

K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on John F. McHugh, McHugh & Barnes, P.C., 20 Exchange Place, New York, NY 10005.

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Decided: September 8, 2000.

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

Vernon A. Williams,
Secretary.

[FR Doc. 00-23632 Filed 9-15-00; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33918]

Henry G. Hohorst, Bruce Hohorst, Joan D. Hohorst, and Anthony M. Linn—Continuance in Control Exemption—IRW Railway, LLC

Henry G. Hohorst, Bruce Hohorst, Joan D. Hohorst, and Anthony M. Linn, individuals (applicants), have filed a verified notice of exemption to continue in control of the IRW Railway, LLC (IRW), a limited liability company, after it acquires ownership of the title to the lands and track of the West Tennessee Railroad line (line).

According to the verified notice of exemption, the parties expected to purchase the line after approval of the transaction. The earliest the exemption could have been consummated was August 30, 2000, the effective date of the exemption (7 days after the exemption was filed).¹

This transaction is related to STB Finance Docket No. 33919, *IRW Railway LLC—Acquisition Exemption—West Tennessee Railroad Line*, wherein IRW will acquire ownership of title to the line from the Gibson County Railroad Authority (Authority).

Applicants own a controlling interest in South Central Rail Group, Inc., which owns the West Tennessee Railroad Corp., which currently operates the line under a lease and operating agreement with the Authority.² Applicants also hold a controlling interest in the Tennken Railroad Co., which operates in the States of Tennessee and Kentucky. According to applicants, the

two railroads do not connect and there are no plans to connect them. The transaction does not involve a Class I 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 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. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

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. 33918, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on John F. McHugh, McHugh & Barnes, P.C., 20 Exchange Place, New York, NY 10005.

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Decided: September 8, 2000.

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

Vernon A. Williams,
Secretary.

[FR Doc. 00-23633 Filed 9-15-00; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-290 (Sub-No. 199X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Buncombe County, NC

Norfolk Southern Railway Company (NS) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 3.45-mile line of its railroad between old Asheville Southern Station 76+97 at Asheville and old Asheville & Craggy Mountain Station 123+00 at New Bridge, in Buncombe County, NC. The line traverses United States Postal Service Zip Codes 28804 and 28806.

NS has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 18, 2000, unless stayed pending reconsideration.

Petitions to stay that do not involve environmental issues,¹ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),² and trail use/rail banking requests under 49 CFR 1152.29 must be filed by September 28, 2000. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 10, 2000, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: James R. Paschall, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

¹ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

² Each offer of financial assistance must be accompanied by the filing fee, which currently is set at \$1000. See 49 CFR 1002.2(f)(25).

¹ Although applicants initially filed their verified notice of exemption and filing fee on August 21, 2000, the official filing date became August 23, 2000, when applicants filed an amended verified notice of exemption.

² The rail operation obligations of Authority will be transferred to IRW and West Tennessee Railroad Corp. will continue to operate the line.