

that are outside of their primary appointment.

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal offices of the Exchange. All submissions should refer to File No. SR-PCX-2002-55 and should be submitted by January 3, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 02-31401 Filed 12-12-02; 8:45 am]

BILLING CODE 8010-01-P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-279 (Sub-No. 4X)]

#### Canadian National Railway Company— Discontinuance of Trackage Rights Exemption—in Niagara County, NY

Canadian National Railway Company (CN) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service and Trackage Rights* to discontinue trackage rights over a 0.15-mile portion of trackage owned by Canada Southern Railway Company (CSR) from a point on the international railway bridge at Niagara Falls, milepost 0.15, to a point where the trackage joins the CSX Transportation, Inc. trackage, milepost 0.0, in Niagara County, NY.<sup>1</sup> The line traverses United States Postal Service Zip Code 14305.

CN has certified that: (1) No local traffic has moved over the line for at

least 2 years; (2) any potential overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 14, 2003, unless stayed pending reconsideration. Petitions to stay and formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>2</sup> must be filed by December 23, 2002. Petitions to reopen<sup>3</sup> must be filed by January 2, 2003, with: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to CN's representative: Michael J. Barron, Jr., Counsel for Canadian National Railway Company, Canadian National/Illinois Central, 455 North Cityfront Plaza Drive, Chicago, IL 60611-5317.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

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<sup>2</sup> Each OFA must be accompanied by the filing fee, which currently is set at \$1,100. See 49 CFR 1002.2(f)(25).

<sup>3</sup> Because this is a discontinuance proceeding, trail use/rail banking and public use conditions are not appropriate. This proceeding is exempt from environmental and historic reporting requirements. CN only intends to discontinue service over the line. Because CN's discontinuance of trackage rights will merely result in the cessation of service over the line, and CN has not sought abandonment authority, this proceeding is exempt from the reporting requirements listed above and no environmental documentation will be prepared. See 49 CFR 1105.6(c)(6) and 1105.8(a) and (b). Because CSR is seeking abandonment authority with respect to this line in STB Docket No. AB-584 (Sub-No. 1X), see *supra* note 1, environmental issues related to abandonment will be addressed in that proceeding.

Decided: December 5, 2002.

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

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 02-31459 Filed 12-12-02; 8:45 am]

BILLING CODE 4915-00-P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34266]

#### Martin Marietta Materials, Inc.— Continuance in Control Exemption— Alamo North Texas Railroad Corporation

Martin Marietta Materials, Inc. (MMM), a noncarrier, has filed a verified notice of exemption to continue in control of Alamo North Texas Railroad Corporation (Alamo North) upon Alamo North's becoming a Class III railroad.<sup>1</sup>

The transaction was scheduled to be consummated on or after November 20, 2002, the effective date of the exemption (7 days after the notice was filed).

At the time this notice was filed, MMM indirectly controlled two railroads, Fredonia Valley Railroad, Inc., operating in Kentucky, and Alamo Gulf Coast Railroad Co., operating in Texas.

MMM states that: (i) The railroads do not connect with each other or any railroad in their corporate family; (ii) the continuance in control 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 (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval of 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 the labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

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

<sup>1</sup> See *Alamo North Texas Railroad Corporation—Construction and Operation Exemption—Wise County, TX*, STB Finance Docket No. 34002 (STB served Sept. 3, 2002 and Nov. 16, 2001).

<sup>13</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> CN notes that the 0.15-mile trackage rights sought to be discontinued are overhead rights over trackage owned by CSR, for which CSR is seeking abandonment authority in *Canada Southern Railway Company—Abandonment Exemption—in Niagara County, NY*, STB Docket No. AB-584 (Sub-No. 1X) (STB served Oct. 22, 2002).

a petition to revoke will not automatically stay the transaction.

An original and ten copies of all pleadings referring to STB Finance Docket No. 34266, 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 Fritz R. Kahn, P.C., 1920 N Street, NW., 8th Floor, Washington, DC 20036-1601.

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Decided: December 6, 2002.

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

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 02-31460 Filed 12-12-02; 8:45 am]

BILLING CODE 4915-00-P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34213]

#### Puget Sound & Pacific Railroad— Lease and Operation Exemption— Union Pacific Railroad Company

Puget Sound & Pacific Railroad (PSPR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease and operate approximately 1.85 miles of rail line from Union Pacific Railroad Company extending between milepost 2.41 at Blakeslee Junction, WA, and milepost 4.26 at Raisch, WA.

Because PSPR's projected annual revenues will exceed \$5 million, PSPR certified to the Board on November 8, 2002, that, on October 2, 2002, it had posted the required notice of intent to undertake the proposed transaction at the workplace of the employees on the affected line and had served a copy of the notice of intent on the national offices of all labor unions with employees on the rail line. See 49 CFR 1150.42(e). PSPR stated in its verified notice that the transaction was scheduled to be consummated on or after December 1, 2002.<sup>1</sup>

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the

<sup>1</sup> Due to the timing of PSPR's certification to the Board, consummation under these circumstances would have had to be delayed until January 7, 2003 (60 days after PSPR's certification to the Board that it had complied with the requirements of 49 CFR 1150.42(e)). In a decision in this proceeding served on December 6, 2002, however, the Board granted the request by PSPR for waiver of the remainder of the 60-day notice period to allow consummation to occur as early as December 6, 2002.

exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34213, 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 Gary A. Laakso, Vice President Regulatory Counsel, Puget Sound & Pacific Railroad, 5300 Broken Sound Boulevard NW., Boca Raton, FL 33487 and Louis E. Gitomer, Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

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

Decided: December 9, 2002.

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

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 02-31457 Filed 12-12-02; 8:45 am]

BILLING CODE 4915-00-P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-845X]

#### CHS Holdings, Inc.—Abandonment Exemption—in Pembina County, ND

On November 25, 2002, CHS Holdings, Inc. (CHS) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon its entire line of railroad extending from milepost 177.44 to the end of the line at milepost 179.55, a distance of 2.11 miles, in Pembina County, ND. The line traverses U.S. Postal Service Zip Code 58271 and includes no stations.

The line does not contain federally granted rights-of-way. Any documentation in CHS's possession will be made available promptly to those requesting it.

In this proceeding, CHS is proposing to abandon a line that constitutes its entire rail system. CHS seeks to extinguish its common carrier obligation and, following abandonment of the line, to operate it as a private carrier. When issuing abandonment authority for a railroad line that constitutes the carrier's entire system, the Board does not impose labor protection, except in specifically enumerated circumstances. See *Northampton and Bath R. Co.—Abandonment*, 354 I.C.C. 784, 785-86

(1978) (*Northampton*). Therefore, if the Board grants the petition for exemption, in the absence of a showing that one or more of the exceptions articulated in *Northampton* are present, no labor protective conditions will be imposed.

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by March 14, 2003.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a \$1,100 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than January 2, 2003. Each trail use request must be accompanied by a \$150 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB-845X and must be sent to: (1) Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001; and (2) Fritz R. Kahn, 1920 N Street, NW., 8th Floor, Washington, DC 20036-1601. Replies to the CHS petition are due on or before January 2, 2003.

Persons seeking further information concerning abandonment and discontinuance procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565-1552. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.