

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36352]

Rio Grande Pacific Corporation—Control Exemption—Big Spring Rail System, Inc.

Rio Grande Pacific Corporation (RGPC), a noncarrier, has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(2) to acquire control of Big Spring Rail System, Inc. (BSRS), a Class III rail carrier that operates over rail line between milepost 0.0 and milepost 3.3 in Howard County, Tex.¹ In its verified notice, RGPC states that the agreement to effectuate its control of BSRS will be prepared prior to the effective date of the exemption.²

The earliest this transaction may be consummated is October 31, 2019, the effective date of the exemption (30 days after the verified notice was filed).

According to the verified notice, RGPC currently controls the following Class III rail carriers: Nebraska Central Railroad Company; New Orleans & Gulf Coast Railway Company; Wichita, Tillman and Jackson Railway Company; and Idaho Northern and

¹ RGPC states that the line over which BSRS operates is owned by the City of Big Springs, Tex.

² Pursuant to 49 C.F.R. § 1180.6(a)(7)(ii), applicants are required to submit “a copy of any contract or other written instrument entered into, or proposed to be entered into, pertaining to the proposed transaction.” According to RGPC, an agreement has not yet been prepared. RGPC is directed to file a copy of the agreement as soon as it is available.

Pacific Railroad Company (collectively, the RGPC carriers).³ The verified notice states that: (1) the rail lines operated by the RGPC carriers do not connect with the rail line operated by BSRS; (2) the transaction is not part of a series of anticipated transactions that would connect the rail line operated by BSRS with any railroad in the RGPC corporate family; and (3) the proposed transaction does not involve a Class I rail carrier. The proposed transaction is therefore exempt from the prior approval requirements of 49 U.S.C. § 11323. See 49 C.F.R. § 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. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

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(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than October 24, 2019 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36352, must be filed with the Surface Transportation Board either via e-filing 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

³ RGPC states that the properties of the RGPC carriers are located in Idaho, Louisiana, Nebraska, Oklahoma, Oregon, and Texas.

RGPC's representative: Karl Morell, Karl Morell & Associates, 440 1st Street, N.W.,
Suite 440, Washington, DC 20001.

According to RGPC, this action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c) and from historic preservation reporting requirements under 49 C.F.R. § 1105.8(b).

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

Decided: October 10, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.