



**Department of Transportation**  
**Office of the Secretary**  
700 E Broadway Avenue  
Pierre, SD 57501-2586 605/773-3265  
FAX: 605/773-3921

May 15, 2007

**VIA FEDERAL EXPRESS**

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
395 E Street, S.W.  
Washington, DC 20024

Re: **Finance Docket No. 31874**  
**South Dakota Railway Company -- Termination of**  
**Modified Certificate and Notice of Interim Trail Use**

Dear Secretary Williams:

Pursuant to 49 C.F.R. § 1150.24 the South Dakota Department of Transportation ("SDDOT"), acting by and on behalf of the State of South Dakota, hereby notifies the Surface Transportation Board that SDDOT and the Napa-Platte Regional Railroad Authority ("NPRRA") have terminated the agreement that granted limited operating rights to the South Dakota Railway Company ("SDRC") over a rail line segment owned by SDDOT extending from Napa, South Dakota (Milepost 0.0) to Platte, South Dakota (Milepost 83.3) ("Napa-Platte line"). SDRC's operating rights were the subject of a Modified Certificate of Public Convenience and Necessity in South Dakota Railway Company—Modified Rail Certificate, Finance Docket No. 31874 (ICC served May 30, 1991). A copy of the Modified Certificate is attached hereto as Exhibit A.

SDRC has ceased operating over the Napa-Platte line and, at least as of December 31, 1994, has not exercised its limited operating rights. Moreover, SDRC has forfeited its status as a corporate entity in South Dakota. A copy of a certification to that effect from the South Dakota Secretary of State is attached hereto as Exhibit B. Because the operating agreement has expired and SDRC is effectively unavailable, SDDOT, as owner of the Napa-Platte line, hereby files notice on SDRC's behalf of its intent to terminate service under the modified certificate over the Napa-Platte line. See Chesapeake Railroad Company -- Certificate of Interim Trail Use and Termination of Modified Rail Certificate, Finance Docket No. 32609 (STB served July 10, 2006) at 1, n.1 (where no operating agreement remains and modified certificate operator had ceased corporate existence, line owner permitted to file required notice under 49 C.F.R. § 1150.24 on operator's behalf).

SDDOT agrees to the request of the South Dakota State Railroad Board ("SDRB") to utilize a portion of the Napa-Platte line, from Ravinia to Platte, for interim trail use and rail banking pursuant to 16 U.S.C. § 1247(d). SDDOT joins in the concurrently-filed request

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of the SDRB for issuance of a Notice of Interim Trail Use ("NITU") under 49 C.F.R. § 1152.29 for the segment of line between Ravinia, South Dakota (Milepost 54.5) and Platte, South Dakota (Milepost 83.3), and is willing to negotiate a trails use/rail banking agreement with SDRB for that segment.<sup>1</sup> The Board and its predecessor have previously held that an NITU may be issued in a proceeding where notice is filed under 49 C.F.R. § 1150.24 to terminate 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). As in those proceedings, SDDOT and SDRB are submitting their filings here in the original modified certificate docket.

I certify that, in accordance with 49 C.F.R. § 1150.24(a), a copy of this notice of intent to terminate service has been served by first class mail, postage prepaid, upon the State of South Dakota, at the address provided below.

Please feel free to contact me should any questions arise regarding this matter. Thank you for your assistance.

Respectfully submitted,



Judith Payne  
Secretary  
State of South Dakota Department of Transportation

Enclosures

cc: Mr. Bruce Lindholm, Program Manager, South Dakota Department of Transportation  
Mr. Todd Yeaton, Chairman, South Dakota Railroad Board

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<sup>1</sup> Operations over the remaining segments of the Napa-Platte line will continue. See notices filed concurrently herewith in Finance Docket No. 35025, Napa-Platte Regional Railroad Authority -- Lease and Operation Exemption -- Dakota Short Line Corp. and Finance Docket No. 35026, Napa-Platte Regional Railroad Authority -- Modified Rail Certificate -- Between Tabor and Ravinia, SD.

SERVICE DATE

FR-7035-01  
DO

MAY 30 1991

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31874]

SOUTH DAKOTA RAILWAY COMPANY  
MODIFIED RAIL CERTIFICATE

NOTICE

On April 26, 1991, the South Dakota Railway Company (SDRC) filed a notice for a modified certificate of public convenience and necessity under 49 CFR 1150.23 to operate approximately 83.3 miles of line, between milepost 0.0, at a point known as Napa Junction, SD, and milepost 83.3, in Platte, SD, acquired by the State of South Dakota from the Chicago, Milwaukee, St. Paul, and Pacific Railroad Company (MILW) after the line was approved for abandonment by the United States District Court for the Northern District of Illinois, Eastern Division.<sup>1</sup> The State subsequently leased the line to the Napa-Platte Regional Railroad Authority (NPRRA).

On March 30, 1989, SDRC entered into a 5-year agreement with NPRRA under which SDRC would operate and maintain the

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<sup>1</sup> Section 5 of the Milwaukee Railroad Restructuring Act transferred jurisdiction over MILW abandonments from this Commission to the United States District Court for the Northern District of Illinois, Eastern Division (Court), which had jurisdiction over MILW's reorganization. The Court thereafter directed this Commission to report to it concerning abandonment of certain MILW lines. In Docket No. AB-7 (Sub-No. 88), Richard Ogilvie, Trustee of the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company--Abandonment--in South Dakota, Iowa, and Nebraska (not printed), served May 14, 1980, the Commission recommended that the Court authorize abandonment, which the Court subsequently did.

line. (SDRC, however, did not commence operations at that time.) SDRC intends to interchange and connect traffic with the Burlington Northern Railroad Company at Napa Junction.

This notice involves the lease of property, which is defined by the regulations of the Advisory Council on Historic Preservation as potentially having an adverse effect on properties. SDRC shall maintain its interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470.

This notice must be served on the Association of American Railroads (Car Service Division) as agent of all railroads subscribing to the car-service and car-hire agreement, and on the American Short Line Railroad Association.

Date: May 22, 1991.

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

(SEAL)

Sidney L. Strickland, Jr.  
Secretary

Secretary of State

State Capitol, Ste 204  
500 East Capitol Avenue  
Pierre, South Dakota  
57501-5070  
TDD (605) 773-5010



JOYCE HAZELTINE  
Secretary of State  
TOM LECKEY  
Deputy

May 6, 1996

08-029652  
SOUTH DAKOTA RAILWAY COMPANY  
ROLLINS, DOUGLAS  
713 E MILBANK AVE (#1)  
MILBANK, SD 57252-1358

DOMESTIC BUSINESS

NOTICE OF ADMINISTRATIVE DISSOLUTION

This is notification to you as the registered agent of record, that the above named corporation is delinquent in filing the annual report as required by SDCL 47-9-1. South Dakota law states that a corporation may be Administratively Dissolved for failure to file the report within sixty days after it is due. Pursuant to SDCL 47-7-29.1 the corporation will be Administratively Dissolved if the report is not filed with our office prior to August 1, 1996.

The delinquent report along with the \$60 fee will need to be filed PRIOR to August 1st to avoid administrative dissolution. The annual report form was previously mailed to you, but additional forms may be obtained by contacting the Secretary of State's Office, Corporate Division, 500 E. Capitol, Pierre, SD 57501, or by calling 773-4845.

If the annual report was submitted to our office and we returned it for further information, please promptly return it for final filing to bring the corporation into good standing.

If the report was just recently mailed to our office it may have arrived after the delinquent list was compiled. If you wish to check if the report was received and filed, please feel free to contact us at the number listed above.

Thank you for your attention to this matter.

Administration  
(605) 773-3537  
Fax (605) 773-6580

Corporations  
(605) 773-4845  
Fax (605) 773-4550

Uniform Commercial Code  
(605) 773-4422  
Fax (605) 773-4550

400. 4000000000

K/9660

# State of South Dakota



## OFFICE OF THE SECRETARY OF STATE

### CERTIFICATE OF ADMINISTRATIVE DISSOLUTION

I, JOYCE HAZELTINE, Secretary of State of the State of South Dakota, by virtue of the authority vested in me by SDCL 47-7-30.1 hereby Administratively Dissolve the below named corporation for failure to file the corporate annual report when due.

08-029652  
SOUTH DAKOTA RAILWAY COMPANY  
ROLLINS, DOUGLAS  
713 E MILBANK AVE (#1)  
MILBANK, SD 57252-1358

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of South Dakota, at Pierre, the Capital, this 9th day of August, 1996.

*Joyce Hazeltine*  
JOYCE HAZELTINE  
Secretary of State

