

42547

SERVICE DATE – AUGUST 8, 2012

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35649]

DMH Trust fbo Martha M. Head—Acquisition of Control Exemption—Red River Valley & Western Railroad and Rutland Line, Inc.

DMH Trust fbo Martha M. Head (the Trust), a noncarrier, has filed a verified notice of exemption to acquire control of Red River Valley & Western Railroad (RRVW) and Rutland Line, Inc. (RLI),¹ both Class III rail carriers.

According to the Trust, Douglas M. Head owned all of the controlling shares of voting stock of RRVW and indirectly controlled RLI. Upon his death in February 2011, RRVW's stock continued to be held by Mr. Head's estate until it was distributed to the Trust on January 3, 2012. The Trust did not file its verified notice of exemption with the Board until July 23, 2012. Thus, the effective date of the exemption is August 22, 2012 (30 days after the verified notice of exemption was filed).²

The Trust represents that: (1) RRVW and RLI will not connect with any rail lines owned or controlled by the Trust; (2) the transaction is not part of a series of anticipated transactions that would connect any railroad owned or controlled by the Trust with RRVW or RLI, or that would provide an additional connection between RRVW or RLI;

¹ RLI is a wholly owned subsidiary of RRVW.

² The class exemption invoked by the Trust does not provide for retroactive effectiveness.

and (3) the transaction does not involve a Class I rail carrier. The proposed transaction is therefore exempt from the prior approval requirements of 49 U.S.C. § 11323 pursuant to 49 C.F.R. § 1180.2(d)(2). The Trust states that the purpose of the transaction was to distribute the RRVW shares from the estate of Mr. Head to the Trust in compliance with the order of the Hennepin County District Court, allowing the completion of the probate of the estate.

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 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 carriers.

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 effectiveness of the exemption. Petitions for stay must be filed no later than August 15, 2012 (at least seven days before the exemption becomes effective).

An original and ten copies of all pleadings, referring to Docket No. FD 35649, 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 Rose-Michele

Nardi, Weiner Brodsky Sidman Kider PC, 1300 19th Street, N.W., Fifth Floor,
Washington, DC 20036.

Board decisions and notices are available on our website at
“WWW.STB.DOT.GOV.”

Decided: August 2, 2012.

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