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SERVICE DATE – JUNE 10, 2022

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. 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.—Continuance in Control Exemption—Merced County Central Valley Railroad, LLC

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. (collectively, Applicants), all noncarriers, have filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(2) to continue in control of Merced County Central Valley Railroad, LLC (MCCVR) upon MCCVR's becoming a Class III rail carrier.

This transaction is related to a verified notice of exemption filed concurrently in Merced County Central Valley Railroad—Lease & Operation Exemption—Track in Merced County, Cal., Docket No. FD 36589, in which MCCVR seeks to lease and commence common carrier operations over approximately 0.3 miles of track located at the Castle Commerce Center at Atwater in Merced County (the Line).

According to the verified notice, Applicants currently control MCCVR in addition to 15 existing rail carriers in 14 states.¹ Applicants state that they neither contemplate nor require an agreement to continue in control of MCCVR once it commences operations.

The verified notice indicates that: (1) the Line will not connect with any of the Subsidiary Railroads; (2) the acquisition of control is not part of a series of anticipated transactions that would connect the Line or any of the Subsidiary Railroads with each other; and (3) the proposed transaction does not involve a Class I rail carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. § 11323. See 49 C.F.R. § 1180.2(d)(2).

The earliest this transaction may be consummated is June 25, 2022, the effective date of the exemption (30 days after the verified notice was filed).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.

¹ The verified notice lists the railroads as follows: (1) the Columbia & Cowlitz Railway, LLC; (2) DeQueen & Eastern Railroad, LLC; (3) Georgia Northeastern Railroad Company, LLC; (4) Golden Triangle Railroad, LLC; (5) Kingman Terminal Railroad, LLC; (6) Louisiana & North West Railroad Company; (7) Patriot Woods Railroad, LLC; (8) Rarus Railway, LLC (d/b/a Butte, Anaconda & Pacific Railway Company); (9) Sacramento Valley Railroad, LLC; (10) Salt Lake Garfield & Western Railway Company; (11) Temple & Central Texas Railway, LLC; (12) Tennessee Southern Railroad Company, LLC; (13) Texas & Oklahoma Eastern Railroad, LLC; (14) Utah Central Railway Company, LLC; and (15) West Belt Railway LLC (collectively, the Subsidiary Railroads).

² Applicants supplemented their verified notice on April 29 and May 26, 2022. Therefore, May 26, 2022, is considered the filing date for the purpose of calculating the effective date of the exemption.

Accordingly, the Board may not impose labor protective conditions here because all of the carriers involved are Class III rail carriers.

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 effectiveness of the exemption. Petitions to stay must be filed no later than June 17, 2022 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36590, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Applicants' representative, Bradon J. Smith, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

According to the verified notice, 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: June 7, 2022.

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