

must be filed with the Surface Transportation Board, 395 E Street, NW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Louis E. Gitomer, Esq., Law Offices of Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, Md. 21204.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: July 29, 2010.

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

Kulunie L. Cannon,
Clearance Clerk.

[FR Doc. 2010-19122 Filed 8-3-10; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35382]

Northern Plains Railroad, Inc.—Lease Exemption—Soo Line Railroad Company

Under 49 CFR 1011.7(b)(10), the Director of the Office of Proceedings (Director) is delegated the authority to determine whether to issue notices of exemption for lease transactions under 49 U.S.C. 10902. However, the Board reserves to itself the consideration and disposition of all matters involving issues of general transportation importance. 49 CFR 1011.2(a)(6). Accordingly, the Board revokes the delegation to the Director with respect to the issuance of this notice of exemption. The Board determines that this notice of lease and operation exemption should be issued, and does so here.

Northern Plains Railroad, Inc. (NPR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to renew its lease of approximately 290.31 miles of rail line of Soo Line Railroad Company, d/b/a Canadian Pacific Railway (Soo), in Minnesota and North Dakota (referred to as the Wheat Lines). NPR has operated the Wheat Lines pursuant to an existing lease with Soo since 1997.¹ According

¹ NPR acquired authority to lease and operate approximately 377.55 miles of Soo rail line. See *Northern Plains R.R.—Lease and Operation Exemption—Certain Lines of Soo Line R.R.*, Docket No. FD 33324 (STB served Jan. 9, 1997). In 2009, NPR was authorized to discontinue service over certain lines covered by that lease: between Bisbee, N.D., and Kramer, N.D., and between Devils Lake, N.D., and Harlow, N.D. See *Northern Plains R.R.—Discontinuance of Serv. Exemption—in Ramsey and Benson Counties, N.D.*, Docket No. AB 1054X (STB served Dec. 28, 2009) (NPR discontinuance on Devils Lake-Harlow line); and *Northern Plains*

to NPR, NPR and Soo have entered into a Lease Renewal Agreement and a related Renewed Exchange and Operating Agreement, both dated July 19, 2010 (Agreements), which provide for NPR's continued lease of and provision of rail service on the Wheat Lines.² Pursuant to the Agreements, NPR will renew its lease of the Wheat Lines extending: (a) From milepost 309.69 at Thief River Falls, Minn., to milepost 474.5 at Bisbee; (b) from milepost 390.99 at Fordville, N.D., to milepost 445.50 at Devils Lake; and (c) from milepost 535.00 at Kramer, to milepost 605.99 at Kenmare, N.D. NPR states that, as part of the Agreements, NPR will lease 5 miles of abandoned Soo trackage at Kramer and 4.95 miles of abandoned Soo trackage at Bisbee for rail supply and other purposes.³ The term of the lease renewal is 20 years. As required at 49 CFR 1150.43(h), NPR has disclosed that the Lease Renewal Agreement contains a provision that would limit NPR's future interchange of traffic with a third-party connecting carrier at any location. NPR notes that (other than with Soo) NPR has interchanges with BNSF Railway Company at Ardoch, N.D., Devils Lake, and Warren, Minn.

NPR states that it expects to remain a Class III rail carrier after consummation of the proposed transaction, and certifies that its projected annual revenues for the Wheat Lines as a result of the proposed transaction will not result in the creation of a Class II or Class I rail carrier. In accordance with the Board's requirements at 49 CFR 1150.42(e), NPR certified to the Board, on June 18, 2010, that it had posted the 60-day notice of the transaction at the

R.R.—Discontinuance of Serv. Exemption—in Bottineau, Rolette, and Towner Counties, N.D., Docket No. AB 1054 (Sub-No. 1X) (STB served Dec. 28, 2009) (NPR discontinuance on Bisbee-Kramer line). NPR states that it will renew its lease with Soo but that the lease will only cover approximately 290.31 miles now because Soo has abandoned the lines (described above) over which service had been discontinued. See *Soo Line R.R.—Aban. Exemption—in Ramsey and Benson Counties, N.D.*, Docket No. AB 57 (Sub-No. 54X) (STB served Oct. 22, 2004) (Soo abandonment of Devils Lake-Harlow line) and *Soo Line R.R.—Aban. Exemption—in Bottineau, Rolette, and Towner Counties, N.D.*, Docket No. AB 57 (Sub-No. 56X) (STB served Sept. 5, 2008) (Soo abandonment of Bisbee-Kramer line). NPR also notes a change to the Devils Lake endpoint, from milepost 446.0+/- to milepost 445.50.

² NPR's Agreements were filed under seal pursuant to 49 CFR 1150.43(h)(1)(ii). NPR states that the Lease Renewal Agreement includes other changes beyond the extension of the lease term. As a result, the class exemption at 49 CFR 1180.2(d)(4) covering lease renewals where only an extension of time is involved is not available here.

³ NPR states that it does not seek any authority here to operate these previously abandoned segments.

workplaces of current NPR employees on the Wheat Lines on June 8 and 9, 2010, that it had posted the notice at the workplaces of Soo employees whose territory includes the Wheat Lines on June 17, 2010, and that it had served the notice on the national offices of the labor unions for such Soo employees on June 17, 2010. NPR stated that there are no labor unions that represent employees of NPR.

NPR states that it expects to consummate the transaction on September 1, 2010 (which is more than 60 days after NPR's certification to the Board that it had complied with the labor notice requirements at 49 CFR 1150.42(e)).

If the verified 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. Petitions for stay must be filed no later than August 13, 2010 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35382, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Thomas J. Litwiler, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606-2832.

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It is ordered:

1. The delegation of authority of the Office of Proceedings, under 49 CFR 1011.7(b)(10), to determine whether to issue a notice of exemption in this proceeding is revoked.

2. This decision is effective on the date of service.

Decided: August 3, 2010.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Nottingham. Vice Chairman Mulvey dissented with a separate expression. VICE CHAIRMAN MULVEY, dissenting:

I disagree with the Board's decision today to allow this transaction to be processed under the Board's class exemption procedures at 49 CFR 1150.41. I believe that transactions which prohibit the lessee carrier from interchanging with any rail carrier other than the lessor carrier should be subject to close scrutiny by the Board and that such scrutiny cannot take place within the expedited notice of exemption process.

Here, NPR seeks authorization for a lease from Soo of nearly 300 miles of rail line in Minnesota and North Dakota (the “Wheat Line”). NPR has leased this line since 1997 and now seeks a 20-year renewal. According to the notice (and further detailed in materials filed under seal), the prospective lease includes “a provision that would limit NPR’s future interchange of Wheat Line traffic with a third-party connecting carrier at any location.” *Notice of Exemption* at 4 (emphasis added).

I have indicated my view that interchange commitments should be subject to a searching review by the Board to determine whether they comport with the statute under which Board authorization is sought. *See, e.g., Washington & Idaho Ry.—Lease and Operation Exemption—BNSF Ry.*, FD 35370 (STB served Apr. 23, 2010) (Mulvey, commenting). When the Board adopted new disclosure rules regarding interchange commitments in 2008, we indicated that interchange commitments that contain a total ban on interchange with other carriers would be closely scrutinized. *Review of Rail Access and Competition Issues—Renewed Petition of the Western Coal Traffic League*, EP 575, slip op. at 15 (STB served Oct. 30, 2007); *Disclosure of Rail Interchange Commitments*, EP 575 (Sub-No. 1) (STB served May 29, 2008). To fulfill that commitment in this case, the Board should have required a full application (or individual petition for exemption), so that the Board could analyze the competitive impact of the interchange commitment. In certain cases, the Board has required more extensive procedures in transactions that otherwise qualify for the notice process but are deemed to be controversial or non-routine. *See, e.g., Northeast Interchange Ry.—Lease and Operation Exemption—Line in Croton-on-Hudson, NY*, FD 34734 (STB served Nov. 18, 2005). Our failure to do so here is disappointing, particularly given the length of the leased line, the length of the renewal period, and the fact that the 1997 Board decision authorizing the original lease did not analyze the interchange commitment. *See Northern Plains R.R.—Lease and Operation Exemption—Certain Lines of Soo Line R.R.*, FD 33324 (STB served Jan. 9, 1997).

It is time for the Board to build upon its interchange commitment disclosure rules by also disallowing utilization of the class notice of exemption procedure

for transactions that prohibit interchange with third party carriers.

Jeffrey Herzig,
Clearance Clerk.

[FR Doc. 2010–19450 Filed 8–5–10; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Sunshine Act Meetings; Unified Carrier Registration Plan Board of Directors

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

TIME AND DATE: August 12, 2010, 12 noon to 3 p.m., Eastern Daylight Time.

PLACE: This meeting will take place telephonically. Any interested person may call Mr. Avelino Gutierrez at (505) 827–4565 to receive the toll free number and pass code needed to participate in this meeting by telephone.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Board of Directors (the Board) will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement and to that end, may consider matters properly before the Board.

FOR FURTHER INFORMATION CONTACT: Mr. Avelino Gutierrez, Chair, Unified Carrier Registration Board of Directors at (505) 827–4565.

Issued on: August 4, 2010.

Larry W. Minor,
Associate Administrator for Policy and Program Development.

[FR Doc. 2010–19590 Filed 8–4–10; 4:15 pm]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2010 0071]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel RAINDANCER.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build

requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD–2010–0071 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD’s regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter’s interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD’s regulations at 46 CFR part 388.

DATES: Submit comments on or before September 7, 2010.

ADDRESSES: Comments should refer to docket number MARAD–2010–0071. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at <http://www.regulations.gov>

<http://www.regulations.gov><http://smses.dot.gov/submit/>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979.

SUPPLEMENTARY INFORMATION:

As described by the applicant the intended service of the vessel RAINDANCER is:

Intended Commercial Use of Vessel: “Chartered Trips for passengers.”

Geographic Region: “California, Florida, Puerto Rico.”