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SERVICE DATE – JANUARY 10, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34785

READING BLUE MOUNTAIN AND NORTHERN RAILROAD COMPANY—OPERATION
EXEMPTION—LOCUST VALLEY LINE

[REQUEST FOR WAIVER OF 49 CFR 1150.42(e)]

Decided: January 9, 2006

On November 30, 2005, Reading Blue Mountain and Northern Railroad Company (RBMN), filed a request for a waiver of the requirements of 49 CFR 1150.42(e)¹ to permit the exemption it is seeking in this proceeding to become effective without providing the advance notice required by the Board's rules to be given to employees who may be affected by RBMN's planned operation of a line of railroad and to the national offices of the employees' labor unions.

Concurrently with this filing, RBMN, a Class III rail carrier, filed a verified notice of exemption under 49 CFR 1150.41 to operate a 5-mile line of railroad owned by Locust Valley Coal Company d/b/a Locust Valley Line (Locust Valley). The rail line extends between milepost 0.0, at Laurel Jct. (also known as Morea Jct.), in Delano Township, and milepost 5.5 beyond Newton Jct., just south of Mahanoy City, Schuylkill County, PA. RBMN states that there is no current operator for the line, which was recently acquired and rehabilitated by Locust Valley.² The rail line had been out of service since 1976. RBMN's rail line connects with the subject line and RBMN had previously provided service over the northern section of the line "as a spur" to serve one customer. RBMN will operate the line pursuant to an operating agreement

¹ Under 49 CFR 1150.42(e), "If the projected annual revenue of the rail lines to be acquired or operated, together with the acquiring carrier's projected annual revenue, exceeds \$5 million, the applicant must, at least 60 days before the exemption becomes effective, post a notice of applicant's intent to undertake the proposed transaction at the workplace of the employees on the affected line(s) and serve a copy of the notice on the national offices of the labor unions with employees on the affected line(s), setting forth the types and numbers of jobs expected to be available, the terms of employment and principles of employee selection, and the lines that are to be transferred, and certify to the Board that it has done so."

² See Locust Valley Coal Company d/b/a Locust Valley Line—Acquisition Exemption—Rail Lines in Schuylkill County, PA, STB Finance Docket No. 34642 (STB served Jan. 21, 2005).

with Locust Valley, and intends to begin providing service over the line as soon as business develops.³

RBMN asserts that no purpose would be served by requiring labor notice because there is currently no business on the line and there are no employees working on the line. Therefore, no employees will be affected by this transaction.

DISCUSSION AND CONCLUSIONS

The purpose of our notice requirements at 49 CFR 1150.42(e) is to ensure that rail labor unions and employees who would be affected by the transfer of a line are given sufficient notice of the transaction before consummation.⁴ The Board takes seriously the requirements of the rule, but it does not appear that the purpose behind the notice requirements will be thwarted if the requested waiver is granted.

While we do not ordinarily grant waivers of the employee advance notice requirements, the record indicates that no employees will be adversely affected by waiver of the requirements here.⁵ Because there are no employees working on the subject line, there is no need to post in the workplace any advance notice to employees or notify any labor unions. Accordingly, we will grant the waiver request. Granting the waiver request will have the effect of making the exemption for the acquisition transaction in this proceeding effective on the date of service of this waiver decision.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. RBMN's request for waiver is granted.

³ Notice of the filing of the verified notice was served on December 29, 2005, and published in the Federal Register on that same date at 70 FR 77248.

⁴ See Acq. of R. Lines Under 49 U.S.C. 10901 & 10902 – Advance Notice, 2 S.T.B. 592 (1997).

⁵ No opposition to the request has been filed with the Board.

2. This decision is effective on its date of service.

By the Board, Chairman Buttrey and Vice Chairman Mulvey.

Vernon A. Williams
Secretary