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**Tammy Lowery,**  
Clearance Clerk.

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## SURFACE TRANSPORTATION BOARD

[Docket No. FD 36440]

**OPSEU Pension Plan Trust Fund, Jaguar Transport Holdings, LLC, and Jaguar Rail Holdings, LLC—Acquisition of Control Exemption—Cimarron Valley Railroad, L.C.; Southwestern Railroad, Inc.; Texas & Eastern Railroad, LLC; Washington Eastern Railroad, LLC; and Wyoming and Colorado Railroad, Inc.**

OPSEU Pension Plan Trust Fund (OP Trust), Jaguar Transport Holdings, LLC (JTH), and Jaguar Rail Holdings, LLC (JRH) (collectively, Jaguar), all noncarriers, have filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to acquire control of Cimarron Valley Railroad, L.C. (CVRR); Southwestern Railroad, Inc. (SWRR); Texas & Eastern Railroad, LLC (TERR); Washington Eastern Railroad, LLC (WERR); and Wyoming and Colorado Railroad, Inc. (WYCO) (collectively, Western Railroads)<sup>1</sup> each a Class III rail carrier.

The verified notice states that OP Trust invests and manages one of Canada's largest pension funds and indirectly controls JRH and JTH, which in turn controls West Memphis Base Railroad, L.L.C (WMBR), a Class III rail carrier located in Arkansas. According to the verified notice, pursuant to an as-yet unexecuted Stock and Membership Interest Purchase Agreement among Snowy Range Cattle Company, Inc., and David L. Durbano on behalf of the sellers and JRH as the buyer, JRH will acquire direct control of SWRR, TERR, and WYCO and, through JRH's acquisition of control of WYCO, indirect control of CVRR and WERR.<sup>2</sup>

<sup>1</sup> Jaguar states that CVRR is located in Kansas, Colorado, and Oklahoma; SWRR is located in New Mexico, Texas, and Oklahoma; TERR is located in Texas; WERR is located in Washington; and WYCO is located in Oregon. On October 6, 2020, Jaguar supplemented its verified notice of exemption with a map depicting SWRR's Shattuck Subdivision. According to Jaguar, it learned that SWRR sought and obtained abandonment authority for the Shattuck Subdivision but did not give timely notice of consummation under the Board's regulations, although that trackage has been removed and the corridor sold. (See Verified Notice of Exemption 4 n.2.) Accordingly, Jaguar acknowledges that SWRR maintains a common carrier obligation over the Shattuck Subdivision. *Id.*

<sup>2</sup> Concurrently with its verified notice, Jaguar filed a motion for protective order under 49 CFR

The earliest the transaction may be consummated is October 30, 2020, the effective date of the exemption (30 days after the verified notice was filed).<sup>3</sup>

The verified notice states that: (1) WMBR would not connect with any of the Western Railroads, and none of the Western Railroads connect with each other; (2) the subject acquisition of control is not intended to connect the Western Railroads to one another or with WMBR; and (3) the proposed transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Jaguar states that the proposed transaction will promote Jaguar's investment objectives and sustain the Western Railroads' efficiency, financial strength, and ability to meet the needs of shippers.

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. However, 49 U.S.C. 11326(c) does not provide for labor protection for transactions under 49 U.S.C. 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. Petitions to stay must be filed no later than October 23, 2020 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36440, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street SW, Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Jaguar's representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606-3208.

According to Jaguar, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic review under 49 CFR 1105.8(b).

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

1104.14(b), which will be addressed in a separate decision.

<sup>3</sup> Jaguar states that it intends to consummate the proposed transaction on November 1, 2020.

Decided: October 13, 2020.

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

**Kenyatta Clay,**  
Clearance Clerk.

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## DEPARTMENT OF TRANSPORTATION

**Federal Motor Carrier Safety Administration**

[Docket No. FMCSA-2020-0097]

**Hours of Service (HOS) of Drivers: Small Business in Transportation Coalition (SBTC) Application for Exemption From ELD and Certain HOS Requirements**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition; denial of application for exemption.

**SUMMARY:** FMCSA announces its decision to deny the Small Business in Transportation Coalition's (SBTC) request for an exemption from the electronic logging device (ELD) requirements for commercial motor vehicle (CMV) drivers traveling with domestic animals in interstate commerce. Additionally, FMCSA denies SBTC's request for an exemption from the hours-of-service (HOS) requirements to allow these drivers to drive up to 13 hours during a work shift and to operate within a 16-hour window within which all driving tasks would be completed. FMCSA has analyzed the exemption application and public comments and has determined that it cannot ensure that granting the requested exemptions would achieve a level of safety equivalent to, or greater than, the level that would be achieved absent such exemptions.

**DATES:** FMCSA denies this application for exemption effective October 16, 2020.

**FOR FURTHER INFORMATION CONTACT:** Ms. La Tonya Mimms, Chief, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: (202) 366-9220 Email: [MCPSD@dot.gov](mailto:MCPSD@dot.gov). If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

### SUPPLEMENTARY INFORMATION:

#### I. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations (FMCSRs).