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SERVICE DATE – OCTOBER 2, 2009

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35259]

Boise Valley Railroad, Inc.—Assignment of Lease Exemption—Union Pacific Railroad Company and Idaho Northern & Pacific Railroad Company

Boise Valley Railroad, Inc. (BVR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire by assignment of lease from Idaho Northern and Pacific Railroad Company (INPR) the operating and lease rights over approximately 35.99 miles (not including yard tracks) of rail lines owned by Union Pacific Railroad Company (UP). The lines BVR seeks to acquire by assignment of lease are: (i) between milepost 0.2, near Caldwell, ID, and milepost 11.39, at Wilder; ID; (ii) between milepost 443.0, near Hillcrest, ID, and milepost 467.8, at Nampa, ID; and (iii) track numbers 40, 401, 402, 403, 404, 406, 407, 408, 409, 410, 411, 412, 413, 414, and 415 in UP's Nampa Yard, at Nampa. BVR will also acquire by assignment from INPR approximately 12.11 miles of incidental trackage rights over two segments of UP's lines in order to interchange traffic with UP at Nampa and to access one of the leased lines. The incidental trackage rights BVR seeks to acquire by assignment of lease are between:

(i) milepost 465.91, at Caldwell, and milepost 454.0, at Nampa; and (ii) milepost 465.91, at Caldwell, and milepost 0.2, near Caldwell, on the Wilder Branch.<sup>1</sup>

This transaction is related to the concurrently filed notice of exemption in STB Finance Docket No. 35260, Watco Companies, Inc—Continuance in Control Exemption—Boise Valley Railroad, Inc. In that proceeding, Watco seeks to continue in control of BVR, upon BVR's becoming a Class III rail carrier.

The transaction is scheduled to be consummated on or after October 16, 2009, (the effective date of the exemption).

BVR certifies that its projected annual revenues as a result of this transaction will not result in BVR 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

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<sup>1</sup> According to BVR, neither the assignment of lease between INPR and BVR nor the lease agreement being assigned contains any provision that would prohibit BVR from interchanging traffic with a third party.

effectiveness of the exemption. Petitions to stay must be filed no later than October 9, 2009 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35259 must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy must be served on Karl Morell, Of Counsel, Ball Janik LLP, Suite 225, 1455 F Street, N.W., Washington, DC 20005.

Board decisions and notices are available on our website at [WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).

Decided: September 28, 2009.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Anne K. Quinlan  
Acting Secretary