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SERVICE DATE – JANUARY 13, 2010

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 35260

WATCO COMPANIES, INC.—CONTINUANCE IN CONTROL EXEMPTION—BOISE  
VALLEY RAILROAD, INC.

Decided: January 12, 2010

On October 15, 2009, the Brotherhood of Maintenance of Way Employees Division (BMWE) filed a petition to reject a notice of exemption in this case. Watco Companies, Inc. (Watco), filed a notice of exemption under 49 CFR 1180.2(d)(2) that allowed it to remain in control of the Boise Valley Railroad, Inc. (BVR), upon BVR's becoming a Class III rail carrier. The notice was served and published in the Federal Register on October 2, 2009 (74 FR 50999). The notice went into effect on October 16, 2009, as did the underlying notice of exemption BVR filed under 49 CFR 1150.31, permitting BVR to acquire by assignment Idaho Northern & Pacific Railroad Company's lease and operating rights to lines owned by Union Pacific.<sup>1</sup>

BMWE asks that the Board reject the notice of exemption because the standard exemption procedures are insufficient to establish a full record, given Watco's national reach of operations and, according to BMWE, its failure to comply with sections of the rail transportation policy under 49 U.S.C. 10101, pertaining to safety and labor practices.<sup>2</sup> Watco filed a reply in opposition to the request on November 4, 2009.

The petition to revoke raises issues that require further consideration by the Board. By this decision, the Board is instituting a proceeding under 49 U.S.C. 10502(d).

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

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<sup>1</sup> Boise Valley Railroad, Inc.—Assignment of Lease Exemption—Union Pacific Railroad Company and Idaho Northern & Pacific Railroad Company, STB Finance Docket No. 35259 (STB served Oct. 2, 2009) (published in the Federal Register on the same date, 74 FR 50998-99).

<sup>2</sup> BMWE characterizes its pleading as a petition to reject. Because the notice of exemption is already in effect, BMWE's pleading will be treated as a petition to revoke.

It is ordered:

1. Under 49 U.S.C. 10502(d), a proceeding is instituted.
2. This decision is effective on its service date.

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