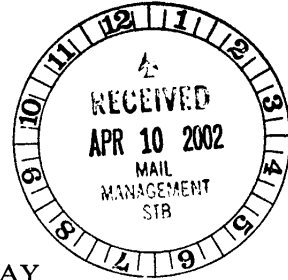


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BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 34194 (Sub-No. 1)

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



PETITION TO TERMINATE TRACKAGE RIGHTS EXEMPTION

FILED

APR 10 2002

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TRANSPORTATION BOARD

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ENTERED
Office of the Secretary

APR 11 2002

Part of
Public Record

Michael E. Roper
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Dated: April 10, 2002

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 34194 (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 is being filed in connection with the Verified Notice of Exemption filed in this proceeding on April 8, 2002, for BNSF to obtain temporary trackage rights over the Union Pacific Railroad Company ("UP") between UP Mile Post 2.3 in Omaha, NE, and UP Mile Post 76.0 in Sioux City, Iowa, a distance of 73.7 miles. The trackage rights are scheduled to become effective on April 15, 2002, and the trackage rights agreement between BNSF and UP terminates on April 30, 2002.

The temporary trackage rights were granted by UP to enable BNSF to complete scheduled maintenance on certain BNSF lines. In this petition, BNSF respectfully requests the Board to exempt the trackage rights described above to permit them to expire on April 30, 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 10502.¹ 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 April 30, 2002. In addition, BNSF requests that, in the exemption, the Board shorten the normal 30 day

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.

period for an exemption to become effective in order to allow the trackage rights to terminate on April 30, 2002.

Respectfully submitted,

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