

ENTERED
Office of Proceedings
October 25, 2021
Part of
Public Record

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

October 25, 2021

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20006

Re: **FD 36550**
Missouri Eastern Railroad, LLC — Acquisition and Change of
Operator Exemption — V and S Railway, LLC

Dear Ms. Brown:

Enclosed for filing in the above-captioned proceeding is the **Verified Notice of Exemption of Missouri Eastern Railroad, LLC Pursuant to 49 C.F.R. Part 1150, subpart D**, dated October 25, 2021. Payment of the \$2,200.00 filing fee was made through www.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
October 25, 2021
SURFACE
TRANSPORTATION BOARD

Respectfully submitted,

R. A. Wimbish

Robert A. Wimbish
Attorney for Missouri Eastern Railroad, LLC

Enclosure

FILED
October 25, 2021
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36550

MISSOURI EASTERN RAILROAD, LLC
— ACQUISITION AND CHANGE OF OPERATOR EXEMPTION —
V AND S RAILWAY, LLC

**VERIFIED NOTICE OF EXEMPTION OF MISSOURI EASTERN RAILROAD, LLC
PURSUANT TO 49 C.F.R. PART 1150, SUBPART D**

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

**ATTORNEYS FOR MISSOURI
EASTERN RAILROAD, LLC**

Dated: October 25, 2021

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36550

MISSOURI EASTERN RAILROAD, LLC
— ACQUISITION AND CHANGE OF OPERATOR —
V AND S RAILWAY, LLC

**VERIFIED NOTICE OF EXEMPTION OF MISSOURI EASTERN RAILROAD, LLC
PURSUANT TO 49 C.F.R. PART 1150, SUBPART D**

Pursuant to 49 C.F.R. Part 1150, subpart D, Missouri Eastern Railroad, LLC (“MER”), a non-carrier, hereby files this Verified Notice of Exemption (the “Notice”) to acquire by purchase, and to operate as a common carrier over, approximately 42.89 route miles of rail line located between milepost 19.0 near Vigus, Missouri, and milepost 61.89 near Union, Missouri (the “Line”), and, as incidental to the purchase of the Line, to acquire overhead trackage rights over a railroad line (the “TR Segment”) owned by Union Pacific Railroad Company (“UP”) between milepost 19.0 near Vigus and milepost 10.3 at Rock Island Junction, Missouri. The Line is currently owned by V and S Railway, LLC (“V&S”),¹ and is operated by Central Midland Railway Company (“Central Midland”). Based upon projected annual revenues, MER expects to be a Class III rail carrier following consummation of the transaction proposed herein.

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

¹ See *V and S Railway, LLC—Acquisition Exemption—Line of Missouri Central Railroad Company*, FD 35868 (STB served Nov. 28, 2014).

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

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

Missouri Eastern Railroad, LLC
1027 South Main Street
Suite 403
Joplin, MO 64801

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

MER'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
(312) 252-1500

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

MER and V&S are finalizing the terms of an Asset Purchase Agreement (the "Agreement") pursuant to which MER will acquire the Line and (by assignment) incidental trackage rights over the contiguous UP-owned TR Segment. The Line is currently operated by Central Midland² pursuant to an agreement with V&S (which, as indicated in footnote 1, above, is the successor to the prior owner of the Line – the Missouri Central Railroad Company).

² *Central Midland Railway Company—Operation Exemption—Lines of Missouri Central Railroad Company*, FD 33988 (STB served Jan. 29, 2001); *Central Midland Railway Company—Discontinuance of Service and Operating Rights Exemption—in Cass County, Mo.*, AB-1070X (STB served Nov. 26, 2010); *Central Midland Railway Company—Discontinuance of Service Exemption—in Cass, Henry, Johnson, and Pettis Counties, Mo.*, AB-1070 (Sub-No. 1X) (STB served June 7, 2013); *Central Midland Railway Company—Discontinuance of Trackage Rights Exemption—in Cass and Jackson Counties, Mo.*, AB-1070 (Sub-No. 2X) (STB served Dec. 6, 2013); *Central Midland Railway Company—Discontinuance of Service Exemption—in Cass, Henry, Johnson, and Pettis Counties, Mo.*, AB-1070 (Sub-No. 3) (STB served Dec. 8, 2014).

Additionally, Central Midland currently leases the TR Segment over which MER will exercise incidental, overhead trackage rights.³ Central Midland has agreed that, in light of MER's purchase of the Line, MER also will replace Central Midland as the common carrier operator on the Line, thus effectuating a change of operator as contemplated under the Board's regulations and precedent.⁴ While MER intends to purchase of the Line on or shortly after the effective date of the subject class exemption, MER expects to assume ownership of the Line subject to Central Midland's pre-existing operating rights for an interim period of time. However, as of the termination of Central Midland's operating rights on the Line (currently expected to occur on or after January 1, 2022), MER will replace Central Midland as the provider of common carrier service on the Line (and upon which event MER also anticipates commencing operations on the TR Segment).

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

MER expects to commence operations over, and to provide railroad common carrier service to shippers on, the Line in place of Central Midland on or after January 1, 2022. MER is a wholly-owned subsidiary of Jaguar Rail Holdings, LLC ("JRH"), a holding company that is, in turn, indirectly controlled, through Jaguar Transport Holdings, LLC ("JTH"), by OPSEU Pension Plan Trust Fund ("OPTrust"). JTH currently controls Jaguar Rail Holdings,

³ *Central Midland Railway Company—Renewal of Lease Exemption with Interchange Commitment—Union Pacific Railroad Company Lackland Sub-Division*, FD 35989 (STB served Jan. 29, 2016). MER is not at this time seeking authority to acquire (by assignment or otherwise) CMRC's leasehold interests in the TR Segment. MER will instead operate over that line pursuant to overhead trackage rights.

⁴ *See* 49 C.F.R. § 1150.31(a)(3); and *see also, e.g., Decatur & Eastern Illinois Railroad, L.L.C.—Acquisition and Change of Operator Exemption—NRG, Inc., and Eastern Illinois Railroad Company*, FD 36364 (STB served Dec. 6, 2019); *Coos Bay Rail Line, Inc.—Change in Operators Exemption—Coos Bay Railroad Operating Company, LLC d/b/a Coos Bay Rail Link*, FD 36241 (STB served Nov. 14, 2018).

LLC (“JRH”) and one U.S.-based Class III railroad, West Memphis Base Railroad, L.L.C. (“WMBR”), and through JRH, JTH also controls, indirectly, five other common carrier railroads in the U.S.⁵ Accordingly, concurrent with the filing of this Notice, OPTrust, JTH and JRH are filing a notice to continue in control of MER once MER begins operations as a carrier.⁶

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

MER and V&S are completing the terms of the aforementioned Agreement, pursuant to which MER will acquire the Line and, in so doing, will also, at a later date (upon the termination of Central Midland’s operating rights), replace Central Midland as the common carrier service provider over it. MER will also, incidental to its acquisition of the Line, acquire trackage rights over the TR Segment, which trackage rights MER anticipates exercising as of the commencement of MER’s operations over the Line. The Line consist of approximately 42.89 route miles of rail line located between milepost 19.0 near Vigus, Missouri, and milepost 61.89 near Union, Missouri. The TR Segment (the subject of assignment negotiations among MER, V&S, and UP) extends between milepost 19.0 at Vigus and milepost 10.3 near Rock Island Junction, Missouri, as is depicted in the map supplied as Exhibit A.

The complete name and address of the owner of the Line is as follows:

V and S Railway, LLC
105 South Redwood Road
Salt Lake City, Utah 84104

⁵ *OPSEU Pension Plan Trust Fund, Jaguar Transport Holdings, LLC, and Jaguar Rail Holdings, LLC—Acquisition of Control Exemption—Cimarron Valley Railroad, L.C.; Southwestern Railroad, Inc.; Texas & Eastern Railroad, LLC; Washington Eastern Railroad, LLC; and Wyoming and Colorado Railroad, Inc.*, FD 36440 (STB served Oct. 16, 2020).

⁶ *OPSEU Pension Plan Trust Fund, Jaguar Transport Holdings, LLC, and Jaguar Rail Holdings, LLC – Continuance in Control Exemption – Missouri Eastern Railroad, LLC*, FD 36551.

MER intends to acquire the Line on or after November 24, 2021, and to commence operations over the Line in place of Central Midland on or after January 1, 2022.

Map: 49 C.F.R. § 1150.33(f)

A map showing the Line and TR Segment is attached as Exhibit A to this Notice.

Certificate of Class III Status: 49 C.F.R. § 1150.33(g)

Certification in accordance with the provisions of 49 C.F.R. § 1150.33(g) (establishing that MER would qualify as a Class III carrier) is attached as Exhibit D.

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

The proposed transaction does not involve—and the Agreement governing the sale of the Line, and the TR Segment trackage rights agreement that MER expects will govern its exercise of trackage rights do not include—any provision, restriction or agreement that would limit future interchange with a third-party connecting carrier.

Notice to Shippers and to Labor: 49 C.F.R. §§ 1150.32(b) and (e)

MER will notify shippers on the Line of the proposed transaction (along with a copy of the present Notice) in accordance with 49 C.F.R. § 1150.32(b). See Certification of Change of Operator Notice appended hereto as Exhibit B. However, the MER's projected annual revenue is not expected to exceed \$5 million, and, accordingly, the advance notice requirements of 49 C.F.R. § 1150.32(e) are inapplicable to this transaction. See Certification supplied as Exhibit D.

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

Under 49 C.F.R. § 1105.6(c)(1)(i), MER's proposed operation of the Line is exempt from environmental reporting requirements. The proposed transaction will not result in

significant changes in operations on the Line, *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), MER's proposed operation of the Line also is exempt from historic preservation reporting requirements. The proposed transaction is for the purpose of restored rail service. Separate Board approval would be required to discontinue any service and there are no plans to dispose of or alter properties subject to Board jurisdiction that are fifty years old or older.

Caption Summary: 49 C.F.R. § 1150.34

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

Respectfully submitted,

By: *R. A. Wimbish*

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

**ATTORNEYS FOR MISSOURI
EASTERN RAILROAD, LLC**

Dated: October 25, 2021

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36550

MISSOURI EASTERN RAILROAD, LLC
— ACQUISITION AND CHNGE OF OPERATOR EXEMPTION —
V AND S RAILWAY, LLC

EXHIBIT A

MAP

Missouri Eastern Railroad

St. Louis, MO



- Rock Island Junction
- MERR
- Union Pacific
- BNSF
- TRRA
- West Belt Railway
- Trackage Rights
- Highway

Interchange

TRRA (UP, BNSF, NS, CSX, KCS, CN):

St. Louis, MO



BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36550

MISSOURI EASTERN RAILROAD, LLC
— ACQUISITION AND CHANGE OF OPERATOR EXEMPTION —
V AND S RAILWAY, LLC

EXHIBIT B

CERTIFICATION OF CHANGE OF OPERATOR NOTICE

CERTIFICATION OF CHANGE OF OPERATOR NOTICE

I hereby certify that notice of the proposed change of rail common carrier operator on the subject railroad line extending between milepost 19.0 near Vigus, Missouri, and milepost 61.89 near Union, Missouri has been provided to the following shippers on the line contemporaneous to the filing of the foregoing notice of exemption pursuant to the requirements of 49 C.F.R. § 1150.32(b):

Boral Materials LLC	Labadie, MO	Terese Hunwick	Terese.Hunwick@boral.com
Breckenridge Material Co	Chesterfield, MO	Joel Williamson	jwilliamson@ctscement.com
Buddeez Inc	Union, MO	Mark Maloney	mark.maloney@buddeez.com
Festone Merchant Services LLC	Union, MO	Taylor Schrage	Taylor.Schrage@StoneX.com
Hall Bros Lumber	Union, MO	Mark Hall	mark@hallbroslumber.com
Silgan Plastic Food Containers	Union, MO	Beth Dierking	beth.dierking@silganpfc.com
Tops Products LLC	Union, MO	Adam Martin	adam.j.martin@tops-products.com
Westrock CP LLC	Chesterfield, MO	James Gattis	james.gattis@westrock.com

10/25/2021

Date



Robert A. Wimbish

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36550

MISSOURI EASTERN RAILROAD, LLC
— ACQUISITION AND CHANGE OF OPERATOR EXEMPTION —
V AND S RAILWAY, LLC

EXHIBIT C

CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

FD 36550

MISSOURI EASTERN RAILROAD, LLC
— ACQUISITION AND CHANGE OF OPERATOR EXEMPTION —
V AND S RAILWAY, LLC

Missouri Eastern Railroad, LLC (“MER”), a non-carrier, has filed a Verified Notice of Exemption to acquire from V and S Railway, LLC, and to replace incumbent operator (Central Midland Railway Company) as the common carrier service provider over, approximately 42.89 route miles of rail line located between milepost 19.0 near Vigus, Missouri, and milepost 61.89 near Union, Missouri (the “Line”). Incidental to the Line purchase, MER also will acquire incidental, overhead trackage rights over a contiguous line segment owned the Union Pacific Railroad Company extending between milepost 19.0 at Vigus and milepost 10.3 near Rock Island Junction, Missouri.

MER expects to consummate its purchase of the Line on or after November 24, 2021, and to commence operations over Line in place of the incumbent operator (Central Midland) and over the trackage rights line on or after January 1, 2022.

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
(312) 252-1500

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

Dated: October __, 2021

By the Board

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36550

MISSOURI EASTERN RAILROAD, LLC
— ACQUISITION AND CHANGE OF OPERATOR EXEMPTION —
V AND S RAILWAY, LLC

EXHIBIT D

CERTIFICATION AND VERIFICATION

CERTIFICATION AND VERIFICATION

I, J. Stuart Towner, am the President of Missouri Eastern Railroad, LLC (“MER”).

Under penalty of perjury, I hereby certify and verify as follows:

1. I am authorized to provide the present certification and verification on behalf of
MER.
2. I certify that MER’s annual rail revenues are not expected to exceed \$5 million, and
that the transaction that is the subject of this exemption proceeding will not result in
MER becoming Class I or II rail carrier under the thresholds set forth at
49 C.F.R. § 1201(11).
3. I verify that I have read the foregoing Notice of Exemption and know that the facts
stated herein are true.

Dated: October 25, 2021



J. Stuart Towner