

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36325

SPOKANE, SPANGLE & PALOUSE RAILWAY, L.L.C.—LEASE AND OPERATION
EXEMPTION—WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

Digest:¹ This decision permits Spokane, Spangle & Palouse Railway, L.L.C. to commence operations on an expedited basis over approximately 102.6 miles of rail line in Washington.

Decided: August 2, 2019

On July 2, 2019, as supplemented on July 12, 2019, Spokane, Spangle & Palouse Railway, L.L.C. (SSPR), filed a verified notice of exemption under 49 C.F.R. § 1150.31 to lease from the Washington State Department of Transportation (WSDOT) and operate approximately 102.6 miles of rail line (the Lines).² According to SSPR, the Lines consist of: (1) the Colfax-Moscow Line (a) between milepost 3.0 at Colfax, Wash., and milepost 18.7 at Pullman, Wash., and (b) between milepost 75.9 at Pullman and milepost 84.05 at the Washington-Idaho state line; (2) the Washington, Idaho, and Montana Line between milepost 0.0 at Palouse, Wash., and milepost 3.85 at the Washington-Idaho state line; and (3) the Palouse and Lewiston Line between milepost 1.0 at Marshall, Wash., and milepost 75.9 at Pullman. Notice of the exemption was served and published in the Federal Register on July 26, 2019 (84 Fed. Reg. 36,156).

Under 49 C.F.R. § 1150.32(b), an exemption becomes effective 30 days after the verified notice is filed. Here, the Board's published notice indicated that July 12, 2019, the date SSPR filed its supplement clarifying the description of the Lines, would be considered the filing date for the purpose of calculating the effective date of the exemption. The Board's notice further stated that, therefore, the earliest the transaction could be consummated is August 11, 2019. Spokane, Spangle & Palouse Ry.—Lease & Operation Exemption—Wash. State Dep't of Transp., FD 36325, slip op. at 2 n.2, 3 (STB served July 26, 2019).

On July 30, 2019, SSPR filed an emergency petition to partially waive the 30-day effectiveness period and to allow the exemption to become effective by August 5, 2019. SSPR

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

² SSPR's original submission stated that the Lines are located in Washington and Idaho. However, SSPR's July 12, 2019 supplement clarified that the Lines are located in Washington only.

explains that it expected the exemption to be effective on August 1, 2019, based on the July 2, 2019 filing date of its initial notice, and transition plans among several involved parties have been implemented based on an August 1, 2019 start-up date for SSPR. (Pet. 1.) SSPR states that Pacific Northwest Farmer's Cooperative, Inc. (PNW) has already reserved a 110-car shuttle train for outbound handling by SSPR the week of August 5. (Id. at 1-2.) SSPR states that it has all necessary staffing and other arrangements in place to handle this movement, while Washington & Idaho Railway, Inc. (WIM), the Lines' prior lessee, has been de-mobilizing its assets and its employees are in the process of departing for other jobs. (Id. at 2.) SSPR provides letters from PNW, WSDOT, and WIM that support the requested waiver. (Id. at Ex. 1-3.)

For good cause shown, the Board will grant the petition and waive the 30-day requirement under § 1150.32(b) to the extent necessary to permit the exemption to take effect immediately. The circumstances of this case indicate that a partial waiver is appropriate. Accelerating the effective date of the exemption will help avoid a potential disruption of rail service for shippers on the Lines, and no parties have objected to the waiver request.

It is ordered:

1. The petition for waiver is granted, and the 30-day provision under 49 C.F.R. § 1150.32(b) is waived, in part, as discussed above.
2. The exemption shall become effective on the service date of this decision.
3. This decision is effective on its service date.

By the Board, Board Members Begeman, Fuchs, and Oberman.