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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35974]

Union Pacific Railroad Company—Temporary Trackage Rights Exemption—BNSF
Railway Company

BNSF Railway Company (BNSF) and Union Pacific Railroad Company (UP) have agreed to enter into a written trackage rights agreement,¹ under which BNSF will grant temporary overhead trackage rights to UP between milepost 579.3 near Mill Creek, Okla., on BNSF's Creek Subdivision and milepost 631.0 near Joe Junction, Tex., on BNSF's Madill Subdivision, a distance of approximately 51.7 miles.

The transaction may be consummated on or after December 3, 2015, the effective date of the exemption (30 days after the verified notice of exemption was filed).

The purpose of the transaction is to allow UP to move loaded and empty unit ballast trains to be used for UP maintenance of way projects. UP states that, under the terms of the agreement, the trackage rights are temporary in nature and will be effective from January 1, 2016, until December 31, 2018.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk & Western Railway—Trackage

¹ A copy of the temporary trackage rights agreement was filed with the notice of exemption.

Rights—Burlington Northern, Inc., 354 I.C.C. 605 (1978), as modified in Mendocino Coast Railway—Lease & Operate—California Western Railroad, 360 I.C.C. 653 (1980).

This notice is filed under 49 C.F.R. § 1180.2(d)(7).² 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 will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than November 25, 2015 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35974, 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 Jeremy M. Berman, Union Pacific Railroad Company, 1400 Douglas Street, STOP 1580, Omaha, NE 68179.

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² Because the trackage rights covered by the notice of exemption are longer than one year in duration, the Board’s class exemption for temporary trackage rights under 49 C.F.R. § 1180.2(d)(8) does not apply. Instead, UP has filed under the trackage rights class exemption at § 1180.2(d)(7) and concurrently has filed, in Docket No. FD 35974 (Sub-No. 1), a petition for partial revocation of this exemption to permit these proposed trackage rights to expire on December 31, 2018, as provided in the parties’ agreement. The Board will address that petition in a separate decision.

Decided: November 16, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.