

128820

BOOK 147 PAGE 728

Return Address:

CHICAGO TITLE INSURANCE COMPANY
171 N. CLARK - MLC: 04SP
CHICAGO, ILLINOIS 60601
ATTN: ROCHELLE DEMOSS

FILED FOR RECORD
SKAMAH CO. WASH
BY *Chicago Title*

JUL 31 1 15 PM '97

O. Larry
AUDITOR
GARY H. OLSON

Please print or type information WASHINGTON STATE RECORDER'S Cover Sheet (RCW 63.04)

Document Title(s) (or transactions contained therein): (all areas applicable to your document must be filled in)

1. SUPPLEMENTAL INDENTURE TO NORTHERN PACIFIC RAILWAY COMPANY PRIOR
2. LIEN MORTGAGE
- 3.
- 4.

Reference Number(s) of Documents assigned or released:

Additional reference #'s on page _____ of document

Grantor(s) (Last name first, then first name and initials)

1. THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY
- 2.
- 3.
- 4.

☐ Additional names on page _____ of document.

Grantee(s) (Last name first, then first name and initials)

1. BANKERS TRUST COMPANY, TRUSTEE
- 2.
- 3.
- 4.

☐ Additional names on page _____ of document.

Legal description (abbreviated: i.e. lot, block, plat or section, township, range)

☐ Additional legal is on page _____ of document.

Assessor's Property Tax Parcel/Account Number

☐ Assessor Tax # not yet assigned

The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

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1

Counterpart Original
Executed in 250 Counterparts
of which this is No. 92

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY

TO

BANKERS TRUST COMPANY,

Trustee

SUPPLEMENTAL INDENTURE

Dated as of December 31, 1996

TO

NORTHERN PACIFIC RAILWAY COMPANY

PRIOR LIEN MORTGAGE

Dated November 10, 1896

Providing for the Continuation of Obligations
by Reason of the Change of Name of Burlington Northern Railroad Company
to The Burlington Northern and Santa Fe Railway Company
in Connection with the Merger of
The Atchison, Topeka and Santa Fe Railway Company
with and into Burlington Northern Railroad Company

THIS SUPPLEMENTAL INDENTURE, dated as of December 31, 1996, by and between

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY, a Delaware corporation (formerly named Burlington Northern Railroad Company, which company was formerly named Burlington Northern Inc.), corporate successor in interest and title by merger to Northern Pacific Railway Company, Successor Mortgagor in and under that certain Northern Pacific Railway Company Prior Lien Mortgage dated November 10, 1896, as amended and supplemented ("Prior Lien Mortgage"), of which mortgage Bankers Trust Company is Trustee, party of the first part, Mortgagor,

And

BANKERS TRUST COMPANY, a New York banking corporation, successor in interest and trust by merger to The Mercantile Trust Company, Successor Trustee in and under said Prior Lien Mortgage, party of the second part, Trustee,

WITNESSETH:

WHEREAS, Northern Pacific Railway Company, mortgagor, on the tenth day of November, 1896, did make, execute and deliver to The Mercantile Trust Company, Trustee, its Prior Lien Mortgage to secure the payment of the principal of and interest on its Prior Lien Railway and Land Grant Gold Bonds, due January 1, 1997 (hereinafter called the "Bonds"); and

WHEREAS, Burlington Northern Inc., as successor in interest and title by merger to Northern Pacific Railway Company, executed that certain Supplemental Indenture dated March 2, 1970 with respect to the Prior Lien Mortgage; and

WHEREAS, by Agreement of Merger and Plan of Reorganization dated April 2, 1981, made by and among Burlington Northern Inc., Burlington Northern Transportation Company, and Burlington Northern Holding Company, as of May 14, 1981, the corporate name of Burlington Northern Inc. was changed to Burlington Northern Railroad Company, and Burlington Northern Railroad Company executed that certain Supplemental Indenture dated as of May 14, 1981 with respect to the Prior Lien Mortgage; and

WHEREAS, in accordance with permissive authorization to merge as set forth in the Interstate Commerce Commission decision effective as of September 22, 1995 and by Agreement and Plan of Merger dated December 31, 1996, The Atchison Topeka and Santa Fe Railway Company is, on the date of this Supplemental Indenture, December 31, 1996, and contemporaneous with the execution hereof, merging with and into Burlington Northern Railroad Company and the corporate name of said company is being changed to The Burlington Northern and Santa Fe Railway Company; and further, whereas all of the requisite action described in the Agreement and Plan of Merger is being taken and all acts, things and deeds necessary to authorize the unbroken continuity of the mortgagor's obligations under the Prior Lien Mortgage by The Burlington Northern and Santa Fe Railway Company, and to make this Supplemental Indenture,

when executed by the parties hereto, a valid and binding amendment to the Prior Lien Mortgage, are being done, performed and completed.

NOW, THEREFORE, in consideration of the premises and of the sum of Ten Dollars (\$10.00) paid by the Trustee to The Burlington Northern and Santa Fe Railway Company, receipt of which is hereby acknowledged, to record the change in corporate name, to further secure, and evidence the continuing undertaking and obligation of payment, performance and observance of all of the currently enforceable covenants and conditions contained in the Prior Lien Mortgage, the parties hereto do hereby covenant and agree as follows:

SECTION 1. The Burlington Northern and Santa Fe Railway Company is hereby acknowledged as the Successor Mortgagor under the Prior Lien Mortgage, and as such Successor Mortgagor The Burlington Northern and Santa Fe Railway Company in all respects ratifies, confirms and continues uninterrupted the assumption of obligations under the Prior Lien Mortgage made by Burlington Northern Railroad Company in the May 14, 1981 Supplemental Indenture. Further The Burlington Northern and Santa Fe Railway Company, subject to SECTION 2 below, hereby assumes the due and punctual payment of the principal of and interest on all the Bonds, according to their tenor, and the due and punctual performance and observance of all the currently enforceable covenants and conditions of the Prior Lien Mortgage, so that in accordance with the provisions of ARTICLE TWELVE of the Prior Lien Mortgage, The Burlington Northern and Santa Fe Railway Company shall succeed to and be substituted for Burlington Northern Railroad Company, with the same effect as if The Burlington Northern and Santa Fe Railway Company had been named in the Prior Lien Mortgage as the party of the first part thereto, and had duly executed and delivered the same.

SECTION 2. Nothing in SECTION 1, above, or elsewhere in this document is intended to impose upon The Burlington Northern and Santa Fe Railway Company greater obligations than currently are owed by Burlington Northern Railroad Company. It is hereby acknowledged that this Supplemental Indenture shall not constitute a novation of any obligation under the Prior Lien Mortgage or otherwise, or an obligation issued containing a gold clause or governed by a gold clause, or a revival of an obligation issued containing a gold clause or governed by a gold clause.

SECTION 3. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or the due execution hereof by The Burlington Northern and Santa Fe Railway Company or for or in respect of the recitals contained herein, all of which recitals are made by The Burlington Northern and Santa Fe Railway Company solely. No implied covenant or obligation shall be read into this Supplemental Indenture against the Trustee.

SECTION 4. This Supplemental Indenture may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original; all of such counterparts shall

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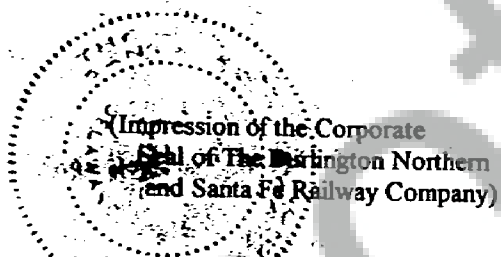
together constitute one and the same instrument. In order to facilitate the filing and recording of this Supplemental Indenture in the Land Registry and other records, or for any other uses or purposes, any number of true and exact conformed copies of this Supplemental Indenture may be exemplified by the certificate and signature of an Assistant Secretary issued under the seal of The Burlington Northern and Santa Fe Railway Company and when so exemplified the same shall be deemed and construed for all such purposes to be originals to the same extent as an original counterpart.

Attest:

THE BURLINGTON NORTHERN AND SANTA
FE RAILWAY COMPANY

M. R. Aclin
M. R. Aclin
Assistant Secretary

By R. E. Weicher
R. E. Weicher
Vice President and General Counsel



Signed, sealed and acknowledged by
The Burlington Northern and Santa Fe
Railway Company in the presence of:

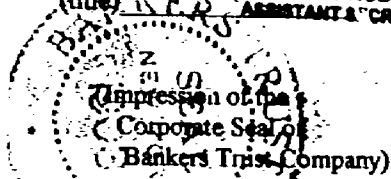
Nadine M. Grandi
Attesting Witnesses

Attest:

BANKERS TRUST COMPANY, As Trustee

Dorothy Robinson
(name typed) DOROTHY ROBINSON
(title) ASSISTANT SECRETARY

By Walter B. [Signature]
(name typed) Walter B. [Signature]
(title) VICE PRESIDENT



Signed, sealed and acknowledged by
Bankers Trust Company, as Trustee
in the presence of:

[Signature]
[Signature]
Attesting Witnesses

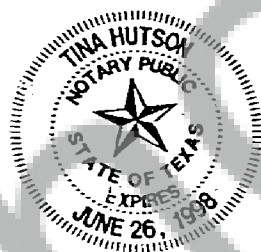
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STATE OF TEXAS)
) ss.:
CITY OF FORT WORTH)
)
COUNTY OF TARRANT)

On this 31 day of January, 1997, before me, Tina Hutson, a duly authorized Notary Public in said City and County in the State aforesaid, personally appeared R. E. Weicher and M. R. Aclin to me known to be the Vice President and General Counsel and an Assistant Secretary, respectively, of THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY, a corporation organized and existing under the laws of the State of Delaware, one of the corporations that executed the within and foregoing instrument; and the said R. E. Weicher and M. R. Aclin, severally, acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument and that the seal affixed thereto is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

My notarial commission expires June 26, 1998.



Tina Hutson
Notary Public

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STATE OF NEW YORK)

CITY AND COUNTY OF)
NEW YORK)

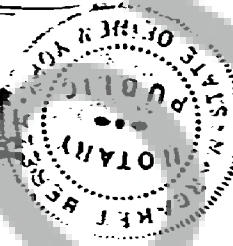
On this 25th day of March, 1997, before me, Margaret Bereza, a duly authorized Notary Public in said City and County in the State aforesaid, personally appeared Matthew Seeley and Dorothy Robinson to me known to be a Vice President and an Assistant Secretary, respectively, of BANKERS TRUST COMPANY, a corporation organized under the laws of the State of New York, one of the corporations that executed the within and foregoing instrument; and the said Matthew Seeley and Dorothy Robinson, severally acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and an oath stated that they were authorized to execute said instrument and that the seal affixed thereto is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

My notarial commission expires February 22, 1998.

Margaret Bereza
Notary Public

MARGARET BEREZA
Notary Public State of New York
No. 31-5023900
Qualified in New York County
Commission Expires 2-22-98



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Mortgage Registration Tax Due Hereon: None

Unless otherwise directed by The Burlington Northern and Santa Fe Railway Company, real property taxes for the real property of The Burlington Northern and Santa Fe Railway Company, should be sent to:

Larry Garrett
Senior General Tax Attorney
The Burlington Northern and Santa Fe Railway Company
One Santa Fe Plaza
920 S.E. Quincy
Topeka, Kansas 66612

Addresses of the parties to the foregoing instrument:

The Burlington Northern and
Santa Fe Railway Company
2650 Lou Menk Drive
Fort Worth, Texas 76131
Attention: Richard E. Weicher

Bankers Trust Company, Trustee
Four Albany Street, 4th Floor
New York, New York 10006

Prepared by:

The Burlington Northern and
Santa Fe Railway Company
2650 Lou Menk Drive
Fort Worth, Texas 76131

(817) 333-6175

Return document to:
CHICAGO TITLE INSURANCE COMPANY
171 N. Clark St., - MLC: 04SP
National Special Projects Group
Chicago, IL 60601
ATTN: Rochelle DeMoss