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SERVICE DATE – DECEMBER 3, 2009

DO

FR-4915-01-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.¹

This transaction is related to a concurrently filed verified notice of exemption in STB Finance Docket No. 35307, Kern W. Schumacher—Continuance in Control

¹ 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.

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, Pub. L. No. 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 the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Fritz R. Kahn, 1920 N Street, N.W. (8th Floor), Washington, DC 20036.

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“WWW.STB.DOT.GOV.”

Decided: November 25, 2009.

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