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SERVICE DATE – JUNE 1, 2011

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35500]

Saratoga and North Creek Railway, LLC–Acquisition and Operation Exemption–
Delaware and Hudson Railway Company, Inc. d/b/a Canadian Pacific

Saratoga and North Creek Railway, LLC (Saratoga),¹ a noncarrier, has filed a verified notice of 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 at or near Corinth, N.Y.² In addition, Saratoga states that it will acquire approximately 3.2 miles of

¹ Saratoga is a limited liability company, wholly owned by San Luis & Rio Grande Railroad (SLRG). SLRG is a Class III rail carrier and a subsidiary of Permian Basin Railways, Inc., which in turn is owned by Iowa Pacific Holdings, LLC.

² CP sold the underlying track and right-of-way to the Town of Corinth, N.Y. (the Town), subject to CP's reservation of an exclusive and permanent easement to continue to provide common carrier freight service over the line. See The Town of Corinth, N.Y.–Acquisition and Operation Exemption–Canadian Pac. Ry., FD 34803 (STB served Jan. 11, 2006 and Mar. 9, 2006). The transaction was structured so that the Town would not incur a freight rail common carrier obligation when it purchased those rail line assets from CP. See Me. Dep't of Transp.–Acquis. & Operation Exemption–Me. Cent. R.R., 8 I.C.C.2d 835 (1991). Saratoga is acquiring the easement and the associated freight rail common carrier rights and obligations that CP reserved for itself at the time of the sale.

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 35.³ The Town will remain the owner of the tracks and right-of-way.

Saratoga states that it is negotiating the terms of an agreement with CP covering its acquisition of the permanent and exclusive freight easement and operating rights over CP's reserved operating easement, as well as an agreement with the Town for the use of its track and right-of-way.⁴

This transaction is related to two simultaneously filed notices of exemption: (1) Docket No. FD 35500 (Sub-No. 1), Saratoga and North Creek Railway, LLC–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.; and (2) Docket No. FD 35499, San Luis & Rio Grande Railroad–Continuance in Control Exemption–Saratoga and North Creek Railway, LLC, in which SLRG seeks an exemption to continue in control of Saratoga upon Saratoga's becoming a Class III rail carrier. As a result of these transactions, Saratoga will have authority to operate from Saratoga Springs to North Creek.

³ By letter filed May 18, 2011, Saratoga explains that the apparent discrepancy between the mileposts and total mileage arose over the years from CP's making changes to the track or right-of-way with the result that the distance was shortened and/or the milepost at the point of interchange was changed.

⁴ While the parties have not completed the agreements, Saratoga must acquire sufficient rights to fully meet the common carrier obligation being acquired from CP.

Saratoga indicates that its agreement with the Town will not permit the collecting, sorting, loading, unloading, transferring, or transporting of municipal solid waste or construction and demolition material.⁵

Saratoga certifies that its projected annual revenues as a result of this transaction will not result in Saratoga's becoming a Class II or Class I rail carrier and will not exceed \$5 million.

Saratoga intends 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).

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 35500, 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.

⁵ Saratoga is reminded that it cannot by contract avoid its common carrier obligation to transport a commodity over the line.

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Decided: May 26, 2011.

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