

3. Land: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303].

4. Wildlife: Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)]; Migratory Bird Treaty Act [16 U.S.C. 703–712].

5. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*].

6. Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)].

7. Wetlands and Water Resources: Clean Water Act (Section 404, Section 401, Section 319) [33 U.S.C. 1251–1377]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)–300(j)(6)].

8. Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: May 25, 2011.

Maiser Khaled,

Acting Director, State Programs, Federal Highway Administration, Sacramento, California.

[FR Doc. 2011–13545 Filed 5–31–11; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35500]

Saratoga and North Creek Railway, LLC—Acquisition and Operation Exemption—Delaware and Hudson Railway Company, Inc. d/b/a Canadian Pacific

Saratoga and North Creek Railway, LLC (Saratoga),¹ a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Delaware and Hudson Railway Company, Inc. d/b/a Canadian Pacific (CP) a permanent and exclusive freight rail easement over,

¹ Saratoga is a limited liability company, wholly owned by San Luis & Rio Grande Railroad (SLRG). SLRG is a Class III rail carrier and a subsidiary of Permian Basin Railways, Inc., which in turn is owned by Iowa Pacific Holdings, LLC.

and to operate, approximately 16.45-miles of rail line known as the Adirondack Branch extending between Adirondack Branch milepost 39.44 at or near Saratoga Springs, NY, and Adirondack Branch milepost 55.89 at or near Corinth, NY.² In addition, Saratoga states that it will acquire approximately 3.2 miles of operating rights for the purpose of interchange with CP between Adirondack Branch milepost 39.44 and CP's yard at Saratoga Springs located at Canadian Subdivision milepost 35.³ The Town will remain the owner of the tracks and right-of-way.

Saratoga states that it is negotiating the terms of an agreement with CP covering its acquisition of the permanent and exclusive freight easement and operating rights over CP's reserved operating easement, as well as an agreement with the Town for the use of its track and right-of-way.⁴

This transaction is related to two simultaneously filed notices of exemption: (1) Docket No. FD 35500 (Sub-No. 1), *Saratoga and North Creek Railway, LLC—Operation Exemption—Warren County, NY*, in which Saratoga seeks an exemption under 49 CFR 1150.31 to operate over approximately 39.07 miles of rail line owned by Warren County, NY, extending between milepost 55.89 at or near Corinth, NY, and milepost 94.96 at North Creek, NY; and (2) Docket No. FD 35499, *San Luis & Rio Grande Railroad—Continuance in Control Exemption—Saratoga and North Creek Railway, LLC*, in which SLRG seeks an exemption to continue in control of Saratoga upon Saratoga's becoming a Class III rail carrier. As a result of these transactions, Saratoga will have authority to operate from Saratoga Springs to North Creek.

² CP sold the underlying track and right-of-way to the Town of Corinth, NY (the Town), subject to CP's reservation of an exclusive and permanent easement to continue to provide common carrier freight service over the line. *See The Town of Corinth, NY—Acquisition and Operation Exemption—Canadian Pac. Ry.*, FD 34803 (STB served Jan. 11, 2006 and Mar. 9, 2006). The transaction was structured so that the Town would not incur a freight rail common carrier obligation when it purchased those rail line assets from CP. *See Me. Dep't of Transp.—Acquis. & Operation Exemption—Me. Cent. R.R.*, 8 I.C.C.2d 835 (1991). Saratoga is acquiring the easement and the associated freight rail common carrier rights and obligations that CP reserved for itself at the time of the sale.

³ By letter filed May 18, 2011, Saratoga explains that the apparent discrepancy between the mileposts and total mileage arose over the years from CP's making changes to the track or right-of-way with the result that the distance was shortened and/or the milepost at the point of interchange was changed.

⁴ While the parties have not completed the agreements, Saratoga must acquire sufficient rights to fully meet the common carrier obligation being acquired from CP.

Saratoga indicates that its agreement with the Town will not permit the collecting, sorting, loading, unloading, transferring, or transporting of municipal solid waste or construction and demolition material.⁵

Saratoga certifies that its projected annual revenues as a result of this transaction will not result in Saratoga's becoming a Class II or Class I rail carrier and will not exceed \$5 million.

Saratoga intends to consummate the transaction in either late June or early July 2011. The earliest the transaction may be consummated is after the June 15, 2011 effective date of the exemption (30 days after the exemption was filed).

If the verified notice 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 effectiveness of the exemption. Stay petitions must be filed no later than June 8, 2011 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35500, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on John D. Heffner, John D. Heffner, PLLC, 1750 K Street, NW., Suite 200, Washington, DC 20006.

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

Decided: May 26, 2011.

By the Board.

Rachel D. Campbell,

Director, Office of Proceedings.

Andrea Pope-Matheson,

Clearance Clerk.

[FR Doc. 2011–13493 Filed 5–31–11; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35499]

San Luis & Rio Grande Railroad—Continuance in Control Exemption—Saratoga and North Creek Railway, LLC

San Luis & Rio Grande Railroad (SLRG), a Class III rail carrier, has filed a verified notice of exemption to continue in control of Saratoga and

⁵ Saratoga is reminded that it cannot by contract avoid its common carrier obligation to transport a commodity over the line.

North Creek Railway, LLC (Saratoga) upon Saratoga's becoming a Class III rail carrier.¹

This transaction is related to two simultaneously filed notices of exemption: (1) Docket No. FD 35500, *Saratoga and North Creek Railway—Acquisition and Operation Exemption—Delaware and Hudson Railway Company d/b/a Canadian Pacific*, in which Saratoga seeks an exemption under 49 CFR 1150.31 to acquire from Delaware and Hudson Railway Company, Inc. d/b/a Canadian Pacific (CP) a permanent and exclusive freight rail easement over, and to operate, approximately 16.45-miles of rail line known as the Adirondack Branch extending between Adirondack Branch milepost 39.44 at or near Saratoga Springs, NY and Adirondack Branch milepost 55.89 at or near Corinth, NY, and approximately 3.2 miles of operating rights for the purpose of interchange with CP between Adirondack Branch milepost 39.44 and CP's yard at Saratoga Springs located at Canadian Subdivision milepost 35; and (2) Docket No. FD 35500 (Sub-No. 1), *Saratoga and North Creek Railway—Operation Exemption—Warren County, NY*, in which Saratoga seeks an exemption under 49 CFR 1150.31 to operate over approximately 39.07 miles of rail line owned by Warren County, NY, extending between milepost 55.89 at or near Corinth, NY, and milepost 94.96 at North Creek, NY. As a result of these transactions, Saratoga will have authority to operate from Saratoga Springs to North Creek.

The parties intend to consummate the transaction in either late June or early July 2011. The earliest the transaction may be consummated is after the June 15, 2011 effective date of the exemption (30 days after the exemption was filed).

The parties certify that: (1) The rail lines to be operated by Saratoga will not connect with any other lines in their corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or with any other railroad in their corporate family; and (3) the transaction does not involve a Class I rail carrier. Therefore, the transaction is exempt from the prior approval requirements of

¹ Saratoga is a limited liability company, wholly owned by SLRG. SLRG is a Class III rail carrier and a subsidiary of Permian Basin Railways, Inc. (PBR), which in turn is owned by Iowa Pacific Holdings, LLC, a noncarrier short line holding company. PBR currently owns the following Class III rail carriers: SLRG, West Texas & Lubbock Railway, Austin & Northwestern Railroad d/b/a Texas-New Mexico Railroad, Arizona Eastern Railway, Chicago Terminal Railroad, and Mount Hood Railroad.

49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

If the verified notice 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 effectiveness of the exemption. Stay petitions must be filed no later than June 8, 2011 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35499, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on John D. Heffner, John D. Heffner, PLLC, 1750 K Street, NW., Suite 200, Washington, DC 20006.

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

Decided: May 26, 2011.

By the Board.

Rachel D. Campbell,
Director, Office of Proceedings.

Jeffrey Herzig,
Clearance Clerk.

[FR Doc. 2011-13479 Filed 5-31-11; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35500 Sub-No. 1]

Saratoga and North Creek Railway, LLC—Operation Exemption—Warren County, NY

Saratoga and North Creek Railway, LLC (Saratoga),¹ a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to operate approximately 39.07 miles of rail line owned by Warren County, NY (the County), a noncarrier, extending between milepost

¹ Saratoga is a limited liability company, wholly owned by San Luis & Rio Grande Railroad (SLRG). SLRG is a Class III rail carrier and a subsidiary of Permian Basin Railways, Inc., which in turn is owned by Iowa Pacific Holdings, LLC.

55.89 at or near Corinth, NY, and milepost 94.96 at North Creek, NY Saratoga states that the County will retain ownership of the track and right-of-way as a noncarrier.²

Saratoga states that it was formed by SLRG for the purpose of acquiring and operating the subject rail line and the connecting line to Saratoga Springs, NY, owned by the Town of Corinth, NY.³

Saratoga states that it is negotiating the terms of an agreement with the County to restore common carrier rail freight service over the subject line.⁴ Saratoga also intends to restore a rail passenger excursion service over the line.

This transaction is related to two simultaneously filed notices of exemption: (1) Docket No. FD 35500, *Saratoga and North Creek Railway, LLC—Acquisition and Operation Exemption—Delaware and Hudson Railway Company, Inc. d/b/a Canadian Pacific*, in which Saratoga seeks an exemption under 49 CFR 1150.31 to acquire from CP a permanent and exclusive freight rail easement over, and to operate, approximately 16.45-miles of rail line known as the Adirondack Branch extending between Adirondack Branch milepost 39.44 at or near Saratoga Springs, NY, and Adirondack Branch milepost 55.89 at or near Corinth, NY, and approximately 3.2 miles of operating rights for the purpose of interchange with CP between Adirondack Branch milepost 39.44 and CP's yard at Saratoga Springs located at Canadian Subdivision milepost 35; and (2) Docket No. FD 35499, *San Luis & Rio Grande Railroad—Continuance in Control Exemption—Saratoga and North Creek Railway, LLC*, in which SLRG seeks an exemption to continue in control of Saratoga upon Saratoga's becoming a Class III rail carrier. As a result of these transactions, Saratoga will have authority to operate from Saratoga Springs to North Creek.

² According to Saratoga, the County acquired the track and right-of-way after the line was abandoned and did not incur a common carrier obligation for the line. See *Common Carrier Status of States, State Agencies and Instrumentalities, and Political Subdivisions*, 363 I.C.C. 132 (1980), *aff'd. sub nom. Simmons v. ICC*, 697 F.2d 326 (D.C. Cir. 1982), codified at 49 CFR 1150.22.

³ Saratoga states that the subject trackage connects south of Corinth with a line of railroad that extends to milepost 39.44 at Saratoga Springs, NY, where it connects with a main line of the Delaware & Hudson Railway Company, Inc. d/b/a Canadian Pacific (CP). Saratoga also states that the subject trackage continues north of North Creek to Tahawus and was operated historically as exempt industry trackage.

⁴ While the parties have not completed the agreement, Saratoga must acquire sufficient rights to fully meet its common carrier obligation to operate the line.