

delegated by the President, is designating the Greater Cairo zone, Alexandria zone, and Suez Canal zone as qualifying industrial zones under the IFTA Act.

**FOR FURTHER INFORMATION CONTACT:** Edmund Saums, Director for Middle East Affairs, (202) 395-4987, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508.

**SUPPLEMENTARY INFORMATION:** Pursuant to authority granted under section 9 of the United States-Israel Free Trade Area Implementation Act of 1985 ("IFTA Act"), as amended (19 U.S.C. 2112 note), Presidential Proclamation 6955 of November 13, 1996 (61 FR 58761) proclaimed certain tariff treatment for articles of the West Bank, the Gaza Strip, and qualifying industrial zones. In particular, the Presidential Proclamation modified general notes 3 and 8 of the Harmonized Tariff Schedule of the United States: (a) To provide duty-free treatment to qualifying articles that are the product of the West Bank, the Gaza Strip or a qualifying industrial zone and are entered in accordance with the provisions of section 9 of the IFTA Act; (b) to provide that articles of Israel may be treated as though they were articles directly shipped from Israel for the purposes of the United States-Israel Free Trade Area Agreement ("the Agreement") even if shipped to the United States from the West Bank, the Gaza Strip, or a qualifying industrial zone, if the articles otherwise meet the requirements of the Agreement; and (c) to provide that the cost or value of materials produced in the West Bank, the Gaza Strip, or a qualifying industrial zone may be included in the cost or value of materials produced in Israel under section 1(c)(i) of Annex 3 of the Agreement and that the direct costs of processing operations performed in the West Bank, the Gaza Strip, or a qualifying industrial zone may be included in the direct costs of processing operations performed in Israel under section 1(c)(ii) of Annex 3 of the Agreement.

Section 9(e) of the IFTA Act defines a "qualifying industrial zone" as an area that "(1) encompasses portions of the territory of Israel and Jordan or Israel and Egypt; (2) has been designated by local authorities as an enclave where merchandise may enter without payment of duty or excise taxes; and (3) has been specified by the President as a qualifying industrial zone."

Presidential Proclamation 6955 delegated to the United States Trade Representative the authority to designate qualifying industrial zones.

The United States Trade Representative has previously designated qualifying industrial zones under Section 9 of the IFTA Act on March 13, 1998 (63 FR 12572), March 19, 1999 (64 FR 13623), October 15, 1999 (64 FR 56015), October 24, 2000 (65 FR 64472), December 12, 2000 (65 FR 77688), June 15, 2001 (66 FR 32660), and January 28, 2004 (69 FR 4199).

The governments of Israel and Egypt jointly requested in a letter submitted to the United States Trade Representative on December 7, 2004, the designation as qualifying industrial zones of areas comprising a Greater Cairo zone, Alexandria zone, and Suez Canal zone. The names and locations of the factories comprising these three zones are specified on maps and materials submitted by Egypt and Israel and on file with the Office of the U.S. Trade Representative. Israel and Egypt have agreed that merchandise may enter, without payment of duty or excise taxes, areas under their respective customs control that comprise the Greater Cairo zone, Alexandria zone, and Suez Canal zone. In addition, Israel and Egypt have agreed to a "Protocol Between the Government of the State of Israel and the Government of the Arab Republic of Egypt On Qualifying Industrial Zones" that provides for the operation and administration of these zones.

Accordingly, the Greater Cairo zone, Alexandria zone, and Suez Canal zone meet the criteria under sections 9(e)(1) and (2) of the IFTA Act.

Therefore, pursuant to the authority delegated to me by Presidential Proclamation 6955, I hereby designate the areas occupied by the factories that comprise the Greater Cairo zone, Alexandria zone, and Suez Canal zone, as specified on maps and materials received from Egypt and Israel, as qualifying industrial zones under section 9 of the IFTA Act, effective upon the date of publication of this notice, applicable to articles shipped from these qualifying industrial zones after such date.

Dated: December 14, 2004.

**Robert B. Zoellick,**

*United States Trade Representative.*

[FR Doc. 04-28445 Filed 12-28-04; 8:45 am]

**BILLING CODE 3190-W5-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34630]

#### MRC Regional Railroad Authority— Trackage Rights Exemption—Lines of the State of South Dakota

MRC Regional Railroad Authority (MRC), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from the State of South Dakota (the State)<sup>1</sup> overhead trackage rights over a line of railroad extending between milepost 654 near Mitchell, SD, and milepost 511.90 in Sioux City, IA, including such yard tracks, sidetracks, and connecting tracks (existing or to be constructed) as are reasonable: (a) To interchange railcars with The Burlington Northern and Santa Fe Railway Company (BNSF) and Dakota, Minnesota & Eastern Railroad Corporation at Mitchell; (b) to access the State-owned line extending westerly from Napa Junction, SD, to Platte, SD; and (c) to interchange railcars with BNSF, Union Pacific Railroad Company, and Canadian National Railway Company at Sioux City. MRC will also acquire from the State limited local trackage rights on the Mitchell-Sioux City Line: (i) to move loaded cars of corn, soybeans, and wheat originating at points on the line between Mitchell and Kadoka, SD,<sup>2</sup> and terminating at the Mitchell Elevator in Mitchell and the Beardsley Elevator in Beardsley, SD; and (ii) to move empty cars via the reverse route. The total distance of the trackage rights to be acquired is approximately 142.1 miles.

MRC certifies that its projected revenues as a result of the MRC-South Dakota transaction will not result in MRC becoming a Class I or Class II rail carrier, and further certifies that its projected revenues will not exceed \$5 million. The MRC-South Dakota transaction was scheduled to be consummated on or after December 17, 2004.

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 does not automatically stay the transaction.

<sup>1</sup> The trackage rights will be granted by the State acting by and through the South Dakota State Railroad Board and the South Dakota Department of Transportation, Office of Railroads.

<sup>2</sup> The previously abandoned Mitchell-Kadoka Line, which is now owned by the State, has been leased to MRC. And MRC, in turn, has subleased the Mitchell-Kadoka Line to Dakota Southern Railway Company (DSRC), which operates over the line.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34630, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on MRC's representative: Kenneth W. Cotton, Wipf & Cotton Law Offices, LLC, 107 South Main Street, Wagner, SD 57380.

The notice of exemption filed with respect to the MRC-South Dakota transaction in this docket is related to a notice of exemption concurrently filed in a related docket: STB Finance Docket No. 34630 (Sub-No. 1), *Dakota Southern Railway Company—Trackage Rights Exemption—State of South Dakota and MRC Regional Railroad Authority*. The notice of exemption filed in the related docket contemplates the operation of MRC's Mitchell-Sioux City Line trackage rights by DSRC on behalf of MRC.

MRC and DSRC have advised that the Mitchell-Sioux City Line, which is owned by the State, is now operated on behalf of the State by BNSF, pursuant to a 1986 Operating Agreement. MRC and DSRC have also advised: that, under the Operating Agreement, the State has the right to grant trackage rights on the Mitchell-Sioux City Line subject to certain BNSF consent; that, although the State has the right to grant trackage rights to MRC for operations by MRC's third-party operator (DSRC), BNSF has not consented to the grant of those rights; and that the failure to provide this consent is now the subject of litigation between the State and BNSF in *The Burlington Northern and Santa Fe Railway Company v. State of South Dakota*, Case No. 04-470 (S.D. 6th Circuit). MRC and DSRC have further advised that they recognize that BNSF consent may have to be obtained, either voluntarily or through litigation, before DSRC can commence trackage rights operations on the Mitchell-Sioux City Line. MRC and DSRC have suggested, however, that, inasmuch as the Board's authority respecting the notices filed in this docket and in the related docket is "permissive" in nature, the filing of the notices in the two dockets is appropriate as a "prelude" to obtaining any necessary consent.

By letter filed December 17, 2004, BNSF has advised that it has not given its consent, and does not intend to give its consent, to the third-party trackage rights operation contemplated by MRC and DSRC. BNSF has further advised that, in its view, the filings by MRC and DSRC in this docket and in the related docket are intended to improperly influence the pending state court litigation. BNSF has asked that the

Board stress that issuance by the Board of the notices filed in this docket and in the related docket: does not constitute any finding by the Board concerning either the Board's jurisdiction over these transactions or DSRC's right to operate over the line without BNSF's consent; and does not provide any basis for MRC or DSRC to claim that the Board has permitted DSRC to operate over the line in the absence of a final decision by the courts that DSRC has a legal right to conduct such operations.

In view of the ongoing litigation concerning the right of the State to grant the trackage rights contemplated in this docket and in the related docket, it seems best to note that the Board has made no determination, one way or the other, concerning either the right of the State to grant these trackage rights without BNSF's consent or the right of DSRC to operate over the line without BNSF's consent. The contractual dispute respecting the scope of the rights retained by or granted to the State and/or BNSF under the 1986 Operating Agreement must be resolved in a court of competent jurisdiction.

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

Decided: December 21, 2004.

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

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 04-28336 Filed 12-28-04; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34630 (Sub-No. 1)]

#### **Dakota Southern Railway Company—Trackage Rights Exemption—State of South Dakota and MRC Regional Railroad Authority**

The State of South Dakota (the State) and MRC Regional Railroad Authority (MRC) have agreed to grant overhead trackage rights to Dakota Southern Railway Company (DSRC) over a State-owned line of railroad extending between milepost 654 near Mitchell, SD, and milepost 511.90 in Sioux City, IA, including such yard tracks, sidetracks, and connecting tracks (existing or to be constructed) as are reasonable: (a) To interchange railcars with The Burlington Northern and Santa Fe Railway Company (BNSF) and Dakota, Minnesota & Eastern Railroad Corporation at Mitchell; (b) to access the State-owned line extending westerly

from Napa Junction, SD, to Platte, SD; and (c) to interchange railcars with BNSF, Union Pacific Railroad Company, and Canadian National Railway Company at Sioux City. The State and MRC have also agreed to grant to DSRC limited local trackage rights on the Mitchell-Sioux City Line: (i) to move loaded cars of corn, soybeans, and wheat originating at points on the DSRC-operated line between Mitchell and Kadoka, SD, and terminating at the Mitchell Elevator in Mitchell and the Beardsley Elevator in Beardsley, SD; and (ii) to move empty cars via the reverse route. The total distance of the trackage rights to be granted to DSRC is approximately 142.1 miles. The DSRC-MRC transaction contemplated by the parties was scheduled to be consummated on or after December 17, 2004.

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 carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

The notice of exemption filed in this docket was 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) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34630 (Sub-No. 1), 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 DSRC's President: George Alexander Huff, IV, Dakota Southern Railway Company, 408 East Prospect Street, Chamberlain, SD 57325.

The notice of exemption filed with respect to the DSRC-MRC transaction in this docket is related to a notice of exemption concurrently filed in a related docket: STB Finance Docket No. 34630, *MRC Regional Railroad Authority—Trackage Rights Exemption—Lines of the State of South Dakota*. The notice of exemption filed in the related docket contemplates MRC's acquisition from the State of the trackage rights that MRC intends to grant to DSRC.

MRC and DSRC have advised that the Mitchell-Sioux City Line, which is