

Historic Preservation, and USEPA have taken final agency actions by issuing licenses, permits, and approvals for the following major highway improvements in the State of Ohio and the Commonwealth of Kentucky. The project will involve: construction of a new Ohio River Bridge; an addition of one lane in each direction on I-75 from the Western Hills Viaduct interchange in Cincinnati to the Dixie Highway interchange in Kentucky, including auxiliary lanes and collector-distributor systems where required at each interchange within the project area. The overall project length is approximately 7.8 miles along I-75. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the FHWA administrative record for the Environmental Assessment (EA) for the project and included in the Finding of No Significant Impact (FONSI) issued on August 9, 2012. The EA, FONSI, and other documents in the FHWA administrative record file are available by contacting the FHWA or ODOT at the addresses provided above. Pertinent project files may also be accessed through the ODOT project Web site at: <http://www.brentspencebridgecorridor.com/>. This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General*: National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].
2. *Air*: Clean Air Act, 42 U.S.C. 7401–7671(q).
3. *Land*: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers), 23 U.S.C. 319.
4. *Wildlife*: Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536], Marine Mammal Protection Act [16 U.S.C. 1361], Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)], Migratory Bird Treaty Act [16 U.S.C. 703–712].
5. *Historic and Cultural Resources*: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–11]; Archeological and Historic Preservation Act [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].
6. *Social and Economic*: Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious

Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

7. *Wetlands and Water Resources*: Clean Water Act, 33 U.S.C. 1251–1377 (Section 404, Section 401, Section 319); Land and Water Conservation Fund (LWCF), 16 U.S.C. 4601–4604; Safe Drinking Water Act (SDWA), 42 U.S.C. 300(f)–300(j)(6); Rivers and Harbors Act of 1899, 33 U.S.C. 401–406; Wild and Scenic Rivers Act, 16 U.S.C. 1271–1287; Emergency Wetlands Resources Act, 16 U.S.C. 3921, 3931; TEA–21 Wetlands Mitigation, 23 U.S.C. 103(b)(6)(m), 133(b)(11); Flood Disaster Protection Act, 42 U.S.C. 4001–4128.

8. *Executive Orders*: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

*Catalog of Federal Domestic Assistance Number and Title*: FHWA 20.205 Highway Planning and Construction (A, B). The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

**Authority**: 23 U.S.C. 139(l)(1).

Issued on: October 23, 2012.

**Robert L. Griffith,**

*Acting Division Administrator, Federal Highway Administration, Columbus, Ohio.*

[FR Doc. 2012–26874 Filed 11–1–12; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[Docket No. FD 35679]

#### **Union Railroad Company—Corporate Family Merger Exemption—McKeesport Connecting Railroad Company**

Union Railroad Company (URR) and McKeesport Connecting Railroad Company (MCK) (collectively, applicants) have jointly filed a verified notice of exemption under 49 CFR 1180.2(d)(3) for a corporate family transaction pursuant to which MCK would be merged into URR.

URR and MCK are both Delaware corporations and Class III rail carriers. United States Steel Corporation (USS), a noncarrier, owns all of the issued and outstanding stock of Transtar, Inc. (Transtar), a noncarrier holding company, which owns all of the issued and outstanding stock of six Class III rail carriers (collectively, the Transtar railroads), including URR and MCK.

URR is a switching and terminal railroad that operates approximately 27.8 route miles, extending from an interchange with the Bessemer & Lake Erie Railroad at North Bessemer, PA, south to an interchange with Wheeling & Lake Erie Railway at Mifflin Junction, PA, with branches to Clairton, South Duquesne and Munhall, PA. URR connects at the intermediate point of Bessemer, PA, with CSX Transportation, Inc. (CSXT) and at Kenny and Clarion, PA, with Norfolk Southern Railway. MCK is a switching and terminal railroad that operates at McKeesport, PA. It connects with CSXT and serves USS' McKeesport Tubular Operations.

Applicants state that, pursuant to the provisions of a Plan of Merger executed by the parties, MCK will be merged into URR upon the effective date of the merger, with URR as the surviving corporation. According to applicants, the corporate existence of the surviving corporation will continue unimpaired and unaffected by the merger.

Unless stayed, the exemption will be effective on November 18, 2012. Applicants state that the merger of MCK into URR is expected to become effective as of January 1, 2013, and that the transaction will be consummated as of that date.

According to applicants, the purpose of the corporate transaction is to simplify the corporate structure of the Transtar railroads by reducing the number of subsidiary railroads controlled by Transtar to five which will reduce the administrative, accounting, reporting, and related burdens associated with the maintenance of the two separate corporate entities.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). Applicants state that the transaction will not result in adverse changes in service levels, significant operational changes, or any changes in the competitive balance with carriers outside the corporate family. Applicants further state that the service presently provided by the involved carriers will be continued by URR and all current connections of the involved carriers will be continued.

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 rail carriers.

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 effectiveness of the exemption. Petitions for stay must be filed no later than November 9, 2012 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35679, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on John A. Vuono, Vuono & Gray, LLC, 310 Grant Street, Suite 2310, Pittsburgh, PA 15219.

Board decisions and notices are available on our Web site at [www.stb.dot.gov](http://www.stb.dot.gov).

Decided: October 29, 2012.

By the Board, Rachel D. Campbell,  
Director, Office of Proceedings.

**Jeffrey Herzig,**  
Clearance Clerk.

[FR Doc. 2012-26880 Filed 11-1-12; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[Docket No. FD 35667]

#### Arkansas-Oklahoma Railroad, Inc.— Lease and Operation Exemption— Lines of Union Pacific Railroad Company

Under 49 CFR 1011.7(a)(2)(x)(A), the Director of the Office of Proceedings (Director) is delegated the authority to determine whether to issue notices of exemption under 49 U.S.C. 10502 for lease and operation transactions under 49 U.S.C. 10902. However, the Board reserves to itself the consideration and disposition of all matters involving issues of general transportation importance. 49 CFR 1011.2(a)(6). Accordingly, the Board revokes the delegation to the Director with respect to issuance of the notice of exemption

for lease and operation of the rail lines at issue in this case. The Board determines that this notice of exemption should be issued, and does so here.

According to Arkansas-Oklahoma Railroad, Inc. (AOK), a Class III rail carrier, AOK and Union Pacific Railroad Company (UP) have entered into a new Lease Agreement (Agreement). AOK has filed a verified notice of exemption under 49 CFR 1150.41<sup>1</sup> to continue to lease from UP and to operate approximately 12.58 miles of UP's rail lines between (1) milepost 364.96 and milepost 370.5 on UP's Shawnee Branch at or near McAlester, a distance of approximately 5.54 miles, and (2) the Krebs Industrial Lead from the clearance point of the mainline switch on UP's Cherokee Subdivision at milepost 0.0 in McAlester to the end of the track at milepost 7.04 in Krebs, a distance of approximately 7.04 miles, both lines in Pittsburg County, Okla.<sup>2</sup> AOK will continue to operate the lines as part of its existing rail line between McAlester and Howe, Okla.

Pursuant to 49 CFR 1150.43(h), AOK states that, although the Agreement contains no direct restrictions on interchange, the lease fee is based upon the percentage of traffic AOK interchanges with UP. AOK states that this arrangement is unchanged from the original lease agreement covering the lines.<sup>3</sup>

AOK certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed \$5 million.

AOK states that consummation of the transaction will occur on or about November 19, 2012. The earliest the transaction can be consummated is November 18, 2012, the effective date of the exemption (30 days after the verified notice was filed).

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 effectiveness of the exemption. Stay petitions must be

<sup>1</sup> AOK originally filed its verified notice of exemption on September 25, 2012. On October 19, 2012, it filed an amended verified notice. Accordingly, October 19, 2012, will be considered the filing date of the verified notice.

<sup>2</sup> AOK previously obtained an exemption in 1997 to lease and operate the rail lines. See *Arkansas-Oklahoma R.R.—Trackage Rights Exemption—Union Pac. R.R.*, FD 33440 (STB served Aug. 15, 1997).

<sup>3</sup> Concurrently with its verified notice of exemption, AOK has filed under seal, pursuant to 49 CFR 1150.43(h)(1)(ii), a confidential, complete version of the Agreement.

filed no later than November 9, 2012 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35667, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Daniel A. LaKemper, General Counsel, Arkansas-Oklahoma Railroad, Inc., P.O. Box 185, Morton, IL 61550.

Board decisions and notices are available on our Web site at [www.stb.dot.gov](http://www.stb.dot.gov).

*It is ordered:*

1. The delegation of authority to the Director of the Office of Proceedings under 49 CFR 1011.7(a)(2)(x)(A) to determine whether to issue a notice of exemption in this proceeding is revoked.

2. Notice of the exemption will be published in the **Federal Register** on November 2, 2012.

3. This decision is effective on the date of service.

Decided: October 29, 2012.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Begeman. Vice Chairman Mulvey dissented with a separate expression.

Vice Chairman Mulvey, dissenting.

According to AOK's notice, AOK has been leasing a line of railroad from UP since 1997 under an agreement that gives AOK a financial incentive to interchange its traffic with UP, rather than with Kansas City Southern (KCS). The shippers whose traffic was subject to the interchange commitment contained in the 1997 lease may or may not have been aware of it, given that the notice authorizing that lease made no mention of the presence of a special lease fee arrangement. See *Arkansas-Oklahoma R.R.—Trackage Rights Exemption—Union Pac. R.R.*, FD 33440 (STB served Aug. 15, 1997). Since that 1997 notice was filed, the Board has changed its rules to require the public disclosure of interchange commitments and the filing of a complete version of the agreement with the Board (under seal). See 49 CFR 1150.43.<sup>1</sup>

In support of its desire to continue a lease credit arrangement encouraging interchange with UP rather than KCS—one that has already been in place for more than 15 years—AOK argues that the interchange commitment does not materially change its interchange practices. That argument, of course, begs the question as to why such a provision

<sup>1</sup> I note that AOK's initial notice did not contain the information required under the Board's current rules. AOK subsequently amended its notice.