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SERVICE DATE – DECEMBER 19, 2005

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34685 (Sub-No. 1)]

D&I Railroad Company—Trackage Rights Exemption—BNSF Railway Company

Pursuant to an earlier trackage rights agreement between BNSF Railway Company (BNSF) and D&I Railroad Company (D&I), D&I presently has overhead trackage rights over BNSF tracks: (a) in Sioux Falls, SD, between milepost (MP) 71.5 (East Junction) and MP 74.1 (just north of West Junction), between MPs 0.0 and 1.09 on the Madison Subdivision, and between MPs 145.45 and 145.91 on the Corson subdivision; (b) between Sioux Falls, SD (MP 69.9), and Canton, SD (MP 49.9), on the Canton Subdivision; and (c) between South Wye Switch, SD (MP 533.4, just south of Elk Point, SD) (formerly known as East Wye Switch and also referenced as Elk Point), and Sioux City, IA (MP 512.6), on the Aberdeen subdivision.

BNSF has agreed to grant the following additional overhead trackage rights to D&I: (1) at Canton, D&I's Sioux Falls-Canton trackage rights will be extended from MP 49.9 to MP 49.4 (Engineering Survey Number 6651.08=97+08.5 E.C.), where centerline of track leaves BNSF property and enters Sioux Valley Regional Railroad Authority (SVRRA) property; (2) D&I's South Wye Switch-Sioux City trackage rights will be extended from MP 512.6 to just east of Steuben Street, MP 512.36; (3) D&I will also receive additional operating rights on BNSF's "Blood Line" in Sioux City, solely for

the purpose of effecting interchange with Union Pacific Railroad Company (UP) and Canadian National Railway Company (CN) at Sioux City, until such time as a direct connection to UP and CN is built, as contemplated in a letter agreement between BNSF and the State of South Dakota (the State), dated November 22, 2005.

Under the agreement with BNSF, the rights granted to D&I pertaining to movement of traffic between Canton and South Wye Switch, including Beresford, SD, to Hawarden, IA (as those lines existed as of April 25, 2005) (the “Existing Hawarden Line”), shall automatically be assigned to any State lessee of the Existing Hawarden Line who succeeds SVRRA as lessee, other than the Dakota, Minnesota & Eastern Railroad Corporation (DM&E) or a successor thereto, or a Class I or Class II railroad, and may be assigned by SVRRA and its successor to another operator of all or a part of the Existing Hawarden Line acting as agent for SVRRA or otherwise assigned in whole to an entity acquiring ownership of or a leasehold interest in the Existing Hawarden Line, provided such operator is not DM&E or a successor thereto, or a Class I or Class II Railroad.

The trackage rights granted by BNSF were scheduled to become effective on or after December 6, 2005. The purpose of the trackage rights is to facilitate D&I access to additional markets.

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, 610-15 (1978), as modified in Mendocino Coast Ry., Inc. – Lease and Operate, 360 I.C.C. 653, 664 (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. 34685 (Sub-No. 1), 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 D&I's representative: Edward J. Krug, KRUG LAW FIRM, PLC, 401 First Street, SE, P.O. Box 186, Cedar Rapids, IA 52406.

Board decisions and notices are available on its website at "WWW.STB.DOT.GOV."

Decided: December 9, 2005.

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

Vernon A. Williams

Secretary