

FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208

Phone: (312) 252-1500
Fax: (312) 252-2400
www.fletcher-sippel.com

ROBERT A. WIMBISH
(312) 252-1504
rwimbish@fletcher-sippel.com

303505

January 11, 2022

ENTERED
Office of Proceedings
January 11, 2022
Part of
Public Record

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: **FD 36574**
Missouri Eastern Railroad, LLC – Change in
Operator Exemption with Interchange Commitment –
Union Pacific Railroad Company

Dear Ms. Brown:

Attached for filing in the above-captioned proceeding is a **Verified Notice of Exemption of Missouri Eastern Railroad, LLC Pursuant to 49 C.F.R. Part 1150, subpart E**, dated January 11, 2022. The sum of \$2,100.00, representing the appropriate fee for this filing, has been made on www.pay.gov.

If you have any questions regarding this filing, please feel free to contact me.
Thank you for your assistance on this matter.

Respectfully submitted,

R. A. Wimbish

Robert A. Wimbish
Attorney for Missouri Eastern Railroad, LLC

RAW:tjh

Enclosures

FILED
January 11, 2022
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
January 11, 2022
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36574

MISSOURI EASTERN RAILROAD, LLC
-- CHANGE IN OPERATOR EXEMPTION WITH INTERCHANGE COMMITMENT--
UNION PACIFIC RAILROAD COMPANY

**VERIFIED NOTICE OF EXEMPTION OF
MISSOURI EASTERN RAILROAD, LLC
PURSUANT TO 49 C.F.R. PART 1150, SUBPART E**

Robert A. Wimbish
Thomas J. Healey
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2832
(312) 252-1500
rwimbish@fletcher-sippel.com
thealey@fletcher-sippel.com

**ATTORNEYS FOR MISSOURI
EASTERN RAILROAD, LLC**

Dated: January 11, 2022

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36574

MISSOURI EASTERN RAILROAD, LLC
-- CHANGE IN OPERATOR EXEMPTION WITH INTERCHANGE COMMITMENT--
UNION PACIFIC RAILROAD COMPANY

**VERIFIED NOTICE OF EXEMPTION OF
MISSOURI EASTERN RAILROAD, LLC
PURSUANT TO 49 C.F.R. PART 1150, SUBPART E**

Pursuant to 49 C.F.R. § 1150.41, et seq., Missouri Eastern Railroad, LLC (“MER”) a common carrier, hereby files this Verified Notice of Exemption to assume operation of approximately 8.65 miles of rail line between Vigus, Mo. (milepost 19.0) and Rock Island Jct., Mo. (milepost 10.35), along with connected sidings and ancillary tracks (collectively, the “Line”), owned by Union Pacific Railroad Company (“UP”) and currently operated under lease by Central Midland Railway Company (“CMRC”). MER will assume the lease of the Line from CMRC, with UP’s consent, replacing CMRC as common carrier service provider. Based on projected revenues for the Line, along with MER’s projected annual revenue for existing lines, MER will remain a Class III rail carrier post-consummation, and projects that its annual revenues from existing MER railroad lines and the Line, in the aggregate, will not exceed \$5 million.

In accordance with the requirements of 49 C.F.R. § 1150.43, MER submits the following information:

Name and Address of Applicant: 49 C.F.R. § 1150.43(a)

The full name and address of the rail carrier applicant is as follows:

Missouri Eastern Railroad, LLC
1027 S. Main Street
Joplin, MO 64801

Applicant's Representative: 49 C.F.R. § 1150.43(b)

MER's representative to whom correspondence regarding this transaction should be sent is as follows:

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500
rwimbish@fletcher-sippel.com

Statement Concerning Agreement: 49 C.F.R. § 1150.43(c)

In 2015, CMRC and UP executed a Lease Agreement (the "Lease"), renewing a lease arrangement those parties previously entered into in January 2003 governing CMRC's operation of the Line. *See Central Midland Railway Company – Lease and Operation Exemption – Union Pacific Railroad Company*, FD 34308 (STB served Jan. 27, 2003) ("CMRC Lease") and *Central Midland Railway Company – Renewal of Lease Exemption with Interchange Commitment – Union Pacific Railroad Company Lackland Sub-Division*, FD 35989 (STB served Jan. 29, 2016) ("CMRC Renewal"). The Lease allowed CMRC to provide rail freight service to customers on the Line subject to certain restrictions. MER and CMRC have entered into an agreement under which CMRC will assign its interests in the Lease to MER, and under which MER would replace CMRC as common carrier service provider on the Line subject to the same terms, conditions, and restrictions. CMRC will cease rail service over the Line upon MER's assumption of the Lease. UP has consented to the assignment of the Lease to MER.

Operator of the Property: 49 C.F.R. § 1150.43(d)

MER will operate, and provide all rail common carrier service to shippers on, the Line in place of CMRC, pursuant to the terms of the aforementioned assignment agreement. Upon consummation of the assignment of the leasehold interests to MER, CMRC will have no further common carrier obligation with respect to the Line.

Summary of the Transaction: 49 C.F.R. § 1150.43(e)

The Line, owned by UP, extends between Vigus (milepost 19.0) and Rock Island Jct. (milepost 10.35). Since 2003, UP has leased the Line to CMRC, the current common carrier service provider pursuant to *CMRC Lease and CMRC Renewal*. CMRC has agreed to assign its leasehold interests in the Line to MER, and, upon the closing of that assignment pursuant to the class exemption invoked here, MER will assume common carrier service obligations over the Line in place of CMRC subject to the same terms, conditions, and restrictions. MER now invokes the class exemption to assume operations under that Lease, as amended.

The complete name and address of the current operator of the Line to be replaced by MER pursuant to this change in operator class exemption notice is as follows:

Central Midland Railway Company
1400 N Warson Road
St. Louis, MO 63132

The complete name and address of the owner of the Line is as follows:

Union Pacific Railroad Company
1400 Douglas Street
Omaha, NE 68179

UP consents to the assignment of the Lease from CMRC to MER.

MER intends to consummate its proposed assumption of the Lease on or after February 10, 2022.

Map: 49 C.F.R. § 1150.43(f)

A map showing the Line and the surrounding area is attached as Exhibit A.

Certificate of Compliance: 49 C.F.R. § 1150.43(g)

The required certification is provided in Exhibit B.

Interchange Commitments: 49 C.F.R. § 1150.43(h)

(i) The Lease (at Section 4.02) contains an interchange commitment that applies to traffic that originates or terminates on the Line and that reduces the annual rent due to UP depending on the percentage of rail traffic originating or terminating on the Line that is interchanged with UP via the Terminal Railroad Association of St. Louis (“TRRA”). A certification to that effect is attached as Exhibit B.

(ii) The Lease is offered under seal pursuant to the protective provisions of 49 C.F.R. § 1150.43(h)(1).

(iii) The following shippers currently use or have used the Line since January 1, 2019:

1. Accella Polyurethane Systems LLC
2. Airgroup
3. Alpha Packaging Inc.
4. Ameren Missouri †
5. Boral Materials LLC
6. Breckenridge Material Co.
7. Buddeez Inc.
8. Central States Products
9. Dr. Pepper Snapple Group
10. EE-Jay Motor Transports Inc.
11. Engineered Lubricants
12. FCStone Merchant Services LLC
13. GFL Environmental USA, Inc.
14. Graham Packaging
15. Grassworx
16. Hall Brothers Lumber
17. Heritage-Crystal Clean, Inc.
18. HTP Energy *

19. International Paper
20. Missouri Petroleum Products Co.
21. Quality Building Products
22. Refresco North America
23. RGCX LLC *
24. Silgan Plastic Food Containers
25. St. Louis Post Dispatch
26. Top Rail Solutions Inc. *
27. Tops Products LLC
28. Univar USA
29. Viper Rail Car Storage *
30. Westrock CP LLC

† = denotes cars moved against current restrictions, no further traffic is permitted

* = denotes car storage customer

(iv) The aggregate number of carloads originated or terminated on the Line during the last two years is offered under seal in accordance with the provisions of 49 C.F.R. § 1150.43(h)(1).

(v) Certification that the notice requirements at 49 C.F.R. §1150.43(h)(1)(v) have been satisfied is included as part of Exhibit C.

(vi) TRRA is the only rail carrier that MER will physically interchange with on the Line.

(vii) An estimate of the difference between the Lease price with and without the interchange commitment is being filed under seal in accordance with the provisions of 49 C.F.R. §§ 1150.43(h)(1).

Shipper Notice: 49 C.F.R. § 1150.42(b)

MER has provided notice of the proposed change in operator to the shippers that use or have used the Line within the last two years. A copy of the notice letter sent to the shippers and a list of the shippers served is attached as Exhibit C.

Advance Notice: 49 C.F.R. § 1150.42(e)

The projected annual revenue of MER does not exceed \$5 million, and accordingly the advance notice requirements of 49 C.F.R. § 1150.42(e) are not applicable to this transaction. See Exhibit B.

Environmental and Historic Preservation Data: 49 C.F.R. § 1105

Under 49 C.F.R. § 1105.6(c)(2), MER's proposed operation of the Line is exempt from environmental reporting requirements. The proposed transaction will not result in significant changes in carrier operations, *i.e.*, changes that exceed the thresholds established in 49 C.F.R. § 1105.7(e)(4) or (5).

Under 49 C.F.R. § 1105.8(b)(1), MER's assumption of leasehold operations on the Line also is exempt from historic preservation reporting requirements. The proposed transaction is for the purpose of continued rail operations. Further Surface Transportation Board approval is required to discontinue any service and there are no plans to dispose of or alter properties subject to Board jurisdiction that are fifty years old or older.

Caption Summary: 49 C.F.R. § 1150.44

A caption summary in appropriate form is attached as Exhibit D to this Notice.

Respectfully submitted,

By: R. A. Wimbish

Robert A. Wimbish
Thomas J. Healey
Fletcher & Sippel LLC
29 North Wacker Drive, Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500

**ATTORNEYS FOR MISSOURI
EASTERN RAILROAD LLC**

Dated: January 11, 2022

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 36574

**MISSOURI EASTERN RAILROAD, LLC
-- CHANGE IN OPERATOR EXEMPTION WITH INTERCHANGE COMMITMENT--
UNION PACIFIC RAILROAD COMPANY**

EXHIBIT A

MAP EXHIBIT

Missouri Eastern Railroad

St. Louis, MO



- Rock Island Junction
- MERR
- Union Pacific
- BNSF
- TRRA
- West Belt Railway
- UP Leased Line
- Highway

Interchange

TRRA (UP, BNSF, NS, CSX, KCS, CN):
St. Louis, MO



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 36574

**MISSOURI EASTERN RAILROAD, LLC
-- CHANGE IN OPERATOR EXEMPTION WITH INTERCHANGE COMMITMENT--
UNION PACIFIC RAILROAD COMPANY**

**EXHIBIT B
CERTIFICATION AND VERIFICATION**

CERTIFICATION AND VERIFICATION

I, J. Stuart Towner, am the President of Missouri Eastern Railroad, LLC (“MER”).
Under penalty of perjury, I hereby certify and verify as follows:

1. I am authorized to provide the present certification and verification on behalf of MER.
2. I certify that MER’s annual rail revenues are not expected to exceed \$5 million, and that the transaction that is the subject of this exemption proceeding will not result in MER becoming a Class I or II rail carrier under the thresholds set forth at 49 C.F.R. § 1201 (1-1).
3. I certify that the lease that is the subject of this class exemption contains an interchange commitment whereby the annual rent to be paid to Union Pacific Railroad Company (“UP”) depends on the percentage of rail traffic originating or terminating on the line covered by the lease that is interchanged with UP via the Terminal Railroad Association of St. Louis.
4. I verify that that – (a) I have read the foregoing Notice of Exemption; (b) I know the facts asserted therein; and (c) the same are true as stated.



J. Stuart Towner
President
Missouri Eastern Railroad, LLC

Dated: January 6, 2022

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 36574

**MISSOURI EASTERN RAILROAD, LLC
-- CHANGE IN OPERATOR EXEMPTION WITH INTERCHANGE COMMITMENT--
UNION PACIFIC RAILROAD COMPANY**

EXHIBIT C

**Copy of Shipper Notice Letter, List of Shippers, and
Certification of Service**

CERTIFICATION OF SERVICE

I hereby certify that in compliance with the notice requirements of 49 C.F.R. § 1150.42(b) and 1150.43(h)(1)(v), I have today arranged to serve a copy of the letter reprinted below via first class mail, postage prepaid, or via more expeditious means, upon the shippers listed below. The shippers so served include both shippers located on the rail line that is the subject of this class exemption, and the shippers located on the adjacent rail line to be purchased by MER pursuant to the class exemption in FD 36550 (which are also required to be served with notice of the leasehold transaction pursuant to 49 C.F.R. § 1150.43(h)(1)(v)).

1. Accella Polyurethane Systems LLC
2. Airgroup
3. Alpha Packaging Inc.
4. Ameren Missouri
5. Boral Materials LLC
6. Breckenridge Material Co.
7. Buddeez Inc.
8. Central States Products
9. Dr. Pepper Snapple Group
10. EE-Jay Motor Transports Inc.
11. Engineered Lubricants
12. FCStone Merchant Services LLC
13. GFL Environmental USA, Inc.
14. Graham Packaging
15. Grassworx
16. Hall Brothers Lumber
17. Heritage-Crystal Clean, Inc.
18. HTP Energy *
19. International Paper
20. Missouri Petroleum Products Co.
21. Quality Building Products
22. Refresco North America
23. RGCX LLC *
24. Silgan Plastic Food Containers
25. St. Louis Post Dispatch
26. Top Rail Solutions Inc. *
27. Tops Products LLC
28. Univar USA
29. Viper Rail Car Storage *
30. Westrock CP LLC

* = denotes car storage customer

R. A. Wimbish

Robert A. Wimbish

Attorney for Missouri Eastern Railroad, LLC

Executed on: January 11, 2022

VIA ELECTRONIC MAIL

SHIPPER ADDRESS

Re: **FD 36574**

**Missouri Eastern Railroad, LLC – Change in
Operator Exemption with Interchange Commitment –
Union Pacific Railroad Company**

To Whom It May Concern:

In accordance with 49 C.F.R. § 1150.42 and 1150.43, this letter serves as notification that Missouri Eastern Railroad, LLC (“MER”) has agreed to assume a lease (the “Lease”) currently held and operated by Central Midland Railway Company (“CMRC”) over track owned by Union Pacific Railroad Company (“UP”) in St. Louis County, Missouri beginning at milepost 10.35 at Rock Island Jct., Missouri, and ending at milepost 19.0 west of Vigus, Missouri (the “Rock Island Jct. – Vigus Line”). The Lease contains an interchange commitment that applies only to traffic that originates or terminates on the Rock Island Jct. – Vigus Line, whereby the annual rent due to UP depends on the percentage of rail traffic originating or terminating on the Rock Island Jct. – Vigus Line that is interchanged with UP via the Terminal Railroad Association of St. Louis. Upon assumption of the Lease, MER will replace CMRC as the carrier on the Line.

MER has filed a Notice of Exemption for this transaction at the Surface Transportation Board as FD 36574, which is attached. Late last week, you were served with an earlier version of the Notice, which has now been amended to clarify certain shipper information.

This notice is intended as information in compliance with applicable Surface Transportation Board advance notice regulations. You are welcome to respond to this notice or the attached filing if you wish, but no such response is required (or expected). If you have any questions concerning this notice or the railroad line transaction that is the subject of the attached regulatory filing, you may contact the Surface Transportation Board at rcpa@stb.gov (202-245-0238) or the undersigned counsel for MER.

Sincerely,

Robert A. Wimbish
Attorney for Missouri
Eastern Railroad, LLC

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 36574

**MISSOURI EASTERN RAILROAD, LLC
-- CHANGE IN OPERATOR EXEMPTION WITH INTERCHANGE COMMITMENT--
UNION PACIFIC RAILROAD COMPANY**

**EXHIBIT D
CAPTION SUMMARY**

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

FD 36574

MISSOURI EASTERN RAILROAD, LLC
-- CHANGE IN OPERATOR EXEMPTION WITH INTERCHANGE COMMITMENT--
UNION PACIFIC RAILROAD COMPANY

Missouri Eastern Railroad, LLC (“MER”), a common carrier, has filed a Verified Notice of Exemption to assume operation of approximately 8.65 miles of rail line between Vigus, Mo. (milepost 19.0) and Rock Island Jct., Mo. (milepost 10.35) (the “Line”), owned by Union Pacific Railroad Company (“UP”) and currently operated under lease by Central Midland Railway Company (“CMRC”). MER's operation of the Line will replace the common carrier operations currently conducted by CMRC.

MER expects to consummate the change in operator transaction and commence operation of the Line on or after February 10, 2022.

Comments must be filed with the Board and served on:

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500
rwimbish@fletcher-sippel.com

This Notice is filed under 49 C.F.R. § 1150.42. 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.

Dated: January _____, 2022

By the Board

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings