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SERVICE DATE – APRIL 23, 2009

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35222]

Nittany and Bald Eagle Railroad Company–Temporary Trackage Rights Exemption–
Norfolk Southern Railway Company

Norfolk Southern Railway Company (NSR), pursuant to a written trackage rights agreement entered into between NSR and Nittany and Bald Eagle Railroad Company (N&BE),¹ has agreed to grant temporary, non-exclusive, overhead trackage rights to N&BE over a portion of NSR's line of railroad between Lock Haven, PA (milepost BR 194.2), and Driftwood, PA (milepost BR 139.2), a distance of approximately 55 miles.

The transaction is scheduled to be consummated on or after May 7, 2009, the effective date of the exemption (30 days after the exemption was filed). The temporary trackage rights will expire on December 15, 2009. The purpose of the temporary trackage rights is to allow N&BE to operate bridge train service for temporary, seasonal traffic originating on N&BE for delivery to an off-line destination.

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., Inc. – Lease and Operate, 360 I.C.C. 653 (1980), and any

¹ A redacted version of the trackage rights agreement was filed with the notice of exemption. The full version was concurrently filed under seal along with a motion for protective order, which will be addressed in a separate decision.

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. Any stay petition must be filed by April 30, 2009 (at least 7 days before the exemption becomes effective).

Pursuant to the Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, § 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: collecting, storing, or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting, and shredding). The term “solid waste” is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35222, 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 Richard R. Wilson, Esq., 127 Lexington Avenue, Ste. 100, Altoona, PA 16601.

Board decisions and notices are available on our website at “WWW.STB.DOT.GOV.”

Decided: April 16, 2009.

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

Anne K. Quinlan

Acting Secretary