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SERVICE DATE – JUNE 1, 2007

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-156 (Sub-No. 26X)]

Delaware and Hudson Railway Company, Inc., d/b/a Canadian Pacific Railway

Company–Abandonment Exemption–in Albany County, NY

Delaware and Hudson Railway Company, Inc., d/b/a Canadian Pacific Railway Company (D&H) has filed a notice of exemption<sup>1</sup> under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon 1.98 +/- miles of rail line between mileposts A 6.95 +/- (in Colonie) and A 7.13 +/- and mileposts T 0.0 +/- and T 1.81 +/- (in Green Island), in Albany County, NY.<sup>2</sup> The line traverses United States Postal Service Zip Codes 12183 and 12189.

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 and has been 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

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<sup>1</sup> D&H filed a supplement to its notice of exemption on May 17, 2007.

<sup>2</sup> Pursuant to 49 CFR 1152.50(d)(2), the railroad must file a verified notice with the Surface Transportation Board (Board) at least 50 days before the abandonment or discontinuance is to be consummated. D&H initially indicated in its notice of exemption a proposed consummation date of June 29, 2007, but because the verified notice was filed on May 14, 2007, consummation may not take place prior to July 3, 2007. D&H has been informed by a Board staff member that consummation may not take place until July 3, 2007.

line either is pending with the 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 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 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 abandonment 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 July 3, 2007, unless stayed pending reconsideration.<sup>3</sup> Petitions to stay that do not involve environmental issues,<sup>4</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>5</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by June 11, 2007. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be

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<sup>3</sup> On May 17, 2007, R. Freedom & Son, Inc., filed a notice of intent to file an OFA to purchase the line. The Board will address the request and any other requests that may be timely filed in a separate decision.

<sup>4</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

<sup>5</sup> Each OFA must be accompanied by the filing fee, which currently is set at \$1,300. See 49 CFR 1002.2(f)(25).

filed by June 21, 2007, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to D&H's representative: W. Karl Hansen, 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.

D&H has filed a combined environmental report and historic report which addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by June 8, 2007. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 245-0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), D&H shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by D&H's filing of a

notice of consummation by June 1, 2008, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

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

Decided: May 23, 2007.

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

Vernon A. Williams

Secretary