



2601 SR 509 North Frontage Road
Tacoma, Washington 98421

ENTERED
Office of Proceedings

SEP 30 2004

TACOMA PUBLIC UTILITIES

Part of
Public Record

Via Federal Express

September 29, 2004

212111



Vernon A. Williams, Secretary
Surface Transportation Board
Case Control Unit, Suite 713
1925 K Street, N.W.
Washington, DC 20423-0001

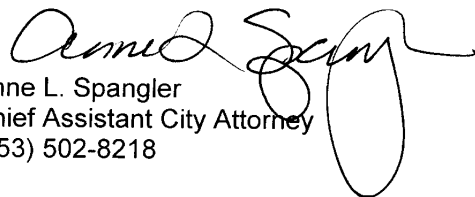
RE: Finance Docket No. 34555, City of Tacoma, Department of Public Utilities, Beltline Division, dba Tacoma Rail, Tacoma Municipal Beltline or TMBL
Acquisition Exemption—Lakeview Subdivision, Quadlok-St. Clair, and Belmore-Olympia Rail Lines in Pierce and Thurston Counties, Washington

Dear Secretary Williams:

The City of Tacoma, Department of Public Utilities, Beltline Division, dba Tacoma Rail, Tacoma Municipal Beltline or TMBL ("TMBL") here by certifies that on September 28, 2004, TMBL posted a copy of the Decision issued September 27, 2004 by the Surface Transportation Board in the above-referenced Docket at the workplace of the employees on the rail line that is the subject of this transaction and served a copy of the Decision on the national offices of all labor unions with employees on the affected lines. An original and ten copies of this letter and the attachments evidencing such acts are enclosed.

If you have any questions, please do not hesitate to contact me.

Sincerely,


Anne L. Spangler
Chief Assistant City Attorney
(253) 502-8218

Enclosures

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34555

CITY OF TACOMA, DEPARTMENT OF PUBLIC UTILITIES, BELTLINE
DIVISION, DBA TACOMA RAIL OR TACOMA MUNICIPAL BELTLINE OR
TMBL—ACQUISITION AND OPERATION EXEMPTION—LAKEVIEW SUBDIVISION,
QUADLOK-ST. CLAIR, AND BELMORE-OLYMPIA RAIL LINES IN PIERCE AND
THURSTON COUNTIES, WASHINGTON

SEP 30 2004
RECEIVED

ENTERED
Office of Proceedings

SEP 30 2004

Part of
Public Record

VERIFIED STATEMENT OF ANNE L. SPANGLER

1. My name is Anne L. Spangler, I am the Chief Assistant City Attorney for the City of Tacoma. I am over the age of 18 and competent to provide this Verified Statement.

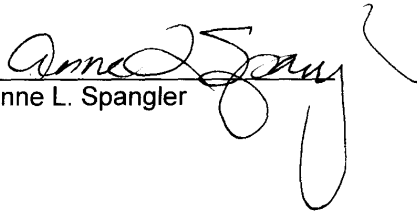
2. I have acted as lead in-house counsel to the City of Tacoma, Department of Public Utilities, Beltline Division d/b/a Tacoma Rail, Tacoma Municipal Beltline, or TMBL ("TMBL") in the purchase and sale transaction that is the subject of STB Finance Docket No. 34555.

3. I wish to inform the Board that on September 28, 2004, I prepared and sent by Federal Express overnight courier service, a copy of the Decision of the Surface Transportation Board in the above-referenced matter, dated September 27, 2004, to the Presidents of the Unions representing employees affected by the underlying transaction. A true and correct copy of the cover letter and copy of the Decision are attached hereto, together with a copy of the record of the delivery by Federal Express.

VERIFICATION

I, Anne L. Spangler, Chief Assistant City Attorney for the City of Tacoma, verify under penalty of perjury, under the laws of the United States, that the foregoing is true and correct to the best of my knowledge. Further, I certify that I am qualified and authorized to file this Verified Statement.

Executed on this 28th day of September, 2004.


Anne L. Spangler



2601 SR 509 North Frontage Road
Tacoma, Washington 98421

TACOMA PUBLIC UTILITIES

Via Federal Express

September 28, 2004

Mr. Don M. Hahs, President
Brotherhood of Locomotive Engineers &
Trainmen
1370 Ontario Street
Standard Building
Cleveland, OH 44113

Mr. Fred Simpson, President
Brotherhood of Maintenance of Way
Employees
2655 Evergreen Road, Suite 200
Southfield, MI 48076-4225

Mr. Danny Pickett, President
Brotherhood of Railroad Signalmen
601 West Golf Road
Mt. Prospect, IL 60056

Mr. Paul Thompson, President
United Transportation Union
14600 Detroit Avenue
Cleveland, OH 44107-4250

RE: STB Finance Docket No. 34555
City of Tacoma, Department of Public Utilities, Beltline Division
d/b/a/ Tacoma Rail or Tacoma Municipal Beltline or TMBL—
Acquisition and Operation Exemption—Lakeview Subdivision,
Quadlok-St. Clair, and Belmore-Olympia Rail lines in Pierce and
Thurston Counties, WA

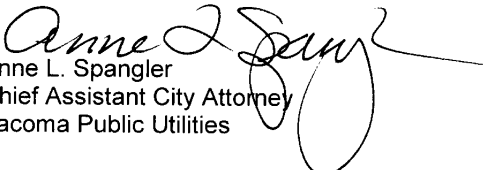
Dear Presidents:

In accordance with an order of the Surface Transportation Board, attached to this letter please find a copy of a decision issued by the STB on September 27, 2004, regarding the City of Tacoma, Tacoma Municipal Belt Line's proposed acquisition of freight service on several of The Burlington Northern & Santa Fe's lines in the vicinity of Tacoma, Washington.

We are separately posting a copy of this Notice at the BNSF Terminal in Tacoma.

Please do not hesitate to contact me if you have any questions.

Sincerely,


Anne L. Spangler
Chief Assistant City Attorney
Tacoma Public Utilities

cc: Dennis Dean
Mark Crisson
David Rankin, BNSF

35097
EB

SERVICE DATE – LATE RELEASE SEPTEMBER 27, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34555

CITY OF TACOMA, DEPARTMENT OF PUBLIC UTILITIES, BELTLINE DIVISION
D/B/A TACOMA RAIL OR TACOMA MUNICIPAL BELTLINE OR TMBL
—ACQUISITION AND OPERATION EXEMPTION—
LAKEVIEW SUBDIVISION, QUADLOK-ST. CLAIR, AND BELMORE-OLYMPIA
RAIL LINES IN PIERCE AND THURSTON COUNTIES, WA

[REQUEST FOR WAIVER OF 49 CFR 1150.42(e)]

Decided: September 27, 2004

On September 20, 2004, the City of Tacoma, Department of Public Utilities, Beltline Division, d/b/a Tacoma Rail, Tacoma Municipal Beltline or TMBL (TMBL) filed a verified notice under 49 CFR Part 1150, Subpart E – Exempt Transactions Under 49 U.S.C. 10902 for Class III Rail Carriers to acquire and operate approximately 28 miles of rail line, and to obtain approximately 22 miles of incidental trackage rights, in Pierce and Thurston Counties, WA. Related to that notice, this decision denies: (1) TMBL's request for waiver of the Board's employee notice regulations at 49 CFR 1150.42(e); and (2) a request to stay the effectiveness of TMBL's notice of exemption filed by John D. Fitzgerald, for and on behalf of United Transportation Union – General Committee of Adjustment (UTU/GO-386).

BACKGROUND

TMBL is seeking to acquire a freight service easement from The Burlington Northern and Santa Fe Railway Company (BNSF) from milepost 2.15 at South Tacoma to milepost 8.92 at Lakeview Junction, and from milepost 0.0 at West Lakeview to milepost 10.98 at Nisqually, a total distance of 17.75 miles in Pierce County. TMBL also plans to lease BNSF's right-of-way from milepost 3.27 at Quadlok to milepost 0.0 at St. Clair, and from milepost 16.0 at Belmore to milepost 9.07 at Olympia, a total distance of 10.2 miles in Thurston County. Pursuant to the foregoing transactions, TMBL also plans to obtain incidental trackage rights from BNSF from milepost 23.0 at Nisqually to milepost 37.00 at East Olympia, and TMBL would be assigned incidental trackage rights from BNSF over Union Pacific Railroad Company's (UP) rail line from milepost 0.0 at East Olympia to milepost 9.07 at

Olympia. The parties are scheduled to consummate the transaction on September 30, 2004, effective October 1, 2004.

On September 22, 2004, UTU/GO-386 filed a petition to stay the effectiveness of the exemption. Petitioner argues that TMBL did not comply with 49 CFR 1150.42(e) because it failed to certify to the Board 60 days before the exemption was scheduled to become effective that TMBL had notified affected employees of the transaction. Petitioner also contends that TMBL did not provide effective notice to employees by merely sending a letter to local BNSF personnel in Tacoma, requesting that they post notice of the transaction. According to UTU/GO-386, TMBL should have also provided notice to UP employees because the trackage rights are over UP trackage and because UP and BNSF interchange freight with each other. UTU/GO-386 states that it intends to file a petition to reject or revoke TMBL's notice of exemption.

TMBL replied on September 23, 2004, opposing the stay request. In addition, TMBL also seeks a waiver of the requirements of 49 CFR 1150.42(e)¹ to permit the exemption it is seeking in this proceeding to become effective without awaiting the expiration of the 60-day notice period, measured from the date of certification to the Board, specified in section 1150.42(e).

TMBL states that, on July 29, 2004, it sent notice of its intent to undertake the proposed transaction to BNSF to be posted at the workplace of the employees on the rail line and served a copy of the notice of intent on the national offices of the labor unions representing the employees on the line. According to TMBL, there was no need for it to notify UP employees of the transaction as BNSF operates the trackage rights using only its own employees. Because of an oversight, however, TMBL states that it failed to certify to the Board that it had complied with the requirements of 49 CFR 1150.42(e) until September 16, 2004, only 14 days prior to the effective date of the transaction.² TMBL states that, under the parties' agreement, it is required to have all necessary approvals in place by October 1, 2004. Consequently, to consummate the transaction on the intended consummation date, or as soon thereafter as possible, TMBL seeks waiver of the requirements of 49 CFR 1150.42(e)

¹ "If the projected annual revenue of the rail lines to be acquired or operated, together with the acquiring carrier's projected annual revenue, exceeds \$5 million, the applicant must, at least 60 days before the exemption becomes effective, post a notice of applicant's intent to undertake the proposed transaction at the workplace of the employees on the affected line(s) and serve a copy of the notice on the national offices of the labor unions with employees on the affected line(s), setting forth the types and numbers of jobs expected to be available, the terms of employment and principles of employee selection, and the lines that are to be transferred, and certify to the Board that it has done so."

² Certification was made to the Board on September 17, 2004.

insofar as they relate to certifying to the Board that it has complied with the relevant notice requirements at least 60 days prior to effectiveness of the exemption.

According to TMBL, it has substantially complied with 49 CFR 1150.42(e) by giving the required 60-day advance notice to the potentially affected BNSF employees and to the national labor organizations representing them. TMBL points to Board precedent where waivers have been granted from 49 CFR 1150.42(e), such as M&B Railroad, L.L.C.– Acquisition and Operation Exemption – CSX Transportation, Inc., STB Finance Docket No. 34423 (STB served Nov. 3, 2003), Fort Worth and Western Railroad Company, Inc.–Acquisition and Operation Exemption–Union Pacific Railroad Company, STB Finance Docket No. 34286 (STB served Dec. 20, 2002), and Puget Sound & Pacific Railroad–Lease and Operation Exemption–Union Pacific Railroad, STB Finance Docket No. 34213 (STB served Dec. 6, 2002). TMBL states that delaying the closing date could have adverse effects on the transaction. TMBL thus requests that the Board waive the remainder of the 60-day certification requirement of 49 CFR 1150.42(e), accept the certification that has been given, and allow TMBL and BNSF to consummate the transaction on or after September 30, 2004.

UTU/GO-386 replied to TMBL's request for waiver on September 23, 2004. UTU/GO-386 contends that TMBL has not demonstrated special circumstances justifying a waiver from the Board's regulations and that as a policy matter such waivers should not be granted.

DISCUSSION AND CONCLUSIONS

Request for Waiver of 49 CFR 1150.42(e)

The purpose of 49 CFR 1150.42(e) is to ensure that rail labor unions and employees who would be affected by the transfer of the line are given sufficient notice of the transaction before consummation. See Acq. Of R. Lines Under 49 U.S.C. 10901 and 10902–Advance Notice of Proposed Transactions, 2 S.T.B. 592 (1997). The 60-day certification to the Board is an important aspect of the notice requirements. Despite the fact that the Board has consistently interpreted 49 CFR 1150.42(e) to include certification to the Board 60 days before the effective date of the transaction, we have granted waivers from the certification requirement when the facts and circumstances have warranted. See, e.g., Arkansas and Missouri Railroad Company–Lease and Operation Exemption–Union Pacific Railroad Company, STB Finance Docket No. 33843 (STB served June 29, 2000). Such circumstances have included actual notice given to employees in excess of 60 days, demonstrated adverse effects of a delay, and the fact that the petition for waiver has not been contested.

Contrary to the situation in this proceeding, all of the cases cited by TMBL to justify a waiver lacked opposition. Rather, when there has been opposition, we have looked at all of the facts

surrounding the waiver request. In Reading Blue Mountain and Northern Company—Lease and Operation Exemption—Norfolk Southern Railway Company and Pennsylvania Lines LLC, STB Finance Docket No. 34048 (STB served Aug. 1, 2001), we granted such a waiver request despite opposition where the petitioner made a showing that actual notice was given, that a delay would prevent service to an additional shipper, and that extra power and personnel had been mobilized for the proposed effective date. Here, however, TMBL has not provided any reason to grant a waiver other than that a delay “could jeopardize the agreements that TMBL and BNSF have reached to the detriment of TMBL.” TMBL petition at 5. TMBL has not provided any evidence that justifies our deviating from the existing regulations. Conversely, petitioner appears to be seeking the waiver based more on convenience than on operational or other necessity. Further, the fact that TMBL has sought a similar waiver in the past undermines its assertion that its failure to timely certify to the Board its compliance with 49 CFR 1150.42(e) was a mere oversight. See Belt Line Division of Tacoma Public Utilities—Operation Exemption—In Pierce, Thurston and Lewis Counties, WA, STB Finance Docket No. 33666 (STB served Oct. 30, 1998). Accordingly, we will deny the waiver request.³

Request for Stay

In light of the Board’s action denying waiver of the 60-day certification requirement of 49 CFR 1150.42(e), UTU/GO-386’s request for stay will be denied on the grounds that it is not necessary in the circumstances. Here, the notice of exemption cannot become effective until 60 days after TMBL certified compliance with 49 CFR 1150.42(e) to the Board, or November 16, 2004. UTU/GO-386 is free to file a petition to reject or revoke the notice in the absence of a stay.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. TMBL’s waiver request is denied.
2. UTU/GO-386’s request for stay is denied.
3. TMBL (with the cooperation of BNSF as necessary) shall, within 5 days after service of this decision, post a copy of this decision at the workplace of the employees on the rail line and serve a

³ Because the record indicates that no UP employees could potentially be adversely affected by this transaction, we agree with TMBL that those employees are not entitled to notice in the circumstances.

STB Finance Docket No. 34555

copy of the decision on the national offices of the labor unions representing the employees on the line, and certify to the Board that it has done so.

4. This decision is effective on its service date.

By the Board, Chairman Nober, Vice Chairman Mulvey, and Commissioner Buttrey.

Vernon A. Williams
Secretary

Storwick, Tracy

From: FedEx [donotreply@fedex.com]
Sent: Wednesday, September 29, 2004 7:09 AM
To: TSTORWIC@CITYOFTACOMA.ORG
Subject: FedEx shipment 790286398543

Our records indicate that the shipment sent from TRACY R STORWICK/TACOMA PUBLIC UTILITIES to MR. DANNY PICKETT, PRESIDENT/BROTHERHOO has been delivered. The package was delivered on 09/29/2004 at 9:01 AM and signed for or released by L.STRAT.

The ship date of the shipment was 09/28/2004.

The tracking number of this shipment was 790286398543.

FedEx appreciates your business. For more information about FedEx services, please visit our web site at <http://www.fedex.com>

To track the status of this shipment online please use the following:
[http://www.fedex.com/cgi-bin/tracking?tracknumbers=790286398543
&action=track&language=english&cntry_code=us](http://www.fedex.com/cgi-bin/tracking?tracknumbers=790286398543&action=track&language=english&cntry_code=us)

Disclaimer

FedEx has not validated the authenticity of any email address.

Storwick, Tracy

From: FedEx [donotreply@fedex.com]
Sent: Wednesday, September 29, 2004 6:23 AM
To: TSTORWIC@cityoftacoma.org
Subject: FedEx shipment 790286424062

Our records indicate that the shipment sent from TRACY R STORWICK/TACOMA PUBLIC UTILITIES to MR. FRED SIMPSON, PRESIDENT/BROTHERHOOD has been delivered. The package was delivered on 09/29/2004 at 9:15 AM and signed for or released by S.MOCHER.

The ship date of the shipment was 09/28/2004.

The tracking number of this shipment was 790286424062.

FedEx appreciates your business. For more information about FedEx services, please visit our web site at <http://www.fedex.com>

To track the status of this shipment online please use the following:
[http://www.fedex.com/cgi-bin/tracking?tracknumbers=790286424062
&action=track&language=english&cntry_code=us](http://www.fedex.com/cgi-bin/tracking?tracknumbers=790286424062&action=track&language=english&cntry_code=us)

Disclaimer

FedEx has not validated the authenticity of any email address.

Storwick, Tracy

From: FedEx [donotreply@fedex.com]
Sent: Wednesday, September 29, 2004 7:20 AM
To: TSTORWIC@CITYOFTACOMA.ORG
Subject: FedEx shipment 790778769473

Our records indicate that the shipment sent from TRACY R STORWICK/TACOMA PUBLIC UTILITIES to MR DON M HAHS, PRESIDENT/BROTHERHOOD OF has been delivered. The package was delivered on 09/29/2004 at 9:58 AM and signed for or released by T.BRENNMAN.

The ship date of the shipment was 09/28/2004.

The tracking number of this shipment was 790778769473.

FedEx appreciates your business. For more information about FedEx services, please visit our web site at <http://www.fedex.com>

To track the status of this shipment online please use the following:
[http://www.fedex.com/cgi-bin/tracking?tracknumbers=790778769473
&action=track&language=english&cntry_code=us](http://www.fedex.com/cgi-bin/tracking?tracknumbers=790778769473&action=track&language=english&cntry_code=us)

Disclaimer

FedEx has not validated the authenticity of any email address.

Storwick, Tracy

From: FedEx [donotreply@fedex.com]
Sent: Wednesday, September 29, 2004 6:47 AM
To: TSTORWIC@cityoftacoma.org
Subject: FedEx shipment 792740888448

Our records indicate that the shipment sent from TRACY R STORWICK/TACOMA PUBLIC UTILITIES to MR PAUL THOMPSON, PRESIDENT/UNITED TRAN has been delivered. The package was delivered on 09/29/2004 at 9:15 AM and signed for or released by W.CONNERS.

The ship date of the shipment was 09/28/2004.

The tracking number of this shipment was 792740888448.

FedEx appreciates your business. For more information about FedEx services, please visit our web site at <http://www.fedex.com>

To track the status of this shipment online please use the following:
[http://www.fedex.com/cgi-bin/tracking?tracknumbers=792740888448
&action=track&language=english&cntry_code=us](http://www.fedex.com/cgi-bin/tracking?tracknumbers=792740888448&action=track&language=english&cntry_code=us)

Disclaimer

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 34555

**CITY OF TACOMA, DEPARTMENT OF PUBLIC UTILITIES, BELTLINE
DIVISION, DBA TACOMA RAIL OR TACOMA MUNICIPAL BELTLINE OR
TMBL—ACQUISITION AND OPERATION EXEMPTION—LAKEVIEW SUBDIVISION,
QUADLOK-ST. CLAIR, AND BELMORE-OLYMPIA RAIL LINES IN PIERCE AND
THURSTON COUNTIES, WASHINGTON**

VERIFIED STATEMENT OF PAULA HENRY

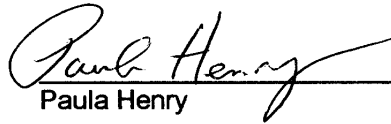
1. My name is Paula Henry, I am the Assistant Superintendent for the City of Tacoma, Department of Public Utilities, Beltline Division, dba Tacoma Rail, Tacoma Municipal Beltline or TMBL ("TMBL"). I am over the age of 18 and competent to provide this Verified Statement.

2. I wish to inform the Board that on September 28, 2004, I personally posted a copy of the Decision of the Surface Transportation Board in the above-referenced matter dated September 27, 2004, in the lunchroom location for the crews affected by this transaction at the Tacoma Washington Terminal of the Burlington Northern and Santa Fe Railway Company ("BNSF"). Mr. Dan Burns, the Terminal Manager, informed me that the location of the posting was the official location for posting for those crews. A copy of the Order posted is attached hereto.

VERIFICATION

I, Paula Henry, Assistant Superintendent for Tacoma Rail, verify under penalty of perjury, under the laws of the United States, that the foregoing is true and correct to the best of my knowledge. Further, I certify that I am qualified and authorized to file this Verified Statement.

Executed on this 28 day of September, 2004.


Paula Henry

35097
EB

SERVICE DATE – LATE RELEASE SEPTEMBER 27, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34555

CITY OF TACOMA, DEPARTMENT OF PUBLIC UTILITIES, BELTLINE DIVISION
D/B/A TACOMA RAIL OR TACOMA MUNICIPAL BELTLINE OR TMBL
—ACQUISITION AND OPERATION EXEMPTION—
LAKEVIEW SUBDIVISION, QUADLOK-ST. CLAIR, AND BELMORE-OLYMPIA
RAIL LINES IN PIERCE AND THURSTON COUNTIES, WA

[REQUEST FOR WAIVER OF 49 CFR 1150.42(e)]

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DISCUSSION AND CONCLUSIONS

Request for Waiver of 49 CFR 1150.42(e)

The purpose of 49 CFR 1150.42(e) is to ensure that rail labor unions and employees who would be affected by the transfer of the line are given sufficient notice of the transaction before consummation. See Acq. Of R. Lines Under 49 U.S.C. 10901 and 10902—Advance Notice of Proposed Transactions, 2 S.T.B. 592 (1997). The 60-day certification to the Board is an important aspect of the notice requirements. Despite the fact that the Board has consistently interpreted 49 CFR 1150.42(e) to include certification to the Board 60 days before the effective date of the transaction, we have granted waivers from the certification requirement when the facts and circumstances have warranted. See, e.g., Arkansas and Missouri Railroad Company—Lease and Operation Exemption—Union Pacific Railroad Company, STB Finance Docket No. 33843 (STB served June 29, 2000). Such circumstances have included actual notice given to employees in excess of 60 days, demonstrated adverse effects of a delay, and the fact that the petition for waiver has not been contested.

Contrary to the situation in this proceeding, all of the cases cited by TMBL to justify a waiver lacked opposition. Rather, when there has been opposition, we have looked at all of the facts

surrounding the waiver request. In Reading Blue Mountain and Northern Company—Lease and Operation Exemption—Norfolk Southern Railway Company and Pennsylvania Lines LLC, STB Finance Docket No. 34048 (STB served Aug. 1, 2001), we granted such a waiver request despite opposition where the petitioner made a showing that actual notice was given, that a delay would prevent service to an additional shipper, and that extra power and personnel had been mobilized for the proposed effective date. Here, however, TMBL has not provided any reason to grant a waiver other than that a delay “could jeopardize the agreements that TMBL and BNSF have reached to the detriment of TMBL.” TMBL petition at 5. TMBL has not provided any evidence that justifies our deviating from the existing regulations. Conversely, petitioner appears to be seeking the waiver based more on convenience than on operational or other necessity. Further, the fact that TMBL has sought a similar waiver in the past undermines its assertion that its failure to timely certify to the Board its compliance with 49 CFR 1150.42(e) was a mere oversight. See Belt Line Division of Tacoma Public Utilities—Operation Exemption—In Pierce, Thurston and Lewis Counties, WA, STB Finance Docket No. 33666 (STB served Oct. 30, 1998). Accordingly, we will deny the waiver request.³

Request for Stay

In light of the Board’s action denying waiver of the 60-day certification requirement of 49 CFR 1150.42(e), UTU/GO-386’s request for stay will be denied on the grounds that it is not necessary in the circumstances. Here, the notice of exemption cannot become effective until 60 days after TMBL certified compliance with 49 CFR 1150.42(e) to the Board, or November 16, 2004. UTU/GO-386 is free to file a petition to reject or revoke the notice in the absence of a stay.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. TMBL’s waiver request is denied.
2. UTU/GO-386’s request for stay is denied.
3. TMBL (with the cooperation of BNSF as necessary) shall, within 5 days after service of this decision, post a copy of this decision at the workplace of the employees on the rail line and serve a

³ Because the record indicates that no UP employees could potentially be adversely affected by this transaction, we agree with TMBL that those employees are not entitled to notice in the circumstances.

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copy of the decision on the national offices of the labor unions representing the employees on the line, and certify to the Board that it has done so.

4. This decision is effective on its service date.

By the Board, Chairman Nober, Vice Chairman Mulvey, and Commissioner Buttrey.

Vernon A. Williams
Secretary