

SERVICE DATE – MARCH 13, 2020

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36384

SILLS ROAD REALTY LLC—ACQUISITION EXEMPTION—RAILROAD LINE IN THE
TOWN OF BROOKHAVEN, N.Y.

Docket No. FD 36385¹

SPECTRUM RR HOLDINGS, LLC—ACQUISITION & OPERATION EXEMPTION—LINE
OF SILLS ROAD REALTY LLC, IN THE TOWN OF BROOKHAVEN, N.Y.

Decided: March 13, 2020

On February 13, 2020, Sills Road Realty LLC (Sills Road), a noncarrier, filed in Docket No. FD 36384 a verified notice of exemption under 49 C.F.R. part 1150, subpart D, to authorize its ownership of 16,710 feet of track (the Line) currently operated by Brookhaven Rail, LLC (Brookhaven Rail) on a site known as the Brookhaven Rail Terminal, in Brookhaven, Suffolk County, N.Y. Sills Road indicates that it constructed the Line—despite the fact that the Board granted construction authority to Brookhaven Rail’s predecessor, U S Rail Corporation (U S Rail)—and has owned the Line since it was constructed. (Sills Road Verified Notice 1-3.)

Sills Road’s subsidiary, Spectrum RR Holdings, LLC (SRHL), a noncarrier, simultaneously filed in Docket No. FD 36385 a verified notice of exemption under 49 C.F.R. part 1150, subpart D, to acquire the Line from Sills Road and operate it. Sills Road and SRHL also jointly filed a motion to partially dismiss their respective notices of exemption. They ask the Board to find that an approximately 0.47-mile segment of the Line, known as the “Main Stem,” is rail line under 49 U.S.C. § 10901 but that the remainder of the Line is excepted track under 49 U.S.C. § 10906.

On March 3, 2020, Brookhaven Rail filed a reply objecting to the verified notices and asking that the Board reject them and dismiss the joint motion as moot. Brookhaven Rail argues that the actions proposed by Sills Road and SRHL are not the type of routine and non-controversial transactions for which the streamlined notice of exemption process was designed. (Brookhaven Rail Reply 8-10.) Among other things, Brookhaven Rail claims that Sills Road is attempting to remove Brookhaven Rail as operator of the Line against its wishes and challenges Sills Road’s assertion that U S Rail did not oversee or manage the construction of any of the track. (*Id.* at 4, 9-10.)

¹ These proceedings are not consolidated. A single decision is being issued for administrative efficiency.

To provide sufficient time for the Board to fully consider the verified notices and the arguments presented, the effective date of the exemptions will be postponed until further order of the Board.

It is ordered:

1. The effective dates of the exemptions in Docket Nos. FD 36384 and FD 36385 are postponed until further order of the Board.
2. This decision will be effective on its date of service.

By the Board, Allison C. Davis, Director, Office of Proceedings.