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SERVICE DATE – FEBRUARY 19, 2010

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35347]

Elkhart & Western Railroad Co.–Lease and Operation Exemption–Norfolk Southern
Railway Company

Elkhart & Western Railroad Co. (EWR), a Class III rail carrier,¹ has filed a verified notice of exemption under 49 CFR 1150.41 to lease and to operate, pursuant to a lease agreement (Agreement)² with Norfolk Southern Railway Company (NSR), approximately 23.0 miles of NSR's rail line generally referred to as a portion of the Michigan City Branch (MCB) extending between milepost I 108.6+/- at Argos, IN (including track extending from the clearance point of the east switch of the track connecting the MCB to NSR's Argos Yard, continuing to the end of the right-of-way at Argos), and milepost I 131.6+/- at Walkerton, IN, but excluding the trackage and diamonds between the northbound and southbound home signals at CP West Argos (which trackage NSR will retain to protect the crossing of NSR's Chicago District).

¹ See Pioneer Railcorp and Michigan Southern Railroad Company–Corporate Family Transaction Exemption, STB Finance Docket No. 33941 (STB served Oct. 10, 2000).

² EWR states that it has executed the Agreement, and that NSR will shortly execute the Agreement.

EWR states that it will interchange traffic with NSR at a track in the vicinity of Argos Yard. EWR also states that it does not believe that the Agreement contains an interchange commitment that would impede EWR's ability to interchange with third party carriers. See 49 CFR 1150.43(h). According to EWR, the Agreement does contain a standard rental credit provision, which EWR sought in negotiations to afford it greater financial flexibility to, among other things, improve the line's infrastructure. To ensure adherence to 49 CFR 1150.43(h) for transactions involving interchange commitments, EWR concurrently has filed with its notice a complete version of the Agreement, marked "highly confidential" and submitted under seal pursuant to 49 CFR 1104.14(a).

EWR certifies that its projected annual revenues as a result of the transaction will not result in it becoming a Class II or Class I rail carrier and further certifies that its projected annual revenues will not exceed \$5 million.

The transaction is scheduled to be consummated on or after March 6, 2010, the 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. Petitions for stay must be filed no later than February 26, 2010 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35347, 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

Robert A. Wimbish, Baker & Miller, PLLC, 2401 Pennsylvania Ave., N.W., Suite 300,
Washington, DC 20037.

Board decisions and notices are available on our website at
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Decided: February 16, 2010.

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