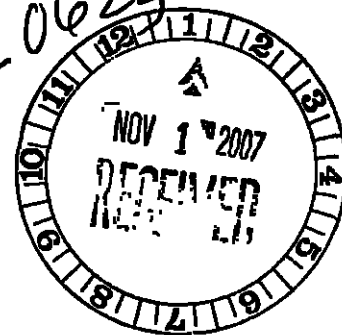


**WEINER
BRODSKY
SIDMAN
KIDER PC**

FEE RECEIVED
NOV 1 - 2007
SURFACE
TRANSPORTATION BOARD



November 1, 2007

VIA HAND

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
395 E Street, S W
Washington, DC 20423-001

FILED
NOV - 1 2007
SURFACE
TRANSPORTATION BOARD

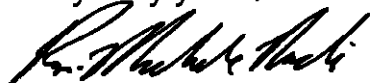
RE. Columbia Basin Railroad Company, Inc. - Acquisition and Operation Exemption -
- BNSF Railway Company and BNSF Acquisition, Inc

Dear Secretary Williams.

Enclosed for filing in the above-referenced proceeding are an original and 10 copies of the Petition for Waiver of Columbia Basin Railroad Company, Inc. with respect to the labor notice requirements set forth at 49 C.F.R. § 1150.42(e). Also enclosed is a check in the amount of \$500 to cover the cost of the filing.

Please acknowledge receipt of this letter by date-stamping the enclosed acknowledgment copy and returning it to our messenger.

Very truly yours,



Rose-Michele Nardi

ENTERED
Office of Proceedings

NOV - 1 2007

Part of
Public Record

Enclosures

FEE RECEIVED

NOV 1 - 2007

**SURFACE
TRANSPORTATION BOARD**
**BEFORE THE
SURFACE TRANSPORTATION BOARD**



FILED

NOV - 1 2007

**SURFACE
TRANSPORTATION BOARD**

STB Finance Docket No. 35066

**COLUMBIA BASIN RAILROAD COMPANY, INC.
-- ACQUISITION AND OPERATION EXEMPTION--
BNSF RAILWAY COMPANY AND BNSF ACQUISITION, INC**

**ENTERED
Office of Proceedings**

NOV - 1 2007

**Part of
Public Record**

PETITION FOR WAIVER

EXPEDITED HANDLING REQUESTED

Columbia Basin Railroad Company, Inc. ("CBRW") currently leases from BNSF Railway Company and BNSF Acquisition, Inc. (together "Sellers") certain rail lines in Washington State. CBRW is the exclusive operator and maintainer of these lines. The lease agreement between CBRW and Sellers includes an option to purchase the rail lines, which CBRW has exercised.

In connection with this option to purchase, CBRW is filing a verified notice of exemption, under 49 C.F.R. § 1150.41, with the Surface Transportation Board (the "Board"). CBRW hereby seeks a waiver from the labor notice requirements at 49 C.F.R. § 1150.42(e), either in whole or in part (i.e., a reduction of the 60-day notice period to coincide with the effective date of the related notice of exemption discussed below). The waiver is appropriate in this case because it will not thwart the purposes the labor notice requirement was intended to serve.

I Statement of Facts.

Pursuant to the verified notice of exemption, filed contemporaneously with this Petition, CBRW seeks authority to acquire and operate the following rail lines (1) from

approximately milepost 186.9 (at or near Connell, WA) to approximately milepost 145.7 (at or near Wheeler, WA), (2) from approximately milepost 0.0 (at or near Bassett Junction, WA) to approximately milepost 12.5 (at or near Schrag, WA), (3) from approximately milepost 20.0 (at or near Moscs Lake, WA) to approximately milepost 5.6 (at or near Sieler, WA); and (4) from approximately milepost 5.6 (at or near Sieler, WA) to approximately milepost 0.0 (at or near Wheeler, WA). CBRW is acquiring these lines pursuant to the option to purchase in its lease agreement with the Sellers. CBRW previously received regulatory authority to lease and operate substantially the same rail property. See STB Finance Docket No. 33140, *Columbia Basin Railroad Company, Inc. – Exemption to Lease and Operate – Burlington Northern Railroad Co. and BNSF Acquisition, Inc.*, Dec. 6, 1996 (“*Lease Decision*”).

In addition, CBRW intends to acquire incidental trackage rights for local and overhead rail service over approximately 13 route miles from approximately milepost 198.7 (at or near Othello, WA) to the end of the track at approximately milepost 197.4 (at or near Warden, WA). CBRW received authority to operate, via trackage rights, over substantially the same track in connection with its 1996 lease from Sellers. See *Lease Decision*.

Upon CBRW’s purchase of the subject lines, its rail operations will remain substantially identical to its current operations under its lease. Thus, CBRW does not anticipate that the sale transaction will create any jobs on the leased lines or adversely affect any employees currently working on these lines.

Sellers’ employees will not be adversely affected by the sale, because no employees of Sellers have worked on the leased lines for more than ten years. Similarly,

CBRW employees working on the leased lines will not be negatively impacted by this transaction. CBRW does not anticipate any elimination of jobs as a result of the sale, and no adverse changes in working conditions, rates of pay or benefits of CBRW employees are expected to result from the consummation of the sale. CBRW employees working on the leased lines are not represented by any labor organization.

II. Basis for Granting the Petition

The purpose of this notice requirement “is to ensure that rail labor unions and employees who would be affected by the transfer of a line are given sufficient notice of the transaction before consummation.” *See Kansas & Oklahoma Railroad, Inc. – Acquisition Exemption – Rail Line of Union Pacific Railroad Company*, STB Finance Docket No. 34746, Sept. 15, 2005. As set forth below, this purpose would not be thwarted by the granting of this Petition.

In this sale, no employees of Sellers have worked on the leased lines for more than ten years. Accordingly, no employees of Sellers will be displaced as a result of the sale, and no employees of Sellers will be forced to make the type of career choice the Board contemplated when it adopted the notice requirement. *See Acquisition of Rail Lines Under 49 U.S.C. 10901 and 10902 – Advance Notice of Proposed Transactions*, STB Ex Parte No. 562, 1997 WL 555638, served Sept. 9, 1997 (“*Advanced Notice Proceeding*”).

Similarly, as noted above, existing CBRW employees working on the leased lines should not be adversely affected by the consummation of the sale. This sale is not expected to reduce the number of available jobs on these lines or negatively affect the working conditions, rates of pay or benefits of CBRW employees working on these lines.

In addition, CBRW employees on the leased lines are not represented by any labor organization, so serving labor organizations with notice of this transaction is unnecessary. *See Advanced Notice Proceeding*, at *6 (“If there are no union employees on the line, no useful purpose would be served by requiring that national unions be notified”)

The Board has previously granted waiver requests under similar circumstances. *See Kansas & Oklahoma Railroad, Inc – Acquisition Exemption – Rail Line of Union Pacific Railroad Company*, STB Finance Docket No. 34746, Sept 15, 2005 (granting waiver where lessee/operator was acquiring ownership of line); *Georgia Central Railway, L P – Acquisition and Operation Exemption – Rail Line of CSX Transportation, Inc* STB Finance Docket No 34660, Feb 28, 2005 (finding that advance notice is unnecessary “because the planned transaction will merely convert operation under lease to a similar operation under [lessee’s] ownership”), *Lancaster and Chester Railway Company – Acquisition and Operation Exemption – Norfolk Southern Railway Company*, STB Finance Docket No 34334, served April 28, 2003 (same) A waiver is equally applicable in this case.

On November 1, 2007, CBRW posted a notice of the sale transaction at the place where CBRW employees, the only employees who perform service on the leased lines, report to duty. Contemporaneous with this Petition, CBRW filed with the Board a Certificate of Posting, certifying that CBRW posted the labor notice at that location (CBRW has not notified the national labor organizations because no CBRW employee working on the leased lines is represented by such an organization.) Pursuant to this Petition, CBRW requests that the labor notice requirement for this transaction either be

waived entirely or reduced to coincide with the effective date of the related notice of exemption

As this Petition demonstrates, a waiver of the labor notice requirement in this case will not thwart the intended purposes of the notice requirement. The waiver will enable the parties to consummate the transaction upon the effective date of the notice of exemption, and the sale will not be delayed unnecessarily

III Conclusion

For all the foregoing reasons, CBRW requests that the Board grant this Petition

Respectfully submitted,

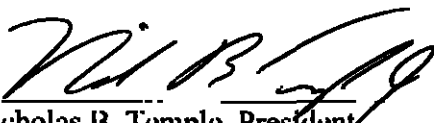
A handwritten signature in black ink, appearing to read "Rose-Michele Nardi", written over a horizontal line.

Rose-Michele Nardi
Weiner Brodsky Sidman Kider PC
1300 19th Street, NW, Fifth Floor
Washington DC 20036

Dated. November 1, 2007

VERIFICATION

I, Nicholas B Temple, President of Columbia Basin Railroad Company, Inc ,
certify under penalty of perjury that the foregoing Petition for Waiver is true and correct
to the best of my knowledge, information and belief Further, I certify that I am qualified
and authorized to cause this Petition for Waiver to be filed



Nicholas B Temple, President
Columbia Basin Railroad Company, Inc

Dated November 1, 2007