

BEFORE THE
SURFACE TRANSPORTATION BOARD

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LONGVIEW, PORTLAND & NORTHERN)
RAILWAY COMPANY -- ACQUISITION) FINANCE DOCKET
AND OPERATION EXEMPTION -- IN) NO. 36509
DOUGLAS COUNTY, OR)

**SUPPLEMENTAL INFORMATION REQUIRED BY DECISION
SERVED MAY 14, 2021 AND PETITION FOR LEAVE TO
VOLUNTARILY WITHDRAW VERIFIED
NOTICE OF EXEMPTION UNDER 49 C.F.R. § 1150.41**

LONGVIEW, PORTLAND & NORTHERN
RAILWAY COMPANY
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Gardiner, OR 97441

Applicant

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Date Filed: June 3, 2021

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Pursuant to order No. 2 on page 2 of the Board's decision in this proceeding served May 14, 2021, and 49 C.F.R. § 1117.1, LONGVIEW, PORTLAND & NORTHERN RAILWAY COMPANY (LPN), a Class III rail carrier, hereby (1) provides supplemental information as directed by that order, and (2) petitions for leave to voluntarily withdraw the Verified Notice of Exemption under 49 C.F.R. § 1150.41 that it filed with the Board on April 16, 2021.

BACKGROUND

On April 16, 2021, LPN filed a Verified Notice of Exemption under 49 C.F.R. § 1150.41 to acquire from Industrial Harbor USA, LLC (Harbor) and operate a rail line that extends between a point of connection to Coos Bay Rail Line, Inc. (formerly Southern Pacific) at Gardiner Junction at Milepost 0.0 and the end of track at Milepost 3.32 at Gardiner, a distance of approximately 3.32 miles in Douglas County, Oregon (the Gardiner Line).

LPN stated that its predecessor constructed the Gardiner Line in 1952 to serve lumber and plywood mills. The Line was expanded several times to serve additional mills, including in 1964

to serve a large kraft paper mill constructed by International Paper Company (IP). LPN stated that the last of these mills closed in 1998, and the last LPN traffic reported to the Oregon Department of Transportation was 20 carloads in 1999.

In 2016, Harbor purchased the IP mill site and the stock of LPN. LPN stated that such acquisition did not require Board approval because Harbor did not control any rail carrier at that time (49 U.S.C. § 11323[a]).

Harbor intends to redevelop the mill site and surrounding property, which will require substantial use of rail transportation. Although the Gardiner Line has not been used for a considerable time, it has not been authorized by the Board for abandonment. Harbor intends to transfer the Line to LPN to provide the needed rail service. LPN will refurbish the rail facilities to ensure their utility and safety. LPN stated that its Verified Notice of Exemption is needed for approval of transfer of the Line assets from Harbor to LPN for revival of needed rail service in the Gardiner area.

REQUEST FOR ADDITIONAL INFORMATION

The Board found that there is no indication in the record that the Line, or the associated common carrier obligation, was ever transferred from LPN to Harbor (decision at 1). The Board stated that if Harbor acquired the Line from LPN, it does not appear that Harbor obtained Board authority to do so. (*id.* at 1-2). Accordingly, the Board directed LPN to clarify whether, and if so when, it transferred the Line to Harbor and to identify the relevant grant of Board authority or explain why authority was not sought. (*id.* at 2). If Harbor did not acquire the Line from LPN, LPN was directed to explain why the Verified Notice of Exemption in this docket is necessary. (*id.*).

The Board also found that LPN's statement, that Harbor's acquisition of control did not require Board approval because Harbor did not control any other rail carriers at that time, could be read to imply that Harbor currently controls other rail carriers, and if so, whether Board authority was sought under 49 U.S.C. § 11323 or exemption from that statute. (decision at 2).

SUPPLEMENTAL INFORMATION

The Gardiner Line was constructed by Willamina and Grand Ronde Ry. Co. (Willamina) in 1951 to reach lumber and plywood mills on Bolon Island at Gardiner, Oregon. *See* ICC Finance Docket No. 17256, *Willamina and Grand Ronde Ry. Co. -- Construct and Operate 3½ Miles in Douglas County, Oregon*, filed on February 26, 1951.^{1/} Willamina was a wholly-owned subsidiary of Long-Bell Lumber Company (Long-Bell) at that time.^{2/} Long-Bell also controlled LPN, which was incorporated in 1922.

Long-Bell caused Willamina to be merged into LPN in 1954. *See* ICC Finance Docket No. 18341, *Willamina and Grand Ronde Ry. Co. -- Merger into Longview, Portland & Northern Railway Company*, decided on December 7, 1954.

Long-Bell and LPN were acquired by International Paper Company (IP) in 1956. IP constructed a large kraft paper mill on the Gardiner industrial site in 1964. That greatly increased the volume of traffic hauled by LPN over the Gardiner Line.

^{1/} Bolon Island and Gardiner are identified on a map of the Gardiner Rail Line that is attached to the Verified Notice of Exemption in this proceeding at Milepost 1 and Milepost 3, respectively.

^{2/} Willamina obtained authority to operate a 9-mile rail line between Willamina and Grand Ronde, Oregon in 1937. *See* ICC Finance Docket No. 11859, *Willamina and Grand Ronde Ry. Co. -- Operation -- in Yamhill and Polk Counties, Oregon*, filed on November 16, 1937.

IP operated the paper mill successfully until the mid-1990s. By 1998, most of the paper mill was dismantled. The lumber and plywood mills suffered a similar fate. Only 20 carloads were transported by LPN over the Gardiner Line in 1999. No rail traffic was transported over that Line in the next 22 years to the present.

In 2016, the Gardiner industrial site and LPN were acquired by Industrial Harbor USA LLC (Harbor). Harbor intends to refurbish the industrial site and to rehabilitate LPN's railroad facilities so that rail operations can be revived over the Gardiner Line.

Harbor has never controlled a rail carrier other than LPN. LPN has never transferred the Line to Harbor. LPN apologizes for the confusion in that respect.

As here pertinent, it is evident from the foregoing that LPN has been authorized by the ICC and the Board to operate the Gardiner Line continuously since LPN succeeded to Willamina's operation authority through merger in 1954, to the present. Accordingly, LPN did not require additional authority in the present case.

CONCLUSION AND REQUESTED RELIEF

Inasmuch as LPN has had authority to operate the Gardiner Line continuously from the effective date of Willamina's merger into LPN in 1954, to date, LPN did not and does not require the exemption for which it gave notice in the Verified Notice of Exemption filed in this proceeding on April 16, 2021. That being the case, LPN respectfully petitions for leave to withdraw that Notice with prejudice. Based on the Supplemental Information provided herein, the Board should grant the requested leave.

LPN does not know of any parties of record to be served with this pleading, but will provide such service promptly on request.

Respectfully submitted,

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