

212148

ORIGINAL

LAW OFFICE  
**THOMAS F. MCFARLAND, P.C.**  
208 SOUTH LA SALLE STREET - SUITE 1890  
CHICAGO, ILLINOIS 60604-1112  
TELEPHONE (312) 236-0204  
FAX (312) 201-9695  
mcfarland@aol.com

212148

THOMAS F. MCFARLAND



October 4, 2004

By UPS overnight mail

Vernon A. Williams, Secretary  
Surface Transportation Board  
Case Control Unit, Suite 713  
1925 K Street, N.W.  
Washington, DC 20423-0001

Re: Finance Docket No. 34598, *Progressive Rail, Incorporated -- Continuance in Control Exemption -- Wisconsin Northern Railroad Company, LLC*

Dear Mr. Williams:

Enclosed please find an original and 10 copies of Verified Notice of Exemption Under 49 C.F.R. § 1180.2(d)(2), for filing with the Board in the above referenced matter.

Also enclosed is a \$1,000 check for the filing fee.

ENTERED  
Office of Proceedings

OCT 05 2004

Part of  
Public Record

Very truly yours,

*Tom McFarland*

Thomas F. McFarland  
Attorney for Applicant

TMcf:kl;enc:wp8.0\1034\lstrtb3

**FILED**

OCT 05 2004

SURFACE  
TRANSPORTATION BOARD

**FEE RECEIVED**

OCT 05 2004

SURFACE  
TRANSPORTATION BOARD

BEFORE THE  
SURFACE TRANSPORTATION BOARD

---



PROGRESSIVE RAIL, INCORPORATED )  
-- CONTINUANCE IN CONTROL ) FINANCE DOCKET  
EXEMPTION -- WISCONSIN ) NO. 34598  
NORTHERN RAILROAD COMPANY, )  
LLC )

---

**VERIFIED NOTICE OF EXEMPTION  
UNDER 49 C.F.R. § 1180.2(d)(2)**

---

PROGRESSIVE RAIL, INCORPORATED  
21778 Highview Avenue  
Lakeville, MN 55044

Applicant

THOMAS F. McFARLAND  
THOMAS F. McFARLAND, P.C.  
208 South LaSalle Street, Suite 1890  
Chicago, IL 60604-1112  
(312) 236-0204

Attorney for Applicant

Date Filed: October 5, 2004

BEFORE THE  
SURFACE TRANSPORTATION BOARD

---



PROGRESSIVE RAIL, INCORPORATED )  
-- CONTINUANCE IN CONTROL ) FINANCE DOCKET  
EXEMPTION -- WISCONSIN ) NO. 34598  
NORTHERN RAILROAD COMPANY, )  
LLC )

---

**VERIFIED NOTICE OF EXEMPTION  
UNDER 49 C.F.R. § 1180.2(d)(2)**

---

Pursuant to the class exemption at 49 C.F.R. § 1180.2(d)(2), PROGRESSIVE RAIL, INCORPORATED (PGR) hereby provides this verified notice of exemption from 49 U.S.C. § 11343 for its continuance in control of WISCONSIN NORTHERN RAILROAD COMPANY, LLC (WNRC), when WNRC becomes a rail carrier.

**INFORMATION REQUIRED BY 49 C.F.R. § 1180.4(g)(1)(i)**

*(1) A description of the proposed transaction, including appropriate references to any supporting exhibits and statements contained in the application and discussing the following:*

*A brief summary of the proposed transaction, the name of applicants, their business address, telephone number, and the name of the counsel to whom questions regarding the transaction can be addressed.*

The proposed transaction is continuance in control of WNRC by PGR when WNRC becomes a rail carrier. WNRC has concurrently filed a notice of exemption under 49 C.F.R. § 1150.31 for WNRC to lease from Wisconsin Central, Ltd. (WCL) and to operate, 23.97 miles of rail line in Barron County, WI. See Finance Docket No. 34596, *Wisconsin Northern Railroad Company, LLC -- Lease and Operation Exemption -- Rail Lines of Wisconsin Central, Ltd. in Barron County, WI*. The parties intend to consummate that transaction not sooner than seven days after filing that notice of exemption.

WNRC is owned by PGR. PGR is a rail carrier subject to Board jurisdiction. PGR currently controls another rail carrier, i.e., Airlake Terminal Railway Company (ATRC).

Applicant hereby certifies that (1) the properties to be operated by WNRC and the properties operated by PGR and ATRC do not connect with each other; (2) the proposed continuance in control is not part of a series of anticipated transactions that would connect the carriers with each other or any railroad in their corporate family; and (3) the transaction does not involve a Class I carrier. Therefore, pursuant to 49 C.F.R. § 1180.2(d)(2), the proposed transaction is exempt from the prior approval requirements of 49 U.S.C. § 11343.

Applicant is Progressive Rail, Incorporated, 21778 Highview Avenue, Lakeville, MN 55044.

Applicant's counsel to whom questions may be addressed regarding the proposed transaction is Thomas F. McFarland, Thomas F. McFarland, P.C. 208 South LaSalle Street, Suite 1890, Chicago, IL 60604-1112, (312) 236-0204.

*(2) The proposed time schedule for consummation of the proposed transaction.*

The proposed transaction is scheduled to be consummated not sooner than seven days after the filing of this notice of exemption.

*(3) The purpose sought to be accomplished by the proposed transaction, e.g., operating economies, eliminating excess facilities, improving service, or improving the financial viability of the applicants.*

The purpose sought to be accomplished by the proposed transaction is achievement of operating efficiency and economy.

*(4) A list of the State(s) in which any part of the property of each applicant carrier is situated.*

WNRC - Wisconsin  
PGR - Minnesota  
ATRC - Minnesota

*(5) Map (exhibit 1). Submit a general or key map indicating clearly, in separate colors or otherwise, the line(s) of applicant carriers in their true relations to each other, short line connections, other rail lines in the territory, and the principal geographic points in the region traversed. If a geographically limited transaction is proposed, a map detailing the transaction should also be included. In addition to the map accompanying each application, 20 unbound copies of the map shall be filed with the Board.*

Attached to this notice as Appendix 1 is the required map.

*(6) Agreement (exhibit 2). Submit a copy of any contract or other written instrument entered into, or proposed to be entered into, pertaining to the proposed transaction. In addition, parties to exempt trackage rights agreements and renewal of agreements described at Sec. 1180.2(d)(7) must submit one copy of the executed agreement or renewal agreement with the notice of exemption, or within 10 days of the date that the agreement is executed, whichever is later.*

No written contract relates to PGR's control of WNRC.

*(7) Indicate the level of labor protection to be imposed.*

The level of labor protection to be imposed is that set forth in *New York Dock Ry.* --  
*Control -- Brooklyn Eastern District, 360 ICC 60 (1979).*

#### **VERIFICATION**

Attached to this notice as Appendix 2 is a verification of the statements made in this notice.

### **ENVIRONMENTAL AND HISTORIC CONSIDERATIONS**

Pursuant to 49 C.F.R. § 1105.6(c)(2), no environmental documentation or report is required for the proposed transactions. Pursuant to 49 C.F.R. § 1105.7(b)(1), no historic documentation or report is required for the proposed transaction.

### **CAPTION SUMMARY**

Attached to this notice as Appendix 3 is the required caption summary.

### **CONCLUSION**

WHEREFORE, the Board should publish this notice of exemption in the *Federal Register* within 30 days of its filing.

Respectfully submitted,

PROGRESSIVE RAIL, INCORPORATED  
21778 Highview Avenue  
Lakeville, MN 55044

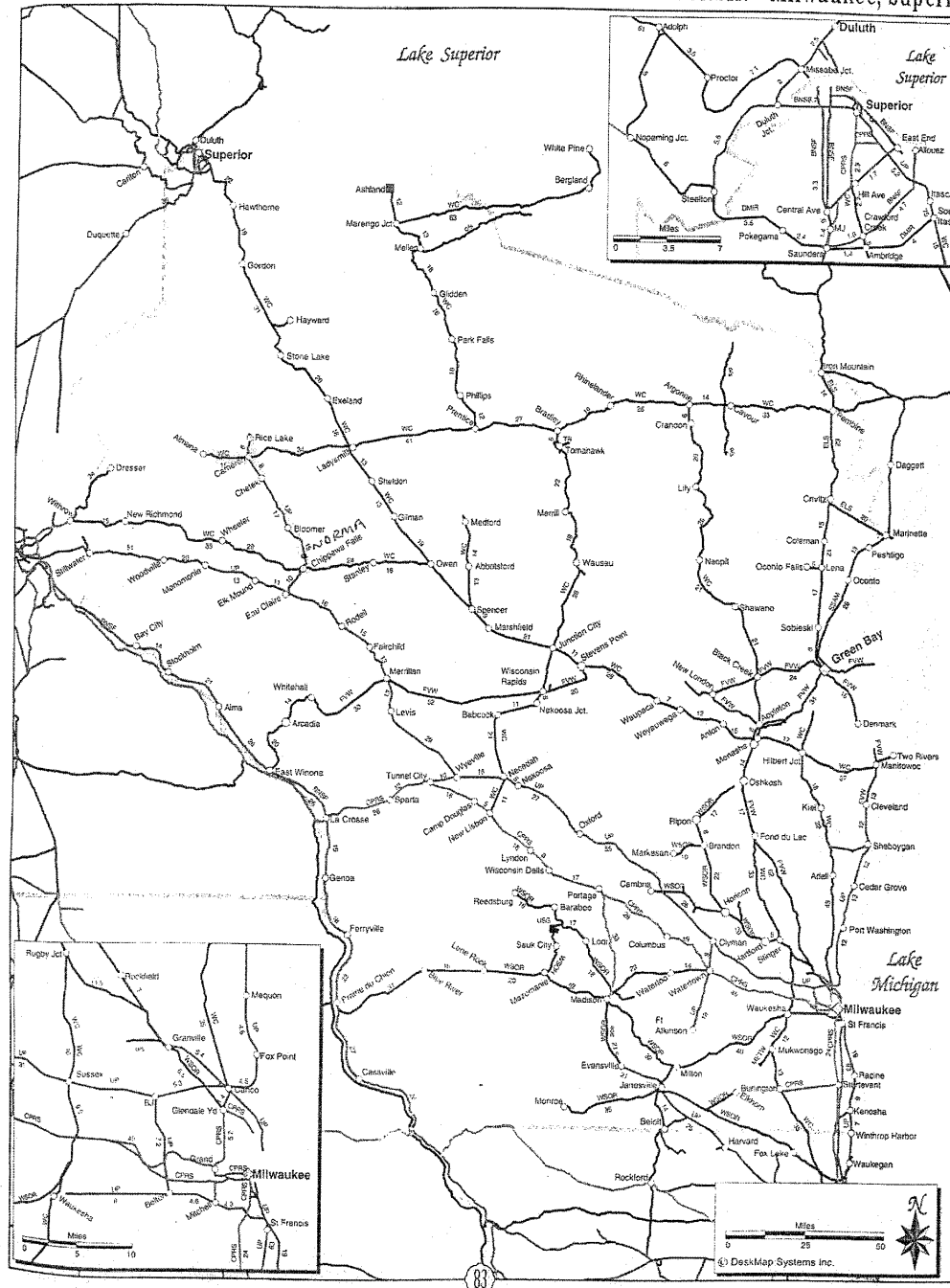
Applicant

*Thomas F. McFarland*

THOMAS F. McFARLAND  
THOMAS F. McFARLAND, P.C.  
208 South LaSalle Street, Suite 1890  
Chicago, IL 60604-1112  
(312) 236-0204

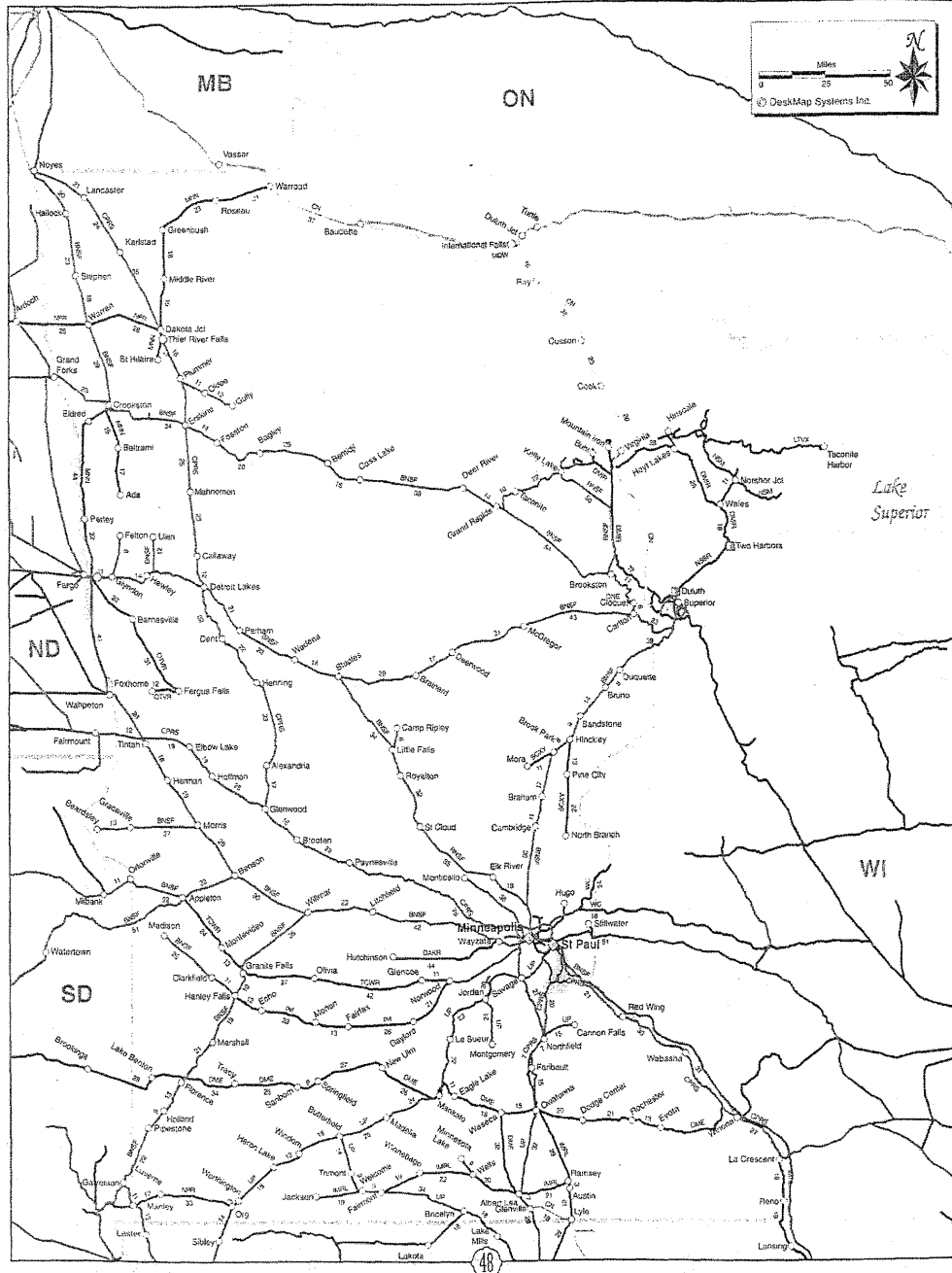
Attorney for Applicant

Date Filed: October 5, 2004



Appendix 1, page 2  
PGR and ATRC RAIL LINES

MINNESOTA



**Appendix 2**

**VERIFICATION**

STATE OF ILLINOIS     )  
                                      ) SS:  
COUNTY OF COOK     )

THOMAS F. McFARLAND, being duly sworn on oath, deposes and states that he has read the foregoing notice, that he knows the contents thereof, and that the facts therein stated are true and correct.



Thomas F. McFarland  
Thomas F. McFarland

SUBSCRIBED and SWORN  
to before me this 5<sup>th</sup> day  
of October, 2004.

Kathleen Lenihan  
Notary Public

My commission expires: 1/29/2006

**CAPTION SUMMARY**

**Appendix 3**

**SURFACE TRANSPORTATION BOARD  
NOTICE OF EXEMPTION**

(Finance Docket No. 34598)

*Progressive Rail, Incorporated -- Continuance  
in Control Exemption -- Wisconsin  
Northern Railroad Company, LLC*

Progressive Rail, Incorporated (PGR) has filed a verified notice of exemption from 49 U.S.C. § 11343 for its continuance in control of WNRC by PGR when WNRC becomes a rail carrier. WNRC has concurrently filed a notice of exemption under 49 C.F.R. § 1150.31 for WNRC to lease from Wisconsin Central, Ltd. (WCL) and to operate, 23.97 miles of rail line in Barron County, WI. *See Finance Docket No. 34596, Wisconsin Northern Railroad Company, LLC -- Lease and Operation Exemption -- Rail Lines of Wisconsin Central, Ltd. in Barron County, WI.* The parties intend to consummate that transaction not sooner than seven days after filing that notice of exemption.

WNRC is controlled by PGR, a rail carrier subject to Board jurisdiction. PGR also controls another rail carrier, i.e., Airlake Terminal Railway Company (ATRC).

The proposed continuance in control is exempt from the prior approval requirements of 49 U.S.C. § 11343 by virtue of 49 C.F.R. § 1180.2(d)(2) because PGR has certified that (1) the properties to be operated by WNRC and the rail carriers identified above do not connect with each other; (2) the continuance in control is not part of a series of anticipated transactions that would connect those carriers with each other or any railroad in their corporate family; and (3) the transaction does not involve a Class I carrier.

As a condition to use of the exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Dock Ry. -- Control -- Brooklyn Eastern Dist.*, 360 ICC 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. § 10502(d) can be filed at any time. The filing of a petition to revoke will not automatically stay the proposed transaction. If the notice of exemption contains false or misleading information the exemption is void *ab initio*. Any petitions to revoke filed with the Board must be served on Applicants' representative, Thomas F. McFarland, Thomas F. McFarland, P.C., 208 South LaSalle Street, Suite 1890, Chicago, IL 60604-1112, (312) 236-0204.

(SEAL)

By the Board