

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 35225

SAN BENITO RAILROAD LLC—ACQUISITION EXEMPTION—
CERTAIN ASSETS OF UNION PACIFIC RAILROAD COMPANY

Decided: May 1, 2009

In this decision, the request of The Brotherhood of Maintenance of Way Employees Division/IBT (BMWED) for an extension of time to file a reply to a motion to dismiss is granted.

The notice of exemption under 49 CFR 1150.31 for San Benito Railroad LLC (San Benito), a noncarrier, to acquire from Union Pacific Railroad Company (UP) certain railroad assets, including approximately 12.43 miles of rail line in San Benito County, CA, was served and published on April 10, 2009 (74 FR 16438-39). Together with the notice of exemption, San Benito filed a motion to dismiss the notice of exemption on the ground that the Board lacks jurisdiction over the acquisition because UP would retain an exclusive, permanent rail freight easement and San Benito would not obtain the right to provide freight service over the rail line. Replies to the motion to dismiss were due by April 30, 2009.

In a motion filed on April 24, 2009, BMWED requests an extension of time until May 11, 2009, to respond to San Benito's motion to dismiss the notice of exemption, citing the other commitments that have prevented counsel for BMWED from devoting attention to this matter. No objection to the request has been received. Accordingly, because no party has objected and the request is reasonable, the motion for an extension of time will be granted, and BMWED's response will be due on or before May 11, 2009.

It is ordered:

1. BMWED's reply to the motion to dismiss is due May 11, 2009.
2. This decision is effective on its service date.

By the Board, Anne K. Quinlan, Acting Secretary

Anne K. Quinlan
Acting Secretary