

FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208

Phone: (312) 252-1500
Fax: (312) 252-2400
www.fletcher-sippel.com

ROBERT A. WIMBISH

(312) 252-1504
rwimbish@fletcher-sippel.com

April 16, 2021

302031

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

ENTERED
Office of Proceedings
April 16, 2021
Part of
Public Record

Re: **FD 36494**
Ringneck & Western Railroad, L.L.C. – Acquisition and Operation Exemption –
Railroad Line in Davison, Aurora, Brule, Lyman, Jones, Jackson, and
Pennington Counties, S.D.
and
FD 36512
Watco Holdings, Inc. — Continuance in Control
Exemption — Ringneck & Western Railroad, L.L.C.

Dear Ms. Brown:

Attached for filing in the above-captioned proceedings are – (1) a **Verified Notice of Exemption for Ringneck & Western Railroad, L.L.C. pursuant to 49 C.F.R. § 1150.31**; and (2) a related a **Verified Notice of Exemption of Watco Holdings, Inc., pursuant to 49 C.F.R. § 1180.2(d)(2)**, both dated April 16, 2021. The sum of \$3,800, representing the appropriate fees, collectively (\$2,200 and \$1,600, respectively) for these filings, has been tendered electronically via Pay.gov.

If you have any questions regarding this filing, please feel free to contact me. Thank you for your assistance on this matter.

FEE RECEIVED

April 16, 2021

SURFACE

TRANSPORTATION BOARD

RAW:bjs

Attachments

Respectfully submitted,

/s/ *R. A. Wimbish*

Robert A. Wimbish
Attorney for Watco Holdings, Inc.

FILED

April 16, 2021

SURFACE

TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36494

RINGNECK & WESTERN RAILROAD, L.L.C.
— ACQUISITION AND OPERATION EXEMPTION —
RAILROAD LINE IN DAVISON, AURORA, BRULE, LYMAN,
JONES, JACKSON, AND PENNINGTON COUNTIES, S.D.

**VERIFIED NOTICE OF EXEMPTION OF
RINGNECK & WESTERN RAILROAD, L.L.C.
PURSUANT TO 49 C.F.R. § 1150.32**

Robert A. Wimbish
Bradon J. Smith
Fletcher & Sippel
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500

**ATTORNEYS FOR RINGNECK &
WESTERN RAILROAD, L.L.C.**

Dated: April 16, 2021

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36494

RINGNECK & WESTERN RAILROAD, L.L.C.
— ACQUISITION AND OPERATION EXEMPTION —
RAILROAD LINE IN DAVISON, AURORA, BRULE, LYMAN,
JONES, JACKSON, AND PENNINGTON COUNTIES, S.D.

**VERIFIED NOTICE OF EXEMPTION OF
RINGNECK & WESTERN RAILROAD, L.L.C.
PURSUANT TO 49 C.F.R. § 1150.32**

Ringneck & Western Railroad, L.L.C. (“RWRR”), a non-carrier, hereby files this notice of exemption under 49 C.F.R. Part 1150.31 *et seq.* to – (1) acquire approximately 285.43 miles of railroad line (the “Line”) extending between milepost 374.57 at Mitchell, South Dakota, and milepost 660.0 in Rapid City, South Dakota; (2) commence common carrier service over the portions of the Line extending between – (a) milepost 374.57 at Mitchell and milepost 562.53 at Kadoka, South Dakota (the “MK Segment”), and (b) milepost 659.6 and milepost 660.0 at Rapid City, South Dakota (the “Rapid City Segment”); (3) acquire common carrier service reactivation rights over the currently-rail-banked segment of the Line between milepost 562.53 at Kadoka and milepost 659.6 at Rapid City (the “Rail Banked Segment”); and (4) as incidental to the acquisition of the Line, acquire by assignment overhead trackage rights over BNSF Railway Company’s (“BNSF”) lines (the “Trackage Rights Lines”) between – (a) BNSF’s connection with the eastern end of the MK Segment of the Line at BNSF milepost 650.65 at Mitchell, and certain yard tracks in BNSF’s Mitchell Yard at BNSF milepost 650.16; and (b) BNSF’s Mitchell Yard at milepost 650.16 and the Grain Shuttle Facility at Mitchell located at Milepost 652.9. Based on projected revenues, RWRR would become a Class III rail carrier.

This Notice is related to FD 36512, *Watco Holdings, Inc. – Continuance in Control Exemption – Ringneck & Western Railroad, L.L.C.*, in which Watco Holdings, Inc. (“Watco”) is concurrently filing a notice of exemption pursuant to 49 C.F.R. § 1180.2(d)(2) to continue in control of RWRR once RWRR consummates the subject transaction and commences rail common carrier operations.

In accordance with the requirements of 49 C.F.R. § 1150.33, RWRR submits the following information:

Name and Address of Applicant: 49 C.F.R. § 1150.33(a)

The full name and address of the applicant herein is as follows:

Ringneck & Western Railroad, L.L.C.
315 West 3rd Street
Pittsburg, Kansas 66762

Applicant's Representative: 49 C.F.R. § 1150.33(b)

The RWRR’s representative to whom correspondence regarding this transaction should be sent is as follows:

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive, Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500

Statement Concerning Agreement: 49 C.F.R. § 1150.33(c)

RWRR and the State of South Dakota (the “State”), acting by and through its Department of Transportation (“SDDOT”), have reached an agreement (the “Sale Agreement”) pursuant to which RWRR will purchase the Line (including the right to restore common carrier service over the inactive Rail Banked Segment), commence common carrier service over the MK

Segment and the Rapid City Segment, and acquire by assignment overhead rights over the Trackage Rights Lines.

Operation of the Property: 49 C.F.R. § 1150.33(d)

RWRR will provide common carrier service on the MK Segment and the Rapid City Segment, and will exercise overhead rights over the Trackage Rights Lines (collectively, the “Active Lines”) upon consummation of the proposed line sale transaction. Dakota Southern Railway Company (“DSRC”) currently operates over the MK Segment and the Trackage Rights Lines¹ – while no common carrier service is currently being provided over the Rapid City Segment. Contemporaneous to the commencement of RWRR operations over the Active Lines, DSRC will terminate its own operations over the MK Segment and the Trackage Rights Lines as discussed below.

Summary of the Transaction: 49 C.F.R. § 1150.33(e)

The Line is owned by the State, acting by and through SDDOT. The State acquired the trackage comprising the Line from the estate of the bankrupt Chicago, Milwaukee, St. Paul & Pacific Railroad Company (the “Milwaukee”) as a railroad line authorized for abandonment by the United States District Court for the Northern District of Illinois, following the issuance of report by the Interstate Commerce Commission recommending abandonment.²

¹ *Dakota Southern Railway Company – Modified Rail Certificate*, FD 36291 (STB served Jun. 21, 2019) (“DSRC-Modified Certificate”); and *Mitchell-Rapid City Regional Railroad Authority and Dakota Southern Railway Company – Trackage Rights Exemption – BNSF Railway Company*, FD 34788 (STB served Dec. 19, 2005) (“MRC and DSRC-Trackage Rights”).

² *Richard B. Ogilvie, Trustee of the Property of Chicago, Milwaukee, St. Paul & Pacific Railroad Company – Abandonment – In South Dakota, Iowa and Nebraska*, Docket No. AB7 (Sub-No. 88) (ICC served May 14, 1980); *In the Matter of Chicago, Milwaukee, St. Paul &*

The State, through SDDOT, leases the MK Segment to the MRC Regional Rail Authority (the “Authority”). The Authority, in turn, subleases the MK Segment to DSRC, which operates the MK Segment pursuant to modified certificate authority.³ DSRC and the Authority jointly possess trackage rights over the Trackage Rights Lines, with DSRC as the active user of these trackage rights.⁴

RWRR is a newly-formed, non-carrier subsidiary of Watco. Pursuant to the Sale Agreement, RWRR will acquire the Line from the SDDOT, and will commence common carrier operations over the currently-active MK Segment and the currently-inactive Rapid City Segment. In connection with this transaction, DSRC has filed a notice of intent to terminate its modified certificate operations over the MK Segment pursuant to 49 C.F.R. § 1150.24, effective as of the consummation of RWRR’s acquisition of the Line.⁵ As provided under the Sale Agreement, RWRR will acquire common carrier service reactivation rights over the Rail Banked Segment, which is the subject of two separate notices of interim trails use, each of which covers an adjoining portion of the Rail Banked Segment.⁶ RWRR has no current plans to reactivate the Rail Banked Segment.

Pacific Railroad Company, Debtor, No. 77 B 8999, Order No. 341 (N.D. Ill., May 27, 1980); Order No. 342A (N.D. Ill., June 9, 1980).

³ *DSRC-Modified Certificate*.

⁴ *MRC and DSRC-Trackage Rights*.

⁵ *Dakota Southern Railway Company – Modified Rail Certificate*, FD 36291 (Notice of Intent to Terminate Service, filed March 23, 2021).

⁶ *Sammamish Transportation Company – Notice of Interim Trail Use and Termination of Modified Certificate*, FD 33398 (Sub-No. 1) (STB served Feb. 26, 1998); *Mitchell-Rapid City Regional Railroad Authority – Modified Rail Certificate – Between Caputa and Rapid City, SD*, FD 35149 (STB served Apr. 28, 2009).

Incidental to the present Line acquisition transaction, RWRR will acquire by assignment (in coordination with the State and the current trackage rights holders – DSRC and the Authority) rights to provide service over the Trackage Rights Lines, whereby those rights will vest entirely with RWRR in place of DSRC and the Authority.

The full name and address of the entity transferring the Line to RWRR is as follows:

Secretary Joel Jundt
South Dakota Department of Transportation
700 Broadway Avenue East
Pierre, SD 57501-2586

The State is a non-carrier, as is SDDOT.

RWRR intends to consummate its acquisition of the Line, assume the incidental trackage rights, and to commence operations over the Active Lines on May 25, 2021.

Map: 49 C.F.R. § 1150.33(f)

A map showing the Line and the Trackage Rights Lines, and indicating the area served is attached as Exhibit A to this notice.

Certificate of Compliance: 49 C.F.R. § 1150.33(g)

The certification required by 49 C.F.R. § 1150.33(g) is included as part of the attached Certification and Verification.

Interchange Commitments: 49 C.F.R. § 1150.33(h)

The subject Agreement does not include any provision limiting RWRR's future interchange of traffic on the Line with a third-party connecting carrier.

Advance Notice: 49 C.F.R. § 1150.32(e)

RWRR's projected annual revenues are expected to exceed \$5 million. Accordingly, RWRR has complied with the advance notice requirements of 49 C.F.R. § 1150.32(e) as set forth in the advance notice certification (the "Certification") filed in this docket on March 25, 2021. In light of the April 16, 2021 filing date of the present Notice and pursuant to Section 1150.32(e), the earliest that RWRR's exemption would be effective would be May 24, 2021, 60 days from the Certification filing date.

Environmental and Historic Preservation Data: 49 C.F.R. § 1105

Under 49 C.F.R. § 1105.6(c)(2), the proposed transaction is exempt from environmental reporting requirements. The proposed transaction will not result in significant changes in carrier operations, *i.e.*, changes that exceed the thresholds established in 49 C.F.R. § 1105.7(e)(4) or (5).

Under 49 C.F.R. § 1105.8(b)(1), the proposed transaction also is exempt from historic preservation reporting requirements, also. The transaction will serve to continue railroad operations on portions of the Line that are presently active.

Caption Summary: 49 C.F.R. § 1150.34

A caption summary in the appropriate form is attached as Exhibit C to this notice.

Respectfully submitted,

By: /s/ *R. A. Wimbish*

Robert A. Wimbish

Bradon J. Smith

Fletcher & Sippel LLC

29 North Wacker Drive

Suite 800

Chicago, Illinois 60606-3208

(312) 252-1500

**ATTORNEYS FOR RINGNECK & WESTERN
RAILROAD, L.L.C.**

Dated: April 16, 2021

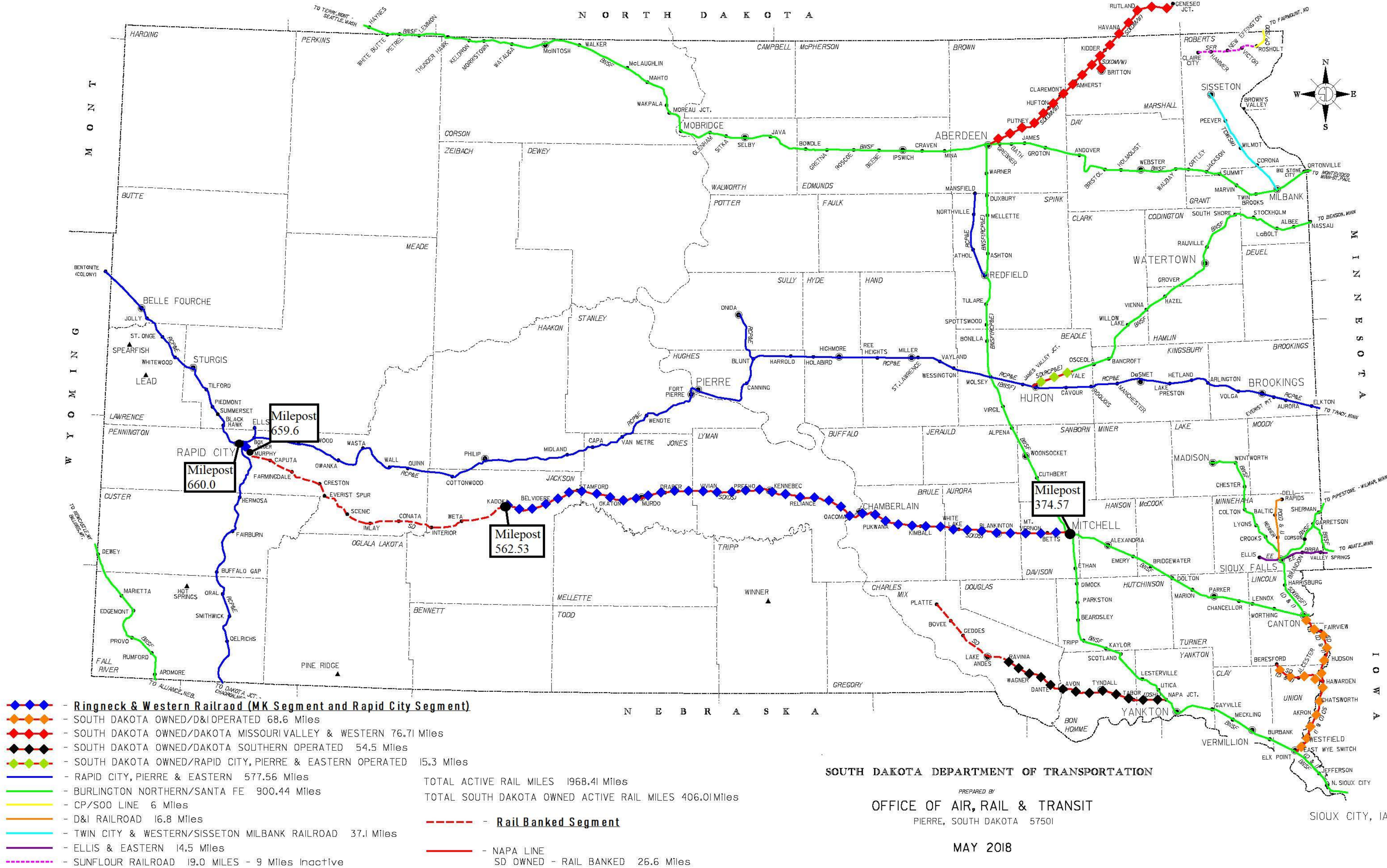
BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36494

_ RINGNECK & WESTERN RAILROAD, L.L.C.
— ACQUISITION AND OPERATION EXEMPTION —
RAILROAD LINE IN DAVISON, AURORA, BRULE, LYMAN,
JONES, JACKSON, AND PENNINGTON COUNTIES, S.D.

EXHIBIT A
MAPS

Ringneck & Western Railroad Mitchell - Rapid City Railroad Line



Ringneck & Western Railroad Trackage Rights

BNSF
Milepost 652.9

Graceland Cemetery

W 23rd Ave

W 23rd Ave

W 23rd Ave

N Main St

37

N Sanborn Blvd

N Main St

37

The World's
Only Corn Palace

BNSF
Milepost 650.65

Mitchell

37

S Ohlma

S Sanborn

BNSF
Milepost 650.16

Dry Run
Creek Park

- Trackage
Rights Line
- MK
Segment
(East End)

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36494

RINGNECK & WESTERN RAILROAD, L.L.C.
— ACQUISITION AND OPERATION EXEMPTION —
RAILROAD LINE IN DAVISON, AURORA, BRULE, LYMAN,
JONES, JACKSON, AND PENNINGTON COUNTIES, S.D.

EXHIBIT B
CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

FD 36494

RINGNECK & WESTERN RAILROAD, L.L.C.
— ACQUISITION AND OPERATION EXEMPTION —
RAILROAD LINE IN DAVISON, AURORA, BRULE, LYMAN,
JONES, JACKSON, AND PENNINGTON COUNTIES, S.D.

Rignneck & Western Railroad, L.L.C. (“RWRR”), a non-carrier, has filed a Verified Notice of Exemption under 49 C.F.R. § 1150.31, *et seq.* to – (1) acquire from the State of South Dakota (the “State”) approximately 285.43 miles of railroad line extending between milepost 374.57 at Mitchell, South Dakota, and milepost 660.0 in Rapid City, South Dakota (the “Line”); (2) commence common carrier service over the portions of the Line extending between – (a) milepost 374.57 at Mitchell and milepost 562.53 at Kadoka, South Dakota, and (b) milepost 659.6 and milepost 660.0, both at Rapid City, South Dakota; (3) acquire common carrier service reactivation rights over the currently-rail-banked segment of the Line between milepost 562.53 at Kadoka and milepost 659.6 at Rapid City; and (4) as incidental to the acquisition of the Line, acquire by assignment overhead trackage rights over BNSF Railway Company’s (“BNSF”) lines between – (a) BNSF’s connection with the MRC Line at BNSF milepost 650.65 at Mitchell, and certain yard tracks in BNSF’s Mitchell Yard at BNSF milepost 650.16; and (b) BNSF’s Mitchell Yard at milepost 650.16 and the Grain Shuttle Facility at Mitchell located at Milepost 652.9. RWRR expects to consummate the transaction and to commence common carrier operations as of May 25, 2021.

Comments must be filed with the Board and served on:

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500

This proceeding is related to FD 36512, *Watco Holdings, Inc. – Continuance in Control Exemption – Ringneck & Western Railroad, L.L.C.*, in which Watco Holdings, Inc., has concurrently filed a notice of exemption pursuant to 49 C.F.R. § 1180.2(d)(2) to continue in control of RWRR upon RWRR's consummation of the present transaction.

This Notice is filed under 49 C.F.R. § 1150.31. If this 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.

Dated: April __, 2021

By the Board

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36494

RINGNECK & WESTERN RAILROAD, L.L.C.
— ACQUISITION AND OPERATION EXEMPTION —
RAILROAD LINE IN DAVISON, AURORA, BRULE, LYMAN,
JONES, JACKSON, AND PENNINGTON COUNTIES, S.D.

CERTIFICATION AND VERIFICATION

CERTIFICATION AND VERIFICATION

Rick D. Baden hereby certifies and verifies under penalty of perjury as follows:

1. I am the Executive Vice President and Chief Financial Officer of the Ringneck & Western Railroad, L.L.C. ("RWRR").
2. The annual rail revenues of RWRR are expected to exceed \$5 million, but they are expected **not** to result in RWRR becoming Class I or II rail carrier under the thresholds set forth at 49 C.F.R. § 1201 (1-1).
3. The subject transaction is not made subject to an interchange commitment.
4. I have read the foregoing Notice of Exemption and know that the facts stated herein are true.

Dated: April 16, 2021



Rick D. Baden