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SERVICE DATE – MARCH 4, 2022

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36583]

Eric Temple—Continuance in Control—Central Washington Railroad Company, Columbia Basin Railroad Company, Inc., Portland Vancouver Junction Railroad, LLC, and Columbia Shipyards Railroad LLC

Eric Temple (Applicant) has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(2) to continue in control of Columbia Shipyards Railroad LLC (CSBP), a non-carrier controlled by Applicant, upon CSBP's becoming a Class III rail carrier.

This transaction is related to a verified notice of exemption filed concurrently in Columbia Shipyards Railroad—Change in Operator Exemption—Portland Vancouver Junction Railroad, Clark County, Wash., Docket No. FD 36582, in which CSBP seeks to acquire from its corporate affiliate, Portland Vancouver Junction Railroad, LLC (PVJR), the rights and obligations to perform common carrier switching service over approximately three miles of tracks owned by the Columbia Business Center, a non-carrier.¹

The transaction may be consummated on or after March 20, 2022, the effective date of the exemption (30 days after the verified notice was filed).

According to the notice, Applicant is a non-carrier who controls three Class III

¹ Applicant states that PVJR also operates over a 33-mile line owned by Clark County, Washington.

railroads: Central Washington Railroad Company (CWA), Columbia Basin Railroad Company, Inc. (CBRW), and PVJR, which all operate in Washington.² The continuance in control exemption would allow Applicant to control CSBP, which will provide switching services for Columbia Business Center in place of PVJR, once CSBP becomes a carrier.

Applicant represents that: (1) CSBP will not connect with any other railroad in Applicant's corporate family; (2) the transaction is not part of a series of anticipated transactions that would connect CSBP with any railroad in the Applicant's corporate family; and (3) the transaction does not involve a Class I rail carrier. Therefore, the proposed transaction is exempt from the prior approval requirements of 49 U.S.C. § 11323. See 49 C.F.R. § 1180.2(d)(2).

Under 49 U.S.C. § 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. However, 49 U.S.C. § 11326(c) does not provide for labor protection for transactions under 49 U.S.C. §§ 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.³

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

² According to the verified notice, Applicant owns 45% of CWA's stock, 50% of CBRW's stock, and 100% of PVJR's stock.

³ Applicant states that CSBP nonetheless intends to offer employment to all of the PVJR employees who currently operate within the business park.

effectiveness of the exemption. Petitions for stay must be filed no later than March 11, 2022 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36583, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on Applicant's representative, Richard H. Streeter, Law Office of Richard H. Streeter, 5255 Partridge Lane, N.W., Washington, DC 20016.

According to Applicant, this action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c) and from historic preservation reporting requirements under 49 C.F.R. § 1105.8(b).

Board decisions and notices are available at www.stb.gov.

Decided: February 28, 2022.

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