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SERVICE DATE – APRIL 6, 2023

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36677]

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

Union Pacific Railroad Company (UP), a Class I railroad, has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(8) for the acquisition of temporary overhead trackage rights over an approximately 51.7-mile rail line of BNSF Railway Company (BNSF) between milepost 579.3 on BNSF's Creek Subdivision near Mill Creek, Okla., and milepost 631.0 on BNSF's Madill Subdivision near Joe Junction, Tex., pursuant to the terms of a written temporary trackage rights agreement dated December 31, 2022 (Agreement).¹

UP states that the sole purpose of the temporary trackage rights is to allow UP to move loaded and empty unit ballast trains, which will be used solely for UP maintenance-of-way projects. UP states that the temporary trackage rights will expire on December 31, 2023.

The transaction may be consummated on or after April 20, 2023, 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 temporary trackage rights will be protected by the conditions imposed in Norfolk &

¹ A copy of the Agreement was attached as an exhibit to the verified notice.

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), and any employees affected by the discontinuance of those trackage rights will be protected by the conditions set out in Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

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 no later than April 13, 2023 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36677, must be filed with the Surface Transportation Board either via e-filing on the Board’s website or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on UP’s representative, Whitney C. Larkin, Union Pacific Railroad Company, 1400 Douglas Street, MS 1580, Omaha, NE 68179.

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

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

Decided: March 30, 2023.

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