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SERVICE DATE – JUNE 1, 2011

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35499]

San Luis & Rio Grande Railroad—Continuance in Control Exemption—Saratoga and North Creek Railway, LLC

San Luis & Rio Grande Railroad (SLRG), a Class III rail carrier, has filed a verified notice of exemption to continue in control of Saratoga and North Creek Railway, LLC (Saratoga) upon Saratoga's becoming a Class III rail carrier.¹

This transaction is related to two simultaneously filed notices of exemption:

(1) Docket No. FD 35500, Saratoga and North Creek Railway—Acquisition and Operation Exemption—Delaware and Hudson Railway Company d/b/a Canadian Pacific, in which Saratoga seeks an exemption under 49 C.F.R. § 1150.31 to acquire from Delaware and Hudson Railway Company, Inc, d/b/a Canadian Pacific (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

¹ Saratoga is a limited liability company, wholly owned by SLRG. SLRG is a Class III rail carrier and a subsidiary of Permian Basin Railways, Inc. (PBR), which in turn is owned by Iowa Pacific Holdings, LLC, a noncarrier short line holding company. PBR currently owns the following Class III rail carriers: SLRG, West Texas & Lubbock Railway, Austin & Northwestern Railroad d/b/a Texas-New Mexico Railroad, Arizona Eastern Railway, Chicago Terminal Railroad, and Mount Hood Railroad.

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) Docket No. FD 35500 (Sub-No. 1), Saratoga and North Creek Railway—Operation Exemption—Warren County, N.Y., in which Saratoga seeks an exemption under 49 C.F.R. § 1150.31 to operate over approximately 39.07 miles of rail line owned by Warren County, N.Y., extending between milepost 55.89 at or near Corinth, N.Y., and milepost 94.96 at North Creek, N.Y. As a result of these transactions, Saratoga will have authority to operate from Saratoga Springs to North Creek.

The parties intend 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).

The parties certify that: (1) the rail lines to be operated by Saratoga will not connect with any other lines in their corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or with any other railroad in their corporate family; and (3) the transaction does not involve a Class I rail carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. § 11323. See 49 C.F.R. § 1180.2(d)(2).

Under 49 U.S.C. § 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under §§ 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may

not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

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).

An original and 10 copies of all pleadings, referring to Docket No. FD 35499, 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.