

FLETCHER & SIPPEL LLC

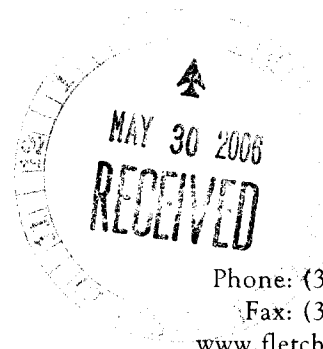
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May 26, 2006
619

VIA FEDERAL EXPRESS

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Room 700
Washington, DC 20006

FILED

MAY 30 2006

SURFACE
TRANSPORTATION BOARD

Re: **Finance Docket No. 34872**
Dakota, Minnesota & Eastern Railroad Corporation and Cedar
American Rail Holdings, Inc. -- Intra-Corporate Family Transaction
Exemption -- Wyoming Dakota Railroad Properties, Inc.

Dear Secretary Williams:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of a **Verified Notice of Exemption Pursuant to 49 C.F.R. § 1180.2(d)(3)**, dated May 26, 2006. A check in the amount of \$1,200, representing the appropriate fee for this filing, is attached.

One extra copy of this transmittal letter and of the Notice also are enclosed. I would request that you date-stamp those copies to show receipt of this filing and return them to me in the provided envelope.

If you have any questions regarding this filing, please feel free to contact me. Thank you for your assistance on this matter. Kind regards.

Respectfully submitted,

Thomas J. Litwiler

Attorney for Dakota, Minnesota & Eastern
Railroad Corporation and Cedar American
Rail Holdings, Inc.

FILED MAY 30 2006

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SURFACE
TRANSPORTATION BOARD

TJL:tl

Enclosures

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ORIGINAL
[Contains Color Map]

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34872

DAKOTA, MINNESOTA & EASTERN RAILROAD CORPORATION
AND CEDAR AMERICAN RAIL HOLDINGS, INC.
-- INTRA-CORPORATE FAMILY TRANSACTION EXEMPTION --
WYOMING DAKOTA RAILROAD PROPERTIES, INC.

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VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1180.2(d)(3)

FILED
MAY 30 2006
SURFACE
TRANSPORTATION BOARD

William C. Sippel
Thomas J. Litwiler
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2832
(312) 252-1500

**ATTORNEYS FOR DAKOTA, MINNESOTA &
EASTERN RAILROAD CORPORATION AND
CEDAR AMERICAN RAIL HOLDINGS, INC.**

Dated: May 26, 2006

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34872

DAKOTA, MINNESOTA & EASTERN RAILROAD CORPORATION
AND CEDAR AMERICAN RAIL HOLDINGS, INC.
-- INTRA-CORPORATE FAMILY TRANSACTION EXEMPTION --
WYOMING DAKOTA RAILROAD PROPERTIES, INC.

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1180.2(d)(3)**

Dakota, Minnesota & Eastern Railroad Corporation ("DM&E") and Cedar American Rail Holdings, Inc. ("CARH") hereby file this verified notice of exemption under 49 C.F.R. § 1180.2(d)(3) for an intra-corporate family transaction involving Wyoming Dakota Railroad Properties, Inc. ("WDRPI"), a new non-carrier subsidiary of CARH and an indirect subsidiary of DM&E. Pursuant to a concurrently-filed notice of exemption in Finance Docket No. 34871, Wyoming Dakota Railroad Properties, Inc. -- Acquisition and Operation Exemption -- Dakota, Minnesota & Eastern Railroad Corporation, WDRPI will acquire DM&E's Surface Transportation Board authority to construct and operate approximately 280 miles of rail line between Wall, South Dakota and the Powder River Basin region of northeastern Wyoming and in Minnesota (the "PRB Line"). The exemption herein will allow DM&E and CARH to continue in control of WDRPI once WDRPI acquires and exercises construction and operation authority for the PRB Line and becomes a rail carrier.

The proposed transaction will simply substitute a DM&E subsidiary for DM&E in the PRB Line construction project and will facilitate financing for that project. This transaction within a corporate family will not adversely affect the level of any existing rail service and will

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not result in significant operational changes or any change in the competitive balance with carriers outside of the DM&E corporate family.

In accordance with the requirements of 49 C.F.R. § 1180.4(g), DM&E and CARH submit the following information:

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

DM&E is a Class II common carrier by rail which operates approximately 1100 route miles of rail lines in Minnesota, South Dakota, Wyoming, Nebraska and Iowa. DM&E's main line extends from Winona, Minnesota across southern Minnesota and South Dakota to Rapid City, South Dakota and Colony, Wyoming. The Board has given final approval under 49 U.S.C. § 10901 for a proposal by DM&E to extend its rail line further westward into the Powder River Basin coal fields of northeastern Wyoming. Dakota, MN & Eastern R. -- Construction -- Powder River Basin, 3 S.T.B. 847 (1998) ("PRB I"); 6 S.T.B. 8 (2002) ("PRB II"); Dakota, Minnesota & Eastern Railroad Corporation Construction into the Powder River Basin, Finance Docket No. 33407 (STB served February 15, 2006) ("PRB III").

CARH is a wholly-owned non-carrier subsidiary of DM&E and functions as a holding company for DM&E and Iowa, Chicago & Eastern Railroad Company ("IC&E"), a Class II common carrier by rail and wholly-owned CARH subsidiary which operates approximately 1400 miles of trackage in the states of Iowa, Illinois, Kansas, Missouri, Minnesota and Wisconsin. See Iowa, Chicago & Eastern Railroad Corporation -- Acquisition and Operation Exemption -- Lines of I&M Rail Link, LLC, Finance Docket No. 34177 (STB served June 12,

2002 and July 22, 2002), 6 S.T.B. 499 (2003); Dakota, MN & Eastern et al. -- Control -- Iowa, Chicago & Eastern, 6 S.T.B. 511 (2003).¹

WDRPI is new non-carrier subsidiary of CARH formed to undertake construction and operation of the PRB Line. Specifically, pursuant to its notice of exemption filed concurrently herewith in Finance Docket No. 34871, WDRPI will acquire from DM&E the authority granted to DM&E by the Surface Transportation Board pursuant to 49 U.S.C. § 10901 to construct and operate a rail line extending from Wall, South Dakota to eleven mine facilities in the Powder River Basin area of northeastern Wyoming and rail lines at Mankato and Owatonna, Minnesota, a total distance of approximately 280 miles. See PRB I, PRB II and PRB III, *supra*. Once WDRPI exercises its construction and operation authority and becomes a rail carrier, DM&E and CARH (as a carrier and non-carrier, respectively) will continue in control of WDRPI in common with IC&E.

The proposed transfer of DM&E's PRB Line construction and operation authority to a new affiliate and the resulting common control of DM&E, IC&E and WDRPI is a transaction within a corporate family that will not result in adverse changes in service levels, significant operational changes or any change in the competitive balance between DM&E/IC&E and carriers outside of their corporate family. See, e.g., Canadian National Railway Company -- Continuance in Control Exemption -- St. Clair Tunnel Company, Finance Docket No. 32117, *et al.* (ICC served November 27, 1992).

¹ The normal placement of a non-carrier holding company at the top of the corporate chain was complicated in DM&E's instance by certain capital structure considerations. Thus, despite its holding company role, CARH is a subsidiary of DM&E, and technically is positioned in the corporate chain between DM&E and IC&E. See DM&E-IC&E Control, 6 S.T.B. at 517, n.21.

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

Dakota, Minnesota & Eastern Railroad Corporation
Cedar American Rail Holdings, Inc.
140 North Phillips Avenue
Sioux Falls, South Dakota 57104
(605) 782-1200

Any questions concerning this Notice should be sent to DM&E/CARH's representative at the following address:

William C. Sippel
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2832
(312) 252-1500

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

DM&E and CARH intend to consummate the proposed intra-corporate continuance in control transaction no sooner than June 20, 2006, the earliest date on which WDRPI may exercise the exemption authority sought in Finance Docket No. 34871.

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

By allowing construction and operation of the PRB Line to be undertaken by a separate entity within the DM&E/CARH corporate family, the proposed transaction will facilitate the development of financing for the PRB project and help achieve the pro-competitive rail service options and benefits associated with the project.

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

DM&E owns or operates over rail property in the states of Minnesota, South Dakota, Wyoming, Nebraska and Iowa. CARH is a non-carrier, intermediate holding company and does not directly hold railroad operating property.

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

A map of the lines of DM&E and IC&E and the PRB Line proposed to be constructed by WDRPI is attached hereto as Exhibit 1.

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

WDRPI is an existing non-carrier subsidiary of CARH, and an indirect subsidiary of DM&E. No further agreement is required for DM&E and CARH to continue in control of WDRPI once WDRPI becomes a rail carrier.

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

As a condition to this exemption, DM&E and CARH do not object to imposition of the employee protective conditions established in New York Dock Ry. -- Control -- Brooklyn Eastern Term. Dist., 360 I.C.C. 60 (1979).

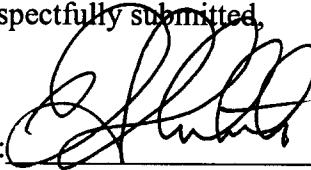
Environmental and Historic Preservation Matters: 49 C.F.R. § 1180.4(g)(3)

Under 49 C.F.R. § 1105.6(c)(2)(ii), DM&E's and CARH's proposed intra-corporate continuance in control of WDRPI once WDRPI becomes a rail carrier is exempt from environmental reporting requirements. The proposed transaction will not result in significant changes in current or future carrier operations, i.e., changes that exceed the thresholds of 49 C.F.R. § 1105.7(e)(4) or (5).

Under 49 C.F.R. § 1105.8(b)(2), the proposed intra-corporate family transaction also is exempt from historic preservation reporting requirements. The creation and control of

WDRPI as a new affiliate in the DM&E corporate family will not result in significant changes in existing or anticipated operations.

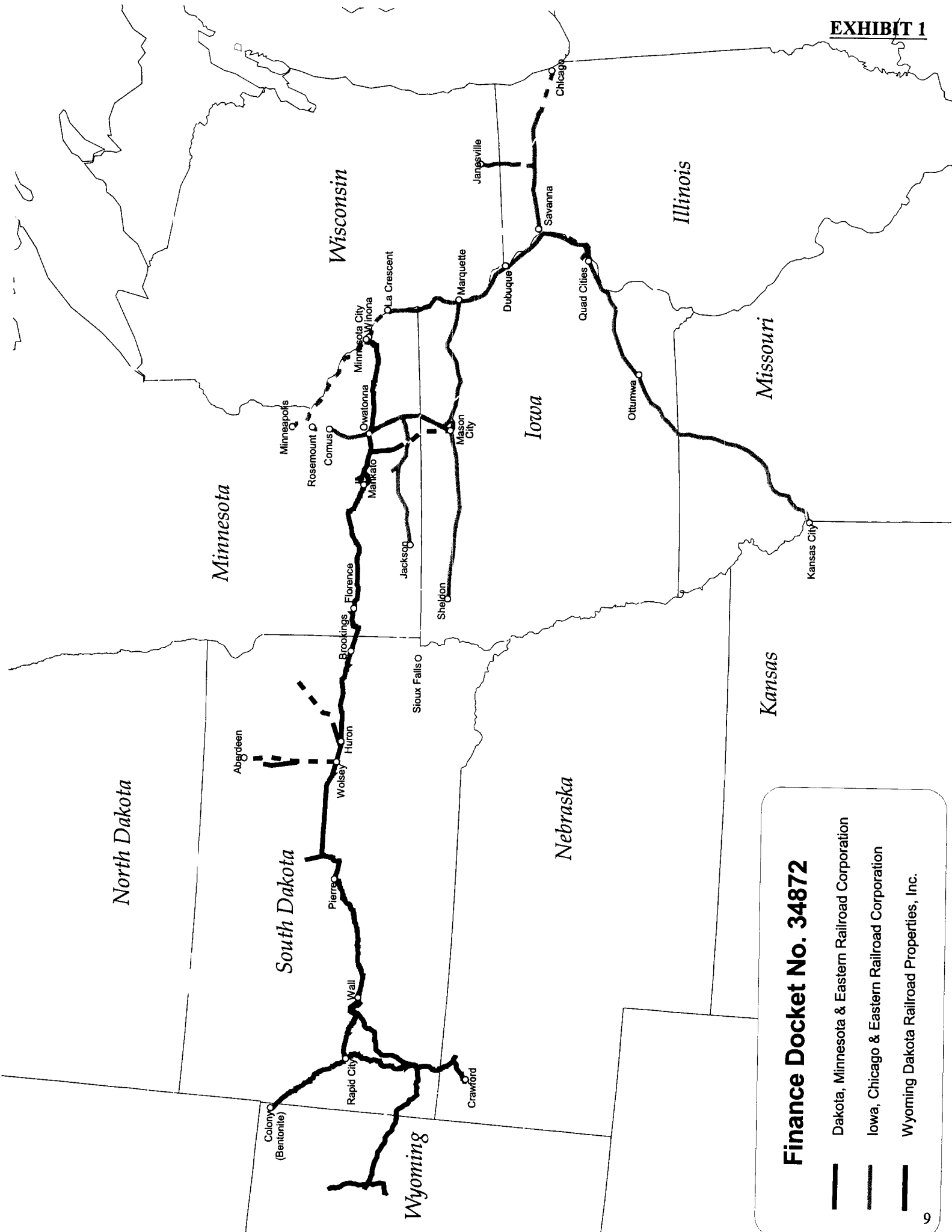
Respectfully submitted,

By: 

William C. Sippel
Thomas J. Litwiler
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2832
(312) 252-1500

**ATTORNEYS FOR DAKOTA, MINNESOTA &
EASTERN RAILROAD CORPORATION AND
CEDAR AMERICAN RAIL HOLDING, INC.**

Dated: May 26, 2006



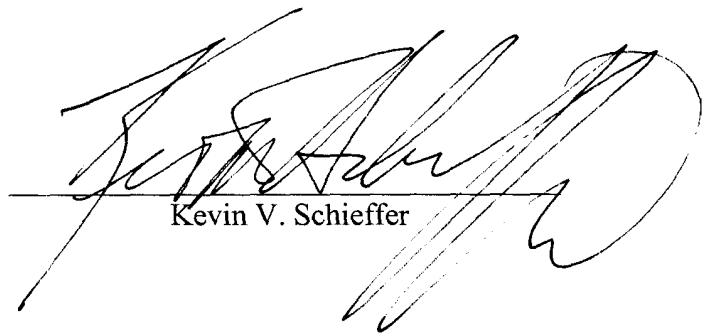
Finance Docket No. 34872

-  Dakota, Minnesota & Eastern Railroad Corporation
-  Iowa, Chicago & Eastern Railroad Corporation
-  Wyoming Dakota Railroad Properties, Inc.

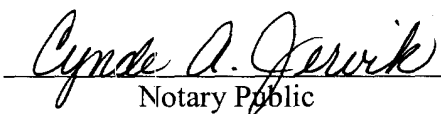
VERIFICATION

State of South Dakota)
)
County of Minnehaha) SS:

Kevin V. Schieffer, being duly sworn, deposes and says that he is President of Dakota, Minnesota & Eastern Railroad Corporation and Cedar American Rail Holdings, Inc., that he has read the foregoing Notice of Exemption and knows the facts asserted therein, and that the same are true as stated.

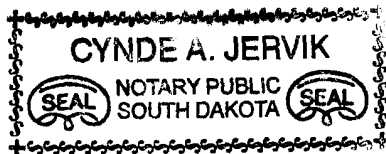

Kevin V. Schieffer

SUBSCRIBED AND SWORN TO
before me this 23 day
of May, 2006.


Notary Public

My Commission expires:

CYNDE JERVIK
My Commission Expires
June 15, 2006



FLETCHER & SIPPEN LLC

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Thomas J. Litwiler
Attorney for Dakota, Minnesota & Eastern
Railroad Corporation and Cedar American
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TJL:tl

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