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SERVICE DATE – OCTOBER 22, 2021

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36547]

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

BNSF Railway Company (BNSF), a Class I rail carrier, has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(7) for overhead trackage rights over a rail line owned by Union Pacific Railroad Company (UP), specifically, UP's Jefferson City Subdivision, between milepost 34.66 near Pacific, Mo., and milepost 46.22 near Labadie, Mo. (the Line).

Pursuant to a written trackage rights agreement,¹ UP has agreed to grant overhead trackage rights to BNSF over the Line. According to the verified notice, the agreement is pursuant to the Restated and Amended BNSF Settlement Agreement (RASA) between BNSF and UP in connection with the transaction authorized in Union Pacific Corp.—Control & Merger—Southern Pacific Rail Corp., FD 32760, Decision No. 44 (STB served Aug. 12, 1996). The purpose of this transaction is to allow BNSF to serve Ameren Corporation's facility at Labadie as well as the right to serve all "2-to-1" Shipper

¹ A redacted version of the draft trackage rights agreement between UP and BNSF was filed with the verified notice. An unredacted version of the agreement was submitted to the Board under seal concurrently with a motion for protective order, which was granted on October 14, 2021. BNSF states that it will submit an executed copy of the agreement within 10 days of its execution, pursuant to 49 C.F.R. § 1180.6(a)(7)(ii).

Facilities, New Shipper Facilities, and Existing Transload Facilities at Labadie as those terms are defined in the RASA.

The transaction may be consummated on November 6, 2021, the effective date of the exemption (30 days after the verified notice was filed).

As a condition to this exemption, any employees affected by the acquisition of the 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).

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. Petitions for stay must be filed by October 29, 2021 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36547, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on BNSF's representative, Peter W. Denton, Steptoe & Johnson LLP, 1330 Connecticut Avenue, N.W., Washington, DC 20036.

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

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

Decided: October 19, 2021.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.