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Decided: August 12, 2010.

By the Board, Rachel D. Campbell,
Director, Office of Proceedings.

Kulunie L. Cannon,

Clearance Clerk.

[FR Doc. 2010-20438 Filed 8-17-10; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35400]

B. Robert DeMento, Jr., and Baggio Herman DeMento—Continuance in Control Exemption—BDB Company and Swanson Rail Transfer, L.P.

B. Robert DeMento, Jr., and Baggio Herman DeMento (DeMento Brothers), noncarrier partners, have filed a verified notice of exemption to continue in control of BDB Company (BDB) and Swanson Rail Transfer, L.P. (SRT), upon their becoming Class III rail carriers. The DeMento Brothers do not currently control any rail carriers.

This transaction may not be consummated until September 1, 2010 (30 days after the notice of exemption was filed).

This transaction is related to two other transactions for which notices of exemption have been simultaneously filed: Docket No. FD 35398, *BDB Company—Acquisition Exemption—Consolidated Rail Corporation*, in which BDB seeks Board approval to acquire from Consolidated Rail Corporation certain rail property in Philadelphia, Pa.; and Docket No. FD 35399, *Swanson Rail Transfer, L.P.—Lease and Operation Exemption—BDB Company*, in which SRT seeks Board approval to acquire that same property by lease from BDB and to operate the property.

The DeMento Brothers state that: (i) Because BDB will be a non-operating carrier and the railroads will not connect with each other, (ii) the transaction is not a part of a series of anticipated transactions that would connect any of these railroads with one another or any other railroad, and (iii) the transaction does not involve a Class I railroad. 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 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 sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of 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 transaction. Petitions for stay must be filed no later than August 25, 2010 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35400, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on John F. McHugh, 6 Water Street, New York, NY 10004.

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Decided: August 12, 2010.

By the Board, Rachel D. Campbell,
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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 1066 (Sub-No. 2X)]

Central Illinois Railroad Company—Discontinuance of Service Exemption—in Cook County, IL

On July 29, 2010, Central Illinois Railroad Company (CIRY) filed with the Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to discontinue service over approximately 5.9 miles of main line track and approximately 12.47 miles of sidetrack owned by BNSF Railway Company (BNSF).¹ The lines are referred to as the Lumber District and the Illinois Northern Line and are located in the vicinity of BNSF's Western Avenue Yard in Chicago, Cook County, IL.² The lines traverse U.S.

¹ CIRY was authorized to lease from BNSF and operate the lines in the year 2000. *See The Cent. Ill. R.R.—Lease and Operation Exemption—Lines of The Burlington N. and Santa Fe Ry. at Chicago, Cook County, Ill.*, FD 33960 (STB served Dec. 5, 2000).

² The Lumber District is located between a point 300 feet south of the point of the frog on BNSF's

Postal Service Zip Codes 60608 and 60616, and include no stations. The lease agreement between BNSF and CIRY was scheduled to expire in November 2010, but the parties recently reached an agreement whereby the lease would terminate at the close of business on August 9, 2010. CIRY states that, on August 10, 2010, BNSF would resume providing rail service on the lines.

According to CIRY, the lines do not contain any federally granted rights-of-way. Any documentation in CIRY's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by November 16, 2010.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) to subsidize continued rail service will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer must be accompanied by a \$1,500 filing fee. *See* 49 CFR 1002.2(f)(25).³

All filings in response to this notice must refer to Docket No. AB 1066 (Sub-No. 2X) and must be sent to: (1) Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001, and (2) Karl Morell, Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005. Replies to the petition are due on or before September 7, 2010.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment and discontinuance regulations at 49 CFR

crossover to the main line of the Norfolk Southern Railway Company, which point is south of the wye track that enters the west end of BNSF's Western Avenue Yard, and the end of BNSF's ownership at Lumber Street approximately 500 feet east of Canal Street, including trackage that extends north from Cermak Road parallel to Sangamon Street to the point of the frog at Track No. 7 even with milepost 2.0 on BNSF's main line east of Western Avenue Yard. The Illinois Northern Line is located between a point 10 feet north of the Chicago Sanitary and Ship Canal and a point 100 feet west of the westernmost railroad diamond near 26th and Western Avenue.

³ Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Similarly, no environmental or historic documentation is required under 49 CFR 1105.6(c)(2) and 1105.8.