

continuance in control is not part of a series of anticipated transactions that would connect the rail lines being acquired by MMT with any railroad in the Watco corporate family; and (3) neither MMT nor any of the carriers controlled by Watco are Class I rail carriers. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2). The purpose of the transaction is to reduce overhead expenses, coordinate billing, maintenance, mechanical and personnel policies and practices of its rail carrier subsidiaries and thereby improve the overall efficiency of rail service provided by the ten railroads.

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. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

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 automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34635, 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 Karl Morell, Of Counsel, Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

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

Decided: January 12, 2005.

By the Board,

**David M. Konschnik,**

*Director, Office of Proceedings.*

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 05-1005 Filed 1-18-05; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34634]

#### Mission Mountain Railroad, Inc.— Acquisition Exemption—The Burlington Northern and Santa Fe Railway Company

Mission Mountain Railroad, Inc. (MMT), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire by purchase and lease from The Burlington Northern and Santa Fe Railway Company (BNSF) rail lines in the State of Montana. The rail line being purchased is between milepost 1249.35, near Stryker, and milepost 1272.22, near Eureka, in Lincoln County, MT, a distance of approximately 22.87 miles. The rail line being leased is between milepost 1211.86, near Columbia Falls, and milepost 1227.58, near Kalispell, in Flathead County, MT, a distance of approximately 15.72 miles.<sup>1</sup> MMT will operate both lines.

The transaction is related to STB Finance Docket No. 34635, *Watco Companies, Inc.—Continuance in Control Exemption—Mission Mountain Railroad, Inc.*, wherein Watco Companies, Inc., has concurrently filed a verified notice of exemption to continue in control of MMT upon MMT's becoming a Class III rail carrier. MMT certifies that its projected revenues as a result of this transaction will not result in MMT's becoming a Class II or Class I rail carrier, and further certifies that its projected annual revenues will not exceed \$5 million.

The transaction was expected to be consummated on or shortly after December 28, 2004.

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. 34634, 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 Karl Morell, Of Counsel, Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

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<sup>1</sup> BNSF is retaining the right to use the wye tracks at Columbia Falls.

Decided: January 12, 2005.

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

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 05-1006 Filed 1-18-05; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34610]

#### Stillwater Central Railroad, Inc.—Lease Exemption—The Burlington Northern and Santa Fe Railway Company

The Stillwater Central Railroad, Inc. (SLWC), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 *et seq.* to acquire by lease and to operate approximately 12.6 miles of rail line owned by The Burlington Northern and Santa Fe Railway Company (BNSF), between: (1) Milepost 549.01 at Wheatland, OK, and milepost 542.0 at Oklahoma City, OK, including the Dayton Lead in Wheatland; (2) milepost 540.0 west of the BNSF North Yard, in Oklahoma City, and milepost 536.4 in Oklahoma City, including the North Yard; and (3) milepost 0.0 on the Packing Town Lead, and a point 500 feet west of the wye connecting the Packing Town Lead with BNSF's Red Rock Subdivision, in Oklahoma City.<sup>1</sup> SLWC will also acquire approximately 5.5 miles of incidental overhead trackage rights between: (1) milepost 384.6 and milepost 390.0, on the Red Rock Subdivision, in Oklahoma City; and (2) a point 500 feet west of the wye connecting the Packing Town Lead and the point of connection between the Packing Town Lead and BNSF's Red Rock Subdivision.

SLWC certifies that its projected annual revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier. But, because SLWC's projected annual revenues will exceed \$5 million, SLWC has certified to the Board on October 29, 2004, that it sent the required notice of the transaction to the national offices of all labor unions representing employees on the affected lines and posted a copy of the notice at the workplace of the employees on the affected lines on the same date. See 49 CFR 1150.42(e).

The transaction was scheduled to be consummated on or after December 28, 2004 (which is 60 days or more after SLWC's certification to the Board that it

<sup>1</sup> BNSF will retain overhead trackage rights over the leased rail lines.

had complied with the Board's rule at 49 CFR 1150.42(e)).

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 automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 36410, 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 Karl Morell, Ball Janik LLP, Suite 225, 1455 F Street, NW., Washington, DC 20005.

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

Decided: January 12, 2005.

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

**Vernon A. Williams,**  
Secretary.

[FR Doc. 05-1007 Filed 1-18-05; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34646]

#### Sioux Valley Regional Railroad Authority—Trackage Rights Exemption—Lines of the State of South Dakota

Sioux Valley Regional Railroad Authority (SVRRA), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from the State of South Dakota (the State)<sup>1</sup> overhead trackage rights over a line of railroad extending between milepost (MP) 533.4 near Elk Point, SD (also known as MP 0.0 at East Wye Jct.) and MP 511.90 in Sioux City, IA, including such yard tracks, sidetracks, and connecting tracks (existing or to be constructed) as are reasonable to interchange railcars with The Burlington Northern and Santa Fe Railway Company (BNSF), Union Pacific Railroad Company, and Canadian National Railway Company at Sioux City. The total distance of the Elk Point-Sioux City line is approximately 21.5 miles.

SVRRA certifies that its projected revenues as a result of the SVRRA-South Dakota transaction will not result in

SVRRA becoming a Class I or Class II rail carrier, and further certifies that its projected revenues will not exceed \$5 million. The SVRRA-South Dakota transaction was scheduled to be consummated on or after January 5, 2005.

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 does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34646, 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 SVRRA's representative: Russell Hazel, Sioux Valley Regional Railroad Authority, c/o Sioux River Ethanol, 29619 Spur Avenue, Hudson, SD 57034.

The notice of exemption filed with respect to the SVRRA-South Dakota transaction in this docket is related to a notice of exemption concurrently filed in a related docket: STB Finance Docket No. 34646 (Sub-No. 1), *D&I Railroad Company—Trackage Rights Exemption—State of South Dakota and Sioux Valley Regional Railroad Authority*. The notice of exemption filed in the related docket contemplates the operation of SVRRA's Elk Point-Sioux City trackage rights by D&I Railroad Company (D&I) on behalf of SVRRA.

SVRRA and D&I have advised that the Elk Point-Sioux City line, which is owned by the State, is now operated on behalf of the State by BNSF, pursuant to a 1986 Operating Agreement. SVRRA and D&I have also advised: That, under the Operating Agreement, the State has the right to grant trackage rights on the Elk Point-Sioux City line subject to certain BNSF consent; that, although the State has the right to grant trackage rights to SVRRA for operations by SVRRA's third-party operator (D&I), BNSF has not consented to the grant of those rights; and that the failure to provide this consent is now the subject of litigation between the State and BNSF in *The Burlington Northern and Santa Fe Railway Company v. State of South Dakota*, Case No. 04-470 (S.D. 6th Circuit). SVRRA and D&I have further advised that they recognize that BNSF consent may have to be obtained, either voluntarily or through litigation, before D&I can commence trackage rights operations on the Elk Point-Sioux City line. SVRRA and D&I have suggested, however, that, inasmuch as the Board's authority respecting the notices filed in this docket and in the related docket is

"permissive" in nature, the filing of the notices in the two dockets is appropriate as a "prelude" to obtaining any necessary consent.

By letter filed December 30, 2004, BNSF has advised that it has not given its consent to the third-party trackage rights operation contemplated by SVRRA and D&I, which (BNSF adds) would violate the 1986 Operating Agreement. BNSF has further advised that, in its view, the filings by SVRRA and D&I in this docket and in the related docket are intended to improperly influence the pending State court litigation. BNSF has asked that the Board stress that issuance by the Board of the notices filed in this docket and in the related docket does not represent a determination, by the Board, concerning either the right of the State to grant the Elk Point-Sioux City trackage rights without BNSF's consent or the right of D&I to operate over the Elk Point-Sioux City line without BNSF's consent.

In view of the ongoing litigation concerning the right of the State to grant the trackage rights contemplated in this docket and in the related docket, it seems best to note that the Board has made no determination, one way or the other, concerning either the right of the State to grant the Elk Point-Sioux City trackage rights without BNSF's consent or the right of D&I to operate over the Elk Point-Sioux City line without BNSF's consent. The contractual dispute respecting the scope of the rights retained by or granted to the State and/or BNSF under the 1986 Operating Agreement must be resolved in a court of competent jurisdiction.

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

Decided: January 12, 2005.

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. 34645]

#### The Burlington Northern and Santa Fe Railway Company—Acquisition and Operation Exemption—State of South Dakota

The Burlington Northern and Santa Fe Railway Company (BNSF), a Class I rail carrier, has filed a verified notice of exemption under 49 CFR 1150.31 to

<sup>1</sup> The trackage rights will be granted by the State acting by and through the South Dakota State Railroad Board and the South Dakota Department of Transportation, Office of Railroads.