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SERVICE DATE – OCTOBER 3, 2008

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35173]

Pacific Sun Railroad, L.L.C.—Lease and Operation Exemption—BNSF Railway
Company

Pacific Sun Railroad, L.L.C. (PSRR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire, by lease, and to operate approximately 21.5 miles of BNSF Railway Company's (BNSF) rail lines and freight rail easement in California.¹ PSRR will lease BNSF's approximately 21.2-mile reserved rail freight service easement over the Escondido Subdivision rail corridor between milepost 0.0, at Oceanside Junction, CA, and milepost 21.2, at the end of the corridor, in Escondido, CA. PSRR will also lease BNSF's approximately 0.3-mile (not including the yard tracks) Miramar Spur and rail yard located east of milepost 252.9 on BNSF's San Diego Subdivision.

BNSF will also grant PSRR incidental trackage rights to provide local service over BNSF's approximately 45.49-mile reserved rail freight service easement on the San Diego Subdivision between milepost 252.9, near San Diego, CA, and milepost 207.41, at the San Diego County and Orange County border, including the Stuart Mesa Yard.

¹ PSRR states that it has been negotiating an agreement with BNSF and expects to finalize the agreement in the very near future. According to PSRR, the agreement will not contain any provision that prohibits PSRR from interchanging traffic with a third party.

This transaction is related to a concurrently filed verified notice of exemption in STB Finance Docket No. 35174, Watco Companies, Inc.—Continuance in Control Exemption—Pacific Sun Railroad, L.L.C.. In that proceeding, Watco Companies, Inc., has filed a verified notice of exemption to continue in control of PSRR upon PSRR's becoming a Class III rail carrier.

PSRR certifies that its projected annual revenues as a result of the transaction will not result in PSRR becoming a Class II or Class I rail carrier and further certifies that its projected annual revenues will not exceed \$5 million.

The transaction is expected to be consummated on or about October 24, 2008, and hence after the October 17, 2008 effective date of the exemption.

Pursuant to the Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, § 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: collecting, storing or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting and shredding). The term "solid waste" is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

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 for stay must be filed no later than October 10, 2008 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35173, must be filed with the Surface Transportation Board, 395 E Street, S.W.,

Washington, DC 20423-0001. In addition, a 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.

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Decided: September 26, 2008.

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

Anne K. Quinlan
Acting Secretary