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SERVICE DATE – FEBRUARY 2, 2005*

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34652]

BNSF Railway Company¹–Temporary Trackage Rights Exemption–Union Pacific Railroad Company

Union Pacific Railroad Company (UP) has agreed to grant temporary overhead trackage rights to the BNSF Railway Company (BNSF) over UP’s rail line between Stockton, CA, UP milepost 88.90 (Fresno Subdivision) and Bakersfield, CA, UP milepost 313.6 (Mojave Subdivision), a distance of approximately 225 miles.

The transaction was scheduled to be consummated on January 23, 2005, and the temporary trackage rights are intended to expire on February 5, 2005. The purpose of the temporary trackage rights is to allow BNSF to bridge its train service while its main lines are out of service due to programmed track, roadbed, and structural maintenance.

As a condition to this exemption, any employee affected by the acquisition of the temporary trackage rights will be protected by the conditions imposed in Norfolk and Western

* This decision replaces an earlier version of this decision, which failed to reflect the February 2, 2005 service date.

¹ Effective January 20, 2005, the name of “The Burlington Northern and Santa Fe Railway Company” was changed to “BNSF Railway Company.”

Ry. Co.–Trackage Rights–BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.–Lease and Operate, 360 I.C.C. 653 (1980), and, in accordance with the decision of the United States Court of Appeals for the District of Columbia Circuit in United Transportation Union–General Committee of Adjustment (GO-386) v. Surface Transportation Board, No. 03-1212, 2004 U.S. App. LEXIS 6496 (D.C. Cir. Apr. 6, 2004), any employee affected by the discontinuance of those trackage rights will be protected by the conditions set out in Oregon Short Line R. Co.–Abandonment–Goshen, 360 I.C.C. 91 (1979).

This notice is filed under 49 CFR 1180.2(d)(8). If it 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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34652, 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 Sarah W. Bailiff, The Burlington Northern and Santa Fe Railway Company, P. O. Box 961039, Fort Worth, TX 76161-0039.

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Decided: January 26, 2005.

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

Vernon A. Williams

Secretary