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SERVICE DATE—NOVEMBER 24, 2021

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36561]

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 U.S.C. § 1180.2(d)(7) for local and overhead trackage rights over approximately 25 miles of rail line owned by Union Pacific Railroad Company (UP) between Sterling, Colo., near UP milepost 56.71, and Union, Colo., near UP milepost 81.1, on UP's Julesburg Subdivision (the Line).

Pursuant to a June 25, 2021 written trackage rights agreement (amended on November 5, 2021), UP has agreed to grant trackage rights to BNSF over the Line.¹ According to the verified notice, BNSF and its predecessors have operated trackage rights over the Line since 1951. See Chi., Burlington & Quincy R.R.—Trackage Rts., FD 17482 (ICC served Dec. 18, 1951).

The transaction may be consummated on or after December 9, 2021, the effective date of the exemption (30 days after the verified notice was filed).

¹ An executed, redacted version of the trackage rights agreement and an executed version of the November 5, 2021 amendment were 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. That motion is addressed in a separate decision.

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

All pleadings, referring to Docket No. 36561, 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: November 18, 2021.

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