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SERVICE DATE – JANUARY 8, 2010

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35340]

BNSF Railway Company–Temporary Trackage Rights Exemption–Union Pacific
Railroad Company

Pursuant to a written trackage rights agreement dated December 17, 2009, Union Pacific Railroad Company (UP) has agreed to grant temporary nonexclusive overhead trackage rights to BNSF Railway Company (BNSF) over UP lines extending between: (1) UP milepost 93.2 at Stockton, CA, on UP’s Oakland Subdivision, and UP milepost 219.4 at Elsey, CA, on UP’s Canyon Subdivision, a distance of approximately 126.2 miles; and (2) UP milepost 219.4 at Elsey, CA, and UP milepost 280.7 at Keddie, CA, on UP’s Canyon Subdivision, a distance of 61.3 miles.

The transaction is scheduled to be consummated on January 22, 2010, the effective date of the exemption (30 days after the exemption is filed).

The nonexclusive overhead trackage rights will permit BNSF to handle ballast trains of company material for use in the maintenance of BNSF’s tracks. The trackage rights are temporary in nature and are for a period from January 22, 2010 through December 10, 2010.

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), and any 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 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 January 15, 2010 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35340, 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 Adrian L. Steel, Jr., Mayer Brown LLP, 1999 K Street, N.W., Washington, DC 20006-1101.

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

Decided: December 31, 2009.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.