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SERVICE DATE – NOVEMBER 18, 2009

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35311]

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

Pursuant to a written supplemental trackage rights agreement dated January 1, 2009, BNSF Railway Company (BNSF) has agreed to amend the existing overhead trackage rights previously granted to Union Pacific Railroad Company (UP) over BNSF's Bieber line at Keddie, CA.<sup>1</sup>

According to BNSF, the purpose of the proposed transaction is to amend the parties' existing agreement to accurately reflect the trackage rights received by UP under that agreement. Specifically, BNSF states that the amendment deletes the existing agreement's Exhibit A and replaces it with a new Exhibit A (map). BNSF also states that the amendment provides that UP will perform signal maintenance on all signal facilities between BNSF's Bieber line (milepost 202.72) and wye connections with UP's Canyon Subdivision.

The transaction is scheduled to be consummated on December 2, 2009, the effective date of the exemption (30 days after the exemption was filed).

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<sup>1</sup> This decision embraces Finance Docket No. 32760 (Sub-No. 1) in which the original trackage rights were granted to UP in connection with UP's acquisition of control of Southern Pacific Transportation Company and were exempted by the Board. Union Pacific/Southern Pacific Merger, 1 S.T.B. 233 (1996).

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

Pursuant to the Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, § 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: collecting, storing, or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting, and shredding). The term “solid waste” is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

This notice is filed under 49 CFR 1180.2(d)(7). If the 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. Stay petitions must be filed by November 25, 2009 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35311, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Adrian L. Steel, Jr., Mayer Brown LLP, 1999 K Street, N.W., Washington, DC 20006-1101.

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“WWW.STB.DOT.GOV.”

Decided: November 13, 2009.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Anne K. Quinlan

Acting Secretary