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Keith G O'Brien

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April 21, 2009

BY HAND DELIVERY

The Honorable Anne K Quinlan, Acting Secretary
Surface Transportation Board
395 E Street, S W
Washington, DC 20423-0001

224930

Re. ***Buckingham Branch Railroad Company – Change in Operators Exemption – Rail Line of Norfolk Southern Railway Company between Burkeville and Clarksville, in Nottoway, Lunenburg, Charlotte, and Mecklenburg Counties, VA***
STB Finance Docket No. 35226

Dear Acting Secretary Quinlan

Enclosed are an original and eleven copies of a Verified Notice of Exemption (“Notice”) for a change of operators under 49 CFR 1150 41, pursuant to which Buckingham Branch Railroad Company would assume operation of certain lines owned by Norfolk Southern Railway Company and operated by the Virginia Southern Railroad Division, North Carolina & Virginia Railroad, Inc Also enclosed are a caption summary as prescribed by 49 CFR 1150 44, and an electronic version of the Notice Accompanying the Notice are documents offered in connection with the requirements of 49 CFR 1150 43(h) These documents are to be kept confidential, have been segregated from the balance of the filing, and are submitted under seal in keeping with the aforementioned regulation and 49 CFR 1104 14(a)

Pursuant to 49 CFR 1002 2(f)(14)(ii), enclosed is a check for \$1,800 00 covering the applicable filing fee Please acknowledge receipt and filing of the Notice by time stamping the eleventh copy and returning it to the courier for return to me If there are any questions about this matter, please contact me directly, either by telephone (202) 663-7852 or by email. kobrien@bakerandmiller.com

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Keith G O'Brien'.

Keith G O'Brien
Attorney for Buckingham Branch
Railroad Company

Enclosures

FILED

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224930



BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 35226

BUCKINGHAM BRANCH RAILROAD COMPANY
- CHANGE IN OPERATORS EXEMPTION -
RAIL LINE OF NORFOLK SOUTHERN RAILWAY COMPANY BETWEEN
BURKEVILLE AND CLARKSVILLE IN NOTTOWAY, LUNENBURG, CHARLOTTE
AND MECKLENBERG COUNTIES, VA

VERIFIED NOTICE OF EXEMPTION PURSUANT TO 49 CFR 1150.41, ET SEQ

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Attorneys for Buckingham Branch
Railroad Company

April 21, 2009

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 35226

**BUCKINGHAM BRANCH RAILROAD COMPANY
– CHANGE IN OPERATORS EXEMPTION –
RAIL LINE OF NORFOLK SOUTHERN RAILWAY COMPANY BETWEEN
BURKEVILLE AND CLARKSVILLE IN NOTTOWAY, LUNENBURG, CHARLOTTE
AND MECKLENBERG COUNTIES, VA**

VERIFIED NOTICE OF EXEMPTION PURSUANT TO 49 CFR 1150.41, ET SEQ.

Pursuant to 49 U.S.C. 10502 and 49 CFR 1150.41, et seq., Buckingham Branch Railroad Company (“BB”) hereby provides notice of its class exemption from the formal requirements of 49 USC 10902 for a transaction encompassing a change in rail operators from the Virginia Southern Railroad Division, North Carolina & Virginia Railroad, Inc (“NCVA”) to BB on contiguous rail lines owned by Norfolk Southern Railway Company (“NSR”) between Milepost F84.8 near Burkeville and Milepost F65.8 near Keysville and between Milepost D0.0 near Keysville and Milepost D37.9 near Clarksville a total distance of 56.9 route miles (“The Line”) in Nottoway, Lunenburg, Charlotte and Mecklenburg Counties, VA.

The 19 mile segment of the subject line between Burkeville and Keysville, together with the 37.9 mile segment between Keysville and Clarksville, constitute a continuous rail line commonly known as the “Keysville Line.” The Line connects with an NSR-owned and operated line at Burkeville.

NCVA is currently the operator of the Line, along with a connecting section of NSR-owned rail line extending southward from Milepost D37.9 near Clarksville to milepost D53.15 at O&H Junction near Oxford, NC (the “Southern Segment”), which is not the subject

of this transaction ¹ BB is informed and believes that NCVA's lease to operate the Line and the Southern Segment has expired, and that NCVA will not renew or extend that lease. As is set forth in the attached verified statement of Sandra K. Franger (NCVA's Vice President-Contracts), NCVA is aware of the subject filing and will cease operations over the Line when BB commences operations pursuant to this notice ². Accordingly, the subject notice contemplates a change of operators on the Line, and BB will assume NCVA's common carrier rights between milepost F84.8 near Burkeville, VA, and milepost F65.8 near Keysville, VA, and between milepost 0.0 near Keysville and Milepost D37.9 near Clarksville, VA.

In support of this Notice of Exemption, BB submits the following information as required by 49 CFR 1150.43:

(a) Full name and address of applicant

Buckingham Branch Railroad Company
P O Box 336
Dillwyn, VA 23936

(b) Applicant's Representatives.

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Robert A. Wimbish
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2401 Pennsylvania Avenue, N.W.
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Facsimile. 202-663-7849
E-mail kobrien@bakerandmiller.com

¹ On information and belief, BB understands that the Southern Segment lacks active customers and is currently inactive and that NCVA and NS may file for authority to discontinue service over that line segment.

² See Appendix 1

(c) Statement that an agreement has been reached or details about when an agreement will be reached

NSR and BB have reached an agreement under which BB will lease and operate the Line

(d) Operator of the property

BB will operate the property, and, in so doing, will accept transfer and/or assignment of NCVA's common carrier obligations, and will replace NCVA as the Line's operator³

(e) Summary of the proposed transaction

(1) The name and address of the railroad transferring operating interests in the subject property

**Norfolk Southern Railway Company
Three Commercial Place
Norfolk, VA 23510**

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

The change in operators is to be consummated on or after May 23, 2009.

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

BB will operate the contiguous line segments between Milepost F84 8 near Burkeville, VA, and Milepost F65 8 near Keysville, VA, and between Milepost D0 0 near Keysville and Milepost D37.9 near Clarksville, VA. These lines are owned by NSR and currently are operated by NCVA

(4) The total route miles being acquired:

Approximately 56.9 route miles

³ Accordingly, the parties intend that one of the results of the subject transaction will be that NCVA will be relieved entirely of its common carrier obligation on the Line

(f) Map.

A map that clearly indicates the area to be served, including origins, terminus, stations, cities, counties and state is attached as Appendix 2

(g) Certificate of Compliance with the provisions of 49 CFR 1150.43(g).

Attached as Appendix 3 is a certificate affirming that BB'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 1150.45.

(h) Interchange commitments.

The subject notice of exemption encompasses a transaction under which BB would replace NCVA as operator of the Line which connects at its north end with NSR at Burkeville. The south end of the Line connects with the NSR-owned (but presently inactive) Southern Segment, over which, as explained above, NCVA possesses operating rights, subject to a possible formal request by NCVA to discontinue service over that line segment. In turn, BB understands that the Southern Segment connects only with a line owned and operated by NSR at O&H Junction near Oxford, NC. Under the circumstances, although BB technically enjoys a connection with the idle, NCVA-leased Southern Segment at Clarksville, that connection merely affords BB with a possible alternative routing to NS, the only line-haul carrier to which the Line has physical access.

Interchange with line-haul carriers other than NSR is impossible because the Line does not cross, intersect, or run in close proximity to the rail lines of carriers beside NSR, and, for this reason, BB believes that so-called "paper barrier" issues are moot here. Nevertheless, the NSR-BB Lease Agreement governing BB's proposed operation of the Line contains provisions that, the actual circumstances of the Line notwithstanding, could be construed as affecting BB's ability to interchange with a third party operator in the highly unlikely event that such a third party interchange with BB were ever to become possible. Out of an

abundance of caution, and in strict adherence to the requirements of 49 CFR 1150.43(h) (and the confidentiality provisions set forth therein), a confidential and complete version of the lease agreement containing provisions that could be construed as constraints on BB's ability to interchange with third party carriers is being offered to the Board with this filing under seal subject to the confidentiality provisions of 49 CFR 1104.14(a)

Other information and supporting materials:

While BB's projected revenues as a result of the transaction would not exceed the revenues that would qualify BB as a Class III rail carrier, projected annual revenues of the Line together with BB's projected annual revenues from existing operations will exceed \$5 million. Accordingly, BB arranged for the posting of its notice of intent to undertake the proposed transaction at the workplace of the employees on the Line, and served a copy of the notice on the national office of the union with employees on the affected Line on March 24, 2009. BB previously certified to the Board under this docket that it had complied with its advance notice and posting requirements. A copy of that notice, along with the related confirmation, is attached as Appendix 4 to this notice.

A caption summary in the prescribed form is attached as Appendix 5 to this notice.

Pursuant to 49 CFR 1150.42 (b), BB will furnish all known shippers on the Line with notice of the proposed change of operators transaction.

Pursuant to 49 CFR 1105.6 (c)(2)(ii), the proposed transaction is exempt from environmental review because the action proposed herein will not exceed any of the thresholds established in 1105.7(e) (4) or (5).

In addition, this transaction is exempt from historic review under 1105.8(b)(1), because the proposed change of operators is for the purpose of continued rail operations. Further STB approval would be required for the parties to abandon 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,



Keith G. O'Brien

Robert A. Wimbish

Baker & Miller PLLC

2401 Pennsylvania Avenue, NW

Suite 300

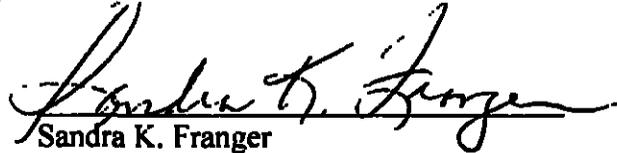
Washington, DC 20037

DATED April 21, 2009

Attorneys for Buckingham Branch
Railroad Company

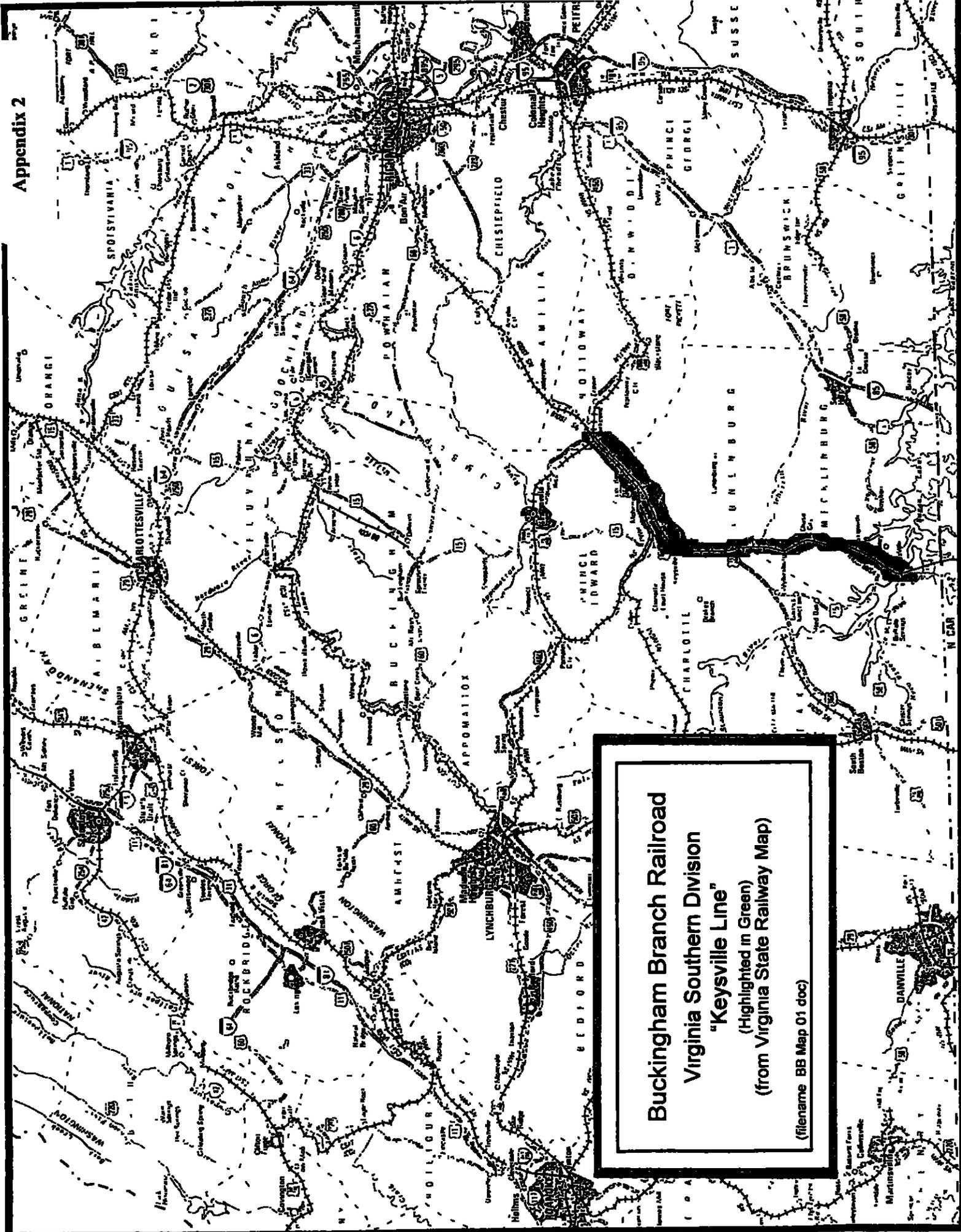
VERIFICATION

I, Sandra K. Franger, Vice President-Contracts of the Virginia Southern Railroad Division, North Carolina & Virginia Railroad, Inc ("NCVA"), hereby verify that I am authorized to make this verification, and hereby verify that NCVA – (1) will not renew its expired lease to operate the Norfolk Southern Railway Company-owned line between Burkeville, VA and O&H Junction near Oxford, NC, (2) concurs in the proposed change of operators, including the conveyance to BB of NCVA's common carrier rights and service obligations on the line between Burkeville and Clarksville, VA, which is the subject of the foregoing notice of exemption, (3) previously has advised shippers that NCVA will cease providing service over the Burkeville-Clarksville segment of line contemporaneously with Buckingham Branch Railroad Company's ("BB") commencement of service over that line segment



Sandra K. Franger
Vice President-Contracts
Virginia Southern Railroad Division,
North Carolina & Virginia Railroad, Inc
1355 Central Parkway South #700
San Antonio, TX 78232

April 20, 2009



Buckingham Branch Railroad
Virginia Southern Division
"Keysville Line"
(Highlighted in Green)
(from Virginia State Railway Map)

(filename BB Map 01 doc)

CERTIFICATION

I, Steven C. Powell, Senior Vice President of Buckingham Branch Railroad Company ("BB") hereby certify that BB's projected annual revenues will not as a consequence of the transaction result in BB becoming a Class II or Class I rail carrier so as to require processing of the foregoing notice of exemption under 49 CFR 1150.45.



Steven C. Powell

April 17, 2009

BAKER & MILLER PLLC

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March 23, 2009

VIA E-FILING

Honorable Anne K Quinlan, Acting Secretary
Surface Transportation Board
395 E St , S.W.
Washington, DC 20423-0001

Re Buckingham Branch Railroad Company – Change in Operators Exemption – Rail Line of Norfolk Southern Railway Company between Burkeville and Clarksville, in Nottoway, Keyesville, Charlotte, and Mecklenberg Counties, VA,
STB Finance Docket No 35226¹

Dear Acting Secretary Quinlan

On behalf of Buckingham Branch Railroad Company (“BB”), I hereby certify that on March 24, 2009, the attached revised notice was posted at the workplace of the employees of the Virginia Southern Railroad Division, North Carolina & Virginia Railroad, Inc (“NCVA”) – the current operator of the rail lines that are subject to the transaction encompassed by the above-referenced docket BB understands that certain employees of NCVA which may be affected by the proposed transaction are represented by the International Association of Machinists & Aerospace Workers, AFL-CIO (“IAM”) Accordingly, notice of the proposed transaction has also been served upon the national offices of IAM

On March 17, 2009, BB filed a certification in this proceeding, which stated incorrectly that NCVA employees affected by this transaction were not represented by one or more labor unions. Because BB has learned that its previous certification – which was based upon information supplied to it at that time – is incorrect, the March 17 certification is withdrawn and is substituted for by the current certification. BB acknowledges that the 60-day advance notice period that is set forth at

¹ The subject filing is intended to replace a previous certification filed in this proceeding on March 17, 2007. The previous certification involved the same parties and anticipated transaction as here, but it utilized a more cumbersome caption title The Buckingham Branch Railroad Company requests that the Board utilize the caption title listed above, rather than the one listed in the previous filing

BAKER & MILLER PLLC

The Honorable Vernon A Williams

March 24, 2009

Page 2 of 2

49 CFR 1150.42(e) commences upon the filing of this substitute certification, and this will be reflected in the notice of exemption that will follow.

If there are any questions concerning the filing, please call or e-mail the undersigned counsel for BB

Sincerely,

A handwritten signature in black ink, appearing to read "Keith G. O'Brien". The signature is written in a cursive style with a large initial "K" and "O".

Keith G O'Brien

**cc: Steve Powell
John Scheib
Sarah Quisenberry**

NOTICE

Pursuant to Surface Transportation Board ("STB") regulations at 49 C.F.R. § 1150.42(e), Buckingham Branch Railroad Company ("BB") hereby gives notice to the employees of the Virginia Southern Railroad Division, North Carolina & Virginia Railroad, Inc ("NCVA") that, subject to satisfaction of certain conditions of closing, including receipt of any required regulatory approvals, BB intends to undertake the following proposed transactions.

1. Lease from Norfolk Southern Railway Company ("NSR") of a rail line from Milepost F84.8 near Burkeville, VA, to Milepost F65.8 near Keysville, VA
2. Lease from NSR of a rail line from Milepost D0.0 near Keysville, VA to Milepost D37.9 near Clarksville, VA

As information, the above-described lines are currently leased by NCVA from NSR, and BB would replace NCVA/Virginia Southern as operator of these lines. On or before April 23, 2009, BB intends to file with the STB a notice of exemption pursuant to 49 C.F.R. Subpart E, under STB Finance Docket No. 35226, to authorize the proposed change of operators. BB anticipates commencing operations on the above-described lines on or about May 23, 2009.

BB, applying conservative traffic assumptions, plans to offer employment opportunities in the areas shown on the attached list. The number of employment positions shown on the attached list is preliminary and represents BB's current good faith estimate of the positions it is planning to have available. The number of positions shown on the attached list may be more or less, perhaps significantly more or less, than the actual number of positions that BB may have available, and the number of positions available will largely depend upon the rail traffic levels at the start of BB's operation of the lines.

With respect to benefits, BB plans to offer

- Medical and Dental Insurance
- Life Insurance
- Holidays
- Vacation
- 401(K) Plan

BB will select employees on the basis of some or all of the following criteria and other considerations: (1) demonstrated work ethic that is customer-driven and customer-oriented, (2) commitment and ability to work within a team environment; (3) demonstrated stable work history and commitment to safety, (4) commitment to being accountable for work product; (5) ability to communicate effectively, both orally and in writing, (6) relevant work experience and ability to perform duties, (7) results of personal interviews(s); and (8) demonstration of relevant work skills through non-discriminatory testing. No one of these listed factors will be determinative in the selection process.

The most qualified candidates are planned to be selected from the available pool of applicants without regard to race, creed, color, religion, national origin, sex, age, marital status, disability, veteran, National Guard or military reserve status, and any other protected characteristics. Successful applicants who have been conditionally offered positions would be required to pass a pre-employment drug and alcohol screen, complete a medical questionnaire, and pass a physical exam.

BB may, and reserves the right to, fill certain positions with BB's existing employees.

Any Virginia Southern Division employee of NCVA interested in applying for employment or in obtaining further information concerning positions that BB is planning to make available should contact Gale Wilson, Vice President of BB at (540) 887-8145.

BB, an existing short line, is a Class III rail carrier with annual revenues in excess of \$5 million. (The proposed transaction would not, however, cause BB to become a Class II carrier.) In accordance with the provisions of 49 C.F.R. § 1150.42(e), which prescribes advance posting requirements of Class III carriers that have annual revenues in excess of \$5 million or that are projected as a result of the transaction to have such revenues, BB hereby posts advance notice of this transaction at the workplace of the employees of the affected railroad line(s) at least 60 days before the notice of exemption relating to the proposed transaction becomes effective. BB understands that certain NCVA employees that may be affected by the proposed transaction are represented by a labor union – The International Association of Machinists and Aerospace Workers ("IAM"). Once this notice has been posted at appropriate NCVA workplaces and has been served upon IAM's national offices, BB will certify to the STB its compliance with the requirements of § 1150.42(e).

MANPOWER REQUIREMENTS

Job Description	Approximate Number to be Hired		
	Location	Position	Quantity
Transportation	Keysville, VA	Engineer	1
		Conductor	1
		Total	2
Track Maintenance	Keysville, VA	Foreman	1
		Track Worker	2
		Total	3
Manager	Keysville, VA	Manager	1
		Total	1
Grand Total			6

VERIFICATION

Pursuant to 28 USC 1746, I declare under the penalty of perjury under the laws of the United States that the foregoing notice of exemption is true and correct to the best of my knowledge and belief.

A handwritten signature in black ink, appearing to read "Steven C. Powell", is written over a solid horizontal line.

Steven C. Powell
Senior Vice President
Buckingham Branch Railroad

April 17, 2009