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SERVICE DATE - MAY 7, 2004

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34499]

Union Pacific Railroad Company—Temporary Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF) has agreed to grant temporary overhead trackage rights to Union Pacific Railroad Company (UP) over BNSF's rail lines between BNSF milepost 6.1 near Fort Worth, TX, and BNSF milepost 218.1 near Temple, TX, a distance of approximately 129.2 miles.<sup>1</sup>

The transaction was scheduled to be consummated on April 27, 2004,<sup>2</sup> and the temporary trackage rights are intended to expire on or about May 8, 2004. The purpose of the temporary rights is to facilitate maintenance work on UP lines.

As a condition to this exemption, any employee 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.,

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<sup>1</sup> The trackage rights involve BNSF track segments with non-contiguous mileposts. Therefore, total mileage does not correspond to the milepost designations of the endpoints.

<sup>2</sup> While UP indicated a proposed consummation date of April 26, 2004, consummation could not take place prior to April 27, 2004, 7 days after the filing of the notice. See 49 CFR 1180.4(g).

Inc.–Lease and Operate, 360 I.C.C. 653 (1980), and, in accordance with the decision of the United States Court of Appeals for the District of Columbia Circuit in United Transportation Union–General Committee of Adjustment (GO-386) v. Surface Transportation Board, No. 03-1212, 2004 U.S. App. LEXIS 6496 (D.C. Cir. Apr. 6, 2004), any employee affected by the discontinuance of those trackage rights will be protected by the conditions set out in Oregon Short Line R. Co–Abandonment–Goshen, 360 I.C.C. 91 (1979).

This notice is filed under 49 CFR 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.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34499, 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 Robert T. Opal, 1416 Dodge St., Room 830, Omaha NE 68179.

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Decided: May 3, 2004.

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

Vernon A. Williams

Secretary