

40353

SERVICE DATE – NOVEMBER 13, 2009

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35313]

Charleston, Blue Creek and Sanderson Railway Company—Lease and Operation  
Exemption—Norfolk Southern Railway Company

Charleston, Blue Creek and Sanderson Railway Company (CB&SR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease from Norfolk Southern Railway Company (NS) and to operate two lines of railroad, totaling approximately 30.6 miles in length, located in West Virginia between: (1) milepost TP-1.00 at Charleston and milepost TP-26.91, at Morris Fork; and (2) former B&O milepost 97.2, near Falling Rock, and former B&O milepost 100.9, near Blue Creek.<sup>1</sup>

According to CB&SR, NS will retain certain operating rights on the lines to allow NS to access a potential future interchange with the Elk River Railroad, if such an interchange is developed, and an inactive line believed to be held by the trustee of the Pennsylvania Central Railroad, if that line is reactivated in the future.

---

<sup>1</sup> CB&SR states that it has entered into lease agreements with NS covering CB&SR's acquisition and operation of the lines for a period of 20 years, unless the lease agreements are terminated earlier in accordance with their other terms. CB&SR also notes that the lease agreements do not include "interchange commitments" as described in 49 CFR 1121.3 and in Disclosure of Rail Interchange Commitments, STB Ex Parte No. 575 (Sub-No. 1) (STB served May 29, 2008).

CB&SR certifies that its projected revenues as a result of the transaction will not exceed those that would qualify it as a Class III carrier. The earliest this transaction may be consummated is November 27, 2009, the effective date of the exemption (30 days after the exemption was filed).

Pursuant to the Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, § 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: collecting, storing, or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting, and shredding). The term “solid waste” is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

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. Petitions for stay must be filed no later, than November 20, 2009 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35313, 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 Kelvin J. Dowd, Slover & Loftus LLP, 1224 Seventeenth Street, N.W., Washington, DC 20036.

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

Decided: November 9, 2009.

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

Anne K. Quinlan

Secretary