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SERVICE DATE – FEBRUARY 2, 2023

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36662]

Stefan Soloviev, Executor, Estate of Sheldon H. Solow—Continuance in Control

Exemption—Colorado Pacific Rio Grande Railroad, LLC

Stefan Soloviev, Executor, Estate of Sheldon H. Solow (the Estate), a noncarrier, has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(2) to continue in control of the Colorado Pacific Rio Grande Railroad, LLC (CP Rio Grande), a noncarrier controlled by the Estate, upon CP Rio Grande's becoming a Class III rail carrier.

According to the verified notice, the Estate currently controls 50% of KCVN, LLC, which in turn owns 100% of the Colorado Pacific Railroad, LLC (CXR), a Class III carrier.

In December 2022, CP Rio Grande filed a verified notice of exemption in Colorado Pacific Rio Grande Railroad, LLC—Acquisition & Operation Exemption Containing Interchange Commitment—San Luis & Rio Grande Railroad, Inc., Docket No. FD 36656, for authority to acquire, in bankruptcy, and operate substantially all of the tracks and other rail assets of the San Luis & Rio Grande Railroad, Inc. (SLRG), between milepost 299.30 near Derrick, Colo., and milepost 180.00 near Walsenberg, Colo., and between milepost 251.7 at Alamosa, Colo., and milepost 281.78 at Antonito, Colo., a total distance of approximately 149.38 miles (the Lines), and incidental trackage rights

conveyed to SLRG by Union Pacific Railroad Company in the vicinity of Walsenburg between milepost 180.00 and milepost 175.00.¹

The earliest this transaction may be consummated is February 16, 2023, the effective date of the exemption (30 days after the verified notice was filed).

The Estate will continue in control of CP Rio Grande upon CP Rio Grande's becoming a Class III rail carrier, while remaining in control of one other Class III carrier, CXR.

The Estate verifies that: (1) the Lines do not connect with the lines of the one other Class III railroad currently controlled by the Estate; (2) this continuance in control transaction is not part of a series of anticipated transactions that would result in such a connection; 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 the carriers involved are Class III carriers.

If the 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

¹ Notice of the exemption was served and published in the Federal Register on January 5, 2023 (88 Fed. Reg. 899). The exemption became effective on January 19, 2023.

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 February 9, 2023 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36662, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street, S.W., Washington, DC 20423. In addition, a copy of each pleading must be served on the Estate's representative, Thomas W. Wilcox, Law Office of Thomas W. Wilcox, LLC, 1629 K Street, N.W., Suite 300, Washington, DC 20006.

According to the Estate, this action is excluded from environmental review under 49 C.F.R. § 1105.6(c) and from historic preservation reporting requirements under 49 C.F.R. § 1105.8(b)(3).

Board decisions and notices are available at www.stb.gov.

Decided: January 27, 2023.

By the Board, Mai T. Dinh, Director, Office of Proceedings.