

BEFORE THE SURFACE TRANSPORTATION BOARD
FINANCE DOCKET 35957

ENTERED
Office of Proceedings
November 3, 2015
Part of
Public Record

MICHAEL WILLIAMS

- CONTROL EXEMPTION -

SDR HOLDING COMPANY

SUPPLEMENTAL INFORMATION
And
AMENDMENT TO NOTICE OF EXEMPTION

This Board's decision served October 14, 2015, directed Mr. Williams to supply supplemental information by November 4, 2015 on a number of matters. Mr. Williams hereby supplies the supplemental information, as compiled to date. In addition, Mr. Williams makes the amendment to his notice of exemption filed September 15, 2015, as directed by this Board's decision served October 14, 2015.

Supplemental Information

1. Explanation for delay in filing for Board authorization for continuance in control in connection with September 30, 2009 stock acquisition of Dakota Southern.

Mr. Williams does not have an attorney on staff or on general retainer to advise on rail regulatory issues, but instead retains counsel for that purpose on a transactional basis. In connection with the transaction in question, Mr.

Williams relied upon counsel for the lender and upon the seller, neither of whom indicated a need for an STB pre-authorization for the transaction. Mr. Williams acknowledges that counsel in another subsequent transaction made him aware of the need for a filing in connection with the Dakota Southern proceeding. He further acknowledges that the ownership was disclosed to STB in the subsequent transaction, along with an indication that authority would be requested. Mr. Williams apologizes for failure to pursue the matter immediately by retaining counsel to proceed in the matter, and states that he inadvertently overlooked the matter. His attention was drawn to the oversight by a need to renew the Dakota Southern/State of South Dakota relationship. Mr. Williams retained counsel and authorized an effort to correct the oversight as soon as possible. In addition, Mr. Williams has directed his staff to review other transactions that may involve STB rail regulatory requirements in order to ensure compliance with Board regulations.

2. Clarification whether Dakota Southern is owned by Mr. Williams or by SDR, and if by Williams, why Williams did not seek authorization for control.

Mr. Williams and his wife (Tammy Williams) own the stock in SDR. SDR owns the stock in Dakota Southern. Mr. Williams, through his counsel, made inquiry to the Office of Public

Assistance at STB by telephone and email (attached) prior to filing the notice of exemption in this case concerning what filings were required, and counsel was advised to proceed essentially as per the filing made. The Office of Public Assistance indicated that the Board would advise if additional filings or information were required. In short, Mr. Williams undertook in good faith to understand and to file what this Board would deem sufficient, and will endeavor to comply with all applicable requirements.

3. Explanation of how SDR fits into hierarchy of railroads.

Mr. Williams and his wife own (by stock) SDR Holding Company (SDR), which owns (by stock) Dakota Southern. Mr. Williams owns (by stock) Williams Group. Williams Group owns St. Maries River Railroad. Mr. Williams and his wife own BG & CM Railroad; Ozark Valley Railroad; Boot Hill & Western Railway Holding Company, Inc.; and McCloud Railway. Boot Hill & Western Railway Holding Company, Inc. was inadvertently omitted from the list of rail lines in the notice of exemption filed in this docket, as further explained in paragraph 4 below. Please note that although the word "Holding" is used in that company's name, it did not acquire the stock of its predecessor, Boot Hill & Western Railway Company, but the rail assets and common

carrier obligation. It is thus not a "holding" company as Mr. Williams believes the Board used the term in its decision of October 14, 2015 (that is, a company holding the stock of another). It is merely doing business as Boot Hill & Western Railway Company.

Mr. Williams and his wife also own several other S Corporations or LLCs related to rail services or to rail property that Mr. Williams understands was previously authorized for abandonment and/or which otherwise do not have a current common carrier obligations attached. As indicated, Mr. Williams has directed his staff to review all recent transactions involving these companies to determine if additional filings with this Board are required. Staff are currently examining two situations which Mr. Williams summarizes in the footnote below in the interest of full disclosure.¹

¹ According to this Board's decisions, the trail manager identified in this Board's decision in AB 924X served June 18, 2012 (i.e., Shasta Land Trust), acquired the railbanked portion of the line from McCloud Railway Company's parent, 4-Rail, Inc. In accordance with the representation in the referenced Decision, Mr. Williams believes that 4-Rail, Inc. still owns all remaining pertinent real estate on which McCloud previously operated. Upon further examination by staff, Mr. Williams now believes that McCloud retains an unabandoned common carrier obligation on approximately 19 miles of rail line in California. Mr. Williams will retain counsel to undertake appropriate filings at the Board in connection with acquisition of McCloud that may be triggered by the unabandoned common carrier obligation.

None of the railroads or lines discussed in this supplemental information or the original filing interconnect with any other companies with rail assets owned or controlled by Mr. Williams, directly or indirectly.

Amendment to Notice filed September 15, 2015

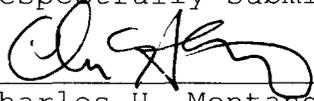
Please amend the Notice of Exemption filed on September 15, 2015 in this docket to include the following after subparagraph (4) on p. 4:

“(5) Boot Hill & Western Railway Holding Company. 10.2 miles of line from Wilroads to Dodge City, in Ford County, Kansas, and the right to reactivate rail service on a previously railbanked 15.8 mile section of line from Bucklin to Wilroads in Ford

Mr. Williams (and his wife) also own approximately 83.3% of S&S Shortline Leasing, LLC, which leases for car storage approximately 127.9 miles of rail line (MP 0.0 near Cobre to MP 127.9 near McGill Junction) from (and owned by) City of Ely (Nevada) and White Pine Historical Railroad Foundation. Mr. Williams has recently become aware that the S&S under prior ownership sought and obtained an exemption to operate on this line. Decision in STB F.D. 35284, served August 14, 2009. Mr. Williams understands that this authority is permissive, not mandatory, and inasmuch as S&S to Mr. Williams' knowledge has not held itself out to offer common carrier services (its operations have been limited to car storage since the inception of the S&S/City of Ely lease), the Decision does not itself make S&S a common carrier, concerning which a change in control requires Board pre-authorization. If this understanding is not correct, then Mr. Williams will retain counsel to undertake such filings as may be required.

County, Kansas. See Boot Hill & Western Railway Holding Co., Inc. - Acquisition and Operation Exemption - Boot Hill & Western Railway Co., LC, F.D. 35924, served May 8, 2015; related proceedings, F.D. 35935, served June 3, 2015 (continuation of control) & AB 927X, served June 23, 2015 (substitute trail manager)."

Respectfully submitted,



Charles H. Montange
Law Offices of Charles H. Montange
426 NW 162d St.
Seattle, WA 98177
(206) 546-1936
Attorney for SDR Holding Company
and Michael Williams

Attachments:

Verification by Mr. Williams

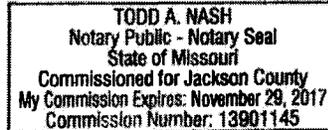
Email exchange STB Office of Public Assistance

Verification

Michael Williams, being duly sworn, deposes and states that he is president and co-owner of SDR Holding Company, that he has read the forgoing Supplemental Information and Amendment, and knows the facts asserted therein, and the same are true as stated.



Subscribed and sworn to
Before me this 3th day of
November 2015.



Notary Public

My commission expires:

Subject: Re: procedural inquiry
From: Stephanie.Lyons@stb.dot.gov (Stephanie.Lyons@stb.dot.gov)
To: c.montange@frontier.com;
Date: Thursday, September 10, 2015 12:04 PM

Charles,

I will take a look at this, and get back to you as soon as possible.

Thank you,
Stephanie

Stephanie P. Lyons
Attorney Advisor
Surface Transportation Board
Office of Public Assistance, Governmental Affairs and Compliance
Stephanie.Lyons@stb.dot.gov
(202) 245-0536

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From: "C. Montange" <c.montange@frontier.com>
To: "stephanie.lyons@stb.dot.gov" <stephanie.lyons@stb.dot.gov>
Date: 09/10/2015 01:58 PM
Subject: procedural inquiry

To: Stephanie Lyons.

First, thanks for offering to look into this.

Second, this is the scenario: I represent XYZ RR Holding Company. XYZ RR Holding Company wishes to acquire all the stock in XYZ RR Co. It is my understanding that XYZ RR Co owns no track (that is, real estate, track and ties) but instead holds a lease (or holds multiple leases) to operate on certain state-owned lines, and also some trackage rights -- mainly or exclusively for switching purposes -- from BNSF. It is my understanding that XYZ RR Co. has previously obtained STB or ICC authority for the leases of lines, and has a common carrier obligation to provide service on the leased lines.

XYZ RR Holding Company (which intends to seek authority to acquire all the stock in XYZ RR Co.) itself to my knowledge owns no other rail lines. However, XYZ RR Holding Company is owned by a husband and wife, and the husband (who himself is not a rail carrier) does own or control some other companies that own rail lines (but none of these lines interconnect with the trackage over which XYZ RR Company operates).

XYZ RR Holding Company wants to comply as soon as possible with whatever regulatory approvals are required by STB. Upon review of the regulations, my reading is that for a stock acquisition such as this, we need only apply for an exemption for common control under 49 CFR 1180.2(d), and need not also make a second filing for an exemption for acquisition of a rail line under 49 CFR 1150.31 et seq.

Could you advise as soon as possible what regulatory filings are believed necessary on the facts stated above? My client would like to express to STB whatever regulatory filing is required on Monday, if possible. Thanks again.

Charles Montange, Seattle
206-546-1936