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SERVICE DATE – LATE RELEASE JULY 19, 2013

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35683

ABE FAIRMONT, LLC—ACQUISITION AND OPERATION EXEMPTION—BNSF  
RAILWAY COMPANY

Decided: July 18, 2013

ABE Fairmont, LLC (ABE), a Class III rail carrier, filed a verified notice of exemption under 49 C.F.R. § 1150.41 to acquire from BNSF Railway Company (BNSF) and to operate an approximately 1.00-mile rail line between BNSF milepost 1.70 and a point of connection with BNSF's main line at milepost 114.73, at or near Fairmont, in Fillmore County, Neb. Notice of the exemption was served and published in the Federal Register on October 31, 2012 (77 Fed. Reg. 65,936). The exemption was scheduled to be consummated on or after November 14, 2012 (30 days after the exemption was filed).

By letter filed on July 11, 2013, ABE notified the Board that it had incorrectly identified one of the terminal points as a point of connection with the main line of BNSF at milepost 114.73. ABE states that the correct terminal point should have been identified as milepost 0.93 on BNSF's branch line at Fairmont, Neb., and that the correct length of track actually acquired is approximately 0.77 miles. ABE further notes that BNSF retained trackage rights over the line between milepost 0.93 and milepost 1.70.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. The line description in the notice of exemption served and published in this proceeding on October 31, 2012, is modified and corrected as described above.
3. This decision is effective on its service date.

By the Board, Richard Armstrong, Acting Director, Office of Proceedings.