

RAIL REGULATORY LAW
LAW OFFICE OF KEVIN M SHEYS



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August 30, 2024

308664

By Electronic Filing

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20423-0001

ENTERED
Office of Proceedings
August 30, 2024
Part of
Public Record

Re: **Docket No. 35508 (Sub-No. 2)**
Iowa Northern Railway Company – Lease Renewal
Exemption – Rail Line of North Central Iowa Rail Corridor,
LLC

Dear Ms. Brown:

Attached for filing in the above-captioned proceeding is the Verified Notice of Exemption of Iowa Northern Railway Company Pursuant to 49 C.F.R. § 1180.2(d)(4). The filing fee for this matter has been tendered electronically via Pay.gov.

If you have any questions regarding this filing, please feel free to contact me. Thank you for your assistance with this matter.

Respectfully submitted,

KEVIN M. SHEYS
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240-463-4663
WWW.RAILREGLAW.COM

FEE RECEIVED
August 30, 2024
SURFACE TRANSPORTATION BOARD

FILED
August 30, 2024
SURFACE TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 35508 (Sub-No. 2)

IOWA NORTHERN RAILWAY COMPANY
-- LEASE RENEWAL EXEMPTION --
NORTH CENTRAL IOWA RAIL CORRIDOR, LLC

VERIFIED NOTICE OF EXEMPTION
OF
IOWA NORTHERN RAILWAY COMPANY
PURSUANT TO 49 C.F.R. § 1180.2(d)(4)

Iowa Northern Railway Company
301 Tower Park Drive
Suite 300
Waterloo, IA 50701

Applicant

Kevin M. Sheys
Law Office of Kevin M. Sheys
42 Brush Hill Road
Sherborn, MA 01770
(240) 463-4663
Email: ksheys@railreglaw.com

Attorney for Applicant

Date Filed: August 30, 2024

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 35508 (Sub-No. 2)

IOWA NORTHERN RAILWAY COMPANY
-- LEASE RENEWAL EXEMPTION --
NORTH CENTRAL IOWA RAIL CORRIDOR, LLC

VERIFIED NOTICE OF EXEMPTION
OF
IOWA NORTHERN RAILWAY COMPANY
PURSUANT TO 49 C.F.R. § 1180.2(d)(4)

Iowa Northern Railway Company (“IANR”) hereby files this verified notice of exemption under 49 C.F.R. § 1180.2(d)(4) for the further renewal of its Rail Lease, Purchase and Service Agreement (“Lease and Purchase Agreement”) of North Central Iowa Rail Corridor, LLC’s (“NCIRC”) railroad property: (1) between Milepost No. 48.12 at Belmond, IA and Milepost 75.95 at Forest City, IA; and (2) 600 feet of connecting track at Garner, IA (“Forest City Line”). The renewal, made in the attached Second Amendment to Rail Lease, Purchase and Service Agreement (“Second Amendment”), involves solely an extension in time of the rail line lease included in the Lease and Purchase Agreement, a transaction previously authorized by the Board in *Iowa Northern Railway Company – Operation Exemption – North Central Iowa Rail Corridor, LLC*, Docket No. FD 35508 (STB served May 26, 2011) and *Iowa Northern Railway Company – Lease Renewal Exemption – Rail Line of North Central Iowa Rail Corridor, LLC*, Docket No. FD 35508 (Sub-No. 1) (STB served Dec. 15, 2023). No other modifications were made to the rail line lease included in the Lease and Purchase Agreement, as amended. The Second Amendment is accordingly a transaction exempt under 49 C.F.R. § 1180.2(d)(4).

In accordance with the requirements of 49 C.F.R. § 1180.4(g), IANR submits the following information:

Description of the Proposed Transaction: 49 C.F.R. § 1180.6(a)(1)(i)

IANR is a Class III rail carrier which owns, leases or operates lines of railroad in the state of Iowa. It was formed in 1984 on a section of the old Chicago, Rock Island & Pacific Railroad Company. IANR's principal route runs diagonally through Iowa northwest to southeast from Manly to Cedar Rapids, with a branch line from Waterloo to Oelwein, and the leased Forest City Line that is the subject of this Notice. (See map attached as Exhibit 1.)¹

NCIRC is a non-operating rail carrier. It acquired the Forest City Line from Union Pacific Railroad Company in June 2011. See *North Central Iowa Rail Corridor, LLC – Acquisition Exemption – Union Pacific Railroad Company*, Docket No. FD 35507 (STB served May 26, 2011). IANR leased the entire Forest City Line from NCIRC, approximately 27.83 miles of trackage (plus the aforementioned Garner connecting track), for an initial term of ten years, pursuant to the Lease and Purchase Agreement. The Lease and Purchase Agreement was executed on September 30, 2011 and authorized by the STB in *Iowa Northern Railway Company – Operation Exemption – North Central Iowa Rail Corridor, LLC*, Docket No. FD 35508 (STB served May 26, 2011). The parties later agreed to a three-year extension of the Lease and Purchase Agreement, to September 30, 2024. See *Iowa Northern Railway Company – Lease Renewal Exemption – Rail Line of North Central Iowa Rail Corridor, LLC*, Docket No. FD 35508 (Sub-No. 1) (STB served Dec. 15, 2023).

On August 29, 2024, IANR and NCIRC agreed to further extend the Lease and Purchase Agreement for an additional three-year period pursuant to the Second Amendment. The Lease and Purchase Agreement was extended from September 30, 2024 until September 30, 2027. See Exhibit 2. Besides the extension in time, no other provisions of the lease were amended or modified by the Second Amendment.

¹ IANR's proposed control by Canadian National Railway Company is pending before the Board in Docket No. FD 36744, *Canadian National Railway Company and Grand Trunk Corporation – Control – Iowa Northern Railway Company*.

The extension of IANR's lease of the Forest City Line is a renewal of an arrangement the STB has previously authorized and only an extension in time is involved. The Second Amendment thus qualifies as exempt under the Board's class exemption procedures at 49 C.F.R. § 1180.2(d)(4).

The full name and address of the applicant carrier herein is as follows:

Iowa Northern Railway Company
301 Tower Park Drive
Suite 300
Waterloo, IA 50701

Any questions concerning this Notice should be sent to IANR counsel at the following address:

Kevin M. Sheys
Law Office of Kevin M. Sheys
42 Brush Hill Road
Sherborn, MA 01770
(240) 463-4663
ksheys@railreglaw.com

Proposed Time Schedule for Consummation: 49 C.F.R. § 1180.6(a)(1)(ii)

IANR and NCIRC intend to consummate the Second Amendment on September 30, 2024, the day on which the Lease and Purchase Agreement is currently scheduled to expire.

Purpose Sought to Be Accomplished: 49 C.F.R. § 1180.6(a)(1)(iii)

Renewal of the lease arrangement will enable IANR to continue serving customers on the Forest City Line.

States in Which Applicant's Property is Located: 49 C.F.R. § 1180.6(a)(5)

IANR owns, leases or operates rail property in the state of Iowa.

Map - Exhibit 1: 49 C.F.R. § 1180.6(a)(6)

A map meeting the requirements of 49 C.F.R. § 1180.6(a)(6) for this geographically limited transaction is attached as Exhibit 1.

Agreement - Exhibit 2: 49 C.F.R. § 1180.6(a)(7)(ii)

A copy of the Second Amendment is attached as Exhibit 2.

Labor Protective Conditions: 49 C.F.R. § 1180.4(g)(1)(i)

Under 49 U.S.C. § 11326(c), no labor protection is provided for transactions under §§ 11324 and 11325 that involve only Class III rail carriers. The lease extension that is the subject of this notice involves only Class III rail carriers, and accordingly the Board may not impose labor protective conditions on the proposed transaction.

Environmental and Historic Preservation Matters: 49 C.F.R. § 1180.4(g)(3)

Under 49 C.F.R. § 1105.6(c)(1), the Second Amendment is exempt from environmental reporting requirements. IANR's continued lease of the Forest City Line for an additional three-year period will not result in significant changes in carrier operations, i.e., changes that exceed the thresholds established in 49 C.F.R. § 1105.7(e)(4) or (5).

Under 49 C.F.R. § 1105.8(b)(1), the Second Amendment also is exempt from historic preservation reporting requirements. IANR's continued lease of the Forest City Line is for the purpose of continued rail operations. Further Surface Transportation Board approval is required to discontinue or abandon any service and there are no plans to dispose of or alter properties subject to Board jurisdiction that are fifty years old or older.

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Interchange Commitments: 49 C.F.R. § 1180.4(g)(4)

The extension of IANR's lease of the Forest City Line does not involve any provision or agreement that would limit future interchange with a third-party connecting carrier.

Respectfully submitted,

/s/Kevin M. Sheys

Kevin M. Sheys
Law Office of Kevin M. Sheys
42 Brush Hill Road
Sherborn, MA 01770
(240) 463-4663
ksheys@railreglaw.com

**Attorney for Iowa Northern Railway
Company**

August 30, 2024

VERIFICATION

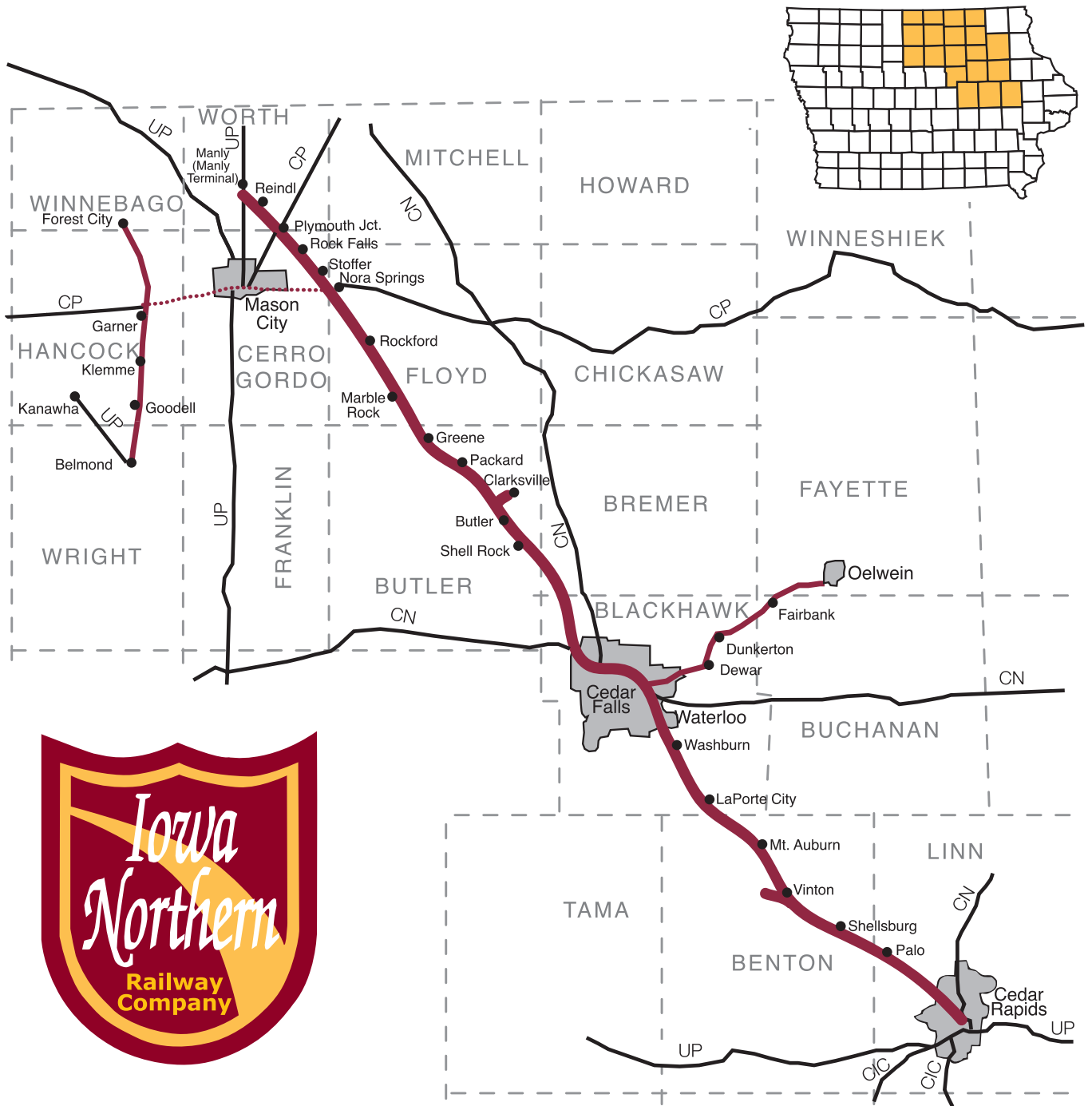
I, Geoffrey A. Juza, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief. Further, I certify that I am qualified and authorized to file this notice.



Geoffrey A. Juza
Chief Financial Officer
Iowa Northern Railway Company

August 30, 2024

Exhibit 1



**SECOND AMENDMENT TO RAIL LEASE,
PURCHASE AND SERVICE AGREEMENT**

THIS SECOND AMENDMENT TO RAIL LEASE, PURCHASE AND SERVICE AGREEMENT (the “Second Amendment”) is entered into as of the 29th day of August, 2024, by and between North Central Iowa Rail Corridor, L.L.C., an Iowa limited liability company (“Lessor”), and Iowa Northern Railway Company (“Lessee”).

RECITALS

- A. Lessor and Lessee entered into that certain Rail Lease, Purchase and Service Agreement, dated September 29, 2011 (the “Rail Lease”), wherein Lessor agreed to lease and sell, and Lessee agreed to lease and buy the Line as defined in the Rail Lease on the terms and conditions set forth therein.
- B. Lessor and Lessee entered into that certain Amendment to Rail Lease, Purchase and Service Agreement, dated October 5, 2021 (the “First Amendment”), wherein the parties agreed to extend the Term of the Rail Lease to end at midnight on the 30th day of September, 2024 (the “Extended Term”) and to amend certain other terms of the Rail Lease.
- C. The parties now desire to amend the Rail Lease to further extend the Term of the Rail Lease to end at midnight on the 30th day of September 2027 (the “Further Extended Term”) on the terms and conditions set forth below in this Second Amendment.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and deemed adequate, the parties, intending to be legally bound by the terms hereof, agree as follows:

1. Incorporation of Recitals. The Recitals set forth above are incorporated herein by reference and are made a part of this Second Amendment and shall constitute an expression of the intent of the parties and as an aid in the construction of this Second Amendment.
2. Amendment to Paragraph 1. Paragraph 1 is hereby amended to change the definition of Service Termination Date to delete the phrase “thirteenth (13th) anniversary” and insert in its place the phrase “sixteenth (16th) anniversary”.
3. Amendment to Paragraph 3. Paragraph 3 is hereby amended to delete the phrase “thirteen (13) years” and insert in its place the phrase “sixteen (16) years”. Paragraph 3 is further amended to delete the year “2024” and insert in its place “2027”.

4. Amendment to Paragraph 13(b). Paragraph 13(b) is hereby amended to delete the phrase "thirteenth (13th) anniversary" and insert in its place the phrase "sixteenth (16th) anniversary".

Ratification. Except as expressly amended herein, the Rail Lease as amended by the First Amendment is hereby ratified and confirmed in all respects.

Capitalized Terms. All capitalized terms not defined in this Second Amendment shall have the meaning set forth in the Purchase Agreement or the First Amendment.

Counterparts. This Second Amendment may be executed in multiple original or facsimile counterparts, each of which shall be deemed an original, and it shall not be necessary in making proof of this Second Amendment to produce or account for more than one of such counterparts.

IN WITNESS WHEREOF, Lessor and Lessee have each executed this Second Amendment as of the date first written above.

LESSOR

North Central Iowa Rail Corridor, LLC

Forest City Economic Development, Inc., Manager

By:


Anthony Mikes, President

STATE OF IOWA)
COUNTY OF WINNEBAGO) ss:

On this 29th day of August , 2024, before me, the undersigned a Notary Public in and for said State, personally appear Tony Mikes, to me personally known, who being by me duly sworn, did say that he is the President of Forest City Economic Development, Inc., Manager of North Central Iowa Rail Corridor, L.L.C.

 8/29/24
NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA



LESSEE

Iowa Northern Railway Company

By: 
Geoffrey A. Juza
Its Chief Financial Officer

STATE OF IOWA)
COUNTY OF LINN) ss:

On this 30th day of August, 2024, before me, the undersigned a Notary Public in and for said State, personally appeared Geoffrey A. Juza to me personally known, who being by me duly sworn, did say that he is the Chief Financial Officer of Iowa Northern Railway Company, executing the within and foregoing instrument; that no seal has been procured by the said corporation; that the said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that the said Daniel R. Sabin, as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it and by him voluntarily executed.

NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA