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APR 26 2005

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April 26, 2005

FILED

Via Fax (202) 565-9004

APR 26 2005

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

**Re: Finance Docket No. 34694; Union Pacific Railroad Company -- Temporary
Trackage Rights Exemption - BNSF Railway Company**

Dear Mr. Williams:

Enclosed for filing in the above proceeding are the following:

1. A Verified Notice of Exemption and Caption Summary pursuant to the class exemption for temporary trackage rights, 49 C.F.R. § 1180.2(d)(8).
2. A payment form in the amount of \$1,000 for the filing fee required by 49 C.F.R. § 1002.2(f), Part IV (40).

This filing is being made by fax pursuant to the former Interstate Commerce Commission's procedures in Acceptance of Mail Via Fax, 54 Fed. Reg. 52857, December 22, 1989, 1989 WL 294480 ("1989 Notice"). As required by the 1989 Notice, an original and ten (10) copies of the attached filing, and an additional twenty (20) copies of the Exhibit 1 map are being provided to the Board by overnight delivery under separate cover.

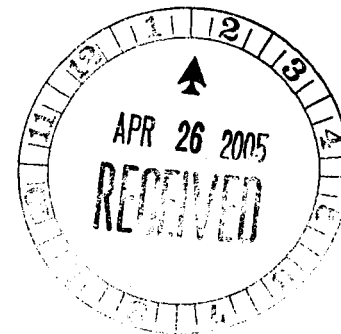
Very truly yours,

T. Christopher Lewis
General Attorney
Direct dial: 402/544-3797
Fax: 402/501-0132

cc: (w/attachments)
Sarah Whitley Bailiff, Esq. - BNSF

Law Department

UNION PACIFIC RAILROAD
1400 Douglas St., Stop 1580, Omaha, NE 68179-1580



April 26, 2005

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. 34694; Union Pacific Railroad Company – Temporary
Trackage Rights Exemption – BNSF Railway Company**

Dear Mr. Williams:

This refers to the notice of exemption in the above proceeding which was filed by fax on April 26, 2005 pursuant to the former Interstate Commerce Commission's procedures in Acceptance of Mail by Fax, 54 Fed. Reg. 52857, December 22, 1989 ("1989 Notice").

As required by the 1989 Notice, enclosed with this letter are the following materials:

1. An original and ten (10) copies of a Verified Notice of Exemption and Caption Summary (Exhibit 3 to the Notice) pursuant to the trackage rights class exemption, 49 C.F.R. § 1180.2(d)(7).
2. The original of the payment form in the amount of \$1,000.00 for the filing fee required by 49 C.F.R. § 1002.2(f), Part IV (40).
3. Twenty (20) unbound copies of the Exhibit 1 map.

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.

Very truly yours,

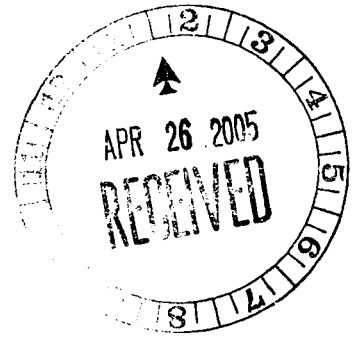
A handwritten signature in cursive script, appearing to read "T. Christopher Lewis".

T. Christopher Lewis
General Attorney
Direct dial: 402/544-3797
Fax: 402/501-0132

cc: (w/attachments)
Sarah Whitley Bailiff, Esq. - BNSF

Law Department

UNION PACIFIC RAILROAD
1400 Douglas St., Stop 1580, Omaha, NE 68179-1580



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 34694

**UNION PACIFIC RAILROAD COMPANY
-- TEMPORARY TRackage RIGHTS EXEMPTION --
BNSF RAILWAY COMPANY**

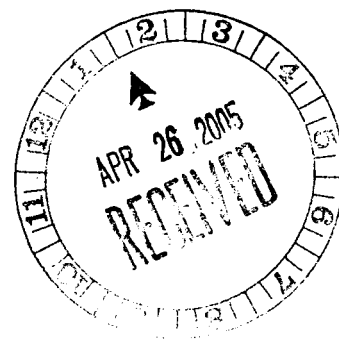
VERIFIED NOTICE OF EXEMPTION

UNION PACIFIC RAILROAD COMPANY

**T. Christopher Lewis
General Attorney
1400 Douglas Street
STOP 1580
Omaha, NE 68179
(402) 544-3797
(402) 501-0132 (FAX)**

Dated and Filed: April 26, 2005

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



FINANCE DOCKET NO. 34694

**UNION PACIFIC RAILROAD COMPANY
-- TEMPORARY TRackage RIGHTS EXEMPTION --
BNSF RAILWAY COMPANY**

VERIFIED NOTICE OF EXEMPTION

Union Pacific Railroad Company ("UP") submits this Verified Notice of Exemption, pursuant to 49 C.F.R. § 1180.2(d)(7)¹, for exemption of local trackage rights over a line of railroad of BNSF Railway Company ("BNSF") between Scribner Siding, WA, BNSF milepost 11.8 and BNSF milepost 36.0 near Sprague, WA, a distance of approximately 24.7 miles. The trackage rights are temporary rights, and are intended to permit UP move loaded and empty ballast trains for use in UP Maintenance of Way (MOW) projects as provided in the agreement attached as Exhibit 2. The rights are to expire on or about December 31, 2005.

¹ Since the temporary trackage rights covered by this filing are "local" rather than "overhead" rights, the filing is not being made under the Board's class exemption for temporary trackage rights under 49 C.F.R. § 1180.2(d)(8). As such, UP is filing a separate petition for partial revocation of the exemption to permit the trackage rights to expire as provided in the underlying agreement.

Under 49 C.F.R. § 1180.2(d)(7), the acquisition of trackage rights by a rail carrier over lines owned or operated by any other rail carrier or carriers is exempt if the rights are (i) based on written agreements, and (ii) not filed or sought in responsive applications in rail consolidation proceedings. The trackage rights covered by this notice are covered by the written agreement attached as Exhibit 2, and are not being filed or sought in responsive applications in a rail consolidation proceeding. As such, the § 1180.2(d)(7) exemption is applicable.

In accordance with the requirements of 49 C.F.R. § 1180.4(g), UP submits the following information:

§ 1180.6(a)(1) Description of Proposed Transaction

The transaction covered by this notice is the acquisition of temporary, local trackage rights by UP between Scribner Siding, BNSF milepost 11.8 and BNSF milepost 36.0 near Sprague, WA, a distance of approximately 24.7 miles.

§ 1180.6(a)(1)(I) Summary of the proposed transaction.

See answer to § 1180.6(a)(1), above.

§ 1180.6(a)(1)(I) Name, business address and telephone number of applicant, and the name of counsel to whom questions can be addressed.

The name and business address of the applicant is:

Union Pacific Railroad Company
1400 Douglas Street, STOP 1580
Omaha, Nebraska 68179

Questions regarding this transaction are to be addressed to the representative named below:

T. Christopher Lewis
General Attorney
1400 Douglas Street
STOP 1580
Omaha, NE 68179
(402) 544-3797
(402) 501-0132 (FAX)

§ 1180.6(a)(1)(ii) Consummation Date

The agreement will be consummated on May 3, 2005.

§ 1180.6(a)(1)(iii) Purpose of the Transaction

The trackage rights are temporary rights are intended to permit UP to move loaded and empty ballast trains for use in UP MOW projects. The rights are to expire on or about December 31, 2005.

§ 1180.6(a)(5) States in which the Applicant Operates

UP operates in the states of Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Tennessee, Texas, Utah, Washington, Wisconsin and Wyoming.

§ 1180.6(a)(6) Map (Exhibit 1)

A map is provided as Exhibit 1.

§ 1180.6(a)(7)(ii) Agreement (Exhibit 2)

A draft of the trackage rights agreement showing the principal terms proposed is attached as Exhibit 2.

§ 1180.4(g)(1)(I) Labor Protection

The applicable labor protection conditions are those 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). The applicable labor protective conditions for the discontinuance of the temporary trackage rights as requested in the accompanying Petition for Partial Revocation are those imposed in Oregon Short Line Railroad Co. -- Abandonment -- Goshen, 360 I.C.C. 91 (1979).

§ 1180.4(g)(2)(i) Caption Summary (Exhibit 3)

A caption summary of this transaction suitable for publication in the *Federal Register* is attached as Exhibit 3.

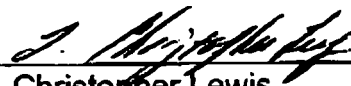
§ 1180.4(g)(3) Environmental Documentation

Environmental documentation is not required for this transaction. See 49 C.F.R. § 1105.6(c)(4) (no environmental documentation required for common use of rail terminals and trackage rights).

Respectfully submitted,

UNION PACIFIC RAILROAD COMPANY

By:


T. Christopher Lewis
General Attorney
1400 Douglas Street
STOP 1580
Omaha, Nebraska 68179
(402) 544-3797
(402) 501-0132 (FAX)

VERIFICATION

T. Christopher Lewis, General Attorney of Union Pacific Railroad Company, under penalty of perjury, declares and verifies that he has read the foregoing Notice of Exemption in Finance Docket No. 34694, knows the facts stated herein, and that said facts are true as stated.

Dated: April 26, 2005.



T. Christopher Lewis

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.
BNSF Railway Company
2500 Lou Menk Drive
Fort Worth, TX 76161-2828

Dated at Omaha, Nebraska this 26th day of April, 2005.

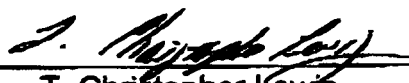

T. Christopher Lewis

EXHIBIT 1

EXHIBIT "A"
Sprague, WA to UP Jct., WA
24.7 miles

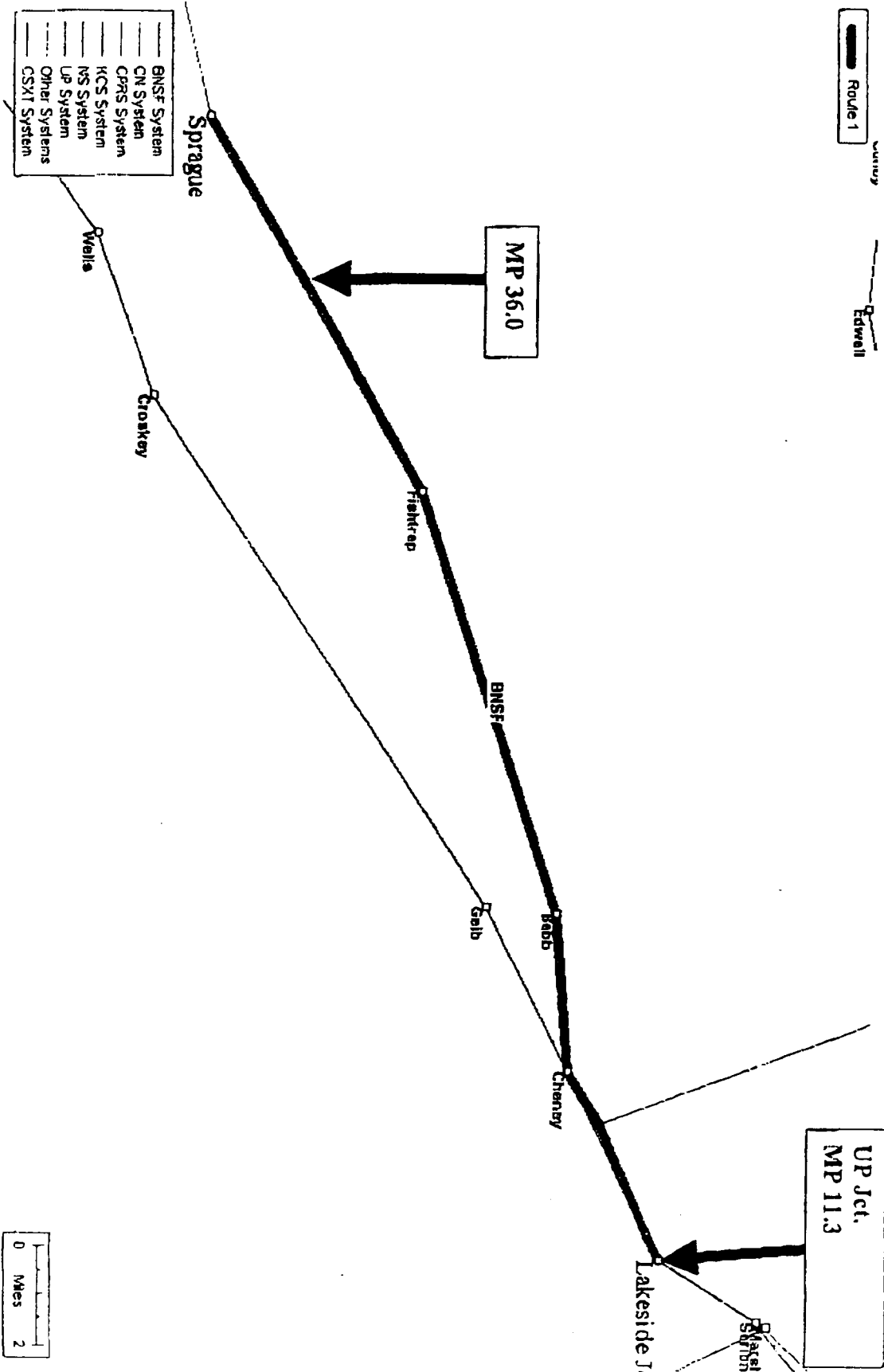


EXHIBIT 2

**Temporary Trackage Rights Agreement
Between UP Junction (Milepost 11.3) and Sprague, WA
May 01, 2005 to December 31, 2005**

THIS AGREEMENT, made and entered into this 22nd day of April, 2005 by and between **BNSF RAILWAY COMPANY**, a Delaware corporation, hereinafter called "BNSF" or "Owner", and **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, hereinafter called "UP" or "User".

WHEREAS, BNSF is the owner and operator of certain lines of railroad extending between UP connections over BNSF's railroad system; and

WHEREAS, UP desires to obtain temporary trackage rights upon certain lines of BNSF'S railroad, for the sole purpose of handling ballast trains of company material; and

WHEREAS, BNSF is agreeable to said temporary trackage rights but only on the terms and conditions hereinafter set forth.

NOW, THEREFORE, it is mutually agreed by and between the parties.

Section 1. TRackage SUBJECT TO AGREEMENT.

Attached hereto, marked Exhibit "A" and by this reference incorporated herein, is a print, which depicts the portion of line of BNSF railroad over which UP will be granted temporary trackage rights hereinafter referred to as the "Joint Trackage" (as further defined in Exhibit "B" of this agreement, attached hereto and by this reference incorporated herein).

Section 2. GRANT OF TEMPORARY TRackage RIGHTS.

The General Conditions covering the grant of temporary bridge trackage rights are set forth in Exhibit "B". If any conflict between Exhibit "B" and this agreement shall arise, the provisions of this agreement shall prevail. Subject to the terms and conditions of Exhibit "B", this agreement, and UP's agreement to file a "Petition for Partial Revocation of Class Exemption and for Temporary Exemption of Trackage Rights", which requests revocation of the temporary trackage rights on the dates indicated in this Section 2, jointly with its "Notice of Exemption" filing for the trackage rights with the STB, BNSF grants to UP the temporary nonexclusive right to use the Joint Trackage (as defined in Exhibit "B" of this agreement) that is in its account while moving over the Joint Trackage in common with BNSF and such other railroad company or companies as BNSF has heretofore admitted or may hereafter at any time admit to the joint use of any and all of the Joint Trackage, such other railroad company or companies to hereinafter be considered BNSF for the purpose of this agreement. Said grant of rights shall be between UP Junction,

Washington, BNSF's Lakeside Subdivision, BNSF's Milepost 11.3 and Sprague, Washington, BNSF's Lakeside Subdivision, BNSF's Milepost 36.0, a distance of 24.7 miles for the period of May 01, 2005 through December 31, 2005.

It is understood and agreed that:

(a) UP shall not have the right to set out, pickup or store cars, or switch upon the Joint Trackage, or any part thereof, except as necessary for handling Equipment that is bad ordered en route;

(b) UP shall not have the right to serve any industry, team or house track now existing or constructed in the future along the Joint Trackage, except the temporary rights as outline within the time frame of this agreement to use of the ballast pit located at Sprague, Washington which is further restricted to the sole purpose of UP obtaining unit trains of company ballast;

(c) UP shall not permit or admit any third party to the use of all or any portion of the Joint Trackage, nor have the right to detour trains of any other railroad over or upon the Joint Trackage, nor under the guise of doing its own business contract or make an agreement to handle as its own Equipment over or upon the Joint Trackage, or any portion thereof, the Equipment of any third party which in the normal course of business would not be considered the Equipment of UP; provided, however, that the foregoing shall not prevent UP, pursuant to a run-through agreement with any railroad, from using locomotives and cabooses of another railroad as its own under this agreement;

(d) UPRR's Temporary Trackage Rights are for the sole purpose of moving loaded and empty ballast trains. The ballast will be used for UPRR MOW projects, have no commercial value, and cannot be interchanged with another railroad;

(e) BNSF will not provide fuel for UPRR locomotives;

(f) UPRR will be responsible for the 1,000 mile inspection of their trains; and

(g) Temporary Trackage Rights shall be limited to May 1st, 2005 through December 31st, 2005.

(h) UPRR shall pay to BNSF, in addition to other payments to be made under this Agreement, for the use of Joint Trackage in the operation of its trains thereover the rate prescribed in the special Provisions, of the Maintenance Material Transportation Agreement, dated April 30, 2005.

Section 3. MAINTENANCE AND OPERATION OF TRACKAGE.

BNSF, at its expense, shall maintain the Joint Trackage in a manner permitting operation at no less than the track standard designated in the timetable in effect on the date of this agreement and permit UP to operate at such speeds unless by mutual written agreement a different standard is provided. In the event that for, operating convenience, necessity or emergency, BNSF permits or directs UP to use adjacent BNSF track and track connections between or beyond the terminal of the Joint Trackage as an alternative route, then and in such event, such trackage, track

connections and appurtenances shall be deemed to be part of the Joint Trackage and shall be governed by all the provisions of this Agreement.

Section 4. LIMITATIONS AND MEASUREMENT OF TRACKAGE RIGHTS TRAINS.

UP and BNSF agree that UP's use of the trackage rights granted herein shall be for a maximum of four (4) UP trains per week two (2) loads and two (2) empties. Trains will be limited to 57 cars and 1.5 HPT.

Section 5. CONNECTIONS AND ADDITIONS.

The entire cost of construction of any connection necessary for the implementation of the Temporary Trackage Rights granted in this Agreement shall be at UP's expense. BNSF, at UP's expense, shall construct, own and maintain the part of any connection on BNSF's property.

Section 6. LIABILITY

Any liability for loss, damage, injury or death which arises from the operation under this Agreement shall be assumed, settled and paid as provided by Exhibit "B", General Conditions, attached hereto.

Section 7. TERM AND TERMINATION.

Subject to the provisions of Section 7.2, 7.3 and 7.4 of Exhibit "B", this agreement shall become effective upon the date UP first commences operations over the Joint Trackage pursuant to this agreement, subsequent to having secured all necessary consent, approval or authority from appropriate governmental agencies upon terms and conditions satisfactory to UP, and shall remain in effect for the period of time specified in Section 2 hereof.

IN WITNESS WHEREOF, the parties hereto have executed this agreement in duplicate the day and year first above written.

WITNESS:

BNSF RAILWAY COMPANY

By: _____

WITNESS:

UNION PACIFIC RAILROAD COMPANY

By: McGinnis

EXHIBIT 3

CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

**NOTICE OF EXEMPTION
FINANCE DOCKET NO. 34694**

**UNION PACIFIC RAILROAD COMPANY
-- TEMPORARY TRackage RIGHTS EXEMPTION --
BNSF RAILWAY COMPANY**

BNSF Railway Company ("BNSF") has agreed to grant local trackage rights to Union Pacific Railroad Company to move UP Company Material (ballast) between Scribner Siding, WA, BNSF Milepost 11.8 and BNSF milepost 36.0 near Sprague, WA, a distance of approximately 24.7 miles. The rights are temporary and will expire on or about December 31, 2005.

This Notice is filed under 49 C.F.R. § 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. § 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Dated:
By the Board,

Vernon A. Williams,
Secretary