

rail carriers: (a) Chicago SouthShore & South Bend Railroad (CSS), which owns and/or operates property in Illinois and Indiana; (b) Illinois Indiana Development Company, LLC (IIDC),² which owns (but does not currently operate) property in Illinois and Indiana; (c) Pacific Harbor Line, Inc. (PHL), which operates property in California; (d) Louisville & Indiana Railroad Company (L&I), which owns and/or operates property in Indiana and Kentucky; and (e) New York & Atlantic Railway Company (NYA), which operates property in New York.³

Petitioners state that: (1) The railroads do not connect with each other or any railroad in their corporate family; (2) the transaction is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) 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. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34628, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Rose-Michele Weinryb, Esq., Weiner Brodsky Sidman Kider PC, 1300 19th St., NW., Fifth Floor, Washington, DC 20036-1609.

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Decided: December 27, 2004.

² SouthShore Corporation (SouthShore) has 60% ownership of CSS and IIDC, and Gilbertson, *et al.* constitute two of the three directors of SouthShore.

³ Gilbertson, *et al.* own and control ARH, which in turn owns and controls PHL, L&I and NYA.

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

Vernon A. Williams,
Secretary.

[FR Doc. 05-253 Filed 1-5-05; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34417 (Sub-No. 2)]

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

The Burlington Northern and Santa Fe Railway Company (BNSF), pursuant to a modified written trackage rights agreement entered into between BNSF and Union Pacific Railroad Company (UP), has agreed to grant additional local trackage rights to UP¹ over a BNSF line of railroad between BNSF milepost 113.0 and BNSF milepost 117.0 near Endicott, NE, a distance of approximately 4.0 miles.²

The transaction was scheduled to be consummated on December 24, 2004.

The purpose of this transaction is to modify the temporary trackage rights exempted in Finance Docket No. 34417 to include an additional 1.5 miles of trackage and to extend the expiration date to on or about May 16, 2005. The modified rights will permit UP to continue to serve the shipper at Endicott until permanent arrangements can be

¹ 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 new class exemption for temporary trackage rights at 49 CFR 1180.2(d)(8). See *Railroad Consolidation Procedures—Exemption for Temporary Trackage Rights*, STB Ex Parte No. 282 (Sub-No. 20) (STB served May 23, 2003). Therefore, UP and BNSF concurrently have filed a petition for partial revocation of this exemption in STB Finance Docket No. 34417 (Sub-No. 3), *Union Pacific Railroad Company—Temporary Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company*, wherein UP and BNSF request that the Board permit the proposed local trackage rights arrangement described in the present proceeding to expire on or about May 16, 2005. That petition will be addressed by the Board in a separate decision.

² The original trackage rights granted in *Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company*, Finance Docket No. 34417 (STB served Nov. 3, 2003), extended between BNSF milepost 114.5 and BNSF milepost 117.0 near Endicott, NE, a distance of approximately 2.5 miles. By decision served December 8, 2003, in Finance Docket No. 34417 (Sub-No. 1), the Board granted an exemption to permit the trackage rights granted in Finance Docket No. 34417 to expire. At that time, it was anticipated by the parties that the rights would expire on or about October 15, 2004. However, this authority has not yet been exercised.

made for alternate rail service to this shipper, and will permit UP to handle trains carrying materials from the portion of the line that is being salvaged.

As a condition to this exemption, any employees 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 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. 34417 (Sub-No. 2) must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Robert T. Opal, 1400 Douglas Street, STOP 1580, Omaha, NE 68179.

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Decided: December 22, 2004.

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

Vernon A. Williams,
Secretary.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34627]

Northern Lines Railway, LLC—Lease and Operation Exemption—The Burlington Northern and Santa Fe Railway Company

Northern Lines Railway, LLC (NLR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease, from The Burlington Northern and Santa Fe Railway Company (BNSF), and operate approximately 22.4 miles of rail line extending: (a) From the 33rd Street crossing, approximately milepost 76.03, in St. Cloud, MN, exclusive of the actual crossing, approximately one-half mile west of the St. Cloud Yard, to the current end-of-track in St. Joseph, MN, approximately milepost 81.11 at Borgert Road, Line Segment 204; and (b) from Rice Junction in St. Cloud, approximately milepost 0.0 of the Cold

Spring line to the current end-of-track west of Cold Spring, MN, approximately milepost 16.98 near 178th Street, BNSF Line Segment 203, as well as certain related yard and industry tracks.¹

In addition, NLR will acquire from BNSF incidental trackage rights, which will enable NLR to access the leased industry and yard tracks from the leased main line tracks, as follows: (a) Over the BNSF double main lines from approximately milepost 73.0 to approximately milepost 75.0; (b) over the east leg of the wye (Track 156) and over the west leg of the wye (Track 157), in East St. Cloud; (c) from the west end of the wye in East St. Cloud to the Track 12 switch with the East Lead in St. Cloud Yard; and (d) from the clearance point of the Track 11 switch with the

West Track in St. Cloud Yard to the 33rd Street crossing, inclusive of the actual crossing, approximately one-half mile west of the St. Cloud Yard. All of the incidental trackage rights involve rail track located in the vicinity of St. Cloud.

This transaction is related to STB Finance Docket No. 34628, *Peter A. Gilbertson, et al. and Anacostia Rail Holdings Company—Continuance in Control Exemption—Northern Lines Railway, LLC*, wherein Peter A. Gilbertson, *et al.* (Gilbertson *et al.*) and Anacostia Rail Holdings Company (ARH) have filed a verified notice of exemption for Gilbertson *et al.* to continue in control of and for ARH to control NLR upon its becoming a Class III rail carrier.

NLR certifies that its projected revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and states that such revenues will not exceed \$5 million annually. The transaction was scheduled to be consummated on or after December 14, 2004.

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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34627, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Rose-Michele Weinryb, Esq., Weiner Brodsky Sidman Kider PC, 1300 19th St., NW., Fifth Floor, Washington, DC 20036–1609.

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Decided: December 27, 2004.

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

Vernon A. Williams,

Secretary.

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¹ NLR indicates that BNSF will reserve out of the leased trackage certain limited trackage rights between the 33rd Street crossing and a point west of the ballast pit track 582 (which includes trackage on the St. Joseph main line from the 33rd Street crossing to Rice Junction, approximately milepost 0.0, and trackage on the Cold Spring main line from milepost 0.0 to milepost 2.5 west of the ballast pit track 582).