

300963

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Proceedings
August 6, 2020
Part of
Public Record

DOCKET NO. FD 36424

**UNION PACIFIC RAILROAD COMPANY
-- TEMPORARY TRACKAGE RIGHTS EXEMPTION --
BNSF RAILWAY COMPANY**

AND

DOCKET NO. FD 36425

**UNION PACIFIC RAILROAD COMPANY
-- TEMPORARY TRACKAGE RIGHTS EXEMPTION --
BNSF RAILWAY COMPANY**

PETITION FOR WAIVER

EXPEDITED CONSIDERATION REQUESTED

UNION PACIFIC RAILROAD COMPANY

Jeremy M. Berman
1400 Douglas Street
STOP 1580
Omaha, NE 68179
(402) 544-4735
jmberman@up.com

**FEE RECEIVED
August 6, 2020
SURFACE
TRANSPORTATION BOARD**

**FILED
August 6, 2020
SURFACE
TRANSPORTATION BOARD**

Dated: August 6, 2020

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. FD 36424

**UNION PACIFIC RAILROAD COMPANY
-- TEMPORARY TRackage RIGHTS EXEMPTION --
BNSF RAILWAY COMPANY**

AND

DOCKET NO. FD 36425

**UNION PACIFIC RAILROAD COMPANY
-- TEMPORARY TRackage RIGHTS EXEMPTION --
BNSF RAILWAY COMPANY**

PETITION FOR WAIVER

Pursuant to 49 C.F.R. § 1180.4(f), Union Pacific Railroad Company (“UP”) respectfully requests that the Board expeditiously grant a waiver of 49 C.F.R. § 1180.4(g)(1) with respect to the Notice of Exemption filed in each of the above-captioned dockets. UP filed the Notices of Exemption pursuant to 49 C.F.R. § 1180.2(d)(8). For such exemptions, section 1180.4(g)(1) requires, “a railroad must file a verified notice of the transaction with the Board at least 30 days before the transaction is consummated.” For the reasons stated below, UP requests a waiver of this 30-day requirement to allow the exemptions to become effective immediately so that UP may commence operations under the temporary trackage rights agreements without waiting 30

days for the exemption to become effective.¹ UP has consulted with BNSF Railway Company (“BNSF”) and BNSF supports this petition.

On July 29, 2020, a train operating on a bridge over the Tempe Town Lake in Tempe Arizona derailed. The bridge subsequently caught fire and was taken out of service for repairs. UP is diligently working to repair the bridge but does not have a firm time frame for reopening the bridge.

The bridge is located on UP’s Phoenix Subdivision, which provides a route between Tempe and Arlington in Arizona. To get around the bridge outage, UP is currently rerouting trains on BNSF rail lines. These reroutes have been facilitated using detour agreements between UP and BNSF. The detour trains are operated over BNSF tracks by BNSF crews. Due to uncertainty about the duration of the bridge outage, BNSF agreed to grant UP the temporary trackage rights that are the subject of this proceeding which will allow UP to operate its trains using UP crews.

This waiver is needed to allow UP crews to operate as soon as possible. Allowing UP crews to operate will relieve the strain on BNSF of having to provide BNSF crews for both UP and BNSF trains and will help facilitate a faster return to normal service to UP customers while bridge repairs continue. Granting this waiver will ensure there are no service disruptions by allowing UP to operate its own trains, without waiting the standard 30 days for the exemption to become effective.

The need for a waiver in this proceeding, to prevent service disruptions to customers, is in line with the need presented in prior proceedings where the Board found a waiver was warranted. The Board has previously granted such requests to shorten the effectiveness date of

¹ If this petition is not granted, UP will wait to consummate operations under the temporary trackage rights until 30 days after filing of the Notices of Exemption.

notices of exemption, including notices covering trackage rights. See, e.g., See Alabama & Gulf Coast Railway LLC--Temporary Trackage Rights Exemption--The Kansas City Southern Railway Company, FD 36418 (STB served July 2, 2020); Norfolk Southern Railway Company--Temporary Trackage Rights Exemption--The Kansas City Southern Railway Company, FD 36359 (STB served October 11, 2019); Norfolk Southern Railway Company--Temporary Trackage Rights Exemption--The Kansas City Southern Railway Company, FD 36315 (STB served June 13, 2019); Terminal Railway Alabama State Docks--Temporary Trackage Rights Exemption--Norfolk Southern Railway Company, FD 36190 (STB served May 11, 2018)

WHEREFORE, UP respectfully requests that the Board grant a waiver of 49 C.F.R. § 1180.4(g)(1) and allow the exemptions in these proceedings to become effective immediately.

Respectfully submitted,

UNION PACIFIC RAILROAD COMPANY

By: /s/ Jeremy Berman

Jeremy M. Berman
1400 Douglas Street
STOP 1580
Omaha, NE 68179
(402) 544-4735
jmberman@up.com