



## **SURFACE TRANSPORTATION BOARD**

**[Docket No. FD 35441 (Sub-No. 1)]**

### **Blackwell Northern Gateway Railroad Company—Lease Exemption—**

### **Oklahoma Department of Transportation and Blackwell Industrial Authority**

Blackwell Northern Gateway Railroad Company (BNGR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to continue to lease approximately 37.26 miles of rail line, owned by the Oklahoma Department of Transportation (ODOT) and Blackwell Industrial Authority (BIA) and extending from milepost 0.09 at Wellington, Kan., to milepost 35.35 at Blackwell, Okla., and from milepost 127.0 at Blackwell to milepost 125.0 also at Blackwell (the Line). ODOT owns the portions of the Line extending from milepost 18.32 at Hunnewell, Kan., to milepost 35.35 at Blackwell, and from milepost 127.0 to milepost 126.45 in Blackwell. BIA owns the portions of the Line extending from milepost 0.09 at Wellington to milepost 18.32 at Hunnewell, and from milepost 126.45 to milepost 125.0 in Blackwell.

BNGR states that it currently operates the Line pursuant to a lease agreement with ODOT and BIA.<sup>1</sup> According to BNGR, it, ODOT, and BIA have executed a new Track Lease and Operating Agreement, which will govern BNGR operation of the Line upon the effective date of this notice.

BNGR certifies that its projected annual freight revenues will not result in the creation of a Class I or Class II rail carrier and will not exceed \$5 million. BNGR also certifies that the agreement does not include an interchange commitment.

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<sup>1</sup> See Blackwell N. Gateway R.R.—Lease Renewal Exemption—Okla. Dept. of Transp., FD 35441 (STB served Nov. 17, 2010).

The transaction may be consummated on or after November 1, 2023,<sup>2</sup> the effective date of the exemption (30 days after the verified notice was filed).

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 for stay must be filed no later than October 25, 2023 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 35441 (Sub-No. 1), must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on BNGR's representative, Bradon J. Smith, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

According to BNGR, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 C.F.R 1105.8(b).

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

Decided: October 13, 2023

By the Board, Mai T. Dinh, Director, Office of Proceedings.

**Stefan Rice,**

*Clearance Clerk.*

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<sup>2</sup> BNGR initially submitted its verified notice on September 29, 2023, but supplemented it by letter on October 2, 2023. The date of BNGR's supplement will be considered the filing date for purposes of calculating the effective date of this exemption.