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FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36939]

Kean Burenga and Chesapeake and Delaware, LLC—Continuance in Control

Exemption—Delaware and South Branch Railroad, LLC

Kean Burenga (Burenga) and Chesapeake and Delaware, LLC (CAD), each a noncarrier, have filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to continue in control of Delaware and South Branch Railroad, LLC (DSBR), upon DSBR's becoming a Class III rail carrier. According to the verified notice, CAD controls three Class III rail carriers operating in the state of New Jersey.¹ The verified notice states that Burenga collectively controls five Class III rail carriers operating in the state of New Jersey.² According to the verified notice, CAD controls DSBR, while Burenga has specific ownership and managements interests in DSBR and the CAD Railroads. Specifically, the verified notice states that Burenga serves as the Chief Project Officer of CAD, holds a 25% membership interest in CAD, and sits on its Board of Directors.

¹ The CAD Class III railroads are: (1) Dover and Rockaway River Railroad, LLC (DRRV); (2) Dover and Delaware River Railroad, LLC (DDRR); and (3) Delaware and Raritan River Railroad, LLC (DRRR) (collectively, the CAD Railroads).

² The Burenga Class III railroads are: (1) Belvidere & Delaware River Railway Company, Inc. (BDR); (2) Black River & Western Corp. d/b/a Black River & Western Railroad (BRW); (3) DDRR; (4) DRRV; and (5) DRRR (collectively, the Burenga Railroads).

This transaction is related to a concurrently filed verified notice of exemption in Docket No. FD 36938, Delaware and South Branch Railroad, LLC—Lease & Change of Operator Exemption—Black River & Western Corp. d/b/a River & Western Railroad, and Belvidere & Delaware River Railway Company, Inc., in which DSBR seeks Board approval to lease from Black River & Western Corp. d/b/a Black River & Western Railroad (BRW) and Belvidere & Delaware River Railway Company, Inc. (BDR), and operate, approximately 31.91 miles of rail line: (1) a 16.2-mile BRW rail line from milepost 0.0 at Lambertville, N.J., to milepost 16.2 at the connection with Norfolk Southern Railway Company at Three Bridges, N.J.; and (2) an approximately 15.71-mile BDR rail line from milepost 50.6 at Philipsburg, N.J., to milepost 34.89 at Alexandria Creek, N.J.

Burenga and CAD represent that their control of DSBR upon DSBR's becoming a rail common carrier is not a transaction where: (1) DSBR would connect with any other Burenga Railroads; (2) Burenga or CAD plan to connect DSBR with any other Burenga Railroads, or to connect any of the Burenga Railroads to one another; or (3) a Class I carrier is involved. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. However, 49 U.S.C. 11326(c) does not provide for labor protection for transactions under 49 U.S.C. 11324 and 11325 that involve only Class III rail carriers.

Accordingly, because this transaction involves Class III rail carriers only, the Board may not impose labor protective conditions here.

The earliest this transaction may be consummated is June 28, 2026, the effective date of the exemption (corresponding with the effective date of the related exemption in Docket No. FD 36938). If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(g) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed by June 18, 2026 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36939, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Burenga and CAD's representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606-3208.

According to Burenga and CAD, this action is excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at www.stb.gov.

Decided: June 9, 2026.

By the Board, Anika S. Cooper, Chief Counsel, Office of Chief Counsel.