

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 35221

JAMES RIFFIN—ACQUISITION AND OPERATION EXEMPTION—VENEER SPUR—IN
BALTIMORE COUNTY, MD

Decided: April 2, 2009

On March 5, 2009, the Board rejected a notice of exemption filed in this docket by James Riffin (Riffin) to acquire and operate approximately 400 feet of track, formerly known as the Veneer Mfg. Co. Spur (Veneer Spur), in Baltimore County, MD. The Board found that Riffin had failed to submit sufficient information to enable the Board to determine whether the proposed transaction qualified for the class exemption under 49 CFR 1150.41. The Board rejected the notice “without prejudice to Riffin refile a new notice of exemption or some other request for authority.”¹ Specifically, the decision rejecting the notice found: (1) that the caption and summary of the notice of exemption failed to name the transferor of the Veneer Spur, as required by 49 CFR 1150.43(e) and 1150.44; (2) that Riffin failed to establish that he is a Class III rail carrier, as required by 49 CFR 1150.42(a); and (3) that Riffin failed to establish that he was acquiring “rail property,” as required by 49 CFR 1150.41(a).

On March 6, 2009, Riffin filed a “second motion to amend verified notice of exemption” and a “second amended verified notice of exemption” (for which he paid no filing fee). MTA on behalf of MDOT filed a motion to dismiss the second amended notice on March 26, 2009.² Riffin filed a motion to strike MTA’s motion to dismiss on March 30, 2009.

¹ Riffin asserts that the Veneer Spur connects at milepost 15.16 with the Cockeysville Industrial Track (CIT), a 14.22-mile line of railroad extending between milepost 0.00 in the City of Baltimore and milepost 15.40 in Cockeysville, Baltimore County. The Maryland Transit Administration (MTA), part of the Maryland Department of Transportation (MDOT), acquired the CIT from Consolidated Rail Corporation (Conrail) in 1990 and uses it to operate a light rail transit system. Conrail reserved a perpetual freight operating easement over the CIT which Norfolk Southern Railway Company (NSR) subsequently acquired. Because of their interests in the CIT, Riffin was directed to serve a copy of any new notice or other filing in this docket on MTA, MDOT, and NSR.

² On March 17, 2009, Riffin filed a “replacement motion for a protective order.” MTA on behalf of MDOT filed a reply on March 26, 2009. In view of the action being taken here, there is no need to rule on Riffin’s replacement motion for a protective order.

Riffin's second motion to amend the notice of exemption will be denied and his second verified notice of exemption will be rejected. A verified notice of exemption may not be amended after it has been rejected by the Board.³ Because we are rejecting the notice for this reason, we need not address MTA's motion to dismiss or Riffin's motion to strike.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Riffin's second motion to amend the notice of exemption filed in this proceeding is denied and his second verified notice of exemption is rejected.
2. A copy of this decision will be served on the Maryland Transit Administration, the Maryland Department of Transportation, and Norfolk Southern Railway Company.
3. This decision is effective on its service date.

By the Board, Joseph H. Dettmar, Acting Director.

Anne K. Quinlin
Acting Secretary

³ On March 30, 2009, Riffin filed, and served on MTA, MDOT, and NSR, a new verified notice of exemption pursuant to 49 CFR 1150.41 et seq. to acquire and operate the Veneer Spur. See James Riffin—Acquisition and Operation Exemption—Veneer Mfg. Co. Spur—in Baltimore County, MD, STB Finance Docket No. 35236. He did not, however, file a motion to dismiss the pending notice filed in Finance Docket No. 35221. At the same time, Riffin filed, and served on MTA, MDOT, and NSR, a new motion for a protective order and a “motion to waive/refund filing fee.”