

WA	D2009-TRTR-056	Kalispell Tribe of Indians	\$417,896
WA	D2009-TRTR-057	Confederated Tribes and Bands of The Yakama Nation	\$1,000,000
WA	D2009-TRTR-058	Lummi Nation's	\$260,510
WA	D2009-TRTR-059	Quinault Tribe of The Quinault Reservation	\$200,000
WI	D2009-TRTR-060	Red Cliff Band of Lake Superior Chippewa's	\$127,530
WI	D2009-TRTR-061	Lac Courte Oreilles	\$200,000
<b>TOTAL</b>			<b>\$15,000,000</b>

[FR Doc. Z9-30197 Filed 12-30-09; 8:45 am]  
BILLING CODE 1301-00-D

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 35337]

#### Paul Didelius—Continuance in Control Exemption—YCR Corporation

Paul Didelius (applicant), a noncarrier, has filed a verified notice of exemption to continue in control of YCR Corporation (YCR), upon YCR's becoming a Class III rail carrier.

Currently, applicant owns 100 percent of noncarrier, LRY, LLC D.B.A. Lake Railway (LRY). LRY concurrently filed two notices of exemption to lease and operate: (1) 62.21 miles of railroad owned by Union Pacific Railroad Company, consisting of: (a) Part of the Modoc Subdivision, extending from milepost 445.6 near MacArthur, CA, to milepost 506.1, near Perez, CA, and (b) part of the Lakeview Branch, extending from milepost 456.89 to milepost 458.60 at Alturas, CA; and (2) 54.45 miles of railroad owned by Lake County, OR, extending from milepost 458.60 at Alturas, to milepost 513.05, at Lakeview, OR. Once consummation occurs, on or after January 1, 2010, LRY will become a Class III carrier.<sup>1</sup>

YCR, a new corporation owned in part by applicant (49%)<sup>2</sup> and Stan Patterson (51%) has been established for the purpose of leasing and operating a line of railroad owned by Yakima County, WA. The subject line extends between Wesley Junction (Toppenish) and White Swan, WA, a distance of approximately 20.56 miles. The line was formerly operated by Washington Central Railroad Company (WCRC) and Yakima County acquired the line after WCRC

was authorized to abandon it. On December 16, 2009, YCR filed an application for a modified certificate of public convenience and necessity in STB Finance Docket No. 35336, *YCR Corporation—Modified Rail Certificate*, wherein YCR seeks to lease and operate the line.

This transaction cannot be consummated until January 17, 2010, the effective date of the exemption (30 days after the exemption is filed).<sup>3</sup>

Applicant states that: (1) The rail line to be acquired by YCR does not connect with any other railroad in its corporate family; (2) the transaction is not part of a series of anticipated transactions that would connect the rail line with any other railroad in its corporate family; and (3) the transaction does not involve a Class I rail 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 effectiveness of the exemption. Stay petitions must be filed no later than 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. 35337, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on John D. Heffner, 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. E9-31037 Filed 12-30-09; 8:45 am]

BILLING CODE 4915-01-P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2008-0183; Notice 2]

#### Ford Motor Company, Grant of Petition for Decision of Inconsequential Noncompliance

Ford Motor Company (Ford) has determined that certain complete model year 2007-2008 Ford Expedition and Lincoln Navigator multipurpose passenger vehicles (MPV) built with the Limousine Builders Package and certain complete 2008 model year Ford Crown Victoria Police Interceptor (CVPI) passenger cars built with two front bucket seats did not fully comply with paragraph S4.3(b) 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*). Ford 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, Ford 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

<sup>1</sup> See STB Finance Docket No. 35250, *LRY, LLC D.B.A. Lake Railway—Lease and Operation Exemption—Union Pacific Railroad Company* and STB Finance Docket No. 35250 (Sub-No. 1), *LRY LLC D.B.A. Lake Railway—Lease and Operation Exemption—Rail Line in Lake County, OR*. The notices were served and published in the **Federal Register** on December 18, 2009 (74 FR 67304-5).

<sup>2</sup> According to applicant, as President of YCR, he is in a position to control YCR.

<sup>3</sup> Applicant states in the notice that he plans to consummate the transaction on or about January 16, 2010.

<sup>4</sup> YCR will operate a rail line in south central Oregon and LRY will operate rail lines in northeastern California and southwestern Oregon. According to applicant, YCR and LRY lines are 380 miles apart.

published, with a 30-day public comment period, on December 19, 2008, in the **Federal Register** (73 FR 77874). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System Web site at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2008-0183."

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 233 model year 2007-2008 Ford Expedition and Lincoln Navigator MPVs with the Limousine Builders Package (built from September 6, 2006 through March 12, 2008, at Ford's Michigan Truck Plant) and approximately 34,682 model year 2008 Ford Crown Victoria Police Interceptor passenger cars equipped with two front bucket seats (built from June 27, 2007, through May 7, 2008, at Ford's St. Thomas Assembly Plant).

Paragraph S4.3 of FMVSS No. 110 requires in pertinent part:

S4.3 Placard. Each vehicle, except for a trailer or incomplete vehicle, shall show the information specified in S4.3(a) through (g), and may show, at the manufacturer's option, the information specified in S4.3(h) and (i), on a placard permanently affixed to the driver's side B-pillar. In each vehicle without a driver's side B-pillar and with two doors on the driver's side of the vehicle opening in opposite directions, the placard shall be affixed on the forward edge of the rear side door. If the above locations do not permit the affixing of a placard that is legible, visible and prominent, the placard shall be permanently affixed to the rear edge of the driver's side door. If this location does not permit the affixing of a placard that is legible, visible and prominent, the placard shall be affixed to the inward facing surface of the vehicle next to the driver's seating position. This information shall be in the English language and conform in color and format, not including the border surrounding the entire placard, as shown in the example set forth in Figure 1 in this standard. At the manufacturer's option, the information specified in S4.3(c), (d), and, as appropriate, (h) and (i) may be shown, alternatively to being shown on the placard, on a tire inflation pressure label which must conform in color and format, not including the border surrounding the entire label, as shown in the example set forth in Figure 2 in this standard. The label shall be permanently affixed and proximate to the placard required by this paragraph. The information specified in S4.3 (e) shall be shown on both the vehicle placard and on the tire inflation pressure label (if such a label is affixed to provide the information specified in S4.3(c), (d), and, as

appropriate, (h) and (i)) may be shown in the format and color scheme set forth in Figures 1 and 2 \* \* \*

(b) Designated seated capacity (expressed in terms of total number of occupants and number of occupants for each front and rear seat location) \* \* \*

In its petition, Ford explained that the noncompliances with FMVSS No. 110 exist due to errors on the tire and loading information placards that it affixed to the vehicles. Ford described the noncompliances as incorrect listing of designated seating positions on the tire and loading information placard. Specifically:

1. Expedition and Navigator vehicles with the Limo Builders Package are built with only two front seats. No rear seats are installed. The tire information placard identifies the seating capacity as five total (two front; three rear) or seven total (two front; five rear), instead of two total (two front; zero rear).

2. CVPI passenger cars with two front bucket seats—the designated seating capacity was incorrectly identified as six total (three front; three rear) instead of five total (two front; three rear).

Ford also explained its belief that in each of these cases the number of seats and the number of safety belts installed in the vehicle will clearly indicate to the customers the actual seating capacity. Ford also declared its belief that NHTSA has reached a similar conclusion that the presence of seat belts will alert the operators to the number of seating positions in any row of seating. Ford specifically details its reasoning as follows:

In the case of the Expedition and Navigator vehicles built with the Limo Builders Package are equipped with only two front seats and two sets of safety belts when delivered to the Qualified Vehicle Modifier (QVM). When the QVM completes the modifications to the vehicles, the final number of seating positions will be specified on the label required to be affixed by the QVM.

In the case of the CVPI vehicles that are equipped with front bucket seats, the seats are separated by approximately 11 inches and Ford believes that nearly all of these vehicles will have a center console (typically used to mount police equipment such as lap top computers, communications radios, siren and lighting controls, etc.) installed by the aftermarket upfitters who perform police vehicle conversions.

Ford stated that in all cases, the weight capacity, the tire size designation and the cold tire inflation pressure data listed on the tire and loading information placard is correct for the vehicles on which they are installed. Ford additionally stated that because the weight capacity is accurate, it believes that there is no potential for

vehicle overloading due to the incorrect value in the designated seating capacity.

Ford also stated that it was not aware of any field or owner complaints of misunderstanding of the actual number of seats in these vehicles.

Ford also has informed NHTSA that it has corrected the problem that caused these errors so that they will not be repeated in future production.

Subsequent to submitting the petition Ford has additionally informed the agency that none of the subject vehicles could have been newly purchased by the general public. The subject Ford Expedition and Lincoln Navigator MPVs were sold only to Qualified Vehicle Modifiers (QVM) approved by Ford. These modifiers were provided with specific instructions by Ford to install new tire information labels if the information on the labels installed by Ford are not accurate prior to the first retail sale of a vehicle. The modifications normally performed by QVM require them to install supplementary certification labels. See 49 CFR 567.7. The subject Ford CVPI passenger cars could only be ordered by government agencies and normally have police equipment mounted on the center console by vehicle modifiers as directed by the purchasing agencies.

In summation, Ford states that it believes that the noncompliances are inconsequential to motor vehicle safety and that no corrective action is warranted.

### NHTSA Decision

NHTSA agrees with Ford that this noncompliance will not have an adverse effect on vehicle safety. In the agency's judgment, the presence of seat belts in the subject vehicles will alert vehicle users to the number of intended seating positions. The presence or absence of the large center console between the front bucket seats of the CVPI vehicles should alert vehicle users to the absence of seating positions. Because the QVM normally add additional seating to the vehicles they alter it is likely that they will be replacing the labels originally placed on the Ford Expedition and Lincoln Navigator vehicles by Ford. If the QVM do not add additional seating, the absence of rear seats in the Expedition and Navigator vehicles with the Limo Builders Package should alert vehicle users to the absence of seating positions.

In consideration of the foregoing, NHTSA has decided that Ford has met its burden of persuasion that the subject FMVSS No. 110 labeling noncompliances are inconsequential to motor vehicle safety. Accordingly, Ford's petition is granted and the

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*