

**SLOVER & LOFTUS LLP**

ATTORNEYS AT LAW

1224 SEVENTEENTH STREET, N. W.

WASHINGTON, D. C. 20036-3003



WILLIAM L. SLOVER  
C. MICHAEL LOFTUS  
JOHN H. LE SEUR  
KELVIN J. DOWD  
ROBERT D. ROSENBERG  
CHRISTOPHER A. MILLS  
FRANK J. PERGOLIZZI  
ANDREW B. KOLESAR III  
PETER A. PFOHL  
DANIEL M. JAFFE  
STEPHANIE P. LYONS  
JOSHUA M. HOFFMAN  
STEPHANIE M. ADAMS

OF COUNSEL  
DONALD G. AVERY

225947

TELEPHONE:  
(202) 347-7170

FAX:  
(202) 347-3619

WRITER'S E-MAIL:  
kjd@sloverandloftus.com

October 28, 2009

**Via Hand Delivery**

The Honorable Anne K. Quinlan  
Acting Secretary  
Surface Transportation Board  
395 E Street, SW  
Washington, D.C. 20423-0001



Re: Finance Docket No. 35313, Charleston, Blue Creek  
and Sanderson Railway Company -- Lease and  
Operation Exemption -- Certain Lines of Norfolk  
Southern Railway Company

Dear Secretary Quinlan:

Enclosed for filing in the referenced matter please find an original and ten (10) copies of the Verified Notice of Exemption of Charleston, Blue Creek and Sanderson Railway Company, together with our check in the amount of \$1,800.00 to cover the requisite filing fee.

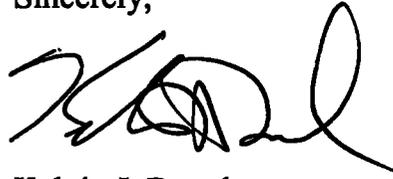
An additional copy of the Notice also is enclosed. Kindly indicate receipt and filing by time-stamping this extra copy and returning it to the bearer of this letter.



ENTERED  
Office of Proceedings  
OCT 28 2009  
Part of  
Public Record

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kelvin J. Dowd', with a large, stylized flourish at the end.

Kelvin J. Dowd  
An Attorney for Charleston, Blue Creek  
and Sanderson Railway Company

KJD:lad  
Enclosures

225947



BEFORE THE  
SURFACE TRANSPORTATION BOARD

CHARLESTON, BLUE CREEK AND  
SANDERSON RAILWAY COMPANY  
-LEASE AND OPERATION  
EXEMPTION-- CERTAIN LINES OF  
NORFOLK SOUTHERN RAILWAY  
COMPANY

) Finance Docket No. 35313

**FEE RECEIVED**

OCT 28 2009

**SURFACE  
TRANSPORTATION BOARD**

VERIFIED NOTICE OF EXEMPTION

Charleston, Blue Creek and Sanderson Railway Company

("CBCSR"), a non-carrier, files this Notice of Exemption from regulation under 49 U.S.C. § 10901, pursuant to 49 U.S.C. § 10502 and the provisions of 49 C.F.R. Part 1150.31, *et seq.*, to enable CBCSR to lease and operate certain lines of railroad currently owned and operated by Norfolk Southern Railway Company ("NSR") between approximately Milepost TP-1.00 at Charleston, West Virginia and Milepost TP-26.91 at Morris Fork, West Virginia, and between approximately former B&O Milepost 97.2 near Falling Rock, West Virginia and former B&O Milepost 100.9 near Blue Creek, West Virginia (together, the "Lines").

Pursuant to the Board's regulations at 49 C.F.R. Part 1150.33,

CBCSR states as follows:

**FILED**

OCT 28 2009

**SURFACE  
TRANSPORTATION BOARD**

**ENTERED**  
Office of Proceedings

OCT 28 2009

Part of  
Public Record

**a. Name and Address of Applicant**

Charleston, Blue Creek and Sanderson Railway Company  
148 Bristol East Road  
Bristol, VA 24202

**b. Applicant's Representative**

Kelvin J. Dowd  
Slover & Loftus LLP  
1224 Seventeenth Street, NW  
Washington, DC 20036  
202.347.7170  
[kjd@sloverandloftus.com](mailto:kjd@sloverandloftus.com)

**c. Statement Regarding Agreement**

CBCSR has entered into lease agreements with NSR which contain all terms and conditions covering CBCSR's acquisition and operation of the Lines. The effectiveness of the agreements is contingent on the effectiveness of the exemption noticed hereby.

**d. Operator of the Property**

CBCSR will be the operator of the Lines.

**e. Summary of the Transaction**

1. NSR will lease the Lines to CBCSR. NSR's business address is Three Commercial Place, Norfolk, VA 23510.
2. The agreements provide that CBCSR's leases shall be effective as of the later of July 15, 2009, or the effective date of the exemption

noticed hereby. Unless terminated earlier in accordance with their terms, the lease agreements will remain in effect for a period of twenty (20) years.

NSR will retain certain operating rights on the Lines to enable NSR to access a potential interchange with The Elk River Railroad, should such an interchange be developed in the future, and to access an inactive line believed to be held by the trustee of the Pennsylvania Central Railroad, in the event that this line is reactivated. However, the lease agreements do not include “interchange commitments” in the nature of those described in 49 C.F.R. Part 1121.3, and the Board’s Decision in Ex Parte No. 575 (Sub-No. 1), *Disclosure of Rail Interchange Commitments*, Decision served May 29, 2008.

3. The lines are located in West Virginia, and extend from approximately Milepost TP-1.00 at Charleston, West Virginia to Milepost 26.91 at Morris Fork, West Virginia, via Blue Creek, West Virginia. The Lines also include a segment between approximately former B&O Milepost 97.2 near Falling Rock, West Virginia and former B&O Milepost 100.9 near Blue Creek.

4. The total route miles equal approximately 30.6 miles.

**f. Map**

See Appendix A, attached hereto and made a part hereof.

**g. Certificate**

In a certificate attached hereto as Appendix B and made a part hereof, CBCSR certifies that once it becomes a carrier through acquisition of the Lines, its projected revenues will not exceed those that would qualify it as a Class III carrier.

**h. Caption Summary**

A Caption Summary in the form prescribed by 49 C.F.R. Part 1150.34 accompanies this Notice.

Respectfully submitted,

CHARLESTON, BLUE CREEK AND  
SANDERSON RAILWAY COMPANY

OF COUNSEL:  
Slover & Loftus LLP  
1224 Seventeenth Street, NW  
Washington, DC 20036

By: Kelvin J. Dowd   
Slover & Loftus LLP  
1224 Seventeenth Street, NW  
Washington, DC 20036  
202.347.7170

Dated: October 28, 2009

Attorney & Practitioner

**Caption Summary**

**SURFACE TRANSPORTATION BOARD**

**Notice of Exemption  
Finance Docket No. 35313**

**CHARLESTON, BLUE CREEK AND SANDERSON RAILWAY  
COMPANY**

**--LEASE EXEMPTION--**

**CERTAIN LINES OF NORFOLK SOUTHERN RAILWAY COMPANY**

Charleston, Blue Creek and Sanderson Railway Company has filed a notice of exemption to lease and operate Norfolk Southern Railway Company's lines between Charleston and Morris Fork, West Virginia, and between Blue Creek and Falling Rock, West Virginia, a total of approximately 30.6 route miles. Comments must be filed with the Board and served on Kelvin J. Dowd, Slover & Loftus, LLP, 1224 Seventeenth Street, NW, Washington, D.C. 20036, 202.347.7170.

The notice is filed under 49 C.F.R. Part 1150.31. 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 the transaction.

**Charleston, Blue Creek and Sanderson Railway Company**  
 148 Bristol East Road, Bristol VA 24202

**LEGEND**

Charleston to Blue Creek to Falling Rock to Reamer-  
 South Segment

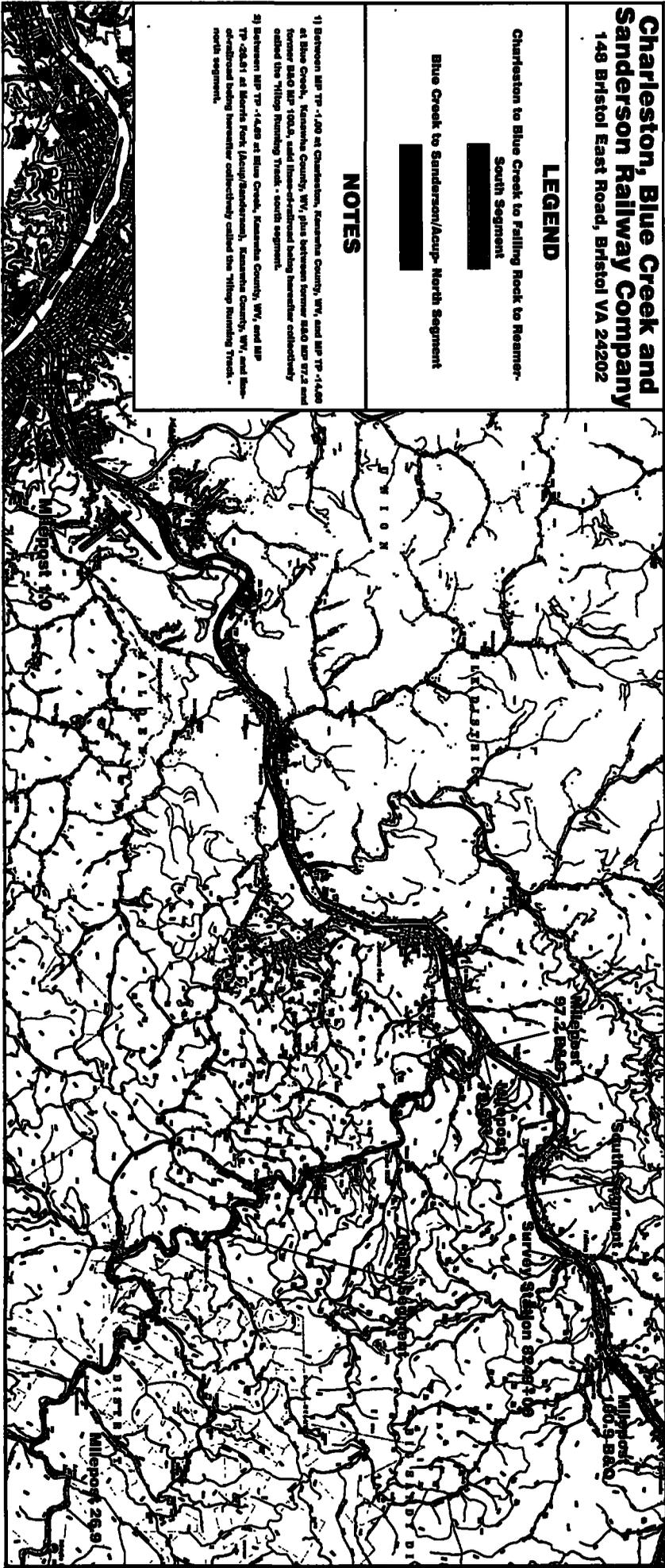


Blue Creek to Sanderson/Acup- North Segment



**NOTES**

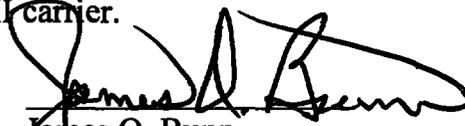
- 1) Between MP TP -1.00 at Charleston, Kanawha County, WV, and MP TP -1.40 at Blue Creek, Kanawha County, WV, plus between former 840 MP TP 2 and former 840 MP TP 1000, said line-of-railroad being hereafter collectively called the "Hilly Running Track" - south segment.
- 2) Between MP TP -1.40 at Blue Creek, Kanawha County, WV, and MP TP -28.01 at Morde Park (Acup/Sanderson), Kanawha County, WV, and line-of-railroad being hereafter collectively called the "Hilly Running Track" - north segment.



**APPENDIX B**

**CERTIFICATION**

I hereby certify, pursuant to 49 C.F.R. Part 1150.34, that the projected annual revenues of CBCSR following acquisition of the Lines will not exceed the levels that would qualify CBCSR as a Class III carrier.

  
James O. Bunn  
President

Dated: October 27, 2009

**VERIFICATION**

State of West Virginia            )  
  )  
County of Kanawha                )        SS:

James O. Bunn, being duly sworn, deposes and says that he is the President of Charleston, Blue Creek and Sanderson Railway Company, that he has read the foregoing Notice of Exemption, knows the contents thereof, and that the same are true as stated to the best of his knowledge, information and belief.



Sworn and subscribed before  
me this 27 day of October, 2009



Notary Public

My Commission expires: December 15, 2016

