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SERVICE DATE – OCTOBER 24, 2013

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35770]

BNSF Railway Company—Trackage Rights Exemption—Union Pacific Railroad
Company

Pursuant to a written trackage rights agreement, Union Pacific Railroad Company (UP) has agreed to grant overhead trackage rights to BNSF Railway Company (BNSF) over the following UP rail lines: (1) from Houston, Tex. (Tower 81), on the UP Harrisburg Subdivision at milepost 4.6 to the beginning of UP's Glidden Subdivision at milepost 13.6, and on to Rosenberg, Tex. (Tower 17), on UP's Glidden Subdivision at milepost 36.3 (Rosenburg Route); and (2) from the Clinton Industrial Lead connection, at the Terminal Subdivision at milepost 359.6, to the Houston Public Elevator #2 (HPE#2) (Clinton Route).¹

This transaction will be consummated on or shortly after the effective date of this exemption, November 7, 2013.²

¹ A redacted copy of the trackage rights agreement was filed with the verified notice of exemption. An unredacted version was filed under seal along with a motion for protective order, which will be addressed in a separate decision.

² This notice was scheduled to be published in the Federal Register during the time that the agency was closed due to a lapse in appropriations. Because publication of this notice has been delayed, the effective date of the exemption will also be delayed to provide adequate notice to the public.

The purpose of this transaction is to enable BNSF to make overhead movements of all commodities over the Rosenberg Route and overhead movements of grain consigned to HPE#2 and empty grain cars in return over the Clinton Route.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc., 354 I.C.C. 605 (1978), as modified in Mendocino Coast Railway—Lease & Operate—California Western Railroad, 360 I.C.C. 653 (1980).

This notice is filed under 49 C.F.R. § 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed by October 31, 2013 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35770, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Karl Morell, Ball Janik LLP, 655 Fifteenth Street, N.W., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at “WWW.STB.DOT.GOV.”

Decided: October 21, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.