

28281

SERVICE DATE - SEPTEMBER 19, 1997

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33458]

Cargill, Incorporated—Acquisition of Control Exemption—A & R Line, Inc. and J.K. Line, Inc.

Cargill, Incorporated (Cargill), a noncarrier, has filed a notice of exemption to acquire control, through stock purchase, of A & R Line, Inc., and J.K. Line, Inc. (rail lines), Class III railroads, operating in the State of Indiana.¹

The earliest the transaction could be consummated is September 12, 1997, the effective date of the exemption (7 days after the exemption was filed).²

Cargill states that: (i) the rail lines do not connect; (ii) the transaction is not part of a series of anticipated transactions that would connect these railroads with each other or with any other 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).

¹ The rail lines will be purchased from Daniel R. Frick, the sole shareholder of the rail lines, and are part of a larger transaction involving the purchase of four facilities for the storage and distribution of bulk commodities, fertilizer and agricultural chemicals. The rail lines provide the transportation services to two of the four facilities being purchased by Cargill.

² Applicant indicates that consummation of the transaction will occur within 85 days after July 10, 1997.

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. 33458, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on John K. Maser, III, Esq., Donelan, Cleary, Wood & Master, P.C., 1100 New York Avenue, N.W., Suite 750, Washington, DC 20005.

Decided: September 12, 1997.

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

Vernon A. Williams

Secretary