

constitute any finding by the Board concerning the ownership of the property involved. The exemption merely permits M&E and STRC to consummate the described transaction if and when they, in fact, have the legal capacity to do so. The question of whether or not STRC possesses the rights it wishes to assign is currently pending in the United States Bankruptcy Court. *In the Matter of Bridgewater Resources, Inc.*, No. 00-60057 (WHG) (D.N.J.).

M&E certifies that its annual revenues will not exceed those that would qualify it as a Class III rail carrier and that its annual freight revenues are not projected to exceed \$5 million.

M&E states that operations will not commence until all of the contingencies contained in the assignment of contracts agreement are met.<sup>4</sup> The earliest the exemption could have been consummated was November 27, 2002, the effective date of the exemption (7 days after the amended exemption was filed).

This transaction is exempt under 49 CFR 1150.41(c).<sup>5</sup> 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. 34267, 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 K. Fiorilla, 390 George Street, P.O. Box 1185, New Brunswick, NJ 08903.

Board decisions and notices are available on our Web site at [WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).

Decided: December 16, 2002.

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

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

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<sup>4</sup> These contingencies include a court's determination that STRC possesses the rights it intends to assign to M&E and the consent of Mr. Horner.

<sup>5</sup> In order to qualify for a change in operators exemption, an applicant must give notice to shippers on the line. See 49 CFR 1150.42(b). To ensure that shippers are informed of the change of operators on the line, M&E is directed to provide notice of the change to any shippers on the line and to certify to the Board that it has done so.

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34283]

#### RailAmerica, Inc. et al.—Corporate Family Reorganization Exemption—Western Illinois Railway Company

RailAmerica, Inc. (RailAmerica), a noncarrier holding company, and its noncarrier subsidiary, Palm Beach Rail Holdings, Inc. (PBRH), filed a verified notice of exemption under the Board's class exemption procedures at 49 CFR 1180.2(d)(3) for them to continue in control of the Western Illinois Railway Company (WIRC), when it becomes a rail carrier.

The transaction was expected to be consummated on or shortly after November 27, 2002.

In a related matter, *Western Illinois Railway Company—Acquisition Exemption—Toledo, Peoria & Western Railway Company*, STB Finance Docket No. 34282, WIRC filed a notice of exemption to acquire from the Toledo, Peoria & Western Railway Corporation (TP&W) the rail, ties, and certain improvements on a 71.5-mile rail line in Hancock, McDonough, Fulton, and Peoria Counties, IL.<sup>1</sup>

RailAmerica controls one Class II and 31 Class III railroads that operate in the States of Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Illinois, Indiana, Kansas, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, South Carolina, Texas, Vermont, Virginia, and Washington.

Applicants state that there will not be substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States. Applicant also states that the transaction will not result in any adverse change in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. The purpose of this transaction is to improve the financial viability of the applicants.

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. Because the transaction

<sup>1</sup> On November 26, 2002, RailAmerica, PBRH, and WIRC jointly filed a motion to dismiss both the continuance in control in this case and the acquisition in STB Finance Docket No. 34282 for lack of Board jurisdiction. The motion will be handled in a separate decision.

involves the control of one Class II rail carrier and one or more Class III rail carriers, the transaction will be made subject to the employee protective conditions described in *Wisconsin Central Ltd.—Acquisition Exem.—Union Pac. RR*, 2 S.T.B. 218 (1997).

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. 34283, 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: Louis E. Gitomer, Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our Web site at [WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).

Decided: December 16, 2002.

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

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

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[Finance Docket No. 34079]

#### San Jacinto Rail Limited—Construction Exemption—And The Burlington Northern and Santa Fe Railway Company—Operation Exemption—Build-Out to the Bayport Loop Near Houston, Harris County, TX

**AGENCIES:** *Lead:* Surface Transportation Board. *Cooperating:* U.S. Coast Guard, Federal Aviation Administration, National Aeronautics and Space Administration.

**ACTION:** Extension of comment period for the Draft Environmental Impact Statement.

**SUMMARY:** Comments on the Draft Environmental Impact Statement (Draft EIS) issued by the Surface Transportation Board's Section of Environmental Analysis (SEA) and the three cooperating agencies on December 6, 2002 in this proceeding were to be submitted by January 27, 2003. In response to a number of written requests for an extension of the comment period, SEA is advising all interested persons that the comment period will be

extended for an additional twenty-five days. The comment period will now end February 21, 2003.

Most of the extension requests sought an additional forty-five days to submit comments on the Draft EIS. To balance these requests for an extension with the need to move the environmental review process forward without undue delay, SEA believes that a twenty-five day extension to and including February 21, 2003 is appropriate. In order to issue the Final EIS in a timely manner, no further extensions will be granted absent compelling, unforeseen circumstances.

Written comments on the Draft EIS must be postmarked or faxed by the February 21, 2003 due date. SEA encourages written comments by all interested parties and agencies and members of the general public on all aspects of this Draft EIS. SEA will consider all timely comments in preparing the Final EIS, and the Final EIS will respond to all timely substantive comments. When submitting comments on the Draft EIS, please be as specific as possible and substantiate your concerns and recommendations. Please mail written comments to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001.

To ensure proper handling of your comments, please mark your submission: Attention: Dana White, Section of Environmental Analysis, Environmental Filing FD No. 34079.

Due to delays in the delivery of mail currently being experienced by Federal agencies in Washington, DC, SEA encourages that comments be faxed to 1-866-293-4979. Faxed comments will be given the same weight as mailed comments; therefore, persons submitting comments by fax do not have to also send comments by mail. Further information about the project can be obtained by calling SEA's toll-free number at 1-888-229-7857 (TDD for the hearing impaired 1-800-877-8339).

As stated in our December 6, 2002 Notice of Availability, and in the Draft EIS, SEA will host two public meetings on the Draft EIS in January 2003. At each meeting, SEA will give a brief presentation and interested parties will be invited to make oral comments. SEA will have a transcriber present to record the oral comments in either English or Spanish. Written comments may also be submitted at the meetings. Meetings will be held at the following locations, dates, and times: Pasadena Convention Center, 7902 Fairmont Parkway, Pasadena, TX, January 14, 2003, 7-9 pm, Cesar E. Chavez High School, 8501 Howard Drive, Houston, TX, January 15, 2003, 7-9 pm. Both meetings will follow the

same format and agenda; it is not necessary to attend both meetings.

Persons wanting to speak at a public meeting are strongly urged to pre-register by calling the toll-free number at 1-888-229-7857 (TDD for the hearing impaired 1-800-877-8339) and leaving their name, telephone number, the name of any group, business, or agency affiliation, if applicable, and the date of the meeting at which they wish to speak. The deadline for pre-registration for all meetings is January 7, 2003.

Persons will be called to speak at each meeting in the order in which they pre-registered. Those wishing to speak who did not pre-register will be accommodated at each meeting as time allows. Those wishing to speak at more than one meeting will also be accommodated as time allows and after all others have had an opportunity to participate. As SEA would like as many persons as possible to participate and given that there will be a limited amount of time at each meeting, all speakers are strongly encouraged to prepare summary oral comments, and submit detailed comments in writing. SEA also encourages groups of individuals with similar comments to designate a representative to speak for them. A translator will be available at both meetings for Spanish-speakers wishing to speak.

**FOR FURTHER INFORMATION CONTACT:** Ms. Dana White, Section of Environmental Analysis, Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001, or SEA's toll-free number for this project at 1-888-229-7857 (TDD for the hearing impaired 1-800-877-8339). The website for the Surface Transportation Board is <http://www.stb.dot.gov>.

By the Board, Victoria J. Rutson, Chief, Section of Environmental Analysis.

**Vernon A. Williams,**

Secretary.

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34282]

#### Western Illinois Railway Company— Acquisition Exemption—Toledo, Peoria & Western Railway Corporation

The Western Illinois Railway Company (WIRC), a noncarrier, filed a notice of exemption under 49 CFR 1150.31 to acquire from the Toledo, Peoria & Western Railway Corporation (TP&W) the rail, ties, and certain

improvements on a 71.5-mile rail line, between milepost 194.5 at La Harpe and milepost 123.0 at Peoria, in Hancock, McDonough, Fulton, and Peoria Counties, IL (the La Harpe Line or Line).<sup>1</sup> TP&W will retain the common carrier obligation and the permanent and exclusive right to operate the Line, the right to maintain and renew the Line, and the right to require WIRC to transfer the Line's physical assets in the event TP&W agrees or is required to sell the Line under an offer of financial assistance pursuant to 49 U.S.C. 10904.<sup>2</sup>

The transaction was expected to be consummated on or after November 27, 2002.

In a related matter, RailAmerica, Inc. (RailAmerica) and Palm Beach Rail Holdings, Inc. (PBRH), a noncarrier subsidiary of RailAmerica, filed a notice of exemption in *RailAmerica, Inc. et al.—Corporate Family Reorganization Exemption—Western Illinois Railway Company*, STB Finance Docket No. 34283, for PBRH to continue in control of WIRC when it becomes a rail carrier.<sup>3</sup>

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. 34282, 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 Louis E. Gitomer, Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

<sup>1</sup> In *SF&L Railway, Inc.—Acquisition and Operation Exemption—Toledo, Peoria and Western Railway Corporation Between La Harpe and Peoria, IL*, STB Finance Docket No. 33995 *et al.* (STB served Oct. 17, 2002), the Board ordered SF&L Railway, Inc. (SF&L), to reconvey to TP&W the operating easement over, and the rail, ties and certain improvements on the 71.5-mile rail line acquired under the class exemption in that proceeding that was served and published in the *Federal Register* at 66 FR 9411 on February 7, 2001. A petition for reconsideration was filed by SF&L on December 13, 2002.

<sup>2</sup> On September 3, 2002, SF&L filed a petition for exemption to abandon the La Harpe Line. See *SF&L Railway, Inc.—Abandonment Exemption—in Hancock, McDonough, Fulton, and Peoria Counties, IL*, STB Docket No. AB-448 (Sub-No. 2X) (STB served Sept. 23, 2002). Notice was served and published in the *Federal Register* at 67 FR 59596 on September 23, 2002. TP&W, on October 30, 2002, filed a motion for permission to substitute for SF&L in STB Docket No. AB-448 (Sub-No. 2X). A decision on the motion will be issued in the near future.

<sup>3</sup> On November 26, 2002, RailAmerica, PBRH, and WIRC jointly filed a motion to dismiss both the acquisition in this case and the continuance in control in STB Finance Docket No. 34283 for lack of Board jurisdiction. The motion will be handled in a separate decision.