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SERVICE DATE – MARCH 26, 2025

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36312

OAKLAND GLOBAL RAIL ENTERPRISE—
OPERATION EXEMPTION—IN OAKLAND, CAL.

Decided: March 26, 2025

On February 4, 2022, Oakland Global Rail Enterprise (OGRE), a noncarrier, filed a petition under 49 U.S.C. § 10502 for exemption from the prior approval requirements of 49 U.S.C. § 10901 for OGRE to operate over approximately 18.2 miles of track located at the former Oakland Army Base (OAB) in Oakland, Cal. In a decision served on May 5, 2022, the Board initiated a proceeding under 49 U.S.C. § 10502 and held the proceeding in abeyance. Oakland Glob. Rail Enter.—Operation Exemption—in Oakland, Cal., FD 36312, slip op. at 4 (STB served May 5, 2022).

The Board explained that the rail project at issue was being delayed by an ongoing legal dispute between the City of Oakland (City) and OGRE's affiliate, Oakland Bulk & Oversized Terminal, LLC (OBOT), regarding OGRE's proposed sublease of a City-owned rail line. Id. at 1-3. The Board noted that the parties seemed to be planning to settle the dispute by reaching an agreement that would prohibit OGRE from transporting coke and coal. Id. at 2. The Board stated, however, that denying a reasonable request to transport coal or coke would violate OGRE's common carrier obligation under 49 U.S.C. § 11101(a). Id. at 3. The Board further observed that, absent a settlement, OGRE might never be able to obtain the necessary contract and/or operating rights from the City to provide rail service. Id. Accordingly, the Board held this proceeding in abeyance to ensure the efficient use of its resources until there was more clarity regarding when and how the legal dispute between the parties might be resolved. Id. at 4.

At the Board's direction, OGRE filed a status report on November 4, 2022, explaining that the parties had not been able to reach a settlement and that trial had been set for April 21, 2023. (OGRE Status Rep. 2.) The City replied to OGRE's status update on November 15, 2022. Since then, the Board has received no further information. Accordingly, OGRE will be directed to provide another status update by April 7, 2025, regarding the legal dispute between the City and OGRE/OBOT regarding the property at the OAB. The City may file a reply by April 15, 2025 but is not required to do so.

It is ordered:

1. OGRE is directed to file a status update as described above by April 7, 2025. The City may file a reply by April 15, 2025.

2. This decision is effective on its service date.

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