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SERVICE DATE – JUNE 1, 2011

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35500 (Sub-No. 1)]

Saratoga and North Creek Railway, LLC–Operation Exemption–Warren County, N.Y.

Saratoga and North Creek Railway, LLC (Saratoga),¹ a noncarrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.31 to operate approximately 39.07 miles of rail line owned by Warren County, N.Y. (the County), a noncarrier, extending between milepost 55.89 at or near Corinth, N.Y., and milepost 94.96 at North Creek, N.Y. Saratoga states that the County will retain ownership of the track and right-of-way as a noncarrier.²

¹ Saratoga is a limited liability company, wholly owned by San Luis & Rio Grande Railroad (SLRG). SLRG is a Class III rail carrier and a subsidiary of Permian Basin Railways, Inc., which in turn is owned by Iowa Pacific Holdings, LLC.

² According to Saratoga, the County acquired the track and right-of-way after the line was abandoned and did not incur a common carrier obligation for the line. See Common Carrier Status of States, State Agencies and Instrumentalities, and Political Subdivisions, 363 I.C.C. 132 (1980), aff'd. sub nom. Simmons v. ICC, 697 F.2d 326 (D.C. Cir. 1982), codified at 49 C.F.R. § 1150.22.

Saratoga states that it was formed by SLRG for the purpose of acquiring and operating the subject rail line and the connecting line to Saratoga Springs, N.Y., owned by the Town of Corinth, N.Y.³

Saratoga states that it is negotiating the terms of an agreement with the County to restore common carrier rail freight service over the subject line.⁴ Saratoga also intends to restore a rail passenger excursion service over the line.

This transaction is related to two simultaneously filed notices of exemption: (1) Docket No. FD 35500, Saratoga and North Creek Railway, LLC–Acquisition and Operation Exemption–Delaware and Hudson Railway Company, Inc, d/b/a Canadian Pacific, in which Saratoga seeks an exemption under 49 C.F.R. § 1150.31 to acquire from CP a permanent and exclusive freight rail easement over, and to operate, approximately 16.45-miles of rail line known as the Adirondack Branch extending between Adirondack Branch milepost 39.44 at or near Saratoga Springs, N.Y., and Adirondack Branch milepost 55.89 at or near Corinth, N.Y., and approximately 3.2 miles of operating rights for the purpose of interchange with CP between Adirondack Branch milepost 39.44 and CP’s yard at Saratoga Springs located at Canadian Subdivision milepost 35; and (2)

³ Saratoga states that the subject trackage connects south of Corinth with a line of railroad that extends to milepost 39.44 at Saratoga Springs, N.Y., where it connects with a main line of the Delaware & Hudson Railway Company, Inc. d/b/a Canadian Pacific (CP). Saratoga also states that the subject trackage continues north of North Creek to Tahawus and was operated historically as exempt industry trackage.

⁴ While the parties have not completed the agreement, Saratoga must acquire sufficient rights to fully meet its common carrier obligation to operate the line.

Docket No. FD 35499, San Luis & Rio Grande Railroad–Continuance in Control Exemption–Saratoga and North Creek Railway, LLC, in which SLRG seeks an exemption to continue in control of Saratoga upon Saratoga’s becoming a Class III rail carrier. As a result of these transactions, Saratoga will have authority to operate from Saratoga Springs to North Creek.

Saratoga indicates that its agreement with the County will not permit the collecting, sorting, loading, unloading, transferring, or transporting of municipal solid waste or construction and demolition material.⁵

Saratoga certifies that its projected annual revenues as a result of this transaction will not result in Saratoga’s becoming a Class II or Class I rail carrier and will not exceed \$5 million.

Saratoga intends to consummate the transaction in either late June or early July 2011. The earliest the transaction may be consummated is after the June 15, 2011 effective date of the exemption (30 days after the exemption 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. Stay petitions must be filed no later than June 8, 2011 (at least 7 days before the exemption becomes effective).

⁵ Saratoga is reminded that it cannot by contract avoid its common carrier obligation to transport a commodity over the line.

An original and 10 copies of all pleadings, referring to Docket No. FD 35500 (Sub-No. 1), must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on John D. Heffner, John D. Heffner, PLLC, 1750 K Street, N.W., Suite 200, Washington, DC 20006.

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Decided: May 26, 2011.

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