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SERVICE DATE – SEPTEMBER 30, 2021

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36524

SAVAGE TOOEELE RAILROAD COMPANY—ACQUISITION AND OPERATION
EXEMPTION IN TOOEELE COUNTY, UTAH—UNION PACIFIC RAILROAD COMPANY

Docket No. FD 36525¹

SAVAGE COMPANIES—CONTINUANCE IN CONTROL EXEMPTION—SAVAGE,
BINGHAM & GARFIELD RAILROAD COMPANY AND SAVAGE TOOEELE RAILROAD
COMPANY

Decided: September 30, 2021

On September 2, 2021, Savage Tooele Railroad Company (STR), a noncarrier, filed a verified notice of exemption (Acquisition Notice) under 49 C.F.R. § 1150.31 in Docket No. FD 36524 to acquire and operate rail lines owned by Union Pacific Railroad Company (UP), and “to construct rail lines and operate rail service” on to-be-acquired property adjacent to the UP lines. (Acquisition Notice 1.) STR states that these transactions will result in its operation of approximately 12 miles of rail line as a Class III rail carrier in Tooele County, Utah. (*Id.*) In a related notice of exemption (Control Notice) filed the same day in Docket No. FD 36525, Savage Companies (Savage) seeks authority under 49 C.F.R. § 1180.2(d)(2) to continue in control of STR upon STR’s becoming a Class III carrier. (Control Notice 1-2.)

In the Acquisition Notice, STR states that it will operate UP’s Warner Spur, beginning at milepost 897.84 on UP’s east-west mainline Shafter Subdivision and extending south-southeast from Warner Spur milepost 0.0 to approximately milepost 6.9, “construct and operate interchange tracks near the north end of the Warner Spur,” acquire from separate landowners the right of way between Warner Spur milepost 5.8 and milepost 6.3 to “construct new track to complete the spur,”² and construct approximately 5 miles of “interchange and switching trackage outside and within” a nearby business park. (Acquisition Notice 2-3.) STR also states that the transaction will result in “new rail service,” (*id.* at 4), and Savage states that the transaction will result in STR becoming “a Class III rail carrier performing [] common carrier services,” (Control Notice 2-3 (noting that STR will “operate common carrier service on the line and interchange

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

² A map attached to the Acquisition Notice indicates that new track will be constructed between milepost 6.39 and milepost 6.65. (Acquisition Notice, Ex. B.)

traffic with UP”).) Therefore, it is not clear whether STR intends to construct rail line and operate common carrier service or to construct and operate “spur, industrial, team, switching, or side tracks” under 49 U.S.C. § 10906,³ or some combination of the two.

The notices raise issues that must be addressed before the Board can determine how to proceed. Therefore, STR will be directed to submit the following:

- Clarification as to whether the anticipated construction and acquisition would be of (a) mainline track, or (b) spur, industrial, team, switching, or side track, or (c) some combination of the two.
- Clarification as to whether STR will provide common carrier service over all or a portion of the track.

STR will be directed to file a verified supplement addressing these issues by October 20, 2021. In the meantime, the Acquisition Notice in Docket No. FD 36524 and the related Control Notice in Docket No. FD 36525 will be held in abeyance and the effective dates postponed until further order of the Board.

It is ordered:

1. The Acquisition Notice in Docket No. FD 36524 and the Control Notice in Docket No. FD 36525 are held in abeyance and the effective dates of those exemptions are postponed until further order of the Board.

2. STR is directed to file a verified supplement addressing the information described above by October 20, 2021.

3. This decision is effective on its service date.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

³ Section 10906 states that “[t]he Board does not have authority . . . over the construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks.” Such track is often referred to as excepted track or ancillary track. Although these tracks are not subject to the Board’s licensing authority, they are subject to the Board’s exclusive jurisdiction. See, e.g., Tri-City R.R.—Pet. for Declaratory Ord., FD 36037, slip op. at 4 (STB served June 1, 2017).