



FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35925]

Michael Williams—Continuance in Control Exemption—Boot Hill & Western Railway Holding Co., Inc.

Michael Williams (Williams), a noncarrier individual, has filed a verified notice of exemption pursuant to 49 CFR 1180.2(d)(2), to continue in control of Boot Hill & Western Railway Holding Co., Inc. (Holding), a noncarrier holding company owned and controlled by Williams, upon its becoming a common carrier.<sup>1</sup> Williams has submitted to the Board a redacted, public version of the Agreement for Sale of Certain Assets, Rights and Obligations of Boot Hill & Western Railway Co., LC (Agreement).<sup>2</sup>

This transaction is related to a concurrently filed verified notice of exemption in Boot Hill & W. Ry. Holding Co., Inc.—Acquisition and Operation Exemption—Boot Hill & W. Ry., Docket FD 35924, wherein Holding seeks Board approval to acquire and operate approximately 10.2 miles of rail line owned by Boot Hill & Western Railway

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<sup>1</sup> By letters filed on May 15 and May 18, 2015, Williams clarified that he intends to continue in control of Holding upon Holding's acquisition and operation of Boot Hill & Western Railway Co., LC.

<sup>2</sup> With his verified notice of exemption, Williams filed under seal an unredacted copy of relevant portions of the Agreement and a motion for protective order to allow limited access to those portions of the agreement. That motion is being addressed separately.

Co., LC (BHWR) extending between milepost 15.8, at or near Wilroads, and milepost 26.0, at Dodge City, in Ford County, Kan.

The transaction may be consummated on June 17, 2015, (the effective date of this notice).<sup>3</sup>

Williams currently owns and controls the following four Class III rail carriers: (1) BG & CM Railroad (76.2 miles of rail line in Idaho); (2) Ozark Valley Railroad (24.99 miles of purchased and leased rail line in Missouri); (3) Dakota Southern Railway Company (operating rights over two track segments in South Dakota); and (4) McCloud Railway (19.6 miles of rail line in California).

Williams certifies that: (1) BHWR does not connect with any other railroads owned and controlled by Williams; (2) the proposed transaction is not part of a series of anticipated transactions that would result in such a connection; and (3) the proposed 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 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 11324 and 11325 that involve only Class III rail

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<sup>3</sup> Because, as noted, Williams supplemented his verified notice on May 15 and May 18, 2015, the later date, May 18, 2015 will be considered the filing date of the verified notice.

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 to stay must be filed by June 10, 2015 (at least seven days before the exemption becomes effective).

An original and ten copies of all pleadings, referring to Docket No. FD 35925, 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: Charles H. Montange, Law Offices of Charles H. Montange, 426 NW 162d St., Seattle, WA 98177.

Board decisions and notices are available on our website at “[WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).”

Decided: May 29, 2015

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

Raina Contee

Clearance Clerk

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