

constitute any finding by the Board concerning the ownership of the property involved. The exemption merely permits M&E and STRC to consummate the described transaction if and when they, in fact, have the legal capacity to do so. The question of whether or not STRC possesses the rights it wishes to assign is currently pending in the United States Bankruptcy Court. *In the Matter of Bridgewater Resources, Inc.*, No. 00-60057 (WHG) (D.N.J.).

M&E certifies that its annual revenues will not exceed those that would qualify it as a Class III rail carrier and that its annual freight revenues are not projected to exceed \$5 million.

M&E states that operations will not commence until all of the contingencies contained in the assignment of contracts agreement are met.⁴ The earliest the exemption could have been consummated was November 27, 2002, the effective date of the exemption (7 days after the amended exemption was filed).

This transaction is exempt under 49 CFR 1150.41(c).⁵ 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.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34267, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on John K. Fiorilla, 390 George Street, P.O. Box 1185, New Brunswick, NJ 08903.

Board decisions and notices are available on our Web site at WWW.STB.DOT.GOV.

Decided: December 16, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

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⁴ These contingencies include a court's determination that STRC possesses the rights it intends to assign to M&E and the consent of Mr. Horner.

⁵ In order to qualify for a change in operators exemption, an applicant must give notice to shippers on the line. See 49 CFR 1150.42(b). To ensure that shippers are informed of the change of operators on the line, M&E is directed to provide notice of the change to any shippers on the line and to certify to the Board that it has done so.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34283]

RailAmerica, Inc. et al.—Corporate Family Reorganization Exemption—Western Illinois Railway Company

RailAmerica, Inc. (RailAmerica), a noncarrier holding company, and its noncarrier subsidiary, Palm Beach Rail Holdings, Inc. (PBRH), filed a verified notice of exemption under the Board's class exemption procedures at 49 CFR 1180.2(d)(3) for them to continue in control of the Western Illinois Railway Company (WIRC), when it becomes a rail carrier.

The transaction was expected to be consummated on or shortly after November 27, 2002.

In a related matter, *Western Illinois Railway Company—Acquisition Exemption—Toledo, Peoria & Western Railway Company*, STB Finance Docket No. 34282, WIRC filed a notice of exemption to acquire from the Toledo, Peoria & Western Railway Corporation (TP&W) the rail, ties, and certain improvements on a 71.5-mile rail line in Hancock, McDonough, Fulton, and Peoria Counties, IL.¹

RailAmerica controls one Class II and 31 Class III railroads that operate in the States of Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Illinois, Indiana, Kansas, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, South Carolina, Texas, Vermont, Virginia, and Washington.

Applicants state that there will not be substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States. Applicant also states that the transaction will not result in any adverse change in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. The purpose of this transaction is to improve the financial viability of the applicants.

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. Because the transaction

¹ On November 26, 2002, RailAmerica, PBRH, and WIRC jointly filed a motion to dismiss both the continuance in control in this case and the acquisition in STB Finance Docket No. 34282 for lack of Board jurisdiction. The motion will be handled in a separate decision.

involves the control of one Class II rail carrier and one or more Class III rail carriers, the transaction will be made subject to the employee protective conditions described in *Wisconsin Central Ltd.—Acquisition Exem.—Union Pac. RR*, 2 S.T.B. 218 (1997).

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 stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34283, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on: Louis E. Gitomer, Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

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Decided: December 16, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Finance Docket No. 34079]

San Jacinto Rail Limited—Construction Exemption—And The Burlington Northern and Santa Fe Railway Company—Operation Exemption—Build-Out to the Bayport Loop Near Houston, Harris County, TX

AGENCIES: *Lead:* Surface Transportation Board. *Cooperating:* U.S. Coast Guard, Federal Aviation Administration, National Aeronautics and Space Administration.

ACTION: Extension of comment period for the Draft Environmental Impact Statement.

SUMMARY: Comments on the Draft Environmental Impact Statement (Draft EIS) issued by the Surface Transportation Board's Section of Environmental Analysis (SEA) and the three cooperating agencies on December 6, 2002 in this proceeding were to be submitted by January 27, 2003. In response to a number of written requests for an extension of the comment period, SEA is advising all interested persons that the comment period will be