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SERVICE DATE - JULY 6, 2001

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34065]

Ellis & Eastern Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF) has agreed to grant limited local trackage rights¹ to Ellis & Eastern Company (EE) over BNSF's rail line from approximately milepost 141.7 near Sioux Falls, SD, to approximately milepost 134.0 near Corson, SD, a distance of approximately 7.7 miles.²

The transaction is scheduled to be consummated on or shortly after July 2, 2001.³

The purpose of the trackage rights is to enable EE to provide rail service to a new facility of its parent company, Sweetman Construction Company.

¹ The trackage rights agreement is a supplemental agreement to the Basic Agreement, dated November 10, 1989, between BNSF's predecessor, the Burlington Northern Railroad Company, and EE. See Ellis & Eastern Company—Acquisition, Operation, Joint Relocation Project, and Trackage Rights Exemption—Brandon-Ellis, SD, Finance Docket No. 32506 (STB served Mar. 11, 1996).

² A redacted version of the Supplemental Trackage Rights Agreement between BNSF and EE was filed with the notice of exemption. An unredacted version of the agreement, as required by 49 CFR 1180.6(a)(7)(ii), was concurrently filed under seal along with a motion for a protective order. That motion has been granted in a separate decision and a protective order in this proceeding is being served on July 3, 2001.

³ EE states that it anticipates that it will exercise the above-described trackage rights in the Spring of 2002, but will in no event exercise the trackage rights prior to July 2, 2001.

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 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. 34065, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Rose-Michele Weinryb, Weiner Brodsky Sidman Kider PC, 1300 19th Street, N.W., Fifth Floor, Washington, DC 20036-1609.

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Decided: June 29, 2001.

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

Vernon A. Williams

Secretary