

In its petition, BNSF asks the Board to partially revoke the exemption as necessary to permit the trackage rights to expire at midnight on December 31, 2024, pursuant to the parties' agreement. (See BNSF Pet. 1–2); see also BNSF Verified Notice of Exemption, Ex. B at 2, *BNSF Ry.—Trackage Rts. Exemption—Union Pac. R.R.*, FD 36377 (Sub-No. 8). BNSF argues that granting this petition will promote the rail transportation policy at 49 U.S.C. 10101 and that the partial revocation would be consistent with the limited scope of the transaction and would not have an adverse effect on shippers. (BNSF Pet. 3.) In addition, BNSF asserts that the Board has granted similar petitions for partial revocation to permit temporary trackage rights to expire, including petitions involving prior iterations of the trackage rights agreement at issue here. (*Id.* at 3–4.)

### Discussion and Conclusions

Although BNSF and UP have expressly agreed on the duration of the proposed trackage rights agreement, trackage rights approved under the class exemption at 49 CFR 1180.2(d)(7) typically remain effective indefinitely, regardless of any contract provisions. At times, however, the Board has partially revoked a trackage rights exemption to allow those rights to expire after a limited time rather than lasting in perpetuity. See, e.g., *BNSF Ry.—Trackage Rts. Exemption—Union Pac. R.R.*, FD 6377 (Sub-No. 7) (STB served February 24, 2023) (granting a petition to partially revoke a trackage rights exemption involving the Lines at issue in this case); *New Orleans Pub. Belt R.R.—Trackage Rts. Exemption—III. Cent. R.R.*, FD 36198 (Sub-No. 1) (STB served June 20, 2018).

Granting partial revocation in these circumstances to permit the trackage rights to expire at the end of 2024 would eliminate the need for BNSF to file a second pleading seeking discontinuance authority when the agreement expires, thereby promoting the aspects of the rail transportation policy at 49 U.S.C. 10101(2), (7), and (15). Moreover, partially revoking the exemption to limit the term of the trackage rights would not result in an abuse of market power because the trackage rights at issue are solely to allow BNSF to move empty and loaded unit ballast trains to and from the ballast pit in Elsey for use in BNSF's maintenance-of-way projects. (See BNSF Pet. 2.) Therefore, the Board will grant the petition and permit the trackage rights exempted in Docket No. FD 36377 (Sub-No. 8) to expire at midnight on December 31, 2024.

To provide the statutorily mandated protection to any employee adversely affected by the discontinuance of trackage rights, the Board will impose the employee protective conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979).

This action is categorically excluded from environmental review under 49 CFR 1105.6(c).

#### *It is ordered:*

1. The petition for partial revocation of the trackage rights class exemption is granted.

2. As discussed above, the trackage rights in Docket No. FD 36377 (Sub-No. 8) are permitted to expire at midnight on December 31, 2024, subject to the employee protective conditions set forth in *Oregon Short Line*.

3. Notice of this decision will be published in the **Federal Register**.

4. This decision is effective on November 7, 2024. Petitions for stay must be filed by October 18, 2024. Petitions for reconsideration must be filed by October 28, 2024.

Decided: October 3, 2024.

By the Board, Board Members Fuchs, Hedlund, Primus, and Schultz.

#### **Eden Besera,**

*Clearance Clerk.*

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## DEPARTMENT OF TREASURY

### Internal Revenue Service

#### **Appointment of Members of the Legal Division to the Performance Review Board, Internal Revenue Service**

Under the authority granted to me as Chief Counsel of the Internal Revenue Service by the General Counsel of the Department of the Treasury by General Counsel Directive 15, pursuant to the Civil Service Reform Act, I have appointed the following persons to the Legal Division Performance Review Board, Internal Revenue Service Panel:

1. Drita Tonuzi, Deputy Chief Counsel (Operations)
2. Paul T. Butler, Associate Chief Counsel (Procedures and Administration)
3. Robin Greenhouse, Division Counsel (Large Business and International)
4. Edith M. Shine, Associate Chief Counsel (Finance and Management)
5. Holly A. Porter, Associate Chief Counsel (Passthroughs and Special Industries)

*Alternate:* Mark L. Hulse, Division Counsel (Tax Exempt and Government Entities)

This publication is required by 5 U.S.C. 4314(c)(4).

#### **Marjorie A. Rollinson,**

*Chief Counsel, Internal Revenue Service.*

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## DEPARTMENT OF TREASURY

### Internal Revenue Service

#### **Appointment of Members of the Legal Division to the Performance Review Board, Internal Revenue Service**

Under the authority granted to me as Chief Counsel of the Internal Revenue Service by the General Counsel of the Department of the Treasury by General Counsel Directive 15, pursuant to the Civil Service Reform Act, I have appointed the following persons to the Legal Division Performance Review Board, Internal Revenue Service Panel:

1. Eric S. Nguyen, Deputy General Counsel, Department of the Treasury—Chair
2. Elizabeth P. Askey, Deputy Chief Appeals, Independent Office of Appeals (IRS)
3. Melanie R. Krause, Chief Operating Officer, (IRS)

*Alternate:* Douglas W. O'Donnell, Deputy Commissioner (IRS)

This publication is required by 5 U.S.C. 4314(c)(4).

#### **Marjorie A. Rollinson,**

*Chief Counsel, Internal Revenue Service.*

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## DEPARTMENT OF VETERANS AFFAIRS

#### **Advisory Committee on the Readjustment of Veterans, Notice of Meeting**

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. ch. 10., that the Advisory Committee on the Readjustment of Veterans will meet in person on November 5, 2024–November 6, 2024 at the Lafayette Building, 811 Vermont Avenue NW, Conference Room 3166, Washington, DC 20009. The sessions will begin and end as follows: