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SERVICE DATE – NOVEMBER 26, 2021

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36564]

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 approximately 196 miles of rail line owned by Union Pacific Railroad Company (UP), between milepost 245.52 at Ft. Worth, Tex., and milepost 440.98 at Tecific, Tex. (the Line).

Pursuant to a written trackage rights agreement, UP has agreed to extend overhead trackage rights to BNSF over the Line. According to the verified notice, BNSF and its predecessors have operated over the Line since 1992 under trackage rights exempted in The Atchison, Topeka & Santa Fe Railway Co.—Trackage Rights Exemption—Missouri Pacific Railroad Co., FD 32134 (ICC served Aug. 31, 1992), and the parties' 1992 agreement was amended on June 25, 2021, to extend the trackage rights terms.¹ The purpose of this transaction is to allow UP to continue its operations over the Line.

¹ Redacted versions of the 1992 agreement and the 2021 amendment were filed with the verified notice. Unredacted versions were submitted under seal concurrently with a motion for protective order, which is addressed in a separate decision.

The transaction may be consummated on or after December 10, 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 December 3, 2021 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36564, 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 22, 2021.

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