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SERVICE DATE – MAY 18, 2011

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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35502]

Northern Plains Railroad, Inc.—Intra-Corporate Family Operation Exemption—Mohall Central Railroad, Inc.

Northern Plains Railroad, Inc. (NPR), a Class III rail common carrier, has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(3) for a transaction within a corporate family. The transaction allows NPR to continue to operate the rail line of Mohall Central Railroad, Inc. (MHC), also a Class III rail carrier.<sup>1</sup> NPR currently operates the MHC line pursuant to an October 18, 2005 Operating Agreement with MHC;<sup>2</sup> however, since MHC became a Class III rail carrier, it has abandoned 2 segments of its rail line.<sup>3</sup> This transaction allows NPR to enter into a new agreement to continue to

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<sup>1</sup> See Mohall Cent. R.R.—Acquis. & Operation Exemption—Rail Line of BNSF Ry., FD 34759 (STB served Oct. 25, 2005).

<sup>2</sup> See N. Plains. R.R.—Operation Exemption—Rail Line of Mohall Cent. R.R., FD 34780 (STB served Dec. 29, 2005) (serving notice that NPR will operate 69.15 miles of rail line owned by MHC, extending from milepost 3.75, near Lakota, N.D., to milepost 72.9, at Sarles, N.D.).

<sup>3</sup> See Mohall Cent. R.R.—Aban. Exemption—in Cavalier County, N.D., AB 1003 (Sub-No. 1X) (STB served Dec. 16, 2010) (serving notice that MHC will abandon the segment of its line between milepost 67.5, near Calvin, N.D., and milepost 72.9, at Sarles) and Mohall Cent. R.R.—Aban. Exemption—in Nelson, Ramsey, & Cavalier Counties, N.D., AB 1003X (STB served Oct. 29, 2007) (serving notice that MHC will abandon the segment of its line between milepost 3.75, near Lakota, and milepost 48.19, near Munich, N.D.).

operate the remaining 19.31 miles of MHC's line, between milepost 48.19, near Munich, and milepost 67.5, near Calvin. NPR, MHC, and a third Class III rail carrier, Mohall Railroad, Inc., are commonly controlled by Gregg Haug, a noncarrier individual.<sup>4</sup>

The transaction is expected to be consummated on June 1, 2011, the effective date of this exemption (30 days after the exemption was filed).

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 C.F.R. § 1180.2(d)(3). According to NPR, the transaction will not result in adverse changes in service levels, significant operational changes, or changes in the competitive balance with carriers outside the corporate family.

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 §§ 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

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 transaction. Petitions for stay must be filed no later than May 25, 2011 (at least 7 days before the exemption becomes effective).

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<sup>4</sup> See Gregg Haug—Continuance in Control Exemption—N. Plains R.R., FD 34828 (STB served May 10, 2006).

An original and 10 copies of all pleadings, referring to Docket No. FD 35502, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Thomas J. Litwiler, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606.

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

Decided: May 12, 2011.

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