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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35332]

Grainbelt Corporation—Trackage Rights Exemption—BNSF Railway Company and
Stillwater Central Railroad Company

Pursuant to written trackage rights agreements dated October 16, 2009 and November 1, 2009, respectively, BNSF Railway Company (BNSF) and Stillwater Central Railroad Company (SLWC), have each agreed to grant supplemental trackage rights¹ to Grainbelt Corporation (GNBC), which together will allow GNBC to operate between Snyder and Altus, OK, with the right to provide limited local service at Long, OK.² Specifically, BNSF is granting overhead trackage rights, with limited local service rights, over 19.27 miles of trackage between its connection with SLWC at milepost 668.73, east of Long, and milepost 688.00 at Altus; SLWC is granting 4.73 miles of overhead

¹ GNBC already holds overhead trackage rights granted by BNSF's predecessor between Snyder Yard (milepost 664.00) and Quanah, TX (milepost 723.30), pursuant to which GNBC interchanges at Quanah. BNSF subsequently sold a portion of the subject trackage to SLWC. These original rights are not affected by the subject supplemental rights.

² Redacted versions of the trackage rights agreements between GNBC/ BNSF and GNBC/SLWC were filed with the notice of exemption. The full versions of the agreements, as required by 49 CFR 1180.6(a)(7)(ii), were concurrently filed under seal along with a motion for protective order. The motion is being addressed in a separate decision.

trackage rights between milepost 664.0, at or near Snyder Yard, and milepost 668.73, at or near Long, to allow GNBC to reach connecting BNSF trackage.³

The transaction is scheduled to be consummated on or after January 1, 2010.

The supplemental trackage rights will allow GNBC and BNSF to shift much of their current interchange traffic from Snyder to Altus, allow GNBC to interchange traffic with its affiliate, Farmrail Corporation, at Altus, and allow GNBC limited access to a customer at Long.

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 December 24, 2009 (at least 7 days before the exemption becomes effective).

³ GNBC points out that because the rights being granted here involve “local” trackage rights that will remain in effect for more than 1 year, these rights do not qualify for the Board’s class exemption for temporary trackage rights at 49 CFR 1180.2(d)(8). See Railroad Consolidation Procedures, 6 S.T.B. 910 (2003). GNBC has also concurrently filed a petition for partial revocation of this exemption in STB Finance Docket No. 35332 (Sub-No. 1), Grainbelt Corporation—Trackage Rights Exemption—BNSF Railway Company and Stillwater Central Railroad Company, wherein GNBC requests that the Board permit the proposed local trackage rights arrangements described in the present proceeding to expire 10 years from the execution dates, as provided in the parties’ agreements. The petition will be addressed by the Board in a separate decision.

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.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35332 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 Eric M. Hocky, One Commerce Square, 2005 Market Street, Suite 1910, Philadelphia, PA 19103.

Board decisions and notices are available on our website at “WWW.STB.DOT.GOV.”

Decided: December 17, 2009.

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