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SERVICE DATE – NOVEMBER 13, 2008

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35189]

Sierra Northern Railway—Acquisition and Operation Exemption—BNSF Railway
Company

Sierra Northern Railway (SNR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire, by purchase from BNSF Railway Company (BNSF), and to operate two rail lines, totaling approximately 6.5 miles of rail line in Riverbank and Oakdale, Stanislaus County, CA. SNR will acquire: (1) the Oakdale Branch located between milepost 1.0, in Riverbank, and the end of BNSF's line at milepost 7.1, in Oakdale (including the Hershey Spur); and (2) the Riverbank Industrial Park Lead, Track 7959, between Engineer's Station 8+60 and Engineer's Station 38+02, at the end of BNSF's line at the plant gate, including BNSF's sidings and related trackage.

Pursuant to the purchase agreement,¹ BNSF will grant to SNR limited overhead rights to operate over segments of BNSF's rail corridor between the two acquired lines and within the Riverbank Yard complex. BNSF will also assign to SNR certain trackage rights of Union Pacific Railroad Company (UP) over the Oakdale Branch between BNSF's Riverbank Yard and Oakdale, to the extent such UP trackage rights and

¹ SNR's purchase agreement was filed under seal pursuant to 49 CFR 1150.43(h)(ii).

obligations are related to the subject lines. SNR has disclosed that the purchase agreement contains a provision that may limit future interchange with a third-party connecting carrier. SNR states that the affected interchange point is Riverbank, CA.

The transaction is scheduled to be consummated on or shortly after the effective date of this exemption. The earliest this transaction can be consummated is November 27, 2008, the effective date of the exemption (30 days after the exemption is filed).

SNR certifies that its projected annual revenues as a result of this transaction will not result in SNR becoming a Class II or Class I rail carrier and will not exceed \$5 million.

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.

If the verified 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. Petitions to stay must be filed no later than November 20, 2008 (7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35189 must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy must be served on David Magaw, President, Sierra Northern Railway, 341 Industrial Way, Woodland, CA 95776.

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

Decided: November 6, 2008.

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

Anne K. Quinlan

Acting Secretary