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LAW OFFICES

**JOHN D. HEFFNER, PLLC**

1750 K STREET, N.W.

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WASHINGTON, D.C. 20006

PH: (202) 296-3333

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**FEE RECEIVED**  
DEC 15 2009  
SURFACE  
TRANSPORTATION BOARD



December 15, 2009

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 15 2009  
Part of  
Public Record

**FILED**  
DEC 15 2009  
SURFACE  
TRANSPORTATION BOARD

BY HAND DELIVERY

**Re: STB Finance Docket No. 35333  
Burlington Shortline Railroad, Inc. D/b/a Burlington Junction  
Railway – Lease and Operation Exemption – BNSF Railway  
Company**

Dear Madam Chief:

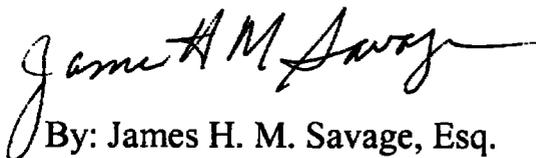
On behalf of Burlington Junction Railway (“BJRY”), I am submitting an original and eleven (11) copies of a Verified Notice of Exemption (“Notice”) under 49 CFR 1150.41, pursuant to which BJRY will lease and operate a rail line owned by BNSF Railway Company. Also enclosed is a check for \$1,800 covering the filing fee under 49 CFR 1002.2 (f)(14)(ii), and a caption summary in the prescribed format. An electronic version of this Notice formatted in MS Word will be supplied separately.

Accompanying this Notice pursuant to the requirements of 49 CFR 1150.43(h) are **HIGHLY CONFIDENTIAL** documents which are submitted under seal pursuant to 49 CFR 1104.14(a) and are not to become part of the public record in this proceeding.

Please acknowledge receipt and filing of this Notice by time stamping the eleventh copy and returning it to my courier. Should the Office of Proceedings (“OOP”) have any questions about this filing, or this matter generally, please contact me either by telephone: (202) 296-3335 or by E-mail: [jsavagelaw@aim.com](mailto:jsavagelaw@aim.com).

We thank the Board’s OOP for their time and consideration.

Respectfully submitted,  
John D. Hefner, PLLC

  
By: James H. M. Savage, Esq.  
Of counsel

Enc.

226161

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

**ORIGINAL**

**STB FINANCE DOCKET NO. 35333**

**FILED**  
DEC 15 2009  
SURFACE  
TRANSPORTATION BOARD

**BURLINGTON SHORTLINE RAILROAD, INC. D/B/A  
BURLINGTON JUNCTION RAILWAY  
-LEASE AND OPERATION EXEMPTION-  
BNSF RAILWAY COMPANY**

**VERIFIED NOTICE OF EXEMPTION  
PURSUANT TO 49 U.S.C. 10902 and 49 CFR 1150.41**

ENTERED  
Office of Proceedings  
DEC 15 2009  
Part of  
Public Record

Submitted By:

Burlington Shortline Railroad, Inc.  
d/b/a Burlington Junction Railway

Applicant

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

James H. M. Savage  
Of counsel

Attorneys for Applicant

**FEE RECEIVED**  
DEC 15 2009  
SURFACE  
TRANSPORTATION BOARD

Dated: December 15, 2009

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

**STB FINANCE DOCKET NO. 35333**

**BURLINGTON SHORTLINE RAILROAD, INC. D/B/A  
BURLINGTON JUNCTION RAILWAY  
-LEASE AND OPERATION EXEMPTION-  
BNSF RAILWAY COMPANY**

**VERIFIED NOTICE OF EXEMPTION**

Pursuant to 49 U.S.C. 10902 and 49 CFR 1150.41, et seq.,

Burlington Shortline Railroad, Inc. d/b/a Burlington Junction Railway (“BJRY”), a Class III rail carrier, hereby files this Verified Notice of Exemption to lease and operate approximately 3.5 miles of rail lines in St. Louis County, Missouri (the “Valley Park Lines”) owned by the BNSF Railway Company (“BNSF”) and currently operated by Missouri and Valley Park Railroad (“MVPR”). Based on projected revenues from the Valley Park Lines, BJRY expects to remain a Class III rail carrier after consummation of the transaction proposed herein.

In accordance with the requirements of 49 CFR 1150.43, BJRY submits the following information:

Name and Address of Applicant:      **49 CFR 1150.43(a)**

The full name and address of the rail carrier applicant herein is as follows:

Burlington Shortline Railroad, Inc.  
d/b/a Burlington Junction Railway  
1510 Bluff Rd.  
P.O. Box 37  
Burlington, IA 60611

Applicant's Representative:     **49 CFR 1150.43(b)**

BJRY's representative to whom correspondence regarding this transaction should be sent is as follows:

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

Statement Concerning Agreement:     **49 CFR 1150.43(c)**

BJRY has executed a written agreement with BNSF for BJRY to lease and operate certain railroad properties identified on the Maps attached hereto as Exhibit A-1 and located in the City of Valley Park, St. Louis County, Missouri consisting of trackage, real property, and railroad operating rights.

Operation of the Property:     **49 CFR 1150.43(d)**

BJRY will operate the Valley Park Lines as described in the transaction summary provided below. BJRY will hold itself out to provide common carrier

rail freight service over the subject rail facilities. MVPR's operations on the Valley Park Lines will terminate January 29, 2010.

Brief Summary of Transaction                      **49 CFR 1150.43(e)**

BJRY is an existing class III short line railroad which presently provides common carrier rail service over six (6) disconnected properties.<sup>2</sup> A Map showing all of BJRY's existing rail properties, none of which connect to the subject Lines is attached hereto as Exhibit A-2.

By this transaction, BJRY, a regional carrier based in Burlington, Iowa, a distance of 209 miles from Valley Park, MO will be able to offer shippers on-

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<sup>2</sup> Pursuant to an exemption granted in 1985, BJRY operates a terminal switching railroad over 1.5 miles of track in Burlington, IA. See, FD No. 30522, Burlington Shortline, Inc., and Keokuk Northern Real Estate Company, et al (served March 7, 1985). Also in 1996, BJRY lease and commenced operations over 0.5 miles of trackage owned by the Henry County Industrial Development Corporation in Mt. Pleasant, IA. That operation received an exemption from this Board in STB FD No. 32898, Burlington Shortline Railroad, Inc., d/b/a Burlington Junction Railway (served May 1, 1996). In 1997, BJRY purchased some additional trackage at Burlington, IA, from BNSF. See, STB FD No. 33518, Burlington Shortline, Inc., d/b/a Burlington Junction Railway—Acquisition and Operation Exemption, et al (Dec. 9, 1997). In 2003, BJRY assumed the lease operation of two BNSF rail lines near Quincy, IL. That transaction was exempted in a decision served October 21, 2003, and docketed as STB FD No. 34409, Burlington Shortline Railroad, Inc., d/b/a Burlington Junction Railway-Lease and Operation Exemption-The Burlington Northern and Santa Fe Railway Company. Pursuant to an exemption granted in 2006, BJRY assumed the lease operation of a BNSF rail line near Ottumwa, IA. See, STB FD No. 34973, Burlington Shortline Railroad, Inc., d/b/a Burlington Junction Railway-Lease and Operation Exemption-The Burlington Northern and Santa Fe Railway Company (served December 28, 2006). Pursuant to an exemption granted in 2008, BJRY assumed the lease and operation of 2.5 miles of track in Montgomery, IL. See, STB FD No. 35136 Burlington Shortline Railroad, Inc., d/b/a Burlington Junction Railway-Lease and Operation Exemption-BNSF Railway Company (served April 29, 2008).

demand switching and transload services in the Valley Park area. BJRY anticipates that affording local service will generate additional traffic levels. Furthermore, BJRY anticipates that improved car velocity resulting from this transaction will help ease congestion on BNSF mainline tracks. BJRY plans to make investments in the track assets to attract other shippers to the Lines.

By this transaction, BJRY will replace the existing carrier on the Lines, MVPR, whose lease is being terminated by BNSF effective January 30, 2010.

The rail properties being leased consist of industrial trackage and yard office buildings located on the South Side of the BNSF Cuba Subdivision Main Line between Milepost 18.36 and Milepost 20.50 near West Valley Park, MO, including all of BNSF's trackage and other improvements located adjacent to BNSF's Main Line, and further including an office building owned by BNSF located at 2150 Bowles Ave., Fenton, MO.

The length of the Valley Park Lines is approximately 3.5 miles.

This transaction qualifies for a class exemption under 49 CFR 1150.41, because it involves the lease and operation of an existing rail line by an existing Class III short line rail carrier.

The complete name and address of the owner of the Valley Park Lines is as follows:

**BNSF Railway Company**

2650 Lou Menk Drive – 2<sup>nd</sup> Floor  
Ft. Worth, TX 76131

BJRY intends to assume operation of the Valley Park Lines and related properties on or about January 30, 2010, but in no event prior to the effective date of this exemption.

**Map: 49 CFR 1150.43(f)**

A Map depicting the lines to be leased and operated and depicting the location of the Valley Park Lines on the State of Missouri's rail system is attached as Exhibit A-3.

**Certificate of Compliance: 49 CFR 1150.43(g)**

A certificate complying with the provisions of 49 CFR 1150.43(g) is attached as Exhibit B to this Notice.

**Interchange Commitments: 49 CFR 1150.43(h)**

BJRY will interchange traffic with BNSF at the Valley Park Lines which connect with the BNSF Cuba Subdivision Main Line at milepost 18.36 near West Valley Park, MO, as depicted in the map attached as Exhibit A-1. The lease agreement governing the subject transaction does not prohibit BJRY from interchanging with other carriers. The lease agreement does contain a provision requiring BJRY to remit supplemental rent to BNSF for each carload originating or

terminating on the Valley Park Lines that is interchanged with a carrier other than BNSF.

BJRY is submitting under seal a confidential and complete version of the lease agreement as provided in 49 CFR 1104.14(a) and 1150.43(h)(1)(ii).

Labor Protection:

Pursuant to 49 U.S.C. 10902(d) labor protective conditions do not apply and none will be imposed.

Caption Summary            **49 CFR 1150.44**

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

Environmental and Historic Preservation Data            **49 CFR 1105**

Pursuant to 49 CFR 1105.6(c)(2), the proposed transaction is exempt from environmental review under 49 CFR 1105.6(c)(2)(i) because the actions proposed herein will not cause any operating changes that exceed the thresholds established in 1105.7(e)(4) or (5).

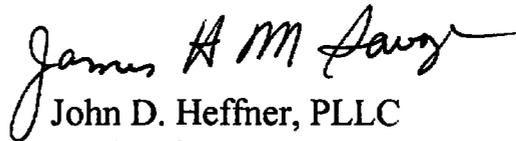
In addition, this transaction is exempt from historic review under 1105.8(b)(1). Under this section, a sale, lease or transfer of a rail line is exempt if rail operations will continue. Further Board approval is required for the parties to abandon service, and there are no plans to dispose of or alter the properties subject

to Board jurisdiction.

Certification of Compliance with Public L. No. 110-432, 121 Stat. 4848 (2008)

BJRY hereby certifies that, pursuant to the Clean Railroads Act of 2008, applicant will not engage in any of the following activities on any of the rail properties being lease: operate any solid waste rail transfer facility for the collection, storage or transfer of solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting and shredding) as the term 'solid waste' is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

Respectfully submitted,



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

By: James H. M. Savage  
Of counsel

Attorneys for Applicant

Dated: December 15, 2009

**VERIFICATION**

Robert Wingate, under penalty of perjury, declares and verifies that he is General Manager of Burlington Shortline Railroad, Inc., D/b/a Burlington Junction Railway, that he has read the foregoing Notice of Exemption and knows the facts asserted therein, and that the same are true as stated.

  
\_\_\_\_\_  
Robert Wingate

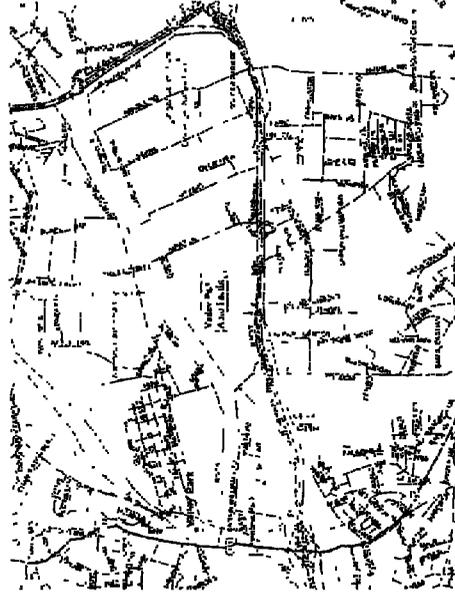
Dated: December 14, 2009

**EXHIBIT A-1**

**Exhibit A - 4**

**PAGE ONE OF SIX**

FIL BURNINGTON NORTH-LINN AND SANTA FE RAILWAY COMPANY  
VALLEY PARK, MO. TRACK LEASE EXHIBITS  
ST. LOUIS COUNTY, MISSOURI



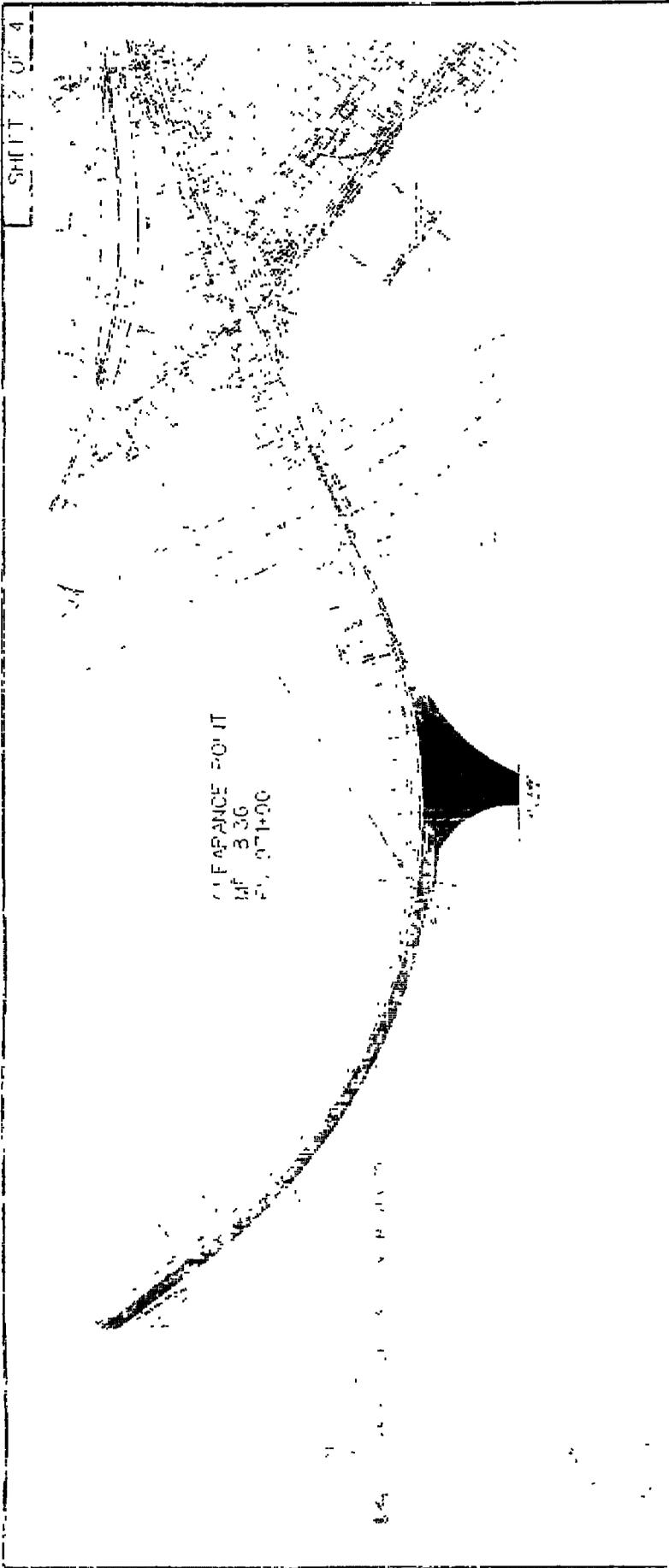
PREPARED BY  
GEORGE T. HILL & NEET  
ENGINEERS, INC.  
ST. LOUIS, MISSOURI  
1917



Exhibit A - 1

PAGE THREE OF SIX

SHIT 2 OF 4



CLEARANCE POINT  
MF 3.36  
PL 071+00

Exhibit A-1

PAGE FOUR OF SIX

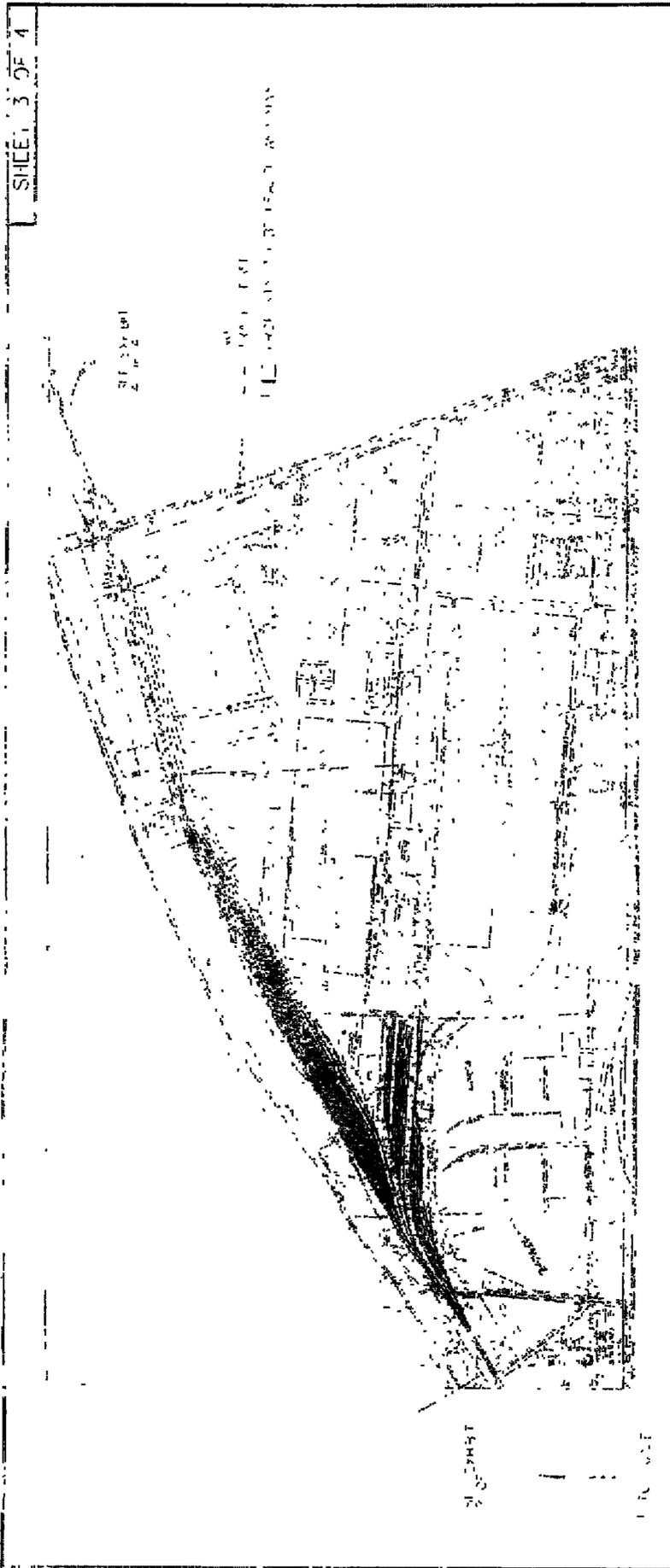


Exhibit A - 1

PAGE FIVE OF SIX

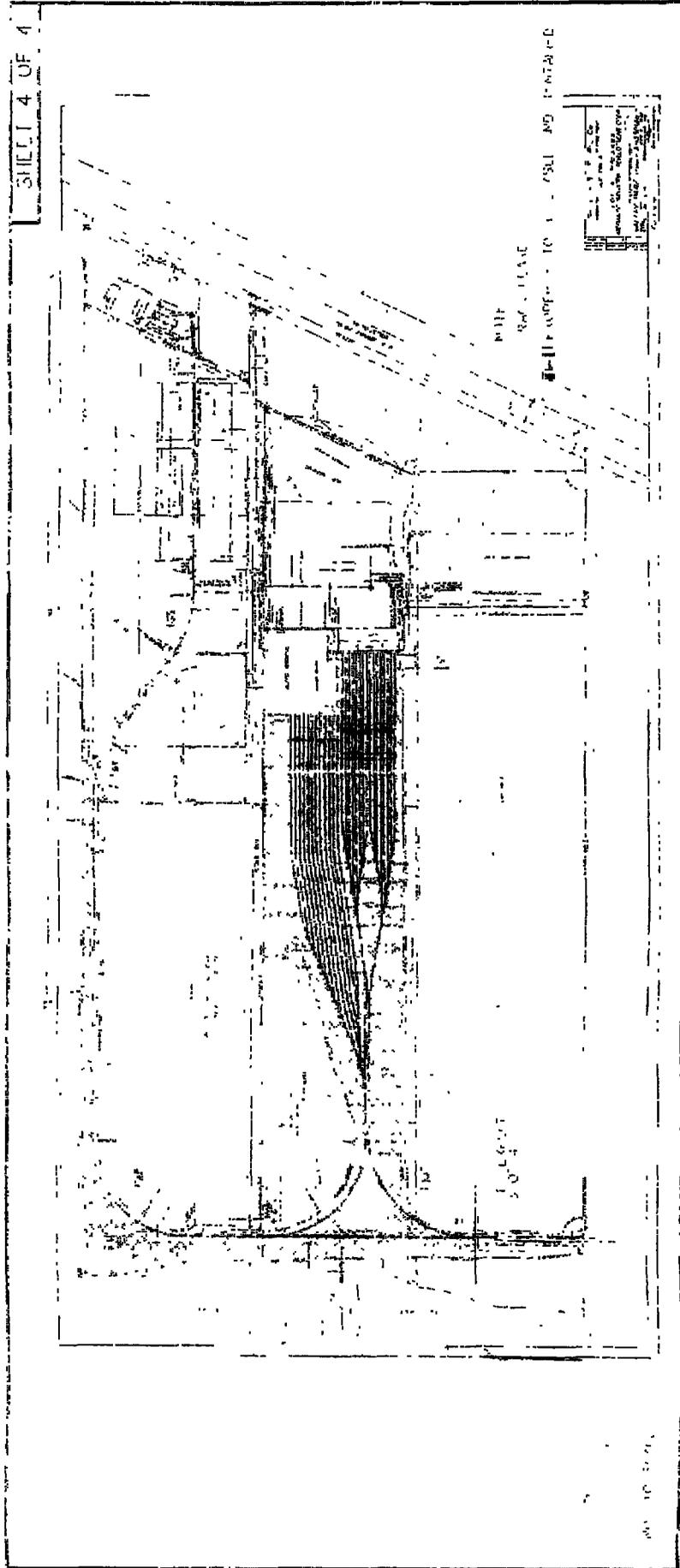


Exhibit A - 1

NOTE: BELL UG ALONG ELAM RD (SS) (see)

R.R. Survey Sta. No. 994516.5 Wire Clearance 38' 6" 15KV Voids 14x14 Call Attention

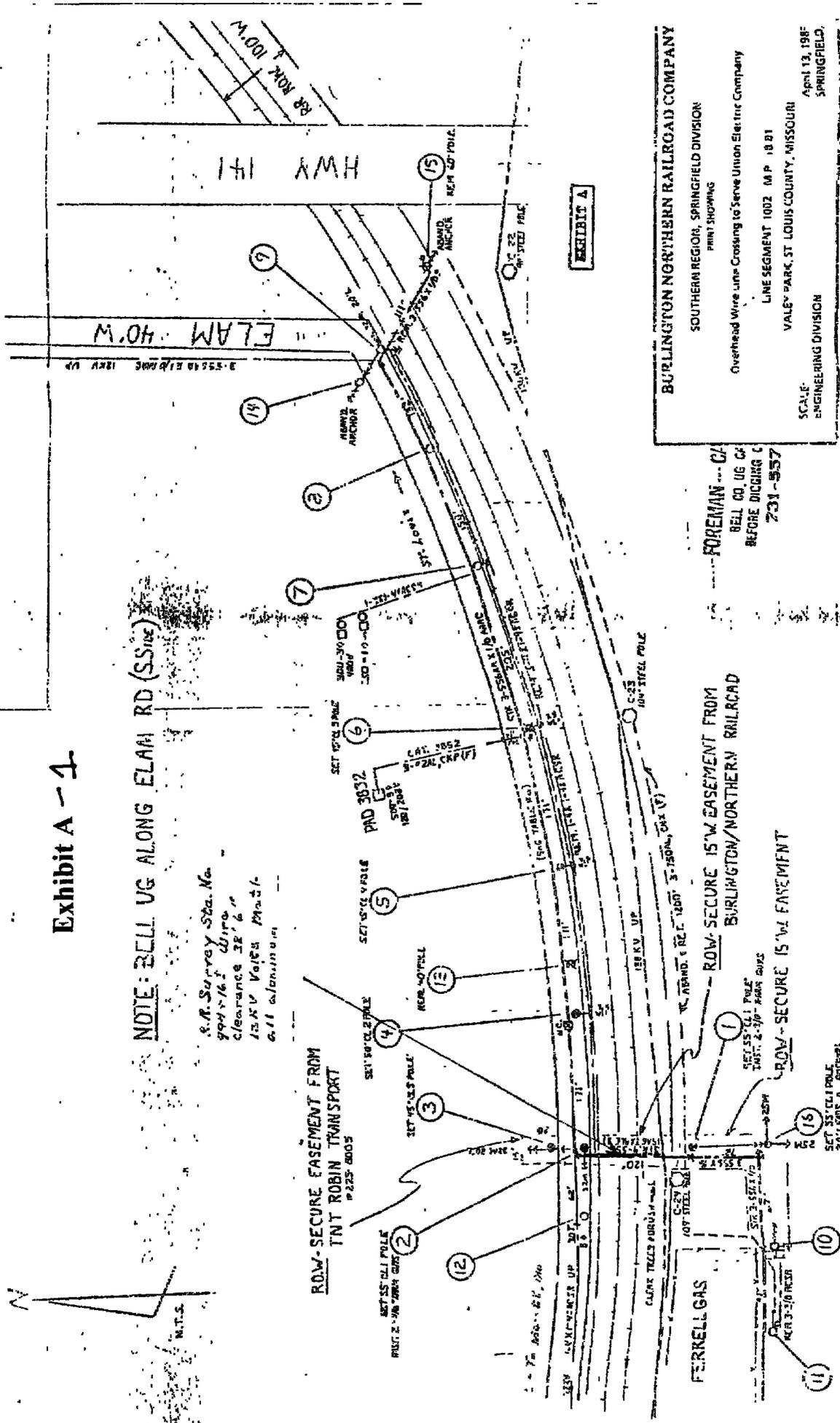


EXHIBIT A

**BURLINGTON NORTHERN RAILROAD COMPANY**  
 SOUTHERN REGION, SPRINGFIELD DIVISION  
 PRINT SHOWING  
 Overhead Wire Line Crossing to Serve Union Electric Company  
 LINE SEGMENT 1002 M.P. 10 B1  
 VALLEY PARK, ST. LOUIS COUNTY, MISSOURI  
 SCALE: ENGINEERING DIVISION  
 April 13, 1987  
 SPRINGFIELD,

FOREMAN ... CA  
 BELL CO. UG CA  
 BEFORE DIGGING C  
 731-557

ROW - SECURE 15' W EASEMENT FROM  
 BURLINGTON/NORTHERN RAILROAD

ROW - SECURE 15' W EASEMENT

144 NORTH OUTER ROAD

**EXHIBIT A-2**



**EXHIBIT A-3**

EXHIBIT A-3  
PAGE TWO OF TWO

AM  
BNS  
CT  
DME  
KRR  
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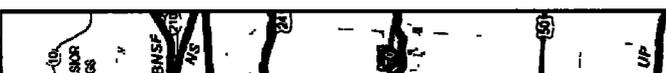
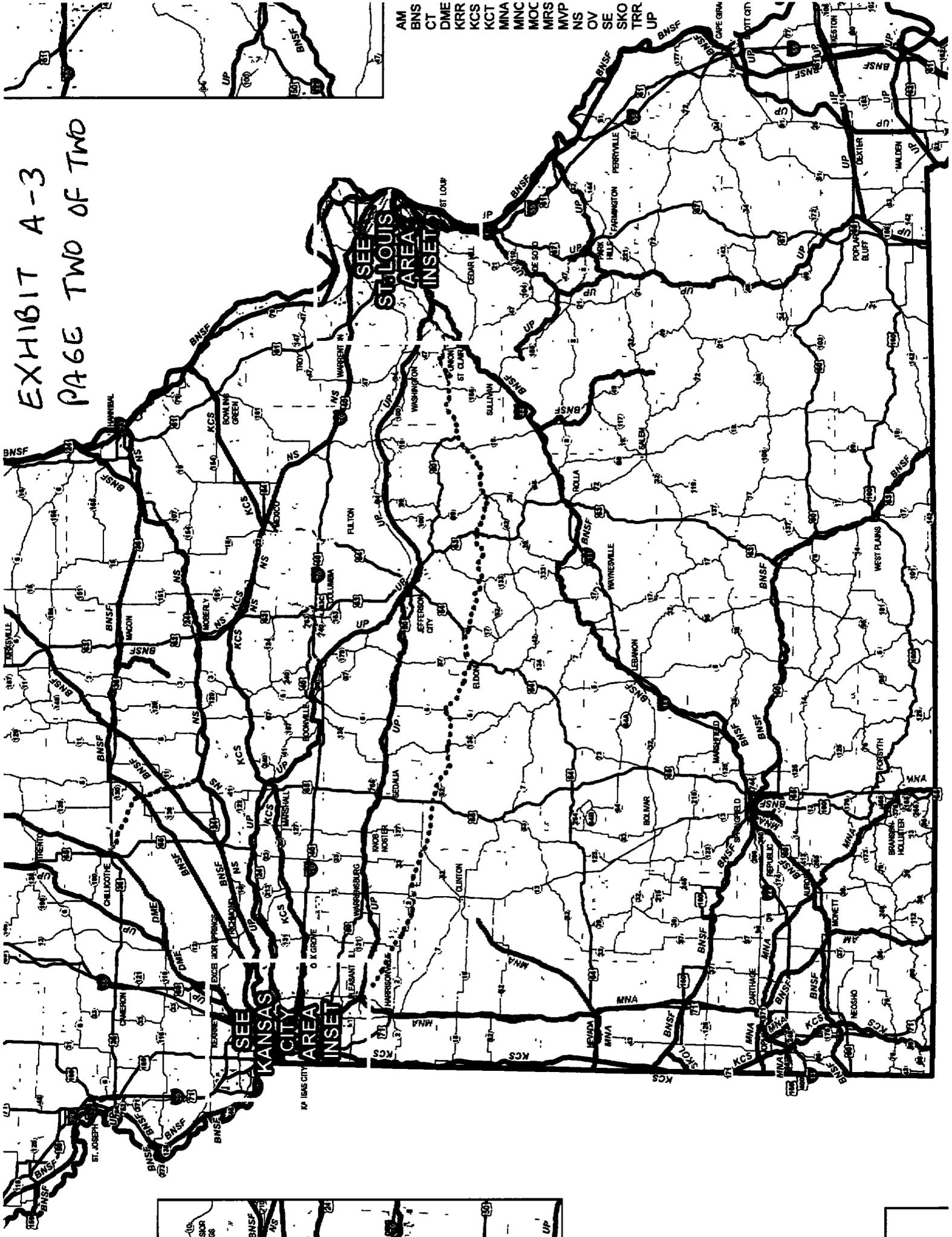
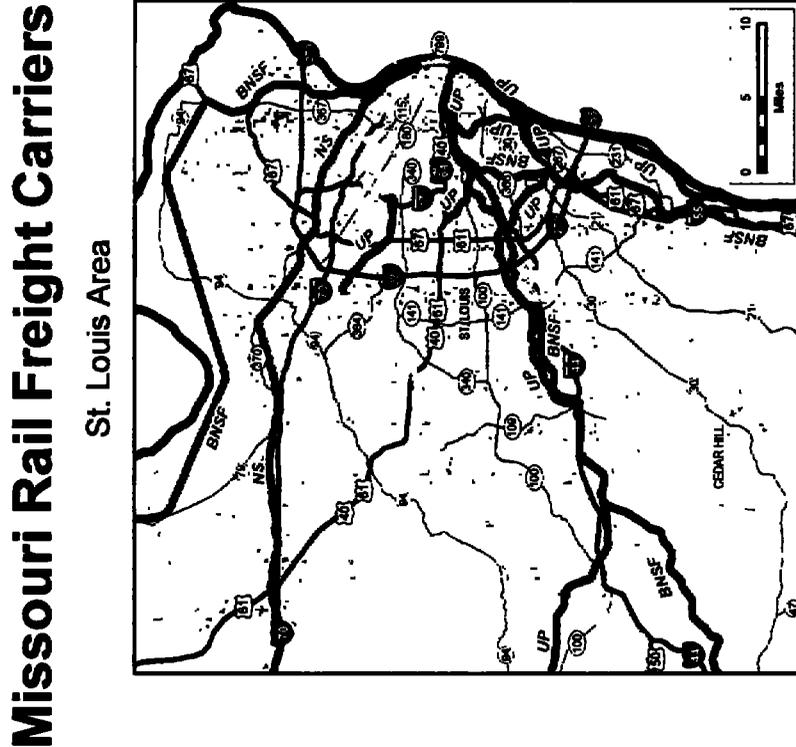
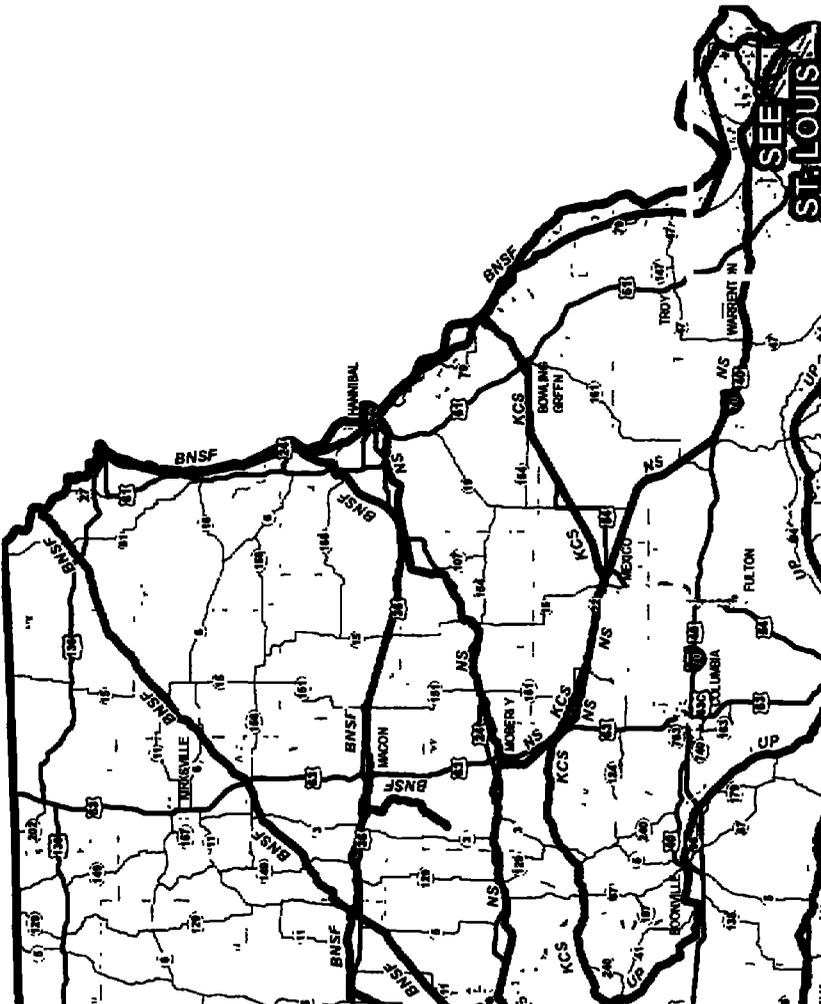


EXHIBIT A-3

PAGE TWO OF TWD



# Missouri Rail Freight Carriers

St. Louis Area

EXHIBIT B

CERTIFICATION

I, Robert Wingate, General Manager of the Burlington Shortline Railroad, Inc. D/b/a Burlington Junction Railway ("BJRY") hereby certify under penalty of perjury that the projected annual railroad operating revenues of BJRY, in the aggregate, will not exceed \$5,000,000, and that BJRY will be a Class III rail carrier as set forth at 49 CFR 1201 (1-1) (a). Further, I certify that I am qualified and authorized to make this certification on behalf of BJRY.

  
\_\_\_\_\_  
Signature: Robert Wingate

Dated: December 14, 2009

EXHIBIT C

**SURFACE TRANSPORTATION BOARD**

*Notice of Exemption*

**STB FINANCE DOCKET NO. 35333**

**BURLINGTON SHORTLINE RAILROAD, INC.  
D/B/A BURLINGTON JUNCTION RAILWAY  
-- LEASE AND OPERATION EXEMPTION --  
BNSF RAILWAY COMPANY**

Burlington Shortline Railroad, Inc. d/b/a Burlington Junction Railway (“BJRY”), an existing class III short line railroad common carrier, has filed a Verified Notice of Exemption to lease and operate approximately 3.5 miles of rail lines from BNSF Railway Company (BNSF). The rail properties being leased consist of industrial trackage and yard office buildings located on the South Side of the BNSF Cuba Subdivision Main Line between Milepost 18.36 and Milepost 20.50 near West Valley Park, MO, including all of BNSF’s trackage and other improvements located adjacent to BNSF’s Main Line, and further including an office building owned by BNSF located at 2150 Bowles Ave., Fenton, MO.

The notice is filed under 49 C.F.R. 1150.41(c). If the Notice contains false or misleading information, the exemption is void *ab initio*. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to this STB Docket No. 35333, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423. In addition a copy of each pleading must be served on:

For BJRY:

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

And for BNSF:

BNSF Railway Company  
2650 Lou Menk Drive  
Fort Worth, TX 76131  
Attn: AVP Joint Facilities  
AVP Short Line Development  
Telephone: (817) 352-6434

(seal)

Cynthia T. Brown  
Chief, Section of Administration