

complying with the requirements of FMVSS No. 224.

In addition to their inability to design a practicable rear impact guard, Reliance experienced a significant economic downturn in the past two years. Specifically, petitioner's financial statements show a profit of \$69,284 for the fiscal year 2000; an operating loss of \$1,181,900 for the fiscal year 2001; and an operating loss of \$2,477,700 for the 2002 fiscal year. This represents a cumulative loss for a period of 3 years of \$3,590,316.<sup>3</sup> In 2003, Reliance produced only 12 dump body trailers, which is significantly less than the output in the previous two years.

Petitioners contend that the renewal of their exemption would be in the public interest for the following reasons. First, Reliance argues that denial of this petition request would reduce their payroll by 15 to 18 employees. Second, Reliance argues that an exemption would allow the company to continue providing paving equipment needed by road building industry.

Petitioners ask NHTSA to renew their exemption from the requirements of FMVSS No. 224 until February 1, 2006. According to Reliance, they will continue to seek a practicable and financially viable solution that would allow dump body trailers with rear impact guards to functionally interact with paving equipment.

#### How You May Comment on Reliance Application

We invite you to submit comments on the application described above. You may submit comments [identified by DOT Docket Number NHTSA 2001-10044] by any of the following methods:

- Web Site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site by clicking on "Help and Information" or "Help/Info."

- Fax: 1-202-493-2251.

- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 am and 5 pm, Monday through Friday, except Federal Holidays.

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

<sup>3</sup> To see Reliance petition for renewal of their temporary exemption, please go to <http://dms.dot.gov/search/searchFormSimple.cfm> and enter Docket No. NHTSA-2001-10044.

*Instructions:* All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided.

*Docket:* For access to the docket in order to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 am and 5 pm, Monday through Friday, except Federal Holidays.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

We shall consider all comments received before the close of business on the comment closing date indicated below. To the extent possible, we shall also consider comments filed after the closing date. We shall publish a notice of final action on the application in the **Federal Register** pursuant to the authority indicated below.

*Comment closing date:* February 17, 2004.

#### FOR FURTHER INFORMATION CONTACT:

George Feygin in the Office of Chief Counsel, NCC-112, (Phone: 202-366-2992; Fax 202-366-3820; E-mail: [GFeygin@nhtsa.dot.gov](mailto:GFeygin@nhtsa.dot.gov)).

(49 U.S.C. 30113; delegations of authority at 49 CFR 1.50. and 501.8)

Issued on: January 12, 2004.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. 04-1061 Filed 1-15-04; 8:45 am]

**BILLING CODE 4910-59-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34454]

#### Genesee & Wyoming Inc.—Control Exemption—Chattahoochee Industrial Railroad

Genesee & Wyoming Inc. (GWI), a noncarrier, has filed a notice of exemption to permit GWI to acquire control of Chattahoochee Industrial Railroad (CIRR) by purchase of all of

CIRR's stock from Great Northern Nekoosa Corp., a subsidiary of Georgia Pacific Corporation. CIRR is a Class III carrier operating in Georgia, between Hilton, GA, and Saffold, GA.

The CIRR transaction was scheduled to be consummated on or after December 26, 2003, the effective date of the exemption (7 days after the notice was filed).

GWI directly controls one Class II carrier (Buffalo & Pittsburgh Railroad, Inc., operating in New York and Pennsylvania) and 15 Class III carriers (Allegheny & Eastern Railroad, Inc., operating in Pennsylvania; Bradford Industrial Rail, Inc., operating in Pennsylvania and New York; Corpus Christi Terminal Railroad, Inc., operating in Texas; Dansville and Mount Morris Railroad Company, operating in New York; Genesee & Wyoming Railroad Company, Inc., operating in New York; Golden Isles Terminal Railroad, Inc., operating in Georgia; Illinois & Midland Railroad, Inc., operating in Illinois; Louisiana & Delta Railroad, Inc., operating in Louisiana; Pittsburg & Shawmut Railroad, Inc., operating in Pennsylvania; Portland & Western Railroad, Inc., operating in Oregon; Rochester & Southern Railroad, Inc., operating in New York; Savannah Port Terminal Railroad Inc., operating in Georgia; South Buffalo Railway Company, operating in New York; Utah Railway Company, operating in Colorado and Utah; and Willamette & Pacific Railroad, Inc., operating in Oregon).

GWI indirectly controls eight additional Class III carriers. Through its ownership of noncarrier Rail Link, Inc., GWI indirectly controls two Class III carriers (Commonwealth Railway, Inc., operating in Virginia; and Talleyrand Terminal Railroad, Inc., operating in Florida). Through its ownership of Emons Transportation Group, Inc., which in turn owns Emons Railroad Group, Inc., GWI indirectly controls three Class III carriers (St. Lawrence & Atlantic Railroad Company, operating in Vermont, New Hampshire, and Maine; St. Lawrence & Atlantic Railroad (Quebec) Inc., operating in Vermont; and York Railway Company, operating in Pennsylvania). Through its ownership of Utah Railway Company, GWI indirectly controls one Class III carrier (Salt Lake City Southern Railroad Company, operating in Utah). Finally, through its ownership of Emons Transportation Group, Inc., GWI indirectly controls two non-operating Class III carriers (Maryland and Pennsylvania Railroad, LLC; and Yorkrail, LLC) that separately hold the

rail assets over which York Railway Company operates.

GWI states: (i) That the rail lines involved in the CIRR transaction do not connect with any rail lines now controlled, directly or indirectly, by GWI; (ii) that the CIRR transaction is not part of a series of anticipated transactions that would connect any of these rail lines with each other; and (iii) that the CIRR transaction does not involve a Class I carrier. Therefore, the CIRR transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

The notice of exemption filed with respect to the CIRR transaction is related to the concurrently filed petition for exemption in STB Finance Docket No. 34453, *Genesee & Wyoming Inc.—Control Exemption—Arkansas, Louisiana & Mississippi Railroad Company and Fordyce & Princeton Railroad Company*, wherein GWI seeks to acquire control of two Class III carriers (Arkansas, Louisiana & Mississippi Railroad Company (AL&M) and Fordyce & Princeton Railroad Company (F&P)) by purchase of all of the stock of each from Georgia Pacific Corporation. Because the line operated by AL&M connects with the line operated by F&P, the AL&M/F&P transaction is not covered by the 49 CFR 1180.2(d)(2) class exemption.

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. Because the CIRR transaction involves at least one Class II and one or more Class III rail carriers, the exemption is subject to the labor protection requirements of 49 U.S.C. 11326(b).

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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34454, 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 Troy W. Garris, Weiner Brodsky Sidman Kider PC, 1300 Nineteenth Street, NW., Fifth Floor, Washington, DC 20036-1609.

Board decisions and notices are available on our Web site at [www.stb.dot.gov](http://www.stb.dot.gov).

Decided: January 12, 2004.

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

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

[FR Doc. 04-984 Filed 1-15-04; 8:45 am]

**BILLING CODE 4915-00-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-444 (Sub-No. 1X)]

#### **Lamoille Valley Railroad Company— Abandonment and Discontinuance of Trackage Rights Exemption—in Caledonia, Washington, Orleans, Lamoille, and Franklin Counties, VT**

Lamoille Valley Railroad Company (LVRC) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuance of Service and Trackage Rights* to abandon approximately 96.78 miles of rail line in Caledonia, Washington, Orleans, Lamoille, and Franklin Counties, VT. The rail lines to be abandoned are: (1) Between approximately milepost 0.057 (SJLC valuation station 3+00) in St. Johnsbury, VT, and approximately milepost 95.324 (SJLC valuation station 5033+10) in Swanton, VT, a distance of approximately 95.26 miles; and (2) the Hardwick and Woodbury Connecting Track (H&W) between approximately H&W valuation station 0+00 (Granite Junction) and approximately H&W valuation station 80+48 (Buffalo Road), a distance of approximately 1.52 miles, in Hardwick, VT (collectively, the line).<sup>1</sup> LVRC also seeks to discontinue trackage rights over the former Central Vermont Railway, Inc. (CVR) line between approximately milepost 9.9 at the north abutment of the Missisquoi River Bridge at Sheldon Junction and approximately milepost 27.4 at Richford (the Richford Subdivision),<sup>2</sup> in Franklin

<sup>1</sup> The line is owned by the State of Vermont (State) by and through the State of Vermont Agency of Transportation (VTrans). See *Lamoille County Railroad, Inc. and Vermont Transportation Authority, Acquisition and Operation Between St. Johnsbury and Swanton, VT*, Finance Docket No. 27494, et al. (ICC served Apr. 22, 1974). LVRC holds a leasehold interest in the line, pursuant to a lease agreement by and between LVRC and the State dated December 31, 1977.

<sup>2</sup> LVRC states that CVR filed a notice of exemption to abandon the Richford Subdivision in *The Central Vermont Railway, Inc.—Abandonment Exemption—in Franklin County, VT*, Docket No. AB-174 (Sub-No. 3X) (ICC served Feb. 27, 1992), which became effective on March 28, 1992, but it did not consummate the abandonment. Instead it sold the Richford Subdivision to, and entered into a trail use agreement with, VTrans. LVRC states that it did not seek authority to discontinue its trackage rights at the time that CVR initiated its abandonment proceeding. LVRC, in cooperation with VTrans, is now seeking an exemption to

County, VT. The line traverses United States Postal Service Zip Codes 05819, 05828, 05873, 05647, 05873, 05836, 05843, 05842, 05860, 05661, 05655, 05656, 05464, 05444, 05441, 05455, and 05488. The Richford Subdivision traverses United States Postal Service Zip Codes 05483, 05450, 05447, and 05476.

LVRC has certified that: (1) No local traffic has moved over the line or the Richford Subdivision for at least 2 years; (2) there is no overhead traffic on the line or the Richford Subdivision; (3) no formal complaint filed by a user of rail service on the line or the Richford Subdivision (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 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 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 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 abandonment and 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 February 17, 2004,<sup>3</sup> unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>4</sup> formal

discontinue trackage rights on the Richford Subdivision that has not been used since 1989. VTrans still owns and manages a trail on the Richford Subdivision. See *The Central Vermont Railway, Inc.—Abandonment Exemption—in Franklin County, VT*, Docket No. AB-174 (Sub-No. 3X) (ICC served Oct. 8, 1992).

<sup>3</sup> LVRC states that it intends to relinquish its leasehold interest and enter into a trail use agreement with VTrans for the line, and intends to consummate discontinuance of its trackage rights over the Richford Subdivision soon after the notice of exemption becomes effective. It should be noted that, because LVRC plans to enter into a trail use agreement for the line, it may never consummate the abandonment. However, pursuant to 49 CFR 1150.50(d)(2), the earliest possible consummation date for the discontinuance, based on the December 29, 2003 filing date, is February 17, 2004.

<sup>4</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the