

Watco corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the rail lines to be operated by SRR with any other railroad in the Watco 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 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 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 21, 2011 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35575, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Karl Morell, Of Counsel, Ball Janik, LLP, Suite 225, Fifteenth Street NW., Washington, DC 20005.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: December 9, 2011.

By the Board.

**Rachel D. Campbell,**

*Director, Office of Proceedings.*

**Raina S. White.**

*Clearance Clerk,*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[Docket No. FD 35574]

#### Swan Ranch Railroad, L.L.C.— Operation Exemption—Swan Industrial Park

Swan Ranch Railroad, L.L.C. (SRR),<sup>1</sup> a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to operate, pursuant to an agreement with Cheyenne Logistics Hub, LLC (CLH), all the track located within the Swan Industrial Park, in Cheyenne, Wyo. The track over which SRR will operate is approximately 17,192 feet long and includes Track Numbers 101, 105, and 109.<sup>2</sup>

This transaction is related to a concurrently filed verified notice of exemption in Docket No. FD 35575, *Watco Holdings, Inc.—Continuance in Control Exemption—Swan Ranch Railroad, L.L.C.*, wherein Watco seeks Board approval to continue in control of SRR, upon SRR's becoming a Class III rail carrier.

Applicant states that the agreement between SRR and CLH does not contain any provision that prohibits SRR from interchanging traffic with a third party or limits SRR's ability to interchange with a third party.

The transaction may be consummated on or after December 28, 2011 (30 days after the notice of exemption was filed).

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

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 by December 21, 2011 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35574, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Karl Morell, Of Counsel, Ball Janik LLP, Suite 225, 655 Fifteenth Street, NW., Washington, DC 20005.

<sup>1</sup> SRR is a wholly owned, indirect subsidiary of Watco Holdings, Inc. (Watco).

<sup>2</sup> According to SRR, there are no mileposts associated with the tracks.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: December 9, 2011.

By the Board.

**Rachel D. Campbell,**

*Director, Office of Proceedings.*

**Raina White,**

*Clearance Clerk.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[Docket No. FD 35504]

#### Union Pacific Railroad Company— Petition for Declaratory Order

**AGENCY:** Surface Transportation Board.

**ACTION:** Institution of declaratory order proceeding; request for comments.

**SUMMARY:** In response to a petition filed by Union Pacific Railroad Company (UP) on April 27, 2011, the Board is instituting a declaratory order proceeding under 49 U.S.C. 721 and 5 U.S.C. 554(e). UP requests that the Board issue a declaratory order to resolve a controversy regarding the reasonableness of the indemnification provisions in UP's tariff relating to transportation of toxic by inhalation hazardous commodities (TIH). The Board seeks public comment on the issues raised in this case.

**DATES:** Any person who wishes to participate in this proceeding as a party of record (POR) must file, no later than December 27, 2011, a notice of intent to participate. Opening evidence and argument from all PORs is due on January 25, 2012. Reply evidence and argument from all PORs is due on March 12, 2012. Rebuttal evidence and argument from all PORs is due on March 26, 2012.

**ADDRESSES:** Any filing submitted in this proceeding must be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E-FILING link on the Board's Web site, at <http://www.stb.dot.gov>. Any person submitting a filing in the traditional paper format should send an original and 10 copies (and also an electronic version), referring to Docket No. FD 35504, to: Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001. In addition, 1 copy of each filing in this proceeding must be sent (and may be sent by email if service by email is