

connect with any other railroads in the Durbano corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect these rail lines with each other or with any other railroad in the Durbano 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 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 October 18, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36227, 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 William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW, Suite 300, Washington, DC 20037.

Board decisions and notices are available on our website at [www.stb.gov](http://www.stb.gov).

Decided: October 5, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

**Jeffrey Herzig,**  
Clearance Clerk.

[FR Doc. 2018-22171 Filed 10-10-18; 8:45 am]

**BILLING CODE 4915-01-P**

## **SURFACE TRANSPORTATION BOARD**

[Docket No. FD 36225]

### **Fortress Investment Group LLC—Continuance in Control Exemption—Central Maine & Quebec Railway US Inc., Ohio River Partners Shareholder LLC, and DesertXpress Enterprises, LLC**

Fortress Investment Group LLC (Fortress) has filed a verified notice of

exemption pursuant to 49 CFR 1180.2(d)(2) for the benefit of Brightline Holdings LLC (Brightline) and Fortress Transportation and Infrastructure Investors LLC, which are managed by affiliates of Fortress, to continue in control of DesertXpress Enterprises, LLC (DXE)<sup>1</sup> following the acquisition of DXE by Brightline.

According to Fortress, on September 17, 2018, Brightline, DXE, and Benny's HoldCo, LLC, entered into a Membership Interest Purchase Agreement (Purchase Agreement)<sup>2</sup> pursuant to which Brightline will acquire 100% of the member interests of DXE. Upon consummation of the transaction contemplated by the Purchase Agreement, Brightline, a noncarrier, will control DXE. Brightline currently controls Brightline Trains LLC (Brightline Trains) which operates express passenger rail service between Miami, Fla., and West Palm Beach, Fla.<sup>3</sup> Fortress asserts that Brightline can assist DXE in bringing its planned high-speed passenger rail system between Las Vegas and Victorville to fruition.

The parties intend to consummate the proposed control transaction as soon as practicable after the exemption becomes effective (30 days after the verified notice was filed) and the satisfaction of all other conditions precedent to closing set forth in the Purchase Agreement.

Fortress states that two other rail carriers subject to the Board's jurisdiction, Central Maine & Quebec Railway US Inc. (CMQR) and Ohio River Partners Shareholder LLC (ORPS), are currently managed by affiliates of Fortress. CMQR, a Class III carrier, operates approximately 244 miles of rail lines in the States of Maine and Vermont. ORPS, a Class III carrier, operates a 12.2-mile rail line between milepost 60.5 at or near Powhatan Point,

<sup>1</sup> In *DesertXpress Enterprises—Construction & Operation Exemption—in Victorville, Cal. & Las Vegas, Nev. (DesertXpress)*, FD 35544 (STB served Oct. 25, 2011), the Board authorized DXE to construct and operate a high-speed passenger rail line between Victorville, Cal., and Las Vegas, Nev. (DXE Line). Fortress states that DXE has been engaged in development and planning for the DXE Line, including obtaining certain federal and state permits, acquiring rights-of-way, and pursuing financing for the project.

<sup>2</sup> Fortress submitted a redacted copy of the Purchase Agreement with its verified notice of exemption. It also submitted an unredacted copy under seal along with a motion for protective order pursuant to 49 CFR 1104.14(b). That motion will be addressed in a separate decision.

<sup>3</sup> Brightline Trains formerly was known as All Aboard Florida-Operations LLC. Citing *All Aboard Florida-Operations LLC—Construction & Operation Exemption—in Miami, Fla., & Orlando, Fla.*, FD 35680 (STB served Dec. 21, 2012), Fortress states that Brightline Trains is not a rail carrier subject to the Board's jurisdiction.

Ohio, and milepost 72.2 at or near Hannibal, Ohio.

Fortress represents that: (1) None of the rail lines of CMQR, ORPS, or DXE connect with the lines of any other United States railroad that is owned or controlled by Fortress; (2) the transaction is not part of a series of anticipated transactions that would connect the DXE Line with the lines of any other rail carrier owned or controlled by Fortress, any affiliate of Fortress, or any investment fund or entity managed by an affiliate of Fortress; and (3) CMQR, ORPS, and DXE are not Class I carriers.<sup>4</sup> 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 the carriers involved are Class III carriers.<sup>5</sup>

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. Petitions for stay must be filed no later than October 18, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36225, 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 Terence M. Hynes, Sidley Austin LLP, 1501 K Street NW, Washington, DC 20005.

According to Fortress, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic reporting under 49 CFR 1105.8(b).

Board decisions and notices are available on our website at [www.stb.gov](http://www.stb.gov).

Decided: October 5, 2018.

<sup>4</sup> Fortress states that CMQR and ORPS are Class III carriers. In *DesertXpress*, slip op. at 2, the Board noted that DXE anticipated that its operating revenues would qualify it as a Class I carrier; presently, however, according to Fortress, DXE has not commenced operations and does not have any operating employees or revenues. See Notice 6.

<sup>5</sup> See n. 4, above.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

**Jeffrey Herzig,**

*Clearance Clerk.*

[FR Doc. 2018-22227 Filed 10-10-18; 8:45 am]

**BILLING CODE 4915-01-P**

## SURFACE TRANSPORTATION BOARD

[Docket No. FD 36226]

### Washington Eastern Railroad, LLC— Change in Operators Exemption— Eastern Washington Gateway Railroad Company

Washington Eastern Railroad, LLC (WERR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to assume operations over approximately 107.8 miles of track extending between milepost 1.0 near Cheney, Wash., and the end of the track at milepost 108.8 in Coulee City, Wash. (CW Branch), and over approximately 5.9 miles of track that connects with the CW Branch at Geiger Junction near Medical Lake, Wash. (Geiger Spur)<sup>1</sup> (collectively, the Lines). The verified notice indicates that the CW Branch is currently owned by the State of Washington, Department of Transportation (WDOT) and the Geiger Spur is owned by the County of Spokane, Wash. The Lines are currently leased to Eastern Washington Gateway Railroad Company (EWG). As a result of this transaction, WERR will become a carrier and replace EWG as the Lines' exclusive lessee and operator. According to WERR, EWG is aware that WDOT plans to change operators over the Lines and does not object to the proposed change in operators.

The verified notice indicates that WERR and WDOT have reached an agreement in principle for WERR to replace EWG as the lessee and operator of the Lines upon the effective date of the exemption. WERR states that BNSF Railway Company (BNSF) currently has trackage rights over the CW Branch and that WERR's lease of the Lines will continue to be subject to BNSF's trackage rights.

This transaction is related to a concurrently filed verified notice of exemption in *David L. Durbano—Continuance in Control Exemption—Washington Eastern Railroad, LLC*, Docket No. FD 36227, in which David

<sup>1</sup> The Geiger Spur consists of two segments: The first extends from milepost 2.5 (at the east gate of Fairchild Air Force Base) to milepost 4.93 (at McFarlane and Hayford Roads) near Airway Heights, Wash.; the second extends from milepost 0.0 at Geiger Junction at its connection with the CW Branch to milepost 3.45, where it connects with the first segment at milepost 2.7.

L. Durbano seeks to continue in control of WERR upon WERR's becoming a Class III rail carrier.

WERR certifies that the underlying lease and operation agreement does not contain any provision or agreement that would limit future interchange with a third-party connecting carrier. Further, WERR certifies that its annual rail revenues as a result of this transaction will not exceed \$5 million, and it will not result in WERR's becoming a Class I or Class II rail carrier. Under 49 CFR 1150.32(b), a change in operator requires that notice be given to shippers. WERR certifies that notice of the change in operator was served on all known shippers on the Lines.

The earliest this transaction may be consummated is October 25, 2018, the effective date of the exemption (30 days after the verified notice was filed).

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. Petitions for stay must be filed no later than October 18, 2018 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36226, 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 William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW, Suite 300, Washington, DC 20037.

Board decisions and notices are available on our website at [www.stb.gov](http://www.stb.gov).

Decided: October 5, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

**Jeffrey Herzig,**

*Clearance Clerk.*

[FR Doc. 2018-22173 Filed 10-10-18; 8:45 am]

**BILLING CODE 4915-01-P**

## SUSQUEHANNA RIVER BASIN COMMISSION

### Projects Approved for Consumptive Uses of Water

**AGENCY:** Susquehanna River Basin Commission.

**ACTION:** Notice.

**SUMMARY:** This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in **DATES**.

**DATES:** July 1–31, 2018.

**ADDRESSES:** Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788.

**FOR FURTHER INFORMATION CONTACT:**

Jason E. Oyler, General Counsel, telephone: (717) 238-0423, ext. 1312; fax: (717) 238-2436; email: [joyler@srbc.net](mailto:joyler@srbc.net). Regular mail inquiries may be sent to the above address.

**SUPPLEMENTARY INFORMATION:** This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22(e) and 806.22(f) for the time period specified above:

### Approvals by Rule Issued Under 18 CFR 806.22(f)

1. Seneca Resources Corporation, Pad ID: DCNR Tract 007 Pad D, ABR-201807001; Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: July 12, 2018.

2. Diversified Gas & Oil, LLC, Pad ID: Stubler Pad A, ABR-201305003.R1; Gamble Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: July 13, 2018.

3. SWN Production Company, LLC, Pad ID: GU 04 Williams Aeppli, ABR-201309001.R1; Herrick Township, Bradford County, Pa.; Consumptive Use of Up to 4.9999 mgd; Approval Date: July 18, 2018.

4. SWN Production Company, LLC, Pad ID: Dropp-Range-Pad46, ABR-201308016.R1; Jackson Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: July 27, 2018.

5. Repsol Oil & Gas USA, LLC, Pad ID: ALDERSON (05 269), ABR-201807002; Pike Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: July 25, 2018.

6. Repsol Oil & Gas USA, LLC, Pad ID: BROADLEAF HOLDINGS (01 115), ABR-201807003; Springfield, Troy, and Columbia Townships, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: July 25, 2018.

7. EXCO Resources (PA), LLC, Pad ID: Chaapel Hollow Unit, ABR-201305016.R1; Gamble Township, Lycoming County, Pa.; Consumptive Use of Up to 8.0000 mgd; Approval Date: July 30, 2018.

8. EXCO Resources (PA), LLC, Pad ID: Poor Shot Pad 2 Unit, ABR-201309007.R1; Anthony Township, Lycoming County, Pa.; Consumptive Use of Up to 8.0000 mgd; Approval Date: July 30, 2018.