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SERVICE DATE – JUNE 12, 2014

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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35829]

Patrick D. Broe and Sand Springs Holdings, LLC—Acquisition of Control Exemption—  
Sand Springs Railway Company

Patrick D. Broe (Broe) and Sand Springs Holdings, LLC (Holdings) (collectively, Applicants), both noncarriers, have filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(2) to acquire control of Sand Springs Railway Company (Sand Springs), a Class III railroad.

Applicants state that Broe directly controls Holdings, OmniTRAX, Inc. (OmniTRAX), a noncarrier company that controls 12 Class III railroads,<sup>1</sup> and BNS Holding, Inc. (BNS), a noncarrier that indirectly controls three Class III railroads.<sup>2</sup> Applicants also state that Sheffield Steel Corporation (Sheffield), a noncarrier, currently controls Sand Springs. According to Applicants, Holdings and Sheffield have entered

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<sup>1</sup> Those 12 railroads are: Chicago Rail Link, LLC; Georgia Woodlands Railroad, LLC; Great Western Railway of Colorado, LLC; Manufacturers' Junction Railway, LLC; Newburgh & South Shore Railroad, LLC; Northern Ohio & Western Railway, LLC; Panhandle Northern Railroad, LLC; Alliance Terminal Railroad, LLC; Fulton County Railway, LLC; Alabama & Tennessee River Railway, LLC; Kettle Falls International Railway, LLC; and Stockton Terminal and Eastern Railroad.

<sup>2</sup> Those three railroads are: Nebraska, Kansas and Colorado Railway, LLC; Illinois Railway, LLC; and Georgia & Florida Railway, LLC.

into an agreement<sup>3</sup> dated May 23, 2014, by which Holdings will acquire all of the stock of Sand Springs. Once that transaction is consummated, Broe and Holdings will control Sand Springs.

Applicants intend to consummate this transaction on or shortly after June 26, 2014 (the effective date of the exemption, 30 days after the notice of exemption was filed).

Applicants state that: (1) the rail lines operated by OmniTRAX's and BNS's railroads do not connect with the rail lines operated by Sand Springs; (2) this transaction is not part of a series of anticipated transactions that would connect the rail lines operated by Sand Springs with any railroad in the OmniTRAX or BNS corporate family; and (3) the transaction does not involve a Class I rail carrier. Therefore, the transaction is 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 §§ 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.

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<sup>3</sup> A redacted version of the agreement between Holdings and Sheffield was filed with the notice of exemption. An unredacted version was filed concurrently under seal, along with a motion for protective order pursuant to 49 C.F.R. § 1104.14(b). That motion will be addressed in a separate decision.

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 to stay must be filed no later than June 19, 2014 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35829, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy must be served on Karl Morell, Ball Janik LLP, 655 Fifteenth Street, N.W., Suite 225, Washington, DC 20005.

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“[WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).”

Decided: June 9, 2014.

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