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SERVICE DATE - SEPTEMBER 16, 1999

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33792]

Nobles Rock Railroad, Inc.--Modified Rail Certificate

On August 20, 1999, Nobles Rock Railroad, Inc. (NRR) filed a notice for a modified certificate of public convenience and necessity under 49 CFR 1150, Subpart C, Modified Certificate of Public Convenience and Necessity, to operate a rail line extending from milepost 378.5 west of Mitchell, SD, to milepost 517.5 at Murdo, SD, a total distance of approximately 139 miles.

The involved line represents a portion of the former Chicago, Milwaukee, St. Paul and Pacific Railroad Company's (Milwaukee Road) line between Mitchell and Rapid City, SD. The State of South Dakota acquired the line following an order of abandonment by the United States District Court for the Northern District of Illinois (Eastern Division) in In the Matter of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, No. 77-B-8999, Order Nos. 342 (item R) and 342A (paragraph 1) (dated June 9, 1980). The State, in turn, leased a segment (from Mitchell to Kadoka, SD) to the MRC Regional Railroad Authority (MRCA).<sup>1</sup> MRCA then subleased this segment to the Dakota Southern Railway Company (DSRC). DSRC has, subject to approval by the State

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<sup>1</sup> MRCA is a quasi-public entity entrusted by the State to oversee freight operations on the line.

and MRCA, agreed to sublease the west of Mitchell-Murdo segment to NRR.<sup>2</sup>

The line will connect at milepost 378.5 west of Mitchell with a line of railroad operated by DSRC. NRR will also interline with The Burlington Northern and Santa Fe Railway Company (BNSF) at Mitchell and will interchange traffic with DSRC at Titterton Siding, SD, and with BNSF at Mitchell.<sup>3</sup> The sublease between NRR and DSRC does not include the line segments from Murdo to Kadoka or from west of Mitchell to Mitchell; these two segments will continue to be governed by the existing lease between DSRC and MRCA.

The rail segment qualifies for a modified certificate of public convenience and necessity. See Common Carrier Status of States, State Agencies and Instrumentalities and Political Subdivisions, Finance Docket No. 28990F (ICC served July 16, 1981).

NRR indicates that no subsidy is involved and that there are no preconditions for shippers to meet in order to receive rail service.

This notice will be served on the Association of American Railroads (Car Service Division) as agent for all railroads subscribing to the car-service and car-hire agreement: Association of American Railroads, 50 F Street, N.W., Washington, DC 20001; and on the

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<sup>2</sup> NRR was scheduled to commence operations over the line on August 23, 1999, or thereafter. An executed copy of the sublease agreement between NRR and DSRC was filed with the Board on September 8, 1999. The sublease agreement provides that NRR may operate over the line through July 31, 2000. The sublease also provides that NRR's operations will automatically be renewed for successive one-year terms commencing August 1, 2000, absent written notice of cancellation of the agreement by either NRR or DSRC.

<sup>3</sup> To reach a connection with BNSF at Mitchell, NRR will obtain from DSRC the right to operate over an approximately 4.6-mile line from milepost 378.5 west of Mitchell, to milepost 373.9 at Mitchell, solely for the purposes of interchanging traffic and railroad equipment with BNSF.

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American Short Line and Regional Railroad Association: American Short Line and  
Regional Railroad Association, 1120 G Street, N.W., Suite 520, Washington, DC 20005.

Decided: September 8, 1999.

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

Vernon A. Williams

Secretary