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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35450]

City of Maplewood, Minn.—Acquisition Exemption—Right to Restore Rail Service
Over a Railbanked Right-of-Way in Ramsey County, Minn.

The City of Maplewood, Minn. (the City), a noncarrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.31 to acquire from BNSF Railway Company (BNSF) the right to restore rail service over a rail banked right-of-way, a distance of .67 miles, extending from milepost 7.19 to milepost 6.52 (the line),¹ in Ramsey County, Minn.

In the notice of exemption in BNSF Railway Company—Abandonment Exemption—in Ramsay County, Minn., AB 6 (Sub.-No. 429X) (STB served Aug. 10, 2005), BNSF was authorized to abandon the line. Subsequent to that notice, BNSF and the City reached an agreement for rail banking the line. The agreement included a provision that, in exchange for payment of value, BNSF would convey to the City BNSF's right to restore service over the line's right-of-way.

Subsequently, in a quitclaim deed dated September 26, 2005, BNSF conveyed the line to the City along with BNSF's right to restore service over the right-of-way. The City explains that it did not know, at the time, that Board authorization was necessary for

¹ The line is 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.

the City to acquire the right to restore rail service. The City now, after the fact, invokes the Board's authorization for that acquisition through a notice of exemption. The City states that it or an operator contracted by the City would operate over the line if service is restored.

In King County, Wash. – Acquisition Exemption – BNSF Railway Company, FD 35148, slip op. at 3-4 (STB served Sept. 18, 2009) (King County), the Board granted an individual exemption authorizing the conveyance of the right to restore rail service on a line to a county, explaining that the right to reactivate a rail banked line is not an exclusive right and would not preclude any other service provider from seeking Board authorization to restore rail service over the rail banked line if the county did not do so. In King County, slip op. at 4 n.5, both the county acquiring the right and the rail carrier selling that right “made clear that [the rail carrier did] not wish to retain any rights related to the segments.” Likewise, here the notice indicates that BNSF did not wish to retain rights related to the line because, by quitclaim deed, BNSF conveyed to the City both the right-of-way itself and the right to restore service over the right-of-way.

The transaction is expected to be consummated on or after January 8, 2011 (30 days after the exemption was filed).

The City certifies that its projected annual revenues from the acquisition involved in this proceeding do not exceed those that would qualify it as a Class III carrier.

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 effectiveness of the

exemption. Petitions to stay must be filed no later than December 30, 2010 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35450, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1890, Chicago, IL 60604.

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

Decided: December 20, 2010.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.