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It is ordered:

1. The proposed transaction is approved and authorized, subject to the filing of opposing comments.

2. If opposing comments are timely filed, the findings made in this notice will be deemed vacated.

3. This notice will be effective April 11, 2023, unless opposing comments are filed by April 10, 2023. If any comments are filed, Avalon may file a reply by April 23, 2023.

4. A copy of this notice will be served on: (1) the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue NW, Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590.

Decided: February 16, 2023.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz.

Aretha Laws-Byrum,
Clearance Clerk.

[FR Doc. 2023-03666 Filed 2-21-23; 8:45 am]

BILLING CODE 4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36666]

New Jersey Department of Environmental Protection—Acquisition Exemption—Norfolk Southern Railway Company

The New Jersey Department of Environmental Protection (NJDEP), a non-carrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire the right to reactivate rail service from Norfolk Southern Railway Company (NSR) on approximately 8.6 miles of rail-banked railroad line extending between milepost WD 2.9 in Jersey City, Hudson County, N.J., and milepost WD 11.5 in the Township of Montclair, Essex County, N.J. (the Line).

In *Norfolk Southern Railway—Abandonment Exemption—in Hudson & Essex Counties, N.J.*, AB 290 (Sub-No. 408X) (STB served Sept. 29, 2020), the Board authorized abandonment of the Line.¹ NJDEP states that the Line is

¹ In the same decision, the Board issued a notice of interim trail use or abandonment (NITU) to allow the Open Space Institute Land Trust, Inc. (OSI), as the proposed trail sponsor, to negotiate with NSR for interim trail use/rail banking of the Line's right-of-way under the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act). The NITU later was

currently subject to interim trail use under a trail use agreement between NJDEP and NSR under the Trails Act. (Notice of Trail Use Agreement, Aug. 19, 2022, AB 290 (Sub-No. 408X).)

NJDEP states that NSR agreed to convey to NJDEP the property comprising the Line, including the rails, track materials, and bridges, as well as NSR's residual rights to terminate trail use and reactivate rail service. According to NJDEP, NSR does not wish to retain any residual rights related to the Line, and NJDEP is willing to acquire such residual rights. NJDEP states that it would obtain a contract operator to operate the Line if rail service were to be reactivated and acknowledges that any such operator would require operating authority from the Board.

NJDEP certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed \$5 million. NJDEP further certifies that the proposed transaction does not involve a provision or agreement that would limit future interchange with a third-party connecting carrier.

The transaction may be consummated on or after March 8, 2023, the effective date of the exemption (30 days after the verified notice was filed).

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 March 1, 2023 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36666, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423-0001. In addition, a copy of each pleading must be served on NJDEP's representative, Paul Stofa, State of New Jersey Department of Environmental Protection, 401 East State Street, Trenton, NJ 08625-0420.

According to NJDEP, this action is categorically excluded from

extended until September 29, 2022. *Norfolk S. Ry.—Aban. Exemption—in Hudson & Essex Cntys., N.J.*, AB 290 (Sub-No. 408X) (STB served Sept. 3, 2021). Thereafter, pursuant to a request from OSI, the Board issued a replacement NITU substituting NJDEP as the proposed trail sponsor. *Norfolk S. Ry.—Aban. Exemption—in Hudson & Essex Cntys., N.J.*, AB 290 (Sub-No. 408X) (STB served June 30, 2022).

environmental reporting requirements under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

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Decided: February 15, 2023.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

Brendetta Jones,
Clearance Clerk.

[FR Doc. 2023-03634 Filed 2-21-23; 8:45 am]

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SURFACE TRANSPORTATION BOARD

[Docket No. FD 36668]

CWW LLC dba Columbia Rail—Lease and Operation Exemption—Port of Benton County, Wash.

CWW LLC dba Columbia Rail (CWW), a Class III rail carrier, has filed a verified notice of exemption pursuant to 49 CFR 1150.41 to lease and operate 10.89 miles of railroad line between milepost 18.84 at Richland Junction and milepost 29.73 at Richland, Wash. (the Line), owned by the Port of Benton County, Wash. (the Port).¹

According to the verified notice, the Port acquired the Line from the U.S. Department of Energy in 1998. CWW states that the Line is also operated by BNSF Railway Company (BNSF) and Union Pacific Railroad Company (UP). The verified notice further states that the operating rights of Tri-City Railroad Company, LLC (Tri-City), which had also operated over the Line since 2002, were discontinued in 2019. *See Port of Benton County—Adverse Discontinuance of Rail Service—Tri-City Railroad*, AB 1270 (STB served Oct. 31, 2019).² According to the verified notice, the Port and CWW have entered into a non-exclusive lease agreement for CWW to operate on the Line.

CWW certifies that the transaction involves no provision or agreement that would limit interchange with a third party connecting carrier and that no interchange commitments are contemplated. CWW certifies that its projected annual revenues would not exceed \$5 million and will not result in

¹ CWW also will lease and operate various sidings and connected spur tracks, such that the rail property leased and operated will total approximately 16 track miles.

² CWW styled its verified notice as a change in operator exemption. However, the proposed transaction is more akin to a lease and operation exemption, because CWW is seeking authority to become an additional carrier on the Line but is not contemporaneously replacing another common carrier.