

34855

SERVICE DATE - JULY 14, 2004

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34503]

Timber Rock Railroad, Inc.–Lease Exemption–The Burlington Northern and Santa Fe Railway Company

Timber Rock Railroad, Inc. (TRRR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire by lease and to operate approximately 117.82 miles of rail line owned by The Burlington Northern and Santa Fe Railway Company (BNSF): (1) between milepost 4.5 near Beaumont, TX, and milepost 21.8 near Silsbee, TX; (2) between milepost 52.5 near Dobbin, TX, and milepost 152.56 at Silsbee, TX, and (3) between milepost 0.5 and milepost 0.96 near Kirbyville, TX.¹

TRRR will also acquire incidental overhead trackage rights over 54.72 miles of BNSF's rail line: (1) between milepost 4.5 near Beaumont, TX, and milepost 2.28 at Beaumont, TX; and (2) between milepost 52.5 near Dobbin, TX, and milepost 144.0 on the BNSF Galveston Subdivision at Somerville, TX, for the purpose of interchanging traffic with BNSF.

TRRR certifies that its projected revenues as a result of this transaction will not result in the creation of a Class II or a Class I rail carrier. But, because TRRR's projected

¹ BNSF will retain the right to operate certain overhead trains over the lines being leased by TRRR.

annual revenues will exceed \$5 million, TRRR has certified to the Board on May 4, 2004, that it sent the required notice of the transaction on May 3, 2004, 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 May 2, 2004. See 49 CFR 1150.42(e).

The transaction was scheduled to be consummated on or after July 3, 2004 (which is 60 days or more after TRRR's certification to the Board that it had complied with the Board's rule at 49 CFR 1150.42(e)).

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. 34503, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. Also, a copy of each pleading must be served on Karl Morell, Ball Janik LLP, Suite 225, 1455 F Street, N.W., Washington, DC 20005.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: July 2, 2004.

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

Vernon A. Williams

Secretary