

petitioner is exempted from the obligation of providing notification of, and a remedy for, the subject noncompliance under 49 U.S.C. 30118 and 30120.

**Authority:** 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: December 23, 2009.

**Claude Harris,**

*Director, Office of Vehicle Safety Compliance.*  
[FR Doc. E9-31080 Filed 12-30-09; 8:45 am]

**BILLING CODE 4910-59-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 35333]

#### **Burlington Shortline Railroad, Inc. d/b/a Burlington Junction Railway—Lease and Operation Exemption—BNSF Railway Company**

Burlington Shortline Railroad, Inc. d/b/a Burlington Junction Railway (BJRY), a Class III carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease and to operate, pursuant to a lease agreement (Agreement) entered into on December 4, 2009, with BNSF Railway Company (BNSF), approximately 3.5 miles of BNSF's rail line (the Valley Park Lines), and currently operated by Missouri and Valley Park Railroad (MVPR),<sup>1</sup> between milepost 18.36 and milepost 20.50, near West Valley Park, St. Louis County, MO.<sup>2</sup>

BJRY states that the Valley Park Lines connect with BNSF's Cuba Subdivision Main Line at milepost 18.36. BJRY also states that its Agreement does not prohibit BJRY from interchanging with other carriers. The Agreement does contain a provision requiring BJRY to remit supplemental rent to BNSF for each carload originating or terminating on the Valley Park Lines that is interchanged with a carrier other than BNSF. Accordingly, BJRY has concurrently filed with its notice a complete version of the Agreement, marked "confidential" and submitted under seal pursuant to 49 CFR 1104.14(a) and 1150.43(h)(1)(ii).

BJRY certifies that its projected annual revenues as a result of this transaction would not result in BJRY

becoming a Class II or Class I rail carrier and further certifies that its projected revenues will not exceed \$5 million.

BJRY states that it intends to assume operation of the Valley Park Lines and related properties on or about January 30, 2010. The earliest this transaction may be consummated is January 14, 2010, the effective date of the exemption (30 days after the exemption was filed).

If the verified 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 effectiveness of the exemption. Petitions for stay must be filed no later than January 7, 2010 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35333, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on James H.M. Savage, Of Counsel, John D. Heffner, PLLC, 1750 K Street, NW., Suite 200, Washington, DC 20006.

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

Decided: December 24, 2009.

By the Board, Rachel D. Campbell,  
Director, Office of Proceedings.

**Andrea Pope-Matheson,**

*Clearance Clerk.*

[FR Doc. E9-31038 Filed 12-30-09; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34554 (Sub-No. 12)]

#### **Union Pacific Railroad Company—Temporary Trackage Rights Exemption—BNSF Railway Company**

Pursuant to a modified written trackage rights agreement dated December 15, 2009, BNSF Railway Company (BNSF) has agreed to extend the December 31, 2009 expiration date of the local trackage rights granted to the Union Pacific Railroad Company (UP)<sup>1</sup>

over a BNSF line of railroad extending from BNSF milepost 579.3 near Mill Creek, OK, to BNSF milepost 631.1 near Joe Junction, TX, a distance of approximately 52 miles.<sup>2</sup>

The transaction is scheduled to be consummated on January 22, 2010.

The purpose of this transaction is to modify the temporary trackage rights exempted in STB Finance Docket No. 34554 (Sub-No. 10) to further extend the expiration date to on or about December 18, 2010. The modified trackage rights will permit UP to continue to move loaded and empty ballast trains for use in its maintenance-of-way projects.

As a condition to this exemption, any employee 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 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (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

*Pacific Railroad Company—Temporary Trackage Rights Exemption—BNSF Railway Company*, wherein UP requests that the Board permit the proposed local trackage rights arrangement described in the present proceeding to expire on or about December 18, 2010, as provided in the parties' agreement. That petition will be addressed by the Board in a separate decision.

<sup>2</sup> The trackage rights were originally granted in *Union Pacific Railroad Company—Temporary Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company*, STB Finance Docket No. 34554 (STB served Oct. 7, 2004). Subsequently, the parties filed notices of exemption several times based on their agreements to extend expiration dates of the same trackage rights. See STB Finance Docket No. 34554 (Sub-No. 2) (decision served February 11, 2005); STB Finance Docket No. 34554 (Sub-No. 4) (decision served March 3, 2006); STB Finance Docket No. 34554 (Sub-No. 6) (decision served January 12, 2007); STB Finance Docket No. 34554 (Sub-No. 8) (decision served January 4, 2008); and STB Finance Docket No. 34554 (Sub-No. 10) (decision served January 8, 2009). Because the original and subsequent trackage rights notices were filed under the class exemption at 49 CFR 1180.2(d)(7), under which trackage rights normally remain effective indefinitely, in each instance the Board granted partial revocation of the class exemption to permit the authorized trackage rights to expire. See STB Finance Docket No. 34554 (Sub-No. 1) (decision served November 24, 2004); STB Finance Docket No. 34554 (Sub-No. 3) (decision served March 25, 2005); STB Finance Docket No. 34554 (Sub-No. 5) (decision served March 23, 2006); STB Finance Docket No. 34554 (Sub-No. 7) (decision served March 13, 2007); STB Finance Docket No. 34554 (Sub-No. 9) (decision served March 20, 2008); and STB Finance Docket No. 34554 (Sub-No. 11) (decision served March 11, 2009). At the time of the extension authorized in STB Finance Docket No. 34554 (Sub-No. 10), the parties anticipated that the authority to allow the rights to expire would be exercised by December 31, 2009. However, the parties filed on December 18, 2009 in STB Finance Docket No. 34554 (Sub-No. 12) their most recent notice of exemption to allow the trackage rights to be extended to on or about December 18, 2010, which we are addressing here.

<sup>1</sup> MVPR's operations on the Valley Park Lines will terminate on January 29, 2010.

<sup>2</sup> The rail properties being leased consist of industrial trackage and yard office buildings located on the South Side of BNSF's Cuba Subdivision Main Line, including all of BNSF's trackage and other improvements located adjacent to BNSF's Main Line, and an office building owned by BNSF located at 2150 Bowles Avenue, in Fenton, MO.

<sup>1</sup> UP submits that the trackage rights being granted here are only temporary rights, but, because they are "local" rather than "overhead" rights, they do not qualify for the Board's class exemption for temporary trackage rights at 49 CFR 1180.2(d)(8). See *Railroad Consolidation Procedures*, 6 S.T.B. 910 (2003). Therefore, UP concurrently has filed a petition for partial revocation of this exemption in STB Finance Docket No. 34554 (Sub-No. 13), *Union*

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 effectiveness of the exemption. Stay petitions must be filed by January 9, 2010 (7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34554 (Sub-No. 12), must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Mack H. Shumate, Jr., Senior General Attorney, Union Pacific Railroad Company, 101 North Wacker Drive, Room #1920, Chicago, IL 60606.

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

Decided: December 23, 2009.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

**Jeffrey Herzig,**

*Clearance Clerk.*

[FR Doc. E9-30880 Filed 12-30-09; 8:45 am]

BILLING CODE 4915-01-P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 35328]

#### The Indiana Rail Road Company—Trackage Rights Exemption—CSX Transportation, Inc.

Pursuant to a written supplemental trackage rights agreement dated December 1, 2009 (Second Supplemental Agreement), CSX Transportation, Inc. (CSXT), has agreed to broaden the existing non-exclusive, limited overhead trackage rights granted to The Indiana Rail Road Company (INRD) over CSXT's line of railroad between the connection of CSXT and INRD trackage at Sullivan, IN, at approximately CSXT milepost OZA 204.5, and the connection between CSXT's line and tracks leading to the Oaktown Fuels Mine No. 1 LLC loading facility at Oaktown, IN (Oaktown Mine), at approximately CSXT milepost OZA 219.05, a distance of approximately 14.5 miles (Line).<sup>1</sup> According to INRD, the

<sup>1</sup> INRD states that Second Supplemental Agreement modifies the original trackage rights previously granted to INRD in *The Indiana Rail Road Company—Amended Trackage Rights Exemption—CSX Transportation, Inc.*, STB Finance Docket No. 35137 (STB served May 22, 2008), which pertains to CSXT's grant of non-exclusive, limited local trackage rights to INRD between milepost OZA 204.5 and OZA 214.5, and first supplemented in *The Indiana Rail Road Company—Trackage Rights Exemption—CSX*

purpose of the transaction is to broaden the use INRD can make of its existing trackage rights over the Line, permitting INRD to use the trackage rights to move loaded coal trains and empty hopper trains between: (1) The Oaktown Mine and Duke Energy's Wabash River generating station near Terre Haute, IN, and Hoosier Energy's Merom generating station at Merom, IN; and (2) the Sunrise Mine at Carlisle, IN, and the Wabash River generating station and Indianapolis Power & Light's generating station at Petersburg, IN. INRD states that the broadened trackage rights will contribute to the economy and efficiency of operations by permitting INRD to serve the Merom and Wabash River generating stations from the mines in single-line service, and to serve the Petersburg generating station in interline service.<sup>2</sup>

The transaction is scheduled to be consummated on or after January 15, 2010, the effective date of the exemption (30 days after the exemption was filed).

As a condition to this exemption, any employees affected by the acquisition of the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (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. Stay petitions must be filed by January 8, 2010 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35328, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on John Broadley, John H. Broadley & Associates, P.C., 1054 31st Street, NW., Suite 200, Washington, DC 20007.

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

Decided: December 23, 2009.

*Transportation, Inc.*, STB Finance Docket No. 35287 (STB served Sep. 2, 2009), which pertains to CSXT's grant of non-exclusive, limited overhead trackage rights to INRD between milepost OZA 204.5 and OZA 219.05.

<sup>2</sup> INRD will interchange with the Indiana Southern Railroad Company (ISRR) at Beehunter, IN, and ISRR will deliver the coal to Petersburg.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

**Jeffrey Herzig,**

*Clearance Clerk.*

[FR Doc. E9-30895 Filed 12-30-09; 8:45 am]

BILLING CODE 4915-01-P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2008-0167; Notice 2]

#### Volvo Cars of North America, LLC, Grant of Petition for Decision of Inconsequential Noncompliance

Volvo Cars of North America, LLC (Volvo), has determined that certain model year 2003-2009 multipurpose passenger vehicles (MPV) did not fully comply with paragraphs S4.4.2(a) and 4.4.2(c) of 49 CFR 571.110, Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire Selection and Rims for Motor Vehicles With a GVWR of 4,536 Kilograms (10,000 pounds) or Less*. Volvo has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, Volvo has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety. Notice of receipt of the petition was published, with a 30-day public comment period, on November 17, 2008 in the **Federal Register** (73 FR 67926). No comments were received.

To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2008-0167."

For further information on this decision, contact Mr. John Finneran, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-0645, facsimile (202) 366-7097.

Affected are approximately 201,914 model years 2003-2009 XC90 MPV manufactured from August 5, 2002 through March 28, 2008, and 14,147 model years 2008-2009 XC70 MPV manufactured from May 21, 2007 through March 28, 2008. Paragraphs S4.4.2(a) and 4.4.2(c) of FMVSS No. 110 require in pertinent part: