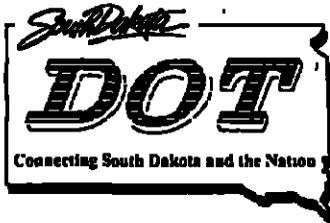


224790



**Department of Transportation**  
**Division of Finance & Management**  
**Office of Local Transportation Programs**  
**700 East Broadway Avenue**  
**Pierre, South Dakota 57501-2586**  
**OFFICE: 605/773-3574**  
**FAX: 605/773-4870**

March 23, 2009

**VIA ELECTRONIC FILING**

Ms. Anne K. Quinlan  
Secretary  
Surface Transportation Board  
395 E Street, S W.  
Washington, DC 20423-0001

Re. **Finance Docket No. 35149 (Sub-No. 1)**  
**Mitchell-Rapid City Regional Railroad Authority – Termination of**  
**Modified Certificate and Notice of Interim Trail Use**

Dear Secretary Quinlan:

Pursuant to 49 C.F.R. § 1152.29, the South Dakota Department of Transportation ("SDDOT") hereby requests issuance of a Notice of Interim Trail Use ("NITU") with respect to a rail line between Caputa and Rapid City, South Dakota (the "Caputa-Rapid City segment") owned by the State of South Dakota and operated by the Mitchell-Rapid City Regional Railroad Authority ("MCRRA") under a modified certificate of public convenience and necessity. MCRRA is submitting concurrently herewith a notice pursuant to 49 C.F.R. 1150.24 to terminate service on the Caputa-Rapid City segment. The Board and its predecessor have held that an NITU may be issued in a proceeding such as this involving the termination of operations under a modified certificate. See, e.g., Sammamish Transportation Company -- Notice of Interim Trail Use and Termination of Modified Certificate, Finance Docket No. 33398 (Sub-No. 1) (STB served February 26, 1998); Wisconsin and Calumet Railroad Company, Inc. -- Notice of Interim Trail Use and Termination of Modified Certificate, Finance Docket No. 30724 (Sub-No. 1) (ICC served August 8, 1989).

In support of its trails use request, SDDOT states as follows:

***STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY***

**FILING FEE WAIVED**

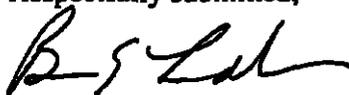
Ms. Anne K. Quinlan  
March 23, 2009  
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In order to establish interim trail use and rail banking under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29, SDDOT is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the MCRRA against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way described herein owned by the State of South Dakota and leased by the MCRRA. The property extends from milepost 646.0 near Caputa, South Dakota to milepost 659.6 in Rapid City, South Dakota, in Pennington County, South Dakota, a distance of approximately 13.6 miles.

A map of the property depicting the right-of-way is attached

SDDOT acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the MCRRA on the same date it is being served on the Board.

Respectfully submitted,



Bruce Lindholm

Enclosures.

cc: Mitchell-Rapid City Regional Railroad Authority

# CAPUTA TO RAPID CITY

