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SERVICE DATE – JUNE 17, 2010

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35371]

Nittany & Bald Eagle Railroad Company—Temporary Trackage Rights Exemption—
Norfolk Southern Railway Company

Norfolk Southern Railway Company (NSR), pursuant to a written trackage rights agreement dated April 13, 2010, has agreed to grant nonexclusive overhead temporary trackage rights to Nittany & Bald Eagle Railroad Company (N&BE), between Lock Haven and Driftwood, Pa., from milepost BR 194.2 to milepost BR 139.2, a distance of approximately 55 miles.¹

The transaction may be consummated on or after July 1, 2010, and the temporary trackage rights are scheduled to expire on December 15, 2010. The purpose of the temporary trackage rights is to allow N&BE adequate bridge train service for temporary, seasonal traffic originating on the N&BE for delivery to an off-line destination.

As a condition to this exemption, any employees affected by the acquisition of the temporary trackage rights will be protected by the conditions imposed in Norfolk and Western Railway—Trackage Rights—Burlington Northern, Inc., 354 I.C.C. 605 (1978), as modified in Mendocino Coast Railway—Lease and Operate—California Western

¹ A redacted, executed trackage rights agreement between NSR and N&BE was filed with the notice of exemption. The unredacted version was concurrently filed under seal along with a motion for protective order, which will be addressed in a separate decision.

Railroad, 360 I.C.C. 653 (1980), and any employees affected by the discontinuance of those trackage rights will be protected by the conditions set out in Oregon Short Line Railroad and The Union Pacific Railroad Company—Abandonment—Portion Goshen Branch Between Firth and Ammon, in Bingham and Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

This notice is filed under 49 C.F.R. § 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. Petitions for stay must be filed no later than June 24, 2010 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35371, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, D.C. 20423-0001. In addition, a copy of each pleading must be served on Richard R. Wilson, 518 N. Center Street, Suite 1, Ebensburg, Pa., 15931.

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Decided: June 14, 2010.

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