

Issued: February 7, 1996.

William A. Boehly,
Associate Administrator for Research and
Development.
[FR Doc. 96-3006 Filed 2-9-96; 8:45 am]
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Surface Transportation Board¹

[Finance Docket No. 32846]

Soo Line Railroad Company— Trackage Rights Exemption—CMC Heartland Partners

CMC Heartland Partners (CMC) has agreed to grant local and overhead trackage rights to Soo Line Railroad Company (Soo) over approximately 2.10 miles of its rail line between milepost 96.76 near Richards Street and milepost 97.07 at the Western edge of North Booth Street (near East Locust Street), including the trackage known as the Snake Line, in Milwaukee County, WI. Under the trackage rights agreement, Soo will obtain the right to continue operations over CMC's track in Milwaukee, WI. The trackage rights were scheduled to become effective on January 4, 1996.²

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) [formerly 10505(d)] may be filed at any time. The filing of a petition

¹ The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This notice relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323. Therefore, this notice applies the law in effect prior to the Act.

² The line segment is one of the lines of railroad owned and operated by the Chicago, Milwaukee, St. Paul & Pacific Railroad Company (Milwaukee Road). CMC subsequently became the corporate successor of the reorganized debtor order in *The Milwaukee Road, Inc. Authorized to Use Tracks And/Or Facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilive, Trustee)*, Service Order No. 1500 (ICC served Jan. 17, 1986), although an ongoing dispute existed between CMC and Soo as to the amount of compensation owed by Soo for use or possible purchase of the line. On July 20, 1995, the United States District Court for the Northern District of Illinois, Eastern Division ordered Soo and CMC to enter into a contractual relationship to resolve the dispute and established the values which are reflected in the trackage rights agreement dated November 20, 1995.

to revoke will not automatically stay the transaction. Pleadings must be filed with the Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, D.C. 20423 and served on: Larry Starns, 1000 Soo Line Building, 105 South Fifth Street, P.O. Box 530, Minneapolis, MN 55402.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected under *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).

Decided: February 6, 1996.

By the Board, David M. Konschnick,
Director, Office of Proceedings.
Vernon A. Williams,
Secretary.
[FR Doc. 96-3040 Filed 2-9-96; 8:45 am]
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[Finance Docket No. 32847]

Soo Line Railroad Company— Trackage Rights Exemption—CMC Heartland Partners

CMC Heartland Partners (CMC) has agreed to grant local and overhead trackage rights to Soo Line Railroad Company (Soo) over approximately 1.04 miles of its rail line between milepost 3.50, near Diversey Parkway, and milepost 2.57, near Clybourn Avenue, in Cook County, IL.

Under the trackage rights agreement, Soo will obtain the right to continue to operate its trains over CMC's track in Chicago, IL. The trackage rights were scheduled to become effective on January 4, 1996, the effective date of the exemption.²

¹ The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This notice relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323. Therefore, this notice applies the law in effect prior to the Act.

² On January 3, 1996, the United Transportation Union (UTU) filed a petition requesting that the verified notice filed by Soo on December 28, 1995, be rejected, alleging that CMC is a noncarrier, and, therefore, does not qualify for the class exemption under 49 CFR 1180.2(d)(7). Soo replied on January 30, 1996.

CMC is the corporate successor of the reorganized debtor railroad, Chicago, Milwaukee, St. Paul and Pacific Railroad Company (the Milwaukee). By the

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As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected under *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).

Decided: February 6, 1996.

By the Board, David M. Konschnick,
Director, Office of Proceedings.
Vernon A. Williams,
Secretary.
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Asset Purchase Agreement of April 6, 1984, Soo acquired from CMC most of the operating property and core assets of the Milwaukee; but CMC retained this line segment. At the time, abandonment proceedings initiated by the Trustee were pending in the United States District Court for the Northern District of Illinois, Eastern Division (Court). Soo continued to operate the line under a service order in *The Milwaukee Road, Inc. Authorized to Use Tracks And/Or Facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilive, Trustee)*, Service Order No. 1500 (ICC served Jan. 17, 1986), although an ongoing dispute existed between CMC and Soo as to the compensation owed Soo for use or possible purchase of the line. On July 20, 1995, the Court ordered Soo and CMC to enter into a contractual relationship to resolve the dispute and established the values for compensation and billing.

Soo states that the Court in its various decisions has uniformly referred to the rights acquired by Soo as trackage rights. It also states that CMC's filing of abandonment applications with respect to lines of railroad which were not conveyed to Soo under the asset purchase agreement, the Interstate Commerce Commission's actions in these proceedings, and UTU's objections to those abandonments demonstrate that all parties have consistently recognized that CMC's rail property is subject to the regulatory mandate established by Subtitle IV of Title 49 of the United States Code and subject to regulatory oversight with respect to railroad line abandonments.

In this case, Soo's trackage rights, which will permit Soo's operation over CMC's rail property, are properly filed under the class exemption procedures under 49 CFR 1180.2(d)(7). Therefore, UTU's petition to reject the notice is denied.