

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34306]

K. Earl Durden, Rail Management Corporation, and Rail Partners, L.P.—Corporate Family Transaction Exemption

K. Earl Durden (Durden), Rail Management Corporation (RMC),¹ and Rail Partners, L.P. (Rail Partners)² (collectively, applicants), have filed a verified notice of exemption under 49 CFR 1180.2(d)(3) to undertake a corporate reorganization to simplify their corporate structure by: (1) merging Galveston Railway, Inc. (GRI), into RMC, and (2) dissolving Emerald Coast Investments, L.L.C. (Emerald Coast) and distributing its assets among its various members.

The transaction was expected to be consummated on or after December 30, 2002, the effective date of the exemption (7 days after the notice was filed).

At the time this notice was filed, applicants controlled 14 Class III rail carriers located in Alabama, Arizona, Arkansas, Florida, Georgia, Kentucky, North Carolina, Tennessee, Texas, and Wisconsin. They are: AN Railway, L.L.C.; Atlantic & Western Railway, L.P.; The Bay Line Railroad, L.L.C. (Bay Line); Copper Basin Railway (Copper Basin); East Tennessee Railway, L.P.; Galveston Railroad, L.P.; Georgia Central Railway, L.P.; KWT Railway, Inc. (KWT); Little Rock & Western Railway, L.P.; M&B Railroad, L.L.C.; Tomahawk Railway, L.P.; Valdosta Railway, L.P.; Western Kentucky Railway, L.L.C. (Western Kentucky); and Wilmington Terminal Railroad, L.P. These rail carriers are referred to as the RMC Rail Group. Applicants state that, in most cases, RMC is the general or managing partner of the railroad, holding a 1% interest, while Rail Partners is a limited partner holding the remaining 99% interest.³

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 a change in the competitive balance with carriers outside applicants' 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 sections 11324–25 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 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. 34306, 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: Donald G. Avery, 1224 17th Street, NW., Washington, DC 20036.

Board decisions and notices are available on our Web site at www.stb.dot.gov.

Decided: January 15, 2003.

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

Vernon A. Williams,
Secretary.

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NH, and milepost 111.56 in Gilman, in Essex County, VT (the Line).

According to the State, the Lamoille Valley Railroad Company (LVRC) and the Twin State Railroad Corporation (TSR) currently lease the Line, but have not provided service over it since October 1999. The State claims that LVRC and TRS have not maintained the Line in anticipation of providing service or in compliance with applicable laws. The State will acquire the Line subject to LVRC and TSR retaining their operating rights on it, but the State will likely seek to obtain a new operator to perform common carrier service on the Line.

Consummation of this transaction was scheduled to occur on or after December 30, 2002.

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. 34307, 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 Craig S. Donais, Esquire, Transportation & Construction Bureau, New Hampshire Department of Justice, Office of the Attorney General, 33 Capitol Street, Concord, NH 03301–6397.

Board decisions and notices are available on our Web site at “<http://www.stb.dot.gov>.”

Decided: January 15, 2003.

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

Vernon A. Williams,
Secretary.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34307]

State of New Hampshire Department of Transportation—Acquisition and Operation Exemption—Certain Assets of Maine Central Railroad Company

The State of New Hampshire, Department of Transportation (the State), has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from the Maine Central Railroad Company a 8.36-mile portion of a line of railroad extending between milepost P–103.20 in Whitefield, in Coos County,

DEPARTMENT OF TRANSPORTATION

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[STB Finance Docket No. 34272]

North Carolina & Virginia Railroad, Inc.—Lease and Operation Exemption—Norfolk Southern Railway Company

North Carolina & Virginia Railroad, Inc., the Chesapeake & Albemarle Division (NCVA), a Class III rail carrier, has filed a verified notice of exemption under CFR 1150.41 to lease and operate a 4-mile rail line from Norfolk Southern Railway Company extending between milepost NS 4.0 at Chesapeake, VA, and milepost NS 8.0 at Butts, VA.

¹ RMC is a noncarrier holding company which is controlled by Durden. RMC's former corporate name was Rail Management and Consulting Corporation.

² Rail Partners is a noncarrier limited partnership. Durden, through RMC and four other entities that he controls, also controls Rail Partners. Additionally, Durden controls two trusts that, with RMC, control Emerald Coast. Durden separately controls noncarrier GRI. GRI, Emerald, and RMC in turn control Rail Partners.

³ Four exceptions apply: KWT, in which GRI controls 100% of the voting stock; Bay Line and Western Kentucky, in which Rail Partners holds 97% of the voting stock and 3% is held by RMC, Durden, and Durden-controlled entities; and Copper Basin, in which Rail Partners holds 55% of the voting stock and Asarco, Inc., an unaffiliated entity, holds the minority 45% interest.