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SERVICE DATE – JANUARY 12, 2006

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34799]

Permian Basin Railways, Inc.—Acquisition of Control Exemption—San Luis & Rio Grande Railroad Company, Inc.

Permian Basin Railways, Inc. (Permian), a noncarrier,<sup>1</sup> has filed a verified notice of exemption to acquire control of Class III carrier San Luis & Rio Grande Railroad Company, Inc. (SLRG).<sup>2</sup> SLRG is currently owned by RailAmerica Transportation Corp. (RTC), a short line railroad holding company, indirectly controlled by RailAmerica, Inc.<sup>3</sup>

The transaction was expected to be consummated on or after December 22, 2005.

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<sup>1</sup> Permian owns the stock of three existing Class III short line railroads: West Texas and Lubbock Railway Company, Inc., the Austin & Northwestern Railroad Company, Inc. d/b/a Texas New Mexico Railroad, and the Arizona Eastern Railway Company, Inc.

<sup>2</sup> A redacted version of the executed purchase and sale agreement and all supporting documents was filed with the notice of exemption. The full version of the agreement, as required by 49 CFR 1180.6(a)(7)(ii), was concurrently filed under seal along with a motion for a protective order. A protective order was served on December 23, 2005.

<sup>3</sup> 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 STB Finance Docket Nos. 34350 and 34352, respectively.

Permian states that: (1) the railroads do not connect with each other or any railroad in their corporate family; (2) the transaction 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. 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 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 automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34799, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of all pleadings must be served on John D. Heffner, 1920 N Street, N.W., Suite 800, Washington, DC 20036.

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Decided: January 5, 2006.

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

Vernon A. Williams

Secretary