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SERVICE DATE – FEBRUARY 29, 2008

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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34394 (Sub-No. 1)]

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

Pursuant to a written trackage rights agreement dated January 24, 2008, BNSF Railway Company (BNSF) has agreed to modify an existing overhead trackage rights agreement¹ with Union Pacific Railroad Company (UP) regarding UP's use of a BNSF line of railroad between BNSF milepost 210.2 and BNSF milepost 211.7, a distance of approximately 1.5 miles, in Wichita, KS (joint trackage).

The earliest this transaction can be consummated is March 16, 2008, the effective date of the exemption (30 days after the exemption is filed).²

The purpose of the original trackage rights was to facilitate the City of Wichita's Central Rail Corridor Project (CRC Project), which was designed to minimize rail/vehicle conflicts at existing grade crossings in central Wichita by constructing grade crossings

¹ The original trackage rights were exempted in Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company, STB Finance Docket No. 34394 (STB served Aug. 29, 2003).

² Under 49 CFR 1180.4(g), a railroad must file a verified notice of the transaction with the Board at least 30 days in advance of consummation, in order to qualify for an exemption under 49 CFR 1180.2(d). In this case, the verified notice was filed on February 15, 2008. Therefore, although UP identifies March 15, 2008, as the anticipated consummation date, the earliest the transaction could be consummated is March 16, 2008.

and other improvements on the BNSF route. The agreement inadvertently omitted inclusion of a provision permitting UP to allow the Kansas and Oklahoma Railroad Company to use the joint trackage solely for interchanging traffic with UP on UP trackage at Wichita. According to UP, this provision, which is the modification at issue here, is necessary to achieve the full benefits of the CRC Project.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk and Western 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).

This notice is 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 will not automatically stay the effectiveness of the exemption. Stay petitions must be filed by March 7, 2008 (at least 7 days before the exemption becomes effective).

Pursuant to the Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, § 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: collecting, storing, or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting, and shredding). The term “solid waste” is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

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An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34394 (Sub-No. 1), 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 Robert T. Opal, General Commerce and FRA Counsel, 1400 Douglas Street, Stop 1580, Omaha, NE 68179.

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“WWW.STB.DOT.GOV.”

Decided: February 21, 2008.

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

Anne K. Quinlan

Acting Secretary