

DID# 0101972001

BNSF



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June 20, 2002

HAND DELIVERY

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

ENTERED
Office of Proceedings

JUN 20 2002

Part of
Public Record



RE: Finance Docket No. 34218 (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 me a call.

Sincerely,

Michael E. Roper/als

Michael E. Roper

MER/jam

Enclosures

FILED

JUN 20 2002

SURFACE
TRANSPORTATION BOARD

FEE RECEIVED

JUN 20 2002

SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD



STB Finance Docket No. 34218 (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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Dated: June 20, 2002

BEFORE THE
SURFACE TRANSPORTATION BOARD



STB Finance Docket No. 34218 (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 UP Mile Post 428.7 at Klamath Falls, OR, and UP Mile Post 141.7 at Binney Junction (Marysville), CA, a distance of approximately 286.8 miles. The trackage rights, which became effective on June 17, 2002, were granted by UP to enable BNSF to complete scheduled maintenance on certain BNSF lines. At the time the petition was filed, it was anticipated that the maintenance work would be completed by August 4, 2002, and thus the petition indicated that the trackage rights would terminate on that date. It has now been determined that the maintenance work will not be completed until August 16, 2002, and the trackage rights agreement between BNSF and UP has been modified to provide for the termination of the trackage rights on that date.

In this petition, BNSF respectfully requests the Board to exempt the trackage rights described above to permit them to expire on August 16, 2002. BNSF is only seeking the

trackage rights for the described 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 be reached with UP that would allow 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 August 16, 2002. In addition, BNSF

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.

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 August 16, 2002.

Respectfully submitted,

Michael E. Roper/als

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