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SERVICE DATE – SEPTEMBER 29, 2006

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34924]

Black Hills Transportation, Inc., d/b/a Deadwood, Black Hills & Western Railroad—
Modified Rail Certificate

On August 30, 2006, Black Hills Transportation, Inc., d/b/a Deadwood, Black Hills & Western Railroad (DBHWR), filed a notice for a modified certificate of public convenience and necessity under 49 CFR 1150, Subpart C, Modified Certificate of Public Convenience and Necessity, to operate approximately 9.01 miles of rail line extending from milepost 0.0, at Whitewood, to milepost 9.01, at Deadwood, in Lawrence County, SD.

The line was formerly a portion of the Chicago & North Western Railway Company and was authorized for abandonment by the Interstate Commerce Commission in Chicago & North Western Railway Co.—Abandonment—Lawrence County, SD, Finance Docket No. 26079 (ICC served May 20, 1970). Although authorized for abandonment, the line was subsequently acquired by the State of South Dakota and ownership was ultimately passed to the Northern Hills Regional Railroad Authority (NHRRA).

As operator of the line, DBHWR will provide both passenger and freight services pursuant to an operating agreement with NHRRA. Under the agreement, DBHWR

expects to interchange with Dakota, Minnesota & Eastern Railroad at milepost 0.0, at Whitewood. DBHWR states that the period for operation is currently indefinite and that the agreement with NHRRA will be amended or supplanted prior to actual commencement of operations.

The rail segment qualifies for a modified certificate of public convenience and necessity. See Common Carrier Status of States, State Agencies and Instrumentalities and Political Subdivisions, Finance Docket No. 28990F (ICC served July 16, 1981).

DBHWR states that the line will require reconstruction for operational purposes and the imposition of certain preconditions to ensure that construction and operation costs are recoverable. DBHWR indicates that commencement of rehabilitation or operations will be contingent upon shippers meeting the following preconditions: (a) entry into binding written commitments to provide funding for restoration purposes equal to a sum no less than \$13,000,000;¹ and (b) entry into binding written commitments sufficient to assure car loadings (or payments in lieu thereof) in an amount no less than 1,000 carloads per year (an amount judged adequate to cover all costs associated with maintenance, operation and capitalization of the line).

DBHWR indicates that no subsidy is involved. DBHWR also indicates that it has obtained liability insurance coverage, and will obtain additional insurance when it commences rehabilitation or actual operation.

¹ This sum may be increased in the event a third party engineering study identifies needs requiring a greater amount of rehabilitation necessary to improve the facilities in order to achieve 25 mph operation in accordance with applicable standards.

This notice will be served on the Association of American Railroads (Car Service Division) as agent for all railroads subscribing to the car-service and car-hire agreement: Association of American Railroads, 50 F Street, N.W., Washington, DC 20001; and on the American Short Line and Regional Railroad Association: American Short Line and Regional Railroad Association, 50 F Street, N.W., Suite 7020, Washington, DC 20001.

Board decisions and notices are available on our website at
“WWW.STB.DOT.GOV.”

Decided: September 21, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary