



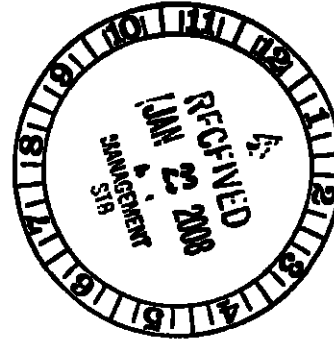
Gabriel S. Meyer
Assistant General Attorney

221344

January 23, 2008

Via Facsimile and UPS

The Honorable Anne Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20024



Re: Finance Docket No. 27843 (Sub. No. 1), Union Pacific Railroad Company – Trackage Rights Exemption (Modification) – Iowa, Chicago & Eastern Railroad Corp.

Dear Secretary Quinlan:

Enclosed for filing in the above proceeding are the following:

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. A 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.

Thank you for your time and attention to this matter. Please do not hesitate to call me if you have any questions.

FEE RECEIVED

JAN 23 2008

**SURFACE
TRANSPORTATION BOARD**

Sincerely,

Gabriel S. Meyer

Gabriel S. Meyer

cc: (w/attachments)
Ed Terbell— Iowa, Chicago & Eastern Railroad Corp.

ENTERED
Office of Proceedings

JAN 23 2008

Part of
Public Record

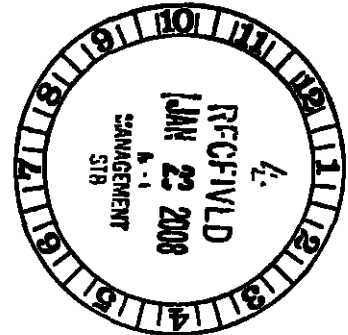
FILED

JAN 23 2008

**SURFACE
TRANSPORTATION BOARD**

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 27843 (SUB-NO. 1)



**UNION PACIFIC RAILROAD COMPANY
-- TRACKAGE RIGHTS EXEMPTION (MODIFICATION)--
IOWA, CHICAGO & EASTERN RAILROAD CORP.**

VERIFIED NOTICE OF EXEMPTION

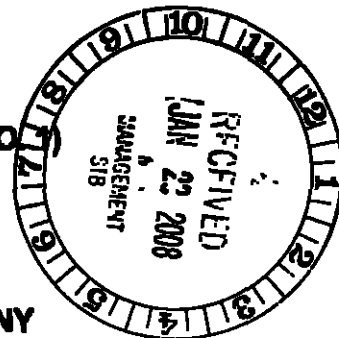
UNION PACIFIC RAILROAD COMPANY

**Gabriel S. Meyer
Assistant General Attorney
1400 Douglas Street
STOP 1580
Omaha, NE 68179
(402) 544-1658
(402) 501-3393 (FAX)**

**Dated: January 23, 2008
Filed: January 23, 2008**

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 27843 (SUB-NO. _____)



**UNION PACIFIC RAILROAD COMPANY
– TRACKAGE RIGHTS EXEMPTION (MODIFICATION)–
IOWA, CHICAGO & EASTERN RAILROAD CORP.**

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), for exemption a Supplemental Agreement ("Supplement") to an existing trackage rights agreement ("Original Agreement") covering UP's use of a line of railroad of Iowa, Chicago & Eastern Railroad Corp. ("ICE") between Milepost 192.83 at Emmetsburg, IA and Milepost 236.52 at Hartley, IA, a distance of 43.69 miles.¹ The Supplement addresses issues involving UP's set-out and pick-up of traffic at VeraSun Hartley, LLC's facility at Hartley, IA.

Under 49 C.F.R. § 1180.2(d)(7), the acquisition, renewal or modification 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 consolidations proceedings. See Railroad

¹ The Original Agreement for the Emmetsburg-Hartley trackage rights was entered into by Chicago, Rock Island and Pacific Railway Company ("Rock Island") and Chicago, Milwaukee, St. Paul and Pacific Railroad Company ("Milwaukee"). It was filed with the Interstate Commerce Commission on February 3, 1975. UP is the successor in interest to Rock Island and ICE is the successor in interest to Milwaukee.

Consolidation Procedures – Trackage Rights Exemption, 1 I.C.C. 2d 270, 275 (1985)

(exemption covers all trackage rights whether new, renewed or modified). The amended trackage rights covered by this Notice are addressed by the Supplement, which is 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.

Pursuant to the Board's regulations at 49 C.F.R. § 1180.4(g), a Notice of Exemption shall contain the information required in § 1180.6(a)(1)(I)–(III), (a)(5)–(6), and (a)(7)(ii), and shall indicate the level of labor protection to be imposed. UP provides the following information:

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

The transaction covered by this notice is the amendment of an existing trackage rights agreement covering UP's use of a line of railroad of ICE between Milepost 192.83 at Emmetsburg, IA and Milepost 236.52 at Hartley, IA, a distance of 43.69 miles. Pursuant to the Supplement, UP will acquire rights to set-out and pick-up of traffic at VeraSun Hartley, LLC's facility at Hartley, IA.²

§ 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:

² The Original Agreement grants only overhead trackage rights to UP. These rights allow UP to access trackage that it owns in Hartley, which is not directly connected to the rest of UP's rail network. (See Map—Exhibit 1.)

Union Pacific Railroad Company
1400 Douglas Street
Omaha, NE 68179

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

Gabriel S. Meyer
Assistant General Attorney
1400 Douglas Street
STOP 1580
Omaha, NE 68179
(402) 544-1658
(402) 501-3393 (FAX)

§ 1180.6(a)(1)(II) Consumation Date

The terms of the Supplement will take effect on February 22, 2008.

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

The purpose of the transaction covered by the Notice is to amend the terms
of an existing trackage rights agreement.

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

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

§ 1180.6(a)(6) Map (Exhibit 1)

A map documenting the trackage rights described in the Supplement is
provided as Exhibit 1.

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

An executed copy of the Supplemental Agreement 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).

1180.4(g)(2)(iii) 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:



Gabriel S. Meyer
Assistant General Attorney
1400 Douglas Street
STOP 1580
Omaha, NE 68179
(402) 544-1658
(402) 501-3393 (FAX)

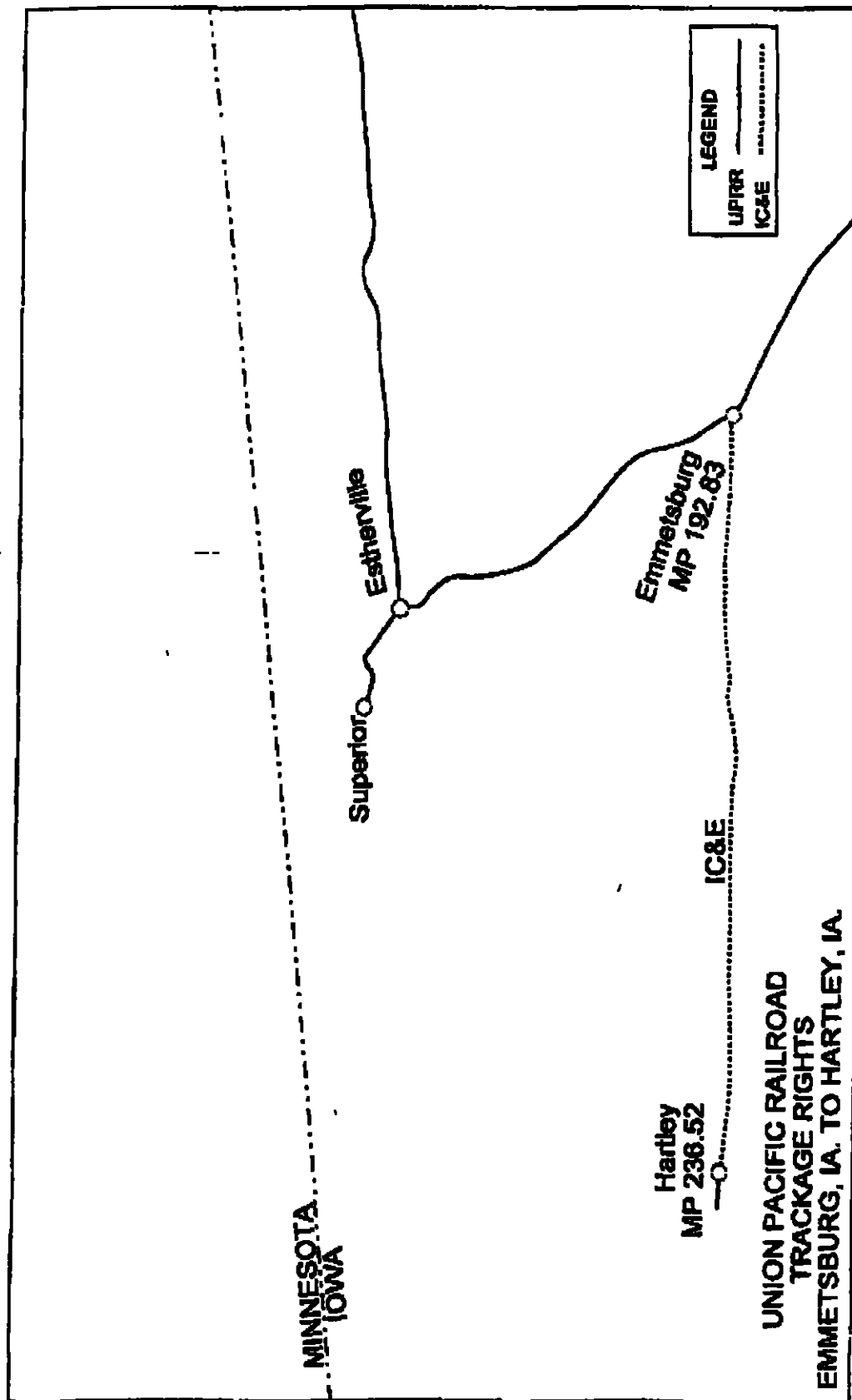
VERIFICATION

I, Gabriel S. Meyer, Assistant General Attorney of Union Pacific Railroad Company, under penalty of perjury, declare and verify that I have read the foregoing Notice of Exemption in Finance Docket No. 27843 (Sub. No. 1), know the facts stated therein, and believe that said facts are true as stated.

Dated: January 23, 2008


Gabriel S. Meyer

FINANCE DOCKET NO. 27843 (SUB-NO. 1)
EXHIBIT 1



**FINANCE DOCKET NO. 27843 (SUB-NO. 1)
EXHIBIT 2**

HARTLEY ACCESS AGREEMENT

THIS SUPPLEMENTAL AGREEMENT, made and entered into this 22nd day of May 2007, by and between IOWA, CHICAGO & EASTERN RAILROAD CORPORATION, a Delaware corporation ("ICE"), and UNION PACIFIC RAILROAD COMPANY, a Delaware corporation ("UP"). ICE and UP are sometimes collectively referred to below as the "Parties" and sometimes individually referred to below as a "Party."

RECITALS:

1. ICE and UP are parties to an agreement dated November 19, 1974, as amended (the "1974 Agreement"), by which ICE's predecessor in interest Chicago, Milwaukee, St. Paul and Pacific Railroad Company granted to UP's predecessor in interest Chicago, Rock Island and Pacific Railroad Company overhead trackage rights over ICE's line between Emmetsburg and Hartley, Iowa (the "Joint Line"); and

2. The Parties now desire to further modify and supplement the 1974 Agreement for the purpose of permitting UP to serve a specified industry located on the Joint Line.

IN CONSIDERATION of the mutual and dependent covenants by each Party, the Parties have agreed as follows:

1. Notwithstanding Article II, Section 2.3, or any other provision of the 1974 Agreement, ICE hereby grants to UP the right to serve VeraSun Hartley, LLC's ("VeraSun") Hartley facility (the "Facility") for so long as the Facility is operated by VeraSun, its successors or assigns. Upon cessation of the operation of the Facility by VeraSun, its successors or assigns, this Supplemental Agreement shall automatically terminate and the original provisions of Article II, Section 2.3, of the 1974 Agreement shall again be in full force and effect.

Nothing in this Supplemental Agreement shall be construed as granting UP

the right to serve any industry on or along the Joint Line other than the Facility.

2. For use of the Joint Line to serve the Facility, UP shall pay, in addition to payments provided for in the 1974 Agreement, the sum of thirty-four and one-half cents (\$.345) per mile for each loaded car UP receives from or delivers to the Facility, (the "Loaded Car Mile Charge").

3. The Loaded Car Mile Charge shall be adjusted annually upward or downward effective July 1 of each year beginning with the year 2008 by seventy percent (70%) of the increase or decrease by use of the Annual Index of Material Prices, Wage Rates and Supplements combined (excluding fuel) Western District Series RCR Included in Railroad Cost Indexes, issued by the Association of American Railroads ("AAR"); provided, however, that the Loaded Car Mile Charge shall never be adjusted below thirty-four and one-half cents (\$.345).

The adjustment formula shall be:

$$(1) \quad (B - A)/A \times 70\% = D$$

$$(2) \quad (D \times C) + C = \text{Adjusted Charge}$$

Where:

A = the AAR Index for the base year, 2006

B = the AAR Index for the year prior to the year in which the rate will become effective

C = Base Charge

D = Decimal equivalent of percent of increase or decrease in base charge

If the base for the annual AAR Railroad Cost Indexes issued by the AAR shall be changed from the year 1977, appropriate revision shall be made in the base established as herein provided. If the AAR or any successor organization discontinues publication of the AAR Railroad Cost (or of any relevant component), the Parties agree to use in its place the Index of Producer Prices of the United

States Department of Labor Bureau of Labor Statistics. UP shall report to ICE on a monthly basis the number of loaded and empty cars handled by it over the Joint Line pursuant to this Supplemental Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Supplemental Agreement to be executed in duplicate as of the day and year first above written.

WITNESS:

IOWA, CHICAGO & EASTERN RAILROAD CORPORATION

Cynde A. Javik

By: JELLO

WITNESS:

UNION PACIFIC RAILROAD COMPANY

M. M. Stuenkel

By: B.B. Bragg

**FINANCE DOCKET NO. 27843 (SUB-NO. 1)
EXHIBIT 3**

Iowa, Chicago & Eastern Railroad Corp. ("ICE") has agreed to modify an existing overhead trackage rights agreement, under which Union Pacific Railroad Company operates over ICE trackage between Milepost 192.83 at Emmetsburg, IA and Milepost 236.52 at Hartley, IA, a distance of 43.69 miles. The modified trackage rights agreement, under which Union Pacific will retain its existing rights, will grant Union Pacific the right to set out and pick up traffic at VeraSun Hartley, LLC's facility at Hartley, IA. The modification will be effective on February 22, 2008.

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,**

**Anne Quinlan,
Acting Secretary**

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, postage prepaid:

Ed Terbell
Executive Vice President – Operations
Iowa, Chicago & Eastern Railroad Corp.
140 N. Phillips Avenue
Sioux Falls, SD 57104

Dated at Omaha, Nebraska, this 23rd day of January, 2008.


Gabriel S. Meyer