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SERVICE DATE – JULY 2, 2009

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35254]

Red River Valley & Western Railroad Company and Rutland Line, Inc.—Corporate  
Family Transaction Exemption

Red River Valley & Western Railroad Company (RRVW) and Rutland Line, Inc. (Rutland), both Class III rail carriers, have filed a verified notice of exemption under 49 CFR 1180.2(d)(3) for a transaction within a corporate family. Applicants state that, on or about June 27, 2007, all of the stock in Rutland was transferred to RRVW, thereby causing Rutland to become a wholly-owned subsidiary of RRVW.<sup>1</sup> At the time, the sole shareholders of applicants were Douglas M. Head and Charles H. Clay, with Mr. Head owning the vast majority of the stock in each of these companies and Mr. Clay owning the remaining shares. Applicants state that the transfer merely resulted in the shareholders indirectly controlling Rutland through their control of RRVW, rather than controlling Rutland directly.<sup>2</sup> According to applicants, RRVW inadvertently failed to

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<sup>1</sup> Applicants note that Mr. Clay died on March 1, 2009, that his ownership interest in RRVW currently is owned by his estate, and that it is expected that RRVW will purchase Mr. Clay's shares. They add that Mr. Head continues to hold his ownership interest in RRVW.

<sup>2</sup> Applicants state that there was no written agreement governing the transfer of the shareholders' stock in Rutland to RRVW. In its place, they attach as Exhibit B a "Written Action by the Board of Directors and Shareholders of Rutland Line, Inc."

seek Board authority in 2007 to control Rutland prior to the transfer of ownership interest and they now seek to remedy that oversight. The purpose of the transaction was to enable Rutland to be treated as a Qualified Subchapter S Subsidiary of RRVW for tax purposes.

The exemption will be effective on July 19, 2009.

This is a transaction within a corporate family of the type exempted from prior review and approval under 49 CFR 1180.2(d)(3). The parties state that the transaction will not result in adverse changes in service levels, significant operational changes, or changes in the competitive balance with carriers outside the corporate family.

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. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III rail carriers.

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. Petitions for stay will be due no later than July 10, 2009 (at least 7 days before the effective date of the exemption).

An original and 10 copies of all pleadings, referring to STB Finance Docket

No. 35254, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on applicants' representative, Rose-Michele Nardi, 1300 19th Street, N.W., 5th Floor, Washington, DC 20036.

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

Decided: June 25, 2009.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Anne K. Quinlan  
Acting Secretary