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SERVICE DATE – SEPTEMBER 19, 2014

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 933 (Sub-No. 1X)]

Dakota, Missouri Valley and Western Railroad, Inc.—Discontinuance of Service  
Exemption—in Burke County, N.D.

On August 29, 2014, Dakota, Missouri Valley and Western Railroad, Inc. (DMVW) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. § 10502 for exemption from the provisions of 49 U.S.C. § 10903 to discontinue rail service over two connecting lines in Burke County, N.D. The first line, known as the Flaxton-Stampede Line, is approximately 17 miles long and consists of segments between: (1) milepost 541.0 at Flaxton and milepost 549.64 at Rival; (2) milepost 549.64 and milepost 550.8 at Lignite Junction; and (3) milepost 550.8 and milepost 558.0 near Stampede.<sup>1</sup> The second line, known as the Lignite Line, is approximately 9.96 miles long and extends from milepost 550.8 (previously Burlington Northern Santa Fe (BNSF) milepost 56.96) at Lignite Junction to the end of Soo Line Railroad Company d/b/a

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<sup>1</sup> DMVW has been operating over the Flaxton-Stampede Line since 1990 pursuant to leases and trackage rights from Canadian Pacific Railway Company (CP). See Dakota, Missouri Valley and W. R.R.—Lease and Oper. Exemption—Soo Line R.R., FD 31720 (ICC served Sept. 19, 1990).

Canadian Pacific Railway Company's ownership (previously BNSF milepost 47).<sup>2</sup> The Flaxton-Stampede Line and Lignite Line (collectively, Lines) traverse U.S. Postal Service Zip Codes 58737, 58722, 58752, 58727, and 58721.<sup>3</sup>

DMVW states that the Lines do not contain any federally granted rights-of-way. Any documentation in petitioner's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. § 10502(b). A final decision will be issued by December 17, 2014.

Because this is a discontinuance proceeding and not an abandonment proceeding, trail use/rail banking and public use conditions are not appropriate. Similarly, no environmental or historic documentation is required under 49 C.F.R. §§ 1105.6(c)(2) and 1105.8.

Any offer of financial assistance (OFA) under 49 C.F.R. § 1152.27(b)(2) to subsidize continued rail service will be due no later than December 26, 2014, or 10 days

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<sup>2</sup> DMVW has been operating over the Lignite Line since 2007 pursuant to a lease from CP. See Dakota, Missouri Valley & W. R.R.—Lease and Oper. Exemption—Soo Line R.R. d/b/a Canadian Pac. Ry., FD 35055 (STB served Aug. 10, 2007).

<sup>3</sup> In June 2014, CP notified DMVW that it was removing the Lines from the parties' lease agreement so that CP could take over common carriage operations on the Lines. DMVW will retain the right to operate over the Lines for the sole purpose of exchanging railcars with CP at Flaxton.

after service of a decision granting the petition for exemption, whichever occurs sooner.

Each offer must be accompanied by a \$1,600 filing fee. See 49 C.F.R. § 1002.2(f)(25).

All filings in response to this notice must refer to Docket No. AB 933 (Sub-No. 1X) and must be sent to: (1) Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001; and (2) Edward J. Fishman, K&L Gates LLP, 1601 K St., N.W., Washington, DC 20006-1600. Replies to the petition are due on or before October 8, 2014.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment and discontinuance regulations at 49 C.F.R. pt. 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245-0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

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

Decided: September 15, 2014.

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