

46681

SERVICE DATE – NOVEMBER 8, 2018

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36232]

Eyal Shapira—Continuance in Control Exemption—Iowa & Middletown Railway LLC
and Wolf Creek Railroad LLC

Eyal Shapira (Shapira), an individual, has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(2) to continue in control of Iowa & Middletown Railway LLC (I&M) and Wolf Creek Railroad LLC (Wolf Creek) upon I&M's and Wolf Creek's becoming Class III rail carriers.

This transaction is related to a verified notice of exemption filed concurrently in Wolf Creek Railroad—Lease & Operation Exemption—American Ordnance LLC, Owner's Representative for U.S. Army Joint Munitions Command, Docket No. FD 36236, in which Wolf Creek seeks authority to lease from American Ordnance LLC (AO) and operate approximately ten miles of rail line in Tennessee, and a verified notice of exemption filed on October 12, 2018, in Iowa & Middletown Railway—Lease & Operation Exemption—American Ordnance LLC, Owner's Representative for U.S. Army Joint Munitions Command, Docket No. FD 36231, in which I&M seeks authority to lease from AO and operate approximately four miles of rail line in Iowa.

The earliest this transaction may be consummated is November 22, 2018, the effective date of the exemption (30 days after the verified notice of exemption was filed).¹

According to the verified notice of exemption, Shapira currently controls, through equity ownership, two Class III carriers (Pennsylvania & Southern Railway (PSRR) and Raritan Central Railway, LLC (Raritan Central)). Shapira is filing this verified notice to enable his continuance in control of I&M and Wolf Creek when they become carriers.

Shapira represents that: (1) the rail lines to be operated by I&M and Wolf Creek do not connect with each other or with the other railroads currently controlled by Shapira; (2) the continuance in control is not part of a series of anticipated transactions that would connect I&M and Wolf Creek with each other or the rail lines of the other railroads currently controlled by Shapira; and (3) the transaction does not involve a Class I carrier. The proposed transaction is therefore exempt from the prior approval requirements of 49 U.S.C. § 11323 pursuant to 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. Section 11326(c), however, does not provide for labor protection for transactions under

¹ Although notice of I&M's lease and operation exemption in Docket No. FD 36231 was served and published in the Federal Register on October 26, 2018, the effective date was held in abeyance pending review of Shapira's verified notice here. Concurrently with this notice, a decision is being issued in Docket No. FD 36231 making I&M's exemption effective, unless stayed, on November 22, 2018, consistent with this one.

§§ 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here because all the carriers involved are Class III carriers.

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 for stay must be filed no later than November 15, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36232, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Eric M. Hocky, Clark Hill PLC, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia, PA 19103.

According to Shapira, this action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c).

Board decisions and notices are available on our website at www.stb.gov.

Decided: November 2, 2018.

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