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SERVICE DATE – JUNE 18, 2013

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35735

KEENESBURG DIRECT RAILROAD, LLC—ACQUISITION AND OPERATION
EXEMPTION—J D EAST, LLC

Decided: June 17, 2013

On April 16, 2013, Keenesburg Direct Railroad, LLC (KDR), a noncarrier, filed a verified notice of exemption under 49 C.F.R. § 1150.31 to acquire from J D East, LLC, and to operate, approximately 0.16 miles (850 feet) of rail line between the point of connection to the line of BNSF Railway Company (BNSF) at Engineering Switch No. 009951E, approximately 125 feet west of the crossing of BNSF's main line, and Weld County Road 59 and the end of the track, a short distance past Lot 1 of Howser and Timbers Subdivision, in Keenesburg, Weld County, Colo. (April 16 notice). Notice of the exemption was served and published in the Federal Register on May 2, 2013 (78 Fed. Reg. 25,784). The exemption became effective on May 16, 2013.

By letter filed on May 21, 2013, KDR petitions for leave to withdraw the April 16 notice. By letter filed on May 22, 2013, KDR clarifies that it has not consummated, and has no intention of consummating, the transaction. No replies to the petition have been filed.

KDR's request to withdraw its notice of exemption will be granted. Although the exemption became effective on May 16, 2013, the authority conferred to KDR is permissive, not mandatory. KDR filed its request to withdraw within days of the effective date and states that it has not consummated, and has no intention of consummating, the transaction. Under the circumstances, permission to withdraw the notice will be granted. See Chi., Peoria & W. Ry.—Acquis. Exemption—Rail Line of Corn Prods. Int'l, Inc., FD 34289 (STB served Apr. 22, 2003). Accordingly, the April 16 notice will be withdrawn, and the proceeding will be dismissed without prejudice.

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

It is ordered:

1. KDR's request to withdraw the April 16 notice is granted. The April 16 notice is withdrawn, and this proceeding is dismissed without prejudice. The notice served and published in the Federal Register on May 2, 2013, in this proceeding is vacated.

2. This decision is effective on its service date.

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