

213083



January 24, 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

ENTERED
Office of Proceedings

JAN 26 2005

Part of
Public Record

Re: Finance Docket No. 34554 (Sub-No. 2); Union Pacific Railroad Company –
Temporary Trackage Rights Exemption (Modification) -- The Burlington Northern
and Santa Fe Railway Company

Dear Mr. Williams:

I am enclosing the following material for filing in the above proceeding:

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.

Very truly yours,

Robert T. Opal
General Commerce Counsel
Direct dial: 402/544-3072
Fax: 402/501-0132

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

Robert T. Opal
General Commerce Counsel

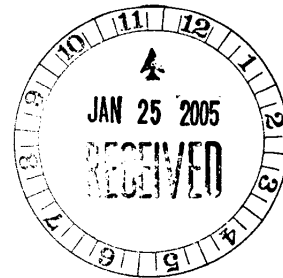
UNION PACIFIC RAILROAD
1400 Douglas St., Stop 1580, Omaha, NE 68179-1580
ph. (402) 544-3072 fx. (402) 501-0132
rtopal@up.com

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ORIGINAL

BEFORE THE
SURFACE TRANSPORTATION BOARD



FINANCE DOCKET NO. 34554 (SUB-NO. 2)

UNION PACIFIC RAILROAD COMPANY
-- TEMPORARY TRACKAGE RIGHTS EXEMPTION (MODIFICATION)--
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

VERIFIED NOTICE OF EXEMPTION

ENTERED
Office of Proceedings

JAN 26 2005

Part of
Public Record

FILED

JAN 25 2005

SURFACE
TRANSPORTATION BOARD

UNION PACIFIC RAILROAD COMPANY

Robert T. Opal
General Commerce Counsel
1400 Douglas Street
STOP 1580
Omaha, NE 68179
(402) 544-3072
(402) 501-0132 (FAX)

Dated: January 24, 2005
Filed: January 25, 2005

FEE RECEIVED

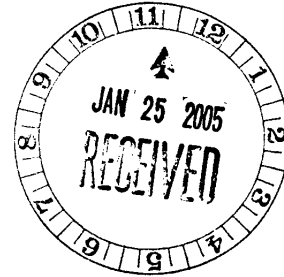
JAN 25 2005

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SURFACE
TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 34554 (SUB-NO. 2)



**UNION PACIFIC RAILROAD COMPANY
-- TEMPORARY TRACKAGE RIGHTS EXEMPTION (MODIFICATION) --
THE BURLINGTON NORTHERN AND SANTA FE 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 the local, temporary trackage rights agreement exempted in Finance Docket No. 34554, served October 7, 2004. The trackage rights apply over a line of railroad of The Burlington Northern and Santa Fe Railway Company between, BNSF Milepost 579.3 near Mill Creek, OK to BNSF milepost 631.1 near Joe Junction, TX, a distance of 51 miles. The modification covered by this notice of exemption is the extension of the December 31, 2004 expiration date so that rights will expire on or about December 31, 2005.¹

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). By decision served November 24, 2004 in Finance Docket No. 34554 (Sub-No. 1), the Board granted an exemption to permit the rights granted in Finance Docket No. 34554 to expire. At that time, it was anticipated that this would occur on or about December 31, 2004. However, this authority has not yet been exercised, and the trackage rights operations have continued by mutual agreement of BNSF and UP. UP is filing a new petition for partial revocation to permit the trackage rights, as modified herein, to expire on or about December 31, 2005.

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 modification of the expiration date of the temporary, local trackage rights by UP between BNSF Milepost 579.3 near Mill Creek, OK to BNSF milepost 631.1 near Joe Junction, TX, a distance of 51 miles previously exempted in Finance Docket No. 34554. As modified, the rights will now expire on or about December 31, 2005.

§ 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, Nebraska 68179

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

Robert T. Opal
General Commerce Counsel
1400 Douglas Street
STOP 1580
Omaha, NE 68179
(402) 544-3072
(402) 501-0132 (FAX)

§ 1180.6(a)(1)(ii) Consummation Date

The agreement will be consummated on February 1, 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 modification covered by this notice of exemption is to extend the expiration date so that the rights will 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)

The agreement modifying the trackage rights agreement exempted in Finance Docket No. 34554 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.

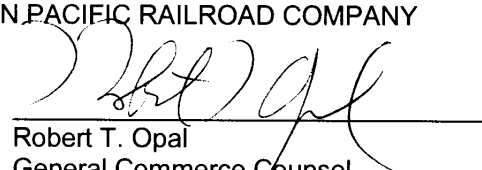
§ 1180.4(g)(3) Environmental Documentation

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

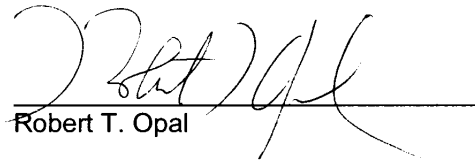
By:


Robert T. Opal
General Commerce Counsel
1400 Douglas Street
STOP 1580
Omaha, Nebraska 68179
(402) 544-3072
(402) 501-0132 (FAX)

VERIFICATION

Robert T. Opal, General Commerce Counsel 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. 34554 (Sub-No. 2), knows the facts stated therein, and that said facts are true as stated.

Dated: January 24, 2005.

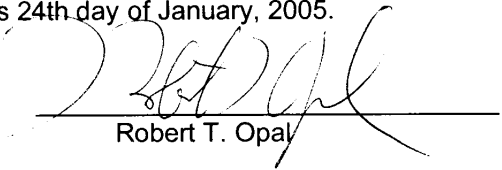

Robert T. Opal

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.
The Burlington Northern and
Santa Fe Railway Company
2500 Lou Menk Drive
Fort Worth, TX 76161-2828

Dated at Omaha, Nebraska this 24th day of January, 2005.



Robert T. Opal

EXHIBIT 1
Finance Docket No.
34554 (Sub-No. 2)

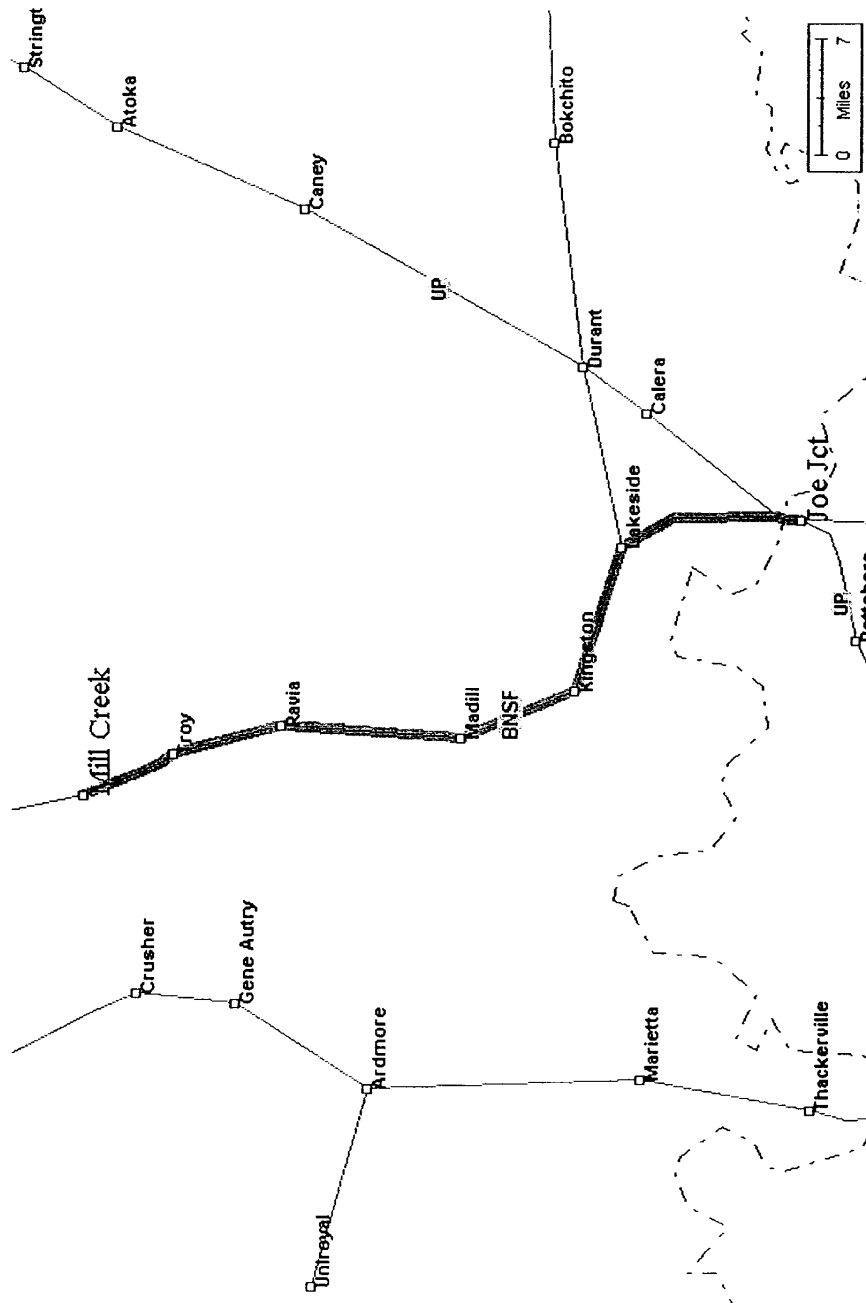


EXHIBIT 2

**AMENDMENT TO TEMPORARY TRACKAGE RIGHTS AGREEMENT
MILL CREEK, OKLAHOMA TO JOE JUNCTION, TEXAS
December 28, 2004**

THE AGREEMENT made and entered into on the 15th day of September, 2004 by and between THE BURLINGTON NORTHERN SANTA FE RAILWAY COMPANY, a Delaware Corporation, hereinafter called "BNSF" or "Owner", and the UNION PACIFIC RAILROAD COMPANY, a Delaware Corporation, hereinafter called "UP" or "User", for Temporary Trackage Rights between Mill Creek, Oklahoma and Joe Junction, Texas is hereby amended to extend the grant of rights pursuant to Section 2 from January 1, 2005 through December 31, 2005.

Except as herein provided all terms and conditions of the Agreement remain unchanged.

THE BURLINGTON NORTHERN AND SANTA FE
RAILWAY COMPANY:

By: Gregory C Fox
Title: VP Engineering

UNION PACIFIC RAILROAD COMPANY:

By: Jeffrey P. Dunell
Title: Director of Facilities

CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

**NOTICE OF EXEMPTION
FINANCE DOCKET NO. 34554 (SUB-NO. 2)**

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

The Burlington Northern and Santa Fe Railway Company has agreed to grant local trackage rights to Union Pacific Railroad Company to move UP Company . Material (ballast) between BNSF Milepost 579.3 near Mill Creek, OK to BNSF milepost 631.1 near Joe Junction, TX , a distance of 51 miles. The rights are a modification of the temporary trackage rights exempted in Finance Docket No. 34554, 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