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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35213]

GNP Rly Inc.—Acquisition and Operation Exemption—BNSF Railway Company

GNP Rly Inc. (GNP), a Class III rail carrier,¹ has filed a notice of exemption under 49 CRF 1150.41 to acquire and operate the exclusive freight rail easement (the easement) of BNSF Railway Company (BNSF) on a rail line known as Woodinville Subdivision, extending between approximately milepost 23.80 in Woodinville and approximately milepost 38.25 in Snohomish, a distance of approximately 14.45 miles in King and Snohomish counties, WA (the Line). GNP has negotiated two agreements with BNSF, one covering the purchase of the easement and the other for interchange with BNSF, to be signed upon the closing of the purchase of the Line's right-of-way, track, and physical assets by the Port of Seattle (the Port).²

¹ GNP received authority to lease and operate a segment of rail line between milepost 39.1 and milepost 39.3 in the City and County of Snohomish, WA, in GNP Rly Inc.—Modified Rail Certificate—in Snohomish County, WA, STB Finance Docket No. 35151 (STB served Aug. 13, 2008).

² See The Port of Seattle—Acquisition Exemption—Certain Assets of BNSF Railway Company, STB Finance Docket No. 35128 (STB served Oct. 27, 2008) (dismissing a notice of exemption by the Port to acquire the right-of-way, track, and physical assets of the Line, on which BNSF retained the exclusive easement to conduct freight operations, because the Board found that the transaction did not require Board approval).

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

GNP states that it expects to consummate the transaction on or after April 1, 2009. The earliest this transaction may be consummated is the February 28, 2009 effective date of the exemption (30 days after the exemption was filed).

Pursuant to the Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, § 193, 121 Stat.1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: collecting, storing, or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting, and shredding). The term "solid waste" is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

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. Petitions for stay must be filed no later than February 20, 2009 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35213, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington DC 20423-0001. In addition, a copy of each pleading must be served on John D. Heffner, PLLC, 1750 K Street, N.W., Suite 200, Washington, DC 20006.

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Decided: February 6, 2009.

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

Anne K. Quinlan

Acting Secretary