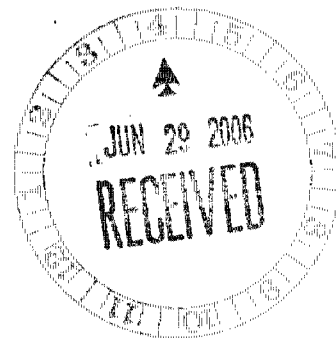


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BEFORE THE
SURFACE TRANSPORTATION BOARD



FINANCE DOCKET NO. 34904

DAKOTA, MISSOURI VALLEY AND WESTERN RAILROAD, INC.
-- LEASE AND OPERATION EXEMPTION --
SOO LINE RAILROAD COMPANY

ENTERED
Office of Proceedings

JUN 29 2006

Part of
Public Record

VERIFIED NOTICE OF EXEMPTION
OF

DAKOTA, MISSOURI VALLEY & WESTERN RAILROAD, INC.
PURSUANT TO 49 C.F.R. § 1150.42

FILED

JUN 29 2006

SURFACE
TRANSPORTATION BOARD

FILE RECEIVED

JUN 29 2006

SURFACE
TRANSPORTATION BOARD

Dated: June 29, 2006

Edward J. Fishman
Brendon P. Fowler
Kirkpatrick & Lockhart Nicholson Graham LLP
1601 K Street N.W.
Washington, DC 20006-1600
(202) 778-9000

ATTORNEYS FOR DAKOTA, MISSOURI
VALLEY & WESTERN RAILROAD, INC.

BEFORE THE
SURFACE TRANSPORTATION BOARD



FINANCE DOCKET NO. 34904

DAKOTA, MISSOURI VALLEY AND WESTERN RAILROAD, INC.
-- LEASE AND OPERATION EXEMPTION --
SOO LINE RAILROAD COMPANY

**VERIFIED NOTICE OF EXEMPTION
OF
DAKOTA, MISSOURI VALLEY & WESTERN RAILROAD, INC.
PURSUANT TO 49 C.F.R. § 1150.42**

Pursuant to 49 C.F.R. § 1150.41 et seq., Dakota, Missouri Valley & Western Railroad, Inc. ("DMVW"), a Class III rail carrier, hereby files this Verified Notice of Exemption to lease and operate certain lines of railroad currently owned by Soo Line Railroad Company d/b/a Canadian Pacific Railway Company ("CPR") and operated by DMVW pursuant to an existing lease that will be extended, renewed and supplemented to reflect changes in the lease arrangement between CPR and DMVW. The CPR lines that DMVW will continue to lease and operate are located generally as follows: (1) the line of railroad that extends between Hankinson and Moffit, North Dakota (the "Hankinson-Moffit Segment"); (2) the line of railroad that extends between Bismarck and Max, North Dakota (the "Bismarck-Max Segment"); and (3) the line of railroad that extends between Flaxton, North Dakota and Whitetail, Montana (the "Flaxton-Whitetail Segment")(collectively, and as further described herein, the "Subject Lines").

Based on projected revenues, DMVW expects to remain a Class III rail carrier after consummation of the lease transaction proposed herein.

In accordance with the requirements of 49 C.F.R. § 1150.43, DMVW submits the following information:

Advance Notice:**49 C.F.R. § 1150.42(e)**

The projected annual revenues from continuing to operate the Subject Lines, together with DMVW's projected annual revenues, will exceed \$5 million. However, DMVW is filing concurrently herewith a Petition for Waiver of the labor notice requirement set forth in 49 C.F.R. § 1150.42(e) because of the particular circumstances of this transaction.

Name and Address of Applicant:**49 C.F.R. § 1150.43(a)**

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

Dakota, Missouri Valley & Western Railroad, Inc.
3501 East Rosser Avenue
Bismarck, ND 58501

Applicant's Representative:**49 C.F.R. § 1150.43(b)**

DMVW's representative to whom correspondence regarding this transaction should be addressed is as follows:

Edward J. Fishman
Kirkpatrick & Lockhart Nicholson Graham LLP
1601 K Street N.W.
Washington, DC 20006-1600
(202) 778-9000

Statement Concerning Agreement:**49 C.F.R. § 1150.43(c)**

DMVW plans to finalize an agreement shortly with CPR providing for DMVW's continued lease and operation of the Subject Lines. DMVW currently leases and operates the Subject Lines pursuant to an existing Lease Agreement with CPR that was originally executed in 1990¹ and supplemented in 1996 and 1999.² Pursuant to a Renewed Lease Lines Agreement ("Renewed Lease Agreement") that will be executed by DMVW and CPR, DMVW's lease and operation of the Subject Lines will be extended through June 30, 2026 and certain other terms

¹ See Dakota, Missouri Valley and Western Railroad, Inc.--Lease and Operation Exemption--Soo Line Railroad Company, Finance Docket No. 31720 (ICC served Sept. 19, 1990).

² See Dakota, Missouri Valley and Western Railroad, Inc. – Lease and Operation Exemption – Soo Line Railroad Company, Finance Docket No. 32825 (STB served Mar. 27, 1996); Dakota, Missouri Valley and Western Railroad, Inc. – Lease and Operation Exemption – Canadian Pacific Railway, Finance Docket No. 33742 (STB served May 26, 1999).

and conditions of the lease arrangement between the parties will be amended and supplemented primarily to reflect planned capital improvements by DMVW. The renewed and supplemented lease arrangement is not expected to result in any material change in the rail service currently provided by DMVW to shippers and/or receivers on the Subject Lines and will apply to the same properties that DMVW currently leases and operates under the existing Lease Agreement.³

Operation of the Property: **49 C.F.R. § 1150.43(d)**

DMVW will continue to be the operator of the Subject Lines.

Summary of the Transaction: **49 C.F.R. § 1150.43(e)**

Pursuant to the Renewed Lease Agreement to be entered into between DMVW and CPR, DMVW will continue to lease and operate rail lines owned by CPR on the Hankinson-Moffit Segment, the Bismarck-Max Segment and the Flaxton-Whitetail Segment (as the Subject Lines are more particularly described below) through June 30, 2026.

The Hankinson-Moffit Segment includes: (i) the line of railroad owned by CPR between approximately milepost 205.96 in Hankinson and approximately milepost 391.38 near Moffit, North Dakota; and (ii) the short segment of track owned by CPR between approximately milepost 391.27 and approximately milepost 393.33 at Moffit. DMVW previously filed a notice of exemption under 49 U.S.C. § 10901 to lease and operate the line of railroad owned by CPR between approximately milepost 264.37 at Oakes and approximately milepost 391.38 near Moffit, and the short CPR track near Moffit described above, in 1990. See Dakota, Missouri Valley and Western Railroad, Inc.--Lease and Operation Exemption--Soo Line Railroad Company, Finance Docket No. 31720 (ICC served Sept. 19, 1990). DMVW previously filed a notice of exemption under 49 U.S.C. § 10902 to lease and operate the line of railroad owned by CPR between approximately milepost 264.37 at Oakes and approximately milepost 206.96 at Hankinson in 1999. See Dakota, Missouri Valley and Western Railroad, Inc. – Lease and

³ The one exception is the segment between Wishek and Ashley that is described in footnote 4 below.

Operation Exemption – Canadian Pacific Railway, Finance Docket No. 33742 (STB served May 26, 1999).⁴

The Bismarck-Max Segment includes the line of railroad owned by CPR between approximately milepost 560.5 in Bismarck and approximately milepost 467.61 and milepost 467.06 on the legs of the wye in Max, North Dakota. DMVW previously obtained an exemption from ICC approval to lease and operate the portion of the Bismarck-Max Segment owned by CPR between Bismarck and approximately milepost 516.02 at Washburn, North Dakota in 1990. See Dakota, Missouri Valley and Western Railroad, Inc.--Lease and Operation Exemption--Soo Line Railroad Company, Finance Docket No. 31720 (ICC served Sept. 19, 1990).⁵ DMVW previously filed a petition for exemption under 49 U.S.C. § 10502 to lease and operate the line of railroad owned by CPR between approximately milepost 516.02 at Washburn and approximately milepost 467.61 and milepost 467.06 on the legs of the wye at Max, North Dakota in 1996. See Dakota, Missouri Valley and Western Railroad, Inc. – Lease and Operation Exemption – Soo Line Railroad Company, Finance Docket No. 32825 (STB served Mar. 27, 1996).

The Flaxton-Whitetail Segment includes: (i) the line of railroad owned by CPR between approximately milepost 541.0 at Flaxton, North Dakota and approximately milepost 549.64 at Rival, North Dakota; (ii) the line of railroad owned by CPR between approximately milepost 582.3 at Crosby, North Dakota and approximately milepost 676.83 at Whitetail, Montana; (iii) the short segment of track owned by CPR between approximately milepost 581.19 and approximately milepost 582.35 near Crosby; and (iv) the short segment of right-of-way owned

⁴ The original 1990 Lease Agreement between DMVW and CPR also covered a branch line owned by CPR between approximately milepost 341.8 near Wishek and approximately milepost 361.0 at Ashley, North Dakota. CPR obtained STB authority to abandon the Wishek-Ashley branch line in 1999 and therefore that segment will not be covered by the Renewed Lease Agreement. See Soo Line Railroad Company – Abandonment Exemption – MacIntosh County, ND, AB-57 (Sub-No. 49X)(STB served Nov. 24, 1999).

⁵ In that 1990 notice of exemption, DMVW described the endpoint of the Bismarck-Washburn segment in Bismarck as approximately milepost 417.98. Subsequently, CPR redesignated the mileposts on parts of its system and that same point in Bismarck is now located at approximately milepost 560.5.

by CPR between approximately milepost 557.68 and approximately milepost 558.31 at Columbus, North Dakota. DMVW previously obtained an exemption from ICC approval to lease and operate the foregoing properties in 1990. See Dakota, Missouri Valley and Western Railroad, Inc.--Lease and Operation Exemption--Soo Line Railroad Company, Finance Docket No. 31720 (ICC served Sept. 19, 1990).

DMVW will continue to retain the following trackage rights that it acquired by assignment from CPR in 1990: (i) CPR's trackage rights over the line of railroad owned jointly by CPR and the BNSF Railway Company ("BNSF") between approximately milepost 549.64 at Rival and approximately milepost 582.3 at Crosby, which trackage rights allow DMVW to operate between the Flaxton-Rival and Crosby-Whitetail segments that DMVW leases from CPR; (ii) CPR's trackage rights over the short branch owned jointly by CPR and BNSF that connects the Flaxton-Whitetail mainline with the CPR track at Columbus, North Dakota; and (iii) CPR's trackage rights over the line of railroad owned by BNSF between McKenzie and Bismarck, North Dakota, which enables DMVW to connect its operations on the Bismarck-Max Segment with its operations on the Moffit-Hankinson Segment via the line of railroad owned by DMVW between McKenzie and Moffit. See Dakota, Missouri Valley and Western Railroad, Inc.--Lease and Operation Exemption--Soo Line Railroad Company, Finance Docket No. 31720 (ICC served Sept. 19, 1990); Dakota, Missouri Valley and Western Railroad, Inc. – Acquisition and Operation Exemption – A Line of the Burlington Northern Santa Fe Railway Company, Finance Docket No. 33639 (STB served Sept. 1, 1998).⁶ The Renewed Lease Agreement will have no impact on the trackage rights that DMVW acquired by assignment from CPR in 1990.

⁶ DMVW originally acquired by assignment from CPR, in 1990, CPR's trackage rights over the line of railroad owned by BNSF from Moffit through McKenzie to Bismarck. However, DMVW acquired the BNSF line of railroad between Moffit and McKenzie as part of DMVW's acquisition of the McKenzie-Linton line in 1998. Therefore, DMVW no longer uses CPR's trackage rights over the segment between Moffit and McKenzie, but continues to use CPR's trackage rights over the BNSF line between Bismarck and McKenzie.

The total distance of the Subject Lines to be leased and operated by DMVW under the Renewed Lease Agreement is approximately **386** route miles. The parties intend to consummate this transaction on or soon after the date this Notice of Exemption becomes effective and the related Petition for Waiver of the requirement set forth in 49 C.F.R. § 1150.42(e) is granted.

The name and address of the owner of the Subject Lines is as follows:

Soo Line Railroad Company d/b/a Canadian Pacific Railway
501 Marquette Avenue South
Minneapolis, Minnesota 55402

Map:

49 C.F.R. § 1150.43(f)

A map indicating the area served by the Subject Lines, including origins, termini, stations, cities and counties, is attached as Exhibit A to this Notice.

Certification of Class III Status:

49 C.F.R. § 1150.43(g)

A certificate complying with the provisions of 49 C.F.R. § 1150.43(g) is attached as Exhibit B to the Notice. Based on projected revenues from the continued lease and operation of the Subject Lines, DMVW will remain a Class III rail carrier after consummation of the transaction proposed herein.

Environmental/Historic Preservation Data:

49 C.F.R. Part 1105

Under 49 C.F.R. § 1105.6(c)(2)(i), the continued lease and operation of the Subject Lines by DMVW is exempt from environmental reporting requirements because it will not result in significant changes in carrier operations (i.e. changes which exceed the thresholds established in 49 C.F.R. § 1105.7(e)(4) or (5)).

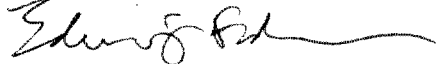
Under 49 C.F.R. § 1105.8(b)(3), the continued lease and operation of the Subject Lines by DMVW also is exempt from historic preservation reporting requirements. DMVW will continue to lease the Subject Lines for the purpose of continued rail operations. Further Surface Transportation Board approval is required to 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.

Caption Summary:

49 C.F.R. § 1150.44

A caption summary in the appropriate form is attached as Exhibit C to the Notice.

Respectfully submitted,



Edward J. Fishman

Brendon P. Fowler

Kirkpatrick & Lockhart Nicholson Graham LLP

1601 K Street N.W.

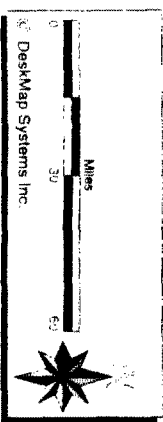
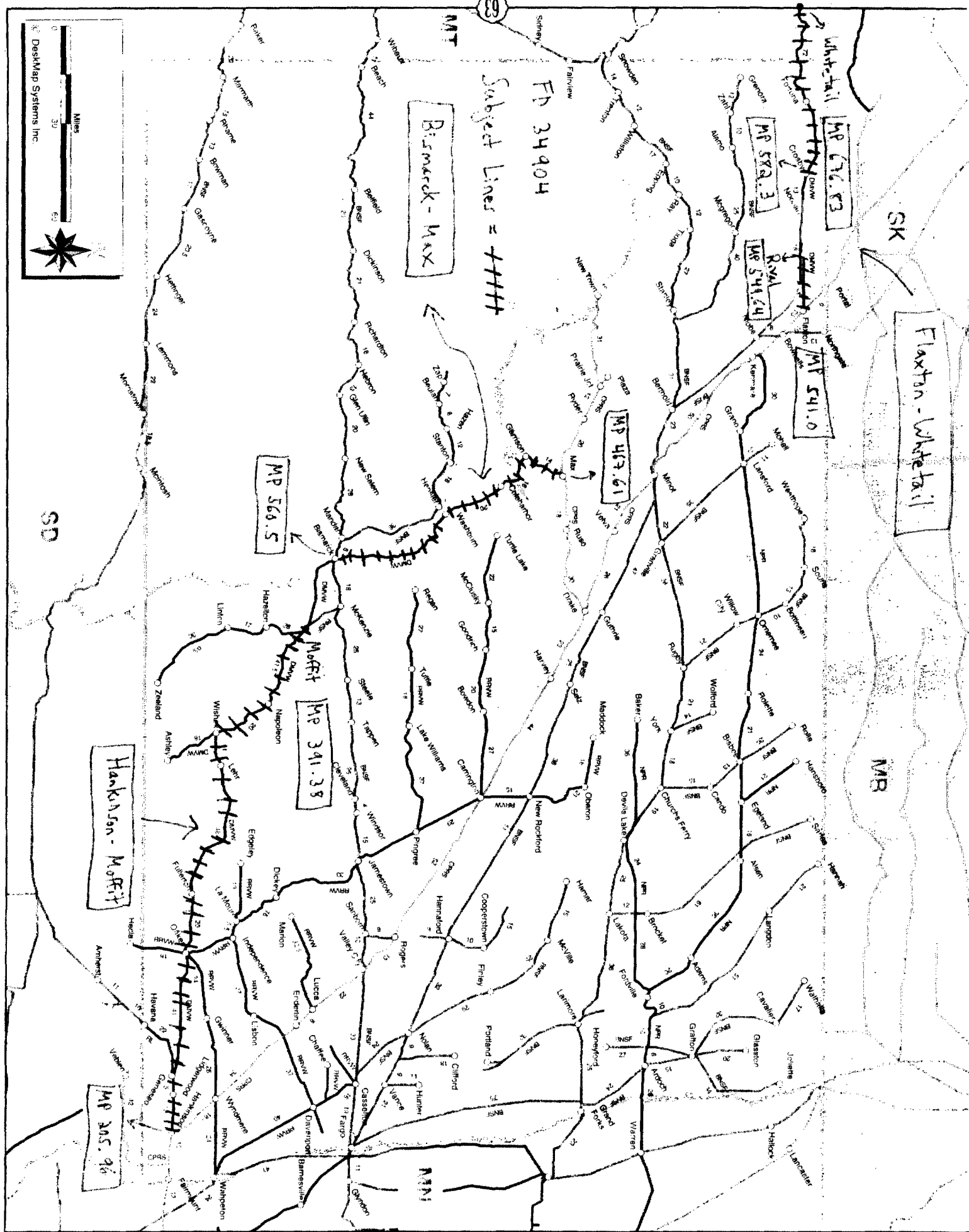
Washington, DC 20006-1600

(202) 778-9000

**ATTORNEYS FOR DAKOTA, MISSOURI
VALLEY & WESTERN RAILROAD, INC.**

June 29, 2006

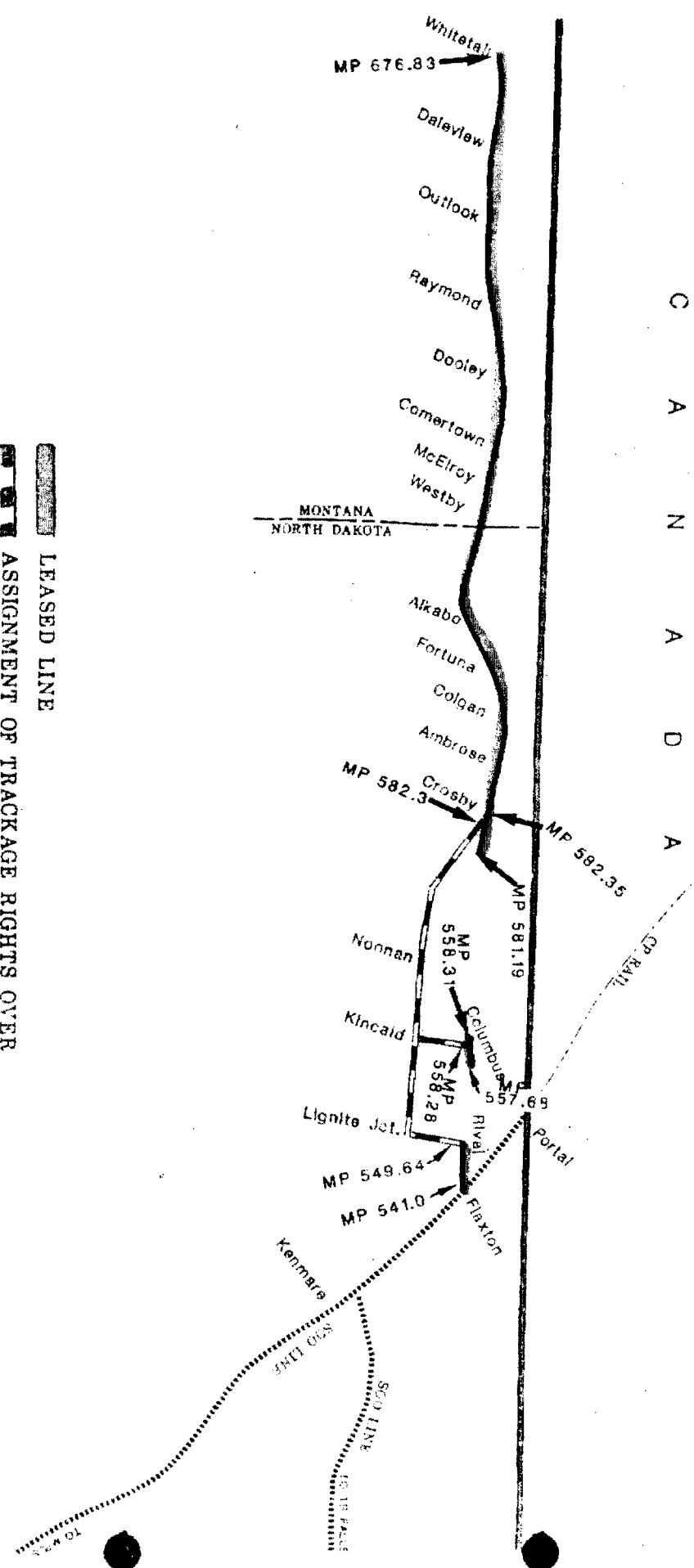
MAPS



DeskMap Systems Inc.

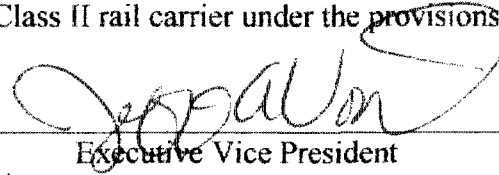
Sheet A-2

LEASED LINE
ASSIGNMENT OF TRackage RIGHTS OVER
JOINTLY OWNED SOO/BN TRACK
(1990 Assignment by CPA to DNVW)



CERTIFICATION

Jeff Wood, being duly sworn, certifies that the projected revenues of Dakota, Missouri Valley & Western Railroad, Inc., upon consummation of the proposed transaction will not result in the creation of a Class I or Class II rail carrier under the provisions of 49 C.F.R. § 1201 (1-1).



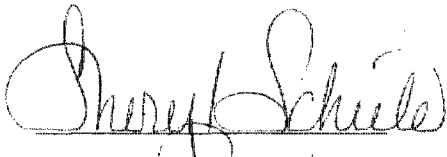
Executive Vice President

Dakota, Missouri Valley & Western Railroad, Inc.

SUBSCRIBED AND SWORN TO

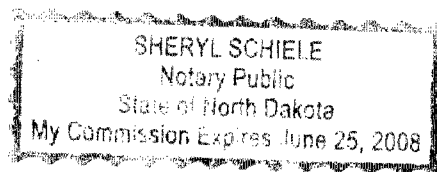
before me this 27th day

of June, 2006



Notary Public

My Commission expires:



SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

DAKOTA, MISSOURI VALLEY AND WESTERN RAILROAD, INC.
-- LEASE AND OPERATION EXEMPTION --
SOO LINE RAILROAD COMPANY

Dakota, Missouri Valley and Western Railroad, Inc. ("DMVW"), a Class III rail carrier, has filed a Verified Notice of Exemption to extend, renew and supplement the arrangement governing its lease and operation of the lines of railroad owned by Soo Line Railroad Company, d/b/a Canadian Pacific Railway Company ("CPR") and currently operated by DMVW that extend generally between (i) Hankinson and Moffit, North Dakota; (ii) Bismarck and Max, North Dakota; and (iii) Flaxton, North Dakota and Whitetail, Montana. Specifically, DMVW will continue to lease and operate: (i) the line of railroad owned by CPR between approximately milepost 205.96 in Hankinson, North Dakota and approximately milepost 391.38 near Moffit, North Dakota; (ii) the short segment owned by CPR between approximately milepost 391.27 and approximately milepost 393.33 at Moffit; (iii) the line of railroad owned by CPR between approximately milepost 560.5 in Bismarck, North Dakota and approximately milepost 467.61 and milepost 467.06 on the legs of the wye in Max, North Dakota; (iv) the line of railroad owned by CPR between approximately milepost 541.0 at Flaxton, North Dakota and approximately milepost 549.64 at Rival, North Dakota; (v) the line of railroad owned by CPR between approximately milepost 582.3 at Crosby, North Dakota and approximately milepost 676.83 at Whitetail, Montana; (vi) the short segment of track owned by CPR between approximately milepost 581.19 and approximately milepost 582.35 near Crosby; and (vii) the short segment of

right-of-way owned by CPR between approximately milepost 557.68 and approximately milepost 558.31 at Columbus, North Dakota (collectively, the "Subject Lines"). The total distance of the Subject Lines is approximately 386 route miles.

DMVW currently operates the Subject Lines pursuant to an existing Lease Agreement with CPR. DMVW and CPR have agreed to enter into a Renewed Lease Agreement that will extend the term of DMVW's lease and operate of the Subject Lines through June 30, 2006 and will amend and supplement certain other terms and conditions of the lease arrangement between DMVW and CPR.

DMVW will continue to retain the following trackage rights that it acquired by assignment from CPR in 1990: (i) CPR's trackage rights over the line of railroad owned jointly by CPR and the BNSF Railway Company ("BNSF") between approximately milepost 549.64 at Rival and approximately milepost 582.3 at Crosby, which trackage rights allow DMVW to operate between the Flaxton-Rival and the Crosby-Whitetail segments that it leases from CPR; (ii) CPR's trackage rights over the short branch line owned jointly by CPR and BNSF that connects the Flaxton-Whitetail mainline with the short CPR track at Columbus, North Dakota; and (iii) CPR's trackage rights over the line of railroad owned by BNSF between McKenzie, North Dakota and Bismarck, North Dakota, which enables DMVW to connect its operations on the Bismarck-Max segment with its operations on the Moffit-Hankinson segment via the line of railroad owned by DMVW between McKenzie and Moffit.

Comments must be filed with the Board and served on Edward J. Fishman, Kirkpatrick & Lockhart Nicholson Graham LLP, 1601 K Street, N.W., Washington, DC 20006-1600; (202) 778-9000.

This notice is filed under 49 C.F.R. § 1150.41. If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Date: _____, 2006

By the Board

Vernon A. Williams – Secretary

VERIFICATION

State of North Dakota)
) ss:
County of Burleigh)

Jeff Wood, being duly sworn, deposes and says that he is the Executive Vice President of the Dakota, Missouri Valley and Western Railroad, Inc. ("DMVW"), that he has read the foregoing Notice of Exemption and knows the facts asserted therein, and that the same are true as stated.

[Signature]

SUBSCRIBED AND SWORN TO

before me this 27th day

of June, 2006

Sheryl Schiele

Notary Public

My Commission expires:

