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SERVICE DATE – JANUARY 5, 2023

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36656]

Colorado Pacific Rio Grande Railroad, LLC—Acquisition and Operation Exemption
Containing Interchange Commitment—San Luis & Rio Grande Railroad, Inc.

On December 20, 2022, the Colorado Pacific Rio Grande Railroad, LLC (CP Rio Grande), a non-carrier, filed a verified notice of exemption under 49 C.F.R. § 1150.31 to acquire and operate the following railroad track and other assets of the San Luis & Rio Grande Railroad, Inc. (SLRG): (1) from milepost 299.30 near Derrick, Colo., to milepost 180.00 near Walsenburg, Colo., comprising SLRG's Alamosa Subdivision, and (2) between milepost 251.7 at Alamosa, Colo., and milepost 281.78 at Antonito, Colo. (the Antonito Subdivision), a total distance of approximately 149.38 miles (collectively, the Line).¹ According to the verified notice, CP Rio Grande is also acquiring incidental trackage rights conveyed to SLRG by UP in the vicinity of Walsenburg between milepost 180.00 and milepost 175.00.

According to the verified notice, the proposed transaction is the culmination of involuntary Chapter 11 bankruptcy proceedings before the United States Bankruptcy Court for the District of Colorado. The verified notice states that, on November 17, 2022, KCVN

¹ The verified notice states that SLRG acquired the Line from the Union Pacific Railroad Company (UP) in 2003. See San Luis & Rio Grande R.R.—Acquis. & Operation Exemption—Union Pac. R.R., FD 34350 (STB served July 18, 2003).

LLC (KCVN) was the successful bidder at auction for substantially all the assets of SLRG, and an Asset Purchase Agreement was executed between SLRG and KCVN “or its permitted assignee.” The verified notice further states that the Bankruptcy Court approved the sale to KCVN or its permitted assignee pursuant to the Asset Purchase Agreement on November 29, 2022. According to the verified notice, on December 19, 2022, KCVN assigned all of its rights in the Asset Purchase Agreement to CP Rio Grande.²

CP Rio Grande certifies that its projected annual revenues from this transaction will not exceed \$5 million and will not result in CP Rio Grande becoming a Class II or Class I rail carrier. CP Rio Grande further certifies that the transaction involves an interchange commitment that would limit future interchange with a third-party carrier other than UP in Walsenburg Yard,³ and CP Rio Grande has provided additional information regarding the interchange commitment as required by 49 C.F.R. § 1150.33(h).

The transaction may be consummated on or after January 19, 2023, 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

² KCVN is the parent company of Colorado Pacific Railroad, LLC (CRX), a Class III carrier. CP Rio Grande is an independent entity that is not owned or controlled by KCVN. According to the verified notice, the intention is for CP Rio Grande to continue the operations of the SLRG separate and apart from KCVN and CRX.

³ According to the verified notice, the incidental trackage rights being acquired by CP Rio Grande are subject to an existing interchange commitment between SLRG and UP that was created when UP conveyed the Line to SLRG. However, the existence of the interchange commitment was not disclosed in the verified notice of exemption for that transaction because the regulations at 49 C.F.R. § 1150.33(h) requiring such disclosure were not in effect yet. See San Luis & Rio Grande R.R., Docket No. FD 34350.

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 January 12, 2023 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36656, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on SLRG's representative: Thomas W. Wilcox, Law Office of Thomas W. Wilcox, LLC, 1629 K Street, N.W., Suite 300, Washington, DC 20006.

According to CP Rio Grande, this action is categorically 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).

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

Decided: December 30, 2022.

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