

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34842

SONOMA-MARIN AREA RAIL TRANSIT DISTRICT—ACQUISITION AND  
OPERATION EXEMPTION—NORTHWESTERN PACIFIC RAILROAD

Decided: January 31, 2008

On March 20, 2006, Sonoma-Marin Area Rail Transit District (SMART) filed a verified notice of exemption under 49 CFR 1150.41 to acquire and operate 15.56 miles of rail line owned by Golden Gate Bridge, Highway and Transportation District (Bridge District), County of Marin (County), and Marin County Transit District (Transit District) between NWP milepost 26.96 in Novato, CA, and NWP milepost 11.4 in Corte Madera, CA (the Line).<sup>1</sup> SMART states that it is legally authorized to operate passenger rail service on the Line but would not provide freight rail service on it. SMART states that, in 2005, it reached an agreement to buy the Line and also to buy real estate in Cloverdale, CA, between NWP milepost 84.42 and NWP milepost 84.86. Board staff has repeatedly asked SMART for clarification of the notice with respect to what entity has or would have responsibility for providing freight service over the portion of the Line that remains under the Board's jurisdiction. SMART has not filed any clarification or response to date.

The notice of exemption will be rejected. First, SMART fails to identify specifically what entity has the common carrier obligation to provide freight service over the Line and from which it would acquire that common carrier obligation.<sup>2</sup> Second, Board authority to acquire a rail line involves the obligation to operate freight as well as passenger service over a line. SMART states that it would not fulfill that obligation because it would not provide freight service over the Line and it fails to identify any entity that could or would provide such service.

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<sup>1</sup> The Line is entirely within California. According to SMART, freight rail service on the portion of the Line between NWP milepost 25.821 at or near Ignacio and NWP milepost 15.71 at or near San Rafael has been discontinued pursuant to Northwestern Pacific Railroad Company—Discontinuance Exemption—Operation in Marin County, CA, Docket No. AB-14 (Sub-No. 6X) (ICC served June 9, 1989). SMART further states that a portion of the Line between NWP milepost 15.71 and NWP milepost 11.4 was previously abandoned, and therefore only 11.25 miles of the Line is within the Board's jurisdiction (from NWP milepost 26.96 to NWP milepost 15.71). Most of the Line is owned solely by the Bridge District. However, the Bridge District jointly owns, with the County and the Transit District, the portion of the Line between San Rafael and Larkspur (which, according to the map submitted with the notice, is at approximately NWP milepost 14.6).

<sup>2</sup> The only reference is to the “former Northwestern Pacific Railroad Line.”

In addition, a subsequent notice filed by an entity named “Northwestern Pacific Railroad Company” provides some information concerning the portion of the Line between NWP milepost 26.96 near Novato and NWP milepost 25.6 near Ignacio. This filing appears to indicate that, at the time SMART filed its notice, the entity with the common carrier obligation on the Novato – Ignacio segment was Northwestern Pacific Railway Co., LLC (NWPY). See Northwestern Pacific Railroad Company—Change in Operators Exemption—North Coast Railroad Authority, Sonoma-Marín Area Rail Transit District and Northwestern Pacific Railway Co., LLC, STB Finance Docket No. 35073 (STB served Aug. 30, 2007) (Change in Operators). SMART has neither disclosed NWPY’s common carrier status on the Novato – Ignacio segment nor provided notice that the entity with the common carrier obligation on the Novato - Ignacio segment either has changed or soon will change to Northwestern Pacific Railroad Company pursuant to Change in Operators.<sup>3</sup>

It is ordered:

1. The notice of exemption is rejected.
2. This decision will be effective on its service date.

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

Anne K. Quinlan  
Acting Secretary

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<sup>3</sup> As noted in Change in Operators, slip op. at 2 n.4, the authorization of a new entity to assume the common carrier obligation on the segment between NWP milepost 26.96 and NWP milepost 25.6 also supports the rejection of SMART’s notice.