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SERVICE DATE – APRIL 15, 2011

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35475

PORT OF IVORY, LLC—OPERATION EXEMPTION—LINE OF RAILROAD IN TULARE COUNTY, CAL.

Decided: April 14, 2011

Port of Ivory, LLC (Port), a limited liability company and noncarrier, filed a verified notice of exemption under 49 C.F.R. § 1150.31 to operate about 1,500 track feet of existing railroad trackage inside an existing industrial facility it owns in Tulare County, Cal. Notice of the exemption was served and published in the Federal Register on March 18, 2011 (76 Fed. Reg. 15,047).¹

On March 29, 2011, the San Joaquin Valley Railroad Company (SJVR) filed a petition to reject the notice of exemption, alleging that the notice contains significant false and misleading information rendering it void ab initio.

By decision served on April 5, 2011, at the parties' request, the proceeding was held in abeyance until April 15, 2011, to allow Port and SJVR time to resolve their differences. In that decision, the parties were directed to notify the Board on the status of the negotiations on or before April 15, 2011.

By letter filed on April 14, 2011, Port requests that the Board hold the proceeding in abeyance for an additional week, until April 22, 2011. Port indicates that, on April 7, 2011, it submitted a proposal to SJVR's corporate parent, RailAmerica, Inc., through SJVR's outside counsel. Port states that, although it has been advised that a response should be forthcoming shortly, it has not received one yet, and it seeks the requested extension to give the parties additional time to reach a negotiated resolution. Port states that counsel for SJVR consents to this request.

The request to hold this proceeding in abeyance is reasonable and will be granted. Accordingly, this proceeding will be held in abeyance for an additional week, until April 22, 2011. The parties are directed to notify the Board on the status of the negotiations on or before April 22, 2011.

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

¹ A protective order was served on March 25, 2011.

It is ordered:

1. This proceeding will be held in abeyance until April 22, 2011.
2. The parties are directed to notify the Board on the status of the negotiations on or before April 22, 2011.

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