

SERVICE DATE – MAY 30, 2025

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35015 (Sub-No. 1)

KAW RIVER RAILROAD, LLC—LEASE EXEMPTION WITH INTERCHANGE
COMMITMENT—BNSF RAILWAY COMPANY

[REQUEST FOR WAIVER OF 49 C.F.R. § 1150.42(e)]

Digest:¹ This decision waives a 60-day advance notice requirement and allows Kaw River Railroad, LLC to enter into a lease agreement with BNSF Railway Company and continue to operate approximately 14.66 miles of rail line in Missouri, on or after May 31, 2025.

Decided: May 29, 2025

On May 1, 2025, Kaw River Railroad LLC (KAW), a Class III railroad, filed a verified notice of exemption under 49 C.F.R. § 1150.41 to continue to lease from BNSF Railway Company (BNSF) and operate 14.66 miles of rail line consisting of Tracks 1601 through 1605, including Lead Tracks 1 through 10 (diverging from Track 1606), and Track 1606 starting at the west end from the clearance point on the switch diverging from Track 1502 (the Bedford Yard Lines), all located in North Kansas City, Clay County, Mo. KAW also seeks to continue to exercise incidental trackage rights over BNSF's 1.52-mile line between Bedford Yard and the Kansas City Southern Railway (KCSR) track leading into KCSR's Knoche Yard, via the ASB Bridge, also in North Kansas City. According to KAW, it has leased the Bedford Yard Lines since 2007. (Verified Notice 2); see Kaw River R.R.—Lease & Operation Exemption—BNSF Ry., FD 35015 (STB served Apr. 20, 2007). KAW states that it entered into an agreement with BNSF dated December 19, 2020, and amended that agreement on January 1, 2021, and August 1, 2024, renewing and extending their existing arrangement for KAW's lease and operation of the Bedford Yard Lines through November 30, 2030, and providing for KAW's continued exercise of trackage rights incidental to the lease transaction. (Id.)

In its verified notice, KAW certifies that its projected revenues as a result of this transaction will exceed \$5 million. (Id. at 4.) Accordingly, unless waived, 49 C.F.R. § 1150.42(e) would require KAW, at least 60 days before the exemption becomes effective, to post a notice of its intent to undertake the proposed transaction setting forth certain information at the workplace of the employees on the affected lines, serve a copy of the notice on the national

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol'y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

offices of the labor unions with employees on the affected lines, and certify to the Board that it has done so. However, KAW has filed a request for waiver of those notice requirements.

Notice of KAW's exemption was served and published in the Federal Register on May 16, 2025 (90 Fed. Reg. 21102). The published notice announced that the Board would establish the effective date of the exemption in a separate decision on the waiver request.

In its request for waiver of the labor notice requirements, KAW argues that it should not be required to comply with the requirements of § 1150.42(e) because the transaction maintains the operational and labor status quo, and there would be no changes for any railroad employees working on the Bedford Yard Lines. (Pet. for Waiver 3-4.) KAW states that it or its predecessor have been the sole common carrier operator of the Bedford Yard Lines for the last 17 years, no employees of the transferring carrier, BNSF, have worked on the Bedford Yard Lines for the last 17 years, and no BNSF employees would be affected by the transaction. (Id.) Moreover, according to KAW, there would be no operational changes, and no employees of KAW would be affected. (Id. at 3.) Therefore, KAW argues, under the circumstances of this transaction, no labor notice is necessary in this proceeding and the requirement should be waived. (Id. at 4.) No opposition to this waiver request has been filed.

DISCUSSION AND CONCLUSIONS

The purpose of the notice requirements at 49 C.F.R. § 1150.42(e) is to ensure that rail labor unions and employees who would be affected by the transfer of a line are given sufficient notice of the transaction before consummation.

Here, however, it does not appear that the purpose behind the requirements would be thwarted if the requested waiver is granted in this case. The record indicates that no employees would be adversely affected by a waiver of the 60-day notice requirements here. KAW states that no employees of BNSF would be affected because none have worked on the Bedford Yard Lines for the last 17 years and that no KAW employees would be affected, as there would be no operational changes on the Bedford Yard Lines as a result of the transaction.

Because no employees would be adversely affected by the requested waiver of the 60-day notice period, the Board will grant the waiver. Accordingly, KAW's lease and operation exemption, unless stayed, will become effective on May 31, 2025, the effective date under the Board's rules absent the notice requirement.

This action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c).

It is ordered:

1. KAW's request for waiver is granted.
2. KAW's exemption will be effective on May 31, 2025, unless stayed.

3. This decision is effective on its date of service.

By the Board, Board Members Fuchs, Hedlund, Primus, and Schultz.