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November 30, 2023
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November 30, 2023

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

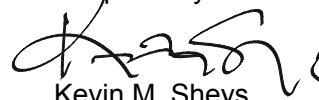
Re: **Docket No. FD 35508 (Sub-No. 1)**
Iowa Northern Railway Company
– Lease Renewal Exemption – Rail Line of North Central Iowa Rail Corridor, LLC

Dear Ms. Brown:

Attached for filing in the above-captioned proceeding is the **Verified Notice of Exemption of Iowa Northern Railway Company Pursuant to 49 C.F.R. § 1180.2(d)(4)**, dated November 30, 2023. The sum of \$1,700, representing the appropriate fee for this filing, has been tendered electronically via Pay.gov. If you have any questions regarding this filing, please feel free to contact me.

Thank you for your assistance on this matter.

Respectfully submitted,


Kevin M. Sheys
Attorney for Applicant

FILED
November 30, 2023
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
November 30, 2023
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 35508 (Sub-No. 1)

IOWA NORTHERN RAILWAY COMPANY
-- LEASE RENEWAL EXEMPTION --
NORTH CENTRAL IOWA RAIL CORRIDOR, LLC

VERIFIED NOTICE OF EXEMPTION
OF
IOWA NORTHERN RAILWAY COMPANY
PURSUANT TO 49 C.F.R. § 1180.2(d)(4)

Iowa Northern Railway Company,
301 Tower Park Drive
Suite 300
Waterloo, IA 50701

Applicant

Kevin M. Sheys
Hogan Lovells US LLP
Columbia Square
555 Thirteenth Street NW
Washington, DC 20004
(202) 637-3680
kevin.sheys@hoganlovells.com

Attorney for Applicant

Date Filed: November 30, 2023

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 35508 (Sub-No. 1)

IOWA NORTHERN RAILWAY COMPANY
-- LEASE RENEWAL EXEMPTION --
NORTH CENTRAL IOWA RAIL CORRIDOR, LLC

VERIFIED NOTICE OF EXEMPTION
OF
IOWA NORTHERN RAILWAY COMPANY
PURSUANT TO 49 C.F.R. § 1180.2(d)(4)

Iowa Northern Railway Company ("IANR") hereby files this verified notice of exemption under 49 C.F.R. § 1180.2(d)(4) for the renewal of its Rail Lease, Purchase and Service Agreement ("Lease and Purchase Agreement") of North Central Iowa Rail Corridor LLC's ("NCIRC") railroad property: (1) between Milepost No. 48.12 at Belmond, IA and Milepost 75.95 at Forest City, IA; and (2) 600 feet of connecting track at Garner, IA ("Forest City Line"). The renewal, made in the attached Amendment to Rail Lease, Purchase and Service Agreement ("Lease Amendment"), involves solely an extension in time of the rail line lease included in the Lease and Purchase Agreement, a transaction previously authorized by the Board in *Iowa Northern Railway Company—Operation Exemption—North Central Iowa Rail Corridor*, Docket No. FD 35508 (STB served May 26, 2011). No other modifications were made to the rail line lease included in the Lease and Purchase Agreement. The Amendment is accordingly a transaction exempt under 49 C.F.R. § 1180.2(d)(4).

IANR and NCIRC consummated the Lease Amendment on October 5, 2021. IANR did not file a notice of exemption for the lease renewal in advance because it was not aware that the Lease Amendment required STB exemption or approval. IANR is filing this notice of exemption now to obtain after-the-fact relief.

In accordance with the requirements of 49 C.F.R. § 1180.4(g), IANR submits the following information:

Description of the Proposed Transaction: 49 C.F.R. § 1180.6(a)(1)(i)

IANR is a Class III rail carrier which owns, leases or operates lines of railroad in the state of Iowa. It was formed in 1984 on a section of the old Chicago, Rock Island & Pacific Railroad Company. IANR's principal route runs diagonally through Iowa northwest to southeast from Manly to Cedar Rapids, with a branch line from Waterloo to Oelwein, and the leased Forest City Line that is the subject of this Notice. (See map attached as Exhibit 1.)

NCIRC is a non-operating rail carrier. It acquired the Forest City Line from Union Pacific Railroad Company in June 2011. *See North Central Iowa Rail Corridor, LLC—Acquisition Exemption—Union Pacific Railroad Company*, Docket No. FD 35507 (STB Served May 26, 2011). IANR leased the entire Forest City Line from NCIRC, approximately 27.83 miles of trackage (plus the aforementioned Garner connecting track), for an initial term of ten years, pursuant to the Lease and Purchase Agreement. The Lease and Purchase Agreement was executed on September 30, 2011 and authorized by the STB in *Iowa Northern Railway Company—Operation Exemption—North Central Iowa Rail Corridor*, Docket No. FD 35508 (STB served May 26, 2011).

On October 5, 2021, IANR and NCIRC agreed to extend the Lease and Purchase Agreement for an additional three-year period pursuant to the Lease Amendment. The Lease and Purchase Agreement was extended from September 30, 2021 until September 30, 2024. *See Exhibit 2.* Besides the extension in time, no other provisions of the lease were amended or modified by the Lease Amendment.¹

¹ Section 4 of the Lease Amendment rewords the rental price, but this change is a restatement of the rent amount, not a modification. The Lease and Purchase Agreement gave IANR an option to purchase the Forest City Line. Section 5 of the Lease Amendment includes a change in the option to purchase, but that change is not a change to the lease.

The extension of IANR's lease of the Forest City Line is a renewal of an arrangement the STB has previously authorized and only an extension in time is involved. The Lease Amendment thus qualifies as exempt under the Board's class exemption procedures at 49 C.F.R. § 1180.2(d)(4).

The full name and address of the applicant carrier herein is as follows:

Iowa Northern Railway Company
301 Tower Park Drive
Suite 300
Waterloo, IA 50701

Any questions concerning this Notice should be sent to IANR counsel at the following address:

Kevin M. Sheys
Hogan Lovells US LLP
Columbia Square 555
Thirteenth Street NW
Washington, DC 20004
(202) 637-3680
kevin.sheys@hoganlovells.com

Proposed Time Schedule for Consummation: 49 C.F.R. § 1180.6(a)(1)(ii)

IANR and NCIRC consummated the Lease Amendment on October 5, 2021. As noted above, IANR did not file a notice of exemption for the lease renewal because it was not aware that the Lease Amendment required STB exemption or approval. IANR is filing this notice of exemption now to obtain relief effective 30 days after this notice is filed.

Purpose Sought to Be Accomplished: 49 C.F.R. § 1180.6(a)(1)(iii)

Renewal of the lease arrangement will enable IANR to continue serving customers on the Forest City Line.

States in Which Applicant's Property is Located: 49 C.F.R. § 1180.6(a)(5)

IANR owns, leases or operates rail property in the state of Iowa.

Map - Exhibit 1: 49 C.F.R. § 1180.6(a)(6)

A map meeting the requirements of 49 C.F.R. § 1180.6(a)(6) for this geographically limited transaction is attached as Exhibit 1.

Agreement - Exhibit 2: 49 C.F.R. § 1180.6(a)(7)(ii)

A copy of the Lease Amendment is attached as Exhibit 2.

Labor Protective Conditions: 49 C.F.R. § 1180.4(g)(1)(i)

The appropriate level of labor protection is that set forth in *Mendocino Coast Ry. Inc. – Lease and Operate*, 354 I.C.C. 732 (1978), *modified*, 360 I.C.C. 653 (1980), *aff'd sub nom. Railway Labor Executives' Ass'n v. U.S.*, 675 F.2d 1248 (D.C. Cir. 1982).

Environmental and Historic Preservation Matters: 49 C.F.R. § 1180.4(g)(3)

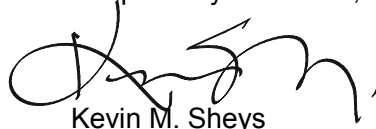
Under 49 C.F.R. § 1105.6(c)(1), the Lease Amendment is exempt from environmental reporting requirements. IANR's continued lease of the Forest City Line for an additional three-year period will not result in significant changes in carrier operations, i.e., changes that exceed the thresholds established in 49 C.F.R. § 1105.7(e)(4) or (5).

Under 49 C.F.R. § 1105.8(b)(1), the Lease Amendment also is exempt from historic preservation reporting requirements. IANR's continued lease of the Forest City Line is for the purpose of continued rail operations. Further Surface Transportation Board approval is required to discontinue or abandon any service and there are no plans to dispose of or alter properties subject to Board jurisdiction that are fifty years old or older.

Interchange Commitments: 49 C.F.R. § 1180.4(g)(4)

The extension of IANR's lease of the Forest City Line does not involve any provision or agreement that would limit future interchange with a third-party connecting carrier.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Kevin M. Sheys', with a stylized flourish at the end.

Kevin M. Sheys
Hogan Lovells US LLP
Columbia Square 555
Thirteenth Street NW
Washington, DC 20004
(202) 637-3680
kevin.sheys@hoganlovells.com

**Attorney for Iowa Northern Railway
Company**

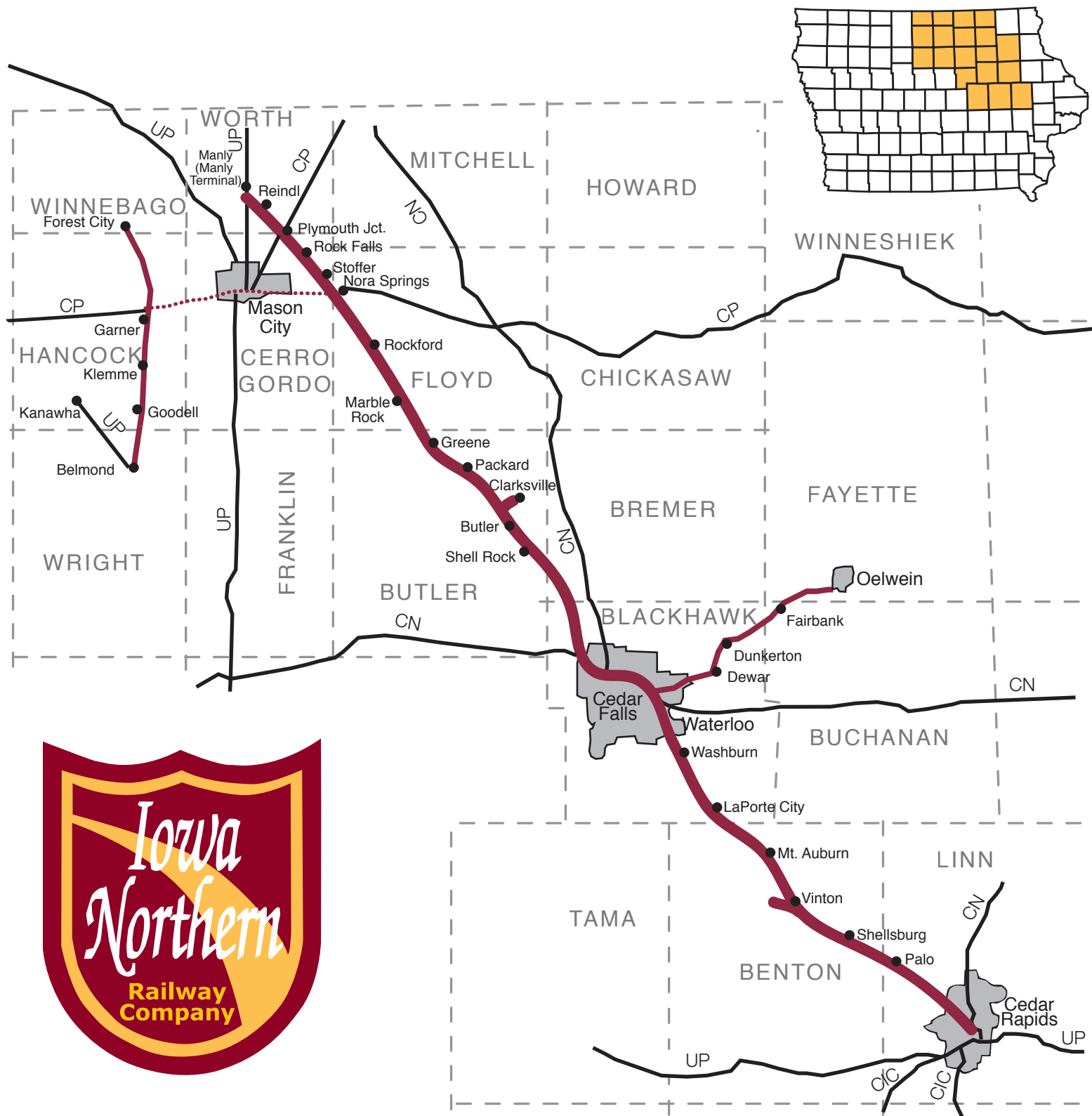
November 30, 2023

VERIFICATION

I, Daniel R. Sabin, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief. Further, I certify that I am qualified and authorized to file this notice.

November 30, 2023


Daniel R. Sabin,
Chairman of Iowa Northern Railway Company



**AMENDMENT TO RAIL LEASE,
PURCHASE AND SERVICE AGREEMENT**

THIS AMENDMENT TO RAIL LEASE, PURCHASE AND SERVICE AGREEMENT (the "Amendment") is entered into as of the 5th day of October 2021, by and between North Central Iowa Rail Corridor, L.L.C., an Iowa limited liability company ("Lessor"), and Iowa Northern Railway Company ("Lessee").

RECITALS

- A. Lessor and Lessee entered into that certain Rail Lease, Purchase and Service Agreement, dated September 29, 2011 (the "Rail Lease"), wherein Lessor agreed to lease and sell, and Lessee agreed to lease and buy the Line as defined in the Rail Lease on the terms and conditions set forth therein.
- B. The parties desire to amend the Rail Lease to extend the Term of the Rail Lease to end at midnight on the 30th day of September 2024 (the "Extended Term") on the terms and conditions set forth below in this Amendment.
- C. The parties now desire, pursuant to Section 21(f) of the Rail Lease, to amend the terms of the Rail Lease.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and deemed adequate, the parties, intending to be legally bound by the terms hereof, agree as follows:

- 1. Incorporation of Recitals. The Recitals set forth above are incorporated herein by reference and are made a part of this Amendment and shall constitute an expression of the intent of the parties and as an aid in the construction of this Amendment.
- 2. Amendment to Paragraph 1. Paragraph 1 is hereby amended to change the definition of Service Termination Date to delete the phrase "tenth (10th) anniversary" and insert in its place the phrase "thirteenth (13th) anniversary".
- 3. Amendment to Paragraph 3. Paragraph 3 is hereby amended to delete the phrase "ten (10) years" and insert in its place the phrase "thirteen (13) years". Paragraph 3 is further amended to delete the year "2021" and insert in its place "2024".
- 4. Amendment to Paragraph 4(a). Paragraph 4(a) is hereby amended to delete the phrase "the principal and interest due monthly upon the Outstanding Loan under the terms of the Loan Agreement," and insert in its place "\$11,438.72".
- 5. Amendment to Paragraph 13(a)(ii). Paragraph 13(a)(ii) is amended to delete the phrase "One Million Dollars (\$1,000,000.00) and an annual return of four percent (4%) thereon"

and insert in its place "Lessor's investors' capital contributions (excluding capital contributions of Lessee) plus an annual return of four percent less any payments previously paid by Lessee".

6. Amendment to Paragraph 13(b). Paragraph 13(b) is hereby amended to delete the phrase "tenth (10th) anniversary" and insert in its place the phrase "thirteenth (13th) anniversary".

Ratification. Except as expressly amended herein, the Rail Lease is hereby ratified and confirmed in all respects.

Capitalized Terms. All capitalized terms not defined in this Amendment shall have the meaning set forth in the Purchase Agreement.

Counterparts. This Amendment may be executed in multiple original or facsimile counterparts, each of which shall be deemed an original, and it shall not be necessary in making proof of this Amendment to produce or account for more than one of such counterparts.

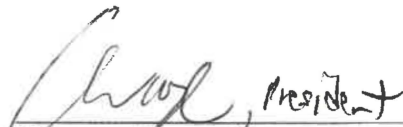
IN WITNESS WHEREOF, Lessor and Lessee have each executed this Amendment as of the date first written above.

LESSOR

North Central Iowa Rail Corridor, LLC

Forest City Economic Development, Inc., Manager

By:


Courtney Wooge, President

STATE OF IOWA)
COUNTY OF winnebago) ss:

On this 11 day of October, 2021, before me, the undersigned a Notary Public in and for said State, personally appeared in person, to me personally known, who being by me duly sworn, did say that he is the President of Forest City Economic Development, Inc., Manager of North Central Iowa Rail Corridor, L.L.C.




NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA

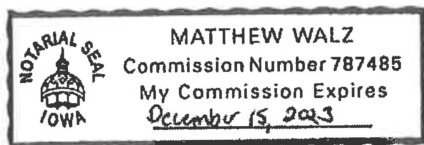
LESSEE

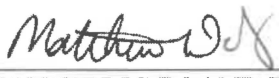
Iowa Northern Railway Company

By 
Daniel R. Sabin
Its President

STATE OF IOWA)
COUNTY OF LINN) ss:

On this 5th day of October, 2021, before me, the undersigned a Notary Public in and for said State, personally appeared Daniel R. Sabin to me personally known, who being by me duly sworn, did say that he is the President of Iowa Northern Railway Company, executing the within and foregoing instrument; that no seal has been procured by the said corporation; that the said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that the said Daniel R. Sabin, as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it and by him voluntarily executed.




NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA