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SERVICE DATE - JUNE 14, 2002

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

[STB Finance Docket No. 34206]

Permian Basin Railways, Inc.–Continuance in Control Exemption–West Texas and Lubbock Railway Company, Inc. and Austin & Northwestern Railroad Company, Inc.

Permian Basin Railways, Inc. (Permian), a noncarrier holding company, has filed a verified notice of exemption to (1) acquire control through stock purchase of Austin & Northwestern Railroad Company, Inc. (Austin),¹ a Class III rail carrier, and (2) continue in control of Austin and West Texas and Lubbock Railway Company, Inc. (Railway), upon Railway's becoming a Class III railroad.

This transaction was scheduled to be consummated on or after the May 24, 2002 effective date of the exemption, 7 days after the exemption was filed.

This transaction is related to STB Docket No. 34205, West Texas and Lubbock Railway Company, Inc.–Acquisition and Operation Exemption–West Texas Lubbock Railroad Company, Inc., wherein Railway seeks to acquire and operate approximately 107 miles of rail line by lease (with a future purchase option) and assumption of trackage rights from West Texas Lubbock Railroad Company, Inc.

¹ See Austin & Northwestern Railroad Company, Inc.–Acquisition and Operation Exemption–Missouri Pacific Railroad Company, Finance Docket No. 31444 (ICC served May 22, 1989).

Permian states that: (1) the railroads will not connect with each other or any railroads in their corporate family; (ii) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 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 sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

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.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34206, must be filed with the Surface Transportation Board, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on John D. Heffner, 555 12th Street, N.W., Suite 950N, Washington, DC 20004.

Boards decisions and notices are available on our website at “www.stb.dot.gov.”

Decided: June 7, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary