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SERVICE DATE – AUGUST 10, 2020

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36425]

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

Union Pacific Railroad Company (UP), a Class I railroad, has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(8) for the acquisition of temporary trackage rights, for overhead operations, over approximately 674.4 miles of rail line owned by BNSF Railway Company (BNSF) between milepost 787.4 on BNSF's Clovis Subdivision near Vaughn, N.M., and milepost 191.6 on BNSF's Phoenix Subdivision near Phoenix, Ariz., pursuant to the terms of a written temporary trackage rights agreement dated August 6, 2020 (Agreement).¹

UP states that the sole purpose of the temporary trackage rights is to allow UP to reroute overhead trains due to a bridge outage on UP's Phoenix Subdivision near Tempe, Ariz.² UP states that the temporary trackage rights will expire on September 18, 2020.

¹ A redacted copy of the Agreement is attached to the verified notice. An unredacted copy has been filed under seal along with a motion for protective order pursuant to 49 C.F.R. § 1104.14. That motion is addressed in a separate decision.

² UP concurrently filed a verified notice of exemption for the acquisition of additional temporary trackage rights to allow UP to reroute trains due to the bridge outage over approximately 566.6 miles of BNSF rail line in Union Pacific Railroad Company—Temporary Trackage Rights Exemption—BNSF Railway Company, Docket No. FD 36424.

UP concurrently filed a petition for waiver of the 30-day period under 49 C.F.R. § 1180.4(g)(1) in this docket and in Docket No. FD 36424, to allow the proposed temporary trackage rights in both dockets to become effective immediately. By decision served August 10, 2020 the Board granted UP's request. As a result, this exemption is now effective.

As a condition to this exemption, any employees affected by the acquisition of the temporary trackage rights will be protected by the conditions imposed in Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc., 354 I.C.C. 605 (1978), as modified in Mendocino Coast Railway—Lease & Operate—California Western Railroad, 360 I.C.C. 653 (1980), and any employees affected by the discontinuance of those trackage rights will be protected by the conditions set out in Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

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.

All pleadings, referring to Docket No. FD 36425, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on UP's representative, Jeremy Berman, 1400 Douglas Street, Union Pacific Railroad Company, STOP 1580, Omaha, NE 68179.

According to UP, this action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c) and from historic reporting under 49 C.F.R. § 1105.8(b)(3).

Board decisions and notices are available at www.stb.gov.

Decided: August 10, 2020.

By the Board, Allison C. Davis, Director, Office of Proceedings.