



## **SURFACE TRANSPORTATION BOARD**

**[Docket No. FD 34693 (Sub-No. 1)]**

### **Kaw River Railroad, LLC—Lease Exemption with Interchange Commitment— BNSF Railway Company**

Kaw River Railroad, LLC (KAW), a Class III railroad, filed a verified notice of exemption under 49 CFR 1150.41 to continue to lease from BNSF Railway Company (BNSF) and operate 15.69 miles of rail line between milepost 199.86 at Kearney, Mo., and milepost 215.55 at Birmingham, Mo., and certain tracks in BNSF's Birmingham Yard, including Tracks 1501, 1502, 1503, 1504, 1547, 1550, 1555, 1560, 9955, and 9956, and the Ladder Track between Tracks 1504 and 1599, all of which are located in Clay County, Mo. KAW also seeks to retain incidental overhead trackage rights over approximately 1.21 miles of line, including over Track 1599, between milepost 216.18 and milepost 216.76 on BNSF's Kearney Subdivision and between BNSF mileposts 215.55 and 216.18, near Birmingham (collectively, the Lines).

According to KAW, it has leased the Lines from BNSF since 2005. See Kaw River R.R.—Lease & Operation Exemption—BNSF Ry., FD 34693 (STB served May 12, 2005). KAW states that it has most recently entered into a lease amendment (Lease Amendment) with BNSF on August 1, 2024, to update and extend the terms governing KAW's continued operations and exercise of incidental trackage rights. According to the verified notice, KAW intends to consummate the proposed transaction upon the effectiveness of the exemption. KAW states that it has been the exclusive operator over the line for more than 19 years.

KAW certifies that the Lease Amendment contains an interchange commitment.<sup>1</sup> Accordingly, KAW has provided additional information regarding the interchange commitment, as required by 49 CFR 1150.43(h).

KAW certifies that its projected revenues as a result of the transaction will not exceed those that would qualify it as a Class III carrier but will exceed \$5 million. Pursuant to 49 CFR 1150.42(e), if a carrier's projected annual revenues will exceed \$5 million, it must, at least 60 days before the exemption becomes effective, post a notice of its intent to undertake the proposed transaction at the workplace of the employees on the affected lines, serve a copy of the notice on the national offices of the labor unions with employees on the affected lines, and certify to the Board that it has done so. However, KAW has contemporaneously filed a request for waiver of the 60-day advance labor notice requirements. KAW's waiver request will be addressed in a separate decision. The Board will establish the effective date of the exemption in its decision on the waiver request.

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 May 23, 2025.

All pleadings, referring to Docket No. FD 34693 (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 KAW's representative, Stephen J. Foland, Fletcher &

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<sup>1</sup> A copy of the Lease Amendment with the interchange commitment was submitted under seal. See 49 CFR 1150.43(h)(1).

Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

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

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

**Decided:** May 9, 2025.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

**Aretha Laws-Byrum,**

*Clearance Clerk.*

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