

34386

SERVICE DATE - JANUARY 29, 2004

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34440]

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 line between BNSF milepost 474.1 near Marion, AR, and BNSF milepost 476.2 near Presley Junction, AR, a distance of approximately 2.09 miles.

The transaction was scheduled to be consummated on January 16, 2004, and the authorization is scheduled to expire on or about July 31, 2004.<sup>1</sup> The purpose of the temporary trackage rights is to facilitate maintenance work on UP lines.

As a condition to this exemption, any employees affected by 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), aff'd sub nom. Railway Labor Executives' Ass'n v. United States, 675 F.2d 1248 (D.C. Cir. 1982).

---

<sup>1</sup> By facsimile filed on January 13, 2004, UP corrected the expiration date of the temporary overhead trackage rights agreement stated in its notice of exemption filed on January 9, 2004.

This notice is filed under 49 CFR 1180.2(d)(8).<sup>2</sup> 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. 34440, 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, General Commerce Counsel, 1416 Dodge Street, Room 830, Omaha, NE 68179.

Board decisions and notices are available on the Board's website at "WWW.STB.DOT.GOV."

Decided: January 21, 2004.

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

Vernon A. Williams  
Secretary

---

<sup>2</sup> The Board adopted a new class exemption for trackage rights that, by their terms, are for overhead operations only and expire on a date certain, not to exceed 1 year from the effective date of the exemption. See Railroad Consolidation Procedures—Exemption for Temporary Trackage Rights, STB Ex Parte No. 282 (Sub-No. 20) (STB served May 23, 2003).