

SERVICE DATE – JUNE 28, 2021

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36509

LONGVIEW, PORTLAND & NORTHERN RAILWAY COMPANY—ACQUISITION AND
OPERATION EXEMPTION—IN DOUGLAS COUNTY, OR.

Decided: June 28, 2021

On April 16, 2021, Longview, Portland & Northern Railway Company (LPN), a Class III rail carrier, 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., at Gardiner Junction, milepost 0.0, and the end of track at milepost 3.32 at Gardiner, a distance of approximately 3.32 miles in Douglas County, Or. (the Line).

According to LPN, its predecessor constructed the segment of the Line from Gardiner Junction to Gardiner in 1952 to serve lumber and plywood mills, and the Line was subsequently expanded several times to serve additional mills, including in 1964 to serve a large craft paper mill constructed by International Paper Company (IP). (See Verified Notice 2-3.) 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. (Id. at 3.)

LPN stated that, in 2016, Harbor purchased the IP mill site and the stock of LPN. (Id.) According to LPN, Harbor’s acquisition of control of LPN did not require Board approval as “Harbor did not control any other rail carrier at that time,” citing 49 U.S.C. § 11323(a). (Verified Notice 3.)

LPN further stated that Harbor intends to redevelop the mill site and the surrounding property at Gardiner, which will require substantial use of rail transportation. (Id.) According to LPN, its verified notice of exemption seeks approval of the transfer of the Line assets from Harbor to LPN for revival of needed rail service in the Gardiner area. (Id.)

In a decision served May 14, 2021, the proceeding was held in abeyance, and LPN was directed to file supplemental information. See Longview, Portland & N. Ry.—Acquis. & Operation Exemption—in Douglas Cnty., Or., FD 36509 (STB served May 14, 2021). First, because there was no indication in the record that the Line, or the associated common carrier obligation, was ever transferred from LPN to Harbor, LPN was directed to clarify whether it transferred the Line to Harbor, and if so, to identify the relevant grant of Board authority or explain why such authority was not sought. Id. at 1-2. If Harbor did not acquire the Line from LPN, LPN was asked to explain why the notice of exemption in this docket is necessary. Id.

at 2. Second, LPN was directed to clarify whether Harbor currently controls other rail carriers, and if so, whether Board authority to control multiple carriers was sought under 49 U.S.C. § 11323 or exemption therefrom. Id.

On June 3, 2021, LPN filed supplemental information, explaining that Harbor has never controlled a rail carrier other than LPN and that LPN has never transferred the Line to Harbor. (Suppl. 5.) According to LPN, it has been authorized to operate the Line continuously since 1954, and, as a result, it did not need to file a notice of exemption to acquire the Line. (Id.) LPN therefore requests leave to withdraw its notice of exemption. (Id.)

LPN's request for leave to withdraw its notice of exemption is reasonable and will be granted. Accordingly, LPN's notice of exemption will be withdrawn and this proceeding dismissed.

It is ordered:

1. LPN's request for leave to withdraw its notice of exemption is granted. The notice of exemption is withdrawn, and this proceeding is dismissed.
2. This decision is effective on its service date.

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