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SERVICE DATE – AUGUST 29, 2025

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36876

SUNRISE INDUSTRIAL RAIL, LLC—LEASE AND CHANGE OF OPERATOR
EXEMPTION—RAILROAD LINES OF BROOKHAVEN LOGISTICS CENTER, LLC, IN
SUFFOLK COUNTY, N.Y.

Docket No. FD 36877

OMNITRAX HOLDINGS COMBINED, INC. AND HGS RAILWAY HOLDINGS, INC.—
CONTINUANCE IN CONTROL EXEMPTION—SUNRISE INDUSTRIAL RAIL, LLC

Decided: August 29, 2025

On July 31, 2025, Sunrise Industrial Rail, LLC (Sunrise), a noncarrier, filed a verified notice of exemption under 49 C.F.R. part 1150, subpart D, to lease and assume common carrier operations over an approximately 0.47-mile rail line (the Line) that is part of the Brookhaven Rail Terminal (BRT), owned by Brookhaven Logistics Center, LLC (BLC), in Suffolk County, N.Y.¹ (Sunrise Verified Notice 2.) According to the verified notice, Sunrise and BLC recently entered an agreement in which Sunrise: (1) will lease the Line and ancillary track, among other assets, owned by BLC; and (2) upon consummation of the transaction, replace Brookhaven Rail, LLC (Brookhaven Rail), as the common carrier service provider on the Line, thereby terminating Brookhaven Rail's common carrier status. (*Id.* at 2, 4.) The same day, OmniTRAX Holdings Combined, Inc., and HGS Railway Holdings, Inc. (collectively, Omni-HGS), both noncarriers, filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(2) to continue in control of Sunrise once it is authorized to commence common carrier operations. (Omni-HGS Verified Notice 2.)

A verified notice will be rejected if regulation is necessary to carry out the Rail Transportation Policy of 49 U.S.C. § 10101 or if it contains false or misleading information. See Mohawk, Adirondack & N. R.R.—Aban. Exemption—in Lewis & Jefferson Cntys., N.Y., AB 768X et al., slip op. at 6-7 (STB served Jan. 7, 2025). Additionally, where a verified notice raises too many unanswered questions, it will be rejected. See SJRE-R.R. Series—Exemption Under 49 C.F.R. § 1150.31—Rail Line in Harris Cnty., Tex., FD 36279, slip op. at 1-2 (STB served June 6, 2019) (rejecting a verified notice for failing to submit sufficient information for

¹ The Board has raised questions about whether BLC and another entity involved with the BRT, Sills Road Realty LLC, needed agency authority for past transactions. See U S Rail Corp.—Constr. & Operation Exemption—Brookhaven Rail Terminal, FD 35141 et al. (STB served Sept. 27, 2023). That matter remains pending.

the Board to determine that the proposed transaction qualifies for a change in operator exemption). Moreover, a verified notice that is incomplete under the Board's rules may be rejected. See Wash. & Idaho Ry.—Lease & Operation Exemption—BNSF Ry., FD 35370 (STB served Apr. 23, 2010) (rejecting a verified notice for failing to submit complete version of lease agreement). Sunrise's verified notice is missing critical information, and it will therefore be rejected, along with Omni-HGS's related verified notice.

First, parties seeking a change in operator exemption should indicate that the carrier being replaced consents to being replaced. See SJRE-R.R. Series, FD 36279, slip op. at 2. Here, there is no indication that Brookhaven Rail agrees to be replaced as the operator.

Second, Sunrise states that the Line "connects to a network of roughly 14,348 feet of yard trackage . . . which Sunrise will lease and operate as ancillary to Sunrise's regulated common carrier service over the Line under its lease agreement with BLC." (Sunrise Verified Notice 6.) This track, however, appears to be the same track the Board addressed in Spectrum RR Holdings—Operation Exemption—Railroad Line in the Town of Brookhaven, N.Y. (Sills Order), FD 36376 et al. (STB served June 16, 2020). There, an argument was raised that 14,210 feet of track in the BRT was ancillary track under 49 U.S.C. § 10906, leaving the remaining 0.47-mile of track (called the Main Stem) as regulated rail line. The Board rejected the verified notices of exemption on other grounds, but noted:

[t]o the extent that any subsequent filing asks the Board to find that the portion of the Line [16,710 feet operated by Brookhaven Rail in the BRT] other than the Main Stem is excepted track under 49 U.S.C. § 10906, the filing should explain the legal basis for such a determination in light of the fact that the Board previously granted construction and operation authority under 49 U.S.C. § 10901 for the entire Line and should include any agreements, documents, or other records relevant to such a request. Sills Ord., FD 36376 et al., slip op. at 6.

Assuming the 14,348 feet of track that Sunrise refers to in its verified notice is the same track discussed in the Sills Order, Sunrise has not sufficiently addressed the Board's question on whether this track is in fact ancillary track subject to § 10906. Sunrise only notes, without additional support, that the ancillary track part of its transaction is "used for railroad car switching and terminal transloading." (Sunrise Verified Notice 3.) Moreover, in a 2023 filing, Brookhaven Rail stated that it does not consider the track addressed in the Sills Order to be ancillary track. (See Brookhaven Rail Reply 11-12, Feb. 15, 2023, U S Rail Corp.—Constr. & Operation Exemption—Brookhaven Rail Terminal, FD 35141 et al. (Filing ID 306156) (stating that Brookhaven Rail "has no present intention of seeking any determinations that any of the tracks on Parcel A for which its US Rail received construction and operating authority are excepted track under 49 U.S.C. § 10906" and that it objected to previously raised assertions that it was ancillary track).) Therefore, if this is the same track, it is currently approved as § 10901 track and remains as such until abandonment of it under 49 U.S.C. § 10903 is sought, approved, and consummated. See e.g., City of Creede, Colo.—Pet. for Declaratory Ord., FD 34376, slip op. at 8 (STB served May 3, 2005); Atchison, Topeka & Santa Fe Ry.—Aban. Exemption—in Lyon Cnty., Kan., AB 52 (Sub-No. 71X), slip op. at 4 (ICC served June 17, 1991). Sunrise has

provided no explanation for why it would not need Board authority to acquire and operate this track (in addition to the 0.47 miles of line), nor has it sought such authority.

In light of these issues, Sunrise's verified notice, as well as Omni-HGS's related verified notice seeking continuance in control authority, will be rejected. However, the rejection of the notices will be without prejudice, allowing Sunrise and Omni-HGS to refile if the issues identified in this decision are sufficiently addressed.

It is ordered:

1. Sunrise's and Omni-HGS's verified notices are rejected without prejudice.
2. This decision is effective on its service date.

By the Board, Anika S. Cooper, Chief Counsel, Office of Chief Counsel.