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SERVICE DATE – NOVEMBER 24, 2021

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36563]

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

BNSF Railway Company (BNSF) has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(7) to acquire overhead trackage rights from Union Pacific Railroad Company (UP). BNSF states that UP, pursuant to a written trackage rights agreement, has granted BNSF overhead trackage rights over approximately 0.672 miles of UP's rail line between milepost 444.5, at or near Congo, Mo., on UP's River Subdivision, and milepost 445.2, at or near Kansas City Terminal Railway's Rock Creek Junction Connection in Kansas City, Mo. (the Line).¹ BNSF states that the purpose of these trackage rights is to permit BNSF to operate through trains over the Line.

The earliest this transaction may be consummated is December 9, 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

¹ A redacted copy of the agreement, dated October 27, 2021, 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.

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 December 2, 2021 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36563, 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 Ave, 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: November 18, 2021.

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