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June 13, 2007

219538

VIA OVERNIGHT COURIER

ENTERED
Office of Proceedings

FILED

Honorable Vernon A. Williams
Surface Transportation Board
395 E. Street, S.W.
Washington, D.C. 20024

JUN 14 2007

JUN 14 2007

Part of
Public Record

SURFACE
TRANSPORTATION BOARD

Re: Finance Docket No. 35046 - Amendment To Trackage Rights Agreement between Duluth, Winnipeg and Pacific Railway Company and Duluth, Missabe and Iron Range Railway Company

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 CFR 1180.2(d)(7). A disk containing the caption summary is enclosed. A check in the amount of \$1,000.00, representing the appropriate filing fee for this transaction, is enclosed.

I have included an extra copy of this transmittal letter and request that you date stamp this to show receipt of this filing and return it to me in the envelope provided.

Please feel free to contact me should any questions arise regarding this filing. Thank you for your assistance on this matter.

FEE RECEIVED

JUN 14 2007

SURFACE
TRANSPORTATION BOARD

Respectfully submitted,

Thomas J. Healey
Thomas J. Healey

Enclosures

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

STB Finance Docket No 35046

AMENDMENT TO TRACKAGE RIGHTS AGREEMENT

Between

**DULUTH, WINNIPEG AND PACIFIC RAILWAY COMPANY
("DWP" or "Owner")**

And

**DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY
("DMIR" or "User")**

**Relating to DMIR's Trackage Rights Over
DWP's Lines Of Railroad Between
Shelton Jct , MN and Nopeming Jct , MN**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 CFR 1180 2(d)(7)**

Respectfully submitted,

**Thomas J Healey
Counsel - Regulatory
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17641 S. Ashland Avenue
Homewood, IL 60430
Tel. (708) 332-4381
Fax. (708) 332-4361**

Date June 13, 2007

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 35046

AMENDMENT TO TRACKAGE RIGHTS AGREEMENT
Between
DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY
("DWP" or "Owner")
And
DULUTH, WINNIPEG AND PACIFIC RAILWAY COMPANY
("DMIR" or "User")

Relating to DMIR's Trackage Rights Over
DWP's Lines Of Railroad Between
Shelton Jct , MN and Nopeming Jct , MN

VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 CFR 1180.2(d) (7)

Pursuant to 49 CFR 1180.2(d)(7), Duluth, Missabe and Iron Range Railway Company ("DMIR" or "User") submits this Verified Notice of Exemption for amendment to existing trackage rights over tracks owned and operated by Duluth, Winnipeg And Pacific Railway Company ("DWP" or "Owner") and provides the following information

49 CFR 1180.6(a) (1) (i): 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.

DMIR seeks Board authority to amend existing trackage rights¹ to allow for nonexclusive overhead movements, reblocking cars within single trains, or setting out cars requiring servicing, over a line of railroad owned by DWP between Shelton Jct. at milepost 70.7 (marked as Point "A" on the map attached as Exhibit A), and Nopeming Jct., MN at Milepost 10.7 (marked as

¹ DMIR currently holds overhead rights over the entirety of the track at issue, for which it received authority to operate in Duluth, Missabe and Iron Range Railway Company – Trackage Rights Exemption – Duluth, Winnipeg and Pacific Railway Company, Finance Docket No. 34424 (Sub-No. 2) (STB served April 9, 2004). The current filing will allow a limited expansion of DMIR's rights on tracks over which it already operates.

Point "B" on the map attached as Exhibit A), including all industry spurs, connecting tracks and sidings now existent or hereafter constructed along the aforesaid tracks to be used hereunder, and right-of-way for the aforesaid tracks, signals, interlocking devices and plants, telegraph and telephone lines, and other appurtenances necessary to the use hereunder of the aforesaid tracks by the parties hereto, a distance of approximately 60 0 miles, all in the State of Minnesota

DMIR and DWP are commonly controlled by Canadian National Railway Company
Canadian National Railway Company and Grand Trunk Corporation – Control – Duluth, Missabe and Iron Range Railway Company, et al., Finance Docket No 34424 (STB served April 9, 2004)

Name, business address, and telephone numbers of Applicants

Duluth, Missabe and Iron Range Railway Company
17641 S Ashland Avenue
Homewood, IL 60430
Tel (708) 332-4381

Duluth, Winnipeg and Pacific Railway Company
17641 S Ashland Avenue
Homewood, IL 60430
Tel (708) 332-4381

Applicant's counsel to receive correspondence

Thomas J Healey
Counsel - Regulatory
CN
17641 S Ashland Avenue
Homewood, IL 60430
Tel (708) 332-4381
Fax (708) 332-4361

49 CFR 1180.6(a) (1) (ii): The proposed time schedule for consummation of the proposed transaction.

DMIR proposes to consummate the proposed transaction immediately after the

conclusion of the 30 day waiting period required by the Board's trackage rights exemption regulations, on or about July 14, 2007

49 CFR 1180.6(a) (1) (iii): The purpose sought to be accomplished by the proposed transaction.

The purpose of the proposed transaction is to enhance operational efficiency in the movement of overhead freight movements, reblocking of cars within the same train, and setting out cars requiring servicing, between Shelton Jct and Nopcming Jct , MN.

49 CFR 1180.6(a) (5): A list of the State(s) in which any part of the property of each applicant carrier is situated.

DWP operates in the States of Minnesota and Wisconsin DMIR operates in the States of Minnesota and Wisconsin

49 CFR 1180.6(a)(6): Map (exhibit A). Submit it 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.

A map satisfying this provision is attached hereto as Exhibit A

49 CFR 1180.6(a) (7) (ii): Agreement (Exhibit B). DMIR is furnishing an executed copy of the amendment to the trackage rights agreement, marked as Exhibit B

49 CFR 1180.4(g) (i): Labor Protection.

DMIR anticipates that any employees adversely affected by this transaction will be afforded the level of labor protection as set forth in Norfolk and Western Ry Co. - Trackage Rights - BN, 354 I C C 605 (1978), *as modified in* Mendocino Coast Ry, Inc - Lease and Operate, 360 I C C 653 (1980)

49 CFR 1180.4(g)(2)(i): Caption Summary (Exhibit C).

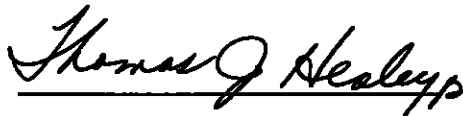
DMIR submits a caption summary describing the transaction as Exhibit C

49 CFR 1180.4(g)(3): Environmental and historic reporting requirements.

The proposed transaction is exempt from environmental review under 49 CFR 1105 6(c) (4), which provides that environmental documentation need not be prepared for trackage rights transactions or transactions that will not cause any operating changes that exceed the thresholds established in 1105 7(e) (4) or (5)

In addition, this transaction is exempt from historic review under 49 CFR 1105 8(b) (3) because it will not substantially change the level of maintenance of railroad property

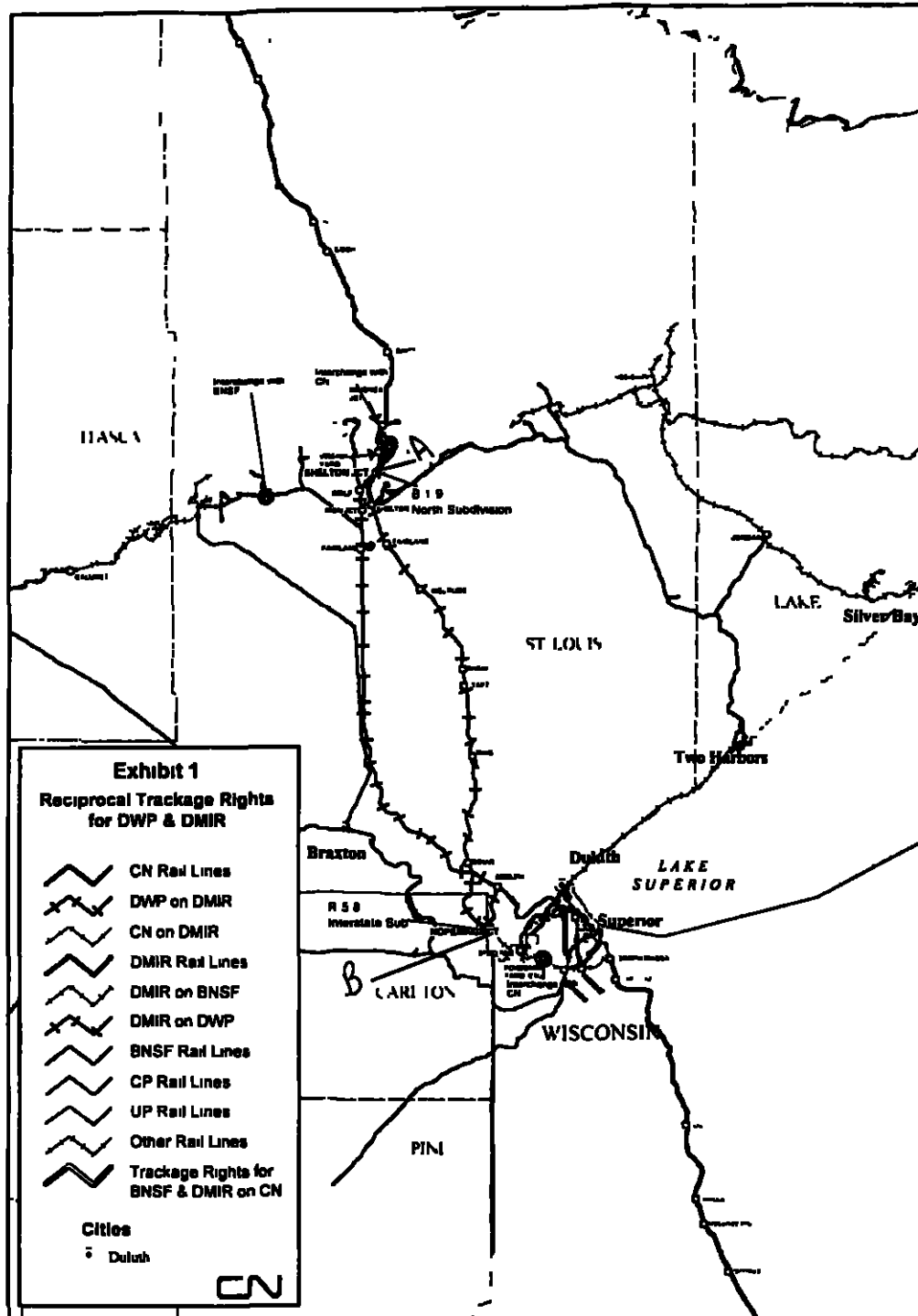
Respectfully submitted



Thomas J. Healey
Counsel - Regulatory
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17641 S Ashland Avenue
Homewood, IL 60430
Tel (708) 332-4381
Fax (708) 332-4361

Dated June 13, 2007

EXHIBIT A



COLOR FIGURE 4

AMENDMENT AGREEMENT

THIS AMENDMENT AGREEMENT, entered into as of this 4th day of June 2007 by and between **DULUTH, WINNIPEG AND PACIFIC RAILWAY COMPANY** (hereinafter referred to as "DWP or "OWNER"), and **DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY**, (hereinafter referred to as "DMIR" or "USER")

WITNESSETH:

WHEREAS, DWP and DMIR made and entered into a certain agreement attached to the Notice of Exemption filed on November 5, 2003 in Finance Docket No 34424, Sub-No 2, Exhibit 2 d, ("Trackage Rights Agreement") which provides among other things for DMIR use of DWP trackage between Nopeming Junction and Shelton Junction, and

WHEREAS, DWP and DMIR desire to amend the Trackage Rights Agreement to eliminate certain limitations and restrictions currently as it relates to the use of the Subject Trackage, and

NOW, THEREFORE, The parties hereto, intending to be legally bound, agree as follows

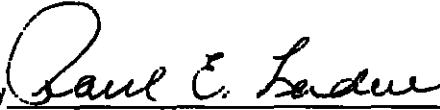
- 1) Section 1.1 of the Trackage Rights Agreement shall be replaced in its entirety with the following
 - "Subject to the terms and conditions herein provided, Owner hereby grants to User the right to operate, in modified overhead freight service, its trains, locomotives, cars, and equipment with its own crews (hereinafter referred to as the "Trackage Rights") over the following segment of Owner's railroad shown on the plan attached hereto, made a part hereof and marked Exhibit "A" (hereinafter referred to as the "Subject Trackage")
 - Between the DWP's Nopeming Jct., Mileage 10.7 and DWP's Shelton Jct., Mileage 70.7, all on DWP's Rainy Subdivision, a distance of approximately 60 miles, all in the State of Minnesota "
- 2) Section 2.2 of the Trackage Rights Agreement shall be replaced in its entirety with the following
 - "User may use any part of the Subject Trackage for the purpose of overhead movements, reblocking cars within single trains operated by User, or setting out of cars requiring servicing. Except as provided above, User may not use any part of the Subject Trackage for the purpose of switching of cars to industries, storage or servicing of cars or equipment, or the making or breaking up of trains "
- 3) Section 3.1 of the Trackage Rights Agreement shall be replaced in its entirety with the following
 - "The trackage rights herein granted are granted for the purpose of User using same for overhead traffic between the terminals of Subject Trackage,

reblocking cars within single trains operated by User, or setting out cars requiring servicing. User may not perform any local freight service whatsoever at any point located on Subject Trackage."

- 4) No term or provision of this Amendment Agreement shall be construed as prohibiting the parties from operating under existing trackage rights agreements, in the event the parties are unable to obtain regulatory exemption or approval, as applicable, or implementing agreements that are acceptable to the parties
- 5) Except as specifically herein modified, all other terms and conditions of the Trackage Rights Agreement shall remain in full force and effect

IN WITNESS WHEREOF, the parties hereto execute this Amendment Agreement, in duplicate, as of the day and year first above written

**DULUTH, WINNIPEG & PACIFIC
RAILWAY COMPANY**

By 
Paul E. Ladue

Its: Region Director Contracts & Administration

Date: June 4, 2007

**DULUTH, MISSABE AND IRON RANGE
RAILWAY COMPANY**

By 
Gordon T. Trafton

Its: Sr. Vice President Southern Region

Date: June 4, 2007

EXHIBIT C

**EXHIBIT C
CAPTION SUMMARY**

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

STB Finance Docket No 35046

AMENDMENT TO TRACKAGE RIGHTS AGREEMENT

Between

**DULUTH, WINNIPEG AND PACIFIC RAILWAY COMPANY
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**Relating to DMIR's Trackage Rights Over
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Shelton Jct., MN and Nopeming Jct , MN**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 CFR 1180.2(d) (7)**

Duluth, Winnipeg and Pacific Railway Company ("DWP") has agreed to amend existing trackage rights to allow for nonexclusive overhead movements, reblocking cars within single trains, or setting out cars requiring servicing, to Duluth, Missabe and Iron Range Railway Company ("DMIR") between Shelton Jct , Milepost 70.7 and Nopeming Jct , MN, at Milepost 10.7. The trackage rights are a distance of approximately 60.0 miles in length. The purpose of the proposed transaction is to enhance operational efficiency in the movement of overhead freight movements, reblocking of cars within the same train, and setting out cars requiring servicing, between Shelton Jct and Nopeming Jct , MN. The trackage rights will become

effective immediately after the conclusion of the 30 day waiting period required by the Board's trackage rights exemption regulations, on or about July 14, 2007

This notice is filed under § 1180 2(d)(7) 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 stay the transaction

Dated

By the Board

Vernon A Williams

Secretary

VERIFICATION

STATE OF ILLINOIS)

CITY OF COOK) SS

Paul Ladue, being duly sworn according to law, hereby deposes and states that he is authorized to make the Verification, has read the foregoing document, and knows the facts asserted therein are true and accurate as stated, to the best of (her)his knowledge, information and belief

Paul E. Ladue

Subscribed and sworn to before me, a Notary Public, in and for the City of Clp in the State of Illinois, this day of 13 June 2007

Patricia A. Zieminski
Notary Public

My Commission expires