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SERVICE DATE – AUGUST 19, 2009

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35285]

CSX Transportation, Inc.--Trackage Rights Exemption--Birmingham Southern Railroad Company

Pursuant to a written trackage rights agreement (the agreement) dated July 31, 2009, Birmingham Southern Railroad Company (BSRR) has agreed to grant trackage rights described as “generally overhead” to CSX Transportation, Inc. (CSXT) over the BSRR rail line between the crossover of CSXT and BSRR in Woodward, AL, approximately milepost 6, Station 307+00, and Bessemer, AL at the turnout to BSRR’s Private Intermodal Container Facility (the ICTF), milepost 9, Station 10+00¹, a distance of approximately three miles.²

The transaction is scheduled to be consummated on or shortly after September 2, 2009, the effective date of the exemption (30 days after the exemption was filed). The purpose of the trackage rights is to enable CSXT to improve direct intermodal container access to and from the Mercedes Benz USA facility in Bessemer, AL, through use of the

¹ Article 3 of the agreement provides that CSXT “. . . shall not perform any local freight service whatsoever at any point located on the Subject Trackage.” CSXT is, however, permitted to also use the trackage rights to set out bad ordered cars and to “double” trains in and out of the ICTF.

² A redacted version of the trackage rights agreement between BSRR and CSXT was filed with the notice of exemption. The full version of the agreement, as required by 49 CFR 1180.6(a)(7)(ii), was concurrently filed under seal along with a motion for protective order. The motion is being addressed in a separate decision.

ICTF. Under the agreement, in addition to overhead intermodal service, CSXT will be permitted, as required, to occupy the line for purposes of doubling trains in and out of the ICTF and for setting out any bad ordered cars within the premises of the ICTF.

As a condition to this exemption, any employee affected by the acquisition of the temporary trackage rights will be protected by the conditions 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).

This notice is filed under 49 CFR 1180.2(d)(8). 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 August 26, 2009 (at least 7 days before the exemption becomes effective).

Pursuant to the Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, § 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: collecting, storing, or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting, and shredding). The term “solid waste” is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35285, 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 Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

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Decided: August 14, 2009.

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

Anne K. Quinlan

Acting Secretary