NHTSA's evaluation of the consequentiality of this noncompliance should not be interpreted as a diminution of the agency's concern for child safety. Rather, it represents NHTSA's assessment of the gravity of the noncompliance based upon the likely consequences. Ultimately, the issue is whether this particular noncompliance is likely to increase the risk to safety. Although empirical results are not determinative, the absence of any reports of fires originating in these child restraints supports the agency's decision that the noncompliance does not have a consequential effect on safety.

For the above reasons, the agency has decided that Cosco has met its burden of persuasion that the noncompliance at issue here is inconsequential to motor vehicle safety and its application is granted. Accordingly, Cosco is hereby exempted from the notification and remedy provisions of 49 U.S.C. 30118 and 30120.

Authority: 49 U.S.C. 30118(d), 30120(h) delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 29, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–15037 Filed 6–4–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33597]

Great Western Railway of Colorado, LLC—Acquisition and Operation Exemption—Great Western Lines, LLC

Great Western Railway of Colorado, LLC (GWC), a Class III rail carrier, has filed a verified notice of exemption to acquire approximately 23 miles of rail line from Great Western Lines, LLC.[1] The line involved in the acquisition transaction is located in Colorado as follows: (1) between milepost 76.5, at Fort Collins, and milepost 98.9 at Greeley; and (2) the Burlington Northern Railroad Company's former interchange track at Loveland, between the end of the track and a point 10 feet south of Tenth Street in Loveland.

The transaction was to be consummated on or shortly after May 14, 1998, the effective date of the exemption.

[1] GWC certifies that the projected revenues do not exceed those that would qualify as a Class III rail carrier. GWC also certifies that the projected annual revenue will not exceed $5 million.

If this notice 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 does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33597, 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 Karl Morell, Esq., BALL JANIK LLP, 1455 F Street, N.W., Suite 225, Washington, DC 20005.

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Decided: June 2, 1998.

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

Vernon A. Williams,

Secretary.

[FR Doc. 98–15066 Filed 6–4–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33598]

OmniTRAX, Inc.—Control Exemption—Northern Ohio & Western Railway, LLC

OmniTRAX, Inc. (OmniTRAX), a noncarrier holding company has filed a notice of exemption to control Northern Ohio & Western Railway, LLC (NOW), a Class III rail carrier. OmniTRAX is proposing to acquire all of the issued and outstanding stock of NOW.

The transaction was scheduled to be consummated on May 14, 1998, the effective date of the exemption.

Applicant currently controls 9 Class III railroad subsidiary operating in 7 states: Central Kansas Railway LLC and Kansas Southwestern Railway LLC, in Kansas; Chicago Rail Link LLC and Manufacturers' Junction Railway LLC, in Illinois; Georgia Woodlands Railroad LLC, in Georgia; Great Western Railway of Colorado LLC, in Colorado; Great Western Railway of Iowa LLC, in Iowa; Newburgh and South Shore Railroad Limited, in Ohio; and Panhandle Northern Railroad LLC, in Texas.

OmniTRAX states that: (1) the railroads do not connect with each other or any railroad in their corporate family; (ii) the acquisition of control is not part of a series of anticipated transactions that would connect the ten railroads with each other or any railroad in their corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

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 notice 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. 33598, 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 Karl Morell, Esq., BALL JANIK LLP 1455 F Street, N.W., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: June 2, 1998.

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

Vernon A. Williams,

Secretary.

[FR Doc. 98–15065 Filed 6–4–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33611]

Union Pacific Railroad Company—Petition for Declaratory Order—Former Missouri-Kansas-Texas Railroad Line Between Jude and Ogden Junction, TX

AGENCY: Surface Transportation Board.

ACTION: Institution of declaratory order proceeding; request for comments.

SUMMARY: The Surface Transportation Board (Board) is instituting a declaratory order proceeding and requesting comments on the petition of the Union Pacific Railroad Company (UP), for an order declaring that the Board lacks authority under 49 U.S.C.

10901 over UP's decision to rehabilitate and reactivate 16.7 miles of line passing though New Braunfels, TX.

DATES: Any interested person may file with the Board written comments concerning UP's petition by June 22, 1998. UP may reply by June 30, 1998.

ADDRESSES: Send an original plus 10 copies of all pleadings, referring to STB Finance Docket No. 33611, to: Surface Transportation Board, Office of the Secretary, Case Control Unit, Attn: STB Finance Docket No. 33611, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, pleadings must certify that a copy has been served on UP's representatives: J. Michael Hemmer and Pamela L. Miles, Covington & Burling, 1201 Pennsylvania Avenue, N.W., P.O. Box 7566, Washington, DC 20044–7566.

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

SUPPLEMENTARY INFORMATION: By petition filed on May 26, 1998, UP requests the Board to issue an order under 49 CFR 1117.1 declaring that its rehabilitation of the segment of the former Missouri-Kansas-Texas Railroad (MKT) line that runs parallel to UP's mainline in the New Braunfels, TX area does not need to be reviewed by the Board under 49 U.S.C. 10901. [1] According to UP, the City Council of New Braunfels adopted in May a resolution requesting UP to permanently cease rehabilitating the line.

UP states that it has encountered significant congestion on its Austin Subdivision north of San Antonio. UP maintains that, because of inadequate rail capacity on this route, it has been unable to haul all of the aggregates needed by the Texas construction industry. To remedy the capacity problem, UP has begun rehabilitating the former MKT line between UP milepost 219.5 at Jude, TX (about 10 miles south of San Marcos), and UP milepost 236.2 at Ogden Junction, TX, a distance of about 16.7 miles. [2] UP claims that this rehabilitation project will eliminate the only single-track section on the 56 miles between San Marcos and San Antonio.

UP notes that, in the UP-MKT merger (*Union Pacific Corp. Et Al.-Cont.—MO-KS-TX Co. et al.*, 4 I.C.C.2d 409 (1988)), the Interstate Commerce Commission (ICC) granted abandonment authority for the line.[3] UP states that, while service has been discontinued on the line, the track was not removed and, except for a few locations, the line is intact.[4] Parts of the track continue to be used.[5]

UP argues that 49 U.S.C. 10901 does not give the Board authority over all rail track projects. It notes that 49 U.S.C. 10906 excludes spur tracks from Board construction jurisdiction. While the line at issue is not a spur, UP contends that some track projects fall between section 10906 exclusions and section 10901 jurisdiction, because they are neither ''an extension'' of a rail line nor ''an extension of a railroad line.'' Specifically, UP argues that section 10901 does not apply to this situation because it is a ''mere addition of a second track to an existing line or railroad, [and it does] not alter the competitive situation by injecting a carrier into a new service area.''

UP cites *Missouri Pacific R.R.—Construction and Operation Exemption— Avondale, LA*, STB Finance Docket No. 33123, (STB served July 11, 1997) at 2 for the proposition that ''[a]n extension or addition to a rail line occurs when a construction project enables a carrier to penetrate or invade a new market.'' UP claims that it is not creating a new rail line, but simply reinstating service on a previously operated line. Moreover, it argues that it is not penetrating new territory, because UP is the only railroad serving customers in the area.[6]

UP also contends that its rehabilitation is not a line addition or extension, because it is simply developing a second main line or ''double tracking'' to increase the capacity of the existing mainline. According to UP, the ICC found that it did not have jurisdiction over double track construction. *City of Detroit* v. *Canadian National Ry.*, 9 I.C.C.2d 1208 (1993), *aff'd sub nom. Detroit/Wayne County Authority* v. *ICC*, 59 F.3d 1314 (D.C. Cir. 1995) and *City of Stafford, Texas* v. *Southern Pacific Transportation Co.*, Finance Docket No. 32395 (ICC served Nov. 8, 1994) *aff'd sub nom. City of Stafford* v. *ICC*, 59 F. 3d 535 (5th Cir. 1995).

By this notice, the Board is requesting comments on UP's petition.

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Decided: June 1, 1998.

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

Vernon A. Williams,

Secretary.

[FR Doc. 98–15064 Filed 6–4–98; 8:45 am]

BILLING CODE 4915–00–P

[1] Under 49 U.S.C. 10901(a), a carrier may ''(1) construct an extension to any of its railroad lines; (2) construct an additional railroad line; [or] (3) provide transportation over, or by means of, an extended or additional railroad line; * * * only if the Board issues a certificate authorizing such activity.''

[2] According to UP, the line rehabilitation will ''accommodate the current volume of traffic in this area, meet the unmet needs of local shippers, and handle expected growth of Laredo gateway traffic.''

[3] Although no citation is given, it appears that in the merger the line was authorized for abandonment in *Missouri-Kansas-Texas Railroad Company-Abandonment Exemption-In Comal County, TX*, Docket No. AB–102 (Sub-No. 18X).

[4] UP states that, although the lines are not located within the same right-of-way, in some places they are only 100 feet apart. Based on the map provided by UP, it also appears that in one place the lines are more than 1.5 miles apart.

[5] UP states that a shipper in New Braunfels is being served over about one-half mile of the former MKT line. UP also uses another 4000 feet of track to serve a lumber shipper. Prior to the rehabilitation, additional segments of the line were evidently used for storage.

[6] UP claims that this case differs from *Dakota Rail, Inc.—Petition for Exemption from 49 U.S.C. 10901, 10903 & 11301, Finance Docket No. 30721 (ICC served Apr. 10, 1986) (Dakota). There the ICC indicated that the carrier would need to seek authority to resume service over a line it had abandoned. UP argues that the discussion in Dakota was simply dicta. Moreover, the line abandoned there was the only one in that geographic area, and if service were resumed, the carrier would arguably be entering new territory. Here, UP submits, UP maintained service in the area even after the abandonment through the use of its parallel track.*

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub-No. 121X)]

Union Pacific Railroad Company—Abandonment Exemption—in Arkansas County, AR

Union Pacific Railroad Company (UP) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service and Trackage Rights* to abandon and discontinue service over a 26.0-mile line of railroad on the Stuttgart Branch from milepost 236.0 near Ricusky to the end of the line at milepost 262.0 near Indiana, in Arkansas County, AR. The line traverses United States Postal Service Zip Code 72042.

UP has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and