

Before the
SURFACE TRANSPORTATION BOARD

F.D. NO. 34972

FORTRESS INVESTMENT GROUP LLC, ET AL.
--CONTROL EXEMPTION--
RAILAMERICA, INC., ET AL.

REPLY TO VERIFIED NOTICE OF EXEMPTION

Comes now the Texas Department of Transportation (TxDOT”), by and through its counsel of record, and files this Reply to the Verified Notice of Exemption filed by Fortress Investment Group, LLC (“Fortress”) for the limited purpose of clarifying and correcting certain information set forth at Appendix A in Fortress’ Verified Notice. TxDOT takes no position with regard to the merits of the acquisition.

At Page 9 of Appendix A, the statement is made that the Dallas, Garland & Northeastern Railroad, Inc., “through its Texas Northeastern Railroad division (“TNER”) operates approximately 107 miles of rail lines leased from UP and located between: ... (2) milepost 154.7 at Sherman, TX and milepost 91.0 at Paris, TX”. The line of railroad is also reflected in the maps attached to the Verified Notice of Exemption that are labeled Exhibit 1-J.2 and Exhibit 1-O.

By Decision served September 25, 2003, in STB Docket No. AB-33 (Sub-No. 163X), *Union Pacific Railroad Company--Abandonment Exemption -- In Lamar and Fannin Counties, TX*, the Board authorized the acquisition by the Fannin Rural Rail Transportation District (“FRRTD”) of that portion of the line between milepost 94.0 near Paris, and milepost 127.5 east

of Bonham, in Lamar and Fannin Counties, Texas.¹ By that same Decision, the Board, in its Docket No AB-364 (Sub-No. 8X), *Texas Northeastern Division, Mid-Michigan Railroad, Inc.--Discontinuance of Service Exemption--In Lamar and Fannin Counties, TX*, confirmed that its prior Decision, dated August 19, 2003, authorized TNER to “discontinue operations and that, upon consummation by TNER, it will no longer hold a common carrier obligation over the line.”

By Decision served February 24, 2006, in FD No. 34834, *State of Texas, acting by and through the Texas Department of Transportation -- Acquisition Exemption -- Union Pacific Railroad Company*, the Board retroactively authorized TXDOT to substitute itself for FRRTD and to acquire the portion of the line between milepost 94.0 near Paris, and milepost 127.5 east of Bonham.² The Board also authorized TxDOT to lease back the properties to FRRTD so that FRRTD, or its operator could perform freight rail service over the line. An appropriate notice will be filed in the event an operator is hired by FRRTD. Although FRRTD has not identified an operator, TNER is no longer authorized to operate over the line between milepost 94.0 and milepost 127.5, a distance of approximately 33.5 miles.

The undersigned counsel has conferred with counsel for Fortress. In response, counsel has been advised that Fortress understands that “as a result of the discontinuance exemption in Docket No. AB-364 (Sub-No. 8X) TNER no longer holds operating rights over the Paris-Bonham Segment, and that the Paris-Bonham Segment is therefore not included in the transaction which is the subject of the Verified Notice of Exemption in the above-captioned proceeding.”³ Letter to Richard H. Streeter from Terence M. Hynes, dated December 20, 2006

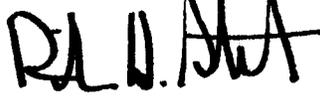
¹ See Attachment A hereto.

² See Attachment B hereto.

³ Letter to Richard H. Streeter from Terence M. Hynes, dated December 20, 2006, Attachment C hereto.

(Attachment A hereto). The Board is respectfully requested to recognize that understanding in its Decision approving the transaction.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R.H. Streeter". The signature is stylized and written in a cursive-like font.

Richard H. Streeter
Counsel to
Texas Department of Transportation

Dated: January 2, 2007

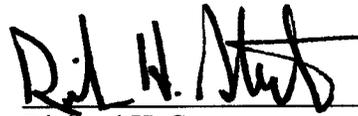
Certificate of Service

I, Richard H. Streeter, do hereby certify that a true copy of the foregoing Petition was served this 2nd day of January, 2007, by first-class mail, postage prepaid, on the following named

individuals:

Terence M. Hynes
Sidley Austin LLP
1501 K Street, N.W.
Washington, D.C. 20005

Louis E. Gitomer, Esq.
Law Offices of Louis E. Gitomer
600 Baltimore Avenue
Suite 301
Towson, MD 21204

A handwritten signature in black ink, appearing to read "R.H. Streeter", is written over a horizontal line.

Richard H. Streeter

Attachment A

34009
DO

SERVICE DATE - SEPTEMBER 25, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 163X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN LAMAR
AND FANNIN COUNTIES, TX

STB Docket No. AB-364 (Sub-No. 8X)

TEXAS NORTHEASTERN DIVISION, MID-MICHIGAN RAILROAD,
INC.—DISCONTINUANCE OF SERVICE EXEMPTION—IN LAMAR AND FANNIN
COUNTIES, TX

Decided: September 24, 2003

The Union Pacific Railroad Company (UP) and The Texas Northeastern Division, Mid-Michigan Railroad, Inc. (TNER), filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments and Discontinuances of Service for UP to abandon and TNER to discontinue service over a 33.5-mile portion of the Bonham Subdivision between milepost 94.0, near Paris, and milepost 127.5, east of Bonham, in Lamar and Fannin Counties, TX (the line). Notice of the exemption was served and published in the Federal Register on May 19, 2003 (68 FR 27142). Before the exemption became effective, Fannin Rural Rail Transportation District (FRRTD), a political subdivision of the State of Texas, filed an offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27 to purchase the line.¹

By decision served on June 25, 2003, the effective date of the exemption was postponed to permit the OFA process to proceed. The June 25 decision also set July 21, 2003, as the deadline for either party to request the Board to establish the terms and conditions for the purchase if UP and FRRTD could not agree on the purchase price.

By letters filed on July 21 and 25, 2003, respectively, FRRTD and UP advised the Board that the parties have reached an agreement on the terms and conditions for purchase of the line. By decision served on August 19, 2003, FRRTD was authorized to acquire and operate the line

¹ The exemption was to have become effective on June 18, 2003, but FRRTD's timely filing of a notice of intent to file an OFA automatically stayed the effective date of the exemption until June 28, 2003. By decision served on June 19, 2003, the time period for FRRTD to file an OFA was extended until June 23, 2003, and the effective date of the exemption was further postponed until July 3, 2003. On June 20, 2003, FRRTD timely filed its OFA to purchase the line for \$496,314.

and the notice of exemption filed in STB Docket No. AB-33 (Sub-No. 163X) was dismissed effective on consummation of the sale.²

By letter filed on July 29, 2003, TNER states that, prior to filing the notice of exemption to discontinue service over the line, it operated over the line pursuant to a lease from UP but will not be involved in future operations once FRRTD acquires the line. Accordingly, TNER requests that the notice of exemption in STB Docket No. AB-364 (Sub-No. 8X) be reinstated and its common carrier obligation over the line extinguished.

The August 19 decision dismissed the notice of exemption as to the proposed abandonment in STB Docket No. AB-33 (Sub-No. 163X). This decision confirms that the notice of exemption in STB Docket No. AB-364 (Sub-No. 8X) was not affected by the August 19 decision and, accordingly, TNER was authorized to discontinue operations and that, upon consummation by TNER, it will no longer hold a common carrier obligation over the line.

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

It is ordered:

1. The notice of exemption in STB Docket No. AB-364 (Sub-No. 8X) authorized TNER to discontinue service over the line in question, and, upon consummation, TNER will no longer hold a common carrier obligation over the line.
2. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

² A decision served on July 14, 2003, imposed environmental conditions on UP and provided that the requests for issuance of a notice of interim trail use under the National Trails System Act, 16 U.S.C. 1247(d), and for a public use condition under 49 U.S.C. 10905, would be delayed pending completion of the OFA process. The financial assistance process under 49 U.S.C. 10904 takes priority over interim trail use/rail banking and public use. Because the line is being sold under the OFA procedures, and the notice of exemption is being dismissed, the environmental conditions are moot, and trail use and public use are precluded.

Attachment B

36711

SERVICE DATE – FEBRUARY 24, 2006

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34834]

State of Texas, acting by and through the Texas Department of Transportation–
Acquisition Exemption–Union Pacific Railroad Company

The State of Texas, acting by and through the Texas Department of Transportation (TXDOT), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire the rights, title, and interest in certain personal and real property of a line of railroad from Union Pacific Railroad Company (UP). The line consists of a portion of the Bonham Subdivision extending between milepost 94.0 near Paris, and milepost 127.5 near Bonham, in Lamar and Fannin Counties, TX, a distance of approximately 33.5 miles.

The Board previously authorized the Fannin Rural Rail Transportation District (FRRTD), a political subdivision of the State of Texas, to acquire from UP and operate the above-described rail line through the offer of financial assistance process.¹ After having reached an agreement with UP for the sale of the line but before consummating the transaction, FRRTD sold its interests in the rail line to TXDOT. In consideration of FRRTD's agreement to sell its interests, TXDOT agreed to provide the funds to acquire

¹ See Union Pacific Railroad Company–Abandonment Exemption–In Lamar and Fannin Counties, TX, STB Docket No. AB-33 (Sub-No. 163X) (STB served Aug. 19, 2003).

the rail line from UP and to lease back the properties so that FRRTD, or its operator could perform freight rail service over the rail line.² The sale of the line by UP to TXDOT was consummated and closed on September 21, 2005.

TXDOT states that it will retain the residual common carrier obligation as part of its lease and operating agreement with FRRTD to ensure the viability of the corridor should FRRTD fail in its efforts to restore the line. TXDOT has filed this notice of exemption to cure its inadvertent failure to obtain prior Board approval of the sale to TXDOT rather than FRRTD.

The exemption authorized by this notice became effective on February 9, 2006 (7 days after the notice was filed).

TXDOT certifies that its projected revenues as a result of this transaction will not exceed those of a Class III rail carrier.

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. 34834, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Richard H. Streeter, Barnes & Thornburg LLP, 750 17th Street, N.W., Suite 900, Washington, DC 20006.

² TXDOT states that an appropriate notice will be filed in the event an operator is hired by FRRTD.

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

Decided: February 15, 2006.

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

Vernon A. Williams

Secretary

Attachment C



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FOUNDED 1866

December 20, 2006

Richard H. Streeter, Esq.
Barnes & Thornburg
750 17th Street, N.W., Suite 900
Washington, D.C. 20006

Re: Finance Docket No. 34972, Verified Notice of Exemption
*Fortress Investment Group LLC, et al. - Control Exemption -
RailAmerica, Inc., et al.*

Dear Mr. Streeter:

This letter has reference to our telephone conversation on December 14, 2006 and your email of the same date, regarding the line of railroad between MP 94.0 near Paris, TX and MP 127.5 near Bonham, TX (the "Paris-Bonham Segment").

Specifically, you brought to my attention the fact that the Paris-Bonham Segment, which is part of the line between MP 154.7 at Sherman, TX and MP 91.0 at Paris, TX described in Appendix A (at page 9) of the Verified Notice of Exemption filed in the above-captioned proceeding on December 1, 2006, was the subject of a notice of exemption filed in Docket No. AB-33 (Sub-No. 163X), *Union Pacific R. Co. – Abandonment Exemption – In Lamar and Fannin Counties, TX* (May 19, 2003), in which Union Pacific Railroad Company sought to abandon the Paris-Bonham Segment. You further advised that the Fannin Rural Rail Transportation District, a political subdivision of the State of Texas, subsequently acquired the Paris-Bonham Segment from UP, and that The Texas Northeastern Division ("TNER") of the Dallas, Garland & Northeastern Railroad, Inc. ("DG&N"), which previously operated over the Paris-Bonham Segment pursuant to a lease arrangement with UP, filed a notice of exemption to discontinue those operations in Docket No. AB-364 (Sub-No. 8X), *The Texas Northeastern Division – Discontinuance of Service Exemption – In Lamar and Fannin Counties, TX* (May 19, 2003).

This letter will confirm the understanding of Fortress Investment Group LLC ("Fortress") and RR Acquisition Holding LLC ("RR Acquisition") that, as a result of the discontinuance exemption in Docket No. AB-364 (Sub-No. 8X), TNER no longer holds operating rights over the Paris-Bonham Segment, and that the Paris-Bonham Segment is therefore not included in the transaction which is the subject of the Verified Notice of Exemption in the above-captioned proceeding. The inclusion of the Paris-Bonham Segment in the description of DG&N's rail lines

Richard Streeter, Esq.
December 20, 2006
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at page 9 of Appendix A to the Verified Notice of Exemption was inadvertent, and was not intended to imply that DG&N (or TNER) currently holds any operating rights with respect to the Paris-Bonham Segment.

Sincerely,



Terence M. Hynes
Donald H. Smith

TMH:aat