

216905



Gabriel S. Meyer
Assistant General Attorney

June 29, 2006

Via UPS Overnight

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

ENTERED
Office of Proceedings

JUN 30 2006

**Part of
Public Record**



**Re: Finance Docket No. 30868 (Sub. No. 1); Union Pacific Railroad Company –
Amendment of Trackage Rights Exemption – BNSF Railway Company**

Dear Secretary Williams:

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.

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. Thank you for your time and attention to this matter.

Sincerely,

Gabriel S. Meyer

cc: (w/attachments)
Sarah Bailiff--BNSF

FEE RECEIVED

JUN 30 2006

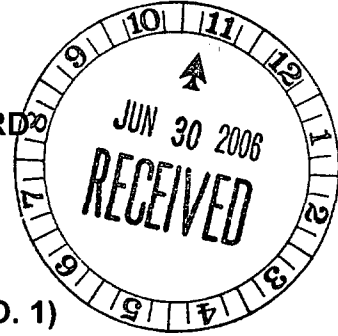
**SURFACE
TRANSPORTATION BOARD**

FILED

JUN 30 2006

**SURFACE
TRANSPORTATION BOARD**

BEFORE THE
SURFACE TRANSPORTATION BOARD



FINANCE DOCKET NO. 30868 (SUB-NO. 1)

UNION PACIFIC RAILROAD COMPANY
-- MODIFICATION OF TRackage RIGHTS EXEMPTION --
BNSF RAILWAY CO.

ENTERED
Office of Proceedings

JUN 30 2006

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Public Record

VERIFIED NOTICE OF EXEMPTION

FEE RECEIVED

JUN 30 2006

SURFACE
TRANSPORTATION BOARD

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)

FILED

JUN 30 2006

SURFACE
TRANSPORTATION BOARD

Dated: June 29, 2006
Filed: June 30, 2006

BEFORE THE
SURFACE TRANSPORTATION BOARD



FINANCE DOCKET NO. 30868 (SUB-NO. 1)

UNION PACIFIC RAILROAD COMPANY
-- MODIFICATION OF 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), for modification of an overhead trackage rights agreement ("Original Agreement") covering UP's use of a line of railroad of BNSF Railway Company ("BNSF") between Milepost 59.06 and Milepost 0.65, and between Milepost 59.06 and Milepost 60.15, a total distance of approximately 1.74 miles, in Lincoln, Nebraska. UP filed the Original Agreement with the Board on July 7, 1986. UP now seeks to modify the Original Agreement to exclude a portion of these trackage rights, which UP has never used or consummated.

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

Consolidation Procedures -- Trackage Rights Exemption, 1 I.C.C. 2d 270 at 275 (1985) (exemption covers all trackage rights whether new, renewed, or modified). The trackage rights modification covered by this Notice is contained in the Trackage Rights Agreement Supplement ("Supplement") attached as Exhibit 2. The Supplement is not being sought in responsive applications in a rail consolidation proceeding. As such, the § 1180.2(d)(7) exemption is applicable.

In accordance with 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 modification of an existing trackage rights agreement covering UP's use of a BNSF line of railroad between Milepost 59.06 and Milepost 0.65, and between Milepost 59.06 and Milepost 60.15, a total distance of approximately 1.74 miles, in Lincoln, Nebraska. Pursuant to the Supplement, UP will relinquish its right, which it has never used or consummated, to operate these trackage rights between Milepost 59.06 and Milepost 60.15 in, a distance of approximately 1.09 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
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) Consummation date

The terms of the Supplement will take effect on July 7, 2006.

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

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

§ 1180.6(a)(5) States in which property of the applicant is situated

UP is situated in the states of Arizona, California, Colorado, Idaho, Illinois,
Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Montana,
Nebraska, Nevada, 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 Supplement 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)

EXHIBIT 1
STB FINANCE DOCKET NO. 30868 (SUB. NO. 1)

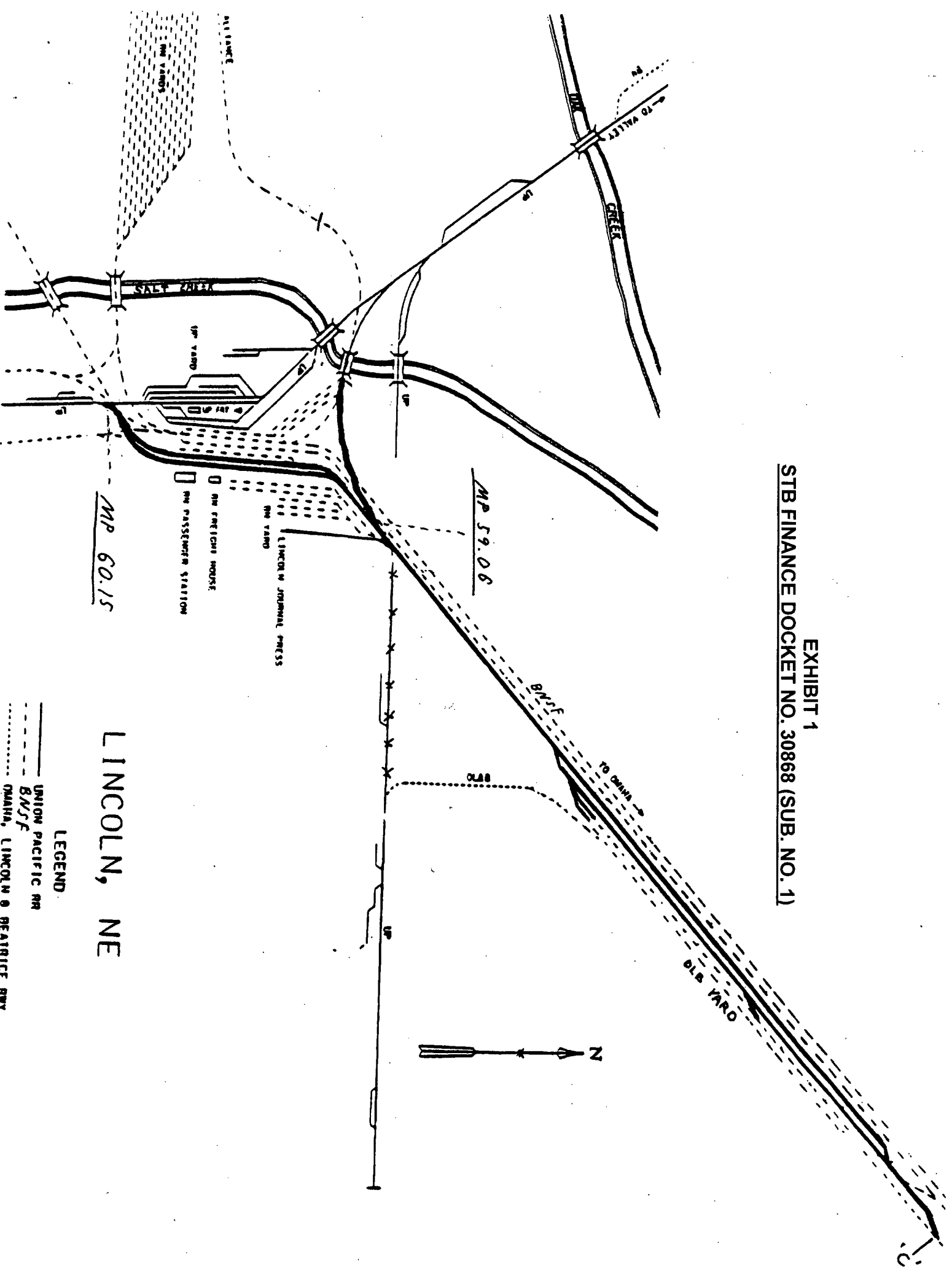


EXHIBIT 2
STB FINANCE DOCKET NO. 30868 (SUB. NO. 1)

SUPPLEMENT TO LINCOLN, NEBRASKA TRACKAGE RIGHTS AGREEMENT

SUPPLEMENTAL AGREEMENT, made this 8th day of January, 2005, between **THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY**, a Delaware corporation (hereinafter called "BNSF") and **UNION PACIFIC RAILROAD COMPANY** a Delaware corporation (hereinafter called "UP").

RECITALS:

Whereas, the parties hereto entered into that certain Lincoln, Nebraska Trackage Rights Agreement dated April 25, 1997, as amended and supplemented ("Original Agreement") relating to UP's use of BNSF owned and operated line of railroad in and through the City of Lincoln, Lancaster County, Nebraska; and

Whereas, the parties desire to amend the Original Agreement to discontinue UP's use of and eliminate from the definition of Joint Trackage that certain trackage between points A and B as set forth in Exhibit "A" of the Original Agreement; and

Whereas, BNSF is willing to grant such request on the following terms and conditions:

AGREEMENT

1. The attached Revised Exhibit "A", dated January 8, 2005, which depicts by solid bold line the Joint Trackage between points "D" MP 0.65 and "B" MP 59.06, and "B" MP 59.06 and "C" MP 56.92, a distance of 2.79 miles, shall amend and replace in its entirety original Exhibit "A" from the Original Agreement.
2. Section 5(a) of the Original Agreement is hereby deleted in its entirety and the following substituted therefor:
 - (a) For UP's proportion of maintenance and operating costs over and upon the Joint Trackage, in advance, an initial flat rate annual payment of THIRTY TWO THOUSAND FOUR HUNDRED DOLLARS AND NO CENTS (\$32,400.00) with subsequent annual adjustments being based on AAR Cost Index.

Seventy percent (70%) of said initial flat rate shall be subject to annual increase or decrease on each April 1, commencing on April 1, 2006, based on the relationship of the Association of American Railroads (or successor organization) Indexes of Railroad Material Prices and Wage Rates for Railroads of Class I, Western District (material prices, wage rates and supplements combined, excluding fuel) for the preceding year to the index for the year 2004 applied to said seventy percent of the initial flat rate. Thus,

the percentage change from year 2004 to the year 2005 will be used to adjust the charge April 1, 2006. The other thirty percent (30%) of the initial flat rate shall remain fixed.

3. Subject to and conditioned upon receipt of any governmental approvals which may be required for the terms of this Agreement to become effective, this Supplemental Agreement shall be effective December 1, 2004. UP shall with file the Surface Transportation Board (STB) the appropriate documentation to enable the lawful accomplishment of the objects and purposes hereof and the lawful performance of the terms, provisions and conditions of this Agreement as amended. Should authority for any purpose of this paragraph mentioned be denied by the STB, or contain limitations not acceptable to the parties hereto, then this Supplemental Agreement shall be null and void.
4. Notwithstanding any provision to the contrary in this Supplemental Agreement, all rights, liabilities and obligations (including those of indemnity) related to the portion trackage which is being discontinued and eliminated from the definition of Joint Trackage shall survive and be enforceable under the terms of the Original Agreement for the applicable statute of limitations period.
5. The Original Agreement, as herein amended, changed and supplemented, shall continue in full force and effect.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed in duplicate as of the day and year first hereinabove written.

**THE BURLINGTON NORTHERN AND
SANTA FE RAILWAY COMPANY**

By: D. B. Vanden

Its: AUP CONTRACTS + JOINT FACILITIES

UNION PACIFIC RAILROAD COMPANY

By: B. B. Brumf

Its: Sr. Director - Ft. Facilities

SCHMITT "A"
Sitting of K, 2023

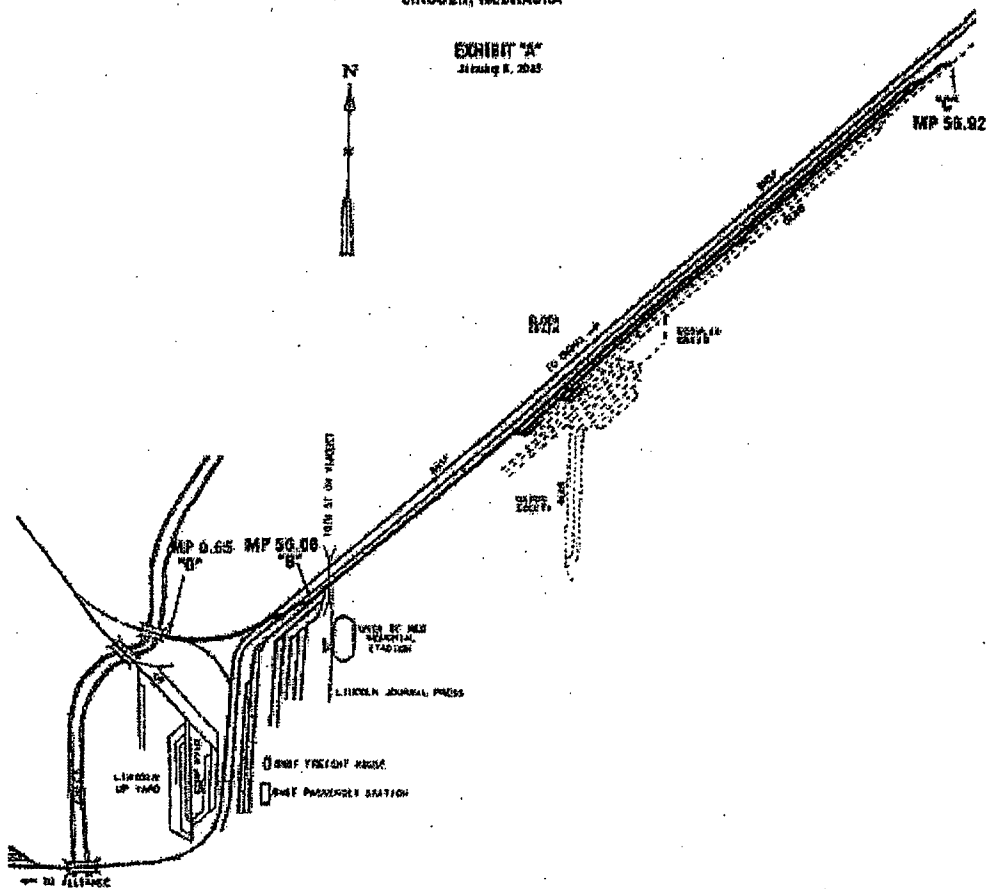


EXHIBIT 3
STB FINANCE DOCKET NO. 30868 (SUB-NO. 1)

CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION
FINANCE DOCKET NO. 30868 (SUB-NO. 1)

UNION PACIFIC RAILROAD COMPANY
-- AMENDMENT OF TRackage RIGHTS EXEMPTION --
BNSF RAILWAY CO.

BNSF Railway Company has agreed to modify a grant of trackage rights to Union Pacific Railroad Company in Lincoln, Nebraska. Pursuant to the modified grant of trackage rights, Union Pacific will operate between Mileposts 0.65 and 59.06, a distance of approximately 0.65 miles. The modified trackage rights will become effective on June 7, 2006.

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

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. 30868 (Sub. No. 1), know the facts stated therein, and believe to the best of my knowledge and ability that said facts are true as stated.

Dated: June 29, 2006



Gabriel S. Meyer

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:

Sarah Whitley Bailiff, Esq.
BNSF Railway Company
2500 Lou Menk Drive
Fort Worth, TX 76161-2828

Dated at Omaha, Nebraska, this 29th day of June, 2006.

A handwritten signature in black ink, appearing to read "Gabriel S. Meyer", written over a horizontal line.

Gabriel S. Meyer