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SERVICE DATE - FEBRUARY 11, 2005

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34657]

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

Union Pacific Railroad Company (UP) has agreed to grant overhead trackage rights to BNSF Railway Company, f/k/a The Burlington Northern and Santa Fe Railway Company (BNSF), over: (1) a line of railroad between UP's milepost 1.7 at a station known as Tower 30, on UP's Glidden Subdivision and Strang yard, TX, and UP's milepost 21.5 on UP's Strang Subdivision; and (2) portions of a line of railroad between Tower 30 and Strang yard that are owned by the Port of Houston (PHA), maintained by the Port Terminal Railroad Association (PTRA), and jointly operated by PTRA and UP pursuant to UP's contractual arrangements with PHA and PTRA.¹ The line is located in the State of Texas. The total distance of the trackage rights granted to BNSF is approximately 15.6 miles.

The transaction was scheduled to be consummated on February 1, 2005, and operations under this exemption were scheduled to begin on that date. The purpose of the temporary trackage rights is to allow BNSF access to a limited subset of facilities on

¹ A redacted version of the trackage rights agreement between BNSF and UP was filed with the notice of exemption. The full version of the agreement, as required by 49 CFR 1180.6(a)(7)(ii), was filed under seal along with a motion for protective order on January 28, 2005. A protective order is being served on February 4, 2005.

the Bayport Loop, southeast of Houston, TX, and BNSF's system trackage in the Houston terminal, including, without limitation, access to BNSF's existing rights between Tower 30 and the East and West Belts.

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 (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. 34657, 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 Sarah W. Bailiff, Senior General Attorney, BNSF Railway Company, P.O. Box 961039, Fort Worth, TX 76161-0039.

Board decisions and notices are available on our website at
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Decided: February 4, 2005

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

Vernon A. Williams

Secretary