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SERVICE DATE – DECEMBER 3, 2009

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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35307]

Kern W. Schumacher—Continuance in Control Exemption—Lassen Valley Railway
LLC

Kern W. Schumacher (Schumacher), a noncarrier, has filed a verified notice of exemption to continue in control of Lassen Valley Railway LLC (LVR) upon LVR's becoming a Class III rail carrier.

This transaction is related to a concurrently filed verified notice of exemption in STB Finance Docket No. 35306, Lassen Valley Railway LLC—Acquisition and Operation Exemption—Union Pacific Railroad Company. In that proceeding, LVR seeks an exemption under 49 CFR 1150.31 to acquire and operate approximately 22.34 miles of rail line between Flanigan, NV, and Wendel, CA, owned by Union Pacific Railroad Company.

The parties intend to consummate the transaction on or after December 17, 2009, the effective date of the exemption.

Mr. Schumacher currently controls six Class III rail carriers: Tulare Valley Railroad Company (TVR), Kern Valley Railroad Company (KVR), V&S Railway, Inc. (V&S), Gloster Southern Railroad Company LLC (GLSR), Grenada Railway LLC (GRYR), and Natchez Railway LLC (NTZR). TVR owns 5.9 miles of rail line in

California; KVR owns 2 miles of rail line in Colorado; V&S owns 27 miles of rail line in Kansas and 122 miles of rail line in Colorado; GLSR owns 34.8 miles of rail line in Mississippi and Louisiana; GRYR owns 186.82 miles of rail line in Mississippi; and NTZR owns 65.6 miles of rail line in Mississippi.

As represented, Mr. Schumacher has many years of experience managing short line railroads. Mr. Schumacher anticipates that, with the substantial resources at his disposal, he will be able to maintain, and where necessary, rehabilitate the lines of LVR, restore service on the lines, encourage shippers to locate their facilities along the lines, and create a financially viable railroad.

Mr. Schumacher represents that: (1) the rail lines to be acquired by LVR do not connect with any other railroad in its corporate family; (2) the transaction is not part of a series of anticipated transactions that would connect the rail lines with any other railroad in its 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 December 10, 2009 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35307, 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 Fritz R. Kahn, 1920 N Street, N.W. (8th Floor), Washington, DC 20036.

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Decided: November 25, 2009.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.