

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36329]

Bucyrus Industrial Railroad, LLC—Operation Exemption—Bucyrus Railcar Repair, LLC

Bucyrus Industrial Railroad, LLC (BIR), a noncarrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.31 to operate, pursuant to an agreement with Bucyrus Railcar Repair, LLC (BRR),¹ approximately 26,400 feet (5.0 miles) of track owned by BRR in Bucyrus, Ohio (the Line), which connects to a Norfolk Southern Railway Company line.

According to BIR, there are no mileposts on the Line. BIR states that, pursuant to an operating agreement with BRR, BIR would provide common carrier rail service over the Line, which would include the provision of rail service to BRR, as well as bulk transloading and container transfer services to the public.

BIR states that the Line is currently operated by BRR as excepted track under 49 U.S.C. § 10906. However, because BIR will operate the Line as its entire line of railroad, it asserts that it will become a rail carrier upon consummation of the proposed transaction. See Effingham R.R.—Pet. for Declaratory Order—Constr. at Effingham, Ill., 2 S.T.B. 606, 609-10 (1997), *aff'd sub nom. United Transp. Union-Ill. Legislative Bd. v. STB*, 183 F.3d 606 (7th Cir. 1999).

¹ BIR states that BIR and BRR are affiliates under common ownership by Cathcart Rail, LLC, a noncarrier.

BIR certifies that its projected annual revenues as a result of this transaction would not exceed those that would qualify it as a Class III rail carrier and would not exceed \$5 million. BIR also certifies that its proposed operation does not involve a provision or agreement that may limit future interchange with a third-party connecting carrier.

The transaction may be consummated on or after August 8, 2019, the effective date of the exemption (30 days after the verified notice of exemption was filed).

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 August 1, 2019 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36329, 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 BIR's representative, David F. Rifkind, Stinson LLP, 1775 Pennsylvania Ave., N.W., Suite 800, Washington, DC 20006.

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

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

Decided: July 17, 2019.

Docket No. FD 36329

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.