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SERVICE DATE – MAY 9, 2014

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35818]

Dakota, Minnesota & Eastern Railroad Corporation—Trackage Rights Exemption—
Rapid City, Pierre & Eastern Railroad, Inc.

Rapid City, Pierre & Eastern Railroad, Inc. (RCP&E), pursuant to a written trackage rights agreement, has agreed to grant overhead trackage rights to Dakota, Minnesota & Eastern Railroad Corporation d/b/a Canadian Pacific (DM&E)¹ between milepost 231.5+/- near Tracy, Minn., and milepost 378.4+/- near Wolsey, S.D., a distance of approximately 146.9 miles.²

Recently, RCP&E received authority to acquire from DM&E and to operate 670 miles of rail lines. See Rapid City, Pierre & E. R.R.—Acquis. and Oper. Exemption Including Interchange Commitment—Dakota, Minn. & E. R.R., FD 35799 (STB served

¹ In Canadian Pacific Railway—Control—Dakota, Minnesota & Eastern Railroad, FD 35081 (STB served Sept. 30, 2008), the Board approved an application allowing Canadian Pacific Railway Company to acquire indirect control of DM&E and DM&E's wholly owned rail subsidiary, Iowa, Chicago & Eastern Railroad Corporation.

² A redacted and unexecuted trackage rights agreement between RCP&E and DM&E was filed with the notice of exemption. An unredacted version was filed under seal along with a motion for protective order, which will be addressed in a separate decision.

Mar. 27, 2014).³ The purpose of this verified notice of exemption is to allow DM&E: (1) to continue to handle overhead grain trains in conjunction with BNSF Railway Company (BNSF) that are currently operating between Florence, Minn., and points on DM&E beyond Tracy; and (2) to handle non-revenue ballast trains, including the right to interchange those trains with BNSF or other carriers at Wolsey.

This transaction is proposed to be consummated on or after May 25, 2014, the effective date of the exemption (30 days after the exemption was filed), and after the consummation of the acquisition of the lines by RCP&E in Docket No. FD 35799.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc., 354 I.C.C. 605 (1978), as modified in Mendocino Coast Railway—Lease & Operate—California Western Railroad, 360 I.C.C. 653 (1980).

This notice is filed under 49 C.F.R. § 1180.2(d)(7). If the 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 by May 16, 2014 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35818, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington,

³ Recently, the Board received petitions seeking to revoke this exemption. The Board will address the petitions to revoke the exemption in a subsequent decision.

DC 20423-0001. In addition, a copy of each pleading must be served on W. Karl Hansen, Stinson Leonard Street LLP, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402.

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Decided: May 6, 2014.

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