

President Babb testifies that the transaction would reduce track congestion in the Pacific Northwest, increase capacity to meet a growing demand for rail service, increase operating efficiency, and allow more timely service.

Applicants anticipate that no existing BNR employees will be adversely affected by the transaction but that a total of 17 WCRC positions could be eliminated in the first year. According to applicants, the newly formed CBRC will employ at least 15 present WCRC employees. Applicants assert that "[t]he applicable level of labor protection for the transaction proposed herein is that set forth in *New York Dock—Control—Brooklyn Eastern District Terminal*, 360 I.C.C. 60 (1979)."

Under 49 CFR part 1180, the Board must determine whether a proposed transaction is major, significant, or minor. We find that the transaction is minor under 49 CFR 1180.2(c), because the transaction, which would merely allow BNSF to reacquire track that was previously sold to a Class III carrier (WCRC) by BNR, has no regional or national transportation significance and clearly will not have any anticompetitive effects. Because the application substantially complies with the applicable regulations governing minor transactions, we are accepting it for consideration.

Our finding that this transaction is minor under 49 CFR 1180.2(c) also satisfies the criteria for application of current 49 U.S.C. 11325(a)(3) and 11325(d).

By motion filed June 17, 1996, applicants suggest an expedited procedural schedule for processing the application. Due to the limited, end-to-end nature of the proposed transaction, it is not likely to involve complex issues. Thus, we will adopt the suggested expedited schedule, which is reflected in the "DATES" section above. But we reserve the right to modify this schedule if unforeseen issues arise.

The application and exhibits are available for inspection in the Public Docket Room at the Offices of the Surface Transportation Board in Washington, DC. In addition, they may be obtained upon request from applicants' representatives named above.

Interested persons, including government entities, may participate in this proceeding by submitting written comments. Any person who files timely comments will be considered a party of record if the person so requests. No petition for leave to intervene need be filed.

Consistent with 49 CFR 1180.4(d)(1)(iii), written comments must contain:

(a) The docket number and title of the proceeding;

(b) The name, address, and telephone number of the commenting party and its representative upon whom service shall be made;

(c) The commenting party's position, i.e., whether it supports or opposes the proposed transaction;

(d) A statement whether the commenting party intends to participate formally in the proceeding, or merely to comment on the proposal;

(e) If desired, a request for an oral hearing with reasons supporting this request; the request must indicate the disputed material facts that can be resolved only at a hearing; and

(f) A list of all information sought to be discovered from applicant carriers.

Because we have determined that this proposal is a minor transaction, no responsive applications will be permitted. The time limits for processing this application are set forth at 49 U.S.C. 11325(d), but, as noted above, we have provisionally adopted an expedited schedule.

Discovery may begin immediately. We encourage the parties to resolve all discovery matters expeditiously and amicably.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

*It is ordered:*

1. This application is accepted for consideration under 49 U.S.C. 11323–25 as a minor transaction under 49 CFR 1180.2(c).

2. The parties will comply with all provisions stated above.

This decision is effective on July 17, 1996.

Decided: July 11, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

*Secretary.*

[FR Doc. 96–18129 Filed 7–16–96; 8:45 am]

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#### [STB Finance Docket No. 32989]

#### **Evansville Terminal Company, Inc.—Acquisition and Operation Exemption—Trustee, Indiana HiRail Corporation**

Evansville Terminal Company, Inc. (ETC), a noncarrier, has filed a verified

<sup>1</sup> The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on

notice of exemption under 49 CFR 1150.31 to acquire and operate approximately 40.4 miles of rail line from Trustee, Indiana HiRail Corporation (IHRC), between milepost 204.3 at Browns, IL, and milepost 244.7 at Evansville, IN, including, without limitation, the Harwood Yard North and side tracks. The transaction was to have been consummated on or after the June 28, 1996 effective date of the exemption.

This proceeding is related to *RailAmerica, Inc.—Continuance in Control Exemption—Evansville Terminal Company, Inc.*, STB Finance Docket No. 32990, wherein RailAmerica, Inc. (RailAmerica), has concurrently filed a verified notice to continue to control ETC, upon its becoming a Class III rail carrier.

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. 32989, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423 and served on: Robert P. vom Eigen, Hopkins & Sutter, 888 Sixteenth Street, N.W., Washington, DC 20006.

Decided: July 10, 1996.

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

Vernon A. Williams,

*Secretary.*

[FR Doc. 96–18124 Filed 7–16–96; 8:45 am]

BILLING CODE 4915–00–P

#### **Surface Transportation Board<sup>1</sup>**

[STB Finance Docket No. 32990]

#### **RailAmerica, Inc.—Continuance in Control Exemption—Evansville Terminal Company, Inc.**

RailAmerica, Inc. (RailAmerica), a noncarrier, has filed a notice of exemption to continue in control of

December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10901.

<sup>1</sup> The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323–24.

Evansville Terminal Company, Inc. (ETC), upon ETC's becoming a Class III rail carrier. The transaction was to have been consummated on or after the June 28, 1996 effective date of the exemption.

ETC, a noncarrier, has concurrently filed a notice of exemption in *Evansville Terminal Company, Inc.—Acquisition and Operation Exemption—Trustee, Indiana HiRail Corporation, STB Finance Docket No. 32989*, to acquire approximately 40.4 miles of rail lines of Trustee, Indiana HiRail Corporation, between Browns, IL, and Evansville, IN.

RailAmerica controls six other nonconnecting Class III rail carriers: Huron & Eastern Railway Company, Inc.; Saginaw Valley Railway Company, Inc.; West Texas & Lubbock Railroad Company, Inc.; Plainview Terminal Company; Dakota Rail, Inc.; and South Central Tennessee Railroad Company.

RailAmerica states that: (1) ETC will not connect with any of the other railroads in its corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect ETC with any other railroad in its corporate family; and (3) the transaction does not involve a Class I railroad. The transaction therefore 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 railroad carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

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. 32990, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, NW., Washington, DC 20423 and served on: Robert P. vom Eigen, Hopkins & Sutter, 888 Sixteenth Street, NW., Washington, DC 20006.

Decided: July 10, 1996.

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

Vernon A. Williams,

Secretary.

[FR Doc. 96-18125 Filed 7-16-96; 8:45 am]

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**[STB Docket No. AB-55 (Sub-No. 531X)]**

**CSX Transportation, Inc.—  
Discontinuance of Service  
Exemption—in Fayette and Raleigh  
Counties, WV**

CSX Transportation, Inc. (CSXT) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances* to discontinue service over 4.8 miles of its line of railroad from milepost CAX-0.0 at Mill Creek Jct., to milepost CAX-4.8 at Garden Ground, in Fayette and Raleigh Counties, WV.

CSXT has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (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 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 use of 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 August 16, 1996, unless stayed pending

<sup>1</sup> The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to the Board's jurisdiction pursuant to 49 U.S.C. 10903.

reconsideration. Petitions to stay that do not involve environmental issues,<sup>2</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>3</sup> and trail use/rail banking requests under 49 CFR 1152.29<sup>4</sup> must be filed by July 29, 1996. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 6, 1996, with: Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Charles M. Rosenberger, Senior Counsel, 500 Water Street J150, Jacksonville, FL 32202.

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

CSXT has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by July 22, 1996. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Surface Transportation Board, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927-6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: July 10, 1996.

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

Vernon A. Williams,

Secretary.

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<sup>2</sup> 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.

<sup>3</sup> See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

<sup>4</sup> The Board will accept late-filed trail use requests so long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.