

the option of paying a fee to offset the entire budgetary cost to the Federal Government. As a result, the DOT hereby announces that it is exploring the potential of implementing a pilot program under which the DOT would accept applications for projects where the borrowers are willing and able to pay a fee to offset the entire subsidy cost of TIFIA credit assistance. The purpose of this pilot program would be to extend credit, consistent with policy objectives, to qualified projects that the DOT otherwise might not select for TIFIA assistance merely due to insufficient budgetary resources. This pilot program would be undertaken under authority of 23 U.S.C. 603(a)(7), 603(e), (604)(b)(9), and 49 CFR 80.17(c), which allow successful applicants to pay a fee to reduce the cost to the Federal Government associated with the credit assistance provided to the project. Such a project would be evaluated based on satisfaction of the same TIFIA selection criteria, as clarified in this notice, which apply to all applicants.

The DOT will take all comments regarding the potential pilot program into consideration and, if it decides to proceed with the pilot program, may revise some elements of this notice. Depending on the nature of the comments and the number of Letters of Interest submitted, the DOT may invite applications without publishing a supplemental notice. If the DOT decides to proceed with the pilot program, qualified applicants that have responded to this notice would become eligible to pay an upfront fee to offset the entire cost of providing TIFIA credit assistance.

**Authority:** 23 U.S.C. 601–609; 49 CFR 1.48(b)(6); 23 CFR part 180; 49 CFR part 80; 49 CFR part 261; 49 CFR part 640.

Issued on: November 20, 2009.

**Victor M. Mendez,**

*Administrator.*

[FR Doc. E9–28860 Filed 12–2–09; 8:45 am]

**BILLING CODE 4910–9X–P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 35306]

#### Lassen Valley Railway LLC— Acquisition and Operation Exemption—Union Pacific Railroad Company

Lassen Valley Railway LLC (LVR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate approximately 22.34 miles of rail line owned by Union

Pacific Railroad Company (UP): (1) the Flanigan Industrial Lead, between milepost 338.33 near Flanigan, NV, and milepost 360.10 near Wendel, CA, and (2) the Susanville Industrial Lead, between milepost 358.68 and milepost 359.25, near Wendel.<sup>1</sup>

This transaction is related to a concurrently filed verified notice of exemption in STB Finance Docket No. 35307, *Kern W. Schumacher—Continuance in Control Exemption—Lassen Valley Railway LLC*, wherein Kern W. Schumacher seeks to continue in control of LVR, upon LVR becoming a Class III rail carrier.

The transaction is expected to be consummated on or shortly after December 17, 2009 (the effective date of the exemption).

LVR certifies that its projected annual revenues as a result of the transaction will not result in its becoming a Class II or Class I rail carrier and further certifies that its projected annual revenue will not exceed \$5 million.

Pursuant to the Consolidated Appropriations Act, 2008, Public Law 110–161, § 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: collecting, storing or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting and shredding). The term “solid waste” is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

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 December 10, 2009 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35306, must be filed with

<sup>1</sup> According to LVR, the rail lines involved were the subject of an abandonment petition in *Union Pacific Railroad Company—Abandonment Exemption—in Lassen County, CA, and Washoe County, NV*, STB Docket No. AB–33 (Sub-No. 230X) (STB served Jan. 26, 2007). An offer of financial assistance (OFA) was filed by Robert Alan Kemp d/b/a Nevada Central Railroad to acquire a 220-foot segment of UP's Flanigan Industrial Lead (beginning at milepost 338.33). The OFA was rejected by decision served September 19, 2008. On September 29, 2008, Mr. Kemp filed an appeal of the Board's decision, which was denied by decision served January 27, 2009. It is indicated that Mr. Kemp has petitioned for judicial review of the Board's January 27 decision, and that petition is pending before the United States Court of Appeals for the Ninth Circuit.

the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Fritz R. Kahn, 1920 N Street, NW. (8th Floor), Washington, DC 20036.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: November 25, 2009.

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

**Kulunie L. Cannon,**

*Clearance Clerk.*

[FR Doc. E9–28803 Filed 12–2–09; 8:45 am]

**BILLING CODE 4915–01–P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 35307]

#### Kern W. Schumacher—Continuance in Control Exemption—Lassen Valley Railway LLC

Kern W. Schumacher (Schumacher), a noncarrier, has filed a verified notice of exemption to continue in control of Lassen Valley Railway LLC (LVR) upon LVR's becoming a Class III rail carrier.

This transaction is related to a concurrently filed verified notice of exemption in STB Finance Docket No. 35306, *Lassen Valley Railway LLC—Acquisition and Operation Exemption—Union Pacific Railroad Company*. In that proceeding, LVR seeks an exemption under 49 CFR 1150.31 to acquire and operate approximately 22.34 miles of rail line between Flanigan, NV, and Wendel, CA, owned by Union Pacific Railroad Company.

The parties intend to consummate the transaction on or after December 17, 2009, the effective date of the exemption.

Mr. Schumacher currently controls six Class III rail carriers: Tulare Valley Railroad Company (TVR), Kern Valley Railroad Company (KVR), V&S Railway, Inc. (V&S), Gloster Southern Railroad Company LLC (GLSR), Grenada Railway LLC (GRYR), and Natchez Railway LLC (NTZR). TVR owns 5.9 miles of rail line in California; KVR owns 2 miles of rail line in Colorado; V&S owns 27 miles of rail line in Kansas and 122 miles of rail line in Colorado; GLSR owns 34.8 miles of rail line in Mississippi and Louisiana; GRYR owns 186.82 miles of rail line in Mississippi; and NTZR owns 65.6 miles of rail line in Mississippi.

As represented, Mr. Schumacher has many years of experience managing short line railroads. Mr. Schumacher anticipates that, with the substantial

resources at his disposal, he will be able to maintain, and where necessary, rehabilitate the lines of LVR, restore service on the lines, encourage shippers to locate their facilities along the lines, and create a financially viable railroad.

Mr. Schumacher represents that: (1) The rail lines to be acquired by LVR do not connect with any other railroad in its corporate family; (2) the transaction is not part of a series of anticipated transactions that would connect the rail lines with any other railroad in its corporate family; and (3) the transaction does not involve a Class I rail carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

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. Stay petitions must be filed no later than December 10, 2009 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35307, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Fritz R. Kahn, 1920 N Street, NW. (8th Floor), Washington, DC 20036.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: November 25, 2009.

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

**Kulunie L. Cannon,**  
*Clearance Clerk.*

[FR Doc. E9-28802 Filed 12-2-09; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

#### Release of Waybill Data

The Surface Transportation Board has received a request from Saul Ewing LLP on behalf of Trinity Industries, Inc. (WB605-6-11/19/09) for permission to use certain data from the Board's 2008 Carload Waybill Sample. A copy of this request may be obtained from the Office of Economics, Environmental Analysis, and Administration.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics, Environmental Analysis, and Administration within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

*Contact:* Scott Decker, (202) 245-0330.

**Jeffrey Herzig,**  
*Clearance Clerk.*

[FR Doc. E9-28870 Filed 12-2-09; 8:45 am]

**BILLING CODE 4915-01-P**