

FILING FEE WAIVED

Michael H. Meyer Chapter 11 Trustee for California Western Railroad

FILED

DEC 01 2004

3510 Unocal Place, Suite 108
Santa Rosa, California 95403
707 544-5500 ext 106

FACE
TRANSPORTATION BOARD

May 20, 2003

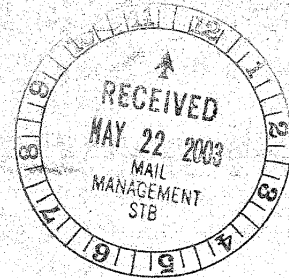
VIA HAND DELIVERY - RETURN COPY

Hon. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW (7th Fl.)
Washington, DC 20423-0001

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Office of Proceedings

DEC 01 2004

Part of
Public Record



This is to request waiver of the \$6,000.00 and \$150 filing fees which ordinarily would need to be paid to effect the filing of the Complaint contemporaneously being tendered in STB Finance Docket No. 34337, Michael H. Meyer Trustee in Bankruptcy for California Railroad, Inc. v. North Coast Railroad Authority, d/b/a Northwestern Pacific Railroad and the Petition in STB Ex Parte No. 346 (Sub-No. 25), General Exemption Authority — Lumber or Wood Products. 212651

The Debtor, California Western Railroad, Inc. simply does not have the funds to be able to pay the \$6,000.00 and \$150 filing fees. The Debtor's estate is without sufficient money to have yet paid me, the Trustee, David N. Chandler, Esq., the Trustee's counsel, or Fritz R. Kahn, Esq., special counsel to the Trustee.

Indeed, the very reason for filing the Complaint is to try to recover by way of damages the net operating income which California Western Railroad, Inc., has lost because of the Respondent failure to render service on its line, maintain its interchange and permit the continuous movement of freight shipments, which, but for the exemption of the rail transportation of lumber and wood products, would be in violation of its statutory obligations as a common carrier railroad.

Ten copies of this letter are enclosed to permit your circulation of it. An additional copy is enclosed for you to stamp to acknowledge your receipt of it and to return to me via the messenger.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Michael H. Meyer".

Michael H. Meyer

Trustee for California Western Railroad

ORIGINAL

212651

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

STB Ex Parte No. 346 (Sub-No. 25)

GENERAL EXEMPTION AUTHORITY
- LUMBER OR WOOD PRODUCTS



PETITION FOR PARTIAL REVOCATION OF EXEMPTION
OF
MICHAEL H. MEYER, TRUSTEE IN BANKRUPTCY FOR
CALIFORNIA WESTERN RAILROAD, INC.

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Public Record

FILING FEE WAIVED

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DEC 01 2004

SURFACE
TRANSPORTATION BOARD

Attorneys for

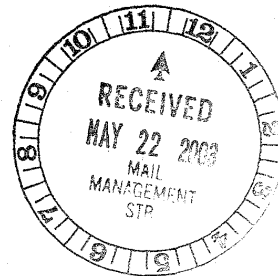
MICHAEL H. MEYER, TRUSTEE IN BANKRUPTCY
FOR CALIFORNIA WESTERN RAILROAD, INC.

Dated: May 22, 2003

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

STB Ex Parte No. 346 (Sub-No. 25)

GENERAL EXEMPTION AUTHORITY
- LUMBER OR WOOD PRODUCTS



PETITION FOR PARTIAL REVOCATION OF EXEMPTION
OF
MICHAEL H. MEYER, TRUSTEE IN BANKRUPTCY FOR
CALIFORNIA WESTERN RAILROAD, INC.

Petitioner, Michael H. Meyer, Trustee in Bankruptcy for California Western Railroad ("CWR"), a California corporation, pursuant to 49 U.S.C. 10502(d) and 49 C.F.R. 1121.1, et seq., petitions for the partial revocation of the exemption of the provisions of Subtitle IV of Title 49 of the U.S. Code of the rail transportation of lumber or wood products, 49 C.F.R. 1039.11, and as grounds therefor, Petitioner states, as follows:

1. Contemporaneously with the filing of this Petition for Partial Revocation of Exemption, Petitioner is filing his Complaint in STB Finance Docket No. 34337, Michael H. Meyer, Trustee in Bankruptcy for California Western Railroad, Inc. v. North Coast Railroad Authority, d/b/a Northwestern Pacific Railroad.

2. The Complaint alleges that, beginning in 1997, the Federal Railroad Administration ("FRA"), in cooperation with the California Public Utilities Commission ("CPUC"), had inspected the railroad lines of the Respondent, North Coast Railroad Authority, d/b/a Northwestern Pacific

Railroad ("NWP"), and uncovered that numerous infractions of the agencies' safety regulations had occurred. Despite NWP's assurances that it would correct the dangerous conditions on its lines, NWP failed to address them to the satisfaction of FRA or CPUC. Finally, on November 25, 1998, FRA found that there were life-threatening malfunctioning crossing signals, defective ties, inadequate drainage and excess vegetation along NWP's lines, issued FRA Emergency Order No. 21, Notice No. 1, and effectively shut down NWP.

3. The FRA's order detailed what actions NWP could take to address the concerns of FRA and CPUC and to enable NWP to resume operations on its lines. NWP, however, has failed to take the necessary steps to rehabilitate its lines, and the railroad remains inoperative.

4. Thus, NWP has ceased rendering service, in violation of 49 U.S.C. 11101(a); it has discontinued its operations without Board authority, in violation of 49 U.S.C. 10903(a) (1)(B); it has failed to provide facilities for the interchange of cars, in violation of 49 U.S.C. 10742; and it has prevented the continuous carriage of freight shipments from origin to destination, in violation of 49 U.S.C. 10744.

5. CWR connects with NWP at Willits, CA, and, since CWR connects with no other railroad, NWP, which connects with the lines of the California Northern Railroad Company at Shellville, CA, is CWR's only means of participating in the movement of railroad traffic to and from stations elsewhere in the country.

6. CWR, by its Complaint, seeks to recover damages for the losses NWP has inflicted upon it. Since CWR's freight shipments predominantly were of carloads of lumber, however, the exemption of lumber or wood products would need to be partially revoked for the Board to entertain CWR's Complaint. STB Docket No. 42028, Buffalo Crushed Stone, Inc. v. R. J.

Corman Railroad Company/Allentown Lines, Inc., served October 7, 1998; Consolidated Rail Corporation-Declaratory Order-Exemption, 1 I.C.C.2d 895 (1986).

7. The partial revocation of the exemption which CWR seeks would aid in carrying out the rail transportation policy of 49 U.S.C. 10101, because holding NWP responsible for rendering service, avoiding the discontinuance of operations without Board authorization, maintaining interchanges with connecting railroads and providing for the through transportation of freight shipments would, among other things, "ensure the development and continuation of a sound rail transportation system with effective competition among rail carriers and with other modes, to meet the needs of the public and the national defense"; "foster sound economic conditions in transportation and . . . ensure effective competition and coordination between rail carriers and other modes"; and safeguard the operation of "transportation facilities and equipment without detriment to the public health and safety."

8. Indeed, railroads predominantly engaged in the transportation of lumber or wood products heretofore have secured the Board's authorization to abandon their lines even in the absence of the partial revocation of the exemption. See, STB Docket No. AB-246 (Sub-No. 2X), Yreka Western Railroad Company-Abandonment Exemption-In Siskiyou County, CA, served May 4, 1999; Docket No. AB-403X, Willamette Valley Railroad Company-Abandonment Exemption-In Polk County, OR, served May 22, 1995.

9. No discovery is sought in connection with this Petition.

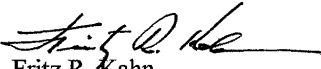
WHEREFORE, Petitioner, Michael H. Meyer, Trustee in Bankruptcy for California Western Railroad, asks that the exemption of lumber or wood products be partially revoked to enable the Board to entertain the Complaint against North Coast Railroad Authority, d/b/a Northwestern Pacific Railroad..

Respectfully submitted,

MICHAEL H. MEYER, TRUSTEE
IN BANKRUPTCY OF CALIFORNIA
WESTERN RAILROAD, INC.

By his attorneys,

David N. Chandler
1747 Fourth Street
Santa Rosa, CA 95404
Tel.: (707) 529-4331

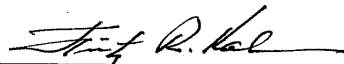

Fritz R. Kahn
Fritz R. Kahn, P.C.
1920 N Street, NW (8th fl.)
Washington, DC 20036-1601
Tel.: (202) 263-4152

Dated: May 22, 2003

CERTIFICATE OF SERVICE

I certify that I this day have served a copy of the foregoing Petition for Partial Revocation of Exemption upon Respondent by mailing a copy of it, by prepaid first-class mail to Mr. Douglas M. Christy, Executive Director, Northwestern Pacific Railroad, 419 Talmage Road (Suite M), Ukiah, CA 95482.

Dated at Washington, DC, this 22nd of May 2003.



Fritz R. Kahn