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February 26, 2021

301687

VIA E-FILING

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

ENTERED
Office of Proceedings
February 26, 2021
Part of
Public Record

Re: STB Finance Docket Nos. 36486
Grainbelt Corporation
-Trackage Rights Exemption-
BNSF Railway Company

Dear Ms. Brown:

Enclosed for filing in the above referenced docket is a Notice of Exemption for the Grainbelt Corporation ("GNBC"). Also enclosed, is an unredacted "Highly Confidential" version of Exhibit B to the Notice of Exemption. This Highly Confidential version is filed in accordance with the requirements of the protective order being requested simultaneously by GNBC. GNBC is requesting expedited consideration of the motion for protective order. In addition, GNBC is filing in Finance Docket 36486 (Sub-No. 1) a Petition for Partial Revocation to permit the partial revocation of the trackage rights.

The filing fee has been paid via pay.gov. If there are any questions related to this filing, please contact me.

FILED
February 26, 2021
SURFACE TRANSPORTATION
BOARD

Sincerely,



Enclosures
FEE RECEIVED
February 26, 2021
SURFACE
TRANSPORTATION BOARD

Justin J. Marks
Counsel to Grainbelt Corporation

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 36486

GRAINBELT CORPORATION
- TRACKAGE RIGHTS EXEMPTION -
BNSF RAILWAY COMPANY

NOTICE OF EXEMPTION

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Counsel for Grainbelt Corporation

Dated: February 26, 2021

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 36486

GRAINBELT CORPORATION
- TRACKAGE RIGHTS EXEMPTION -
BNSF RAILWAY COMPANY

NOTICE OF EXEMPTION

Grainbelt Corporation (“GNBC”), a Class III railroad, files this Notice of Exemption pursuant to 49 C.F.R. §1180.2(d)(7) to exempt from the provisions of 49 U.S.C. §11323, the grant of amended local trackage rights by BNSF Railway Company (“BNSF”) that will allow GNBC: (1) to operate over the Joint Facilities¹ across and to the Plains Cotton Cooperative Association facility near BNSF Chickasha Subdivision MP 688.6 at Altus, Oklahoma; and (2) to operate additional trains on BNSF/GNBC Joint Facilities in addition to its current rights to provide service between Snyder, Oklahoma, and Quanah, Texas. The amended trackage rights are based on a written agreement and is not being filed or sought in a responsive application.

This filing is related to the Petition for Partial Revocation to Permit Expiration of Amended Trackage Rights being filed simultaneously in Sub-No. 1 in this docket which seeks to permit the proposed trackage rights to expire automatically twelve months from the effective date.

¹ The Joint Facilities are defined as trackage between Long, OK (approximate MP 668.73) and Quanah, TX (approximate MP 723.3). *See Grainbelt Corporation – Trackage Rights Exemption – BNSF Railway Company and Stillwater Central Railroad Company*, STB Finance Docket No. 35332 (served December 17, 2009).

Required Information

In accordance with the provisions of 49 C.F.R. §1180.4(g), GNBC provides the following information as required by 49 C.F.R. §1180.6(a)(1)(i)-(iii), (a)(5), (a)(6), and (a)(7)(ii):

(a)(1)(i) GNBC already holds overhead trackage rights granted by the predecessor of BNSF between Snyder Yard, milepost 664.00 and Quanah, Texas, milepost 723.30 (the “original trackage rights”), under which GNBC has the right to interchange at Quanah with BNSF and with Union Pacific Railroad (as the successor to Southern Pacific Railroad). BNSF subsequently sold a portion of the subject trackage to Stillwater Central Railroad, LLC f/k/a Stillwater Central Railroad, Inc. The original trackage rights were supplemented in 2009 to allow GNBC to operate between Snyder and Altus, Oklahoma, with the right to perform limited local service at Long, Oklahoma. *See Grainbelt Corporation – Trackage Rights Exemption – BNSF Railway Company and Stillwater Central Railroad Company*, STB Finance Docket No. 35332 (served December 17, 2009). The trackage rights were further amended in 2013 to allow GNBC to provide local grain service to a shuttle facility at Headrick, Oklahoma. *See Grainbelt Corporation – Trackage Rights Exemption – BNSF Railway Company and Stillwater Central Railroad Company*, STB Docket No. FD 35719 (served March 15, 2013). The parties again amended the trackage rights in 2014 to allow GNBC to provide local service to a grain shuttle facility in Eldorado, Oklahoma (between Altus, Oklahoma and Quanah, Texas). *See Grainbelt Corporation – Trackage Rights Exemption – BNSF Railway Company and Stillwater Central Railroad LLC*, STB Docket No. FD 35831 (served June 12, 2014).

The parties are now amending the trackage rights further to allow GNBC: (1) To use the Joint Facilities to deliver and pull cars to and from the existing Plains Cotton Cooperative Association facility near BNSF Chickasha Subdivision MP 688.6 at Altus, OK, for the purpose of

building unit trains with distributive power. GNBC is permitted to operate on BNSF's mainline (the Joint Facilities) as necessary. (2) To operate additional trains on the Joint Facilities in order to accommodate the movement of trains transporting BNSF Customers' railcars (loaded or empty) located along the Joint Facilities, to unit train facilities on the Joint Facilities.

The existing trackage rights as amended will not be affected by the new amended trackage rights that are the subject of this proceeding.

The name, business address and telephone number of Applicant are: Grainbelt Corporation, 1601 Gary Blvd., PO Box 1750, Clinton, OK 73601-1750; (580) 323-1234.

The name, business address and telephone number of counsel to whom questions regarding the transaction can be addressed are:

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(a)(1)(ii) GNBC intends to commence operations under the trackage rights at the earliest possible time following the effective date of this exemption (thirty days after filing).

(a)(1)(iii) The amended trackage rights will allow GNBC: (1) To use the Joint Facilities to deliver and pull cars to and from the existing Plains Cotton Cooperative Association facility near BNSF Chickasha Subdivision MP 688.6 at Altus, OK, for the purpose of building unit trains with

distributive power. GNBC is permitted to operate on BNSF's mainline (the Joint Facilities) as necessary. (2) To operate additional trains on the Joint Facilities in order to accommodate the movement of trains transporting BNSF Customers' railcars (loaded or empty) located along the Joint Facilities, to unit train facilities on the Joint Facilities.

(a)(5) GNBC currently operates in the State of Oklahoma. It also has the right to operate over trackage rights in the State of Texas. The Joint Facilities under the trackage rights agreement are located in the states of Oklahoma and Texas.

(a)(6) A map showing the trackage rights line is attached as Exhibit A.

(a)(7)(ii) A redacted public version of the current amendment to trackage rights is attached as Exhibit B. Applicant has filed a Motion for a Protective Order to protect the confidentiality of the commercial terms of the BNSF amendment. Copies of the highly confidential version of the BNSF amendment are being filed separately under seal.

Labor Protection

Applicant understands that any employees adversely affected by the trackage rights are entitled to protection under the conditions imposed in *Norfolk and Western Railway Company - Trackage Rights - Burlington Northern, Inc.*, 354 I.C.C. 605 (1978), as modified by *Mendocino Coast Railway, Inc. - Lease and Operate - California Western Railroad*, 360 I.C.C. 653 (1980).

Environmental and Historic Reports

Under 49 C.F.R. §1105.6(c)(4) and 49 C.F.R. §1105.8(b)(3), no environmental or historic documentation is required.

Caption Summary

Attached as Exhibit C is the caption summary required by 49 C.F.R. §1180.4(g)(2)(i).

Conclusion

Based on the information provided above, GNBC requests that the Board issue a notice of exemption for the amended trackage rights that are the subject of this notice.

Respectfully submitted,



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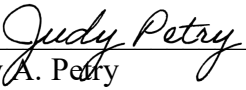
Counsel for Grainbelt Corporation

February 26, 2021

VERIFICATION

I, Judy A. Petry, President and General Manager of Grainbelt Corporation, verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file the foregoing document.

Executed on February 26, 2021.



Judy A. Petry

EXHIBIT A

MAP

TEXAS



EXHIBIT B
(“PUBLIC” VERSION)

**AMENDMENT NO. 4 TO TRACKAGE RIGHTS AGREEMENT
BETWEEN LONG, OK AND QUANAH, TX**

This Amendment No. 4 to the Trackage Rights Agreement, as amended and/or supplemented, between Long, OK and Quanah, OK is entered into effective as of this 19th day of February, 2021, (the "**Execution Date**") by and between **BNSF RAILWAY COMPANY**, a Delaware corporation, ("**BNSF**") and **GRAINBELT CORPORATION**, a Delaware corporation ("**GNBC**"). Capitalized terms used herein and not otherwise defined herein shall have the same meaning as provided for in the Trackage Rights Agreement, as defined below.

WITNESSETH:

WHEREAS, BNSF and GNBC entered into a Trackage Rights Agreement dated August 20, 1987 (the "**Original Trackage Rights Agreement**"), whereby BNSF granted trackage rights to GNBC between Snyder, OK (approximate MP 664.0) and Quanah, TX (approximate MP 723.3);

WHEREAS, pursuant to a decision served August 23, 1995 in Finance Docket No. 32549, Burlington Northern Inc. and Burlington Northern Railroad Company — Control and Merger — Santa Fe Pacific Corporation and The Atchison, Topeka and Santa Fe Railway Company, BNSF and GNBC entered into an amendment of the Original Trackage Rights Agreement dated February 15, 1996 (the "**Amendment No. 1**"), whereby BNSF granted trackage rights to GNBC to allow interchange with Union Pacific Railroad ("**UP**") at Quanah, TX;

WHEREAS, BNSF sold the track between Snyder, OK and Long, OK (approximate MP 668.73) to Stillwater Central Railroad, Inc. ("**SLWC**"), and partially assigned the Original Trackage Rights Agreement and Amendment No. 1 to SLWC;

WHEREAS, BNSF and GNBC entered into a supplement of the Original Trackage Rights Agreement, as amended, dated October 9, 2009 (the "**Supplemental Agreement**"), whereby BNSF granted supplemental trackage rights to GNBC between Long, OK (approximate MP 668.73) and Quanah, TX (approximate MP 723.3) (hereinafter referred to as "**Joint Facilities**") to allow GNBC to originate freight at the existing quarry at Long, OK and to interchange with BNSF and Farmrail Corporation ("**FMRC**") at Altus, OK; and

WHEREAS, BNSF and GNBC entered into a second amendment of the Original Trackage Rights Agreement, as amended, dated February 1, 2013 (the "**Amendment No. 2**") to allow certain local service to Headrick, OK, clarify the operation and establish new rates;

WHEREAS, BNSF and GNBC entered into a third amendment of the Original Trackage Rights Agreement, as amended, dated April 1, 2014 (the "**Amendment No. 3**") to allow delivery of inbound single car grain cars to the existing grain shuttle facility at Eldorado, OK (the Original Trackage Rights Agreement, Amendment No. 1, Supplemental Agreement, Amendment No. 2, and Amendment No. 3 are referred to collectively as the "**Trackage Rights Agreement**");

WHEREAS, BNSF and GNBC wish to further amend the Trackage Rights Agreement as set forth below;

NOW THEREFORE, in consideration of the covenants and conditions herein and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

- I. BNSF and GNBC hereby agree to amend the Trackage Rights Agreement by adding the following Sections 1.9 and 4.7:

1.9 Notwithstanding any provision to the contrary, GNBC shall be allowed to deliver and pull cars to and from the existing Plains Cotton Cooperative Association facility near BNSF Chickasha Subdivision MP 688.6 at Altus, OK, for the purpose of building unit trains with distributive power, as required by BNSF operations. In order to facilitate that operation, GNBC may operate on BNSF's mainline pursuant to authority of BNSF's local operating team and BNSF's dispatchers for exchange of said unit trains to BNSF in Altus, OK or Quanah, TX at the direction of BNSF. For clarification, the Plains Cotton Cooperative Association cars handled by GNBC shall originate on BNSF and be exchanged with BNSF by GNBC at Altus, OK, or at Quanah, TX.

GNBC shall perform a Class I Air Brake Test or an Extended Haul Air Brake Test for unit trains exchanged to BNSF pursuant to this Section 1.9 ("Test"). Such record indicating the Test was completed shall be maintained and provided by GNBC in the controlling locomotive cab upon exchange. The Test shall be provided in accordance with 49 CFR 232.205 or 49 CFR 232.213, as the case may be (as amended, supplemented or replaced).

4.7 Notwithstanding anything in Section 4.2 or 4.5 above, GNBC shall be allowed to operate additional trains on the Joint Facilities in order to accommodate the movement of trains transporting BNSF Customers' railcars (loaded or empty) located along the Joint Facilities, to unit train facilities on the Joint Facilities for the purpose of assembling a unit train for delivery to BNSF for linehaul service as may be agreed upon between BNSF and the Customer, from either Headrick, Long, Eldorado or Altus. Trackage Rights Fees for said additional trains shall be billed by BNSF pursuant to Section 7.

- II. BNSF and GNBC hereby agree to amend Section 7.3 of the Trackage Rights Agreement, and replace it with the following:

7.3 In lieu of the Trackage Rights Fee, GNBC shall remit to BNSF [REDACTED] to the existing grain facility at Headrick, OK, the existing grain facility at Eldorado, OK or pulled from the Plains Cotton Cooperative Association facility at Altus, OK as permitted in Section 4.5 and Section 4.7 of this Agreement.

- III. Except as provided herein, the Trackage Rights Agreement shall remain in full force and effect, and nothing herein is intended to alter or supplement any rights or obligations of any party other than BNSF and GNBC.
- IV. This Amendment No. 4 shall be effective upon the Effective Date as defined in Section V below, and shall remain in effect for a period of twelve (12) months from and after the Execution Date.
- V. GNBC shall be responsible for filing with the Surface Transportation Board ("STB") a notice of exemption approving the terms of this Amendment No. 4 pursuant to 49 CFR 1180.2(d)(7) and a petition for partial revocation of the Amendment No. 4 class exemption so that the Amendment No. 4 rights set forth herein automatically expire twelve (12) months from the effective date of Amendment No. 4. The terms herein shall be subject to and conditioned upon and shall not become effective until the later of i) the effective date of the notice of exemption ("Effective Date"); or ii) the filing of the petition for partial revocation of the Amendment No. 4 exemption. Additionally, the rights set forth herein shall not become effective if the STB imposes conditions upon the trackage rights which are not acceptable to either party unless the parties agree otherwise.
- VI. Upon the Effective Date of this Amendment No. 4, the letter agreement dated September 27, 2018 shall be terminated.

IN WITNESS WHEREOF, the parties have executed this Amendment No. 4 effective as of the day and year first written above.

BNSF RAILWAY COMPANY, a Delaware Corporation

By: Sarah W. Bailiff
Name: SARAH W. BAILIFF
Title: AVP CONTRACTS & JOINT FACILITIES

GRAINBELT CORPORATION, a Delaware Corporation

By: Judy Petry
Name: Judy Petry
Title: President & General Manager

EXHIBIT C

CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

STB DOCKET NO. FD 36486

GRAINBELT CORPORATION - TRACKAGE RIGHTS EXEMPTION - BNSF RAILWAY COMPANY

BNSF Railway Company (“BNSF”) has agreed to grant additional local trackage rights to Grainbelt Corporation (“GNBC”) through amendment of their trackage rights agreement, as previously amended, to allow local access to and from the Joint Facilities at MP 688.6 at Altus, OK, and to allow the operation of certain additional trains on the portion of the Joint Facilities between Long, OK and Quanah, TX. The amended trackage rights will become effective 30 days from the filing of the GNBC notice.

The Notice is filed under 49 C.F.R. §1180.2(d)(7). 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 stay the transaction.

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

Decided: _____

By the Board,

Allison C. Davis, Director, Office of Proceedings