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SERVICE DATE – MARCH 8, 2012

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35601]

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

Pursuant to a written trackage rights agreement, Union Pacific Railroad Company (UP) has agreed to grant trackage rights to BNSF Railway Company (BNSF) over a portion of a line of railroad known as the Lockport Branch, between milepost 0.1 at Raceland Junction and milepost 14.2 at Jay, a distance of 14.1 miles, in LaFourche Parish, La. (the Line).¹

The earliest this transaction may be consummated is March 22, 2012, the effective date of the exemption (30 days after the notice was filed).

BNSF states that it is seeking trackage rights authority to protect its interests in the Lockport Branch. In Docket No. AB 33 (Sub-No. 277X), UP filed a verified notice of exemption to abandon most of the Lockport Branch over which BNSF now seeks

¹ A copy of the trackage rights agreement was submitted with the notice of exemption. BNSF states that this agreement, dated August 1, 2000 (First Supplemental Agreement), is a supplement to the Trackage Rights Agreement dated September 10, 1998, between UP and BNSF, which was authorized by the Board in Burlington Northern & Santa Fe Railway Co.—Trackage Rights Exemption—Union Pacific Railroad Co., FD 33663 (STB served Oct. 19, 1998). BNSF adds that, while the First Supplemental Agreement covers all former Southern Pacific Transportation Company branches connecting to the rail line between Dawes, Tex., and Avondale, La., in this proceeding BNSF seeks trackage rights authority only over the portion of the Lockport Branch between milepost 0.1 and milepost 14.2.

trackage rights authority.² BNSF has asserted, in that abandonment proceeding, that it has authority sanctioned by the Board to provide service on the Line. UP has contested BNSF's claim, and by decision served on January 30, 2012, the Board postponed the effective date of UP's abandonment exemption and allowed the parties to file additional evidence and argument, which BNSF and UP did on February 9, 2012. In its verified notice of exemption in this docket, BNSF describes UP's February 9 filing in the abandonment docket as asserting that BNSF does not have direct access to the Lockport Branch because the Board never expressly authorized such operations. BNSF states that, while it disagrees with UP's argument, it is now seeking trackage rights authority over the Line in this docket out of an abundance of caution.

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

This notice is filed under 49 C.F.R. § 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

² Specifically, UP seeks authority to abandon the portion of the Lockport Branch between milepost 1.7 and milepost 14.2.

must be filed by March 15, 2012 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35601, 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 Karl Morell, Ball Janik LLP, 655 Fifteenth Street, N.W., Suite 225, Washington, DC 20005 (Counsel for BNSF).

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Decided: March 5, 2012.

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