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SERVICE DATE – NOVEMBER 12, 2021

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36555]

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

Union Pacific Railroad Company (UP), a Class I rail carrier, has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(7) for trackage rights over approximately 98.8 miles of rail line owned by BNSF Railway Company (BNSF) between milepost 9 plus 1487.0 feet near Riverside, Cal., and milepost 737 plus 2126.7 feet near Daggett, Cal. (the Line).

Pursuant to a written trackage rights agreement,<sup>1</sup> BNSF has agreed to grant trackage rights to UP over the Line. According to the verified notice, UP originally acquired the trackage rights pursuant to an agreement dated February 1, 1916.<sup>2</sup> According to UP, a new agreement has now been executed that allows for the trackage rights operations to continue as they have since 1916 without material change. The purpose of this transaction is to allow UP to continue its operations over the Line.

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<sup>1</sup> An executed, redacted version of the trackage rights agreement was filed with the verified notice. An executed, unredacted version of the agreement was submitted to the Board under seal concurrently with a motion for protective order, which was granted on November 8, 2021.

<sup>2</sup> UP states that because the 1916 agreement predated the passage of the Transportation Act of 1920, Pub. L. No. 66-152, 41 Stat. 456, it was not required to be submitted to the agency for authorization.

The transaction may be consummated on or after November 28, 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 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. Petitions for stay must be filed by November 19, 2021.

All pleadings, referring to Docket No. FD 36555, 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 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)(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](http://www.stb.gov).

Decided: November 8, 2021.

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