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ENTERED

Office of Proceedings
October 29, 2018
Part of
Public Record

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October 29, 2018

VIA E-FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20024

Re: **Docket No. FD 36241**
Coos Bay Rail Line, Inc. – Change in Operators Exemption – Coos
Bay Railroad Operating Company, LLC d/b/a Coos Bay Rail Link
and

Docket No. FD 36242
Oregon International Port of Coos Bay – Continuance in Control
Exemption – Coos Bay Rail Line, Inc.

Dear Ms. Brown:

Enclosed for e-filing in the above-captioned proceedings are a **Verified Notice of Exemption of Coos Bay Rail Line, Inc., Pursuant to 49 C.F.R. § 1150.31(a)(3)** and a **Verified Notice of Exemption of Oregon International Port of Coos Bay Pursuant to 49 C.F.R. § 1180.2(d)(2)**, both dated October 29, 2018. Payment in the amount of \$3,500, representing the appropriate fees for the two class exemption filings (\$2,000 and \$1,500, respectively), has been furnished to the Board via electronic payment.

If you have any questions regarding these filings, please feel free to contact the undersigned. Thank you for your assistance on this matter. Kind regards.

Respectfully submitted,



Robert A. Wimbish
Attorney for Coos Bay Rail Line, Inc.

RAW/ah

Attachments

FEE RECEIVED
October 29, 2018
SURFACE
TRANSPORTATION BOARD

FILED
October 29, 2018
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36242

OREGON INTERNATIONAL PORT OF COOS BAY
– CONTINUANCE IN CONTROL TRANSACTION –
COOS BAY RAIL LINE, INC.

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1180.2(d)(2)**

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29 North Wacker Drive, Suite 800
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312-252-1500 Telephone
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**ATTORNEYS FOR OREGON INTERNATIONAL
PORT OF COOS BAY**

Dated: October 29, 2018

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36242

OREGON INTERNATIONAL PORT OF COOS BAY
– CONTINUANCE IN CONTROL TRANSACTION –
COOS BAY RAIL LINE, INC.

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1180.2(d)(2)**

Pursuant to recent Surface Transportation Board (“Board”) guidance, Oregon International Port of Coos Bay (the “Port”) hereby invokes the Board’s class exemption at 49 C.F.R. § 1180.2(d)(2) to continue in control of Coos Bay Rail Line, Inc. (“Coos Rail”) upon Coos Rail’s commencement of common carrier operations. In support of this notice and in compliance with the provisions of 49 C.F.R. § 1180.4(g), the Port provides the following information:

49 C.F.R. § 1180.6(a)(1)(i) – Description of Transaction and Parties Thereto

a. Description of Transaction

The Port is a rail common carrier by virtue of its ownership of certain interconnected railroad lines extending generally from Eugene, Oregon, westward and southward to Coquille, Oregon, via Coos Bay, Oregon, a total of roughly 133 route miles. Specifically, the lines in question (hereinafter, collectively, the “Line”) extend from milepost 652.114 at Danebo, Oregon, to milepost 763.13 at Cordes, Oregon; and from milepost 761.13 at Cordes to milepost 785.5 at Coquille. The Port acquired portions of the Line at separate times via appropriate Board processes.¹

¹ Oregon International Port of Coos Bay – Acquisition Exemption – Rail Line of Union Pacific Railroad Company in Coos County, Or., Docket No. FD 35385 (STB served Jul. 9, 2010); Oregon International Port of Coos Bay – Feeder Line Application – Coos Bay Line of the Central Oregon & Pacific Railroad, Inc., Docket No. FD 35160 (STB served Oct. 31, 2008; modified Mar. 12, 2009).

The Line is currently operated by Coos Bay Railroad Operating Company, LLC d/b/a Coos Bay Rail Link ("CBR").² However, the Port has formed Coos Rail, a non-profit corporate entity under the control of the Port, to replace CBR. The contemplated change in operators from CBR to Coos Rail is the subject of the simultaneously-filed Coos Bay Rail Line, Inc. – Change in Operators Exemption – Coos Bay Railroad Operating Company, LLC d/b/a Coos Bay Rail Link, Docket No. FD 36241.

Pursuant to 49 C.F.R. § 1180.2(d)(2), the Port hereby invokes the Board's class exemption procedures to continue in control of Coos Rail upon Coos Rail's commencement of rail common carrier operations in place of CBR. The subject transaction, involving the Port's continued control of Coos Rail once Coos Rail becomes a rail common carrier, qualifies for a class exemption under section 1180.2(d)(2) in keeping with recent Board guidance.³

b. Name, Address, and Phone Number of the Applicant

OREGON INTERNATIONAL
PORT OF COOS BAY
125 W Central Avenue
Suite 300
Coos Bay, OR 97420
Phone: 541-267-7678

² Coos Bay Railroad Operating Company, LLC d/b/a Coos Bay Rail Link – Operation Exemption – Line of Railroad owned by the Oregon International Port of Coos Bay, Docket No. FD 35551 (STB served Sep. 14, 2011).

³ See Oregon International Port of Coos Bay and Coos Bay Rail Line, Inc. – Intra-Corporate Family Transaction Exemption, Docket No. FD 36199 (STB served Oct. 26, 2018) slip op. at 4 ("If Coos Rail would be under the control of the Port, that [] would require a related verified notice of exemption under 49 C.F.R. § 1180.2(d)(2) for the Port's continuance in control of Coos Rail upon Coos Rail's becoming a carrier, given that the Port is already a carrier").

c. Name of Counsel to Whom Questions Can Be Addressed

Correspondence with respect to this verified notice of exemption should be addressed to:

Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, IL 60606-3208
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Fax: (312) 252-2400

49 C.F.R. § 1180.6 (a)(1)(ii) – Consummation Schedule

The Port anticipates that the subject exemption will take effect no later than November 28, 2018.

49 C.F.R. § 1180.6(a)(1)(iii) – Purpose of the Transaction

The purpose of this transaction is to facilitate a transition in operations from CBR to Coos Rail, by enabling the Port to remain in control of Coos Rail once Coos Rail commences rail common carrier operations in place of CBR.

49 C.F.R. §1180.6(a)(5) – List of States in Which the Parties' Property is Located

The Line (as described above) is located entirely in the State of Oregon.

49 C.F.R. § 1180.6(a)(6) – Map (Exhibit A)

A map of the Line, which the Port owns and Coos Rail proposes to operate pursuant to FD 36241 is attached as Exhibit A.

49 C.F.R. § 1180.6(a)(7)(ii) – Agreement (Exhibit B)

The proposed installation of Coos Rail on the Line in place of CBR in the FD 36241 proceeding will be governed by an appropriate agreement between the Port and Coos Rail. The

subject continuance in control, however, will not be, and does not need to be, the subject of a separate agreement. Accordingly, no agreement exists responsive to section 1180.6(a)(7)(ii).

49 C.F.R. § 1180.4(g)(1)(i) – Level of Labor Protection

Because the proposed transaction involves two Class III carriers – the Port (as an existing carrier) and Coos Rail (which intends shortly to become a rail carrier) – the employee protective provisions of 49 U.S.C. § 11326 do not apply. See 49 U.S.C. § 11326(c).

49 C.F.R. § 1180.4(g)(4) – Interchange Commitments

The Parties hereby certify that the proposed continuance in control transaction does not involve or contain any provision or agreement that may limit future interchange with a third-party connecting carrier, whether by outright prohibition, per-car penalty, adjustment in the purchase price or rental, positive economic inducement, or other means.

49 C.F.R. § 1105.6 through 1105.8 – Environmental and Historic Report

The proposed transaction will not result in material changes to the operations on the Line (i.e., changes that exceed the thresholds of 49 C.F.R. § 1105.7(e)(4) or (5)). Accordingly, the transaction is exempt from the requirement to provide environmental documentation pursuant to 49 C.F.R. §§ 1105.6(c)(2) and (4).

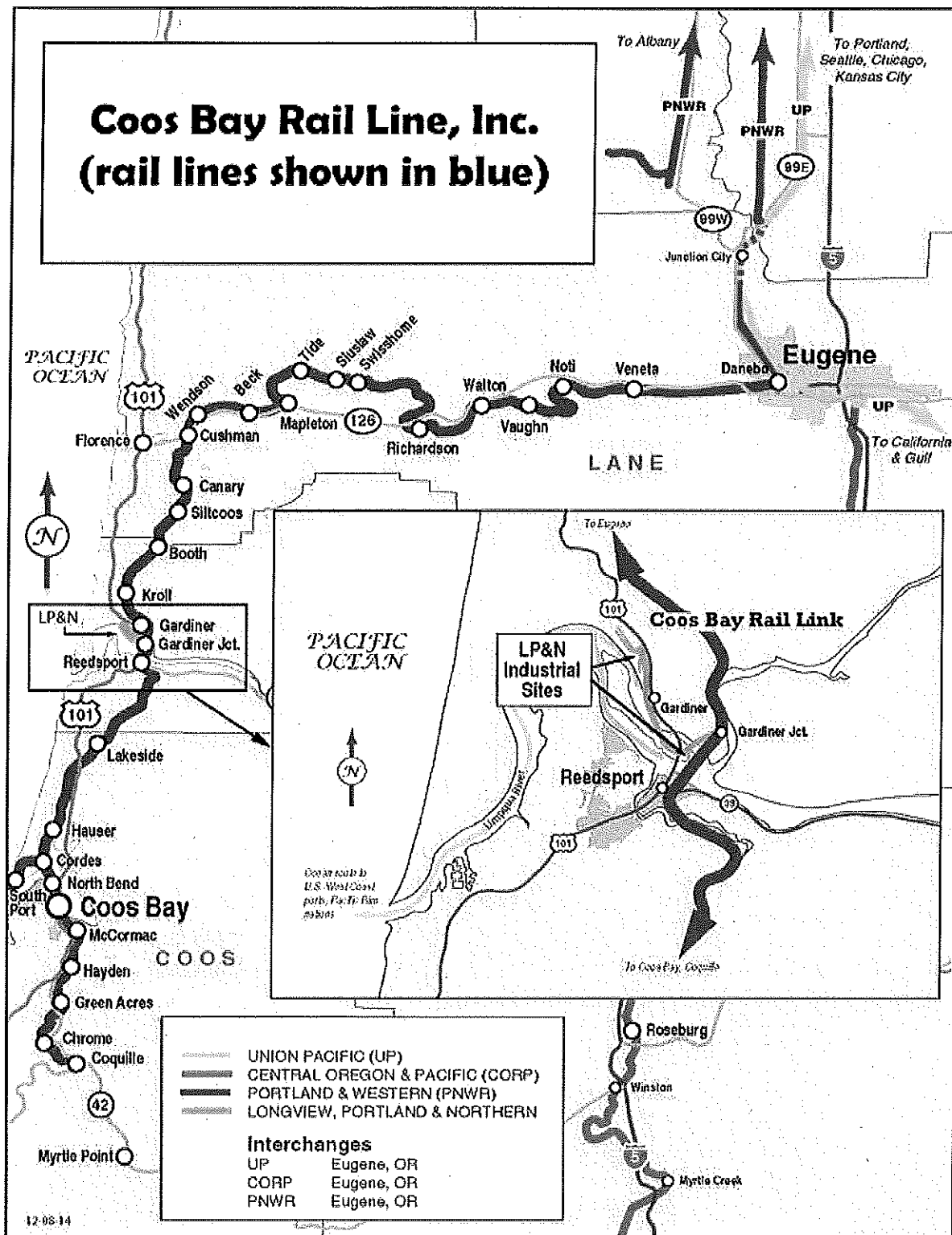
Because rail operations will continue, separate Board approval would be required if Coos Rail were at some future date to discontinue operations or if the Port were to seek to abandon any portion of the Line. Furthermore, there are no plans to dispose of or alter properties subject to the Board's jurisdiction that are 50 years old or older. Hence, pursuant to 49 C.F.R. §1105.8(b)(2-3), the transaction is exempt from historic preservation reporting requirements.

Respectfully submitted this 29th day of October, 2018,

A handwritten signature in black ink, appearing to read "R. A. Wimbish", is written over a horizontal line.

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**ATTORNEYS FOR OREGON INTERNATIONAL PORT
OF COOS BAY**

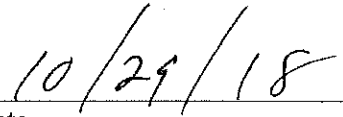


VERIFICATION

Pursuant to 28 U.S.C. § 1746, I, John Burns, declares under penalty of perjury that I am authorized to make this verification on behalf of Oregon International Port of Coos Bay, as the Chief Executive Officer. I have read the foregoing Continuance in Control notice of exemption, know the contents thereof, and attest that the same are true and correct to the best of my knowledge, information, and belief.



John Burns
Chief Executive Officer
Oregon International Port of Coos Bay



Date