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BNSF



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May 6, 2003

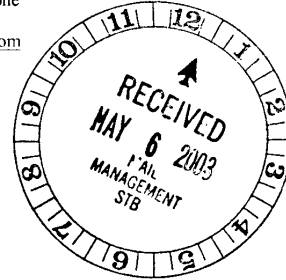
HAND DELIVERY

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

FEE RECEIVED

MAY 06 2003

**SURFACE
TRANSPORTATION BOARD**



RE: Finance Docket No. 34345 (Sub-No. 1), The Burlington Northern and Santa Fe Railway Company – Trackage Rights Exemption – Union Pacific Railroad Company

Dear Secretary Williams:

Enclosed for filing are the original and ten (10) copies of a **Petition to Terminate Trackage Rights Exemption** relating to the above-referenced matter. Please return the duplicate of this letter so that I may know the date on which the notice of exemption was filed. A check for \$150.00 is enclosed to cover the filing fee.

If anything further is needed, please give a call.

Sincerely,

Michael E. Roper/als

Michael E. Roper

MER/js

Enclosures

ENTERED
Office of Proceedings

MAY 06 2003

Part of
Public Record

FILED

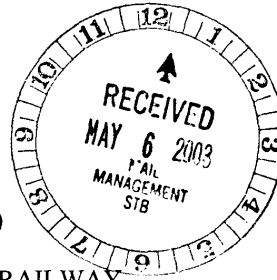
MAY 06 2003

**SURFACE
TRANSPORTATION BOARD**

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 34345 (Sub No. 1)

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



PETITION TO TERMINATE TRACKAGE RIGHTS EXEMPTION

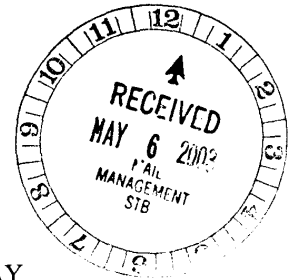
Michael E. Roper
THE BURLINGTON NORTHERN
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Fort Worth, TX 76161-0039
(817) 352-2353

Dated: May 6, 2003

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 34345 (Sub No. 1)

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



PETITION TO TERMINATE TRACKAGE RIGHTS EXEMPTION

This petition is filed under 49 U. S. C. §10502 by The Burlington Northern and Santa Fe Railway Company ("BNSF") and seeks to terminate the temporary trackage rights granted to BNSF over the Union Pacific Railroad Company ("UP") between Port Chicago, CA, at Mile Post 41.3 on UP's Tracy Subdivision, and Stege CA, at Mile Post 9.3 on UP's Martinez Subdivision. The trackage rights grant covers a total distance of approximately 28.7 miles, 6.3 on the Tracy Subdivision and 22.4 miles on the Martinez Subdivision. The trackage rights became effective on May 2, 2003, and the trackage rights agreement between BNSF and UP terminates on May 22, 2003.

The temporary trackage rights were granted by UP to enable BNSF to complete scheduled maintenance on certain BNSF lines. In this petition, BNSF respectfully requests the Board to exempt the trackage rights described above to permit them to expire on May 22, 2003. BNSF only sought the trackage rights for that purpose, and UP was not willing to grant trackage rights for any other purpose. Without the temporary trackage rights, it is unlikely any other

arrangement could have been reached with UP that would have allowed BNSF to complete the work without facing severe operational problems.

As stated above, this relief is being sought under 49 U. S. C. §10502 which authorizes an exemption when the Board finds that: (1) continued regulation is not necessary to carry out the rail transportation policy of 49 U. S. C. §10101; and (2) either the transaction is of limited scope, or regulation is not necessary to protect shippers from an abuse of market power. As the Board has found on several occasions, allowing these types of temporary trackage rights to expire is consistent with the limited scope requirement of Section 10502¹. In addition, termination of the trackage rights will not harm shippers in any way as they are limited overhead trackage rights and do not impact service to any shipper. Upon termination, BNSF will resume service over its own line and the line will be in better condition.

For the reasons stated above, BNSF respectfully requests the Board to issue an exemption to allow the above described trackage rights to expire on May 22, 2003. In addition, BNSF requests the Board to make the exemption shorten the normal 30 day period for an exemption to become effective in order to allow the trackage rights to terminate on May 22, 2003.

Respectfully submitted,

Michael E. Roper/als

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¹ See Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company, STB Finance Docket No. 34082 (Sub No. 1) (served September 13, 2001), and cases cited therein.