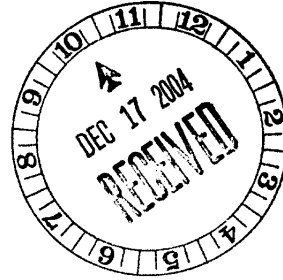


212791



December 16, 2004

Via UPS Next Day Air

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

FEE RECEIVED
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Re: Finance Docket No. 34417 (Sub-No. 3); Union Pacific Railroad
Company --Temporary Trackage Rights Exemption (Modification) --The
Burlington Northern and Santa Fe Railway Company

Dear Mr. Williams:

Enclosed for filing in the above proceeding are an original and ten (10) copies of a Petition for Partial Revocation of Class Exemption to Permit Expiration of Temporary Trackage Rights. Also enclosed is a payment form in the amount of \$200.00 for the filing fee required by 49 C.F.R. § 1002.2(f)(61).

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.

ENTERED
Office of Proceedings

DEC 17 2004

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Public Record

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

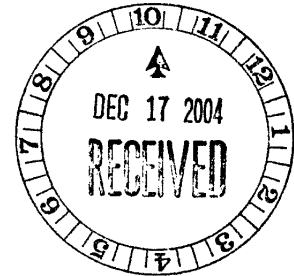
UNION PACIFIC RAILROAD
1400 Douglas St., Stop 1580, Omaha, NE 68179-1580
ph. (402) 544-3072 fx. (402) 501-0132
rtopal@up.com

212791

ORIGINAL

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34417 (SUB-NO. 3)



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

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**PETITION FOR PARTIAL REVOCATION OF CLASS EXEMPTION
TO PERMIT EXPIRATION OF TEMPORARY TRACKAGE RIGHTS**

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SURFACE
TRANSPORTATION BOARD

UNION PACIFIC RAILROAD COMPANY

Robert T. Opal
General Commerce Counsel
1400 Douglas Street
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(402) 544-3072
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Dated: December 16, 2004
Filed: December 17, 2004

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BEFORE THE
SURFACE TRANSPORTATION BOARD

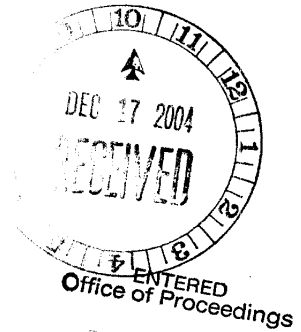
FINANCE DOCKET NO. 34417 (SUB-NO. 3)

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

**PETITION FOR PARTIAL REVOCATION OF CLASS EXEMPTION
TO PERMIT EXPIRATION OF TEMPORARY TRACKAGE RIGHTS**

Pursuant to 49 U.S.C. § 10502(d) and the regulations of the Surface Transportation Board at 49 C.F.R. § 1121, Union Pacific Railroad Company ("UP") hereby seeks partial revocation of the Board's trackage rights class exemption, 49 C.F.R. § 1180.2(d)(7), in Finance Docket No. 34417 (Sub-No. 2), as necessary to allow the UP/BNSF trackage rights arrangement which is the subject of this proceeding to expire, as expressly desired by both parties, on or about May 16, 2005.¹ Revoking the class exemption as necessary to allow that action is consistent with the rail transportation policy of 49 U.S.C. § 10101 and will promote efficient and competitive rail service.

¹ Since the temporary trackage rights covered by the Notice of Exemption in Finance Docket No. 34417 (Sub-No. 2) are "local" rather than "overhead" rights, the Board's class exemption for temporary trackage rights, 49 C.F.R. § 1180.2(d)(8), is not applicable to this transaction.



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DISCUSSION

In the Notice of Exemption filed concurrently with this Petition, and pursuant to 49 C.F.R. § 1180.2(d)(7), UP seeks to acquire temporary local trackage rights on BNSF trackage extending approximately 4.0 miles between BNSF Milepost 113.0 and BNSF Milepost 117.0 near Endicott, Nebraska. The rights are a modification of the temporary trackage rights exempted in Finance Docket No. 34417, and are intended to allow UP to continue to serve a BNSF shipper which BNSF is no longer to serve directly due to cessation of service on its own line as exempted in Docket No. AB-6 (Sub-No. 405X), and to permit UP to handle trains handling materials from the portion of the line which is being salvaged. However, UP is only seeking, and BNSF is only willing to grant, temporary operating rights over BNSF until the alternate arrangements are made for continued rail service to the shipper and the salvage is complete.

While UP and BNSF expressly intend that these trackage rights are only temporary, trackage rights authorized under the existing class exemption normally would remain effective indefinitely -- regardless of any durational contract provisions. See, e.g., Railroad Consolidation Procedures -- Exemption for Temporary Trackage Rights (not printed), served February 10, 2003, pp. 2-3 ("Temporary Trackage Rights"). Accordingly, UP is filing this Petition to permit the trackage rights to expire as provided in the underlying trackage rights agreement.

The Board has routinely granted petitions to permit temporary trackage rights to expire (either as exemptions or partial revocations) similar to that sought herein, see, e.g., Temporary Trackage Rights, supra, p. 3; Finance Docket No. 34242 (Sub-No. 1), Union Pacific Railroad Company -- Trackage Rights Exemption -- The Burlington Northern and Santa Fe Railway Company (not printed), served October 7, 2002; Finance Docket No. 34218 (Sub-No. 1), The Burlington Northern and Santa Fe Railway Company -- Trackage Rights Exemption -- Union Pacific Railroad Company (not printed), served July 24, 2002.

Granting this Petition to permit the trackage rights to expire in accordance with the underlying agreement would be entirely consistent with the exemption standards of 49 U.S.C. § 10502. Limiting the term of the trackage rights is consistent with the limited scope of the transaction covered by the Notice of Exemption in Finance Docket No. 34417 Sub-No. 2) and will have no adverse impact on shippers on the line. Indeed, one of the purposes of these trackage rights is prevent an adverse impact to the shipper at Endicott. The grant of this Petition is essential for the benefits of the trackage rights in Finance Docket No. 34417 (Sub-No. 2) to be realized. As noted above, the temporary nature of the trackage rights is a key part of the agreement of the two carriers, and the trackage rights would not have been granted without this feature. Denial of the this Petition would result in a loss of all these benefits, since the parties are unlikely to reach any other feasible arrangement which would allow UP to use BNSF's line.

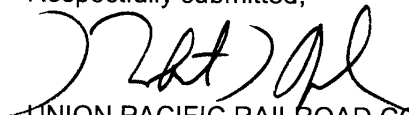
LABOR PROTECTION

The applicable labor protective conditions for the discontinuance of the temporary trackage rights pursuant to this petition are those imposed in Oregon Short Line Railroad Co. -- Abandonment -- Goshen, 360 I.C.C. 91 (1979).

CONCLUSION

WHEREFORE, UP respectfully requests the Board to partially revoke the Class Exemption for trackage rights to the extent necessary to permit the trackage rights authorized in STB Finance Docket No. 34417 (Sub-No. 2) to expire on or about May 16, 2005, in accordance with the terms of the underlying trackage rights agreement.

Respectfully submitted,

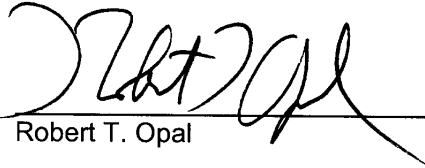

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General Commerce Counsel
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CERTIFICATE OF SERVICE

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 16th day of December, 2004.


Robert T. Opal