

**BALL JANIK LLP**  
ATTORNEYS

226487

1455 F STREET, NW, SUITE 225  
WASHINGTON, D.C. 20005  
www.balljanik.com  
TELEPHONE 202-638-3307  
FACSIMILE 202-783-6947

KARL MORELL

kmorell@dc.bjllp.com

February 22, 2010

**FEE RECEIVED**

FEB 22 2010

SURFACE  
TRANSPORTATION BOARD



BY HAND DELIVERY

Ms. Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street S.W.  
Washington, DC 20423-0001

Re: STB Finance Docket No. 35353, VFRC, LLC – Acquisition Exemption – Union Pacific Railroad Company

Dear Ms. Brown:

Attached for filing are the original and ten copies of a Verified Notice of Exemption under 49 C.F.R. § 1150.31 and a check covering the \$1,800 filing fee. Also enclosed is a Disc containing the Notice and Summary.

Please time and date stamp the extra copy of the Notice of Exemption and return it with our messenger.

If you have any questions, please contact me.

Sincerely yours,

Karl Morell

ENTERED  
Office of Proceedings

FEB 22 2010

Part of  
Public Record

**FILED**

FEB 22 2010

SURFACE  
TRANSPORTATION BOARD

Enclosures

BEFORE THE  
SURFACE TRANSPORTATION BOARD

---

STB FINANCE DOCKET NO. 35353

---

VFRC, LLC  
--ACQUISITION EXEMPTION--  
UNION PACIFIC RAILROAD COMPANY

---

VERIFIED NOTICE OF EXEMPTION  
Pursuant to 49 C.F.R. § 1150.31, Et Seq.

---



**FEE RECEIVED**

FEB 22 2010

SURFACE  
TRANSPORTATION BOARD

ENTERED  
Office of Proceedings

FEB 22 2010

Part of  
Public Record

KARL MORELL  
Of Counsel  
BALL JANIK LLP  
Suite 225  
1455 F Street, N.W.  
Washington, D.C. 20005  
(202) 638-3307

Attorneys for:  
VFRC, LLC

Dated: February 22, 2010

**FILED**

FEB 22 2010

SURFACE  
TRANSPORTATION BOARD

BEFORE THE  
SURFACE TRANSPORTATION BOARD

---

STB FINANCE DOCKET NO. 35353

---

VFRC, LLC  
--ACQUISITION EXEMPTION--  
UNION PACIFIC RAILROAD COMPANY

---

VERIFIED NOTICE OF EXEMPTION  
Pursuant to 49 C.F.R. § 1150.31, Et Seq.

---



VFRC, LLC ("VFRC"), an Oregon Limited Liability Company and a non-carrier, files this Notice of Exemption pursuant to 49 C.F.R. Part 1150, Subpart D--Exempt Transactions, to acquire certain physical assets of a rail line and the underlying right-of-way from the Union Pacific Railroad Company ("UP").

VFRC seeks to acquire UP's right, title and interest in certain tracks, track materials and the underlying right-of-way of the rail line located between Milepost 682.25, near Greenberry, Oregon, and Milepost 687.6, near Corvallis, Oregon (the "Line"). VFRC will not provide rail freight service on the Line. UP will retain the permanent, exclusive rail freight easement ("Freight Easement") to provide service on the Line and transfer the Freight Easement to Albany & Eastern Railroad Company ("AERC"). In STB Finance Docket No. 35355. AERC is seeking authority to acquire the Freight Easement from UP.<sup>1</sup>

---

<sup>1</sup> AERC is also seeking authority to acquire from Willamette & Pacific Railroad ("WPRR"), the current operator of the Line, WPRR's operating rights and obligations with respect to the Line.

VFRC will shortly be filing a Motion to Dismiss the Notice of Exemption in this proceeding on grounds that the Surface Transportation Board (“Board”) does not have jurisdiction over the involved purchase of certain physical assets and real property by VFRC. *See Maine, DOT – Acq. Exemption – Me. Central R Co.*, 8 I.C.C. 2d 835 (1991). For a number of reasons, the involved transaction must be consummated in the near future. Accordingly, VFRC is utilizing this exemption procedure so that it may properly consummate the transaction before obtaining a jurisdictional determination from the Board.

In support of this Notice of Exemption, VFRC submits the following information as required by 49 C.F.R. § 1150.33:

(a) Full name and address of applicant:

VFRC, LLC  
30742 Venell Place  
Corvallis, Oregon 97333

(b) Applicant's Representative:

Karl Morell  
Of Counsel  
BALL JANIK LLP  
Suite 225  
1455 F Street, N.W.  
Washington, DC 20005  
(202) 638-3307

(c) Statement of Agreement:

VFRC and UP are in the process of finalizing a Line Sale Contract, pursuant to which UP will: (1) convey to VFRC certain track and track structures on, and the right-of-way underlying, the Line; and (2) retain the Freight Easement for the operation of the Line.

(d) The operator of the property:

AERC will be the operator on the Line. WPRR and UP are retaining overhead trackage rights on the Line.

(e) Summary of proposed transaction:

Under the terms of the Line Sale Contract, VFRC will acquire UP's interest in the real property and track and track structures on the Line and UP will retain the Freight Easement over the Line.

(1) The name and address of the railroad transferring the subject property is:

Union Pacific Railroad Company  
1400 Douglas Street  
Omaha, Nebraska 68179

(2) The proposed transaction between VFRC and UP is expected to be consummated on or shortly after the effective date of this Notice.

(3) VFRC proposes to acquire the physical assets and underlying real estate of the rail line located between Milepost 682.25, near Greenberry, Oregon, and Milepost 687.6, near Corvallis, Oregon.

(4) The length of the Line is approximately 5.35 miles.

(f) A map of the Line is attached as Exhibit A.

(g) VFRC hereby certifies that projected revenues for VFRC from the Line do not exceed those that would qualify VFRC as a Class III rail carrier. VFRC further certifies that its annual revenue as a result of this transaction will not exceed \$5 million. Accordingly, the requirements of 49 C.F.R. § 1150.32(e) do not apply to this transaction.

(h) The Line Sale Contract between VFRC and UP does not contain a provision prohibiting the interchange of traffic with a third party.

A caption summary, as required by 49 C.F.R. § 1150.34, is attached.

### **ENVIRONMENTAL AND HISTORIC IMPACTS**

The VFRC is acquiring the physical assets and underlying real estate of the Line from UP and AERC is acquiring the Freight Easement. AERC will continue to provide rail operations over the Line. Further Board approval is required for AERC to abandon any service, and there are no plans to dispose of or alter properties subject to Board jurisdiction that are 50 years old or older. Hence, this Notice of Exemption does not require an historic report under 49 C.F.R. § 1105.8(b)(1).

VFRC's acquisition of the track structures and real estate will not result in significant changes in carrier operations. There will not be a diversion of: (1) more than 1,000 rail carloads a year to motor carriage; or (2) an average of 50 carloads per mile per year for any part of this line to motor carriage. This transaction will not result in: (1) an increase in rail traffic of at least 100 percent or an increase of at least eight trains a day on any segment of the line; (2) an increase of rail yard activity of at least 100 percent; or (3) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day. Also, the thresholds of 49 C.F.R. § 1105.7(e)(5)(ii) will not be exceeded as a result of the VFRC's acquisition. Finally, the transportation of ozone depleting materials is not contemplated. Therefore, no environmental documentation is required under 49 C.F.R. § 1105.6(c)(2).

This action will not significantly affect either the quality of the human environment or energy conservation.

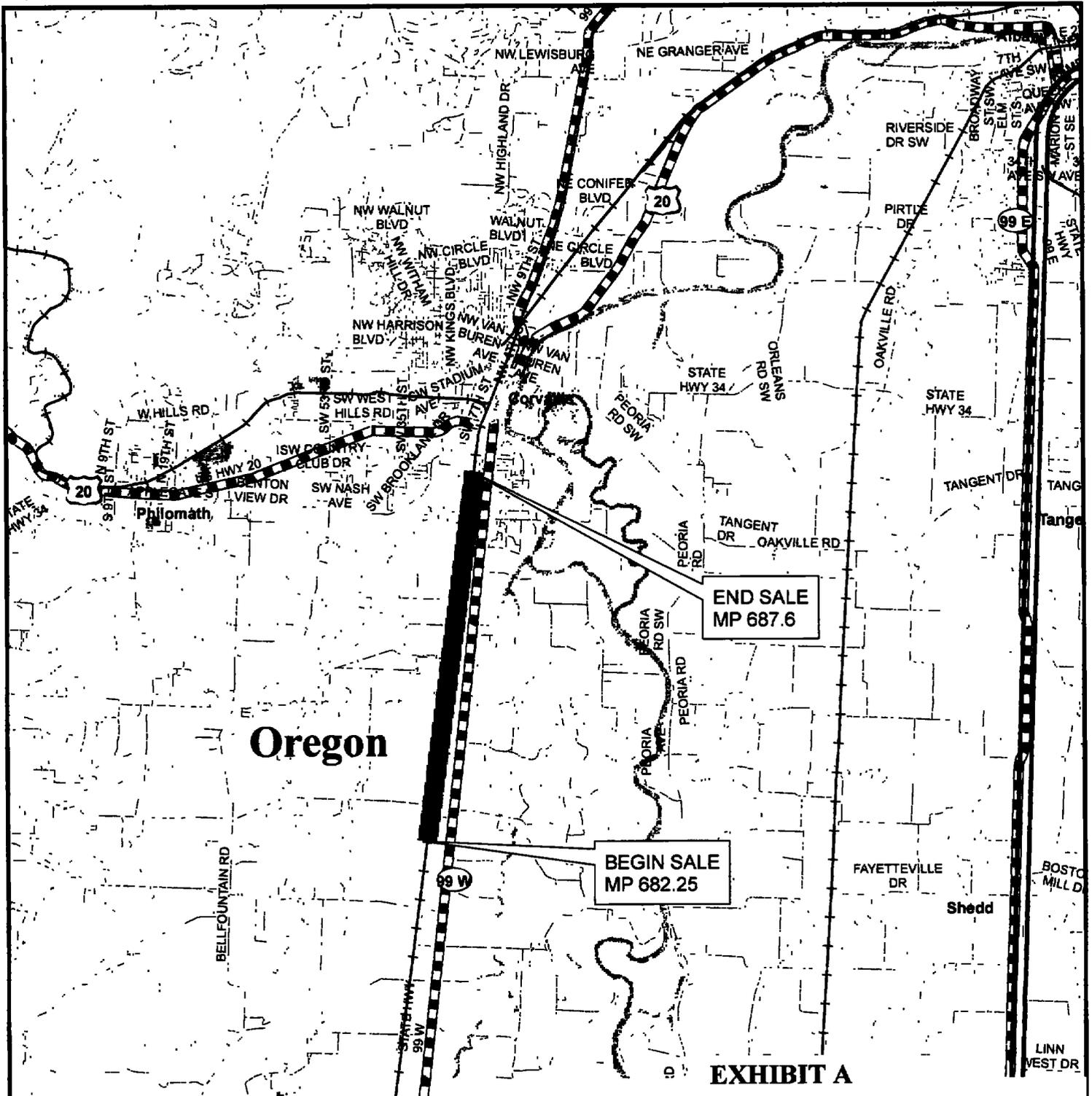
Respectfully submitted.

A handwritten signature in black ink that reads "Karl Morell". The signature is written in a cursive style with a horizontal line underneath the name.

KARL MORELL  
Of Counsel  
BALL JANIK LLP  
Suite 225  
1455 F Street, N.W.  
Washington, DC 20005  
(202) 638-3307

Attorneys for:  
VFRC, LLC

Dated: February 22, 2010



**Legend**

- UPRR LINES TO BE SOLD
- OTHER UPRR LINES
- OTHER RAILROADS
- PRINCIPAL HIGHWAYS
- OTHER ROADS

Q:\Labels\VFRC\Bailey Branch\_sale.mxd

**BAILEY BRANCH**

UNION PACIFIC RAILROAD COMPANY  
 1115 G ST, OMAHA, NE 68102  
 TEL: (402) 442-1000 FAX: (402) 442-1001

**VFRC, LLC Purchase of Union Pacific Bailey Branch (WPRR Lessee), Milepost 682.25 to Milepost 687.6**



SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

STB FINANCE DOCKET NO. 35353

VFRC, LLC  
--ACQUISITION EXEMPTION--  
UNION PACIFIC RAILROAD COMPANY

VFRC, LLC (VFRC), an Oregon Limited Liability Company and a non-carrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire the physical assets of a rail line and the underlying right-of-way from the Union Pacific Railroad Company (UP). The rail line is located between Milepost 682.25, near Greenberry, OR, and Milepost 687.6, near Corvallis, OR.

UP will retain the permanent, exclusive easement to provide rail freight service over the rail line.

VFRC will be filing, in the near future, a Motion to Dismiss the Notice of Exemption in this proceeding on the grounds that the Surface Transportation Board does not have jurisdiction over this transaction. *See Maine, DOT – Acq. Exemption – Me. Central R Co.*, 8 I.C.C. 2d 835 (1991).

Comments must be filed with the Board and served on Karl Morell, Of Counsel, BALL JANIK LLP, Suite 225, 1455 F Street, N.W., Washington, DC 20005, (202) 638-3307.

This notice is filed under 49 C.F.R. 1150.31. 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.

