

The earliest this transaction can be consummated is May 3, 2017, the effective date of the exemption.

If the verified 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 effectiveness of the exemption. Petitions for stay must be filed no later April 26, 2017 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36110, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW., Suite 300, Washington, DC 20037.

Board decisions and notices are available on our Web site at [WWW.STB.GOV](http://WWW.STB.GOV).

Decided: April 14, 2017.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

**Raina S. Contee,**  
Clearance Clerk.

[FR Doc. 2017-07903 Filed 4-18-17; 8:45 am]

BILLING CODE 4915-01-P

## SURFACE TRANSPORTATION BOARD

[Docket No. FD 36097]

### Nebraska Northwestern Railroad, Inc. and Nebkota Railway, Inc.—Intra-Corporate Family Transaction Exemption

Nebraska Northwestern Railroad, Inc. (NNW) and Nebkota Railway, Inc. (NRI) (collectively, the Parties) have jointly filed a verified notice of exemption under 49 CFR 1180.2(d)(3) for an intra-corporate family transaction. NNW and NRI, both Class III rail carriers, are controlled by John D. Nielsen (Mr. Nielsen), an individual.<sup>1</sup>

Under the proposed transaction, NRI will be merged with and into NNW with NNW being the surviving corporate entity. The Parties state that the purpose of the transaction is to streamline administration, enhance the financial conditions of the two rail carriers that are already largely integrated, and consolidate the two into a single company. According to the Parties, the

proposed merger would eliminate the preparation of separate tax returns and the need to maintain separate corporate records. In addition, there would be certain operational and other record-keeping advantages that would be gained from the merger.

The Parties state that the proposed merger agreement between NNW and NRI contains no provision or agreement that would limit NNW's interchange with a third-party connecting carrier.<sup>2</sup>

Unless stayed, the exemption will be effective on May 3, 2017 (30 days after the verified notice was filed). The Parties state that they intend to consummate the proposed transaction on or after that date.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The Parties state that the transaction will not result in adverse changes in service levels, significant operational changes, or any change in the competitive balance with carriers outside the corporate family.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all the carriers involved are Class III carriers.

If the verified 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 exemption. Petitions for stay must be filed no later than April 26, 2017 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36097, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Audrey L. Brodrick, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606.

According to the Parties, this action is categorically excluded from environmental review under 49 CFR 1105.6(c).

<sup>2</sup> An unexecuted draft copy of the agreement was filed with the notice of exemption.

Board decisions and notices are available on our Web site at [WWW.STB.GOV](http://WWW.STB.GOV).

Decided: April 11, 2017.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

**Rena Laws-Byrum,**  
Clearance Clerk.

[FR Doc. 2017-07669 Filed 4-18-17; 8:45 am]

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## SURFACE TRANSPORTATION BOARD

[STB Finance Docket No. 36111]

### David L. Durbano—Continuance in Control Exemption—Texas & Eastern Railroad, LLC

David L. Durbano (Durbano), a noncarrier, has filed a verified notice of exemption pursuant to 49 CFR 1180.2(d)(2) to continue in control of Texas & Eastern Railroad, LLC (T&ER), upon T&ER's becoming a Class III rail carrier.

This transaction is related to a concurrently filed verified notice of exemption in Docket No. FD 36110, *Texas & Eastern Railroad, LLC—Change in Operator Exemption—Texas State Railroad Authority*. In that proceeding, T&ER seeks an exemption under 49 CFR 1150.31 to assume operations over approximately 27 miles of rail line, between Rusk and Palestine, in Anderson and Cherokee Counties, Tex.

The earliest this transaction can be consummated is May 3, 2017, the effective date of the exemption (30 days after the verified notice was filed). Durbano states that he intends to consummate the transaction on or shortly after May 3, 2017.

Durbano will continue in control of T&ER upon T&ER's becoming a Class III rail carrier, and remains in control of Class III carriers Southwestern Railroad, Inc., Cimarron Valley Railroad, L.C., Clarkdale Arizona Central Railroad, L.C., Wyoming and Colorado Railroad Company, Inc., and Saratoga Railroad, LLC.

Durbano certifies that: (1) The rail lines to be operated by T&ER do not connect with any other railroads in the Durbano corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect these rail lines with any other railroad in the Durbano corporate family; and (3) the transaction does not involve a Class I rail carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to

<sup>1</sup> See John D. Nielsen—Control Exemption—Nebkota Ry., FD 35759 (STB served Nov. 25, 2013). According to the Parties, Mr. Nielsen does not have a controlling interest in any common carriers other than NNW and NRI.