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SERVICE DATE - OCTOBER 22, 1997

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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33480]

Charles Barenfanger—Continuance in Control Exemption—Effingham Railroad Company

Charles Barenfanger (applicant) has filed a verified notice of exemption to continue in control of Effingham Railroad Company (ERRC), upon its becoming a Class III rail carrier.

Although applicant does not indicate an expected consummation date, it is noted that the transaction could not be consummated before October 7, 1997, the effective date of this exemption.

This transaction is related to STB Finance Docket No. 33468, Effingham Railroad Company—Operation Exemption—Line Owned by Agracel Corporation, wherein ERRC seeks to operate over a certain rail line owned by the Agracel Corporation, in Effingham, IL.

Applicant controls one existing Class III railroad, Illinois Western Railroad Company (IWRC), operating in Greenville, IL.

Applicant states that: (i) the rail line to be operated by ERRC does not connect with IWRC; (ii) the transaction is not part of a series of anticipated transactions that would connect ERRC with IWRC; 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 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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33480, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on John M. Robinson, 9616 Old Spring Road, Kensington, MD 20895.

Decided: October 14, 1997.

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

Vernon A. Williams

Secretary