

and Saulitie, 1997). Although killer whales feed at the top of the food chain, and most of the species in the NEG project area feed on plankton, near the bottom of the food chain, there is the potential for adverse impacts on whales at the project site from oil spills. Impacts are still considered to be minor; however, due to the low probability of a spill.”

#### Page 4–58, third full paragraph

*Delete:* Despite direct contact of these marine mammals with the oil spills, no apparent adverse effects were recorded.”

*Replace with:* “Despite direct contact of these marine mammals with the oil spills, no apparent adverse effects were recorded at the time of the fly-over, nor was there evidence of behavior modification as a result of the spill. Follow-up flights or studies were not conducted, however, to determine if there were any longer-term effects.”

#### Page 4–63, first paragraph, 4th sentence

*Insert:* (NEG, 2005) at the end of the sentence.

#### Pages 4–65 and 4–76 Fuel Spill

*Delete:* “Cetaceans that might come into contact with a small fuel spill at the Project site would not be likely to show adverse effects, as past observations have shown no apparent adverse effects or behavioral changes caused by contact with fuel spills.”

*Replace with:* “Limited study (see FEIS, p. 4–58, third full paragraph), indicates that cetaceans that may come into contact with a small fuel spill at the Project site would not be likely to show adverse effects.”

#### Page 4–65 and 4–76 Bioaccumulation 2nd paragraph

*Delete:* “The only possible route of uptake of contaminants by marine mammals is through food consumption, as contaminants are not absorbed through the skin of marine mammals, and they do not drink large quantities of seawater.”

*Replace with:* “The most likely route of uptake of contaminants by marine mammals is through food consumption, as contaminants are not absorbed through the skin of marine mammals. While whales do not intentionally drink large quantities of seawater, a large quantity of water is processed in filter-feeding and could present another potential route for contaminate absorption.”

#### Page 4–77 Construction Schedule Alternatives

*Delete:* “Allowing construction from May through November would be most protective of the critically endangered North Atlantic right whale and fin and humpback whales, but would be less protective of sei whales, blue whales, sea turtles and some fish species.”

*Replace with:* “Allowing construction from May through November would be most protective of the North Atlantic right whale, but would be less protective of fin whales, humpback whales, sea turtles and some fish species.”

By order of the Maritime Administrator.

Dated: December 18, 2006.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–21885 Filed 12–20–06; 8:45 am]

BILLING CODE 4910–81–P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34961]

#### Indiana Boxcar Corporation— Continuance in Control Exemption— Youngstown & Southeastern Railway Company

Indiana Boxcar Corporation (applicant) has filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to continue in control of Youngstown & Southeastern Railway Company (Y&S), upon Y&S’s becoming a Class III rail carrier.

The transaction was scheduled to be consummated on November 29, 2006.

This transaction is related to the concurrently filed verified notices of exemption:

STB Finance Docket No. 34934, *Eastern States Railroad, LLC—Acquisition Exemption—Central Columbiana & Pennsylvania Railway, Inc. and Columbiana County Port Authority*, wherein Eastern States Railroad, LLC (ESR) seeks to acquire the lease and operating rights of approximately 35.7 miles of rail line owned by the Columbiana County Port Authority (CCPA), and to receive permanent assignment of CCPA’s and the Central Columbiana & Pennsylvania Railroad’s operating rights to approximately 3 miles of track running east of milepost 0.0 in Youngstown, OH; and STB Finance Docket No. 34962, *Youngstown & Southeastern Railway Company—Lease and Operation Exemption—Lines of Eastern States Railroad, LLC*, wherein Y&S seeks to sublease and/or operate the 38.7 miles

of line being acquired by ESR in STB Finance Docket No. 34934.

Applicant is a noncarrier that currently controls three Class III rail carriers: Vermilion Valley Railroad Company, Inc. (VVR), the Chesapeake & Indiana Railroad Company, Inc. (CIR), and Tishomingo Railroad Company, Incorporated (TRR).

Applicant states that: (1) The rail lines operated by VVR, CIR, and TRR do not connect with the rail line being acquired by lease and operated by Y&S; (2) the continuance in control is not part of a series of anticipated transactions that would connect the rail line being acquired by lease and operated by Y&S with applicant’s rail lines or with those of any other railroad within applicant’s corporate family; and (3) the transaction does not involve a Class I rail carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).<sup>1</sup> The purpose of the transaction is to continue rail service on a light-density line being acquired by ESR through purchase, lease, and operating rights agreement.

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 section 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. 34961, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on John D. Heffner, John D. Heffner, PLLC, 1920 N Street, NW., Suite 800, Washington, DC 20036.

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

<sup>1</sup> Pursuant to 49 CFR 1180.6(a)(7)(ii), applicant is required to submit “a copy of any contract or other written instrument entered into, or proposed to be entered into, pertaining to the proposed transaction.” Applicant states in its notice that a copy of an agreement is not yet available, but that it will submit a copy of the executed agreement as soon as it is available.

Decided: December 14, 2006.

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

**Vernon A. Williams,**  
*Secretary.*

[FR Doc. E6-21760 Filed 12-20-06; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34934]

#### **Eastern States Railroad, LLC— Acquisition Exemption—Central Columbiana & Pennsylvania Railway, Inc. and Columbiana County Port Authority**

Eastern States Railroad, LLC (ESR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire the lease and operating rights to approximately 35.7 miles of rail line owned by the Columbiana County Port Authority (CCPA). The line extends between milepost 0.0 in Youngstown, OH, and milepost 35.7 in Darlington, PA. Currently, the Ohio & Pennsylvania Railroad Company (O&P) operates over this line pursuant to an interim operating agreement with the trustee of the line's former operator, the Central Columbiana & Pennsylvania Railway, Inc. (CCPR), which filed for bankruptcy in the U.S. Bankruptcy Court for the Eastern District of Arkansas.<sup>1</sup> O&P received interim operating authority from the Board in *The Ohio and Pennsylvania Railroad—Acquisition and Operation Exemption—Rail Lines of Columbiana County Port Authority in Mahoning and Columbiana Counties, OH, and Beaver County, PA*, STB Finance Docket No. 34632 (STB served Dec. 21, 2004). According to ESR, O&P's interim operating agreement will terminate, pursuant to an order of the bankruptcy court, upon the effective date of this notice. According to ESR, the bankruptcy court has authorized CCPR, through CCPR's trustee, to assign its lease and operating rights to ESR.

ESR also seeks to receive permanent assignment of CCPA's and CCPR's operating rights to approximately 3 miles of track running east of milepost 0.0. ESR claims that this acquisition will, in combination with other rights that ESR has obtained, facilitate interchange with Norfolk Southern Railway Company and CSX Transportation, Inc.

According to ESR, it has entered into an interim operating agreement with the

trustee of CCPR for interim assignment of operating rights on all the lines described herein, pending the closing of its acquisition of the lease and operating rights, so that ESR may commence operations.

ESR certifies that its projected annual revenues as a result of the transaction will not exceed \$5 million. The transaction was scheduled to be consummated on November 29, 2006, the effective date of the exemption (7 days after the exemption was filed).

This transaction is related to two concurrently filed verified notices of exemption: STB Finance Docket No. 34962, *Youngstown & Southeastern Railway Company—Lease and Operation Exemption—Lines of Eastern States Railroad, LLC*, wherein Youngstown & Southeastern Railway Company (Y&S) seeks to sublease and/or operate the 38.7 miles of line being acquired by ESR in this docket; and STB Finance Docket No. 34961, *Indiana Boxcar Corporation—Continuance in Control Exemption—Youngstown & Southeastern Railway Company*, wherein Indiana Boxcar Corporation seeks an exemption for continuance in control once Y&S is granted common carrier authority.

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. 34934, 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 Myles L. Tobin, Fletcher & Sippel, LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606-2832.

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

Decided: December 14, 2006.

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

**Vernon A. Williams,**  
*Secretary.*

[FR Doc. E6-21762 Filed 12-20-06; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34962]

#### **Youngstown & Southeastern Railway Company—Lease and Operation Exemption—Lines of Eastern States Railroad, LLC**

Youngstown & Southeastern Railway Company (Y&S), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to sublease from Eastern States Railroad, LLC (ESR) and operate the portion of the 35.7-mile line between milepost 35.7 in Darlington, PA, and milepost 0.0 in Youngstown, OH. In addition, Y&S will operate, as ESR's agent and in ESR's name, 3 miles of rail line running east of Youngstown, which is the subject of permanent assignment to ESR of Central Columbiana & Pennsylvania Railway, Inc.'s (CCPR) and Columbiana County Port Authority's (CCPA) operating rights that will facilitate the interchange of traffic with Norfolk Southern Railway Company and CSX Transportation, Inc.

This transaction is related to two concurrently filed verified notices of exemption: STB Finance Docket No. 34934, *Eastern States Railroad, LLC—Acquisition Exemption—Central Columbiana & Pennsylvania Railway, Inc., and Columbiana County Port Authority*, wherein ESR seeks to acquire the lease and operating rights of approximately 35.7 miles of rail line owned by CCPA, and to receive permanent assignment of CCPR's and CCPA's operating rights to approximately 3 miles of track east of milepost 0.0; and STB Finance Docket No. 34961, *Indiana Boxcar Corporation—Continuance in Control Exemption—Youngstown & Southeastern Railway Company*, wherein Indiana Boxcar Corporation seeks to continue in control of Y&S upon Y&S's becoming a Class III carrier.

Y&S certifies that its projected annual revenue as a result of this transaction will not exceed \$5 million. The transaction was scheduled to be consummated on or after November 29, 2006, the effective date of the exemption (7 days after the exemption was filed).

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 does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34962, must be filed with the Surface Transportation Board, 1925

<sup>1</sup> U.S. Bankruptcy Court for the Eastern District of Arkansas, Case No. 04-BK-16887T.