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SERVICE DATE – SEPTEMBER 21, 2012

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35673]

ABE Fairmont, LLC—Acquisition and Operation Exemption—Fillmore Western
Railway Company

ABE Fairmont, LLC (ABE), a noncarrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.31 to acquire from Fillmore Western Railway Company (FWRC) and operate an approximately 2-mile rail line between a point of connection with BNSF Railway Company (BNSF) at BNSF milepost 1.7 and the north property line of County Road H, at or near Fairmont, Fillmore County, Neb.¹

The transaction is scheduled to be consummated on or after October 5, 2012 (30 days after the notice of exemption was filed).

ABE certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed \$5 million.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under

¹ ABE, which operates an ethanol plant adjacent to the line, purchased the line a number of years ago from FWRC for its private purposes under the mistaken belief that the line had been abandoned and was no longer subject to Board jurisdiction. By this notice, ABE seeks Board authorization for its acquisition and operation of what it has recently learned is an active rail line.

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 September 28, 2012 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35673, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, D.C. 20423-0001. In addition, a copy of each pleading must be served on Thomas F. McFarland, 208 South LaSalle St., Suite 1890, Chicago, IL 60604.

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“WWW.STB.DOT.GOV.”

Decided: September 18, 2012.

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