

would be used exclusively for switching to and from present and future shippers in an industrial park" fell within its jurisdiction. *Id.* Petitioner argues that *Effingham* involved a "new carrier" and a proposal to construct a track that would constitute the new carrier's entire operation, whereas in this case the track is ancillary to and supplemental to the SIRR.

NYCEDC says that it has advised the New York State Department of Environmental Conservation (NYSDEC) of its plans for the proposed construction as they have developed. Petitioner asserts, however, that NYSDEC is attempting to impose permitting and other requirements on it, including the implementation of the state environmental review process, and further asserts that its applications for the permits required by NYSDEC for fill to tidal wetlands have been pending for eleven months and remain unresolved.<sup>3</sup> NYCEDC contends that the state and local permitting and pre-clearance requirements imposed by NYSDEC give that body the ability to impede petitioner's construction of the facilities that are necessary to conduct operations.

NYCEDC maintains that, even though 49 U.S.C. 10906 removes from the Board the authority to approve the construction of the new track, the Board's jurisdiction over the track and its construction prevents any agencies of the state or local governments from imposing regulations or requirements that would have the effect of interfering with the project as it moves forward. According to petitioner, the Board has exclusive and plenary jurisdiction over rail transportation to the extent that it involves "the construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks, or facilities, even if the tracks are located, or intended to be located, entirely in one state."<sup>4</sup> NYCEDC further argues that state and local permitting or pre-clearance requirements (including environmental requirements) are preempted because, by their nature, they interfere with interstate commerce by giving the state or local body the ability to deny the carrier the right to construct facilities or conduct operations. Petitioner maintains that the requirements that NYSDEC is seeking to impose here, based on state law, are

preempted because they go beyond permissible "police power" regulation and amount to impermissible permitting and environmental review requirements.

Finally, NYCEDC asks the Board to expedite its handling of this petition. Specifically, petitioner asks the Board to issue its order in November 2003, *i.e.*, within 30 days of the filing of the petition. Petitioner maintains that the construction season in New York is short, and that it must begin offering construction contracts for bid immediately to allow contracts to be let in time for construction to commence according to schedule.

Granting this request would effectively preclude giving the public notice of and an opportunity to comment on this proceeding. The Board needs to afford notice and an opportunity for comment, given the importance of the project.<sup>5</sup> The Board will process this petition as expeditiously as possible, but must and will provide adequate time for the solicitation, receipt, and consideration of public comments.

By this notice, the Board is requesting comments on NYCEDC's petition.

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

Decided: December 4, 2003.

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

**Vernon A. Williams,**  
Secretary.

[FR Doc. 03-30445 Filed 12-9-03; 8:45 am]

**BILLING CODE 4915-00-P**

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34427]

#### Buffalo & Pittsburgh Railroad, Inc.— Lease and Operation Exemption—CSX Transportation, Inc.

**AGENCY:** Surface Transportation Board.

**ACTION:** Notice of Exemption.

**SUMMARY:** Under 49 U.S.C. 10502, the Board is granting a petition for exemption from the prior approval requirements of 49 U.S.C. 10902 for Buffalo & Pittsburgh Railroad, Inc., a Class II carrier, to lease from CSX Transportation, Inc., and operate a 40.8-mile rail line between milepost 10.4 at Glenshaw and milepost 51.2 at P&W Junction (New Castle), PA.

<sup>5</sup> Moreover, on November 19, 2003, NYSDEC filed a pleading in this matter indicating its intent to submit opposition to the petition and seeking time in which to do so.

**DATES:** The exemption will be effective on December 23, 2003. Petitions to stay must be filed by December 15, 2003. Petitions to reopen must be filed by December 18, 2003.

**ADDRESSES:** An original and 10 copies of all pleadings referring to STB Finance Docket No. 34427 must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, one copy of all pleadings must be served on petitioner's representative, Eric M. Hocky, Gollatz, Griffin & Ewing, P.C., Suite 200, Four Penn Center, 1600 John F. Kennedy Blvd., Philadelphia, PA 19103-2808.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 565-1609. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:** Additional information is contained in the Board's decision. Copies of the decision may be purchased from ASAP Document Solutions by calling (202) 293-7878 (assistance for the hearing impaired is available through FIRS at 1-800-877-8339) or by visiting Suite 405, 1925 K Street, NW., Washington, DC 20006.

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

Decided: December 4, 2003.

By the Board, Chairman Nober.

**Vernon A. Williams,**  
Secretary.

[FR Doc. 03-30619 Filed 12-9-03; 8:45 am]

**BILLING CODE 4915-00-P**

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## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### Agency Information Collection Activities: Proposed Extension of Information Collection; Comment Request

**AGENCY:** Office of the Comptroller of the Currency (OCC), Treasury.

**ACTION:** Notice and request for comment.

**SUMMARY:** The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the proposed extension, without revision, of a continuing information collection, as required by the Paperwork Reduction Act of 1995. The OCC may not conduct or sponsor, and a respondent is not required to respond to, an information

<sup>3</sup> According to petitioner, this review is being made pursuant to the New York State Environmental Quality Review Act, N.Y. Env'tl. Conserv. Law 8-101, *et seq.* (McKinney 2003).

<sup>4</sup> In support, petitioner cites 49 U.S.C. 10501(b)(2) and *Friends of the Aquifer, et al.*, STB Finance Docket No. 33966 (STB served Aug. 15, 2001).