

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35532]

Virginia Port Authority—Acquisition Exemption—Norfolk and Portsmouth Belt Line
Railroad Company

Virginia Port Authority (VPA), a noncarrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.31 to acquire from the Norfolk and Portsmouth Belt Line Railroad Company (NPBL) certain physical assets of a rail line and the associated right-of-way, between a point on NPBL's track known as West Junction westward and across Hampton Boulevard to a point of connection with VPA track, located on Sewell's Point in the City of Norfolk, Va., a distance of approximately 1.18 miles (approximately 5,700 feet).¹ According to VPA, NPBL will retain a permanent, exclusive, and irrevocable freight easement to provide freight service on the entire line.²

VPA states that it has agreed upon a Real Estate Purchase Agreement, a deed, and an Operating Agreement (the agreements) with NPBL for the proposed transaction. According to VPA, it is the recipient of grant funds from the Virginia Department of Rail and Public Transportation and it is acquiring the property for construction of new rail

¹ VPA indicates that NPBL does not use mileposts for this section of its track.

² A motion to dismiss this notice of exemption on the grounds that the transaction does not require authorization from the Board was concurrently filed with this notice of exemption. The motion will be addressed in a subsequent Board decision. In its motion to dismiss, VPA states that it is a political subdivision of the Commonwealth of Virginia.

yard on the Sewells Point property. VPA also states that the agreements do not contain any provision that would limit interchange with a third party.

VPA certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and further certifies that its projected annual revenues will not exceed \$5 million.

VPA states that it expects to consummate the proposed transaction immediately after the Board's decision on its motion to dismiss. The earliest this transaction may be consummated is July 21, 2011, the effective date of the exemption (30 days after the exemption is filed).

If the 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 transaction. Petitions for stay must be filed no later than July 14, 2011 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35532, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Thomas W. Wilcox, 1054 31st Street, N.W., Suite 200, Washington, DC 20007.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: June 29, 2011.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.