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SERVICE DATE – NOVEMBER 17, 2008

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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35188]

Watco Companies, Inc.–Continuance in Control Exemption–Grand Elk Railroad, L.L.C.

Watco Companies, Inc. (Watco), a noncarrier, has filed a verified notice of exemption to continue in control of Grand Elk Railroad, L.L.C. (GER), upon GER's becoming a Class III rail carrier.¹

This transaction is related to a concurrently filed verified notice of exemption in STB Finance Docket No. 35187, Grand Elk Railroad, L.L.C.–Lease and Operation Exemption–Norfolk Southern Railway Company. In that proceeding, GER seeks an exemption under 49 CFR 1150.31 to lease from Norfolk Southern Railway Company (NS) and to operate approximately 122.9 miles of rail line between specified points in Michigan and Indiana. NS will also grant GER incidental trackage rights over approximately 0.43 miles of NS rail line located at Botsford Yard.

The parties intend to consummate the transaction after the effective date of the exemption sought in the related filing in STB Finance Docket No. 35187.²

¹ Watco owns 100% of the issued and outstanding stock of GER.

² That exemption cannot become effective until GER has complied with the 60-day labor notice requirement at 49 CFR 1150.32(e).

Watco currently controls 19 Class III rail carriers: South Kansas and Oklahoma Railroad Company, Palouse River & Coulee City Railroad, Inc., Timber Rock Railroad, Inc., Stillwater Central Railroad, Inc., Eastern Idaho Railroad, Inc., Kansas & Oklahoma Railroad, Inc., Pennsylvania Southwestern Railroad, Inc., Great Northwest Railroad, Inc., Kaw River Railroad, Inc., Mission Mountain Railroad, Inc., Mississippi Southern Railroad, Inc., Yellowstone Valley Railroad, Inc., Louisiana Southern Railroad, Inc., Arkansas Southern Railroad, Inc., Alabama Southern Railroad, Inc., Vicksburg Southern Railroad, Inc, Austin Western Railroad, Inc, Baton Rouge Southern Railroad, LLC, and Pacific Sun Railroad L.L.C.

Watco represents that: (1) the rail lines to be operated by GER do not connect with any other railroads in the Watco corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect these rail lines with any other railroad in the Watco corporate family; and (3) the transaction does not involve a Class I rail 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 effectiveness of the exemption. Stay petitions must be filed no later than November 26, 2008 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35188, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading 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.”

Decided: November 10, 2008.

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

Anne K. Quinlan
Acting Secretary