

perceptions and understanding of tire labeling. Few of the focus group participants had knowledge of tire labeling beyond the tire brand name, tire size, and tire pressure.

The agency believes that the true measure of inconsequentiality to motor vehicle safety, in this case, is the effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. Since the tires had more tread plies than indicated on the sidewall, the labeling noncompliance has no effect on the performance of the subject tires. A tire with more tread plies is likely to be a more robust tire even though it has no additional load-carrying capacity.

In consideration of the foregoing, NHTSA has decided that the applicant has met its burden of persuasion that the noncompliance is inconsequential to motor vehicle safety. Accordingly, its application is granted and the applicant is exempted from providing the notification of the noncompliance as required by 49 U.S.C. 30118, and from remedying the noncompliance, as required by 49 U.S.C. 30120.

(Authority: 49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: July 13, 2005.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34712  
(Sub-No. 1)]

#### **The Kansas City Southern Railway Company—Temporary Trackage Rights Exemption—BNSF Railway Company**

BNSF Railway Company (BNSF), pursuant to a written trackage rights agreement entered into between BNSF and The Kansas City Southern Railway Company (KCS), has agreed to provide KCS with non-exclusive, overhead, temporary trackage rights, to expire on November 15, 2005, over BNSF's line of railroad between milepost 307.5, in Neosho, MO, and milepost 3.5X, at Murray Yard, in Kansas City, MO, a distance of approximately 229.1 miles. The original trackage rights granted in *The Kansas City Southern Railway Company—Temporary Trackage Rights Exemption—BNSF Railway Company*, STB Finance Docket No. 34712 (STB served on June 22, 2005), covered the

same line, but are due to expire on July 21, 2005. The purpose of this transaction is to modify the temporary overhead trackage rights exempted in STB Finance Docket No. 34712 to extend the expiration date from July 21, 2005, to November 15, 2005.

The transaction is scheduled to be consummated on July 21, 2005. The modified temporary overhead trackage rights will allow KCS to continue to bridge its train service while KCS's main lines are out of service due to certain programmed track, roadbed and structural maintenance.

As a condition to this exemption, any employees affected by the acquisition of the temporary 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), and any employee affected by the discontinuance of those trackage rights will be protected by the conditions set out in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

This notice is filed under 49 CFR 1180.2(d)(8). 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. 34712 (Sub-No. 1), 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 William A. Mullins, Baker and Miller, PLLC, 2401 Pennsylvania Avenue, NW., Suite 300, Washington, DC 20037.

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

Decided: July 11, 2005.

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

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

[FR Doc. 05-14097 Filed 7-18-05; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34720]

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

BNSF Railway Company (BNSF), pursuant to a modified written trackage rights agreement entered into between BNSF and Union Pacific Railroad Company (UP), submits this verified notice for an exemption of the modified written trackage rights agreement governing BNSF's existing overhead trackage rights over UP's line of railroad between Crestline Street MP 163.52 and Helena Street MP 163.89, approximately 0.37 miles, on UP's Wallace Subdivision (the Joint Trackage) in Spokane, WA.<sup>1</sup> The modification of trackage rights relates to BNSF's assumption of maintenance functions for a particular segment of the Joint Trackage. BNSF will continue to have rights to use the Joint Trackage as provided in the Agreement.

The transaction is scheduled to be consummated on July 12, 2005, and operations under this exemption are planned to begin on that date.

The purpose of this transaction is to modify the Agreement to change the maintenance obligations in order to promote operating and maintenance efficiencies and better align the parties' maintenance obligations relative to usage.

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. 34720 must be filed with the Surface Transportation Board, 1925 K

<sup>1</sup> BNSF acquired the nonexclusive right to use the Joint Trackage under an agreement dated February 22, 1973, by and between the Oregon-Washington Railroad & Navigation Company, and its lessees, UP and Burlington Northern Inc. (BNSF's predecessor in interest), as amended by a supplemental agreement dated January 21, 1974, and further amended by a Letter Agreement dated July 27, 1988 (collectively, the Agreement).

Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Sarah W. Bailiff, 2500 Lou Menk Drive, P.O. Box 961039, Fort Worth, TX 76161–0039.

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

Decided: July 11, 2005.

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

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

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