

must be filed with the Surface Transportation Board, 395 E Street, NW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Louis E. Gitomer, Esq., Law Offices of Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, Md. 21204.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: July 29, 2010.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

**Kulunie L. Cannon,**  
Clearance Clerk.

[FR Doc. 2010-19122 Filed 8-3-10; 8:45 am]

BILLING CODE 4915-01-P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[Docket No. FD 35382]

#### Northern Plains Railroad, Inc.—Lease Exemption—Soo Line Railroad Company

Under 49 CFR 1011.7(b)(10), the Director of the Office of Proceedings (Director) is delegated the authority to determine whether to issue notices of exemption for lease transactions under 49 U.S.C. 10902. However, the Board reserves to itself the consideration and disposition of all matters involving issues of general transportation importance. 49 CFR 1011.2(a)(6). Accordingly, the Board revokes the delegation to the Director with respect to the issuance of this notice of exemption. The Board determines that this notice of lease and operation exemption should be issued, and does so here.

Northern Plains Railroad, Inc. (NPR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to renew its lease of approximately 290.31 miles of rail line of Soo Line Railroad Company, d/b/a Canadian Pacific Railway (Soo), in Minnesota and North Dakota (referred to as the Wheat Lines). NPR has operated the Wheat Lines pursuant to an existing lease with Soo since 1997.<sup>1</sup> According

<sup>1</sup> NPR acquired authority to lease and operate approximately 377.55 miles of Soo rail line. See *Northern Plains R.R.—Lease and Operation Exemption—Certain Lines of Soo Line R.R.*, Docket No. FD 33324 (STB served Jan. 9, 1997). In 2009, NPR was authorized to discontinue service over certain lines covered by that lease: between Bisbee, N.D., and Kramer, N.D., and between Devils Lake, N.D., and Harlow, N.D. See *Northern Plains R.R.—Discontinuance of Serv. Exemption—in Ramsey and Benson Counties, N.D.*, Docket No. AB 1054X (STB served Dec. 28, 2009) (NPR discontinuance on Devils Lake-Harlow line); and *Northern Plains*

to NPR, NPR and Soo have entered into a Lease Renewal Agreement and a related Renewed Exchange and Operating Agreement, both dated July 19, 2010 (Agreements), which provide for NPR's continued lease of and provision of rail service on the Wheat Lines.<sup>2</sup> Pursuant to the Agreements, NPR will renew its lease of the Wheat Lines extending: (a) From milepost 309.69 at Thief River Falls, Minn., to milepost 474.5 at Bisbee; (b) from milepost 390.99 at Fordville, N.D., to milepost 445.50 at Devils Lake; and (c) from milepost 535.00 at Kramer, to milepost 605.99 at Kenmare, N.D. NPR states that, as part of the Agreements, NPR will lease 5 miles of abandoned Soo trackage at Kramer and 4.95 miles of abandoned Soo trackage at Bisbee for rail supply and other purposes.<sup>3</sup> The term of the lease renewal is 20 years. As required at 49 CFR 1150.43(h), NPR has disclosed that the Lease Renewal Agreement contains a provision that would limit NPR's future interchange of traffic with a third-party connecting carrier at any location. NPR notes that (other than with Soo) NPR has interchanges with BNSF Railway Company at Ardoch, N.D., Devils Lake, and Warren, Minn.

NPR states that it expects to remain a Class III rail carrier after consummation of the proposed transaction, and certifies that its projected annual revenues for the Wheat Lines as a result of the proposed transaction will not result in the creation of a Class II or Class I rail carrier. In accordance with the Board's requirements at 49 CFR 1150.42(e), NPR certified to the Board, on June 18, 2010, that it had posted the 60-day notice of the transaction at the

*R.R.—Discontinuance of Serv. Exemption—in Bottineau, Rolette, and Towner Counties, N.D.*, Docket No. AB 1054 (Sub-No. 1X) (STB served Dec. 28, 2009) (NPR discontinuance on Bisbee-Kramer line). NPR states that it will renew its lease with Soo but that the lease will only cover approximately 290.31 miles now because Soo has abandoned the lines (described above) over which service had been discontinued. See *Soo Line R.R.—Aban. Exemption—in Ramsey and Benson Counties, N.D.*, Docket No. AB 57 (Sub-No. 54X) (STB served Oct. 22, 2004) (Soo abandonment of Devils Lake-Harlow line) and *Soo Line R.R.—Aban. Exemption—in Bottineau, Rolette, and Towner Counties, N.D.*, Docket No. AB 57 (Sub-No. 56X) (STB served Sept. 5, 2008) (Soo abandonment of Bisbee-Kramer line). NPR also notes a change to the Devils Lake endpoint, from milepost 446.0+/- to milepost 445.50.

<sup>2</sup> NPR's Agreements were filed under seal pursuant to 49 CFR 1150.43(h)(1)(ii). NPR states that the Lease Renewal Agreement includes other changes beyond the extension of the lease term. As a result, the class exemption at 49 CFR 1180.2(d)(4) covering lease renewals where only an extension of time is involved is not available here.

<sup>3</sup> NPR states that it does not seek any authority here to operate these previously abandoned segments.

workplaces of current NPR employees on the Wheat Lines on June 8 and 9, 2010, that it had posted the notice at the workplaces of Soo employees whose territory includes the Wheat Lines on June 17, 2010, and that it had served the notice on the national offices of the labor unions for such Soo employees on June 17, 2010. NPR stated that there are no labor unions that represent employees of NPR.

NPR states that it expects to consummate the transaction on September 1, 2010 (which is more than 60 days after NPR's certification to the Board that it had complied with the labor notice requirements at 49 CFR 1150.42(e)).

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 transaction. Petitions for stay must be filed no later than August 13, 2010 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35382, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Thomas J. Litwiler, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606-2832.

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*It is ordered:*

1. The delegation of authority of the Office of Proceedings, under 49 CFR 1011.7(b)(10), to determine whether to issue a notice of exemption in this proceeding is revoked.

2. This decision is effective on the date of service.

*Decided:* August 3, 2010.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Nottingham. Vice Chairman Mulvey dissented with a separate expression. VICE CHAIRMAN MULVEY, dissenting:

I disagree with the Board's decision today to allow this transaction to be processed under the Board's class exemption procedures at 49 CFR 1150.41. I believe that transactions which prohibit the lessee carrier from interchanging with any rail carrier other than the lessor carrier should be subject to close scrutiny by the Board and that such scrutiny cannot take place within the expedited notice of exemption process.

