

226103

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



December 1, 2009

BY HAND

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

ENTERED
Office of Proceedings
DEC 2 - 2009
Part of
Public Record

**RE: STB Finance Docket No. 35250
LRY, LLC D.B.A. Lake Railway-Lease and
Operation Exemption-Line of Union Pacific
Railroad Company**

**STB Finance Docket No. 35250, Sub. No. 1
LRY, LLC D.B.A. Lake Railway-Lease and
Operation Exemption-Rail Line in Lake
County, Oregon**

Dear Ms. Brown:

Enclosed for filing in the above captioned proceeding are an original and ten copies of LRY LLC's Verified Notices of pursuant to 49 CFR 1150.31 (c), dated December 1, 2009. A check in the amount of \$1,800.00, representing the appropriate fee for this filing pursuant to 49 CFR 1002.2 (f) (11) (ii). A 3.5-inch computer diskette containing the text of the Notice and the *Federal Register* caption summary in MS Word 2003 format will be supplied under separate cover.

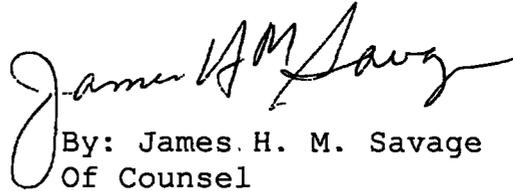
The Office of Proceedings has advised Petitioner's counsel that only one filing fee of \$1,800.00 need be tendered inasmuch

as these two exemptions involve related proceedings under 49 CFR 1002.2(d).

One extra copy of each Notice and this letter are also enclosed. Please deliver one date-stamped copy of those items to my representative.

Please contact me if you have any questions regarding this filing. On behalf of our client, thank you for your time and consideration.

Respectfully submitted,
John D. Heffner, PLLC



By: James H. M. Savage
Of Counsel

Enc.

cc: Mack H. Shumate (w/enc. via electronic mail)
Thomas McFarland (w/enc. via electronic mail)
James Bailey (w/enc. via electronic mail)

226103

ORIGINAL

FILED

DEC. 2 - 2009

**SURFACE
TRANSPORTATION BOARD**



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB FINANCE DOCKET NO. 35250, Sub. No. 1

**LRV, LLC D.B.A. LAKE RAILWAY
-- LEASE AND OPERATION EXEMPTION --
RAIL LINE IN LAKE COUNTY, OREGON**

**VERIFIED NOTICE OF EXEMPTION
FOR LEASE AND OPERATION OF RAIL LINE
PURSUANT TO 49 U.S.C. 10901 and 49 CFR 1150.31**

Submitted By:

John D. Heffner
John D. Heffner, PLLC
1750 K Street, N.W.
Suite 200
Washington, D.C. 20006
(202) 296-3333

Counsel for Applicant
LRV, LLC

James H. M. Savage
Of counsel

ENTERED
Office of Proceedings

DEC 2 - 2009

Part of
Public Record

FEE RECEIVED

DEC 2 - 2009

**SURFACE
TRANSPORTATION BOARD**

Dated: December 1, 2009

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 35250, Sub. No. 1

LRY, LLC D.B.A. LAKE RAILWAY
-- LEASE AND OPERATION EXEMPTION --
RAIL LINE IN LAKE COUNTY, OREGON

VERIFIED NOTICE OF EXEMPTION
FOR LEASE AND OPERATION OF RAIL LINE
PURSUANT TO 49 U.S.C. 10901 and 49 CFR 1150.31

INFORMATION REQUIRED BY 49 CFR 1150.33

Pursuant to 49 CFR 1150.31, et seq., LRY, LLC D.B.A. Lake Railway ("LRY"), a non-carrier, hereby files this Verified Notice of Exemption to lease and operate rail property owned by Lake County, Oregon ("Lake County") known as part of the Lakeview Branch between Milepost 458.60 at Alturas, CA and Milepost 512.30 at Lakeview, OR, a distance of 53.70 miles. The subject rail property was previously leased to and operated by Modoc Railway and Land Company, LLC ("MR&L") and Modoc Northern Railroad Co. ("MNRR"). See, Modoc Railway and Land Company, LLC-Acq. & Oper. Exempt.-in Lake County, OR, STB Finance Docket No. 34995 (STB served Feb. 28, 2007); and Modoc Northern Railroad Co.-Acq. & Oper. Exempt.-in lake County, OR, STB Finance Docket No. 34996 (STB served Feb. 28, 2007). Lake County has common carrier authority to operate over the property leased

to MNNR pursuant to a Modified Certificate of Public Convenience and Necessity. See, STB Finance Docket No. 33581, Lake County Railroad-Modified Rail Certificate (STB served Apr. 24, 1998). Lake County will resume operations in its own name over the subject railroad property until this notice becomes effective and LRY can initiate service in its own right. Based upon projected revenues, LRY expects to become a Class III rail carrier upon consummation of the proposed transaction.

Petitioner is concurrently seeking an exemption in STB Finance Docket No. 35250, LRY, LLC D.B.A. Lake Railway-Lease and Operation Exemption-Line of Union Pacific Railroad Company, to lease and operate rail property which is part of the UPRR's Modoc Subdivision, between the connection with the UPRR at Milepost 506.10 near Perez, CA and Milepost 445.60 near MacArthur, CA, a distance of 60.50 miles, as well as rail property owned by UPRR known as part of the Lakeview Branch between Milepost 456.89 and Milepost 458.60 at Alturas, CA, a distance of 1.71 miles. The total length of that trackage is 62.21 miles. MR&L had leased and MNNR had operated these Lines until UPRR terminated those agreements. UPRR is resuming operations over its line until LRY's exemption in FD No. 35250 becomes effective.

Name and Address of Applicant

49 CFR 1150.33(a)

LRY, LLC D.B.A. Lake Railway
499 Railex Road
Burbank, WA 99323

Applicant's Representative

49 CFR 1150.33(b)

James H. M. Savage
John D. Heffner
John D. Heffner, PLLC
1750 K Street, N.W.
Suite 200
Washington, D.C. 20006
(202) 296-3333

Statement of Agreements

49 CFR 1150.33(c)

LRY expects to execute an agreement shortly with Lake County to lease and operate rail property known as part of the Lakeview Branch between Milepost 458.60 at Alturas, CA and Milepost 512.30 at Lakeview, OR, a distance of 53.70 miles. The property was formerly operated by MNNR. Lake County has terminated MNNR's lease to operate the subject rail property and on May 19, 2009 initiated procedures leading to the filing of an adverse discontinuance application with the Board.¹ Until this exemption takes effect Lake County will operate the property in its own name, with LRY to act as the servicing carrier under an Agency Agreement with Lake County. Thereafter, LRY will continue

¹ See, Docket No. AB-1035, Lake County, Oregon-Adverse Discontinuance of Rail Service-Modoc Railway and Land Company, LLC and Modoc Northern Railroad Company (STB served Nov. 17, 2009).

service pursuant to the above described lease agreement between Lake County and LRY.

Petitioner is concurrently seeking an exemption under STB Finance Docket No. 35250, LRY, LLC D.B.A. Lake Railway-Lease and Operation Exemption-Line of Union Pacific Railroad Company, to lease and operate rail property which is part of the UPRR's Modoc Subdivision, between the connection with the UPRR at Milepost 506.10 near Perez, CA and Milepost 445.60 near MacArthur, CA, a distance of 60.50 miles, as well as rail property owned by UPRR known as part of the Lakeview Branch between Milepost 456.89 and Milepost 458.60 at Alturas, CA, a distance of 1.71 miles. The total distance of track for which LRY seeks lease and operating authority under Finance Docket No. 35250 is 62.21 miles. UPRR has terminated MR&L's lease and MNNR's operating agreement and will operate its line until LRY's exemption for that segment becomes effective. LRY will replace UPRR as the operator on that line once its exemption becomes effective.

Operator of the Property

49 CFR 1150.33(d)

In all cases anticipated by this Notice, and as described in the transaction summary provided below, LRY will hold itself out to provide common carrier rail freight service over the subject rail property.

Brief Summary of Transaction

49 CFR 1150.33(e)

This exemption involves the lease and operation by LRY, a non-carrier which will become a Class III short line railroad carrier upon this exemption taking effect, of certain rail property owned by Lake County and which had previously been leased to and operated by MNNR.

(1) Name and address of incumbent railroad

Lake County, Oregon
513 Center Street
Lakeview, OR 97630

(2) Proposed time schedule for consummation of transaction.

LRY plans to commence operations on or after December 31, 2009, more than thirty days after the filing of this Notice.

(3) Mileposts of the subject property. LRY intends to lease and operate rail property owned by Lake County known as part of the Lakeview Branch from Milepost 458.60 at Alturas, CA to Milepost 512.30 at Lakeview, OR.

(4) Total Route Miles. LRY intends to lease and operate rail property comprising a total of 53.70 route miles.

Map of Area to be Served

49 CFR 1150.33(f)

A map clearly indicating the area to be served, including origins, termini, stations, cities, counties, and states, is attached as Exhibit A.

Certificate of Carrier Classification

49 CFR 1150.33(g)

A certificate complying with the provisions of 49 CFR 1150.33(g) is attached as Exhibit B to this notice.

Transactions Imposing Interchange Commitments 49 CFR 1150.33(h)

Not applicable. The subject rail line connects only with UPRR's rail line on the west end at Milepost 458.60 at Alturas, CA.

Statement Regarding Railroad Police

Authority is not being sought to establish a railroad police force.

Disclosure of Intent to Transport Waste

LRV 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.

Caption Summary

49 CFR 1150.34

A caption summary in prescribed form is attached as Exhibit C to this Notice.

Environmental and Historic Preservation Data 49 CFR 1105

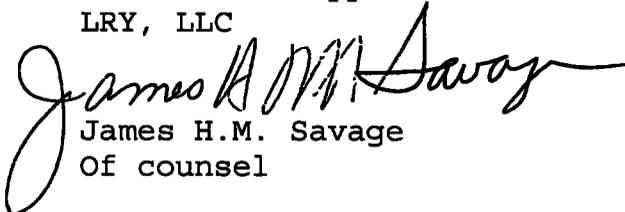
Under 49 CFR 1105.6(c)(2), the proposed transaction is exempt from environmental reporting requirements. The proposed transaction will not result in significant changes in carrier operations, i.e., changes exceeding the thresholds established in 1105.7(e)(4) or (5).

In addition, this transaction is exempt from historic review under 1105.8(b)(1). The proposed lease is for the purpose of continued rail operations, further Board approval would be required to abandon or discontinue any service, and there are no plans to dispose of or alter properties subject to Board jurisdiction that are fifty years old or older.

Respectfully submitted,
John D. Heffner, PLLC

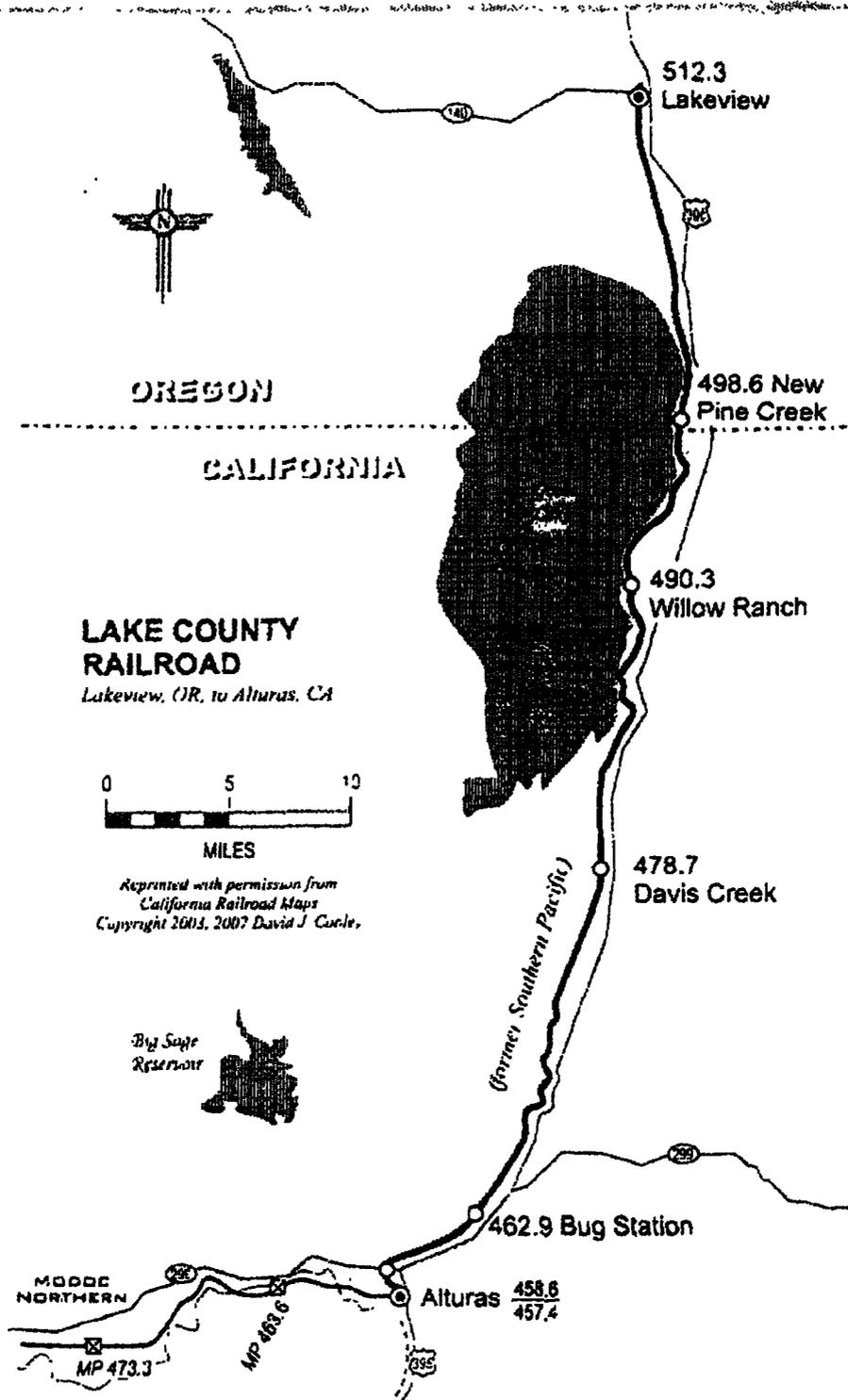
John D. Heffner
1750 K Street, N.W.
Suite 200
Washington, D.C. 20006
(202) 296-3333

Counsel for Applicant
LRY, LLC


James H.M. Savage
Of counsel

Dated: December 1, 2009

EXHIBIT A
MAP OF LEASED PREMISES



Certification

I, Paul Didelius, certify that I am the owner of LRY, LLC d/b/a Lake Railway ("LRY") and that applicant's projected revenues do not exceed those that would qualify it as a Class III carrier.

I further certify that the foregoing statements made by me are true, and that I am aware that if any of the foregoing statements made by me be willfully false, I am subject to punishment.

Dated: December 1, 2009

A handwritten signature in black ink, appearing to read 'P. Didelius', written over a horizontal line.

Paul Didelius

EXHIBIT C - CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

Notice of Exemption

FINANCE DOCKET NO. 35250, Sub. No. 1

**LRY, LLC D.B.A. LAKE RAILWAY
- LEASE AND OPERATION EXEMPTION -
RAIL LINE IN LAKE COUNTY, OREGON**

LRY, LLC D.B.A. Lake Railway ("LRY") has filed a Verified Notice of Exemption under 49 C.F.R. 1151.31 to lease and operate rail property owned by Lake County, Oregon ("Lake County") known as part of the Lakeview Branch between Milepost 458.60 at Alturas, CA and Milepost 512.30 at Lakeview, OR, a distance of 53.70 miles.

In a related proceeding under S.T.B. Finance Docket No. 35250, LRY, LLC D.B.A. Lake Railway-Lease and Operation Exemption-Line of Union Pacific Railroad Company, Petitioner is concurrently seeking an exemption to lease and operate rail property which is part of the UPRR's Modoc Subdivision, between the connection with the UPRR at

Milepost 506.10 near Perez, CA and Milepost 445.60 near MacArthur, CA, a distance of 60.50 miles, as well as rail property known as part of the Lakeview Branch between Milepost 456.89 and Milepost 458.60 at Alturas, CA, a distance of 1.71 miles. The total length of track for which lease and operating authority is being sought under Finance Docket No. 35250 is 62.21 miles.

Comments must be filed with the Board and served on James H. M. Savage, John D. Heffner, PLLC, 1750 K Street, N.W. - Suite 200, Washington, DC 20006. The telephone number of Petitioner's representative is (202) 296-3333.

This notice is filed under 49 CFR 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 stay the transaction.

Dated: _____

By the Board

Cynthia T. Brown

Chief, Section of Proceedings

(Seal)

202-296-3939

2 pages

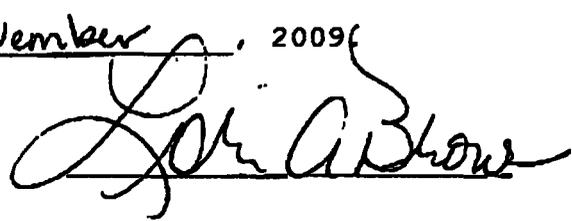
VERIFICATION

STATE OF WASHINGTON)
) SS
COUNTY OF WALLA WALLA)

I, Paul Didelius, being duly sworn according to law, hereby
depose and state that I am authorized to make this Verification,
that I have read the foregoing document, and that I know the
facts asserted therein are true and accurate as stated, to the
best of my knowledge, information and belief.


Paul Didelius

Subscribed and sworn to before me, a Notary Public, in and for
the City of ~~Burien~~ ^{Walla Walla wa} and County of Walla Walla, in the State of
Washington, this 30th day of November, 2009.



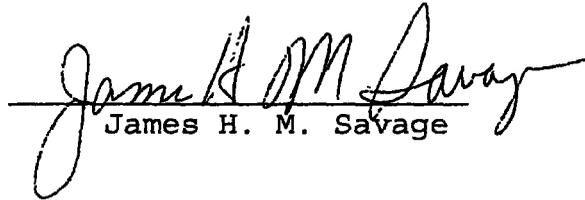
My Commission expires:

Dec 15, 2009



CERTIFICATION OF SERVICE

I, James H. M. Savage, an attorney-at-law of the District of Columbia, certify that I have served this day by electronic mail a true copy of the within pleading upon Mack H. Shumate, counsel for Union Pacific Railroad Company, and upon Thomas McFarland and James Bailey, counsel for Lake County, OR.


James H. M. Savage

Dated: December 1, 2009