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## SURFACE TRANSPORTATION BOARD

[Docket No. FD 36708]

### John Howell—Continuation of Control Exemption—Washington, Idaho & Montana Railway LLC

John Howell (Howell), a noncarrier, has filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to exempt from the provisions of 49 U.S.C. 11323 his continuance in control of Washington, Idaho & Montana Railway LLC (WIM), a noncarrier, upon WIM's becoming a Class III rail carrier.

The transaction is related to a concurrently filed verified notice of exemption in *Washington, Idaho & Montana Railway LLC—Operation Exemption—BLPI RR LLC*, Docket No. FD 36707. In that proceeding, WIM seeks an exemption under 49 CFR 1150.31 to operate approximately 43,744 miles of rail line in the County of Latah, Idaho, from milepost 3.32 (Washington/Idaho state line) to milepost 47.06 at Bovill, Idaho (the Line). The Line is owned by the BLPI RR LLC (BLPI RR), a Class III carrier.

According to the verified notice, Howell controls three other Class III carriers: (1) West Erie Shortline Inc. (WESL), which Howell controls through majority stock owned by Northern Illinois & Wisconsin Railway Corporation, d/b/a NIWX Corporation, a non-carrier (NIWX); (2) Blackwell Northern Gateway Railroad Company (BNG), which Howell controls through majority of shares owned either personally or through NIWX; and (3) Davenport Industrial Railroad (DIR), in which Howell holds a minority interest. The verified notice states that Howell will continue in control of WIM upon WIM's becoming a Class III rail carrier. Howell represents that: (1) the rail properties operated by WESL and BNG and those to be operated by WIM do not connect with each other or any railroads in their corporate family; (2) the continuance in control of WIM is not part of a series of anticipated transactions that would connect the rail lines of WESL, BNG, DIR, and WIM with each other or any railroad in the corporate family; and (3) the transaction does not involve a Class I rail carrier. The transaction, therefore, is exempt from the prior approval requirements of

49 U.S.C. 11323. See 49 U.S.C. 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. However, 49 U.S.C. 11326(c) does not provide for labor protection for transactions under 49 U.S.C. 11324 and 11325 that involve only Class III rail carriers. Accordingly, because this transaction involves Class III rail carriers only, the Board may not impose labor protective conditions here.

The earliest this transaction may be consummated is September 7, 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 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 August 31, 2023 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36708, 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 SW, Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Howell's representative, John K. Fiorilla, Dyer & Peterson, PC, 605 Main Street, Suite 104, Riverton, NJ 08077-1440.

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

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

Decided: August 21, 2023.

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

**Tammy Lowery,**

Clearance Clerk.

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## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR-2023-0009]

### 2023 Review of Notorious Markets for Counterfeiting and Piracy: Comment Request

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Request for comments.

**SUMMARY:** The Office of the United States Trade Representative (USTR) requests comments that identify online and physical markets to be considered for inclusion in the 2023 Review of Notorious Markets for Counterfeiting and Piracy (Notorious Markets List). The Notorious Markets List identifies examples of online and physical markets that reportedly engage in or facilitate substantial copyright piracy or trademark counterfeiting. The issue focus for the 2023 Notorious Markets List will examine the potential health and safety risks posed by counterfeit goods.

#### **DATES:**

October 6, 2023, at 11:59 p.m. ET: Deadline for submission of written comments.

October 20, 2023, at 11:59 p.m. ET: Deadline for submission of rebuttal comments and other information USTR should consider during the review.

**ADDRESSES:** You should submit written comments through the Federal eRulemaking Portal: <http://www.regulations.gov> (Regulations.gov). Follow the instructions for submitting comments in section III below. For alternatives to online submissions, please contact Jake Ewerdt at [notoriousmarkets@ustr.eop.gov](mailto:notoriousmarkets@ustr.eop.gov) or (202) 395-6862 before transmitting a comment and in advance of the relevant deadline.

**FOR FURTHER INFORMATION CONTACT:** Jake Ewerdt, Deputy Assistant U.S. Trade Representative for Innovation and Intellectual Property, at [notoriousmarkets@ustr.eop.gov](mailto:notoriousmarkets@ustr.eop.gov) or (202) 395-6862. You can find information about the Special 301 Review, including the Notorious Markets List, at [www.ustr.gov](http://www.ustr.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

The United States is concerned with trademark counterfeiting and copyright piracy on a commercial scale because these illicit activities cause significant financial losses for right holders, legitimate businesses, and governments. In addition, they undermine critical U.S. comparative advantages in innovation and creativity to the detriment of American workers, and can pose significant risks to consumer health and safety and privacy and security. Conducted under the auspices of the Special 301 program and the authority of the U.S. Trade Representative to address practices that have significant adverse impact on the value of U.S. innovation, the Notorious Markets List identifies examples of online and physical markets that