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SERVICE DATE – DECEMBER 28, 2009

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-1054 (Sub-No. 1X)]

Northern Plains Railroad, Inc.—Discontinuance of Service Exemption—in Bottineau, Rolette, and Towner Counties, ND

Northern Plains Railroad, Inc. (NPR),¹ has filed a verified notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments and Discontinuances of Service to discontinue service over 60.5 miles of a line of railroad owned by Soo Line Railroad Company d/b/a Canadian Pacific Railway (Soo) between milepost 474.5, in Bisbee, Towner County, ND, and milepost 535.0, in Kramer, Bottineau County, ND.² The line traverses United States Postal Service Zip Codes 58748, 58318, 58384, 58366, 58310, and 58317.

NPR has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic to be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government

¹ NPR was authorized to lease and operate the line in Northern Plains Railroad, Inc.—Lease and Operation Exemption—Certain Lines of Soo Line Railroad Company d/b/a Canadian Pacific Railway, STB Finance Docket No. 33324 (STB served Jan. 9, 1997).

² Soo was authorized to abandon the line in Soo Line Railroad Company d/b/a Canadian Pacific Railway Company—Abandonment Exemption—in Bottineau, Rolette, and Towner Counties, ND, STB Docket No. AB-57 (Sub-No. 56X) (STB served Sept. 5, 2008).

entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements of 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.³

As a condition to these exemptions, any employee adversely affected by the service discontinuance shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 27, 2010, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 CFR 1152.27(c)(2),⁴ must be filed by January 7, 2010.⁵ Petitions to reopen must be filed by January 19, 2010, with: Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

³ Because this is a discontinuance of service proceeding and not an abandonment, the proceeding is exempt from the requirements of 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), and 49 CFR 1105.11 (transmittal letter).

⁴ Each OFA must be accompanied by the filing fee, which currently is set at \$1,500. See 49 CFR 1002.2(f)(25).

⁵ Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate.

A copy of any petition filed with the Board should be sent to applicant's representative: Jeremy M. Berman, Fletcher & Sippel LLC, 29 N. Wacker Drive, Suite 920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void ab initio.

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

Decided: December 18, 2009.

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