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SERVICE DATE - NOVEMBER 8, 2002

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-156 (Sub-No. 22X)]

Delaware & Hudson Railway Company d/b/a Canadian Pacific Railway—Discontinuance of
Trackage Rights Exemption—in Niagara County, NY

Delaware & Hudson Railway Company d/b/a Canadian Pacific Railway (D&H) has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments and Discontinuances of Service and Trackage Rights to discontinue trackage rights over a 0.15-mile portion of trackage owned by Canada Southern Railway Company (CSR) from a point on the international railway bridge at Niagara Falls, milepost 0.15, to a point where the trackage joins the CSX Transportation, Inc. trackage, milepost 0.0, in Niagara County, NY.¹ The line traverses United States Postal Service Zip Code 14305.

D&H has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation

¹ D&H notes that the 0.15-mile trackage rights sought to be discontinued are overhead rights over trackage owned by CSR, for which CSR is seeking abandonment authority in Canada Southern Railway Company—Abandonment Exemption—in Niagara County, NY, STB Docket No. AB-584 (Sub-No. 1X) (STB served Oct. 22, 2002).

Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on December 10, 2002, unless stayed pending reconsideration. Petitions to stay and formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),² must be filed by November 18, 2002. Petitions to reopen³ must be

² Each OFA must be accompanied by the filing fee, which currently is set at \$1,100. See 49 CFR 1002.2(f)(25).

³ Because this is a discontinuance proceeding, trail use/rail banking and public use conditions are not appropriate. This proceeding is exempt from environmental and historic reporting requirements. D&H only intends to discontinue service over the line. Because D&H's discontinuance of trackage rights will merely result in the cessation of service over the line, and has not sought abandonment authority, this proceeding is exempt from the reporting requirements listed above and no environmental documentation will be prepared. See 49 CFR 1105.6(c)(6) and 1105.8(a) and (b). Because CSR is seeking abandonment authority with respect to this line in STB Docket No. AB-584 (Sub-No. 1X), See supra note 1, environmental issues related to abandonment will be addressed in this proceeding.

filed by November 29, 2002, with: Surface Transportation Board, 1925 K Street, N.W.,
Washington, DC 20423.

A copy of any petition filed with the Board should be sent to D&H representative:
Diane P. Gerth, Leonard, Street and Deinard Professional Association, 150 South Fifth Street,
Suite 2300, Minneapolis, MN 55402.

If the verified notice contains false or misleading information, the exemption is void ab
initio.

Board decisions and notices are available on our website at
“WWW.STB.DOT.GOV.”

Decided: October 29, 2002.

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

Vernon A. Williams

Secretary