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SERVICE DATE - JANUARY 21, 2005

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34641]

Nicholas B. Temple and Eric Temple — Control Exemption — Central Washington
Railroad Company

Nicholas B. Temple and Eric Temple (Petitioners), noncarrier individuals, have filed a verified notice of exemption for Petitioners to control Central Washington Railroad Company (CWA), upon CWA's becoming a Class III rail carrier.

The transaction was expected to be consummated on or after December 29, 2004.

This transaction is related to the concurrently filed verified notice of exemption in STB Finance Docket No. 34640, Central Washington Railroad Company — Lease and Operation Exemption — The Burlington Northern and Santa Fe Railway Company. In that proceeding, CWA seeks to lease, from The Burlington Northern and Santa Fe Railway Company, and operate approximately 41.57 miles of rail line in Washington State and to acquire specified incidental trackage rights.

Petitioners also control the Columbia Basin Railroad Company, Inc. (CBRW), which leases and operates property in the State of Washington.¹

Petitioners state that: (1) the railroads do not connect with each other or any railroad in their corporate family; (2) the transaction is not part of a series of anticipated

¹ Each Petitioner has a 50% ownership interest in CBRW.

transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

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. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34641, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Rose-Michele Weinryb, Esq., Weiner Brodsky Sidman Kider PC, 1300 19th St., N.W., Fifth Floor, Washington, DC 20036-1609.

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Decided: January 12, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary