

DEPARTMENT OF TRANSPORTATION**Surface Transportation Board**

[Docket No. FD 35768]

Rogue Valley Terminal Railroad Corporation—Corporate Family Transaction Exemption

Rogue Valley Terminal Railroad Corporation (Rogue Valley),¹ a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1180.2(d)(3) for a corporate family transaction in which Rogue Valley will transfer ownership of track and right-of-way of a line of railroad in White City, Or., to a corporate affiliate.

According to Rogue Valley, it currently owns and operates approximately 14 miles of rail line located in the Medford Industrial Park in White City, Or., where it connects with the Central Oregon and Pacific Railroad, Inc. CTT and Rogue Valley propose to establish a new corporate affiliate, Medford Industrial Trainline Management LLC (Medford), to which Rogue Valley will convey the track and the underlying right of way it presently owns while retaining an operating easement and the common carrier operations for itself. Rogue Valley states that it will own the majority interest in Medford, with the minority interest to be owned by the Modoc Rail Academy, a railroad training and education school.

The exemption will be effective on October 18, 2013 (30 days after the verified notice was filed). Applicant states that the parties intend to consummate the proposed transaction on or about October 19, 2013, but may not do so prior to the October 18, 2013 effective date of the exemption.

According to Rogue Valley, the purpose of the proposed transaction is to allow it to transfer ownership of the track and right of way comprising the line to a new corporate affiliate, Medford, while retaining an operating easement and the common carrier obligation for itself. Rogue Valley states that Medford will use the line to train new railroad train and engineer personnel and will not interfere with Rogue Valley's ability to meet its common carrier obligation to customers.

The line transfer is a transaction within a corporate family exempted

from prior review and approval under 49 CFR 1180.2(d)(3). Applicant states that the transaction will not result in adverse changes in service levels, significant operational changes, or changes in the competitive balance with carriers outside the corporate family.

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 §§ 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 rail carriers.

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 exemption. Petitions for stay must be filed no later than October 11, 2013 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35768, 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 applicant's representative, John D. Heffner, Strasburger & Price, LLP, 1700 K Street NW., Suite 640, Washington, DC 20006.

Board decisions and notices are available on our Web site at "www.stb.dot.gov."

Decided: September 26, 2013.

By the Board, Richard Armstrong, Acting Director, Office of Proceedings.

Jeffrey Herzig,
Clearance Clerk.

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DEPARTMENT OF TRANSPORTATION**Surface Transportation Board**

[Docket No. AB 290 (Sub-No. 358X); Docket No. AB 55 (Sub-No. 732X)]

Norfolk Southern Railway Company—Discontinuance of Service Exemption—in Claiborne County, TN, and Bell County, KY; CSX Transportation, Inc.—Discontinuance of Trackage Rights Exemption—in Claiborne County, TN, and Bell County, KY

Norfolk Southern Railway Company (NSR) and CSX Transportation, Inc.

(CSXT) (collectively, applicants), have jointly filed a verified notice of exemption under 49 CFR part 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service and Trackage Rights* for NSR to discontinue service over, and for CSXT to discontinue trackage rights operations over, approximately 5.0 miles of rail line between milepost 80.0 C, north of Clairfield in Claiborne County, Tenn., and milepost 85.0, at Fonde in Bell County, Ky. (the Line). The Line traverses United States Postal Service Zip Codes 37715 and 40940.

NSR and CSXT have certified that: (1) No local traffic has moved over the Line for at least two years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements of 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the service discontinuance/discontinuance of trackage rights shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon. in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, these exemptions will be effective on November 1, 2013, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2)¹ must be filed by October 15, 2013.² Petitions to reopen must be filed by October 22, 2013, with the Surface

¹ Each OFA must be accompanied by the filing fee, which currently is set at \$1,600. See 49 CFR 1002.2(f)(25).

² Because applicants are seeking to discontinue service, not to abandon the line, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 CFR§ 1105.6(c) and 1105.8(b), respectively.

¹ Rogue Valley was formerly known as WCTU Railway LLC, or White City Terminal & Utility Co. (WCTU) and was indirectly controlled by Berkshire Hathaway (Berkshire). On December 17, 2012, Berkshire divested itself of WCTU by selling it to RVTR Rail Holdings (RVTR). RVTR was subsequently renamed CCT Rail Systems Corporation (CCT) and WCTU was renamed Rogue Valley.