

Voting Conference, May 3, 2005

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State of Washington, Department of Transportation  
—Acquisition Exemption—  
Palouse River and Coulee City Railroad, Inc.

STB Finance Docket No. 34609

Good morning Chairman Nober, Vice Chairman Buttrey, and Commissioner Mulvey.

The draft decision before you would dismiss a notice of exemption filed by the State of Washington, Department of Transportation (Washington DOT) because the Board's regulatory approval is not required for the transaction at issue.

Washington DOT filed a notice of exemption to acquire 188 miles of rail line from Palouse River and Coulee City Railroad (PRCC) in the State of Washington. The parties entered an agreement, whereby Washington DOT acquired the tracks, track materials, and underlying rights-of-way and PRCC retained a permanent, exclusive rail freight easement to provide service over the lines. Washington DOT also entered into a lease with PRCC which specifies the terms of their future relationship.

Washington DOT filed a motion to dismiss the notice, asserting that the transaction is not subject to Board regulation because it will not become a common carrier as a result of the transaction. There is no opposition to the motion.

The acquisition of an active rail line and the common carrier obligation that goes with it ordinarily require Board approval. Under the State of Maine line of cases, however, Board authorization is not required when the common carrier rights and obligations that attach to the line will not be transferred.

The draft decision would find that PRCC is not transferring common carrier rights or obligations and that Washington DOT will not hold itself out as a common carrier performing rail freight service. Nor will Washington DOT have the right to control or interfere with freight operations on the line. Accordingly, the draft decision would dismiss the notice of exemption.

That concludes my statement. We would be happy to answer any questions that you may have.