

SERVICE DATE – JUNE 13, 2024

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36765

SAN JOAQUIN VALLEY RAILROAD CO.—LEASE AND OPERATION EXEMPTION
INCLUDING INTERCHANGE COMMITMENT—BNSF RAILWAY COMPANY

[REQUEST FOR WAIVER OF 49 C.F.R. § 1150.42(e)]

Digest:¹ This decision waives the 60-day advance notice requirement with respect to San Joaquin Valley Railroad Company's exemption to extend the term of its lease for approximately 2.0 miles of rail line in Kern County, Cal., and allows the exemption to take effect on June 14, 2024.

Decided: June 12, 2024

On May 15, 2024, San Joaquin Valley Railroad Company (SJVR), a Class III rail carrier, filed a verified notice of exemption under 49 C.F.R. § 1150.41 to enter into a lease amendment to extend the term of, and to make other minor changes to, its lease of the Landco spur in Kern County, Cal., between the Porterville Subdivision, milepost 111 + 4029 feet, near Oil Junction and milepost 113 + 3717 feet, at or near Bakersfield, a distance of approximately 2.0 miles (the Line).

SJVR states that it is currently operating the Line, which it has leased from BNSF Railway Company since 1999.² Further, in its verified notice, SJVR certifies that its annual revenues currently exceed \$5 million. (Verified Notice 6.) Accordingly, unless waived, 49 C.F.R. § 1150.42(e) would require SJVR to post a notice of its intent to undertake the proposed transaction setting forth certain information at the workplace of the employees on the affected lines, serve a copy of the notice on the national offices of the labor unions with employees on the affected lines, and certify to the Board that it has done so. The regulation would also require SJVR to fulfill the notice requirements at least 60 days before the exemption

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol'y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

² (Verified Notice 3-4); see also San Joaquin Valley R.R.—Acquis. & Operation Exemption—Tulare Valley R.R., FD 33723 (STB served Mar. 30, 1999); San Joaquin Valley R.R.—Lease Amendment & Operation Exemption Including Interchange Commitment—BNSF Ry., FD 35772 (STB served May 15, 2015).

becomes effective. However, concurrently with the filing of its verified notice, SJVR requested a waiver of those notice requirements. (See Verified Notice 7-9.)

In its request for waiver, SJVR states that the 60-day labor notice requirements are unnecessary because the proposed transaction would result in no changes for any employees working on the Line. (Verified Notice 8.) According to SJVR: (1) no SJVR employees would be affected by the proposed transaction; (2) there would be no operational changes; (3) no employees of BNSF or its predecessor have worked on the Line since 1992; and (4) no BNSF employees would be affected by the transaction. (See id.)

Notice of SJVR's exemption was served and published in the Federal Register on May 31, 2024 (89 Fed. Reg. 47,197). The published notice announced that the Board would establish the effective date of the exemption in a separate decision on the waiver request.

DISCUSSION AND CONCLUSIONS

The purpose of the notice requirements at 49 C.F.R. § 1150.42(e) is to ensure that rail labor unions and employees who would be affected by the transfer of a line are given sufficient notice of the transaction before consummation.

Here, however, it does not appear that the purpose behind the requirements would be thwarted if the requested waiver is granted. The record indicates that no employees would be adversely affected by a waiver of the 60-day notice requirements. SJVR is the current operator of the Line and has been since 1999, and SJVR states that there would be no changes for any SJVR employees working on the Line as a result of the proposed transaction. Moreover, SJVR indicates that BNSF has no employees who would be affected by the transaction.

Because no employees would be adversely affected by the requested waiver of the 60-day notice period, the Board will grant the waiver. SJVR's lease and operation exemption will become effective on June 14, 2024, the day the exemption otherwise would take effect absent the notice requirement.

This action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c).

It is ordered:

1. SJVR's request for waiver is granted.
2. SJVR's exemption will be effective on June 14, 2024.
3. This decision is effective on its date of service.

By the Board, Board Members Fuchs, Hedlund, Primus, and Schultz.