

frustrating to the petitioner. While frustrating, the type of transmission problem the petitioner described is not related to motor vehicle safety. The agency has no jurisdiction over non-safety defects, warranty, dealership, and remuneration matters.

Accordingly, it is unlikely that NHTSA would issue an order for the notification and remedy of a safety-related defect in the subject vehicles at the conclusion of the investigation requested in the petition. Therefore, the petition is denied.

**Authority:** 49 U.S.C. 30162(d); delegations of authority at CFR 1.50 and 501.8.

**Kenneth N. Weinstein,**

*Associate Administrator for Safety Assurance.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 33575]

#### State of North Carolina—Intracorporate Family Exemption—Merger of Beaufort and Morehead Railroad Company Into North Carolina Railroad Company

The State of North Carolina (the State), Beaufort and Morehead Railroad Company (B&M), and North Carolina Railroad Company (NCR) have filed a verified notice of exemption to merge B&M, a Class III rail carrier wholly owned by the State (a noncarrier),<sup>1</sup> into NCR, a Class III rail carrier controlled by the State.<sup>2</sup>

The proposed merger is an element of a financial restructuring, not subject to Board jurisdiction, related to the proposed buyout by the State of the private shareholders of NCR.<sup>3</sup> See *North Carolina Railroad Company—Petition to Set Trackage Compensation and Other Terms and Conditions—Norfolk Southern Railway Company, Norfolk & Western Railway Company, and Atlantic and East Carolina Railway Company*, STB Finance Docket No. 33134 (STB served May 29, 1997).<sup>4</sup> The

parties expected to consummate the merger on or after March 31, 1998.

This transaction is one within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The parties state that the transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to reopen will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33575, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on: Betty Jo Christian, Steptoe & Johnson, 1330 Connecticut Avenue, N.W., Washington, DC 20036; and Farhana Y. Khera, Hogan & Hartson L.L.P., 555 Thirteenth Street, N.W., Washington, DC 20004-1109.

Decided: April 15, 1998.

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

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

[FR Doc. 98-10703 Filed 4-22-98; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 33572 (Sub-No. 1)]

#### Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Notice of exemption.

**SUMMARY:** The Board, under 49 U.S.C. 10502, exempts the trackage rights described in STB Finance Docket No. 33572<sup>1</sup> to permit the trackage rights to expire, as they relate to the operation between Council Bluffs and Hastings, on July 16, 1998, and as they relate to the operation between Hastings and Northport, on October 1, 1998, in accordance with the agreement of the parties.<sup>2</sup>

**DATES:** This exemption is effective on May 23, 1998. Petitions to reopen must be filed by May 13, 1998.

**ADDRESSES:** An original and 10 copies of all pleadings referring to STB Finance Docket No. 33572 (Sub-No. 1) must be filed with the Office of the Secretary, Case Control Unit, Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of all pleadings must be served on petitioner's representative, Joseph D. Anthofer, Esq., 1416 Dodge Street, #830, Omaha, NE 68179.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 927-1600. [TDD for the hearing impaired: (202) 565-1695.]

**SUPPLEMENTARY INFORMATION:**

Additional information is contained in

<sup>1</sup> On March 23, 1998, UP filed a notice of exemption under the Board's class exemption procedures at 49 CFR 1180.2(d)(7). The notice covered the agreement by The Burlington Northern and Santa Fe Railway Company (BNSF) to grant temporary overhead trackage rights over two segments of its line to UP: (1) between Council Bluffs, IA, at milepost 483.6 on BNSF's Bayard Subdivision (at a point which is equal to milepost 12.8 on BNSF's Omaha Subdivision) and Hastings, NE, at milepost 156.5 on BNSF's Hastings Subdivision, a distance of approximately 214.6 miles over a segment which extends from Council Bluffs through Omaha, NE, Ashland, NE, Lincoln, NE, Crete, NE, and Fairmont, NE, to Hastings, for the period March 30, 1998, through July 15, 1998; and (2) between Hastings, NE, at milepost 156.5 on BNSF's Hastings Subdivision and Northport, NE, at milepost 34.4 on BNSF's Angora Subdivision, a distance of approximately 387.7 miles over a segment which extends from Hastings through Holdrege, NE, Oxford, NE, Culbertson, NE, Wray, CO, East Brush, CO, Sterling, CO, and Sidney, NE, to Northport, for the period March 30, 1998, through September 30, 1998. The portion of the trackage rights operation between Council Bluffs, IA, and Hastings, NE, is scheduled to expire effective July 16, 1998. The portion of the trackage rights operation between Hastings and Northport, NE, is scheduled to expire effective October 1, 1998. See *Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company*, STB Finance Docket No. 33572 (STB served Apr. 2, 1998). The exemption became effective on March 30, 1998, 7 days after the verified notice was filed.

<sup>2</sup> Trackage rights normally remain in effect unless discontinuance authority or approval of a new agreement is sought. See *Millford-Bennington Railroad Company, Inc.—Trackage Rights Exemption—Boston and Maine Corporation and Springfield Terminal Railway Company*, Finance Docket No. 32103 (ICC served Sept. 3, 1993).

<sup>1</sup> An agency of the State, the North Carolina Department of Transportation, owns 100% of the outstanding common stock of B&M.

<sup>2</sup> The State owns approximately 75% of the outstanding common stock of NCR.

<sup>3</sup> The merger will allow NCR to issue new preferred stock in exchange for B&M preferred stock. The preferred stock issuance will evidently preserve NCR's Federal tax status as a real estate investment trust after the State acquires all of its common stock.

<sup>4</sup> There, a trackage compensation proceeding was held in abeyance to allow the State to negotiate a buyout of the private shareholders of NCR whose dissension had precipitated the compensation dispute.