

Law Department

UNION PACIFIC RAILROAD COMPANY



1416 DODGE STREET
ROOM 830
OMAHA, NEBRASKA 68179-0001
FAX (402) 271-5610

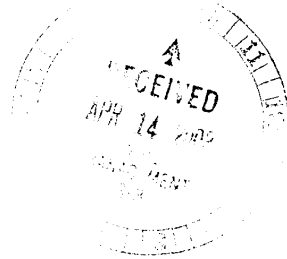
207600

DID# 0102167001

April 11, 2003

Via UPS Next Day Air

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001



Re: Finance Docket No. 34333 (Sub-No. 1); Union Pacific Railroad Company --Temporary Trackage Rights Exemption --The Burlington Northern and Santa Fe Railway Company

Dear Mr. Williams:

Enclosed for filing in the above proceeding are an original and ten (10) copies of a Petition for Partial Revocation of Class Exemption to Permit Expiration of Temporary Trackage Rights. Also enclosed is a payment form in the amount of \$150.00 for the filing fee required by 49 C.F.R. § 1002.2(f)(61).

Please indicate receipt of the enclosed materials by returning a stamped copy of this letter in the self-addressed, stamped envelope enclosed for this purpose.

FILED

APR 14 2003

ENTERED
Office of Proceedings

APR 14 2003

Part of
Public Record

Very truly yours,

T. Christopher Lewis
General Attorney
Direct dial: 402/271-3797
Fax: 402/271-5610 or 5625

FILE RECEIVED

cc w/attachments:

Sarah Whitley Bailiff, Esq. - BNSF

APR 14 2003

SURFACE
TRANSPORTATION BOARD

ORIGINAL

207600

BEFORE THE
SURFACE TRANSPORTATION BOARD

FEE RECEIVED

FINANCE DOCKET NO. 34333 (SUB-NO. 1)

APR 11 2003

SURFACE
TRANSPORTATION BOARD

UNION PACIFIC RAILROAD COMPANY
-- TEMPORARY TRACKAGE RIGHTS EXEMPTION --
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY



ENTERED
Office of Proceedings

APR 14 2003

Part of
Public Record

**PETITION FOR PARTIAL REVOCATION OF CLASS EXEMPTION
TO PERMIT EXPIRATION OF TEMPORARY TRACKAGE RIGHTS**

FILED

APR 14 2003

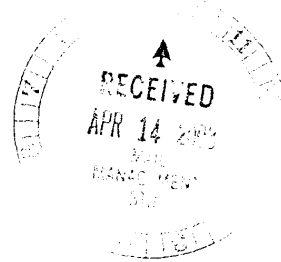
UNION PACIFIC RAILROAD COMPANY

T. Christopher Lewis
General Attorney
1416 Dodge Street
Room 830
Omaha, NE 68179
(402) 271-3797

Dated: April 11, 2003
Filed: April 12, 2003

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 34333 (SUB-NO. 1)



**UNION PACIFIC RAILROAD COMPANY
-- TEMPORARY TRackage RIGHTS EXEMPTION --
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY**

**PETITION FOR PARTIAL REVOCATION OF CLASS EXEMPTION
TO PERMIT EXPIRATION OF TEMPORARY TRackage RIGHTS**

Pursuant to 49 U.S.C. § 10502(d) and the regulations of the Surface Transportation Board at 49 C.F.R. § 1121, Union Pacific Railroad Company ("UP") and The Burlington Northern and Santa Fe Railway Company ("BNSF") hereby seek partial revocation of the Board's trackage rights class exemption, 49 C.F.R. § 1180.2(d)(7), in Finance Docket No. 34333 as necessary to allow the UP/BNSF trackage rights arrangement which is the subject of this proceeding to expire, as expressly desired by both parties, on or about May 10, 2003. Revoking the class exemption as necessary to allow that action is consistent with the rail transportation policy of 49 U.S.C. § 10101 and will promote efficient and competitive rail service.

DISCUSSION

In the Notice of Exemption filed concurrently with this Petition, and pursuant to 49 C.F.R. § 1180.2(d)(7), UP seeks to acquire temporary overhead trackage rights on BNSF trackage extending approximately 181.6 miles between BNSF Milepost 141.7 near Rockview, MO and BNSF Milepost 422.2 near Jonesboro, AR. UP will be performing maintenance and repairs on its main line and will use these trackage rights as an alternative route for UP's traffic while the work is being performed. However, UP is only seeking, and BNSF is only willing to grant, temporary operating rights over BNSF during the period of maintenance activity on UP's trackage. Without temporary trackage rights, it is unlikely that any other arrangement can be reached to allow UP to operate over BNSF's line, and UP would face the possibility of severe operational problems on the trackage for which maintenance is scheduled.

While UP and BNSF expressly intend that these trackage rights are only temporary, trackage rights authorized under the existing class exemption normally would remain effective indefinitely -- regardless of any durational contract provisions. See, e.g., Railroad Consolidation Procedures -- Exemption for Temporary Trackage Rights, (not printed) served February 10, 2003, pp. 2-3 ("Temporary Trackage Rights"). Accordingly, UP is filing this Petition to permit the trackage rights to expire as provided in the underlying trackage rights agreement.

The Board has routinely granted petitions to permit temporary trackage rights to expire (either as exemptions or partial revocations) similar to that sought herein, see,

e.g., Temporary Trackage Rights, *supra*, p. 3; Finance Docket No. 34242 (Sub-No. 1), Union Pacific Railroad Company -- Trackage Rights Exemption -- The Burlington Northern and Santa Fe Railway Company, (not printed) served October 7, 2002; Finance Docket No. 34218 (Sub-No. 1), The Burlington Northern and Santa Fe Railway Company -- Trackage Rights Exemption -- Union Pacific Railroad Company (not printed), served July 24, 2002.

Granting this Petition to permit the trackage rights to expire in accordance with the underlying agreement would be entirely consistent with the exemption standards of 49 U.S.C. § 10502. Limiting the term of the trackage rights is consistent with the limited scope of the transaction covered by the Notice of Exemption in Finance Docket No. 34333 and will have no adverse impact on shippers on the line as the trackage rights that are the subject of the requested exemption are for overhead service only. In fact, the grant of this Petition is essential for the benefits of the trackage rights in Finance Docket No. 34333 to be realized. As noted above, the temporary nature of the trackage rights is a key part of the agreement of the two carriers, and the trackage rights would not have been granted without this feature. Denial of the this Petition would result in a loss of all these benefits, since the parties are unlikely to reach any other feasible arrangement which would allow UP to use BNSF's line.

WHEREFORE, UP respectfully requests the Board to partially revoke the Class Exemption for trackage rights to the extent necessary to permit the trackage rights authorized in STB Finance Docket No. 34333 to expire on or about May 10, 2003, in accordance with the terms of the underlying trackage rights agreement.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "T. Christopher Lewis".

UNION PACIFIC RAILROAD COMPANY
T. Christopher Lewis
General Attorney
1416 Dodge Street
Room 830
Omaha, NE 68179
(402) 271-3797

CERTIFICATE OF SERVICE

I certify that I have this day served a copy of the foregoing document upon the following by first class United States mail.

Sarah Whitley Bailiff, Esq.
The Burlington Northern and
Santa Fe Railway Company
2500 Lou Menk Drive
Fort Worth, TX 76161-2828

Dated at Omaha, Nebraska this 11h day of April, 2003.

A handwritten signature in cursive script, appearing to read "T. Christopher Lewis", is written over a horizontal line.

T. Christopher Lewis