

SERVICE DATE – MAY 30, 2025

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 34693 (Sub-No. 1)

KAW RIVER RAILROAD, LLC—LEASE EXEMPTION WITH INTERCHANGE
COMMITMENT—BNSF RAILWAY COMPANY

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

Digest:¹ This decision waives a 60-day advance notice requirement and allows Kaw River Railroad, LLC, to enter into a lease agreement with BNSF Railway Company and continue to operate approximately 15.69 miles of rail line in Missouri, on or after May 31, 2025.

Decided: May 29, 2025

On May 1, 2025, Kaw River Railroad LLC (KAW), a Class III railroad, filed a verified notice of exemption under 49 C.F.R. § 1150.41 to continue to lease from BNSF Railway Company (BNSF) and operate 15.69 miles of rail line between milepost 199.86 at Kearney, Mo., and milepost 215.55 at Birmingham, Mo., and certain tracks in BNSF's Birmingham Yard, including Tracks 1501, 1502, 1503, 1504, 1547, 1550, 1555, 1560, 9955, and 9956, and the Ladder Track between Tracks 1504 and 1599, all of which are located in Clay County, Mo. KAW also seeks to retain incidental overhead trackage rights over approximately 1.21 miles of line, including over Track 1599, between milepost 216.18 and milepost 216.76 on BNSF's Kearney Subdivision and between BNSF mileposts 215.55 and 216.18, near Birmingham (collectively, the Lines). According to KAW, it has leased the Lines since 2005. (Verified Notice 3); see Kaw River R.R.—Lease & Operation Exemption—BNSF Ry., FD 34693 (STB served May 12, 2005). KAW states that it has most recently entered into a lease amendment with BNSF on August 1, 2024, to update and extend the terms governing KAW's continued operations and exercise of incidental trackage rights. (Verified Notice 2.)

In its verified notice, KAW certifies that its projected revenues as a result of this transaction will exceed \$5 million. (Id. at 5.) Accordingly, unless waived, 49 C.F.R. § 1150.42(e) would require KAW, at least 60 days before the exemption becomes effective, 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

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).

offices of the labor unions with employees on the affected lines, and certify to the Board that it has done so. However, KAW has filed a request for waiver of those notice requirements.

Notice of KAW's exemption was served and published in the Federal Register on May 16, 2025 (90 Fed. Reg. 21102). The published notice announced that the Board would establish the effective date of the exemption in a separate decision on the waiver request.

In its request for waiver of the labor notice requirements, KAW argues that it should not be required to comply with the requirements of § 1150.42(e) because the transaction maintains the operational and labor status quo, and there would be no changes for any railroad employees working on the Lines. (Pet. for Waiver 3-4.) KAW states that it or its predecessor have been the sole common carrier operator of the Lines for the last 19 years, no employees of the transferring carrier, BNSF, have worked on the Lines for the last 19 years, and no BNSF employees would be affected by the transaction. (Id.) Moreover, according to KAW, there would be no operational changes, and no employees of KAW would be affected. (Id. at 3.) Therefore, KAW argues, under the circumstances of this transaction, no labor notice is necessary in this proceeding and the requirement should be waived. (Id. at 4.) No opposition to this waiver request has been filed.

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 in this case. The record indicates that no employees would be adversely affected by a waiver of the 60-day notice requirements here. KAW states that no employees of BNSF would be affected because none have worked on the Lines for the last 19 years and that no KAW employees would be affected, as there would be no operational changes on the Lines as a result of 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. Accordingly, KAW's lease and operation exemption, unless stayed, will become effective on May 31, 2025, the effective date under the Board's rules absent the notice requirement.

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

It is ordered:

1. KAW's request for waiver is granted.
2. KAW's exemption will be effective on May 31, 2025, unless stayed.

3. This decision is effective on its date of service.

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