

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34627

NORTHERN LINES RAILWAY, LLC–LEASE AND OPERATION EXEMPTION –  
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

Decided: June 1, 2005

Northern Lines Railway, LLC (NLR), a noncarrier, filed a notice of exemption under 49 CFR 1150.31 to lease, from The Burlington Northern and Santa Fe Railway Company (BNSF),<sup>1</sup> and operate approximately 22.4 miles of rail line extending: (a) from the 33rd Street crossing, approximately milepost 76.03, in St. Cloud, MN, exclusive of the actual crossing, approximately one-half mile west of the St. Cloud Yard, to the current end-of-track in St. Joseph, MN, approximately milepost 81.11 at Borgert Road, Line Segment 204; and (b) from Rice Junction in St. Cloud, MN, approximately milepost 0.0 of the Cold Spring line to the current end-of-track west of Cold Spring, MN, approximately milepost 16.98 near 178th Street, BNSF Line Segment 203, as well as certain related yard and industry tracks. In addition, NLR stated that it would acquire from BNSF incidental trackage rights, which would enable NLR to access the leased industry and yard tracks from the leased main line tracks, as follows: (a) over the BNSF double main lines from approximately milepost 73.0 to approximately milepost 75.0; (b) over the east leg of the wye (Track 156) and over the west leg of the wye (Track 157), in East St. Cloud; (c) from the west end of the wye in East St. Cloud to the Track 12 switch with the East Lead in St. Cloud Yard; and (d) from the clearance point of the Track 11 switch with the West Track in St. Cloud Yard to the 33rd Street crossing, inclusive of the actual crossing, approximately one-half mile west of the St. Cloud Yard. Notice of the exemption was served and published in the Federal Register on January 6, 2005 (70 FR 1283-84). The exemption was scheduled to be consummated on or after December 14, 2004.

By letters filed on April 26, 2005, and April 28, 2005, applicants state that one of the maps appended to the filings depicts the incidental trackage rights as described above. The wye described in clauses (b) and (c) above is accessed from the BNSF main line via Transfer Track 1 (Transfer 1). The filings did not specifically refer to Transfer Track 2, but it was properly shown as part of the lease. Transfer Track 1 should have been, but was not, included in the grant of incidental trackage rights on the map. Applicants seek to clarify that the incidental trackage rights does include Transfer 1. On April 22, 2005, the parties amended the agreement to clarify

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<sup>1</sup> Effective January 20, 2005, The Burlington Northern and Santa Fe Railway Company changed its name to BNSF Railway Company.

that the incidental trackage rights described above are restated as follows: (a) the BNSF double main lines between milepost 73.0 and 75.0 for purposes of crossing over the mains to access East St. Cloud industries, including Simonson's Lumber and its successors; (b) the east leg of the wye in East St. Cloud (Track 156), between the west end of the main line wye in East St. Cloud and the Track 12 switch with the East Lead in St. Cloud Yard for the purposes of accessing the East St. Cloud businesses and the west leg of the wye in East St. Cloud (Track 157) between the switch with the east leg of the wye and Transfer 1 for purposes of accessing the East St. Cloud overhead trackage rights, including the right to access Python's Purchasing and its successors; (c) the tracks between the west clearance point of the Track 11 switch in the St. Cloud Yard and 33rd street crossing, inclusive (approximately one half mile west of the St. Cloud Yard), including the right to serve all businesses (and their successors) that at the effective date have access to the trackage between 25th Street and 33rd Street; and (d) the tracks referred to as Transfer 1 (Track 0161) to access the west wye and connecting trackage between main line 2 and Transfer 1 and Transfer 2 on the east and connecting trackage between Transfer 2 and Transfer 1 on the west; provided, however, access over Transfer 1 shall only be granted in the event BNSF is using Transfer 2 to provide service, in which case NLR has the right to use Transfer 1 to access the west wye so long as BNSF continues to use Transfer 2.<sup>2</sup>

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The notice of exemption served and published in the Federal Register on January 6, 2005, is modified to the extent discussed herein.
2. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary

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<sup>2</sup> Applicant submitted a revised version of the map, which clarifies that the west wye can be accessed only via Transfer 1 and that NLR's incidental trackage rights include its right to access the west wye from Transfer 2 using the east end of Transfer 1 as a connecting track.