

Voting Conference, September 15, 2005

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Union Pacific Railroad Company–
Temporary Trackage Rights Exemption–
BNSF Railway Company
STB Finance Docket No. 34694 (Sub-No. 1)

Good morning, Chairman Nober, Vice Chairman Buttrey, and Commissioner Mulvey.

In a notice of exemption, served and published in the Federal Register on May 16, 2005, in the lead docket in this proceeding, Union Pacific Railroad Company (UP) was granted, under 49 CFR 1180.2(d)(7), temporary local trackage rights over a BNSF Railway Company (BNSF) line extending from BNSF milepost 11.3 at UP Junction, WA, to BNSF milepost 36.0 near Sprague, WA, a distance of approximately 24.7 miles. The purpose of the trackage rights arrangement is to permit UP to move loaded and empty ballast trains for use in its maintenance-of-way (MOW) projects. UP sought, and BNSF was only willing to grant, temporary operating rights over BNSF's trackage until December 31, 2005. Although UP and BNSF have expressly agreed on the term of the proposed temporary trackage rights arrangement, trackage rights approved under this particular class exemption normally remain effective indefinitely, regardless of any durational contract provisions.

Accordingly, UP concurrently filed with its exemption request this (Sub-No. 1) petition seeking that the Board partially revoke the class exemption to permit the trackage rights arrangement exempted in STB Finance Docket No. 34694 to expire on or about December 31, 2005. The draft decision before you finds that limiting the term of the trackage rights is consistent with the limited scope of the transaction previously exempted, and will have no adverse impact on shippers on the line because the trackage rights that are the subject of the exemption are only for the movement of loaded and empty ballast trains for use in UP's MOW projects. Therefore, we recommend that the Board grant the petition and permit the trackage rights exempted in STB Finance Docket No. 34694 to expire on or about December 31, 2005, subject to employee protective conditions.

We would be happy to answer any questions you might have.