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SERVICE DATE – DECEMBER 1, 2010

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35433]

Madison Terminal Railway, LLC—Lease and Operation Exemption—Line of Railroad in Dane County, Wis.

Madison Terminal Railway, LLC (MTR), a noncarrier, has filed a verified notice of exemption, under 49 C.F.R. § 1150.31, to lease and operate an existing 0.3-mile industrial spur owned by LN Real Estate, LLC, a noncarrier. The industrial spur originates at the connection with the Union Pacific Railroad Company's (UP) Cottage Grove Industrial Lead at milepost 78.02 in Madison, Wis., and is located entirely within the property of ProBuild Holding, LLC (ProBuild), which currently leases the line.<sup>1</sup> UP's Cottage Grove Industrial Lead is currently operated by the Wisconsin & Southern Railroad Company (WSOR) pursuant to a lease agreement authorized in Wisconsin & Southern Railroad—Lease & Operation Exemption—Union Pacific Railroad, FD 33139 (STB served Oct. 30, 1996).

MTR states that it will shortly execute an agreement with ProBuild to sub-lease the unused existing industrial spur to revive railroad services on the spur and operate as an independent common carrier performing transloading service for potential railroad freight customers at the proposed transload facility. MTR further states that it expects to

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<sup>1</sup> According to MTR, there are no mileposts for the existing 0.3 mile industrial spur.

enter into an interchange agreement with WSOR to provide inbound and outbound rail freight transportation services to MTR's transload facility, but it will not operate on UP's line and will confine its operations to its line of railroad within the proposed transload facility. As a result of the transaction, MTR states that it will become a Class III carrier of an existing industrial spur that will be converted to a common carrier line of railroad that connects with UP's existing line.<sup>2</sup>

MTR certifies that its projected revenues as a result of the transaction will not exceed \$5 million annually and will not result in it becoming a Class I or Class II carrier. The earliest this transaction may be consummated is December 15, 2010, the effective date of the exemption (30 days after the exemption was filed).<sup>3</sup>

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. Petitions for stay must be filed no later than December 8, 2010 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35433, 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 James H. M. Savage, Law Offices of John D. Heffner, PLLC, 1750 K Street, N.W., Suite 200, Washington, DC 20006.

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<sup>2</sup> On November 17, 2010, MTR filed an amendment to correct references in its notice of exemption to MTR's reporting marks and The Wisconsin Department of Transportation, Rails and Harbors Section.

<sup>3</sup> MTR states in its notice that it plans to commence operations on the effective date of the exemption.

Board decisions and notices are available on our website at  
[WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).

Decided: November 23, 2010.

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