

Railway Company (NSR),¹ NSR has agreed to grant CPRC approximately 12.5 miles of overhead trackage rights in the vicinity of Buffalo, NY, over: (a) NSR's Southern Tier Line between milepost 413.0± and the western end of the Southern Tier Line at milepost 419.8± (including tracks into NSR's Bison Yard), a distance of approximately 6.8 miles; (b) NSR's Bison Running Track between the point of connection with the Southern Tier Line at milepost 419.8± and the point of connection with the lines of CSX Transportation, Inc. (CSXT) at milepost 423.3±, a distance of approximately 3.5 miles; and (c) NSR's Howard Street Running Track between the point of connection with the Bison Running Track at milepost 420.15± and the point of connection with the lines of CSXT at milepost 422.3±, a distance of approximately 2.15 miles.²

The transaction will be consummated on a date mutually agreed in writing between CPRC and NSR, which shall not occur until the effective date of any required Board approval of the petition for exemption filed by D&H in *Delaware and Hudson Railway Company—Discontinuance of Trackage Rights—in Susquehanna County, PA and Broome, Tioga, Chemung, Steuben, Allegany, Livingston, Wyoming, Erie and Genesee Counties, NY*, STB Docket No. AB-156 (Sub-No. 25X) (including compliance with any conditions imposed by the Board in connection with such approval or exemption).³

The purpose of the trackage rights is to allow CPRC to access customers via switching in the Buffalo terminal area, and to interchange traffic with other rail carriers along the Southern Tier Line and in the Buffalo Terminal Area.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in

¹ A redacted version of the trackage rights agreement between CPRC and NSR was filed with the notice of exemption. The full version of the agreement, as required by 49 CFR 1180.6(a)(7)(ii), was concurrently filed under seal along with a motion for protective order. A protective order was served on October 8, 2004.

² CPRC will acquire the trackage rights by assignment from its affiliate, Delaware and Hudson Railway Company, Inc. (D&H).

³ By decision served on October 7, 2004, the effective date of this trackage rights exemption was stayed until October 27, 2004, to allow for review of certain documents, filing of a petition to revoke, and the Board's consideration of the stay request filed in this proceeding. Accordingly, consummation of the transaction cannot occur until October 27, 2004, at the earliest, but, as noted, the parties anticipate consummation at some time after the Board acts on the petition for exemption in STB Docket No. AB-156 (Sub-No. 25X).

Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. 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 automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34561, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Terence M. Hynes, Sidley Austin Brown & Wood LLP, 1501 K Street, NW., Washington, DC 20005.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: October 13, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

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CSX Transportation, Inc. (CSXT) at milepost 423.3± in Buffalo, NY (including NSR's SK Yard, which D&H currently operates under an agreement between D&H and Consolidated Rail Corporation dated as of February 1, 1984), a distance of approximately 3.5 miles; and (4) NSR's Howard Street Running Track between the point of connection with the Bison Running Track at milepost 420.15± and the point of connection with the lines of CSXT at milepost 422.3±, a distance of approximately 2.15 miles. D&H will retain trackage rights over NSR's line between milepost 210.9± and milepost 217.0± in Binghamton, NY, because D&H requires the use of that segment for ongoing operations in the Binghamton terminal area.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by January 19, 2005.

This proceeding is exempt from environmental reporting requirements under 49 CFR 1105.6(c) and from historic reporting requirements under 1105.8(b).

All filings in response to this notice must refer to STB Docket No. AB-156 (Sub-No. 25X) and must be sent to: (1) Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-001; and (2) Terence M. Hynes, Sidley Austin Brown & Wood LLP, 1501 K Street, NW., Washington, DC 20005. Replies to the petition are due on or before November 10, 2004.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565-1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

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Decided: October 13, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

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