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SERVICE DATE – JULY 30, 2010

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35389]

LRY, LLC D.B.A. Lake Railway—Lease and Operation Exemption—Union Pacific
Railroad Company

LRY, LLC D.B.A. Lake Railway (LRY), a Class III rail carrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.41 to lease from Union Pacific Railroad Company (UP), and to operate 1.9 miles of UP's Modoc Subdivision, between milepost 506.1 and a future interchange point with UP at milepost 508.0, near Perez, Cal.

This transaction is related to Docket No. FD 35250, LRY, LLC D.B.A. Lake Railway—Lease and Operation Exemption—Union Pacific Railroad Company, wherein LRY filed a verified notice of exemption to lease and operate, as pertinent, a portion of UP's Modoc Subdivision, extending from milepost 445.6, near MacArthur, Cal., to milepost 506.1, near Perez. This notice was served and published in the Federal Register on December 18, 2009 (74 Fed. Reg. 67,304-05) and became effective on January 1, 2010. LRY explains that the lease agreement between LRY and UP has been modified to include the additional 1.9 miles involved in this proceeding in order to allow for additional interchange headroom at Perez.¹ The portions of the Modoc Subdivision

¹ LRY originally filed a letter with the Board on February 4, 2010, stating that the milepost designation of 506.1 near Perez was incorrect. LRY sought to substitute

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involved in this proceeding and in Docket No. FD 35250 had been previously leased to Modoc Railway and Land Company, LLC (MR&L), and operated by Modoc Northern Railroad Co. (MNRR). According to LRY, UP has terminated the lease with MR&L and MNRR and under terms of that lease plans to seek discontinuance authority for MNRR from the Board in the name of both MR&L and MNRR.

The transaction cannot be consummated until August 14, 2010, the effective date of the exemption (30 days after the exemption was filed).²

LRY certifies that, as a result of this transaction, its projected revenues will not exceed those that would qualify it as a Class III carrier.

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 by no later than August 6, 2010 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35389, 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 James H. M. Savage, Of

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milepost 508.0 as the correct designation. However, the letter was not sufficient to amend LRY's notice of exemption.

² LRY's notice of exemption stated August 7, 2010, as the date of consummation. LRY's counsel was notified that August 14, 2010, is the effective date of the exemption and consummation cannot occur before that date.

Counsel, John D. Heffner, PLLC, 1750 K Street, N.W., Suite 200, Washington, DC
20006.

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Decided: July 27, 2010.

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