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SERVICE DATE – SEPTEMBER 14, 2012

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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35668]

Iowa Pacific Holdings, LLC and Permian Basin Railways—Continuance in Control
Exemption—Rusk, Palestine & Pacific Railroad, LLC

Iowa Pacific Holdings, LLC (IPH) and its wholly owned subsidiary, Permian Basin Railways (PBR), have filed a verified notice of exemption pursuant to 49 C.F.R. § 1180.2(d)(2) to continue in control of Rusk, Palestine & Pacific Railroad, LLC (RP&P)¹, formerly American Heritage Railways of Texas, LLC (American), upon RP&P's becoming a Class III rail carrier. IPH and PBR filed a corrected copy of that notice on September 7, 2012.

In a concurrently filed verified notice of exemption, RP&P seeks Board approval to operate as a common carrier approximately 27 miles of railroad (the Line) between Rusk and Palestine, Tex.² The Line has no mileposts. It is currently owned by the Texas Parks and Wildlife Authority and it is leased to the Texas State Railroad Authority, which has entered into an operating agreement with American/RP&P. American had been operating a noncommon carrier intrastate excursion passenger railroad over the Line

¹ RP&P is a wholly owned subsidiary of IPH.

² RP&P also seeks incidental trackage rights for the purpose of interchange over approximately 1.3 miles of track owned and operated by the Union Pacific Railroad Company (UP) that connects to UP's rail yard in Palestine, Tex.

using the name Texas State Railroad. RP&P plans to continue that service using the name Texas State Railroad and plans to restore common carrier freight service over the Line using the name “Rusk, Palestine & Pacific Railroad”. Rusk, Palestine & Pacific R.R.—Operation Exemption—Tex. State R.R. Auth., Docket No. FD 35669.

The transaction may be consummated on or after September 29, 2012 (the effective date of the exemption).

IPH and PBR subsidiary railroads include: (1) Chicago Terminal Railroad, located in and around Chicago, Ill.; (2) Mount Hood Railroad, located in Oregon; (3) San Luis & Rio Grande Railroad, located in Colorado; (4) Saratoga & North Creek Railway, located in New York; (5) Texas-New Mexico Railroad, located in New Mexico and Texas; and (6) West Texas & Lubbock Railway, located in Texas. IPH and PBR recently have obtained Board authority to continue in control of a new noncarrier subsidiary in California, the Santa Cruz and Monterey Bay Railway Company, upon its becoming a Class III rail carrier. Iowa Pac. Holdings, LLC and Permian Basin Rys.—Continuance in Control Exemption—Santa Cruz and Monterey Bay Ry., FD 35632 (STB served Aug. 17, 2012).

IPH and PBR represent that: (1) the Line does not connect with any other railroads in the corporate family; (2) the transaction is not part of a series of anticipated transactions that would connect the Line with any other railroads in the 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 C.F.R. § 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 §§ 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 September 21, 2012 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35668, 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 John D. Heffner, Strasburger & Price, LLP, 1700 K Street, N.W., Suite 640, Washington, DC 20006.

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Decided: September 12, 2012.

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