

JOHN D. HEFFNER, PLLC

1920 N St., N.W.

SUITE 800

WASHINGTON, D.C. 20036

(202) 263-4180

FAX (202) 296-3939

j.heffner@verizon.net

215363

RECEIVED
DEC 15 2005

BY HAND

ORIGINAL

December 15, 2005

Hon. Vernon A. Williams
Surface Transportation Board
1925 K Street
Washington, D.C. 20423-0001

FEE RECEIVED

DEC 15 2005

SURFACE
TRANSPORTATION BOARD

ENTERED
Office of Proceedings

DEC 16 2005

Part of
Public Record

RE: FD No. 34799, Permian Basin Railways, Inc. -
Acquisition of Control Exemption -
San Luis & Rio Grande Railroad Company, Inc.

Dear Mr. Williams:

On behalf of Petitioner Permian Basin Railways, Inc., I am
filing an original and ten copies of:

(1) a verified notice of exemption under 49 CFR 1180.2(d)(2)
for acquisition of control by Permian Basin Railways, Inc., of
San Luis & Rio Grande Railroad Company, Inc.

(2) a Motion for Protective Order Pursuant to 49 CFR
1104.14.

While these filings bear a submittal date of December 9,
2005, they should be treated as being filed today, December 15,
2005. I am also enclosing one check payable to the Board for
\$1,400 to cover the applicable filing fees and a computer disk
formatted in MS Word containing these filings.

Please date stamp and return one copy of this filing.

ORIGINAL

Sincerely yours,

John D. Heffner

Enclosures

cc: Mr. Edwin Ellis
Gary Laakso, Esq.

FILED

DEC 15 2005

SURFACE
TRANSPORTATION BOARD

215363

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

STB Finance Docket No. 34798

PERMIAN BASIN RAILWAYS, INC.
- ACQUISITION OF CONTROL EXEMPTION -
ST. LOUIS & RIO GRANDE RAILROAD COMPANY, INC.

VERIFIED NOTICE OF EXEMPTION
UNDER 49 CFR § 1180.2(d)(2)

ENTERED
Office of Proceedings

DEC 16 2005

Part of
Public Record

FEE RECEIVED

DEC 15 2005

**SURFACE
TRANSPORTATION BOARD**

Respectfully submitted,

Permian Basin Railways, Inc.

By its attorney,

John D. Heffner
John D. Heffner, PLLC
1920 N Street, N.W.
Suite 800
Washington, D.C. 20036
(202) 263-4180

FILED

DEC 15 2005

**SURFACE
TRANSPORTATION BOARD**

Dated: December 9, 2005

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

STB Finance Docket No. 34799

PERMIAN BASIN RAILWAYS, INC.
- ACQUISITION OF CONTROL EXEMPTION -
SAN LUIS & RIO GRANDE RAILROAD COMPANY, INC.

VERIFIED NOTICE OF EXEMPTION
UNDER 49 CFR § 1180.2(d)(2)

COMES now Permian Basin Railways, Inc. ("Permian"), a noncarrier and short line railroad holding company, and states as follows:

1. Pursuant to the provisions of section 1180 of the Board's Railroad Consolidation Rules (49 CFR 1180), Permian hereby gives notice of a transaction that qualifies for an exemption under section 1180.2(d)(2) of those rules.

2. As relevant here, Permian is presently a noncarrier and short line railroad holding company. As of the date of this filing, Permian owns the stock of three existing class III short line railroads, West Texas and Lubbock Railway Company, Inc. ("WTLR"), the Austin & Northwestern Railroad Company, Inc. d/b/a Texas New Mexico

Railroad ("TNMR"),¹ and the Arizona Eastern Railway Company, Inc. ("AZER"). The lines of these railroads do not connect and there is no plan to connect them.

3. On or about December 17, 2005, Permian will acquire 100% of the outstanding stock of the San Luis & Rio Grande Railroad Company, Inc. ("SLRG"). SLRG is currently owned by RailAmerica Transportation Corp. ("RTC"), another short line railroad holding company, indirectly controlled by RailAmerica, Inc.²

4. Under section 1180.2(d)(2) of the Board's consolidated rules, certain transactions are automatically exempt from the prior approval requirements for common control. Specifically, section 1180.2(d)(2) exempts the acquisition of nonconnecting carriers where (i) the railroads will not connect with each other or any railroad in their corporate family, (ii) the acquisition is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their

¹ Copies of STB decisions authorizing these transactions are attached hereto as Exhibit A, B, and C, respectively. In previous filings TNMR had been incorrectly identified as the Texas & New Mexican Railroad. The correct name of the company is the Texas & New Mexico Railroad.

² RTC and RailAmerica formed SLRG in 2003 for the purpose of acquiring the subject rail lines from the Union Pacific Railroad Company. The Board authorized SLRG's acquisition of the subject lines and RTC's and RailAmerica's control of SLRG in FD Nos. 34350 and 34352, respectively. Copies of those decisions are attached here as Exhibits D and E.

corporate family; and (iii) the transaction does not involve a class I carrier.

5. In order to claim the section 1180.2(d)(2) exemption, section 1180.4(g) requires the filing of a verified notice of exemption furnishing the information requested in sections 1180.6(a)(1)(i) - (iii), 1180.6(5) - (6), and 1180.6(a)(7)(ii) of those rules. That information is provided as follows:

Summary or Proposed Transaction: 49 CFR §

1180.6(a)(1)(i)

Permian proposes to acquire 100% of the stock of SLRG, a short line railroad currently directly owned by RTC and indirectly controlled by RailAmerica. This short line does not connect with Permian's existing three short line railroad subsidiaries. But for the availability of this exemption, Permian would have to obtain Board approval to acquire SLRG under 49 U.S.C. 11323 by filing either an application under 49 U.S.C. 11323 or an individual petition for exemption under 49 U.S.C. 10502 from the requirements of 49 U.S.C. 11323.

Applicant's name, address, and telephone number:

Permian Basin Railways, Inc.
P.O. Box 618181
Chicago, IL 60661
312-466-0900

San Luis & Rio Grande Railroad Company, Inc.
601 State Street,
Alamosa, CO 81101
719-587-0516

Legal counsel to whom questions should be addressed:

John D. Heffner
John D. Heffner, PLLC
1920 N Street, NW
Suite 800
Washington, D.C. 20036
(202) 263-4180

Schedule for consummation: **49 CFR §**

1180.6(a)(1)(ii)

The parties intend to consummate the proposed transaction on or about December 17, 2005.

Purpose to be accomplished by the transaction: **49**

CFR § 1180.6(a)(1)(iii)

The purpose of this transaction is to transfer the operation of two light density branch lines from a large short line railroad holding company (RTC and RailAmerica) to a smaller, locally focused, low overhead entrepreneurial short line owner (Permian). Permian expects to be able to profitably operate rail lines that have been marginal for the present owner. Permian intends to work closely with

the local community on developing the potential of these rail lines.

State(s) in which the property of each carrier is situated: **49 CFR § 1180.6(a)(5)**

SLRG is located entirely in the state of Colorado. SLRG's lines connect Derrick (MP 299.3) with Walsenburg, CO (MP 180.0) (on the Alamosa Subdivision), and Alamosa (MP 251.7)³ with Antonito (MP 281.78) (on the Antonito Subdivision), a total distance of 149.38 miles.⁴ Permian's other three subsidiaries are located in the States of Texas, New Mexico, and Arizona, respectively. Of these, WTLR owns and operates a network of trackage radiating out of Lubbock in western Texas. WTLR's lines are located at least 250 miles southeast of SLGR's lines. TNMR owns and operates a rail line extending between Monahans, NM, and Lovington, NM. TNMR's lines are located at least 300 miles south and slightly east of SLRG's lines. AZER owns and operates a rail line connecting Bowie with Miami, AZ. AZER's lines are located at least 500 miles south and west of SLRG's lines.

³ A point located between Derrick and Walsenburg on the Alamosa Subdivision.

⁴ SLRG's acquisition from UP also included 5 miles of incidental trackage rights over UP from MP 180.0 to MP 175.0 in the vicinity of Walsenburg.

Map: 49 CFR § 1180.6(a)(6)

Attached hereto as Exhibit F.

Copy of Agreement: 49 CFR § 1180.6(a)(7)(ii)

Applicant is submitting a copy of its executed confidential Purchase and Sale Agreement along with a Motion for Protective Order.

Other information / Certification:

Permian hereby certifies that (1) the lines of the rail carrier to be acquired pursuant to this notice of exemption do not connect with Permian's existing short line subsidiaries, (2) the subject acquisition proceeding is not a part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family, and (3) the transaction does not involve a class I carrier.

Environmental and historical considerations:

This acquisition of control proceeding is exempt from environmental review under 49 CFR 1105.6(c)(2)(i) because the proposed action will not cause any operating changes that exceed the thresholds established in 49 CFR 1105.7(e)(4) or (5). In addition, this proceeding is

exempt from historic review under 49 CFR 1105.8(b)(1) because there are no plans to dispose of or alter properties subject to Board jurisdiction that are at least 50 years old. Accordingly, no historic report is required.

Labor Protection to be Imposed

No labor protection applies on transactions involving only class III railroads. See, 49 U.S.C. 11326(c).

Respectfully submitted,

Permian Basin Railways, Inc.

By its attorney,

A handwritten signature in black ink, appearing to read "J. D. Heffner", with a long horizontal flourish extending to the right.

John D. Heffner
John D. Heffner, PLLC
1920 N Street, N.W.
Suite 800
Washington, D.C. 20036
(202) 263-4180

Dated: December 9, 2005

EXHIBIT A

SURFACE TRANSPORTATION BOARD DECISION DOCUMENT
Decision Information

Docket Number: **FD_34205_0**

Case Title: **WEST TEXAS AND LUBBOCK RAILWAY COMPANY, INC.--
ACQUISITION AND OPERATION EXEMPTION--WEST TEXAS AND
LUBBOCK RAILROAD COMPANY, INC.**

Decision Type: **Notice**

Deciding Body: **Director Of Proceedings**

Decision Summary

Decision Notes: **NOTICE THAT RAILWAY HAS FILED A VERIFIED NOTICE OF
EXEMPTION TO ACQUIRE BY LEASE (WITH A FUTURE PURCHASE
OPTION) AND OPERATE TWO RAIL LINES OWNED BY RAILROAD.**

Full Text of Decision

32796

SERVICE DATE - JUNE 14, 2002

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

[STB Finance Docket No. 34205]

West Texas and Lubbock Railway Company, Inc.-Acquisition and Operation Exemption-West Texas and Lubbock Railroad Company, Inc.

West Texas and Lubbock Railway Company, Inc. (Railway), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire by lease (with a future purchase option) and operate two rail lines owned by the West Texas and Lubbock Railroad Company, Inc. (Railroad): (1) between milepost 06.3 on the outskirts of Lubbock and the end of the line at milepost 63.8 at Seagraves; and (2) between milepost 3.2 at Lubbock and milepost 38.9 at Whiteface. In addition, Railway will acquire by

assignment approximately 5 miles of trackage rights which Railroad presently holds over The Burlington and Northern and Santa Fe Railway Company (BNSF) between BNSF milepost 83.6 at Broadview and BNSF milepost 88.6 at Canyon Junction in the vicinity of Lubbock. These trackage rights shall be used for the purpose of interchange only. The total trackage involved is approximately 107 miles.⁽¹⁾

Railway certifies that its projected annual revenues will not exceed those that would qualify it as a Class III rail carrier and that its annual revenues are not projected to exceed \$5 million.

The transaction was scheduled to be consummated on or after the May 24, 2002 effective date of the exemption, 7 days after the exemption was filed.

This transaction is related to STB Finance Docket No. 34206, Permian Basin Railways, Inc.- Continuance in Control Exemption-West Texas and Lubbock Railway Company, Inc. and Austin & Northwestern Railroad Company, Inc., wherein Permian Basin Railways, Inc. (Permian) has concurrently filed a verified notice to continue in control of Austin & Northwestern Railroad Company, Inc. and Railway, upon Railway's becoming a Class III railroad.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to reopen the proceeding 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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34205, must be filed with the Surface Transportation Board, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on John D. Heffner, 555 12th Street, N.W., Suite 950N, Washington, DC 20004.

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

Decided: June 7, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary

1. Due to a track relocation project, the mileposts do not accurately reflect the actual length of the rail line.

Decision Attachments

32796.wpd

9 KB

32796.pdf

6 KB

Size of PDF File: **0.01** MB

Approximate download time at 28.8 kb: **0** Minutes



Some installations of Adobe Acrobat 3 browser plug-ins cannot open large PDF files. If you experience problems viewing our files, we recommend upgrading to an Acrobat Reader 4 or above available free at www.adobe.com.

EXHIBIT B

SURFACE TRANSPORTATION BOARD DECISION DOCUMENT
Decision Information

Docket Number: **FD_34206_0**

Case Title: **PERMIAN BASIN RAILWAYS, INC.--CONTINUANCE IN CONTROL EXEMPTION--WEST TEXAS AND LUBBOCK RAILWAY COMPANY, INC. AND AUSTIN & NORTHWESTERN RAILROAD COMPANY, INC.**

Decision Type: **Notice**

Deciding Body: **Director Of Proceedings**

Decision Summary

Decision Notes: **NOTICE THAT PERMIAN HAS FILED A VERIFIED NOTICE OF EXEMPTION TO (1) ACQUIRE CONTROL THROUGH STOCK PURCHASE OF AUSTIN, AND (2) CONTINUE IN CONTROL OF AUSTIN AND RAILWAY, UPON RAILWAY'S BECOMING A CLASS III RAILROAD.**

Full Text of Decision

32797

SERVICE DATE - JUNE 14, 2002

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

[STB Finance Docket No. 34206]

Permian Basin Railways, Inc.-Continuance in Control Exemption-West Texas and Lubbock Railway Company, Inc. and Austin & Northwestern Railroad Company, Inc.

Permian Basin Railways, Inc. (Permian), a noncarrier holding company, has filed a verified notice of exemption to (1) acquire control through stock purchase of Austin & Northwestern Railroad Company, Inc. (Austin),⁽¹⁾ a Class III rail carrier, and (2) continue in control of Austin and West Texas and

Lubbock Railway Company, Inc. (Railway), upon Railway's becoming a Class III railroad.

This transaction was scheduled to be consummated on or after the May 24, 2002 effective date of the exemption, 7 days after the exemption was filed.

This transaction is related to STB Docket No. 34205, West Texas and Lubbock Railway Company, Inc.- Acquisition and Operation Exemption-West Texas Lubbock Railroad Company, Inc., wherein Railway seeks to acquire and operate approximately 107 miles of rail line by lease (with a future purchase option) and assumption of trackage rights from West Texas Lubbock Railroad Company, Inc.

Permian states that: (1) the railroads will not connect with each other or any railroads in their corporate family; (ii) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (iii) the transaction does not involve a Class I carrier. 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. Section 11326(c), however, does not provide for labor protection for transactions under sections 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 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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34206, must be filed with the Surface Transportation Board, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on John D. Heffner, 555 12th Street, N.W., Suite 950N, Washington, DC 20004.

Boards decisions and notices are available on our website at "www.stb.dot.gov."

Decided: June 7, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary

1. See Austin & Northwestern Railroad Company, Inc.-Acquisition and Operation Exemption-Missouri

Pacific Railroad Company, Finance Docket No. 31444 (ICC served May 22, 1989).

Decision Attachments

32797.wpd

9 KB

32797.pdf

6 KB

Size of PDF File: **0.01** MB

Approximate download time at 28.8 kb: **0** Minutes



Note:

Some installations of Adobe Acrobat 3 browser plug-ins cannot open large PDF files. If you experience problems viewing our files, we recommend upgrading to an Acrobat Reader 4 or above available free at www.adobe.com.

EXHIBIT C

SURFACE TRANSPORTATION BOARD DECISION DOCUMENT
Decision Information

Docket Number: **FD_34614_0**

Case Title: **PERMIAN BASIN RAILWAYS, INC.--ACQUISITION OF CONTROL
EXEMPTION--ARIZONA EASTERN RAILWAY, INC.**

Decision Type: **Decision**

Deciding Body: **Director Of Proceedings**

Decision Summary

Decision Notes: **PROVIDED NOTICE THAT PERMIAN FILED A NOTICE OF
EXEMPTION TO ACQUIRE CONTROL OF ARIZONA'S OUTSTANDING
STOCK.**

Full Text of Decision

35346 SERVICE DATE - DECEMBER 22, 2004

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34614] ¶

Permian Basin Railways, Inc.–Acquisition of Control Exemption–Arizona Eastern Railway Company,
Inc.

Permian Basin Railways, Inc. (Permian), ¶ a noncarrier and short line railroad holding company, has filed a verified notice of exemption to acquire control through purchase of 100% of the outstanding stock of Arizona Eastern Railway Company, Inc. (AERC), ¶ a Class III short line railroad.

The transaction was scheduled to be consummated on or about December 1, 2004.

Permian states that: (i) the railroads do not connect; (ii) the transaction is not part of a series of anticipated transactions that would connect these railroads with each other or any railroad in their corporate family; and (iii) the transaction does not involve a Class I carrier. 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. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III rail carriers.

If the 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 stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34614, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on: John D. Heffner, 1920 N Street, N.W., Suite 800, Washington, DC 20036.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: December 13, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary

Decision Attachments

[35346.pdf](#)

5 KB

35346.wpd

8 KB

35346.htm

8 KB

Size of PDF File: **0.01** MB

Approximate download time at 28.8 kb: **0** Minutes

ⓘ Note:

Some installations of Adobe Acrobat 3 browser plug-ins cannot open large PDF files. If you experience problems viewing our files, we recommend upgrading to an Acrobat Reader 4 or above available free at www.adobe.com.

EXHIBIT D

SURFACE TRANSPORTATION BOARD DECISION DOCUMENT
Decision Information

Docket Number: **FD_34350_0**

Case Title: **SAN LUIS & RIO GRANDE RAILROAD COMPANY--ACQUISITION
AND OPERATION EXEMPTION--UNION PACIFIC RAILROAD
COMPANY**

Decision Type: **Notice**

Deciding Body: **Director Of Proceedings**

Decision Summary

Decision Notes: **NOTICE THAT SAN LUIS & RIO GRANDE RAILROAD COMPANY
FILED A VERIFIED NOTICE OF EXEMPTION UNDER 49 CFR 1150.31
TO ACQUIRE AND OPERATE TWO LINES OF THE UNION PACIFIC
RAILROAD COMPANY, AS FOLLOWS: (1) THE ALAMOSA
SUBDIVISION FROM MILEPOST 299.30 NEAR DERRICK, CO, TO
MILEPOST 180.0 NEAR WALSENBURG, CO; AND (2) THE
ANTONITO SUBDIVISION FROM THE POINT WHERE THE TWO
SUBDIVISIONS CONNECT AT MILEPOST 251.7 IN ALAMOSA, CO,
TO MILEPOST 281.78 IN ANTONITO, CO, A TOTAL DISTANCE OF
149.38 MILES.**

Full Text of Decision

33741 SERVICE DATE - JULY 18, 2003

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34350]

San Luis & Rio Grande Railroad Company--Acquisition and Operation Exemption--Union Pacific
Railroad Company

San Luis & Rio Grande Railroad Company (SLRG), a noncarrier, has filed a verified notice of
exemption under 49 CFR 1150.31 to acquire and operate two lines of the Union Pacific Railroad

Company (UP), as follows: (1) the Alamosa Subdivision from milepost 299.30 near Derrick, CO, to milepost 180.0 near Walsenburg, CO; and (2) the Antonito Subdivision from the point where the two subdivisions connect at milepost 251.7 in Alamosa, CO, to milepost 281.78 in Antonito, CO, a total distance of 149.38 miles. In addition, UP will grant SLRG approximately 5 miles of incidental trackage rights in the vicinity of Walsenburg from milepost 180.0 to milepost 175.0.

SLRG certifies that its projected annual revenues will not exceed those that would qualify it as a Class III rail carrier and that its annual revenues are not projected to exceed \$5 million.

The transaction was scheduled to be consummated on or after June 30, 2003. If the 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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34350, must be filed with the Surface Transportation Board, 1925 K Street N.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Louis E. Gitomer, Esq., Of Counsel, Ball Janik LLP, 1455 F Street, N.W., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: July 11, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary

Decision Attachments

[33741.wpd](#)
[33741.pdf](#)

8 KB
22 KB

Size of PDF File: 0.02 MB

Approximate download time at 28.8 kb: 0 Minutes

Note:

Some installations of Adobe Acrobat 3 browser plug-ins cannot open large PDF files. If you experience problems viewing our files, we recommend upgrading to an Acrobat Reader 4 or above available free at

www.adobe.com.

EXHIBIT E

SURFACE TRANSPORTATION BOARD DECISION DOCUMENT
Decision Information

Docket Number: **FD_34352_0**

Case Title: **RAILAMERICA, INC., ET AL.--CONTINUANCE IN CONTROL
EXEMPTION--SAN LUIS & RIO GRANDE RAILROAD COMPANY**

Decision Type: **Notice**

Deciding Body: **Director Of Proceedings**

Decision Summary

Decision Notes: **NOTICE THAT RAILAMERICA, INC., PALM BEACH RAIL HOLDING,
INC. AND RAILAMERICA TRANSPORTATION CORP. FILED A
VERIFIED NOTICE OF EXEMPTION TO CONTINUE IN CONTROL OF
SAN LUIS & RIO GRANDE RAILROAD COMPANY(SLRG), UPON
SLRG BECOMING A CLASS III RAIL CARRIER.**

Full Text of Decision

33742 SERVICE DATE - JULY 18, 2003

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34352]

RailAmerica, Inc., et al.--Continuance in Control Exemption--San Luis & Rio Grande Railroad
Company

RailAmerica, Inc. (RailAmerica), Palm Beach Rail Holding, Inc. (Palm Beach), and
RailAmerica Transportation Corp. (RTC) (collectively, applicants) have filed a verified notice of
exemption to continue in control of San Luis & Rio Grande Railroad Company (SLRG), upon SLRG
becoming a Class III rail carrier.

The transaction was expected to be consummated on or after June 30, 2003.

This transaction is related to the concurrently filed verified notice of exemption in STB Finance Docket No. 34350, San Luis & Rio Grande Railroad Company—Acquisition and Operation Exemption—Union Pacific Railroad Company, wherein SLRG seek to acquire and operate 149.38 miles of rail line currently owned by Union Pacific Railroad Company.

RailAmerica currently controls one Class II railroad and 33 Class III railroads. RailAmerica directly controls Palm Beach, which in turn directly controls RTC. RTC directly controls SLRG.

Applicants state that: (1) the railroads do not connect with each other or any railroad in their corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) the transaction does not involve a Class I carrier. 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. Because the transaction involves at least one Class II and one or more Class III rail carriers, the exemption is subject to the labor protection requirements of 49 U.S.C. 11326(b).

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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34352, must be filed with the Surface Transportation Board, 1925 K Street N.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Louis E. Gitomer, Esq., Of Counsel, Ball Janik

LLP, 1455 F Street, N. W., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: July 11, 2003

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary

Decision Attachments

33742.wpd

8 KB

33742.pdf

23 KB

Size of PDF File: **0.02 MB**

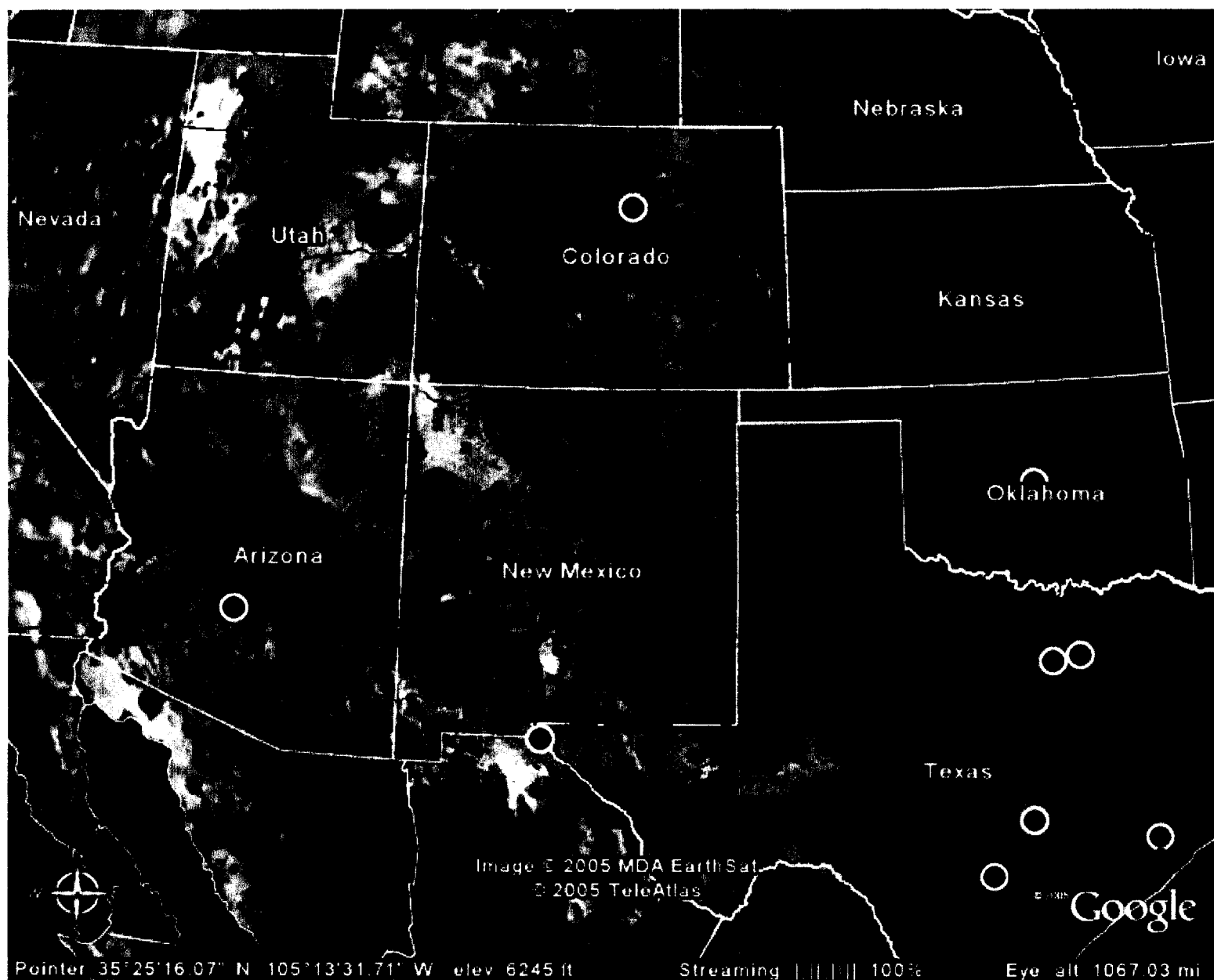
Approximate download time at 28.8 kb: **0 Minutes**



Note:

Some installations of Adobe Acrobat 3 browser plug-ins cannot open large PDF files. If you experience problems viewing our files, we recommend upgrading to an Acrobat Reader 4 or above available free at www.adobe.com.

EXHIBIT F



Nevada

Utah

Colorado

Nebraska

Iowa

Kansas

Oklahoma

Arizona

New Mexico

Texas

Image © 2005 MDA EarthSat
© 2005 TeleAtlas

Google

Pointer 35°25'16.07" N 105°13'31.71" W elev 6245 ft

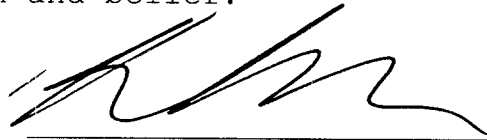
Streaming 100%

Eye alt 1067.03 mi

VERIFICATION

STATE OF)
) SS
CITY OF)

EDWIN ELLIS, being duly sworn according to law,
hereby deposes and states that (s)he is authorized to make the
Verification, has read the foregoing document, and knows the
facts asserted therein are true and accurate as stated, to the
best of (her)his knowledge, information and belief.



Subscribed and sworn to before me, a Notary Public, in and for
the City of Chicago in the State of Illinois, this 6th
day of December.



Notary Public

My Commission expires:

04-14-2009

