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SERVICE DATE – MARCH 5, 2010

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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35354]

Montoff Transportation Company, LLC—Acquisition Exemption—BNSF Railway
Company

Montoff Transportation Company, LLC (Montoff), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from BNSF Railway Company (BNSF) its right to reactivate rail service on a 42.80-mile rail-banked line (Line) between milepost 73.60 near Fairmont and milepost 116.40 near Guthrie, in Garfield and Logan Counties, OK.¹

The notice of exemption relates back to the Decision and Notice of Interim Trail Use or Abandonment (NITU) that the Board, at the request of BNSF and the Oklahoma Department of Transportation (ODOT), issued for the Line in The Burlington Northern and Santa Fe Railway Company—Abandonment Exemption—in Garfield and Logan Counties, OK, STB Docket No. AB-6 (Sub-No. 379X) (STB served October 27, 1998). Shortly after the NITU was issued, BNSF and ODOT entered into an interim trail use/rail banking agreement pursuant to the National Trails System Act, 16 U.S.C. 1247(d).

¹ Montoff filed the notice of exemption on February 17, 2010, and a correction of the mileposts 2 days later. Accordingly, February 19, 2010, is the official filing date.

Montoff, ODOT, and BNSF have now reached an agreement that would return the Line to active rail service. Pursuant to that agreement, Montoff and ODOT simultaneously filed with this notice of exemption a joint motion requesting that the Board vacate the existing NITU and issue a replacement NITU permitting Montoff to substitute for ODOT as interim trail manager for the Line. Montoff states that it intends to reactivate rail service, but that this cannot be done until necessary track and bridge rehabilitation work is completed. BNSF, in a pleading submitted in this docket on February 23, 2010, supports Montoff's filing and states that it consents to the substitution of Montoff in lieu of ODOT as interim trail manager for the Line but only if the Board first accepts Montoff's filing in this docket. This notice of exemption and the procedure proposed by Montoff is being accepted to facilitate the return of this rail-banked line to active rail service in a timely fashion.²

Before Montoff may begin operating the Line, it will need to obtain a decision vacating the NITU in STB Docket No. AB-6 (Sub-No. 379X), and, if necessary, the operator will have to obtain authority to operate the Line.

Montoff states that it expects this acquisition transaction to be consummated on or after March 18, but no later than March 25, 2010. The earliest this transaction may be consummated is March 21, 2010, the effective date of the exemption (30 days after the notice of exemption was officially 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

² A more appropriate approach to achieve this result would be to file a petition to vacate a NITU and an appropriate petition or notice of exemption to acquire and operate the line at issue.

at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed no later than March 12, 2010.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35354, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Charles H. Montange, 426 NW 162nd Street, Seattle, WA 98177.

Board decisions and notices are available on our website at [“WWW.STB.DOT.GOV.”](http://WWW.STB.DOT.GOV)

Decided: March 2, 2010.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.