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THOMAS F. MCFARLAND

November 23, 2010

By UPS overnight mail

Ms. Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

Re: STB Finance Docket No. 35450, *The City of Maplewood, Minnesota -- Acquisition Exemption -- Right to Restore Rail Service Over A Railbanked Right-of-Way in Ramsey County, MN*

Dear Ms. Brown:

Enclosed please find an original and 10 copies of Verified Notice of Exemption Under 49 C.F.R. § 1150.31, for filing with the Board in the above referenced matter.

The City of Maplewood, Minnesota is a municipality which is not required to pay a filing fee pursuant to 49 C.F.R. § 1002.2(e)(1).

Very truly yours,

Tom McFarland

Thomas F. McFarland
Attorney for Applicant

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FEE RECEIVED
DEC 03 2010
SURFACE
TRANSPORTATION BOARD

FILED
DEC 09 2010
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

THE CITY OF MAPLEWOOD,)
MINNESOTA -- ACQUISITION) FINANCE DOCKET
EXEMPTION -- RIGHT TO RESTORE) NO. 35450
RAIL SERVICE OVER A RAILBANKED)
RIGHT-OF-WAY IN RAMSEY COUNTY,)
MN)

**VERIFIED NOTICE OF EXEMPTION
UNDER 49 C.F.R. § 1150.31**



Office of the Secretary
DEC 09 2010
Part of
Public Record

THE CITY OF MAPLEWOOD, MINNESOTA
1830 County Road B East
Maplewood, MN 55109

Applicant

FEE RECEIVED

DEC 09 2010

**SURFACE
TRANSPORTATION BOARD**

THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street
Suite 1890
Chicago, IL 60604-1112
(312) 236-0204
(312) 201-9695 (fax)
mcfarland@aol.com

Attorney for Applicant

DATE FILED: November 24, 2010

FILED

DEC 09 2010

**SURFACE
TRANSPORTATION BOARD**

BEFORE THE
SURFACE TRANSPORTATION BOARD

THE CITY OF MAPLEWOOD,)
MINNESOTA -- ACQUISITION) FINANCE DOCKET
EXEMPTION -- RIGHT TO RESTORE) NO. 35450
RAIL SERVICE OVER A RAILBANKED)
RIGHT-OF-WAY IN RAMSEY COUNTY,)
MN)

**VERIFIED NOTICE OF EXEMPTION
UNDER 49 C.F.R. § 1150.31**

Pursuant to 49 C.F.R. § 1150.31, *et seq.*, the CITY OF MAPLEWOOD, MINNESOTA (the City), a noncarrier, hereby provides verified notice of a class exemption from 49 U.S.C. § 10901 for its acquisition from BNSF Railway Company (BNSF) of the right to restore rail service over a railbanked right-of-way in Ramsey County, Minnesota, i.e., between Milepost 7.19, a point approximately 100 feet north of Interstate Highway I-694 in White Bear Township, and Milepost 6.52, a point approximately 50 feet north of Beam Avenue in the City of Maplewood, a distance of .67 miles (the Right-of-Way).

BACKGROUND

By virtue of notices of class exemption from 49 U.S.C. § 10903 under 49 C.F.R. § 1152.50 *et seq.* served August 10, 2005, BNSF was authorized to abandon the Right-of-Way (See STB Docket No. AB-6 [Sub-No. 429X], *BNSF Railway Co. -- Aband. Exempt. -- in Ramsey County, MN*), and Minnesota Commercial Railway Company (MNNR) was authorized to discontinue rail service over the Right-of-Way. (See STB Docket No. AB-882 [Sub-No. 1X], *Minnesota Commercial Ry. Co. -- Discon. of Serv. Exempt. -- in Ramsey County, MN*).

Authority for MNNR to discontinue service over the Right-of-Way became effective on September 9, 2005. However, in a decision and notice of interim trail use (NITU) served solely in STB Docket No. AB-6 (Sub-No. 429X), *supra*, on September 8, 2005, the Board delayed the effectiveness of BNSF's abandonment of the Right-of-Way pending negotiations over a 180-day period between BNSF and the City for railbanking and interim recreational trail use of the Right-of-Way. The decision and NITU provided that any railbanking and interim recreational trail use of the Right-of-Way would be subject to future restoration of rail service over the Right-of-Way.

In September, 2005, BNSF and the City reached an agreement for railbanking and interim recreational trail use of the Right-of-Way. Included in that agreement was a provision that in exchange for payment of value, BNSF would convey to the City BNSF's right to restore rail service over the Right-of-Way. Accordingly, in a Quitclaim Deed dated September 26, 2005, by which BNSF conveyed the Right-of-Way to the City for railbanking and interim recreational trail use, BNSF also conveyed to the City BNSF's right to restore rail service over the Right-of-Way.

Acquisition by a noncarrier of the right to restore rail service over a railbanked right-of-way requires an exemption from 49 U.S.C. § 10901 under 49 C.F.R. § 1150.31, *et seq.* See *R.J. Corman R. Co. - West Ohio Line -- Acq. & Oper. Exempt. -- Certain Lines of the N&W Ry. Co.*, ICC Finance Docket No. 32294, decision served August 20, 1993 (not printed), cited with approval in *N&W -- Aban. -- St. Marys and Minister in Auglaize County, OH*, 9 I.C.C.2d 1015 (1993), at 1019; *see, also, Browns Grayville & Poseyville Ry Co. -- Acq. & Oper. Exempt. -- Owensville Terminal Co.*, STB Finance Docket No. 34750, decision served September 20, 2005 (not printed).

Not having been aware of that requirement in 2005, the City failed to obtain such an exemption. That requirement was recently brought to the City's attention. Accordingly, the City hereby seeks an exemption for its acquisition from BNSF of the right to restore rail service over the railbanked Right-of-Way.

INFORMATION REQUIRED BY 49 C.F.R. § 1150.33

(a) The full name and address of the applicant;

Applicant is the City of Maplewood, Minnesota, 1830 County Road B East, Maplewood, MN 55109.

(b) The name, address, and telephone number of the representative of the applicant who should receive correspondence;

Applicant's representative is Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1890, Chicago, IL 60604-1112, (312) 236-0204, (312) 201-9695 fax, mcfarland@aol.com.

(c) A statement that an agreement has been reached or details about when an agreement will be reached;

An agreement between BNSF and the City for the City's acquisition of BNSF's right to restore rail service over the Right-of-Way was reached in September, 2005, but an exemption was not sought at that time because the City was not then aware of the requirement for such an exemption.

(d) The operator of the property;

The City or an operator contracted with by the City would operate the rail line if rail service were to be restored.

(e) A brief summary of the proposed transaction, including:

(1) The name and address of the railroad transferring the subject property to the Class III rail carrier applicant.

The railroad having transferred the right to restore rail service over the Right-of-Way is BNSF Railway Company, 2650 Lou Menk Drive, P.O. Box 961057, Fort Worth, TX 76161-0057.

(2) The proposed time schedule for consummation of the transaction.

The transaction will be consummated no earlier than 30 days after the filing of this Verified Notice of Exemption with the Board.

(3) The mileposts of the subject property, including any branch lines, and

The Right-of-Way extends between Milepost 7.19, a point approximately 100 feet north of Interstate Highway I-694 in White Bear Township, and Milepost 6.52, a point approximately 50 feet north of Beam Avenue in the City of Maplewood, a distance of .67 miles in Ramsey County, Minnesota.

(4) The total route miles being acquired;

The right to restore rail service over .67 miles of Right-of-Way is being acquired.

(f) A map that clearly indicates the area to be served, including origins, termini, stations, cities, counties, and States;

The required map is attached as Appendix 1.

(g) A certificate that applicant's projected revenues do not exceed those that would qualify it as a Class III carrier.

The required certificate is attached as Appendix 2.

(h) Transactions imposing interchange commitments.

Not applicable.

VERIFICATION

The verification of Thomas F. McFarland is attached as Appendix 3.

ENVIRONMENTAL AND HISTORIC REPORT

The proposed acquisition does not require environmental or historic reporting or assessment. *See* 49 C.F.R. § 1105.6(c)(2)(i) and 49 C.F.R. § 1105.8(b)(1).

LABOR PROTECTION

By virtue of 49 U.S.C. § 10901(c), labor protection conditions do not apply to this transaction.

CAPTION SUMMARY

The caption summary required by 49 C.F.R. § 1150.34 is attached as Appendix 4.

SERVICE ON INTERESTED PARTIES

Copies of this Verified Notice are being served simultaneously on counsel for BNSF and MNNR.

ANNUAL REVENUES LESS THAN \$5 MILLION

A certification that the annual revenues that would result from the transaction would be less than \$5 million is attached as Appendix 5.

CONCLUSION AND REQUESTED RELIEF

WHEREFORE, within 16 days of the filing of the Verified Notice, the Director of the Board's Office of Proceedings should publish a notice in the Federal Register of the filing of this Notice. *See* 49 C.F.R. § 1150.32(b).

Respectfully submitted,

THE CITY OF MAPLEWOOD, MINNESOTA
1830 County Road B East
Maplewood, MN 55109

Applicant

Thomas F. McFarland

THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street
Suite 1890
Chicago, IL 60604-1112
(312) 236-0204
(312) 201-9695 [fax]
mcfarland@aol.com

Attorney for Applicant

DATE FILED: November 24, 2010

CERTIFICATE

Thomas F. McFarland hereby certifies that the City of Maplewood, Minnesota's projected revenues from the acquisition involved in this proceeding do not exceed those that would qualify it as a Class III carrier.

Thomas F. McFarland

Thomas F. McFarland



SUBSCRIBED and SWORN to
before me this 23rd day of
November, 2010.

Kathleen Lenihan

Notary Public

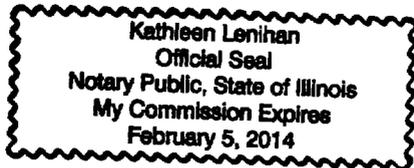
VERIFICATION

STATE OF ILLINOIS)
)
COUNTY OF COOK)

Thomas F. McFarland, being duly sworn, states that he is familiar with the facts asserted in the foregoing Verified Notice of Exemption under 49 C.F.R § 1150.31, and that those facts are true and correct.

Thomas F. McFarland

Thomas F. McFarland



SUBSCRIBED and SWORN to
before me this 23rd day of
November, 2010.

Kathleen Lenihan

Notary Public

SURFACE TRANSPORTATION BOARD

Notice of Exemption

FINANCE DOCKET NO. 35450

*The City of Maplewood, Minnesota
-- Acquisition Exemption --
Right to Restore Rail Service Over
Railbanked Right-of-Way in Ramsey County, MN*

The City of Maplewood, Minnesota (the City) has filed a Notice of Exemption to acquire from BNSF Railway Company (BNSF) BNSF's right to restore rail service over a railbanked right-of-way between Milepost 7.19, a point approximately 100 feet north of Interstate Highway I-694 in White Bear Township, and Milepost 6.52, a point approximately 50 feet north of Beam Avenue in the City of Maplewood, a distance of .67 miles in Ramsey County, Minnesota.

Comments must be filed with the Board and be served on the City's representative, Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1890, Chicago, IL 60604-1112, (312) 236-0204 (ph), (312) 201-9695 (fax), mcfarland@aol.com.

The Notice is filed under 49 C.F.R. § 1150.31. 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.

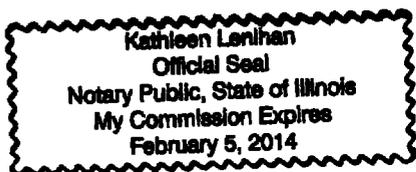
By the Board

CERTIFICATION

Thomas F. McFarland hereby certifies that the annual revenues that would result from the transaction involved in this proceeding would be less than \$5 million.

Thomas F. McFarland

Thomas F. McFarland



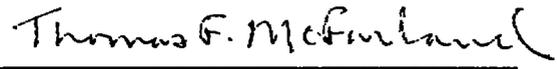
SUBSCRIBED and SWORN to
before me this 23rd day of
November, 2010.

Kathleen Lenihan

Notary Public

CERTIFICATE OF SERVICE

I hereby certify that on November 23, 2010, I served a copy of the foregoing Verified Notice of Exemption Under 49 C.F.R. § 1150.31, on Kristy Clark, Esq., General Attorney, BNSF Railway Company, 2650 Lou Menk Drive, P.O. Box 961057, Fort Worth, TX 76161-0057, and on William C. Sippel, Esq., Fletcher & Sippel, LLC, 29 North Wacker Dr., Suite 920, Chicago, IL 60606, by first-class, U.S. mail, postage prepaid.



Thomas F. McFarland