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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35602]

Indiana Southern Railroad, LLC—Temporary Trackage Rights Exemption—Norfolk

Southern Railway Company

Norfolk Southern Railway Company (NSR), pursuant to a written trackage rights agreement (Agreement), has agreed to grant overhead temporary trackage rights to Indiana Southern Railroad, LLC (ISRR) over NSR's line of railroad between Oakland City Junction, Ind. (milepost 0.8 EJ) and Enosville, Ind. (milepost 4.8 EJ), a distance of approximately 4 miles.<sup>1</sup>

The transaction may be consummated on or after April 8, 2012, the effective date of the exemption (30 days after the verified notice of exemption was filed).<sup>2</sup> The temporary trackage rights are scheduled to expire on December 31, 2012. The purpose of the temporary trackage rights is to bridge loaded and empty coal trains between trackage at Log Creek Mine at Enosville and ISRR's tracks at Oakland City Junction for further

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<sup>1</sup> A redacted version of the Agreement between NSR and ISRR was filed with the notice of exemption. ISRR simultaneously filed a motion for protective order for approval to file under seal the unredacted version of the Agreement. That motion will be addressed in a separate decision.

<sup>2</sup> Accompanying its verified notice of exemption, ISRR also filed a request to waive the requirement at 49 C.F.R. § 1180.4(g)(1) that the verified notice be filed at least 30 days before the transaction is consummated. In a separate decision served today, the Board is denying that request.

movement over ISRR's line to Indiana Power and Light's generating plant at Petersburg, Ind.

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 & Western Railway—Trackage Rights—Burlington Northern, Inc., 354 I.C.C. 605 (1978), as modified in Mendocino Coast Railway, Inc.—Lease & Operate—California Western Railroad, 360 I.C.C. 653 (1980), and any employees affected by the discontinuance of those trackage rights will be protected by the conditions set out in Oregon Short Line Railroad & The Union Pacific Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

This notice is filed under 49 C.F.R. § 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. Petitions for stay must be filed no later than March 30, 2012 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35602, 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 John W. Humes, Jr., Senior Counsel, Rail America, Inc., 7411 Fullerton Street, Jacksonville, FL 32256.

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Decided: March 19, 2012.

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