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SERVICE DATE – DECEMBER 19, 2005

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34790]

Dakota, Minnesota & Eastern Railroad Corporation and Iowa, Chicago & Eastern Railroad Corporation—Temporary Trackage Rights Exemption—BNSF Railway Company

BNSF Railway Company (BNSF) has agreed to grant temporary trackage rights to the Dakota, Minnesota & Eastern Railroad Corporation (DM&E) and the Iowa, Chicago & Eastern Railroad Corporation (IC&E) (DM&E and IC&E are referred to collectively as “User”) between milepost (MP) 146.0 on BNSF’s Corson Subdivision at Sioux Falls, SD, and MP 705.5 on BNSF’s Aberdeen Subdivision at Wolsey, SD, a distance of 149.8 miles, solely for the overhead movement of User’s business cars (and engines and end-of-train devices required to operate those business cars). The trackage rights run: between Sioux Falls, SD, and Canton, SD; between Canton, SD, and Mitchell, SD; and between Mitchell, SD, and Wolsey, SD. These trackage rights were scheduled to be effective on or after December 6, 2005, and the authorization for these trackage rights will expire one year after the effective date. However, although the term of the temporary trackage rights agreement is for no more than one year, BNSF has also agreed that, for a period of 10 years from the effective date of that agreement, BNSF shall agree to DM&E’s requests to establish new annual temporary trackage rights arrangements on

the same terms, provided that the temporary trackage rights agreement shall not have terminated early as a result of material default of DM&E, and further provided that DM&E shall not otherwise be in material default of the terms of the agreement.

As a condition to this exemption, any employees affected by the acquisition of the temporary trackage rights will be protected by the conditions imposed in Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605, 610-15 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653, 664 (1980), and any employees 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, 98-103 (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. 34790, 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 User's representative: Michael J. Barron, Jr., FLETCHER & SIPPEL LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606-2875.

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

Decided: December 9, 2005.

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

Vernon A. Williams

Secretary