

227436

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

FEE RECEIVED

JUL 15 2010

**SURFACE
TRANSPORTATION BOARD**

FILED

JUL 15 2010

**SURFACE
TRANSPORTATION BOARD**

July 7, 2010

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

JUL 15 2010

Part of
Public Record

Via Electronic Filing

**RE: STB Finance Docket No. 35389
LRY, LLC D.B.A. LAKE RAILWAY – LEASE AND OPERATION
EXEMPTION – RAIL LINE OF THE UNION PACIFIC RAILROAD
COMPANY IN MODOC COUNTY, CA**

Dear Ms. Brown:

Pursuant to 49 CFR § 1150.41, I am submitting for electronic filing on behalf of LRY, LLC D.B.A. LAKE RAILWAY, a Verified Notice of Exemption from the requirements of 49 U.S.C. § 10902 with Exhibits. Kindly note the \$1,800 filing fee has been electronically paid in advance. Please call the undersigned with any questions.

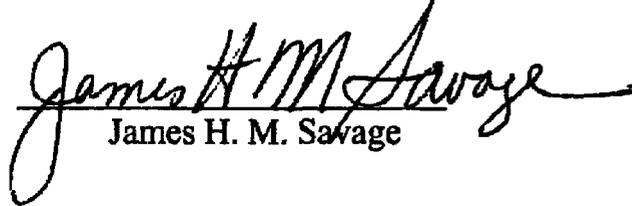
Respectfully submitted,
John D. Heffner, PLLC


By: James H. M. Savage
Of Counsel

Enc.
cc: Mack Shumate, Esq.

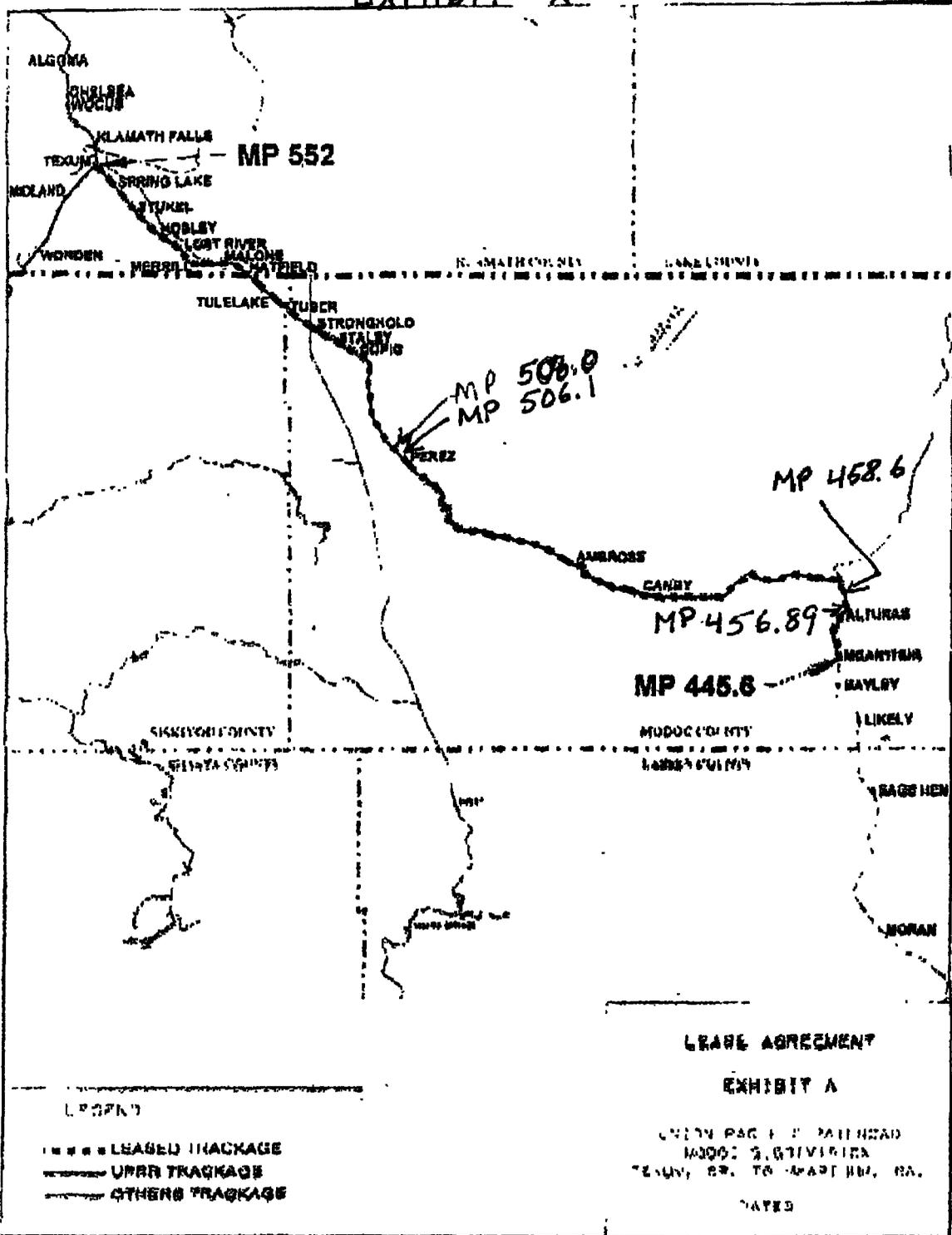
CERTIFICATION OF SERVICE

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.


James H. M. Savage

¹⁵
Dated: July 7, 2010

EXHIBIT A



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 to remain 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: July 6, 2010



Paul Didelius

EXHIBIT C - CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

Notice of Exemption

FINANCE DOCKET NO. 35389

**LRY, LLC D.B.A. LAKE RAILWAY
- LEASE AND OPERATION EXEMPTION -
RAIL LINE OF UNION PACIFIC RAILROAD COMPANY IN MODOC
COUNTY, CA**

LRY, LLC D.B.A. Lake Railway ("LRY") has filed a Verified Notice of Exemption under 49 C.F.R. 1150.41 to lease and operate 1.9 miles of rail property (the "Line") owned by Union Pacific Railroad Company ("UPRR"), between the Line's connection at Milepost 506.1 to rail property owned by UPRR and currently operated by LRY under a Lease Agreement ("Agreement") and a future interchange point with UPRR at Milepost 508.60 near Perez, CA.

Comments must be filed with the Board and served on James H. M. Savage, of Counsel to John D. Heffner, PLLC 1750 K Street, N.W. - Suite 200, Washington, DC 20006. The

telephone number of Petitioner's representative is (202) 296-3335.

This notice is filed under 49 CFR 1150.41. 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 Administration
Office of Proceedings

(Seal)

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB FINANCE DOCKET NO. 35389

**LRV, LLC D.B.A. LAKE RAILWAY
-- LEASE AND OPERATION EXEMPTION --
RAIL LINE OF UNION PACIFIC RAILROAD COMPANY IN MODOC COUNTY, CA**

VERIFIED NOTICE OF EXEMPTION

FOR LEASE AND OPERATION OF RAIL LINE

PURSUANT TO 49 U.S.C. 10902 and 49 CFR 1150.41

Submitted By:

James H. M. Savage
Of Counsel to
John D. Heffner, PLLC
1750 K Street, N.W.
Suite 200
Washington, D.C. 20006
(202) 296-3335

Counsel for Applicant
LRV, LLC

Dated: July 7, 2010

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB FINANCE DOCKET NO. 35389

**LRY, LLC D.B.A. LAKE RAILWAY
-- LEASE AND OPERATION EXEMPTION --
RAIL LINE OF UNION PACIFIC RAILROAD COMPANY IN MODOC COUNTY, CA**

**VERIFIED NOTICE OF EXEMPTION
FOR LEASE AND OPERATION OF RAIL LINE
PURSUANT TO 49 U.S.C. 10902 and 49 CFR 1150.41**

INFORMATION REQUIRED BY 49 CFR 1150.43

Pursuant to 49 CFR 1150.41, et seq., LRY, LLC D.B.A. Lake Railway ("LRY"), a Class III carrier, hereby files this Verified Notice of Exemption from the requirements of 49 U.S.C. 10902 to lease and operate 1.9 miles of rail property (the "Line") owned by Union Pacific Railroad Company ("UPRR") between the Line's connection at Milepost 506.1 to rail property owned by UPRR and currently operated by LRY under a Lease Agreement ("Agreement") and a future interchange point with UPRR at Milepost 508.0 near Perez CA.

The subject Line and other property was previously leased to Modoc Railway and Land Company ("MR&L"), a non-carrier, pursuant to a lease agreement between UPRR and MR&L dated as of November 1, 2005 (the "MR&L Lease"). Board permission for the MR&L Lease was obtained pursuant to a Verified Notice of Exemption filed with the Board in Finance Docket No. 34769 on

October 24, 2005 under 49 CFR 1150, Subpart D authorizing MR&L to acquire and operate the Line under the MR&L Lease with UPRR. The subject Line was also previously operated by Modoc Northern Railroad Company ("MNRR") as permitted by the Board pursuant to a Verified Notice of Exemption filed with the Board in Finance Docket No. 34768 on October 24, 2005 under 49 CFR 1150.31 authorizing MNRR to acquire rights to operate and maintain the Line. In accordance with the Verified Notice of Exemption filed with the Board in Finance Docket No. 34722 on October 24, 2005 and related filings, it is verified that MR&L leased the Line from UPRR and MNRR had the obligation to operate and maintain the Line during the term of the MR&L Lease and that MR&L controls MNRR. UPRR has terminated the MR&L Lease and MNRR's operations under the MR&L Lease in accordance with the terms of the MR&L Lease (the "Termination") and UPRR plans to file for discontinuance authority for MNRR from the Board.¹

In accordance with the terms of the MR&L Lease as authorized by the Board, upon the Termination, UPRR reentered and took possession of the Line and began railroad freight operations on the Line. UP has resumed operations in its own name over the Line until this notice becomes effective and LRY can initiate service over the Line in its own right. Based upon

¹ Under the terms of the MR&L Lease, UPRR is authorized to seek discontinuance authority in both MR&L's and MNRR's names.

projected revenues, LRY expects to remain a Class III rail carrier upon consummation of the proposed transaction.

In Finance Docket No. 35250, LRY, LLC D.B.A. Lake Railway -- Lease and Operation Exemption--Line of Union Pacific Railroad Company, LRY originally filed an Exemption Notice on December 2, 2009 for the lease and operation exemption for rail property owned by UPRR known as the Modoc Subdivision between Milepost 445.6 near MacArthur, CA and Milepost 506.1 near Perez, CA, a distance of 60.5 miles.² Once its notice became effective LRY became the operator on that Line.

After its Notice became effective LRY and UPRR became aware of the operational requirement for additional interchange headroom at Perez, CA. The parties thereupon amended their Lease Agreement to include an additional 1.9 miles of interchange headroom. Accordingly, the parties now seek to change the interchange point from Milepost 506.1 to 508.0. LRY notified the Board of this proposed change by letter filed February 4, 2010. With the concurrence of UPRR, LRY now files this Exemption Notice.

Name and Address of Applicant

49 CFR 1150.43(a)

LRY, LLC
499 Railex Road
Burbank, WA 99323

² FD No. 35250 also encompassed a Notice of Exemption for LRY's lease and operation of part of UPRR's Lakeview Branch, extending from Milepost 456.89 to Milepost 458.6 at Alturas, CA, a distance of 1.71 miles. The total mileage covered by that Exemption Notice was 62.21 miles. See Exhibit A.

Applicant's Representative

49 CFR 1150.43(b)

James H.M. Savage
Of Counsel to
John D. Heffner, PLLC
1750 K Street, N.W. - Suite 200
Washington, D.C. 20006
(202) 296-3335

Statement of Agreements

49 CFR 1150.43(c)

In connection with FD No. 35250 LRY executed a Lease Agreement ("Agreement") with UPRR to lease and operate rail property known as part of the Modoc Subdivision. That agreement has now been modified to include the rail property covered by this Exemption Notice (FD No. 35389) between the connection with the UPRR at Milepost 506.1 and Milepost 508.0 near Perez, CA, a distance of 1.9 miles.

Operator of the Property

49 CFR 1150.43(d)

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

Brief Summary of Transaction

49 CFR 1150.43(e)

This exemption involves the lease and operation by LRY, a Class III railroad carrier, of certain rail property owned by UPRR and which had previously been leased to and operated by MNRR.

(1) Name and address of incumbent railroad

Union Pacific Railroad Company
1400 Douglas Street, MS 1350
Omaha, NE 68179

(2) Proposed time schedule for consummation of transaction.

LRY plans to commence operations on or after August 7, 2010, 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 UPRR as part of the Modoc Subdivision, between the connection with the Line owned by UPRR and operated by LRY at Milepost 506.1 and Milepost 508.0 near Perez, CA.

(4) Total Route Miles. LRY intends to lease and operate rail property comprising a total of 1.9 route miles.

Map of Area to be Served

49 CFR 1150.43(f)

A map clearly indicating the area to be served, including origins, termini, stations, cities, counties, and states, is attached as Exhibit A. No stations, cities, counties, states or shippers will be served additional to those served pursuant to the exemption previously Noticed in FD No. 35250.

Certificate of Carrier Classification

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.

Transactions Imposing Interchange Commitments 49 CFR 1150.43(h)

Not applicable. The subject rail line connects only with UPRR on the west end at Perez.

Caption Summary 49 CFR 1150.44

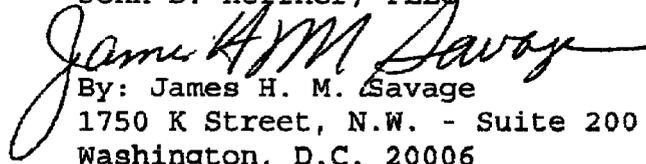
A caption summary in prescribed form is attached as Exhibit C to this Notice.

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


By: James H. M. Savage
1750 K Street, N.W. - Suite 200
Washington, D.C. 20006
(202) 296-3335
Counsel for LRY, LLC

Dated: July 7, 2010

