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**SLOVER & LOFTUS**

ATTORNEYS AT LAW

1224 SEVENTEENTH STREET, N. W.  
WASHINGTON, D. C. 20036-3003

WILLIAM L. SLOVER  
C. MICHAEL LOFTUS  
DONALD G. AVERY  
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  
KAREN HASSELL HERREN  
KENDRA A. ERICSON

CHIEF OF  
TRANSPORTATION BOARD

TELEPHONE:  
(202) 347-7170

FAX:  
(202) 347-3619

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

September 24, 2004

BY HAND DELIVERY

Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W., Room 711  
Washington, D.C. 20423-0001



Re: Finance Docket No. 34540, The Columbus & Ohio River  
Rail Road Company – Acquisition and Operation Exemption  
– Rail Lines of CSX Transportation, Inc. from Columbus to  
Newark, Ohio and from Mt. Vernon to Cambridge, Ohio

Dear Secretary Williams:

Enclosed for filing in the referenced docket please find an original and 10 copies of the Verified Notice of Exemption of The Columbus & Ohio River Rail Road Company, together with a WordPerfect diskette containing the filing in electronic form. We are also submitting a check in the amount of \$1,400.00 to cover the applicable filing fee.

An additional copy of the Notice also is enclosed. Kindly indicate receipt of the filing by time-stamping this extra copy and returning it to the bearer of this letter. Thank you for your consideration in this matter.

Sincerely,

Andrew B. Kolesar III  
An Attorney for The Columbus & Ohio  
River Rail Road Company

Enclosures

Office of Secretary

SEP

BEFORE THE  
SURFACE TRANSPORTATION BOARD



THE COLUMBUS & OHIO RIVER RAIL )  
ROAD COMPANY – ACQUISITION AND )  
OPERATION EXEMPTION – RAIL LINES )  
OF CSX TRANSPORTATION, INC. FROM )  
COLUMBUS TO NEWARK, OHIO )  
AND FROM MT. VERNON TO )  
CAMBRIDGE, OHIO )

Finance Docket No. 34540

VERIFIED NOTICE OF EXEMPTION

THE COLUMBUS & OHIO RIVER  
RAIL ROAD COMPANY  
47849 Papermill Road  
Coshocton, Ohio 43812

OF COUNSEL:

SLOVER & LOFTUS  
1224 17th Street, N.W.  
Washington, D.C. 20036

Dated: September 24, 2004

By: Kelvin J. Dowd  
Andrew B. Kolesar III  
Slover & Loftus  
1224 17th Street, N.W.  
Washington, D.C. 20036  
(202) 347-7170

Attorneys & Practitioners

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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THE COLUMBUS & OHIO RIVER RAIL	)	
ROAD COMPANY – ACQUISITION AND	)	
OPERATION EXEMPTION – RAIL LINES	)	
OF CSX TRANSPORTATION, INC. FROM	)	Finance Docket No. 34540 <sup>1</sup>
COLUMBUS TO NEWARK, OHIO	)	
AND FROM MT. VERNON TO	)	
CAMBRIDGE, OHIO	)	

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**VERIFIED NOTICE OF EXEMPTION**

Pursuant to 49 U.S.C. § 10902 and the Board’s implementing regulations set forth at 49 C.F.R. Part 1150.41, et seq., The Columbus & Ohio River Rail Road Company (“CUOH”), a Class III carrier, files this Verified Notice of Exemption to permit CUOH to extend its existing lines through the acquisition by purchase and lease from CSX Transportation, Inc. (“CSXT”) of approximately 114 miles (collectively, the “subject Line” or the “Line”) of CSXT’s lines of railroad in Ohio: (i) between Columbus (milepost BP 138.0) and Cambridge (milepost BP 49.49), known as the C&N and Central Ohio Subdivisions; and (ii) between Newark (milepost BQ 0.0) and Mt. Vernon (milepost BQ 25.9), known as the Lake Erie Subdivision. These lines are located in Franklin,

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<sup>1</sup> CUOH’s August 30, 2004 filing in this docket made reference to the name of the carrier as the “Columbus & Ohio River Railroad,” which is the unofficial name of the carrier. The instant filing uses the proper, official name of the carrier (i.e., “The Columbus & Ohio River Rail Road Company”).

Licking, Knox, Muskingum, and Guernsey Counties, Ohio. The transaction also includes approximately 1.5 miles of incidental trackage rights assigned by CSXT to CUOH over the line of Ohio Southern Railroad, Inc. between Milepost 16.7 and Milepost 18.2 in Zanesville, Ohio.

Following the transaction, CSXT no longer will operate trains on any of these line segments. The transaction is expected to occur on or after October 29, 2004.

Because the projected annual revenues of CUOH following the subject acquisition exceed \$5 million, CUOH previously provided notice to CSXT's employees on the line in accordance with 49 C.F.R. § 1150.42(e). See CUOH's Certification Filing dated August 30, 2004 (regarding August 27, 2004 compliance).

In support hereof, CUOH shows as follows:

a. Full Name and Address of Applicant

The Columbus & Ohio River Rail Road Company  
47849 Papermill Road  
Coshocton, Ohio 43812

b. Name and Address of Applicant's Representative

Andrew B. Kolesar III  
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, D.C. 20036  
(202) 347-7170

c. Statement Regarding Agreement

Agreement as to all essential terms has been reached between CUOH and CSXT with respect to CUOH's acquisition of the subject Line.

d. Operation of the Property

Following the effective date of the exemption noticed hereby, CUOH will be the sole operator of the subject Line.

e. Summary of the Transaction

Presently, CSXT holds a 50% ownership interest in the rail line from Columbus to Newark (the "C&N Subdivision"). The balance of the ownership interest in this line is held by the State of Ohio, and CUOH currently holds operating rights over the C&N Subdivision. See Finance Docket No. 31961 (Sub-No. 1), Caprail I Acquisition Exemption – Consolidated Rail Corp., Finance Docket No. 31961 (Sub-No. 2), Ohio Department of Transp. – Lease Exemption – Caprail I Lines in Ohio, Finance Docket No. 31961 (Sub-No. 3), Columbus & Ohio River Railroad Company – Lease and Operation Exemption – Ohio Department of Transportation Lines, Notice of Exemption served January 15, 1992 (noting that the 161.7 total route miles to be acquired by the Ohio Department of Transportation and operated by CUOH were comprised of "about 129.1 miles currently owned exclusively by Conrail, and Conrail's undivided one-half interest in 32.6 miles between Columbus and Newark, OH, owned and operated jointly with CSX

Transportation, Inc.”). Both CSXT and CUOH currently operate over the Columbus to Newark line.

Through the subject transaction, CUOH will purchase CSXT’s 50% share in the Columbus to Newark line, and CUOH will become the sole operator of the line, stepping in to CSXT’s position with respect to the customers previously served by CSXT. In addition, CUOH will lease approximately 81.4 miles of CSXT’s line from Mt. Vernon (Milepost BQ 25.90) to Cambridge, Ohio (Milepost BP 49.49) via Newark, Ohio. This line is composed of the “Lake Erie Subdivision” (Newark to Mt. Vernon) and “Central Ohio Subdivision” (Newark to Cambridge).

The lines that are the subject of this transaction are located in Franklin, Licking, Muskingum, Knox, and Guernsey Counties, Ohio. The transaction also includes approximately 1.5 miles of incidental trackage rights assigned by CSXT to CUOH over the line of Ohio Southern Railroad, Inc. (which also is a Summit View, Inc. subsidiary) between Milepost 16.7 and Milepost 18.2 in Zanesville, Ohio.

CUOH notes that both before and after the subject transaction, CUOH will have the ability to interchange traffic with the Ohio Central Railroad, which like CUOH, is a subsidiary of Summit View, Inc., a non-carrier.<sup>2</sup> In addition, the transaction will

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<sup>2</sup> Prior to the transaction, CUOH and C&OR interchanged traffic at Newark. Following the transaction, CUOH and C&OR will interchange traffic at both Newark and Zanesville, Ohio.

establish a point of connection between CUOH and the Ohio Southern Railroad, Inc. at Zanesville, Ohio.

Pursuant to Board regulations, CUOH states that CSXT's corporate address is 500 Water Street, Jacksonville, Florida 32202. The total number of additional route miles to be acquired and operated by CUOH is approximately 114 miles.

It is contemplated that the acquisition of the subject Line will take place on or after October 29, 2004.

f. Map

See Exhibit No. 1.

g. Certificate of Projected Revenue

Pursuant to 49 C.F.R. Part 1150.43(g), CUOH certifies that its projected revenues as a result of this transaction will not result in the creation of a Class I or a Class II rail carrier.

h. Environmental and/or Historical Documentation

The proposed transaction qualifies under 49 C.F.R. Part 1105.6(c)(2), and as such, no environmental documentation is required. Likewise, CUOH has no plans to alter or dispose of any assets that are fifty (50) years old or older, and as such, the transaction does not require an historic report. 49 C.F.R. Part 1105.8(b).

i. Caption Summary

See Exhibit No. 2.

Respectfully submitted,

THE COLUMBUS & OHIO RIVER  
RAIL ROAD COMPANY  
47849 Papermill Road  
Coshocton, Ohio 43812

OF COUNSEL:

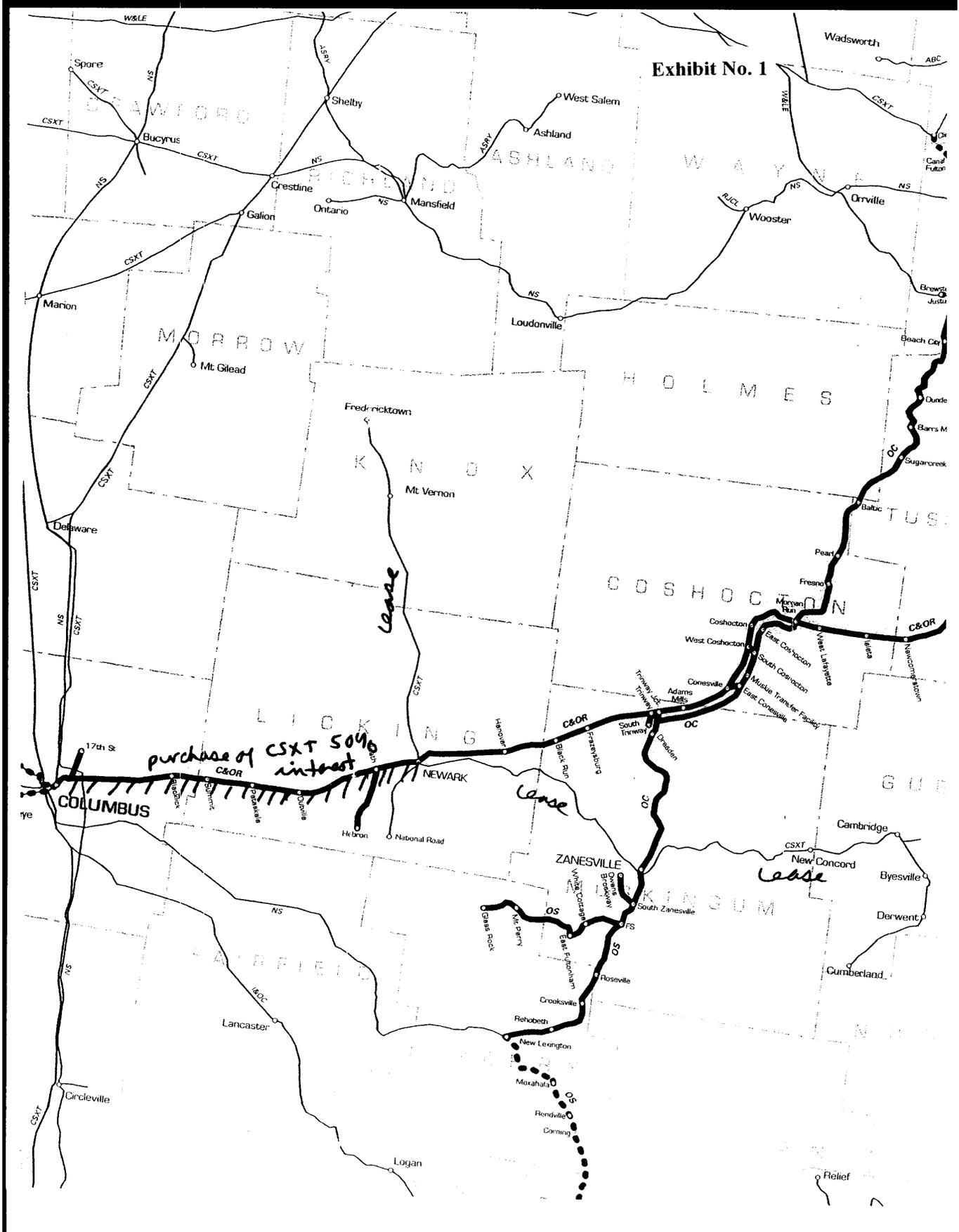
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By: Kelvin J. Dowd  
Andrew B. Kolesar III   
Slover & Loftus  
1224 17th Street, N.W.  
Washington, D.C. 20036  
(202) 347-7170

Dated: September 24, 2004

Attorneys & Practitioners

Exhibit No. 1



**Finance Docket No. 34540**

**THE COLUMBUS & OHIO RIVER RAIL ROAD COMPANY  
– ACQUISITION AND OPERATION EXEMPTION –  
RAIL LINES OF CSX TRANSPORTATION, INC.  
FROM COLUMBUS TO NEWARK, OHIO AND FROM  
MT. VERNON TO CAMBRIDGE, OHIO**

The Columbus & Ohio River Rail Road Company (“CUOH”), a Class III rail carrier, has filed a Verified Notice of Exemption to permit CUOH to extend its existing lines through the acquisition by purchase and lease from CSX Transportation, Inc. (“CSXT”) of approximately 114 miles of CSXT’s lines of railroad in Ohio: (i) by purchase between Columbus, OH (milepost BP 138.0) and Newark, OH (milepost BQ 0.0), about 32.6 miles; and (ii) by lease between Mt. Vernon, OH (milepost BQ 25.9) and Cambridge, OH (milepost BP 49.49) via Newark, OH (milepost BQ 0.0), about 81.4 miles. These lines are located in Franklin, Licking, Muskingum, Knox, and Guernsey Counties, Ohio. Following the transaction, CSXT no longer will operate trains on any of these line segments. The transaction also includes approximately 1.5 miles of incidental trackage rights assigned by CSXT to CUOH over the line of Ohio Southern Railroad, Inc. between Milepost 16.7 and Milepost 18.2 in Zanesville, Ohio. Comments must be filed with the Board and served on Andrew B. Kolesar III, Slover & Loftus, 1224 Seventeenth St., N.W., Washington, D.C. 20036 (202) 347-7170.

This Notice is filed under 49 C.F.R. Part 1150.41, et seq. 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.

VERIFICATION

STATE OF OHIO )  
 )  
 ) ss:  
COUNTY OF COSHOCTON )

William A. Strawn II, being duly sworn, deposes and says that he is  
President of the Columbus & Ohio River Railroad, that he has read the foregoing Notice  
and knows the contents thereof, and that the same are true as stated to the best of his  
knowledge, information and belief.

  
\_\_\_\_\_  
William A. Strawn II

Sworn and subscribed before me  
this 21<sup>st</sup> day of September, 2004

  
  
KIMBERLY R. WRIGHT  
Notary Public  
My Commission Expires  
June 5, 2008

My Commission Expires: June 5, 2008