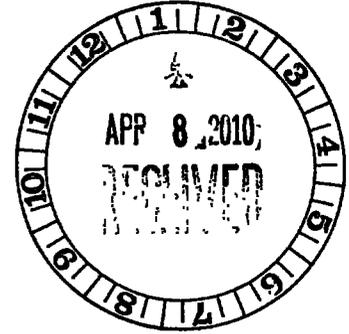


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CHARLES H. MONTANGE
ATTORNEY AT LAW
426 NW 162ND STREET
SEATTLE, WASHINGTON 98177
(206) 546-1936
FAX: (206) 546-3739



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Office of Proceedings

APR 8 2010

Part of
Public Record

7 April 2010
by express

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, D.C. 20024

Re: Washington & Idaho Railway, Inc. --
Lease Exemption - BNSF Railway Co.,
STB Finance Docket No. 35370

Dear Ms. Brown:

Enclosed please find the original and ten copies of a Notice of Exemption pursuant to 49 C.F.R. 1150.41, et seq., for filing in the above-referenced proceeding.

Pursuant to 49 C.F.R. 1150.43(h)(ii), I am submitting under seal (automatic confidential treatment without the need for filing a motion for protective order) the pertinent portion of the Lease Agreement which contains the limitation on interchange identified in the Notice as required by section 1150.43(h). Each page is marked highly confidential and this document is not to be included in the public record.

A check in the amount of \$1800 for the filing fee is also enclosed.

In the event of questions, please feel free to contact me. Thank you for your assistance in this matter.

Respectfully submitted,

Charles H. Montange
for Washington & Idaho Railway,
Inc.

Encls. (Orig plus ten, check)

BEFORE THE SURFACE TRANSPORTATION BOARD

FINANCE DOCKET 35370

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Office of Proceedings

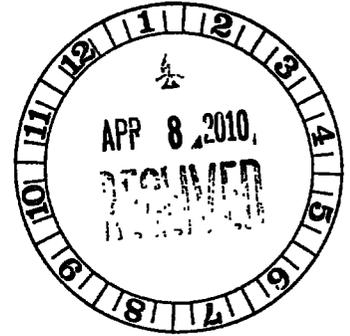
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Washington & Idaho Railway, Inc.

- Lease Exemption -

BNSF Railway Company



FEE RECEIVED

APR 8 - 2010

**SURFACE
TRANSPORTATION BOARD**

VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. 1150.41, et seq.

Washington & Idaho Railway, Inc. ("WIR"), a Class III rail carrier, files this Notice of Exemption pursuant to 49 C.F.R. 1150.41, et seq. (exempt transactions under 49 U.S.C. 10902) to permit WIR to lease from BNSF Railway Company ("BNSF") approximately 1 mile of track, including (1) BNSF track 2309, being the west leg of the "wye" beginning at the clearpoint of BNSF track 2305 in Marshall (WA), Washington Yard, to and including the turnout to BNSF line segment 384 at MP 0.43, and (2) BNSF line segment 384 from MP 0.43 to and including MP 1.00, near Marshall.

In support of this Notice of Exemption, WIR submits the following information as required by 49 C.F.R. 1140.43:

(a) Full name and address of applicant:

Washington & Idaho Railway, Inc.
P.O. Box 154
Marshall, WA 99020-0154
Att: General Manager

(b) Applicant's representative:

FILED
APR 8 - 2010
**SURFACE
TRANSPORTATION BOARD**

Charles H. Montange
426 NW 162d St.
Seattle, WA 98177
(206) 546-1936

(c) Statement of Agreement:

WIR has entered into an agreement with BNSF for the lease of the rail lines indicated above.

(d) The operator of the property:

WIR will become the operator of the lines being leased.

(e) Summary of proposed transaction:

(1) The name and address of the railroad transferring the subject property is:

BNSF Railway Company
2650 Lou Menk Drive
Fort Worth, TX 76131

(2) WIR's lease of the rail lines is expected to commence at 00:01 on 9 May 2010.

(3) The rail lines being leased by WIR are associated with or contiguous with BNSF's Washington Yard in Marshall, Washington. The lines are identified as (1) BNSF track 2309, being the west leg of the "wye" beginning at the clearpoint of BNSF track 2305 in Marshall (WA), Washington Yard, to and including the turnout to BNSF line segment 384 at MP 0.43, and (2) BNSF line segment 384 from MP 0.43 to and including MP 1.00, near Marshall. WIR currently operates trackage owned by the State of Washington commencing at MP 1.00 on BNSF line segment 384.¹ This lease will facilitate interchange and switching

¹ See Washington & Idaho Railway - Lease and Operation Exemption - Washington State Department of Transportation, F.D. 35028,

between WIR and BNSF. The length of track being leased is approximately 1.00 mile.

(f) A map of the rail lines being leased is attached as Exhibit A.

(g) WIR hereby certifies that WIR's projected revenues as a result of this transaction will not result in WIR becoming a Class II or Class I rail carrier. WIR further certifies that its projected annual revenues from operation of the leased lines, when combined with WIR's projected annual revenue, will not exceed \$5 million. Accordingly, the requirements of 49 C.F.R. 1150.42(e) do not apply to this transaction.

(h) The lease agreement includes a provision (section 15.1) that limits WIR's use of the trackage at Marshall to interchange with BNSF. Pursuant to 49 C.F.R. 1150.43(h)(ii) and 1104.14(a), a copy of the lease agreement as pertinent here is being filed under seal (confidential treatment without need for filing a motion for protective order). WIR notes that (other than WIR) only BNSF physically serves the Marshall interchange point.

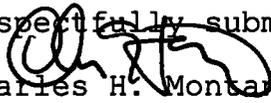
A caption summary, as required by 49 C.F.R. 1150.44, is attached as Exhibit B.

Environmental and historic impacts. WIR is leasing the rail lines from BNSF for continued rail operations, and in particular to facilitate interchange with BNSF. There are no plans to dispose of or alter any properties subject to STB jurisdiction

served May 25, 2007. See also Washington State Department of Transportation - Acquisition Exemption - Palouse River and Coulee City RR, F.D. 35024, served May 30, 2007.

that are 50 years old or older. This Notice of Exemption thus does not require an historic report under 49 C.F.R. 1105.8(b)(1). WIR's lease will not result in a diversion of more than 1000 rail carloads/year to motor carriage or an average of 50 carloads/mile/year for any part of this line to motor carriage. This transaction will not result in an increase in rail traffic or at least 100 percent or an increase of at least eight trains/day on any segment of the line, or an increase of rail yard activity of at least 100 percent or an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles/day. WIR's lease will not affect a Class I or nonattainment area under the Clean Act, but the thresholds of 49 C.F.R. 1105.7(e)(5)(ii) will not be exceeded in any event. Transportation of ozone depleting materials is not contemplated. Further environmental documentation is not required under 49 C.F.R. 1105.6(c)(2). This action will not significantly affect either the quality of the human environment or energy conservation.

Respectfully submitted,


Charles H. Montange
426 NW 162d St.
Seattle, WA 98177
(206) 546-1936
fax: -3739

Attorney for Washington &
Idaho Railway, Inc.

April 7, 2010

Exhibit A

Map

Exhibit A
Marshall, Washington

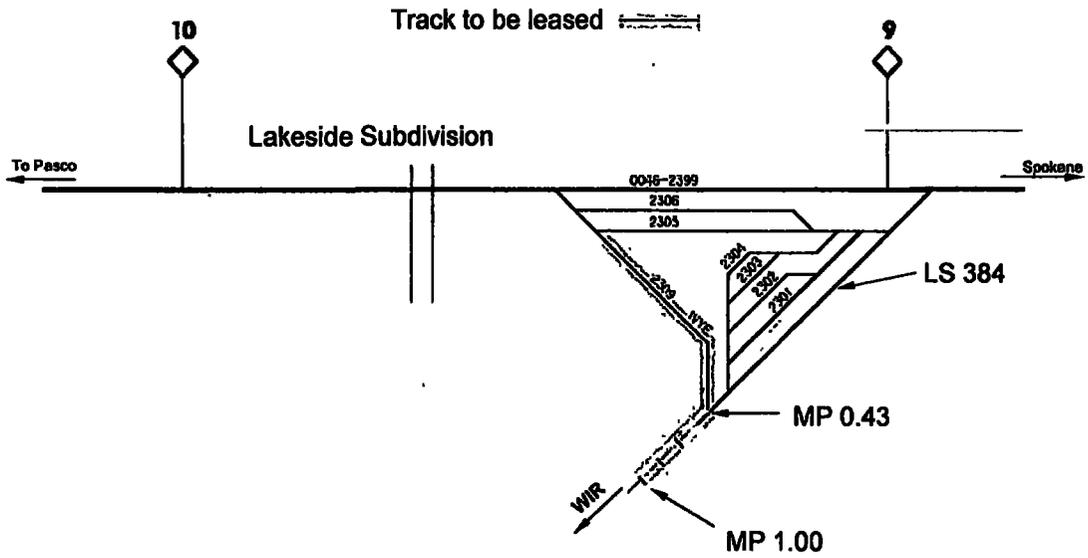


Exhibit B
Caption Summary

BEFORE THE SURFACE TRANSPORTATION BOARD

FINANCE DOCKET 35370

Washington & Idaho Railway, Inc.

- Lease Exemption -

BNSF Railway Company

Washington & Idaho Railway, Inc. (WIR), a Class III carrier, has filed a verified notice of exemption under 49 C.F.R. 1150.41 to lease approximately 1.00 mile of rail line owned by BNSF Railway Company (BNSF). The lines being leased are associated with or adjoin BNSF's Washington Yard in Marshall, WA, as follows: (1) BNSF track 2309, being the west leg of the "wye" beginning at the clearpoint of BNSF track 2305 in Marshall (WA), Washington Yard, to and including the turnout to BNSF line segment 384 at MP 0.43, and (2) BNSF line segment 384 from MP 0.43 to and including MP 1.00, near Marshall.

Comments must be filed with the Board and served on Charles Montange, 426 NW 162d St., Seattle, WA 98177, telephone (206)546-1936, counsel for WIR.

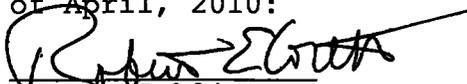
This notice is filed under 49 C.F.R. 1150.41. If the notice contains false or misleading information, the exemption is void ab initio. The filing of a petition to revoke will not automatically stay the transaction.

Verification

I, Karl Nelson, being duly sworn, depose and state that I am the General Manager of Washington & Idaho Railway, Inc., that I am authorized to make this Verification, that I have read the foregoing Notice of Exemption, that I know the facts asserted therein are true and accurate to the best of my knowledge, information and belief.


Karl Nelson

Subscribed and sworn to before me this 6th day of April, 2010:


Notary Public

My commission expires:

5-1-2012

