

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34199]

**CFNR Operating Company, Inc.—
Acquisition and Operation
Exemption—ParkSierra Corp.**

CFNR Operating Company, Inc. (CFNR), a noncarrier, has filed a notice of exemption under 49 CFR 1150.31 to acquire and operate approximately 248.5 miles of rail lines in California. Specifically, CFNR will: (1) Succeed to ParkSierra Corporation's (ParkSierra)¹ lease rights and operate over the lines owned by Union Pacific Railroad Company (UP) consisting of (a) the Schellville Branch, between Suisun, milepost 48.97 at the east leg of the wye and milepost 48.93 at the west leg of the wye, and milepost 63.40 at Lombard, (b) the Napa Branch, between milepost 62.00 at Lombard and milepost 67.50 at Rocktram, (c) the Vallejo Branch, between milepost 61.80 at Napa Jct., and milepost 68.90 at Vallejo, (d) the West Valley Line, between Davis, milepost 75.66 at the east leg of the wye and milepost 75.58 at the west leg of the wye, and Tehema, milepost 186.37 at the east leg of the wye toward Portland and milepost 186.33 at the west leg of the wye toward Roseville, (e) the Hamilton Branch, between milepost 180.40 at Wyo, and milepost 169.00 at Hamilton, (f) the Los Banos Branch, between milepost 83.00 at Tracy, and milepost 140.07 at Los Banos, and (g) the Vineburg Lead, between milepost NWP 40.38 near Schellville and the end

of the line, formerly NWP milepost 44.25, a distance of approximately 210 miles; and (2) acquire ParkSierra's right to operate under trackage rights (a) over a portion of UP's (i) Sacramento Line between milepost 75.4 at Davis, and milepost 47.8 at Suisun-Fairfield, (ii) West Valley Line between milepost 75.58 and milepost 75.4 at Davis, and (iii) Schellville Branch between milepost 48.97 and milepost 47.8, a distance of approximately 28 miles; and (b) over a line of the North Coast Railroad Authority from milepost 62.0, at or near Lombard to milepost 72.5, near Schellville, a distance of approximately 10.5 miles.

Once CFNR becomes a carrier, its revenues are expected to exceed \$5 million per year. "If the projected annual revenue of the carrier to be created by a transaction under this exemption exceeds \$5 million, applicant must, at least 60 days before the exemption becomes effective, post a notice of intent to undertake the proposed transaction at the workplace of the employees on the affected line(s) and serve a copy of the notice on the national offices of the labor unions with employees on the affected line(s), setting forth the types and numbers of jobs expected to be available, the terms of employment and principles of employee selection, and the lines that are to be transferred, and certify to the Board that it has done so." 49 CFR 1150.32(e). CFNR filed a request on April 22, 2002, for waiver of the requirements of 49 CFR 1150.32(e) to permit the exemption to become effective without providing the 60-day advance notice. Finding no adverse impact on the personnel of ParkSierra, by decision served on May 14, 2002, the Board granted CFNR's request and waived the requirements of 49 CFR 1150.32(e). The transaction was expected to be consummated as of April 30, 2002, or the date the related waiver request was granted, whichever was later. The waiver decision had the effect of making the exemption in this proceeding effective on May 14, 2002.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding 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. 34199 must be filed with the Surface Transportation Board, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must

be served on Louis E. Gitomer, Esq., Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at www.stb.dot.gov.

Decided: May 16, 2002.

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

Vernon A. Williams,
Secretary.

[FR Doc. 02-12998 Filed 5-22-02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34197]

**RailAmerica, Inc., ARZC Operating
Company, Inc., CFNR Operating
Company, Inc., and PSAP Operating
Company, Inc.—Corporate Family
Reorganization Exemption**

RailAmerica, Inc. (RailAmerica), and its subsidiaries, ARZC Operating Company, Inc. (ARZC), CFNR Operating Company, Inc. (CFNR), and PSAP Operating Company, Inc. (PSAP) (collectively, applicants), are making certain changes to their corporate structure and have filed a verified notice of the transaction under the Board's intracorporate family class exemption.¹

RailAmerica directly controls Palm Beach Rail Holding, Inc. (Palm Beach), which directly controls RailAmerica Transportation Corp. (RTC), which directly controls ParkSierra. RailAmerica and Palm Beach will continue to control RTC, which in turn

¹ On January 8, 2002, RailAmerica, Inc. (RailAmerica), acquired control of ParkSierra. See *RailAmerica, Inc.—Control Exemption—ParkSierra Acquisition Corp. and ParkSierra Corp.*, STB Finance Docket No. 34100 (STB served Dec. 20, 2001). ParkSierra has three operating divisions: Arizona & California Railroad Company Limited Partnership; California Northern Railroad Company, L.P.; and Puget Sound & Pacific Railroad. RailAmerica has determined that the three operating divisions of ParkSierra should be operated as separate corporations, eliminating the need for ParkSierra as a consolidated holding company. To accomplish that goal, this transaction and two other notices of exemption under 49 CFR 1150.31 were filed on April 23, 2002, one for each of the operating divisions. The applicants are: ARZC Operating Company, Inc. (ARZC), CFNR; and PSAP Operating Company, Inc. (PSAP). The related proceedings are: STB Finance Docket No. 34198, *ARZC Operating Company, Inc.—Acquisition and Operation Exemption—ParkSierra Corp.*, and STB Finance Docket No. 34200, *PSAP Operating Company, Inc.—Acquisition and Operation Exemption—ParkSierra Corp.* In addition, a notice of exemption under 49 CFR 1180.2(d)(3) was filed on April 23, 2002, in STB Finance Docket No. 34197, *RailAmerica, Inc., et al.—Corporate Family Reorganization Exemption*, wherein ParkSierra will be merged into CFNR, and ARZC, CFNR, and PSAP will become direct railroad subsidiaries of RailAmerica.

¹ On January 8, 2002, RailAmerica acquired control of ParkSierra Corporation (ParkSierra). See *RailAmerica, Inc.—Control Exemption—ParkSierra Acquisition Corp. and ParkSierra Corp.*, STB Finance Docket No. 34100 (STB served Dec. 20, 2001). ParkSierra has three operating divisions: Arizona & California Railroad Company Limited Partnership; California Northern Railroad Company, L.P.; and Puget Sound & Pacific Railroad. RailAmerica has determined that the three operating divisions of ParkSierra should be operated as separate corporations, eliminating the need for ParkSierra as a consolidated holding company. To accomplish that goal, this transaction and three notices of exemption under 49 CFR 1150.31 were filed on April 23, 2002, one for each of the operating divisions. The applicants are ARZC, CFNR, and PSAP. The related proceedings are: STB Finance Docket No. 34198, *ARZC Operating Company, Inc.—Acquisition and Operation Exemption—ParkSierra Corp.*, STB Finance Docket No. 34199, *CFNR Operating Company, Inc.—Acquisition and Operation Exemption—ParkSierra Corp.*, and STB Finance Docket No. 34200, *PSAP Operating Company, Inc.—Acquisition and Operation Exemption—ParkSierra Corp.* Also, three separate requests for waiver of the 60-day labor notice requirements under 49 CFR 1150.32(e) were filed in those dockets on April 22, 2002.

will directly control ARZC, CFNR, and PSAP when they become Class III rail carriers. ParkSierra will be merged into CFNR.

Consummation of this transaction was scheduled to occur on May 14, 2002.²

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). Applicants state that, as a result of this transaction, there will not be substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States. The transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

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. Although applicants do not expect any employees to be adversely affected by this transaction, under 49 U.S.C. 11326(b), the appropriate level of labor protection to be imposed is that set forth in *Wisconsin Central Ltd.—Acquisition Exem.—Union Pac. RR*, 2 S.T.B. 218 (1997).

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. 34197 must be filed with the Surface Transportation Board, Case Control Unit, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Louis E. Gitomer, Esq., Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

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Decided: May 16, 2002.

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

Vernon A. Williams,
Secretary.

[FR Doc. 02-12996 Filed 5-22-02; 8:45 am]

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² Consummation was intended to occur on April 30, 2002, or the date the related waiver requests were granted, whichever was later. Because the waiver requests were granted after April 30, the date the waiver requests were granted, May 14, 2002, became the operative date.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-6 (Sub-No. 395X)]

The Burlington Northern and Santa Fe Railway Company—Abandonment Exemption—in Cherokee County, KS, and Jasper County, MO

The Burlington Northern and Santa Fe Railway Company (BNSF) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon and discontinue service over a 28.25-mile line of railroad between milepost 343.55 in Columbus, Cherokee County, KS, and milepost 315.30 in Carthage, Jasper County, MO. The line traverses United States Postal Service Zip Codes 66725, 66728, 64834, 64835 and 64836.

BNSF has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic to be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment and discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on June 22, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,¹ formal expressions of intent to file an OFA under 49 CFR

¹ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

1152.27(c)(2),² and trail use/rail banking requests under 49 CFR 1152.29 must be filed by June 3, 2002.³ Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by June 12, 2002, with: Surface Transportation Board, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Michael Smith, Freeborn & Peters, 311 S. Wacker Dr., Suite 3000, Chicago, IL 60606-6677.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

BNSF has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by May 28, 2002. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565-1552. [TDD for the hearing impaired is available at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), BNSF shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by BNSF's filing of a notice of consummation by May 23, 2003, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at www.stb.dot.gov.

Decided: May 17, 2002.

By the Board, Beryl Gordon, Acting
Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

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² Each offer of financial assistance must be accompanied by the filing fee, which as of April 8, 2002, is set at \$1,100. See 49 CFR 1002.2(f)(25).

³ The City of Carl Junction and the Joplin Trail Coalition filed a request for issuance of a notice of interim trail use (NITU) for Missouri portion of the line (milepost 331.23 to milepost 315.30) pursuant to section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d). The Board will address the trail use request, and any others that may be filed in a subsequent decision.