

46651

SERVICE DATE – OCTOBER 11, 2018

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36226]

Washington Eastern Railroad, LLC—Change in Operators Exemption—Eastern
Washington Gateway Railroad Company

Washington Eastern Railroad, LLC (WERR), a noncarrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.31 to assume operations over approximately 107.8 miles of track extending between milepost 1.0 near Cheney, Wash., and the end of the track at milepost 108.8 in Coulee City, Wash. (CW Branch), and over approximately 5.9 miles of track that connects with the CW Branch at Geiger Junction near Medical Lake, Wash. (Geiger Spur)¹ (collectively, the Lines). The verified notice indicates that the CW Branch is currently owned by the State of Washington, Department of Transportation (WDOT) and the Geiger Spur is owned by the County of Spokane, Wash. The Lines are currently leased to Eastern Washington Gateway Railroad Company (EWG). As a result of this transaction, WERR will become a carrier and replace EWG as the Lines' exclusive lessee and operator. According to WERR, EWG is aware that WDOT plans to change operators over the Lines and does not object to the proposed change in operators.

¹ The Geiger Spur consists of two segments: the first extends from milepost 2.5 (at the east gate of Fairchild Air Force Base) to milepost 4.93 (at McFarlane and Hayford Roads) near Airway Heights, Wash.; the second extends from milepost 0.0 at Geiger Junction at its connection with the CW Branch to milepost 3.45, where it connects with the first segment at milepost 2.7.

The verified notice indicates that WERR and WDOT have reached an agreement in principle for WERR to replace EWG as the lessee and operator of the Lines upon the effective date of the exemption. WERR states that BNSF Railway Company (BNSF) currently has trackage rights over the CW Branch and that WERR's lease of the Lines will continue to be subject to BNSF's trackage rights.

This transaction is related to a concurrently filed verified notice of exemption in David L. Durbano—Continuance in Control Exemption—Washington Eastern Railroad, LLC, Docket No. FD 36227, in which David L. Durbano seeks to continue in control of WERR upon WERR's becoming a Class III rail carrier.

WERR certifies that the underlying lease and operation agreement does not contain any provision or agreement that would limit future interchange with a third-party connecting carrier. Further, WERR certifies that its annual rail revenues as a result of this transaction will not exceed \$5 million, and it will not result in WERR's becoming a Class I or Class II rail carrier. Under 49 C.F.R. § 1150.32(b), a change in operator requires that notice be given to shippers. WERR certifies that notice of the change in operator was served on all known shippers on the Lines.

The earliest this transaction may be consummated is October 25, 2018, the effective date of the exemption (30 days after the verified notice was filed).

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 for stay must be filed no later than October 18, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36226, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037.

Board decisions and notices are available on our website at www.stb.gov.

Decided: October 5, 2018.

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