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SERVICE DATE – JANUARY 27, 2006

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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34817]

KBN, Inc.—Continuance in Control Exemption— Dakota Northern Railroad, Inc.

KBN, Inc. (KBN), a noncarrier, has filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to continue in control of Dakota Northern Railroad, Inc. (DN), upon DN's becoming a Class III rail carrier.

The transaction was scheduled to be consummated on or after January 18, 2006.¹

This transaction is related to a concurrently filed verified notice of exemption in STB Finance Docket No. 34816, Dakota Northern Railroad, Inc.—Lease and Operation Exemption—BNSF Railway Company. In that proceeding, DN seeks to acquire by lease from BNSF Railway Company (BNSF) and operate approximately 69.79 miles of rail line in Walsh and Pembina Counties, ND, specifically: (1) the entire BNSF Walhalla Subdivision, between milepost 0.0 near Grafton, ND, and the end of the line at milepost 48.38, near Walhalla, ND, a distance of approximately 48.38 miles; and (2) a portion of BNSF's Glasston Subvision, between the clearance point of the turnout located at

¹ Although KBN indicated that this transaction would be consummated no earlier than 7 days after the filing of its notice of exemption, DN, in STB Finance Docket No. 34816, indicated that the lease and operating agreement would not be consummated until January 18, 2006 (7 days after DN filed a correction to its notice of exemption).

milepost 38.79, near Grafton, ND, and the end of the line at milepost 60.20, near Glasston, ND, a distance of approximately 21.41 miles.²

KBN is a noncarrier that currently controls two Class III rail carriers: the Minnesota Northern Railroad, Inc. (MNR), and St. Croix Valley Railroad Company (SCVR). DN will operate wholly within North Dakota. MNR and SCVR presently operate wholly within Minnesota.

KBN states that: (1) the rail lines operated by MNR and SCVR do not connect with the rail lines being leased by DN; (2) the continuance in control is not part of a series of anticipated transactions that would connect the rail lines of MNR, SCVR and DN with each other or with any railroads in their corporate family; and (3) neither DN nor any of the carriers controlled by KBN are Class I or Class II rail carriers. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2). The purpose of the transaction is to achieve operating economies, to improve rail service to the public, and to improve the financial viability of the commonly controlled rail carriers.

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 sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the

² By letter received on January 11, 2006, DN corrected its verified notice to reflect the mileposts listed herein.

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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34817, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1890, Chicago, IL 60604.

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

Decided: January 23, 2006.

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

Vernon A. Williams

Secretary