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SERVICE DATE – JANUARY 25, 2008

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35115]

Arizona Eastern Railway, Inc.—Trackage Rights Exemption—Union Pacific Railroad  
Company

Pursuant to a written trackage rights agreement, Union Pacific Railroad Company (UP) has agreed to grant non-exclusive overhead trackage rights to Arizona Eastern Railway, Inc. (AZER) over a UP line of railroad known as the Lordsburg Subdivision, between milepost 1150.00 in Lordsburg, NM and milepost 1098.12, in Bowie, AZ, a distance of approximately 52.12 miles.<sup>1</sup>

AZER indicates that the transaction is scheduled to be consummated on or after February 11, 2008, the effective date of the exemption (30 days after the exemption was filed).

The purpose of the trackage rights is to improve service by establishing a rail link allowing AZER to move traffic originating or terminating on its Bowie-Miami Line and traffic originating or terminating on its soon to be acquired Clifton Subdivision.

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<sup>1</sup> A redacted draft version of the trackage rights agreement between AZER and UP was filed with the notice of exemption. The full draft version was concurrently filed under seal along with a motion for protective order, which will be addressed in a separate decision. As required by 49 CFR 1180.6(a)(7)(ii), the parties must file a copy of the executed agreement within 10 days of the date the agreement is executed.

As a condition to this exemption, any employees affected by the 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).

This notice is filed under 49 CFR 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 4, 2008 (at least 7 days before the exemption become 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. 35115, 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 Mack H. Shumate, Jr., 101 N. Wacker Drive, Suite 1920, Chicago, IL 60606 and John D. Heffner, 1750 K Street, NW, Suite 350, Washington, D.C. 20006.

Board decisions and notices are available on our website at “[WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).”

Decided: January 23, 2008.

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

Anne K. Quinlan

Acting Secretary