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SERVICE DATE – FEBRUARY 9, 2011

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35453]

Elkhart & Western Railroad Co.—Trackage Rights Exemption—Fulton County, LLC,
d/b/a Fulton County Railroad

Pursuant to a written trackage rights agreement, Fulton County, LLC, d/b/a Fulton County Railroad (FCRR) has agreed to grant local trackage rights to Elkhart & Western Railroad Co. (EWR) over approximately 11.7 miles of rail line between milepost I-108.6 near Argos and milepost I-96.9 at Rochester, in Marshall and Fulton Counties, Ind.¹

The transaction is scheduled to be consummated on February 24, 2011.

The purpose of the transaction is to allow EWR to provide continued rail service to FCRR customers and to allow direct interchange of FCRR customers' traffic with Norfolk Southern Railway Co. at Argos.

As a condition to this exemption, any employees affected by the 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—Lease and Operate—California Western Railroad, 360 I.C.C. 653 (1980).

¹ By letter filed on January 26, 2011, EWR amended its notice to correct the milepost designations and the mileage for the rail line, and to include the proposed consummation date of the transaction. It also clarified that the transaction involves local trackage rights.

This notice is filed under 49 C.F.R. § 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 effectiveness of the exemption. Stay petitions must be filed by February 16, 2011 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35453, 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 Daniel A. LaKemper, General Counsel, Elkhart & Western Railroad Co., 1318 S. Johanson Road, Peoria, IL 61607.

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Decided: February 3, 2011.

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