

42910

SERVICE DATE – FEBRUARY 13, 2013

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35715]

Norfolk Southern Railway Company—Temporary Trackage Rights Exemption—Grand Trunk Western Railroad Company and Wisconsin Central Ltd.

Pursuant to a temporary trackage rights agreement dated January 24, 2013, Grand Trunk Western Railroad Company and Wisconsin Central Ltd. (collectively, CN) have agreed to grant temporary overhead trackage rights¹ to Norfolk Southern Railway Company (NSR) over the CN rail lines located: (1) between CN's connection with NSR at or near milepost 99.5 in South Bend, Ind., and at or near milepost 36.1 in Griffith, Ind., on CN's South Bend Subdivision, a distance of approximately 63.4 miles; and

¹ NSR states that this notice was not filed under the Board's class exemption for temporary trackage rights at 49 C.F.R. § 1180.2(d)(8) because the agreement contemplates that the temporary trackage rights will be in effect for more than one year. See 49 C.F.R. § 1180.2(d)(8) ("Acquisition of temporary trackage rights by a rail carrier over lines owned or operated by any other rail carrier or carriers that are . . . scheduled to expire on a specific date not to exceed 1 year from the effective date of the exemption.") Therefore, NSR concurrently filed a petition for partial revocation of this exemption in Norfolk Southern Railway Company—Temporary Trackage Rights Exemption—Grand Trunk Western Railroad Company & Wisconsin Central Ltd., Docket No. FD 35715 (Sub-No. 1), wherein NSR requests that the Board permit the proposed trackage rights arrangement described in the present proceeding to expire 24 months after the commencement date of the agreement, or the date that the Gary City Track Connection, at or near Gary, Ind., is completed and in use, whichever comes first. That petition will be addressed by the Board in a separate decision.

(2) between milepost 36.1 in Griffith and CN's Kirk Yard at or near milepost 45.4 in Gary on CN's Matteson Subdivision, a distance of approximately 9.3 miles.

The transaction may be consummated on or after February 27, 2013, the effective date of the exemption (30 days after the exemption is filed).²

The purpose of this transaction is to allow NSR to interchange with CN at CN's Kirk Yard in Gary during the construction of the Gary City Track Connection.

As a condition to this exemption, any employee affected by the trackage rights will be protected by the conditions imposed in Norfolk & Western Railway—Trackage 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). 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 effectiveness of the exemption. Stay petitions must be filed by February 20, 2013 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35715, 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 Christine I.

² NSR states in its verified notice of exemption that the trackage rights will be consummated on or after February 24, 2013. However, a transaction filed under 49 C.F.R. § 1180.2(d) may not be consummated until 30 days after the notice was filed. 49 C.F.R. § 1180.4(g). NSR filed this notice on January 28, 2013.

Friedman, Norfolk Southern Railway Company, Three Commercial Place, Norfolk, VA
23510.

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

Decided: February 8, 2013.

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