

BEFORE THE
SURFACE TRANSPORTATION BOARD

308378

FD 36787

ENTERED
Office of Proceedings
June 12, 2024
Part of Public Record

ALAMEDA BELT LINE
— OPERATION EXEMPTION —
BOARD OF HARBOR COMMISSIONERS OF THE PORT OF LOS ANGELES,
BOARD OF HARBOR COMMISSIONERS (LONG BEACH), AND
ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY

**VERIFIED NOTICE OF EXEMPTION OF ALAMEDA BELT LINE
PURSUANT TO 49 C.F.R. PART 1150, SUBPART D**

Robert A. Wimbish
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ATTORNEY FOR ALAMEDA BELT LINE

Dated: June 12, 2024

FILED
June 12, 2024
SURFACE
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**VERIFIED NOTICE OF EXEMPTION OF ALAMEDA BELT LINE
PURSUANT TO 49 C.F.R. PART 1150, SUBPART D**

Alameda Belt Line (“ABL”), a privately-held non-carrier, hereby files this verified notice of exemption (the “Notice”) pursuant to 49 C.F.R. part 1150, subpart D, to assume by subcontract the dispatching operations over a roughly 16.1-mile-long railroad corridor (the “Line”) owned by the Board of Harbor Commissioners of the Port of Los Angeles and the Board of Harbor Commissioners (Long Beach) (collectively, the “Ports”), and administered by the Alameda Corridor Transportation Authority (“ACTA”). BNSF Railway Company (“BNSF”) and Union Pacific Railroad Company (“UP”) currently possess, and exercise, railroad common carrier operating rights over the Line.

Pursuant to 49 C.F.R. § 1150.33, ABL submits the following information:

Full Name and Address of Applicant: 49 C.F.R. § 1150.33(a)

Alameda Belt Line
1 World Trade Center, Suite 2350
Long Beach, CA 90831

Applicant's Representative: 49 C.F.R. § 1150.33(b)

Robert A. Wimbish
Fletcher & Sippel LLC
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Chicago, IL 60606-3208
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Statement Concerning Agreement: 49 C.F.R. § 1150.33(c)

ABL will assume by subcontract from BNSF and UP, as joint “Corridor Dispatchers” (as that term is used to describe BNSF and UP in an existing Line Dispatching Agreement among ACTA, the Line’s administrator, BNSF and UP), dispatching rights currently exercised over the Line by UP with BNSF oversight. BNSF and UP will continue to operate trains over the Line post-transaction as they do today, albeit under ABL’s train dispatching governance. As such, ABL’s assumption of dispatching is not expected to have any impact on UP’s and BNSF’s respective train operations, or on the traffic volumes handled, over the Line.

Operator of the Property: 49 C.F.R. § 1150.33(d)

ABL will, upon or shortly after the effective date of this verified notice of exemption, effectuate its subcontracted right to dispatch train operations over the Line. ABL will not conduct, and will not be entitled to conduct, train operations over the Line. Post-transaction train operations will continue to be carried out by BNSF and UP.

Summary of the Proposed Transaction: 49 C.F.R. § 1150.33(e)

The name and address of the entity that owns the Line is as follows:

Alameda Corridor Transportation Authority
3760 Kilroy Airport Way, Suite 200
Long Beach, CA 90806

The Line, which extends roughly 16.1 miles from milepost 0.0 at CP East Redondo in Los Angeles, California, and milepost 16.1 at CP West Thenard in Los Angeles,

California, is also known as the “Alameda Corridor.” The Alameda Corridor is high-density, multiple-track railroad route that functions as a highly-efficient conduit for BNSF and UP freight traffic flowing to and from the Ports of Los Angeles and Long Beach, California. The Line was formed out of an interest shared by the Ports, the Cities of Los Angeles and Long Beach, and the Class I railroads serving the Ports and adjacent facilities to promote the safe, swift, and efficient movement of freight by rail to and from the Ports. The purpose and function of the Alameda Corridor is set forth at *Alameda Corridor Construction Application*, FD 32830 (STB served May 13, 1996), and current information about the Line and its operation is available at www.acta.org.

The Line is jointly owned by the above-referenced Ports, which are divisions of the California Cities of Los Angeles and Long Beach (collectively, the “Cities”). The Line’s infrastructure is administered by ACTA, a joint powers authority formed by the Cities.

As indicated above, BNSF and UP possess and exercise operating rights over the Line, and UP currently handles Line dispatching with BNSF oversight under the terms of the above-referenced Line Dispatching Agreement. ABL will, subject to the Board authorization currently sought, assume by subcontract the dispatching rights that ACTA has permitted the Corridor Dispatchers to undertake.

ABL is a private entity that is owned in equal part by BNSF and UP. ABL historically had owned and operated railroad lines in Alameda County, California, in and around the Port of Oakland. ABL no longer possesses any railroad lines or holds any operating rights over any railroad lines, and, consistent with that circumstance, ABL currently does not, and cannot, conduct any railroad common carrier operations.¹ ACTA, BNSF and UP have

¹ ABL’s investigation of its own circumstances, and the Board records it has consulted each support the conclusion that ABL currently is a non-carrier (that formerly was a railroad common carrier) as bears upon ABL’s invocation of 49 C.F.R part 1150, subpart D. ABL’s joint

determined that subcontracting railroad operations oversight to ABL (again, a joint BNSF and UP holding) will foster balanced and efficient train operations, and will promote traffic fluidity over the Line under an entity that would be equally accountable to both of the Line's users.

ABL seeks via the present verified notice of exemption to secure advance Board authorization to undertake dispatching pursuant to agency precedent establishing that the dispatching of railroad common carrier operations by a private company (ABL, in this case) for one or more other railroad common carrier entities (BNSF and UP, in this case) constitutes railroad common carriage subject to the Board's jurisdiction, and confers upon the train dispatching services provider "rail carrier" status under 49 U.S.C. § 10102(5). *See Rail-Term Corp. – Petition for Declaratory Order*, FD 35582 (STB served Nov. 19, 2013).

ABL anticipates commencing dispatching services over the Line on or shortly after the effective date of this notice, expected to be on or after July 12, 2024, and, preferably, no later than July 13, 2024.

Map: 49 C.F.R. § 1150.33(f)

A map of the location of the Line and surrounding the area is attached hereto as Exhibit A.

Certification of Prospective Class III Status: 49 C.F.R. § 1150.33(g)

ABL's future operations as encompassed by the present verified notice of exemption involve the provision of train dispatching over a roughly 16.1-mile, publicly-owned railroad corridor over which BNSF and UP provide, and will continue to provide, all train

owners, BNSF and UP, each has advised that it concurs in ABL's self-assessment of its legal status. If the Board nevertheless were to determine that ABL currently is a railroad common carrier, then ABL respectfully requests that the Board process the current notice under the corresponding (and virtually-identical) class exemption procedures available to Class III carriers set forth at 49 C.F.R. part 1150, subpart E.

service. ABL has no other railroad operations, and, as such, the income it would derive from the dispatching services it would render under the proposed transaction would constitute all of ABL's railroad operating revenue. ABL anticipates, and has certified, that its railroad operating revenues will be less than \$5 million per year, and that, as a result, its annual revenues would not exceed those that would qualify ABL as a Class III railroad common carrier. See Certification and Verification (attached).

Transactions Imposing Interchange Commitments: 49 C.F.R. § 1150.33(h)

The transaction which is the subject of this Notice does not involve any provision or agreement limiting future interchange with a third-party connecting carrier.

Advanced Notice (Posting): 49 C.F.R. § 1150.32(e)

The advance notice requirements of 49 C.F.R. § 1150.32(e) do not apply to this transaction due to ABL's anticipated, post-transaction revenues, which, again, are expected to fall below \$5 million per year. See above, and Certification and Verification.

Environmental and Historic Preservation Data: 49 C.F.R. § 1150.32

Pursuant to 49 C.F.R. § 1105.6(c)(2), ABL's proposed assumption of dispatching over the Line is exempt from environmental reporting. The transaction will not result in significant changes to freight rail operations, *i.e.*, changes which exceed the thresholds set forth at 49 C.F.R. §§ 1105.7(e)(4)-(5). ABL's assumption of dispatching will have no impact upon BNSF's and UP's respective use of the Line or upon the Line's infrastructure, thus exempting the transaction from historical preservation reporting requirements pursuant to 49 C.F.R. § 1105.8(b)(1). ABL has no plans to discontinue service over or abandon any part of the Line (nor would its dispatching rights entitle it to undertake such actions), and it has no plans to dispose of or alter properties subject to the Board's jurisdiction which are fifty (50) years old or older.

Caption Summary: 49 C.F.R. § 1150.34

A caption summary in appropriate form is attached hereto as Exhibit B.

Respectfully submitted,

/s/ *R. A. Wimbish*

Robert A. Wimbish

Fletcher & Sippel LLC

29 North Wacker Drive, Suite 800

Chicago, Illinois 60606-3208

rwimbish@fletcher-sippel.com

Telephone: (312) 252-1500

ATTORNEY FOR ALAMEDA BELT LINE

Dated: June 12, 2024

**BEFORE THE
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EXHIBIT A

MAP

THE ALAMEDA CORRIDOR

MILEPOST 0.0
East Redondo

SAN PEDRO

COMPTON

CARSON

WILMINGTON

VERNON

HUNTINGTON PARK

SOUTHGATE

LYNWOOD

MILEPOST 16.1
West Thenard

Port of
Los Angeles

Port of
Long Beach

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EXHIBIT B

CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

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Alameda Belt Line (“ABL”), a privately-held non-carrier, has filed a verified notice of exemption under 49 C.F.R. part 1150, subpart D, to assume train dispatching oversight over an approximately 16.1-mile-long railroad corridor (the “Line”) owned by the Board of Harbor Commissioners of the Port of Los Angeles and the Board of Harbor Commissioners (Long Beach) and administered by the Alameda Corridor Transportation Authority extending between milepost 0.0 at CP East Redondo in Los Angeles, California and milepost 16.1 at CP West Thenard in Los Angeles. Under the proposed transaction, ABL will dispatch the trains of BNSF Railway Company and Union Pacific Railroad Company, each of which possesses and exercises common carrier operating rights over the Line.

ABL’s representative in this proceeding is Robert A. Wimbish, Fletcher & Sippel LLC, 29 N Wacker Drive, Suite 800, Chicago, Illinois 60606-3208, 312-252-1500, rwimbish@fletcher-sippel.com.

This Notice is filed under 49 C.F.R. § 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to re-open the proceeding to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to re-open will not automatically say the effectiveness of the exemption.

By the Board, _____, Director, Office of Proceedings.

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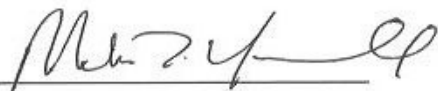
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CERTIFICATION AND VERIFICATION

CERTIFICATION AND VERIFICATION

I, Martin T. Yarnall, being duly sworn, hereby certify and verify, under penalty of perjury, as follows:

1. I am Chief Executive Officer of Alameda Belt Line ("ABL"), and I am duly authorized to make this certification and verification on behalf of ABL;
2. I certify that ABL's expected annual revenues will qualify ABL to be a Class III railroad common carrier pursuant to 49 C.F.R. § 1201(1-1);
3. I certify that ABL's anticipated annual revenues are not expected to exceed \$5 million;
4. I certify that the agreements controlling the proposed transaction contain no restrictions on interchange with third-party connecting railroads; and
5. I hereby verify that I have read the foregoing notice of exemption, know the contents thereof, and that the same are true and correct as stated to the best of my knowledge, information, and belief.

By: 

Dated: June 7, 2024.