

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

**Tammy Lowery,**  
Clearance Clerk.

[FR Doc. 2021-24695 Filed 11-10-21; 8:45 am]

BILLING CODE 4915-01-P

## SURFACE TRANSPORTATION BOARD

[Docket No. FD 36553]

### **3i RR Holdings GP LLC, 3i Holdings Partnership L.P., 3i RR Intermediate Holdings LLC, 3i RR LLC, Regional Rail Holdings, LLC, and Regional Rail, LLC—Continuance in Control Exemption—Port Manatee Railroad LLC**

3i RR Holdings GP LLC, 3i Holdings Partnership L.P., 3i RR Intermediate Holdings LLC, and Regional Rail Holdings, LLC, (collectively 3i RR) and Regional Rail, LLC (Regional Rail), all noncarriers, have filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to continue in control of Port Manatee Railroad, LLC (PMR), a noncarrier controlled by Regional Rail, upon PMR's becoming a Class III rail carrier.<sup>1</sup> According to the verified notice, the proposed transaction will allow Regional Rail to acquire direct control, and 3i RR to acquire indirect control, of PMR.

This transaction is related to a verified notice of exemption filed concurrently in *Port Manatee Railroad—Operation Exemption—Manatee County Port Authority*, Docket No. FD 36552, in which PMR seeks to operate approximately seven miles of rail line within the Port of Manatee, in Manatee County, Fla.

According to the verified notice, 3i RR Holdings GP LLC controls 3i Holdings Partnership L.P., which in turn controls 3i RR Intermediate Holdings LLC, which in turn controls 3i RR LLC, which in turn controls Regional Rail Holdings, LLC, which controls Regional Rail. The verified notice states that Regional Rail is a non-carrier holding company that directly controls the following seven Class III railroads: (1) East Penn Railroad, LLC, which operates in Delaware and Pennsylvania; (2) Middletown & New Jersey Railroad, LLC, which operates in New York; (3) Tyburn Railroad LLC, which operates in Pennsylvania; (4) the Florida Central Railroad Company, Inc., which operates in Florida; (5) Florida Midland Railroad Company, Inc., which operates in

Florida; (6) Florida Northern Railroad Company, Inc., which operates in Florida; and (7) Carolina Coastal Railway, Inc., which operates in North Carolina and South Carolina (collectively, the Subsidiary Railroads).<sup>2</sup> 3i RR and Regional Rail certify that the proposed transaction will not create a provision or agreement that may limit future interchange with a third-party connecting carrier.

3i RR and Regional Rail represent that: (1) The rail line to be operated by PMR does not connect with the Subsidiary Railroads; (2) the acquisition of control of PMR is not intended to connect with any railroads in the corporate family of 3i RR or Regional Rail; and (3) the transaction does not involve a Class I rail carrier. The proposed transaction is therefore exempt from the prior approval requirements of 49 U.S.C. 11323 pursuant to 49 CFR 1180.2(d)(2).

This transaction may be consummated on or after November 28, 2021, the effective date of the exemption (30 days after the verified notice was filed).

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. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

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 November 19, 2021 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36553, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, one copy of each pleading must be served on 3i RR and Regional Rail's representative, Louis E. Gitomer,

<sup>2</sup> See *Reg'l Rail Holdings, LLC—Acquis. of Control Exemption—Reg'l Rail, LLC*, FD 35945 (STB served Aug. 7, 2015); *3i RR Holdings GP LLC—Control Exemption—Reg'l Rail Holdings, LLC*, FD 36289 (STB served Apr. 19, 2019); *3i RR Holdings GP LLC—Control Exemption—Fla. Cent. R.R.*, FD 36365 (STB served Nov. 22, 2019); *3i RR Holdings GP LLC—Control Exemption—Carolina Coastal Ry.*, FD 36383 (STB served Feb. 14, 2020).

<sup>1</sup> On November 3, 2021, 3i RR and Regional Rail filed a motion for protective order under 49 CFR 1104.14(b), which will be addressed in a separate decision.

Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

According to 3i RR and Regional Rail, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic reporting requirements under 49 CFR 1105.8(b).

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

Decided: November 5, 2021.

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

**Raina White,**  
Clearance Clerk.

[FR Doc. 2021-24699 Filed 11-10-21; 8:45 am]

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## SURFACE TRANSPORTATION BOARD

[Docket No. FD 36500]

### **Canadian Pacific Railway Limited; Canadian Pacific Railway Company; Soo Line Railroad Company; Central Maine & Quebec Railway US Inc.; Dakota, Minnesota & Eastern Railroad Corporation; and Delaware & Hudson Railway Company, Inc.—Control—Kansas City Southern; The Kansas City Southern Railway Company; Gateway Eastern Railway Company; and The Texas Mexican Railway Company**

**AGENCY:** Surface Transportation Board.

**ACTION:** On October 29, 2021, the Canadian Pacific Railway Limited, Canadian Pacific Railway Company, and their US rail carrier subsidiaries Soo Line Railroad Company; Central Maine & Quebec Railway U.S. Inc.; Dakota, Minnesota & Eastern Railroad Corporation; and Delaware & Hudson Railway Company, Inc. (collectively, CP) and Kansas City Southern, The Kansas City Southern Railway Company, Gateway Eastern Railway Company, and The Texas Mexican Railway Company (collectively, KCS) filed an application with the Surface Transportation Board (Board) seeking the Board's approval of the acquisition of control by CP of KCS. The proposed acquisition has the potential to result in significant environmental impacts; therefore, the Board's Office of Environmental Analysis (OEA) has determined that the preparation of an Environmental Impact Statement (EIS) is appropriate pursuant to the National Environmental Policy Act (NEPA). The purpose of this Notice is to inform stakeholders—including members of the public; tribes; federal, state, and local agencies; and environmental groups—interested in or potentially affected by

potential environmental impacts related to the proposed acquisition. OEA will hold online public scoping meetings as part of the NEPA process. Oral and written comments submitted during scoping will assist OEA in defining the range of alternatives and potential impacts to be considered in the EIS. Public scoping meeting dates are provided below.

**DATES:** Comments on the scope of the EIS are due by December 17, 2021. OEA will hold six online public scoping meetings on the following dates (times in Central Standard Time).

- Tuesday, November 30, 2021, 6–8 p.m.
- Wednesday, December 1, 2021, 2–4 p.m.
- Thursday, December 2, 2021, 6–8 p.m.
- Tuesday, December 7, 6–8 p.m.
- Wednesday, December 8, 2021, 2–4 p.m.
- Thursday, December 9, 2021, 6–8 p.m.

Information on how to attend and participate in an online public scoping meeting, including how to register in advance, is available on the Board-sponsored project website at [www.CP-KCSMergerEIS.com](http://www.CP-KCSMergerEIS.com).

**ADDRESSES:** Interested parties are encouraged to file their scoping comments electronically through the Board-sponsored project website at [www.CP-KCSMergerEIS.com](http://www.CP-KCSMergerEIS.com) or through the Board's website at [www.stb.gov](http://www.stb.gov) by clicking on the "File an Environmental Comment" link. Please refer to Docket No. FD 36500 in all correspondence, including E-filings, addressed to the Board. Scoping comments submitted by mail should be addressed to: Joshua Wayland, Surface Transportation Board, c/o VHB, Attention: Environmental Filing, Docket No. FD 36500, 940 Main Campus Dr., Suite 500, Raleigh, NC 27606.

**FOR FURTHER INFORMATION CONTACT:** Joshua Wayland, Office of Environmental Analysis, Surface Transportation Board, c/o VHB, 940 Main Campus Dr., Suite 500, Raleigh, NC 27606, or call OEA's toll-free number for the project at 1-888-319-2337. Assistance for the hearing impaired is available through the Federal Information Relay Service at 1-800-877-8339. The website for the Board is <https://www.stb.gov>. For further information about the Board's environmental review process and the EIS, you may also visit the Board-sponsored project website at [www.CP-KCSMergerEIS.com](http://www.CP-KCSMergerEIS.com).

**SUPPLEMENTARY INFORMATION:**

## Background

On October 29, 2021, CP and KCS (collectively, the Applicants) filed an application with the Board under 49 U.S.C. 11323–25 seeking its approval of the acquisition of control of KCS by CP. CP and KCS are two of the seven Class I railroads in the United States, which are the largest railroads defined as having annual revenue greater than \$250 million. CP is one of Canada's two major railroads, extending across the country and connecting east and west coast ports. In the U.S., CP connects to Buffalo and Albany, New York and Searsport, Maine. CP also runs south into the U.S. Midwest and connects with KCS in Kansas City, Missouri. KCS is a Class I railroad that extends from Kansas City, Missouri to the Gulf Coast and into Mexico, operating across 10 states in the Midwest and Southeast. CP and KCS provide rail service for a variety of industries, including agriculture, minerals, military, automotive, chemical and petroleum, energy, industrial, and consumer products. CP and KCS are the two smallest Class I railroads, and the combined railroad would be the smallest Class I railroad by revenue. At the request of OEA, the Applicants have submitted information needed by OEA to initiate an environmental review of the proposed acquisition. Based on the information provided by the Applicants, OEA has determined that the proposed acquisition has the potential to result in significant environmental impacts and that the preparation of an EIS is appropriate.

## Summary of the Board's Review Processes for This Proceeding

The Board will review the proposed transaction through two parallel but distinct processes: (1) The transportation-related process that examines the competitive, transportation, and economic implications of the proposed acquisition on the national rail system, and (2) the environmental process conducted by OEA that assesses the potential environmental effects of the proposed acquisition on the human and natural environment through preparation of an EIS. Interested persons and entities may participate in either process or both. If interested persons or entities are primarily interested in potential environmental impacts on communities, such as noise, vibration, air emissions, grade crossing safety and delay, emergency vehicle access, and other similar environmental issues, the appropriate forum is OEA's environmental review process. The

statute setting forth the procedures for Board review of acquisitions at 49 U.S.C. 11325 and the Board's implementing regulations at 49 CFR 1180.4 (2000) require that the Board complete its review within approximately 15 months after the application is accepted for a "major" transaction such as this, and OEA must complete the environmental process before the Board issues a final decision.

## Environmental Review Process

The NEPA process is intended to assist the Board and the public in identifying and assessing the potential environmental consequences of a proposed action before a decision on that proposal is made. OEA is responsible for ensuring that the Board complies with NEPA (42 U.S.C. 4321–4370m–12) and related environmental statutes, including Section 106 of the National Historic Preservation Act (54 U.S.C. 306108) and Section 7 of the Endangered Species Act (16 U.S.C. 1536).

## Purpose and Need

The proposed transaction involves an application for Board authority under 49 U.S.C. 11323–25 for CP to acquire KCS. The proposed transaction is not a federal government-proposed or sponsored project. Thus, the project's purpose and need should be informed by both the private applicant's goals and the Board's enabling statute—the Interstate Commerce Act as amended by the ICC Termination Act, Public Law 104–188, 109 Stat. 803 (1996). See *Alaska Survival v. STB*, 705 F.3d 1073, 1084–85 (9th Cir. 2013).

According to the Applicants, the purpose of the proposed acquisition is to combine America's two smallest but fastest-growing Class I railroads to build a more efficient and more competitive rail network. The Applicants state that the proposed acquisition would further the need for expanded and more capable and efficient transportation infrastructure while simultaneously advancing the interests of current and future customers in more reliable and economical rail transportation options serving important North-South trade flows. The Applicants also state that the proposed acquisition would generate environmental benefits by reducing truck transportation on highways in North America by more than 60,000 trucks annually, resulting in less congestion, less maintenance, and improved safety on those roads, as well as less noise pollution in the places where those trucks would have driven, and lowered air emissions, including greenhouse gas emissions. Under the

Interstate Commerce Act, as amended, the Board “shall approve and authorize a transaction” such as this when, after considering several factors, “it finds the transaction is consistent with the public interest.” 49 U.S.C. 11324 (b) & (c).

### Proposed Action and Alternatives

The Proposed Action in this proceeding is the Applicants’ proposed acquisition of KCS by CP. The combination of these two railroads would be an ‘end-to-end’ merger because the CP and KCS railroad networks do not overlap. The proposed acquisition would result in changes in rail traffic on portions of the combined rail network. Rail traffic would increase on certain rail line segments and would decrease on others. The largest change would occur on the CP mainline between Sabula, Iowa and Kansas City, Missouri, which would experience an increase in rail traffic of approximately 14.4 additional trains per day, on average. Increases in activities at rail yards and intermodal facilities would also occur. In addition, the Applicants propose to make certain capital improvements within the existing rail right-of-way, including adding approximately four miles of double track on the KCS Pittsburg Subdivision, adding approximately five miles of facility working track adjacent to the International Freight Gateway intermodal terminal near Kansas City, and adding or extending 24 passing sidings along the combined network. The Applicants do not propose to construct any new rail lines subject to Board licensing or to abandon any rail lines as part of the proposed acquisition.

The alternative to the Proposed Action is the No-Action Alternative, which would occur if the Board were to deny the proposed acquisition. Under the No-Action Alternative, CP would not acquire KCS.

### Scoping

The first stage of the environmental review process is scoping. Scoping is an open process for determining the range of issues that should be examined and assessed in the EIS. In addition to announcing that the Board will prepare an EIS for this proceeding, this Notice also requests comments on the scope of the EIS and presents the schedule of public scoping meetings. With this notice, OEA is soliciting written comments on the scope, alternatives, and issues to be analyzed in the EIS. After the close of the comment period on the scope of the EIS on December 17, 2021, OEA will review all comments received and issue a final scope of study

for the EIS. OEA anticipates issuing the final scope of study in early 2022.

### Draft EIS

Following the issuance of the final scope, OEA will prepare a Draft EIS for the proposed acquisition. The Draft EIS will identify and analyze alternatives, including the Proposed Action and the No-Action Alternative, and will address potential impacts on the environment as well as issues and concerns identified during the scoping process. The Draft EIS will focus on (1) potential impacts from changes in rail operations along rail line segments and at rail yards that would experience increases in rail traffic as a result of the proposed acquisition that would exceed OEA’s thresholds for environmental review at 49 CFR 1105.7(e), (2) potential impacts related to changes in vehicular traffic on roadways and at facilities as a result of the proposed acquisition that would exceed OEA’s thresholds for analysis, and (3) potential impacts that could result from making capital improvements within the rail right-of-way as part of the proposed acquisition.

The scope of the issues that will be analyzed in the Draft EIS may include potential impacts related to:

- Freight rail capacity and safety;
- Passenger rail capacity and safety;
- Grade crossing safety and delay;
- Motor vehicle traffic and roadway systems;
- Land use;
- Air quality;
- Noise;
- Biological resources;
- Water resources;
- Hazardous waste sites;
- Cultural resources;
- Environmental justice; and
- Cumulative impacts.

The thresholds for assessing environmental impacts from increased rail traffic on rail lines in railroad acquisition proceedings are an increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains per day. For air quality impacts, rail lines located in areas classified as being in nonattainment under the Clean Air Act (42 U.S.C. 7401–7671q) are also assessed if they would experience an increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains per day. Based on the information provided by the Applicants to date, OEA has identified rail lines in Illinois, Iowa, Missouri, Kansas, Oklahoma, Arkansas, Louisiana, and Texas that would experience increases in rail traffic that would exceed the analysis thresholds as a result of the proposed acquisition.

In addition to assessing the environmental impacts of the proposed acquisition, the Draft EIS will also set forth OEA’s preliminary recommendations for environmental mitigation measures. OEA anticipates issuing the Draft EIS in the spring of 2022.

### Final EIS

Upon its completion, the Draft EIS will be made available for public and agency review and comment for 45 days. OEA will then prepare and issue a Final EIS that will address the comments on the Draft EIS from the public; and federal, state and local agencies; and other interested parties and will set forth OEA’s final recommended environmental mitigation. Then, in reaching its decision in this case, the Board will consider the Draft EIS, the Final EIS, public comments, and any final environmental mitigation proposed by OEA. OEA anticipates issuing the Final EIS in the fall of 2022.

### Public Scoping Meetings

As noted above, scoping is the first stage of the environmental review process. OEA will hold online public scoping meetings at the dates and times listed below. All times are listed in Central Standard Time. There is no need to attend more than one online meeting, but all are welcome to attend as many meetings as desired.

- Tuesday, November 30, 2021, 6–8 p.m.
- Wednesday, December 1, 2021, 2–4 p.m.
- Thursday, December 2, 2021, 6–8 p.m.
- Tuesday, December 7, 6–8 p.m.
- Wednesday, December 8, 2021, 2–4 p.m.
- Thursday, December 9, 2021, 6–8 p.m.

The online public scoping meetings will include a brief presentation by OEA, followed by an opportunity for interested individuals to make oral comments. Participants who have registered in advance will be called upon first to deliver their oral comments and will be given three minutes in which to do so. If time permits, participants who did not register in advance will be given the opportunity to make oral comments. A court reporter will record the oral comments, and OEA staff will be available to listen and make notes of comments.

For information on how to attend an online public scoping meeting, including how to register in advance, please visit the Public Involvement page on the Board-sponsored project website

([www.CP-KCSMergerEIS.com](http://www.CP-KCSMergerEIS.com)). Although individuals who would like to make oral comments are encouraged to register in advance, registration is not required to attend the public scoping meetings. OEA will consider all comments equally no matter how comments are received, and it is not necessary to attend an online public scoping meeting to provide scoping comments, as OEA will also be accepting written comments during the comment period, which ends on December 17, 2021.

#### Submitting Written Comments on the Scope of the EIS

Interested parties are encouraged to file their scoping comments electronically through the Board-sponsored project website at [www.CP-KCSMergerEIS.com](http://www.CP-KCSMergerEIS.com). Written comments can also be submitted electronically on the Board's website, [www.stb.gov](http://www.stb.gov), by clicking on the "E-FILING" link. Please refer to Docket No. FD 36500 in all correspondence, including E-filings, addressed to the Board. Scoping comments submitted by mail should be addressed to Joshua Wayland, Surface Transportation Board, c/o VHB, 940 Main Campus Dr., Suite 500, Raleigh, NC 27606, Attention: Environmental Filing, Docket No. FD 36500. Following these directions will help ensure that your comments are considered in the environmental review process for this proposed acquisition.

All comments submitted during scoping will be made available to the public on the Board-sponsored project website and the Board's website. OEA will add commenters' names to its email distribution list to announce the availability of the final scope of the EIS, the Draft EIS, and the Final EIS, which will be posted on the Board's website and the Board-sponsored project website. Commenters without email addresses will receive notifications by U.S. mail if accurate mailing addresses are provided, as needed.

All Board decisions, orders, and notices in this proceeding will also be available on the Board's website at [www.stb.gov](http://www.stb.gov) under "E-Library," and "Decisions & Notices" or "Filings." For further information about the Board's environmental review process and the EIS, you may also visit the Board-sponsored project website at [www.CP-KCSMergerEIS.com](http://www.CP-KCSMergerEIS.com).

By the Board, Danielle Gosselin,  
Acting Director, Office of Environmental  
Analysis.

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

[FR Doc. 2021-24670 Filed 11-10-21; 8:45 am]

**BILLING CODE 4915-01-P**

### SURFACE TRANSPORTATION BOARD

[Docket No. FD 36554]

#### Union Pacific Railroad Company— Trackage Rights Exemption—BNSF Railway Company

Union Pacific Railroad Company (UP) has filed a verified notice of exemption under 49 CFR 1180.2(d)(7) for the acquisition of trackage rights over an approximately 7.8-mile rail line owned by BNSF Railway Company (BNSF) between milepost 436.5, near Eton, Mo., and milepost 444.3, near Congo, Mo. (the Line).

UP states that it originally acquired these trackage rights 1902.<sup>1</sup> The verified notice states that UP and BNSF have executed a new agreement that provides UP with substantially similar trackage rights and will allow operations to continue without material change.<sup>2</sup>

The transaction may be consummated on or after November 28, 2021, the effective date of the exemption (30 days after the verified notice of exemption was filed).

As a condition to this exemption, any employees affected by the acquisition of trackage rights will be protected by the conditions imposed in *Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc.*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad*, 360 I.C.C. 653 (1980).

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 by November 19, 2021 (at least seven days before the exemption becomes effective).

<sup>1</sup> UP states that, because the 1902 trackage rights agreement predates passage of the Transportation Act of 1920, Public Law 66-152, 41 Stat. 456, it was not required to be submitted to the agency for authorization.

<sup>2</sup> A redacted version of the agreement was filed with UP's verified notice of exemption. UP simultaneously filed a motion for a protective order to protect the confidential and commercially sensitive information in the unredacted version of the agreement, which UP submitted under seal. That motion will be addressed in a separate decision.

All pleadings, referring to Docket No. FD 36554, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on UP's representative, Jeremy M. Berman, 1400 Douglas Street, STOP 1580, Omaha, NE 68179.

According to UP, this action is categorically excluded from environmental review under 49 CFR 1105.6(c)(3) and from historic preservation reporting requirements under 49 CFR 1105.8(b)(3).

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

Decided: November 5, 2021.

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

**Eden Besera,**  
*Clearance Clerk.*

[FR Doc. 2021-24612 Filed 11-10-21; 8:45 am]

**BILLING CODE 4915-01-P**

### SURFACE TRANSPORTATION BOARD

[Docket No. FD 36555]

#### Union Pacific Railroad Company— Trackage Rights Exemption—BNSF Railway Company

Union Pacific Railroad Company (UP), a Class I rail carrier, has filed a verified notice of exemption under 49 CFR 1180.2(d)(7) for trackage rights over approximately 98.8 miles of rail line owned by BNSF Railway Company (BNSF) between milepost 9 plus 1487.0 feet near Riverside, Cal., and milepost 737 plus 2126.7 feet near Daggett, Cal. (the Line).

Pursuant to a written trackage rights agreement,<sup>1</sup> BNSF has agreed to grant trackage rights to UP over the Line. According to the verified notice, UP originally acquired the trackage rights pursuant to an agreement dated February 1, 1916.<sup>2</sup> According to UP, a new agreement has now been executed that allows for the trackage rights operations to continue as they have since 1916 without material change. The purpose of this transaction is to allow UP to continue its operations over the Line.

The transaction may be consummated on or after November 28, 2021, the

<sup>1</sup> An executed, redacted version of the trackage rights agreement was filed with the verified notice. An executed, unredacted version of the agreement was submitted to the Board under seal concurrently with a motion for protective order, which was granted on November 8, 2021.

<sup>2</sup> UP states that because the 1916 agreement predated the passage of the Transportation Act of 1920, Public Law 66-152, 41 Stat. 456, it was not required to be submitted to the agency for authorization.