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May 26, 2022

304643

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20006

ENTERED
Office of Proceedings
May 26, 2022
Part of
Public Record

Expedited Consideration Requested

Re: **FD 36589**
Merced County Central Valley Railroad, L.L.C. —
Lease and Operation Exemption — Track in Merced County, Cal.

FD 36590
Patriot Rail Company LLC, Steelriver Transport Ventures LLC,
First State Infrastructure Managers (International) Limited,
Global Diversified Infrastructure Fund (North America) LP, and
Mitsubishi UFJ Financial Group, Inc.

Dear Ms. Brown:

On April 29, 2022, Patriot Rail¹ and Merced County Central Valley Railroad, LLC (“MCCVR”) filed their collective response (the “Response”) to the Board’s April 14, 2022 order (the “Order”) in the above-referenced dockets. The Order sought information regarding the role of Foster Townsend Rail Logistics LLC (“FTRL” — a Patriot Rail non-rail carrier subsidiary) in MCCVR’s planned common carrier railroad operations at the Castle Commerce Center (the “Center”) in Merced County, California. The Response offered information

¹ Patriot Rail Company LLC (“Patriot”), Steelriver Transport Ventures LLC, Global Diversified Infrastructure Fund (North America LP), First State Infrastructure Managers (International) Limited (now known as First Sentier Investors US Infrastructure GP LLC, and Mitsubishi UFJ Financial Group, Inc. (“MUFG”) (collectively “Patriot Rail”).

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regarding the proposed short line transaction, and urged expedited, favorable action on the subject class exemptions.

In an effort to advance the class exemption notices, Patriot Rail and MCCVR hereby request leave to supplement their Response.

As explained in the Response, FTRL was included as a signatory to the underlying lease agreement (“Lease”) with Merced County (the “County” – the owner of the Center) as a placeholder to provide additional time to finalize the name of the operating entity that ultimately became MCCVR. Both the County and Patriot Rail intended for MCCVR – not FTRL – to provide common carrier rail service at the Center. To more definitively address the Board’s concern, Patriot Rail indicated that it would explore with the County a potential amendment to the Lease addressing (and more clearly establishing) FTRL’s ceremonial role.

Patriot Rail and MCCVR are pleased to advise that MCCVR and the County have recently executed an amendment to the Lease (the “Amendment”), clarifying the parties’ intent that FTRL should not become a railroad common carrier. As of the May 24, 2022 effective date of the Amendment, the parties to the Lease have – (1) formally acknowledged that FTRL has assigned the Lease to its corporate affiliate, MCCVR; (2) agreed that FTRL “shall be released from any further obligations under” the Lease; and (3) amended the Lease to replace each reference to FTRL with MCCVR. A copy of the Amendment is attached.

Good cause still exists for expedited processing of the subject notices of exemption, particularly in light of the developments set forth above. Accordingly, MCCVR and Patriot Rail hereby reiterate their request of the same to ensure a prompt and efficient transition in rail service for shippers in the Center.

Respectfully submitted,

/s/ *R. A. Wimbish*

Robert A. Wimbish
Attorney for Merced County Central Valley Railroad,
L.L.C. and Mitsubishi UFJ Financial Group, Inc., *et al.*

Attachment

cc: All parties of record

**AMENDMENT
TO
CONTRACT NO.
BETWEEN
MERCED COUNTY
AND
Foster Townsend Rail Logistics, LLC**

THIS Amendment to Contract No. 2022038 (the "Agreement"), is executed by and between the County of Merced, a political subdivision of the State of California, (hereinafter called "County"), and Foster Townsend Rail Logistics LLC (hereinafter called "FTRL").

This Amendment is hereby annexed to and made a part of the printed part of the Agreement to which it is attached, or modifies the existing Agreement between the parties. In each instance in which the provisions of this Amendment shall contradict or be inconsistent with the provisions of the printed portion of the original Agreement and any previous amendments, the provision of this Amendment shall prevail and govern and the contradicted or inconsistent provisions shall be deemed amended accordingly. Both parties agree that there is new and adequate consideration for this Amendment.

This Amendment shall be deemed to have been duly approved when executed by both parties to the original Agreement. Once duly approved, this Amendment shall become effective as of the date signed by the Chairman of the Merced County Board of Supervisors.

MODIFICATIONS:

- 1) FTRL has assigned contract number 2022038 to Merced County Central Valley Railroad LLC ("MCVR"). MCVR is an indirect subsidiary of Patriot Rail Company, LLC. MCVR agrees that it shall be bound by the terms of contract number 2022038 and any amendments thereto and agrees to acknowledge and assume all liabilities and obligations of FTRL under contract number 2022038 and any amendments to that contract. In light of the assignment, FTRL shall be released from any further obligations under contract number 2022038.
- 2) Further, contract number 2022038 and all amendments to that contract are amended by substituting the name "Merced County Central Valley Railroad LLC", a Delaware limited liability company, 10752 Deerwood Park Boulevard., Suite 300, Jacksonville, FL 32256 ("MCVR"), for the name "Foster Townsend Rail Logistics" wherever "Foster Townsend Rail Logistics" or "FTRL" appears in contract number 2022038 or amendments thereto.

Except as herein modified, all terms and conditions in said Agreement as heretofore approved remain unchanged and in full force and effect.

County of Merced

By: _____

Signature

Lloyd Pareira Jr.

Name

Chairman

Title

MAY 24 2022

Date

County of Merced

APPROVED AS TO LEGAL FORM
MERCED COUNTY COUNSEL

BY: _____

Jeffrey B. Grant

FOSTER TOWNSEND RAIL
LOGISTICS LLC

By: _____

Name: Matt Nelson

Title: Chief Financial Officer

Date: 5-5-2022

MERCED COUNTY CENTRAL
VALLEY RAILROAD LLC

By: _____

Name: Brad Gordon

Title: Vice President, Legal

Date: 5-5-2022