



Brotherhood of Locomotive Engineers and Trainmen

A Division of the Rail Conference — International Brotherhood of Teamsters

NATIONAL LEGISLATIVE OFFICE

25 Louisiana Avenue, NW, Room A-704 • Washington, DC 20001
Phone: (202) 624-8776 • Fax: (202) 624-3086 • tolman@ble-t.org

JOHN P. TOLMAN

Vice President and

National Legislative Representative

March 11, 2007

Docket Clerk
DOT Central Docket Management Facility
Room PL-401
400 7th Street, SW (Plaza Level)
Washington, DC 20590-0001

Re: Docket No. FRA-2006-26717

Dear Docket Clerk:

On December 20, 2006, the Federal Railroad Administration (“FRA”) received a petition for waiver from compliance with the requirements of 49 CFR Part 232.205(a)(1) — the requirement that brakes set and release on all cars — and from the requirements of Part 215 – Freight Car Standards, and Part 231 – Railroad Safety Appliance Standards, for freight cars received in interchange at El Paso, Texas, from the FXE Ferrocarril Mexicano at Ciudad Juarez, Chihuahua, Mexico, which was filed by BNSF Railway Company (“BNSF”). *See* DOT DMS FRA-2006-26717-1 (“Petition”). On January 25, 2007, FRA published notice of the filing of BNSF’s petition, soliciting comments thereon from interested parties. *See* FRA-2006-26717-3.

These comments are submitted by the Brotherhood of Locomotive Engineers and Trainmen, a Division of the Rail Conference of the International Brotherhood of Teamsters (“BLET”), which is the duly designated and recognized collective bargaining representative for the craft or class of Locomotive Engineer employed on BNSF. Consequently, BNSF’s petition would have a significant impact upon our members. For the reasons set forth below, BLET respectfully requests that any relief granted by FRA include the conditions enumerated herein, to provide an equivalent level of safety as compared to current operations.

BNSF has requested fairly narrow relief, specifically seeking “to permit the movement from the FXE interchange point at International Bridge Milepost 1155.1 on the El Paso Subdivision to Milepost 1150, just west of the Sunland Park Dr. crossing, a distance of approximately five miles, without the need to comply with the requirements of those parts of” FRA safety regulations from which BNSF seeks relief. Petition at p. 1. In lieu of strict compliance with the regulations, BNSF proposes, instead, to

DOT Docket Clerk

March 11, 2007

Re: Docket No. FRA-2006-26717

Page 2

move cars from the FXE interchange at El Paso, a distance of approximately five miles to a main track location at approximately Milepost 1150 of the El Paso Subdivision. A set and release would be made of brakes on the interchange movement insuring continuous brake pipe to the rear of the train as indicated by air gauge or end of train telemetry device and moved safely at a speed, not exceeding 20 miles per hour, to Milepost 1150 at El Paso, where the train would undergo a class I mechanical inspection and airbrake test. Any non-compliant cars will be set out.

Id. BNSF seeks the requested relief because traffic has increased to levels that exceed the capacity of its El Paso facilities to perform the required inspections and tests without delays and disruption to the community. Id. at p. 2.

At the outset, we note that the issue of increased traffic originating in or destined for Mexico has led to at least four filings with FRA in the second half of last year. In contrast with the controversial proposal by Union Pacific Railroad to begin performing air brake, freight car, and locomotive inspections and tests in Nuevo Laredo, Mexico, BNSF seeks herein to move cars approximately five miles inside the U.S. border prior to performing the inspections and tests, which we note with approval.

That said, however, we do not believe the conditions proposed by BNSF go far enough. In our view, the Safety Board should continue to utilize the protocols set forth in FRA's waiver governing freight cars interchanged on the Union Pacific at Nogales, Arizona and apply them to the instant petition, if the Board deems that relief is appropriate. More specifically, any relief granted by FRA should include the following additional conditions, which are not reflected in BNSF's petition:

- At point of interchange, all cars containing hazardous material should be inspected at ground level for required marking, labels, placards, securement of closures and leakage.
- An accurate train consist and proper hazardous material documents should be presented to the BNSF train crew before departure from the FXE Interchange point.

See FRA-2001-8697-6.¹

We believe the additional conditions are essential for safety, and are wholly consistent with ongoing rulemakings with respect to rail security. The benefits of these additional requirements far outweigh any cost or inconvenience involved.

¹ On September 12, 2006, Union Pacific petitioned for an extension of this waiver and, presumably, its terms remain in full force and effect.

DOT Docket Clerk

March 11, 2007

Re: Docket No. FRA-2006-26717

Page 3

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joe P. Vohsen". The signature is written in a cursive style with a large initial "J".

Vice President and National Legislative Representative

cc: All BNSF General Chairmen
Terry D. Briggs, Texas State Legislative Board Chairman
Thomas A. Pontolillo, Director of Regulatory Affairs