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SERVICE DATE - NOVEMBER 19, 2002

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34275]

The Burlington Northern and Santa Fe Railway Company–Trackage Rights Exemption–Union Pacific Railroad Company; Union Pacific Railroad Company–Trackage Rights Exemption–The Burlington Northern and Santa Fe Railway Company

Pursuant to a written trackage rights and joint ownership agreement dated April 5, 2002, The Burlington Northern and Santa Fe Railway Company (BNSF) has agreed to grant limited overhead trackage rights to Union Pacific Railroad Company (UP) between BNSF milepost 3.3x near Argo, WA, and BNSF milepost 9.5x near Black River, WA, a distance of 6.2 miles, and UP has agreed to grant limited overhead trackage rights to BNSF between UP milepost 176.4 near Rhodes, WA, and UP milepost 173.1 near Black River, WA, a distance of 3.3 miles.¹

The parties state that consummation of the transaction was scheduled to occur immediately upon the November 6, 2002 effective date of the exemption (7 days after the

¹ The notice refers to an exchange of “temporary” overhead trackage rights in connection with a “joint relocation project.” The transaction appears to be an exchange of trackage rights for a term of 40 years and has been processed as such. In the future, if circumstances warrant, BNSF and UP may need to seek approval to discontinue the trackage rights.

exemption was filed) and that operations under the exemption were scheduled to begin on or after November 7, 2002.

The purpose of the trackage rights is to allow the phase-in of commuter rail enhancements to accommodate the Central Puget Sound Regional Transit Authority's commuter operations between Seattle and Tacoma, WA.

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 the notice 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 exemption.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34275, 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, The Burlington Northern and Santa Fe Railway Company, 2500 Lou Menk Drive, P. O. Box 961039, Fort Worth, TX 76161-0039, and Robert T. Opal, Union Pacific Railroad Company, 1416 Dodge Street, Omaha, NE 68179.

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Decided: November 12, 2002.

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

Vernon A. Williams

Secretary