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SERVICE DATE – SEPTEMBER 19, 2005

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34732]

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

BNSF Railway Company (BNSF), pursuant to a modified written trackage rights agreement entered into between BNSF and Union Pacific Railroad Company (UP), submits this verified notice for an exemption of the modified written trackage rights agreement governing UP's existing overhead trackage rights over BNSF's line of railroad between MP 365.85 at UP Jct., WA, and MP 365.14 at Fish Lake, WA, approximately 0.70 miles, on BNSF's Spokane Subdivision (the Joint Trackage).¹

The modification of trackage rights relates to UP's assumption of maintenance functions for a particular segment of the Joint Trackage, except for signal maintenance which will continue to be the responsibility of BNSF. UP will continue to have rights to use the Joint Trackage as provided in the Agreement.

The transaction was scheduled to be consummated on September 6, 2005, and operations under this exemption were planned to begin on that date.

¹ UP acquired the nonexclusive right to use the Joint Trackage under an agreement dated January 27, 1972, by and between the Oregon-Washington Railroad & Navigation Company, and its lessees, UP and Burlington Northern Inc. (BNSF's predecessor in interest), as amended by a supplemental agreement dated May 6, 1982 (collectively, the Agreement).

The purpose of this transaction is to modify the Agreement to change the maintenance obligations in order to promote operating and maintenance efficiencies and better align the parties' maintenance obligations relative to usage.

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. 34732, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Sarah W. Bailiff, 2500 Lou Menk Drive, P.O. Box 961039, Fort Worth, TX 76161-0039.

Board decisions and notices are available on our website at
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Decided: September 12, 2005.

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

Vernon A. Williams

Secretary