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February 3, 2006

ST. PAUL  
444 Cedar Street Suite 2100  
St. Paul, MN 55101-2136  
651 222 6321 Fax 651 222 8905

The Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
Case Control Branch  
1925 K Street N.W.  
Washington, DC 20423-0001

**RE: Finance Docket No. 34828  
Gregg Haug – Continuance in Control Exemption – Northern Plains Railroad, Inc. and  
Mohall Central Railroad, Inc.**

Dear Secretary Williams:

Enclosed for filing in the above captioned docket are:

1. An original verified Notice of Exemption and supporting information;
2. Ten copies of the Notice of Exemption;
3. Ten additional copies of the map (Exhibit A) unbound;
4. A diskette formatted for Word containing the previously described information; and
5. A check in the amount of \$7,600 payable to the Surface Transportation Board in payment of the filing fee.

An additional copy of this letter and of the Notice of Exemption are enclosed for you to stamp to acknowledge your receipt of these documents and to return to the undersigned in the enclosed, stamped return envelope. If there are any questions concerning this filing, please contact me at (612) 339-6321. Thank you.

Very truly yours,

Mark S. Radke

jaj

Enclosures

cc: Gregg Haug, Mohall Central Railroad, Inc.

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BEFORE THE  
SURFACE TRANSPORTATION BOARD  
FINANCE DOCKET NO. F.D. 34828



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-- GREGG HAUG --  
-- CONTINUANCE IN CONTROL EXEMPTION --  
-- NORTHERN PLAINS RAILROAD, INC., MOHALL RAILROAD, INC.  
AND MOHALL CENTRAL RAILROAD, INC. --

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PETITION FOR EXEMPTION

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Mark S. Radke

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Phone: (612) 339-6321  
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ATTORNEY FOR PETITIONER



Dated: February 3, 2006

BEFORE THE  
SURFACE TRANSPORTATION BOARD  
FINANCE DOCKET NO. F.D. \_\_\_\_\_

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PETITION FOR EXEMPTION

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Overview

This Petition for Exemption is filed by Gregg Haug, an individual who is not a rail carrier, pursuant to 49 U.S.C. Section 10502 and Title 49 CFR Part 1121.

(i) Name and Business Address of Petitioner

Gregg Haug  
100 Railroad Avenue  
Fordville, ND 58231  
Phone (701) 229-3330  
Fax: (701) 229-3365

(ii) Petitioner's Representative to Receive Correspondence:

Mark S. Radke  
FELHABER, LARSON, FENLON & VOGT, P.A.  
220 South Sixth Street, Suite 2200  
Minneapolis, MN 55402  
Phone: (612) 339-6321  
Fax: (612) 338-3608

(iii) Description of Proposed Transaction:

Gregg Haug seeks authorization to continue in control of three Class III rail carriers: Northern Plains Railroad, Inc., a North Dakota corporation ("NPR"), Mohall Railroad, Inc., a North Dakota corporation ("MRI"), and Mohall Central Railroad, Inc., a North Dakota corporation ("MHC"). Each of the foregoing corporations own or operate rail lines located in whole or in major part within the State of North Dakota and were established by Petitioner Gregg Haug, solely by reason of the fact that each rail carrier

has differing ownerships and/or operational functions. Petitioner's continuance in control of the above referenced entities will result in the continuation of rail operations that have significantly improved operating economies and existing service, along with providing the restoration of rail service to otherwise isolated areas along the affected lines.

- (iv) A list of the States in which any part of the property of the Petitioner is situated:  
Petitioner is not a rail carrier but owns a controlling interest in MHC, MRI and NPR. MHC and MRI lines are located in North Dakota. NPR leased lines are located in North Dakota and Minnesota.
- (v) Maps:  
Maps of the MHC, MRI and NPR lines are attached as Exhibit A.
- (vi) Agreement.  
No contract or other written instrument has been entered into or is proposed to be entered into in connection with the subject transaction.

### **Factual Background**

NPR was formed in 1996 and began operations January 1997. NPR is owned 100% by Petitioner Gregg Haug. NPR was initially formed for the purpose of operating certain leased trackage. The primary portion consists of trackage leased from the Soo Line Railroad Company (now Canadian Pacific Railway), extending from Thief River Falls, MN to Kenmare, ND, with a branch line to Devil's Lake, ND as depicted in Exhibit A attached hereto (the "NPR line"). Today trackage leased by NPR totals approximately 352.2 miles in length. Authority to acquire by lease and operate the NPR line was secured pursuant to a Notice of Exemption in Finance Docket No. 33324.

In 1999, the MRI was formed to acquire ownership from BNSF Railway Company ("BNSF") of a branch line railroad in North Dakota with a terminus at Mohall, ND as depicted in Exhibit A attached hereto (the "Mohall line"). The transaction was concluded pursuant to Notice of Exemption in Finance Docket No. 33855, Mohall Railroad, Inc. - - Acquisition and Operation Exemption - - Line of the Burlington Northern and Santa Fe Railway Company. MRI is owned 100% by Petitioner Gregg Haug. MRI has no employees and contracts with NPR to carry out railroad operations on the Mohall line. The Mohall line connects with the NPR line at Lansford, ND. Subsequently, additional lines of railroad in North Dakota were purchased by MRI from BNSF. Today MRI owns 32.9 miles of track in the State of North Dakota, all of which is operated by NPR under agreement.

In 2005, MHC was established to enter into an agreement with BNSF to acquire by purchase another line of railroad, this one extending from a point near Lakota, ND to Sarles, ND as depicted on Exhibit A attached hereto (the "Sarles line"). The Sarles line has a connection with the NPR line near Munich, ND. Authority to acquire the Sarles line was secured pursuant to a Notice of Exemption in Finance Docket No. 34759. Subsequently, authority for MHC to

contract with NPR to conduct rail operations on the Sarles line was secured by Notice of Exemption filed in Finance Docket No. 34780.

MHC was established as a corporation separate from MRI and/or NPR solely because the ownership of the line acquired by MHC differs from that of MRI and NPR. MHC is owned 70% by Petitioner, Gregg Haug and 30% by an individual who is a non-carrier, Byron Olsen. Thus, the ownership of the three entities controlled by Petitioner Gregg Haug are as follows:

<u>Name</u>	<u>Ownership of Corporation</u>	<u>Nature of Property</u>
Northern Plains Railroad, Inc. (NPR)	Gregg Haug – 100%	Railway lines leased from CPR
Mohall Railroad, Inc. (MRI)	Gregg Haug – 100%	32.9 miles of line owned by MRI
Mohall Central Railroad, Inc. (MHC)	Gregg Haug - 70% Byron Olsen - 30%	69.15 miles of line owned by MHC

#### Argument

Under 49 U.S.C. 11323(a)(4), “acquisition of control of at least two rail carriers by a person who is not a rail carrier” or (5) “acquisition of control of a rail carrier by a person that is not a rail carrier but that controls any number of rail carriers,” requires prior approval of the Surface Transportation Board. Pursuant to 49 U.S.C 10502, a carrier may however petition to exempt a transaction from the provisions of 49 U.S.C subtitle IV in cases where the review and approval of the Board is not necessary to carry out the transportation policy of Section 10101.

In the instant case, Petitioner Gregg Haug has now established ownership control of three Class III rail carriers and hereby seeks an exemption permitting his continuance in control of such rail carriers. Based on the factual background set forth above, it is submitted that an exemption order under 49 U.S.C. 10502 is appropriate in that application of 49 U.S.C. 11323 is not necessary to carry out the transportation policy of Section 10101 because of the limited scope of the transactions and because it is not needed to protect shippers from the abuse of market power. The grant of the subject Petition will not result in the potential for abuse of market power or other anticompetitive effects because there will be no adverse changes in service levels nor significant operational changes, nor will it result in any change in the competitive balance with other carriers.

As outlined above, NPR was established in 1996 to acquire by lease and operate the NPR lines of railroad. Today NPR is a healthy carrier, operating a total of 454.3 miles of trackage and providing a level of service to grain and other rail shippers in northern North Dakota and northwestern Minnesota, at a higher level than existed before.

Since the establishment of the NPR, the Mohall line and a second railroad branch line have been acquired from BNSF by MRI. Both of these lines are operated by the NPR and intersect with the

NPR line. Most recently, a third branch line, the Sarles line, was acquired from BNSF by MHC to be operated by NPR. Prior to each of these acquisitions, BNSF had embargoed the lines due to various track conditions. In all cases, it appears an additional factor contributing to the suspension of service was the conclusion by BNSF that maintenance necessary on the south end of these lines, and the cost of operation of these lines, was no longer economically sound notwithstanding the continuing demand for rail service by shippers located along these lines.

The primary reason for each of these line acquisitions from BNSF was the same: NPR can operate rail service to the active shippers on each of these lines more economically than can BNSF. The only reason for establishing two different corporations to acquire the lines was for corporate purposes. That is, to simply reflect the differing types of ownership of the entity acquiring the railroad in question. NPR could just as easily have acquired each of these lines from BNSF and subsequently transferred the line to MHC or MRI as entities within its corporate family, in which case each acquisition and transfer would have been an exempt transaction. The only factor that makes this Petition necessary is because of the three separate corporate owners of the acquiring entities. As a result, the subject transaction is similar in type and nature to the categories of exempt transactions enumerated in 49 CFR 1180.3(d).

In the case of the original Mohall line acquisition, BNSF had to operate 47.8 miles north of its main line connection to reach the two active shipping elevators at Lansford, ND (Mile Post 35) and Mohall, ND (Mile Post 47.8). This required a total of over 95 train miles to operate a round trip turn over the branch. Since NPR has taken over, the same rail service is provided with a total of only 20 train miles to serve Mohall, and zero extra train miles to serve Lansford because Lansford is located at the junction of the NPR line and the Mohall line.

The second line acquired by MRI extends to Honeyford, ND. BNSF had to operate over trackage rights on the NPR to reach this line, because trackage south of Honeyford to Grand Forks, ND had previously been abandoned by BNSF. NPR now serves active shippers at Johnstown and Honeyford through its direct connection at Forest River.

The latest acquisition of the Sarles line follows a similar pattern. The active shippers today on the line are all located to the north of the connection with the NPR line near Munich, ND. NPR can operate from the junction to the end of the line at Sarles, a distance of 25 miles, with a maximum of 50 train miles per round trip turn. On the other hand, for BNSF to service Sarles required operation over an additional 48 miles of track south of the NPR junction for a total of over 145 roundtrip train miles. Savings in train miles, locomotive fuel and crew time are obvious. The Sarles line had been embargoed due to track conditions south of the NPR junction point. Now, because of the acquisition and because all of the active grain elevators are located north of the NPR junction, service has already been resumed to shippers located in Munich and Sarles, who had not been served by BNSF for several months due to the embargo.

In short, the transactions arising out of the common ownership and operation of these three Class III rail properties have brought benefits to all concerned: the farmers of the area, the grain elevator operators and the citizens of the communities served. Instead of anticompetitive effects or adverse changes in service levels, rail service has been improved and, in fact, restored in certain areas on an economic, cost effective and efficient basis.

Based on the foregoing, Petitioner submits that an exemption order should be issued under 49 U.S.C. 10502 to permit Petitioner's continuance in control of the Class III rail carriers identified herein.

### **Labor Protection**

No labor protection may be imposed in this proceeding as it involves only Class III rail carriers. See U.S.C. Section 1326(c).

### **Environmental and Historic Impacts**

Petitioner Gregg Haug will continue to control NPR, MRI and MHC for the purpose of continued rail operations where further STB approval would be required to abandon or discontinue any service. There are no plans to dispose of or alter properties subject to STB jurisdiction that are 50 years old or older. Hence, this Petition for Exemption does not require an historic report under 49 C.F.R. Section 1105.8(b)(1).

Petitioner's continuance in control of NPR, MRI and MHC will not result in significant changes in carrier operations. There will not be a diversion of:

- (1) more than 1,000 carloads per year to motor carriage; or
- (2) an average of 50 carloads per mile per year for any part of these lines to motor carriage.

It is expected that there will be no diversion of rail traffic to motor carriage as a result of this continuance in control. This transaction will not result in:

- (1) an increase in rail traffic of at least 100% or an increase of at least eight trains per day on any segment of the lines; or
- (2) an increase of railyard activity of at least 100%; or
- (3) an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles per day.

This transaction will not affect a Class I or non-attainment area under the Clean Air Act. In any event, the thresholds of 49 C.F.R. Section 1105.7(e)(5)(ii) will not be exceeded. Finally, this transaction does not contemplate the transportation of any ozone depleting materials. Therefore, no environmental documentation is required under 49 C.F.R. Section 1105.6(c)(2).

This action will not significantly affect either the quality of the human environment or energy conservation.

Dated: Feb 3, 2006.

Respectfully submitted,

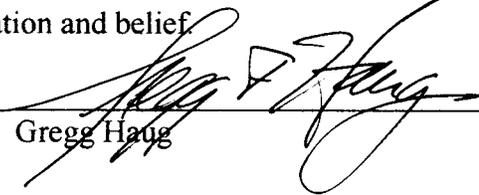
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Mark S. Radke  
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**VERIFICATION**

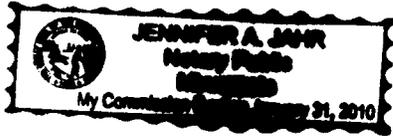
STATE OF Minnesota )  
 ) ss.  
COUNTY OF Ramsey )

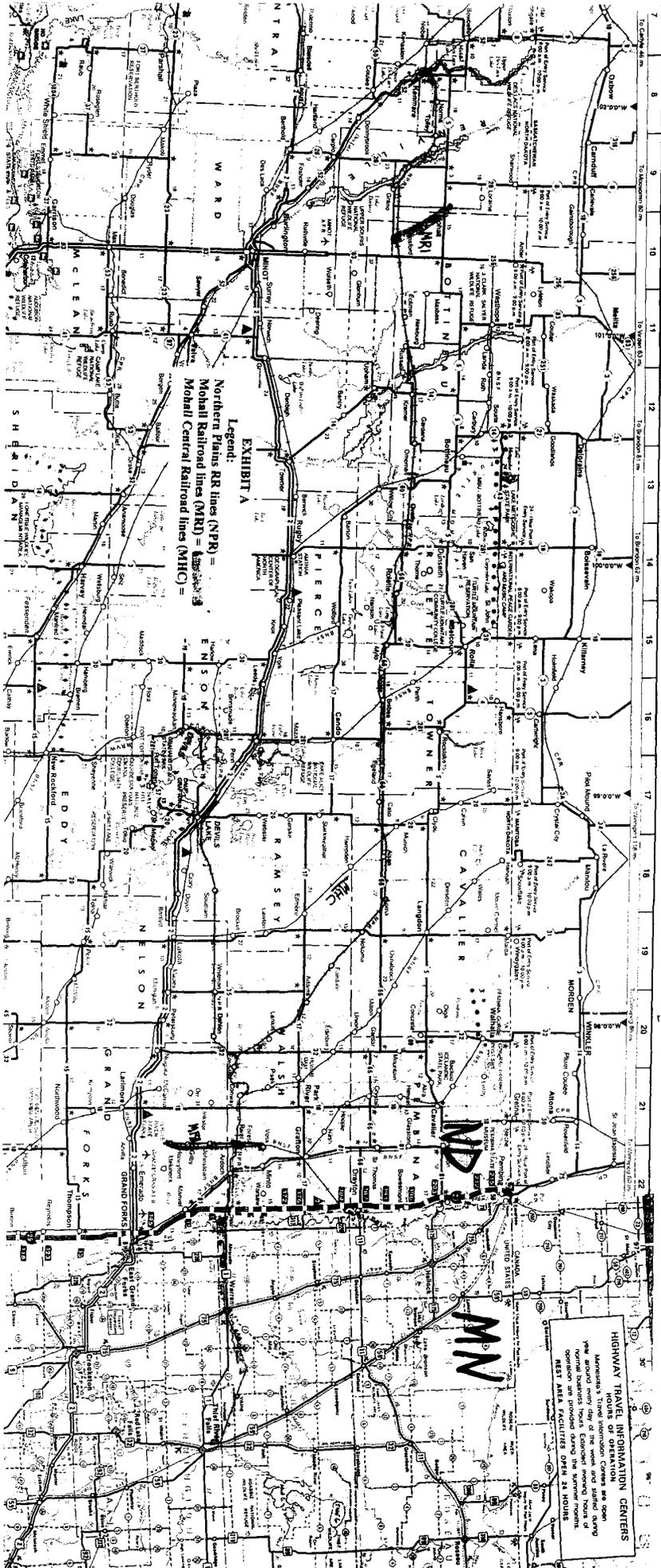
Gregg Haug, being duly sworn, deposes and states that he has read the foregoing Petition for Exemption and has personal knowledge that the facts asserted therein are true and accurate as stated to the best of his knowledge, information and belief.

  
\_\_\_\_\_  
Gregg Haug

Subscribed and sworn to before me  
this 3<sup>rd</sup> day of Feb, 2006.

  
\_\_\_\_\_  
Notary Public





**EXHIBIT A**

**Legend:**

Northern Plains RR lines (NPR) = \_\_\_\_\_

Moish Railroad lines (MRD) = - - - - -

Moish Central Railroad lines (MHC) = . . . . .

**HIGHWAY TRAVEL INFORMATION CENTERS**

Minnesota State Highway Department

Hours of operation: Centers are open 24 hours a day, 7 days a week, and staffed during normal business hours. Except where noted, operation on holidays is open 24 hours.

MINNAPOLIS: 221 WEST WASHINGTON STREET, MINNAPOLIS, MINN. 55401

ST. PAUL: 100 WEST WASHINGTON STREET, ST. PAUL, MINN. 55102

DULUTH: 100 WEST WASHINGTON STREET, DULUTH, MINN. 55812