

with one another at Aberdeen Yard or on the State-owned trackage north of Aberdeen via the Interchange Access Line for traffic originating or terminating on DM&E in South Dakota, moving to or from points served by Canadian Pacific Railway's (CP's) network as it existed as of April 25, 2005, in (a) North Dakota (not including the Dakota, Missouri Valley & Western Railroad or CP-affiliated shortlines) other than to or from industries which are (as of April 25, 2005) jointly served by CP and BNSF (e.g., industries at Valley City and Minot), and (b) Canada (including, but not limited to, Canadian export ports and CP-affiliated shortlines); provided such rights shall extend only to movements of agricultural commodities (STCCs 01 and 20), fertilizers, ethanol, bentonite, and forest products, and provided further that such rights shall be subject to certain unit train restrictions for North Dakota points as set forth in the Amendment.

(3)(a) Subject to all other applicable terms and conditions set forth in the Amendment and other agreements between BNSF and User, BNSF shall permit User or its designee to interchange with lessees and operators of State-owned rail lines (as hereinafter defined) all traffic (excluding coal and intermodal traffic) originating or terminating on said State-owned rail lines.

(3)(b) In the event that traffic from the State-owned rail lines is being moved to/from Aberdeen by BNSF in haulage service for said operators/lessees pursuant to terms of a haulage agreement, the interchange with BNSF or the Rail Line operator shall occur at Aberdeen Yard (or other location in the Aberdeen vicinity at BNSF's discretion) on trackage designated by BNSF. In the event that the traffic is being moved to the Rail Line by the operators/lessees pursuant to exercise of trackage rights over BNSF trackage, such interchange shall be performed on the Rail Line or, if the operators/lessees request to interchange at Aberdeen Yard and BNSF local operating personnel consent thereto, at such tracks in Aberdeen Yard as may be designated by BNSF.

(3)(c) "State-owned rail lines" as referenced herein refer to the Mitchell, SD-Kadoka, SD Line and the Napa, SD-Platte, SD Line as those lines existed as of April 25, 2005, and do not include extensions which, in the future, may be connected to or from these lines; provided, however, "extensions" means additions to the lines by way of acquisition or construction of lines of railroad, but does not include, or otherwise prohibit interchange to/from

the Rail Line of, rail traffic moving to/from new industries located on the State-owned rail lines subsequent to April 25, 2005.

(4) Except as expressly provided above, User or its designee shall not move, or cause or allow to be moved, on, over, or via the Rail Line or the Interchange Access Line, traffic that neither originates nor terminates on the Rail Line.

The trackage rights granted by BNSF were scheduled to become effective on or after December 6, 2005. The purpose of the trackage rights is to allow User to have expanded interchange rights at Aberdeen.

As a condition to the exemption invoked by User, any employees affected by the trackage rights granted to User in STB Finance Docket No. 34125 (Sub-No. 1) will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605, 610–15 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653, 664 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it 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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34125 (Sub-No. 1), must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on User's representative: Michael J. Barron, Jr., Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606–2875.

Board decisions and notices are available on its Web site at <http://www.stb.dot.gov>.

Decided: December 9, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**  
*Secretary.*

[FR Doc. 05–24143 Filed 12–16–05; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34788]

#### **Mitchell-Rapid City Regional Railroad Authority and Dakota Southern Railway Company—Trackage Rights Exemption—BNSF Railway Company**

BNSF Railway Company (BNSF) has agreed to grant overhead trackage rights to the Mitchell-Rapid City Regional Railroad Authority (MRC, a political subdivision of the State of South Dakota) and the Dakota Southern Railway Company (DSRC, a sublessee/contract operator for MRC) (MRC and DSRC are referred to collectively as "User") at Mitchell, SD: (1) Between BNSF's connection with DSRC, at milepost (MP) 650.65, and DSRC-leased tracks in BNSF's Mitchell yard, at MP 650.16; and (2) between BNSF's Mitchell yard, at MP 650.16, and the Grain Shuttle Facility at Mitchell, at MP 652.9. In addition to User's right to utilize the Mitchell yard pursuant to other agreements, User shall also have the right to ingress and egress the Mitchell yard for the purpose of "running around" its train at Mitchell, if operationally necessary to originate traffic from or terminate traffic at the Grain Shuttle Facility. The new rights granted by BNSF apply only to traffic that originates or terminates on the rail line between Mitchell, SD, and Kadoka, SD (as that line existed as of April 25, 2005), and that originates or terminates at the Grain Shuttle Facility. Under the agreement entered into by BNSF and MRC/DSRC: MRC would be able to utilize the new rights granted by BNSF with another sublessee/contract operator (other than a Class I or Class II railroad or the Dakota, Minnesota & Eastern Railroad Corporation); and, if MRC ceases to be the lessee of the State of South Dakota for the corridor between Mitchell and Rapid City, SD, the new rights granted by BNSF will be automatically assigned to the State of South Dakota.

The trackage rights granted by BNSF were scheduled to become effective on or after December 6, 2005. The purpose of the trackage rights is to allow MRC/DSRC to move traffic between points on the Mitchell-Kadoka Line and the Grain Shuttle Facility at Mitchell.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605, 610–15 (1978), as modified in *Mendocino Coast Ry., Inc.—*

*Lease and Operate*, 360 I.C.C. 653, 664 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it 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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34788, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on User's representative: Michael J. Barron, Jr., Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606-2875.

Board decisions and notices are available on its Web site at <http://www.stb.dot.gov>.

Decided: December 9, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34789]

#### Dakota, Minnesota & Eastern Railroad Corporation—Trackage Rights Exemption—BNSF Railway Company

BNSF Railway Company (BNSF) has agreed to supplement existing trackage rights of the Dakota, Minnesota & Eastern Railroad Corporation (DM&E) at Aberdeen, SD, as explained herein. DM&E has existing trackage rights on BNSF's track at Aberdeen pursuant to a 1975 agreement between the Chicago, Milwaukee, St. Paul & Pacific (predecessor-in-interest of BNSF) and the Chicago and North Western Transportation Company (predecessor-in-interest of DM&E), which agreement was amended in 1986 (the 1975 agreement and the 1986 amendment are collectively referred to herein as the Agreement). The State of South Dakota, acting through the State Department of Transportation, as successor-in-interest to the South Dakota Railroad Authority (herein referred to as the State), owns the tracks between Aberdeen and Kidder, SD (herein referred to as the Rail Line). In addition to the trackage and interchange rights granted under the Agreement, BNSF will permit DM&E and the State (or the State's designee,

i.e., the State's contract operator acting as agent for the State) to interchange DM&E's traffic at Aberdeen in connection with the movement of traffic moving to, from, or via the Rail Line pursuant to the provisions outlined below.

(1) BNSF will permit DM&E and the State (or the State's designee) to interchange with one another in BNSF's Aberdeen Yard via the Interchange Access Line (the tracks on BNSF's Geneseo Subdivision between mileposts 118.60 and 115.08) without restrictions for traffic which either originates or terminates on the Rail Line.

(2) BNSF will permit DM&E and the State (or the State's designee) to interchange with one another at Aberdeen Yard via the Interchange Access Line for traffic originating or terminating on DM&E in South Dakota, moving to or from points served by Canadian Pacific Railway's (CP's) network as it existed as of April 25, 2005 in: (a) North Dakota (not including the Dakota, Missouri Valley & Western Railroad or CP-affiliated shortlines) other than to or from industries which are (as of April 25, 2005) jointly served by CP and BNSF (e.g., industries at Valley City and Minot); and (b) Canada (including, but not limited to, Canadian export ports and CP-affiliated shortlines), provided such interchange rights extend only to movements of agricultural commodities (STCC's 01 and 20), fertilizers, ethanol, bentonite clay, and forest products, and further subject to certain unit train restrictions pertaining to North Dakota points.

(3) BNSF will permit DM&E to use the Interchange Access Line in conjunction with DM&E's existing trackage rights in order to facilitate interchange of cars between DM&E and the State, by and through the State's designee, on the State-owned trackage north of Aberdeen, subject to certain restrictions.

The trackage rights granted by BNSF were scheduled to become effective on or after December 6, 2005. The purpose of the trackage rights is to allow DM&E to enjoy, at Aberdeen, expanded interchange access for traffic moving to, from, or via the Aberdeen-Kidder Line.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605, 610-15 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653, 664 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it 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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34789, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on DM&E's representative: Michael J. Barron, Jr., Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606-2875.

Board decisions and notices are available on its Web site at <http://www.stb.dot.gov>.

Decided: December 9, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34787]

#### D&I Railroad Company—Trackage Rights Exemption—BNSF Railway Company

BNSF Railway Company (BNSF) has agreed to grant 159.2 miles of limited overhead trackage rights to D&I Railroad Company (D&I) between Sioux Falls, SD, at milepost (MP) 74.1 (MP 74.1 is just north of West Junction, SD), and Wolsey, SD, at MP 707.0 (MP 707.0 is north of the diamond crossing of the Dakota, Minnesota & Eastern Corporation (DM&E) at Wolsey). The trackage rights run: between Sioux Falls, SD, and Canton, SD; between Canton, SD, and Mitchell, SD; and between Mitchell, SD, and Wolsey, SD. The trackage rights apply only to the movement of aggregates (STCC series 14219, 14412, 14413, and 14919) moving in cars in D&I's account, originating at Dell Rapids, SD, interchanged to DM&E at Wolsey, SD, and terminating at DM&E-served destinations in South Dakota (provided, however, that DM&E may transport such aggregates beyond South Dakota where necessary for DM&E's operations).

The trackage rights granted by BNSF were scheduled to become effective on or after December 6, 2005. The purpose of the trackage rights is to allow D&I to move certain shipments of aggregates from Dell Rapids to Wolsey.

As a condition to this exemption, any employees affected by the trackage