH to obtain Board authority to acquire the ownership interest.

controls six 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; and (6) the West Texas & Lubbock Railway Company.² In addition, IPH and Permian have recently filed exemption notices with the Board for a new subsidiary and noncarrier, Santa Cruz and Monterey Bay Railway Company, to provide rail service over a line between Watsonville Jct. and Davenport, CA, that has been operated by the Sierra Northern Railway.³ IPH will control RP&P directly.

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

² 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, and *Permian Basin Railways, Inc. — Acquisition of Control Exemption — Mount Hood Railroad*, FD 35108, STB served Dec. 19, 2007.

³ These transactions are docketed as FD 35632, *Iowa Pacific Holdings, LLC, and Permian Basin Railways--Continuance in Control Exemption —Santa Cruz and Monterey Bay Railway Company* (common control between the carriers), FD 35633, *Santa Cruz and Monterey Bay Railway Company -- Assignment of Lease Exemption* (covering the assignment of a lease from Sierra Northern Railway Company to Santa Cruz and Monterey Bay Railway Company, and FD 35659, *Santa Cruz and Monterey Bay Railway Company – Acquisition and Operation Exemption – Union Pacific Railroad Company* (acquisition of and operation over a railroad easement being acquired from the Union Pacific Railroad). On August 17, 2012, the Board served notices exempting each of these transactions which will be consummated in the near future.

PBR, will not connect with the line to be operated by RP&P as they are located hundreds, if not thousands, of miles apart and there are no plans to connect these lines.⁴

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

⁴ IPH/PBR's two current Texas subsidiaries (Texas-New Mexico Railroad and the West Texas & Lubbock Railway Company) are located in West Texas whereas RP&P is located in the eastern part of the State. IPH/PBR's other subsidiary carriers are located in Colorado, Illinois, New Mexico, New York, and Oregon. Once Santa Cruz and Monterey Bay Railway Company is established, it will operate in California.

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 directly owns the entire ownership interest in RP&P. As noted above, IPH acquired American for the purpose of operating a common carrier rail service on the Line. Upon acquisition, it changed American’s name to RP&P. In addition to operating common carrier railroad freight service over the Line using the name “Rusk, Palestine & Pacific Railroad,” RP&P will continue the intrastate excursion passenger service using the name “Texas State Railroad.” This control transaction relates to an exemption sought by RP&P for authority to operate over the Rail Authority’s line. See discussion below.

Applicant’s name, address, and telephone number:

Rusk, Palestine & Pacific Railroad
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 at least 30 days from the date of this notice, on or about September 30, 2012.

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

The purpose of this transaction is for RP&P to restore common carrier freight railroad service on the Line that American has used for a noncommon carrier intrastate excursion passenger railroad exempt from Board jurisdiction. RP&P will provide the freight service using the name "Rusk, Palestine & Pacific Railroad" and will continue the excursion passenger service using the name "Texas State Railroad," IPH and RP&P believe that this trackage has potential for generating freight traffic. RP&P plans to work closely with the Rail Authority, the local community, and the UP to develop the freight potential of the Line.

State(s) in which the property of each carrier is situated: 49 CFR §1180.6(a) (5)

RP&P Texas

Other IPH/PBR subsidiary railroads:

Chicago Terminal Railroad: Illinois

Mount Hood Railroad: Oregon

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)**

N.A. There is no agreement covering IPH's control of RP&P.

Related transaction

Concurrently with this filing, RP&P is submitting a verified Notice of Exemption for its operation of the Line. That notice has been assigned docket number FD 35669.

Other information / Certification:

Applicants hereby certify that (1) the line to be operated by the rail carrier [RP&P] and to be controlled pursuant to this notice of exemption does not connect

with those of any other carriers controlled by IPH through PBR, (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 continuance-in-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

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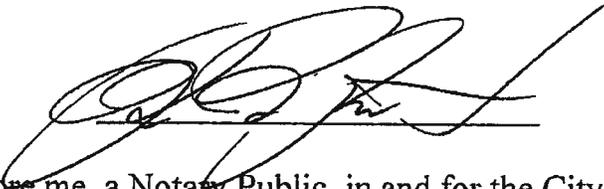
Counsel for Petitioner

Dated: August 30, 2012

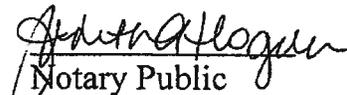
VERIFICATION

STATE OF)
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CITY OF) SS

Kevin W. Busath, being duly sworn according to law, hereby deposes and states that (s)he is holds the position of vice president – strategic planning with applicant/petitioner (respondent), 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.



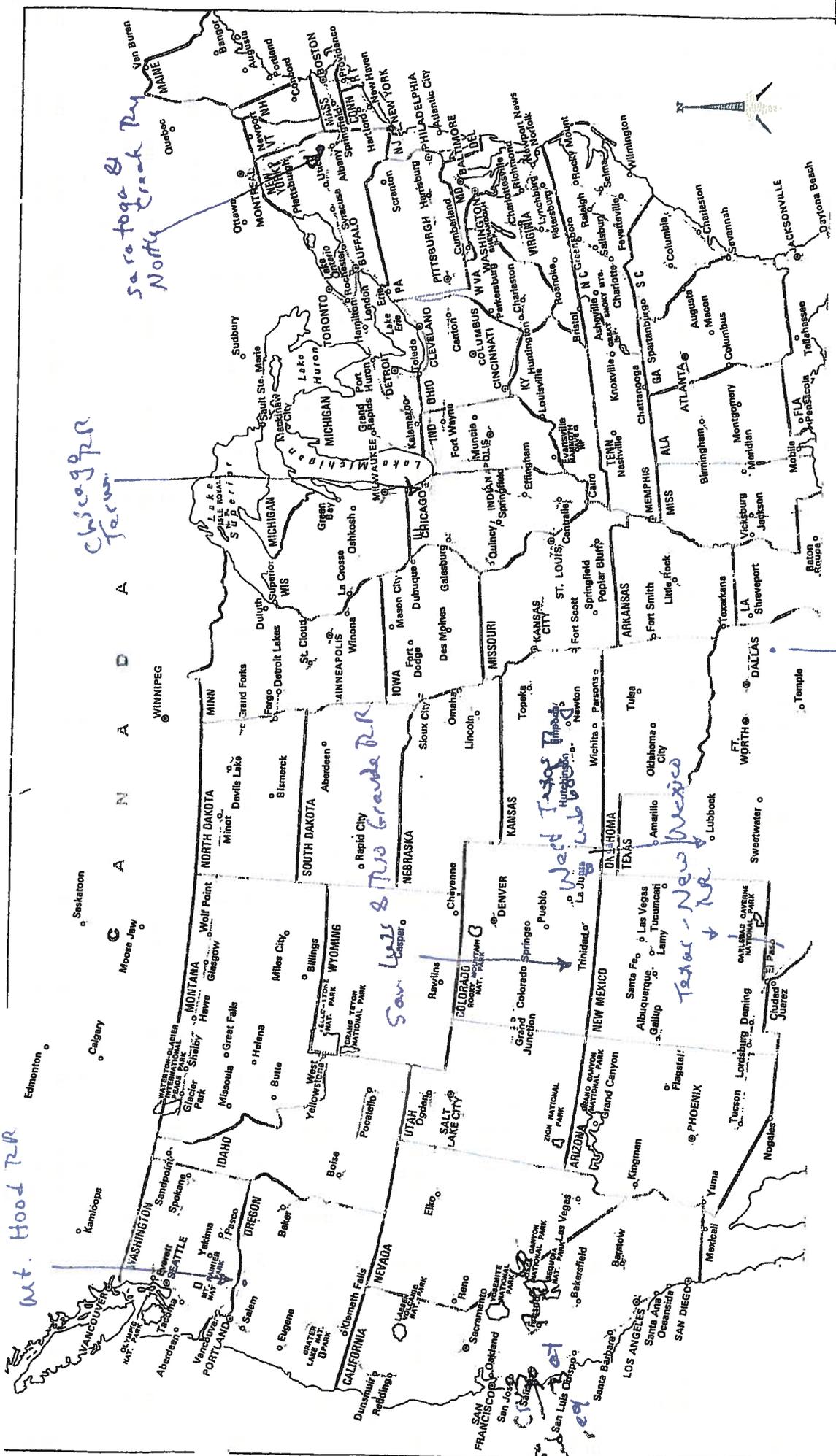
Subscribed to and sworn to before me, a Notary Public, in and for the City of Chicago in the State of IL, this 30 day of August 2012


Notary Public

My commission expires: Jan 13, 2013



EXHIBIT A



Mt. Hood RR

Saratoga & Crank Ry
North

Chicago RR

San Luis & Rio Grande RR

Wad Taylor RR

Texas - New Mexico RR

Rusk Palestine & Pacific Railroad, LLC