

Description of Relief Sought/

Disposition: To allow the petitioner to apply for an inspection authorization (IA) without obtaining the required 3 years of experience.

Denial, June 11, 1996, Exemption No. 6460

Docket No.: 28474

Petitioner: Instone Air Services

Sections of the FAR Affected: 14 CFR 25.857(e) and 25.1447(c)(1)

Description of Relief Sought/

Disposition: To allow the carriage of up to sixteen supernumerary occupants (i.e., animal handlers, or grooms) on the main deck of Boeing Model 747-100/200 cargo aircraft, to attend to live animal cargo.

Partial Grant, June 19, 1996, Exemption No. 6463

Docket No.: 28506

Petitioner: Corporate Aviation, Inc.

Sections of the FAR Affected: 14 CFR 135.153(a)

Description of Relief Sought/

Disposition: To permit Corporate Aviation, Inc., to operate one Grumman Gulfstream II (G-11) aircraft (Registration No. N658PC, Serial No. 658) equipped with an alternate system as provided by § 135.153(b), rather than an FAA-approved ground proximity warning system (GPWS), after April 20, 1996.

Denial, June 14, 1996, Exemption No. 6462

[FR Doc. 96-18147 Filed 7-16-96; 8:45 am]

BILLING CODE 4910-13-M

Surface Transportation Board¹

[STB Finance Docket No. 32974]

Burlington Northern Santa Fe Corporation, BNSF Acquisition Corp., and Burlington Northern Railroad Company—Control—Washington Central Railroad Company

AGENCY: Surface Transportation Board.

ACTION: Notice of acceptance of application.

SUMMARY: On June 17, 1996, the Washington Central Railroad Company (WCRC), the Burlington Northern Santa Fe Corporation (BNSF), the Burlington Northern Railroad Company (BNRR), and BNSF Acquisition Corporation (BNSF Acquisition) filed an application

¹ The ICC Termination Act of 1996, Pub. L. No. 104-88, 109 Stat. 803 (ICCTA), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions to the Surface Transportation Board (Board). This notice relates to railroad acquisitions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323-25.

for BNSF to continue in control of BNSF Acquisition after BNSF Acquisition acquires the stock of WCRC. We accept the application for consideration. We further find that this is a "minor transaction" under 49 CFR 1180.2(c). Finally, we establish an expedited procedural schedule that would provide for the issuance of a final decision approximately 60 days prior to the deadline established for minor transactions in 49 U.S.C. 11325(d).

DATES: Written comments, including comments from the Secretary of Transportation and the Attorney General of the United States, must be filed with the Board no later than August 16, 1996. The Board will issue a service list shortly thereafter. Comments must be served on all parties of record within 10 days after the Board issues the service list. Applicants' reply is due on August 30, 1996. Unless unforeseen issues arise, the Board expects to be able to issue a final decision by October 15, 1996, with an effective date of October 30, 1996.

ADDRESSES: Send pleadings referring to STB Finance Docket No. 32974 to: (1) Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423; (2) Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Room 5101, 400 Seventh Street, S.W., Washington, DC 20590; (3) Attorney General of the United States, Washington, DC 20530; (4) Kathryn A. Kusske, Mayer, Brown & Platt, 2000 Pennsylvania Avenue, N.W., Suite 6500, Washington, DC 20006; and (5) Mark H. Sidman and Jo A. DeRoche, Weiner, Brodsky, Sidman & Kider, P.C., 1350 New York Avenue, N.W., Suite 800, Washington, DC 20005-4797.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927-5660. [TDD for hearing impaired: (202) 927-5721.]

SUPPLEMENTARY INFORMATION:

Applicants seek approval under 49 U.S.C. 11323-25 for BNSF to continue in control of its noncarrier subsidiary BNSF Acquisition after BNSF Acquisition acquires the common stock of, and is subsequently merged with, WCRC. Applicants also seek approval under 49 U.S.C. 11323 for BNRR (controlled indirectly by BNSF) to operate the lines of the current WCRC system after WCRC is acquired by BNSF Acquisition, except for certain lines that will be leased to the Columbia Basin Railroad Company (CBRC).² Authority

² The lines to be leased to CBRC are: (1) Connell, WA (MP 186.9) to Wheeler, WA (MP 147.3); (2) Bassett Junction, WA (MP 0.0) to Schrag, WA (MP

for this lease will be sought in a separate proceeding before the Board. Although BNRR will conduct most of WCRC's rail operations, BNSF Acquisition will retain its separate corporate existence.

The applicants allege that this is a "minor transaction" as defined in 49 CFR part 1180, the regulations that implemented former 49 U.S.C. 11343-45. The ICCTA has revised those statutory provisions and reenacted them as 49 U.S.C. 11323-25. The transaction here specifically is subject to 49 U.S.C. 11324(d) because the transaction does not involve the merger or control of two Class I railroads. Section 204(a) of the ICCTA provides that all ICC rules in effect on the date of the enactment of the ICCTA "shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Board . . . or operation of law." While the standards and procedures of former sections 11343-45 and current section 11323-25 are substantially similar insofar as minor transactions are concerned, the procedures of current section 11325(d), which applies if the transaction is a minor transaction, differ slightly from those at 49 CFR 1180.4 and shall govern. Otherwise, the use of the regulations at 49 CFR part 1180 for this proceeding appears proper.

Under 49 U.S.C. 11324(d), applying to proceedings that do not involve the merger or control of at least two Class I railroads, the Board shall approve a transaction unless it finds that: (1) the transaction will result in a "substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States"; and (2) "the anticompetitive effects of the transaction outweigh the public interest in meeting significant transportation needs." Addressing the first qualification in section 11324(d), applicants argue that the transaction can have no adverse competitive effects because it would be an end-to-end acquisition, not a parallel acquisition. According to applicants, the transaction would merely result in the reacquisition of connecting track that was previously owned by the BNRR before the track was sold to WCRC in 1986.

Addressing the second qualification in section 11324(d), applicants assert that the transaction will further the public interest in meeting significant transportation needs. BNSF Senior Vice

12.50; and (3) Moses Lake, WA (MP 18.3) to Sieler, WA (MP 5.0). In a separate transaction to be submitted to the Board, CBRC will receive trackage rights from BNRR to provide service between Warden, WA (MP 1976.0) and Othello, WA (MP 1989.0), a distance of approximately 13 miles.

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]

BILLING CODE 4915–00–P

[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

¹ 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 Board¹

[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.

¹ 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.