

owned by the County of Spokane (County). As recently reconfigured, the line extends from milepost 2.5 at the east gate of Fairchild Air Force Base to milepost 4.93 at McFarlane and Hayford Roads near Airway Heights, WA, and from a connection with EWG at milepost 0.00 at Geiger Junction near Medical Lake, WA, to milepost 3.45 at a connection with the first segment (milepost 2.7 on the first segment).² EWG will acquire all of WRS's interests in an existing operating agreement with the County and will replace WRS as the operator of the Geiger Spur.

EWG certifies that its projected annual revenue as a result of this transaction will not result in the creation of a Class II or Class I rail carrier and further certifies that its projected annual revenues will not exceed \$5 million.

The transaction is expected to be consummated on or after December 21, 2008, which is the earliest the transaction can be consummated (30 days after the exemption was filed).

If the 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 does not automatically stay the transaction. Petitions for stay must be filed no later than December 12, 2008 (at least 7 days before the exemption becomes effective).

Pursuant to the Consolidated Appropriations Act, 2008, Public Law 110-161, section 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: Collecting, storing or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting and shredding). The term "solid waste" is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35201, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Thomas J. Litwiler, Fletcher & Sippel LLC, 29

² EWG states that the western end of the Geiger Spur traverses Fairchild Air Force Base, and for security reasons the U.S. Air Force has required the County to remove rail operations from the base by September 30, 2009. The relocation involves construction of approximately 3.45 miles of track from new milepost 0.00 at Geiger Junction to new milepost 3.45 at a new switch connection with the existing Geiger Spur.

North Wacker Drive, Suite 920, Chicago, IL 60606-2832.

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

Decided: November 26, 2008.

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

Jeffrey Herzig,
Clearance Clerk.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35197]

Delaware and Hudson Railway Company, Inc. and The New York, Susquehanna and Western Railway Corporation—Joint Relocation Project Exemption—in Binghamton, NY

On November 19, 2008, Delaware and Hudson Railway Company, Inc., d/b/a Canadian Pacific (CP), and The New York, Susquehanna and Western Railway Corporation (NYS&W), jointly filed a notice of exemption under 49 CFR 1180.2(d)(5) to jointly use and operate over track stemming from the sale by CP to NYS&W of approximately 0.95 miles of track and right-of-way and the exchange of non-exclusive overhead trackage rights between CP and NYS&W.¹

The purpose of the joint relocation project is to rationalize track usage and freight operations in the Binghamton terminal area, which will enable more efficient and expeditious rail service without disruption to shippers.

The project consists of the following transactions:

(1) CP will sell to NYS&W its currently out-of-service Liberty Street Main trackage and right-of-way between Points C (located at Norfolk Southern Railway Company (NS) milepost 214.1 ±) and D (located at CP milepost 613.62), a distance of approximately 0.95 miles. Prior to being taken out of service, this track doubled as the connecting track between CP's freight main line and the NS Southern Tier

¹ Applicants state that the overhead reciprocal trackage rights will terminate 10 years from the effective date (initial term). Unless CP or NYS&W notifies the other in writing at least 6 months prior to the expiration of the initial term or any successive term, the reciprocal trackage rights may continue in full force and effect for up to three successive terms of 10 years each under the same terms and conditions. The parties must seek appropriate Board authority for the trackage rights to expire at the end of the initial term or at the end of the successive term or terms, as appropriate.

Line, on the one hand, and NYS&W's switching lead on the north side of its freight yard, on the other. However, as stated by the parties, the movement of through freight trains over this track segment disrupted switching operations. This sale will significantly reduce these disruptions as through freight trains will be routed on the trackage described in part 2 below. The parties contend that NYS&W intends, and is better positioned, to repair, rehabilitate, and upgrade the trackage so the parties may ultimately resume operations over this segment.

(2) NYS&W will grant CP non-exclusive overhead trackage rights to operate over trackage owned by NYS&W located between: (1) Points A (located at NS milepost 214.1 (±)) and B (located at CP milepost 613.84) (the Buffalo Runner); (2) Points C and D; and (3) Points D and F (located at CP milepost 612.77), a distance of approximately 2.56 miles.² These trackage rights are intended to enable CP to continue through movements from its freight main line to NS's Southern Tier Line and avoid disruption of switching operations. NYS&W has already rehabilitated the Buffalo Runner to accommodate through freight movements to and from the Southern Tier Line, which will eliminate a bottleneck occurring when a train passes between NS and CP, and will prevent CP trains from blocking NYS&W access to its freight yard. NYS&W will continue to operate over these segments.

(3) CP will grant NYS&W non-exclusive overhead trackage rights to operate over trackage owned by CP located between: (1) Points B and D; (2) Points E (located at CP milepost 613.54) and G (located at CP milepost 612.98); (3) Points G and H (located at CP milepost 613.99); and (4) Points I (located at CP milepost 614.13) and J (located at CP milepost 614.30), a distance of approximately 1.96 miles. These trackage rights are intended to enable NYS&W to use CP's Bevier Street Yard for operations unrelated to interchange with CP and to operate on CP's Binghamton Runner between NYS&W's Syracuse and Utica Branch on the north, NYS&W's Binghamton Yard,

² NYS&W's grant of trackage rights to CP incorporates the trackage rights CP previously granted to NS over the Buffalo Running Track in Norfolk Southern Railway Company-Trackage Rights Exemption-Delaware and Hudson Railway Company, Inc., STB Finance Docket No. 34209 (STB served July 25, 2002). Once this transaction is consummated, NS may also effectuate those trackage rights through the Binghamton terminal over trackage between Points A to B to D in order to further the joint project's rationalization of terminal operations to better accommodate switching and through movements.

and the Southern Tier. CP will continue to operate over these segments.

Applicants state that the proposed project will not disrupt service to shippers as CP and NYS&W will continue to have access to the Binghamton terminal area. Additionally, applicants state that the proposed project will not involve an expansion of service by CP or NYS&W into new territory, or alter the existing competitive situation.

The Board will exercise jurisdiction over the abandonment, construction, or sale components of a relocation project, and require separate approval or exemption, only where the removal of track affects service to shippers or the construction of new track or transfer of existing track involves expansion into new territory. *See City of Detroit v. Canadian National Ry. Co., et al.*, 9 I.C.C.2d 1208 (1993), *aff'd sub nom. Detroit/Wayne County Port Authority v. ICC*, 59 F.3d 1314 (D.C. Cir. 1995), *Flats Industrial Railroad Company and Norfolk Southern Railway Company—Joint Relocation Project Exemption—in Cleveland, OH*, STB Finance Docket No. 34108 (STB served Nov. 15, 2001). Line relocation projects may embrace trackage rights transactions such as those involved here. *See D.T.&I.R.—Trackage Rights*, 363 I.C.C. 878 (1981). Under these standards, the sale and incidental trackage rights components require no separate approval or exemption when the relocation project, as here, will not disrupt service to shippers and thus qualifies for the class exemption at 49 CFR 1180.2(d)(5).

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

The earliest this transaction may be consummated is the December 19, 2008 effective date of the exemption (30 days after the exemption was filed).

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. Petitions for stay must be filed no later than December 12, 2008 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35197, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–

0001. In addition, a copy of each pleading must be served on applicants' representatives: W. Karl Hansen, Leonard, Street and Deinard Professional Association, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402, and Nathan Fenno, The New York, Susquehanna and Western Railway Corporation, 1 Railroad Avenue, Cooperstown, NY 13326.

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

Decided: December 1, 2008.

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

Kulunie L. Cannon,
Clearance Clerk.

[FR Doc. E8–28798 Filed 12–4–08; 8:45 am]
BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network; Proposed Collection; Comment Request; Suspicious Activity Report by the Securities and Futures Industry

AGENCY: Financial Crimes Enforcement Network (“FinCEN”), Treasury.

ACTION: Notice and request for comments.

SUMMARY: FinCEN invites comment on a renewal without change of an information collection contained in the form, “Suspicious Activity Report by the Securities and Futures Industry (SAR–SF).” The form will be used by the securities and futures industry to report suspicious activity to the Department of the Treasury. This request for comments also covers 31 CFR 103.17 and 31 CFR 103.19. This request for comments is being made pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. 3506(c)(2)(A).

DATES: Written comments are welcome and must be received on or before February 3, 2009.

ADDRESSES: Written comments should be submitted to: Regulatory Policy and Programs Division, Financial Crimes Enforcement Network, Department of the Treasury, P.O. Box 39, Vienna, Virginia 22183, Attention: PRA Comments—SAR—Securities and Futures Industry Form. Comments also may be submitted by electronic mail to the following Internet address: regcomments@fincen.treas.gov, again with a caption, in the body of the text, “Attention: PRA Comments—SAR—Securities and Futures Industry Form.”

Inspection of comments. Comments may be inspected, between 10 a.m. and 4 p.m., in the FinCEN reading room in Vienna, VA. Persons wishing to inspect the comments submitted must request an appointment with the Disclosure Officer by telephoning (703) 905–5034 (not a toll free call).

FOR FURTHER INFORMATION CONTACT: The FinCEN Regulatory Helpline at 800–949–2732, select option 3.

SUPPLEMENTARY INFORMATION: Title: Suspicious Activity Report by the Securities and Futures Industry (SAR–SF), 31 CFR 103.17, and 31 CFR 103.19.
OMB Number: 1506–0019.
Form Number: FinCEN Form 101.

Abstract: The statute generally referred to as the “Bank Secrecy Act,” Titles I and II of Public Law 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5332, authorizes the Secretary of the Treasury, *inter alia*, to require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities, to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures.¹ Regulations implementing Title II of the Bank Secrecy Act appear at 31 CFR Part 103. The authority of the Secretary to administer the Bank Secrecy Act has been delegated to the Director of FinCEN.

The Secretary of the Treasury was granted authority in 1992, with the enactment of 31 U.S.C. 5318(g), to require financial institutions to report suspicious transactions. On July 1, 2002, FinCEN issued a final rule requiring brokers or dealers in securities (“broker-dealers”) to report suspicious transactions (“Broker-Dealer SAR rule”), (67 FR 44048). The final Broker-Dealer SAR rule can also be found at 31 CFR 103.19. On August 5, 2002, FinCEN issued a final rule requiring futures commission merchants and introducing brokers in commodities to report suspicious transactions (“FCM SAR rule”), (67 FR 50751). The final FCM SAR rule can also be found at 31 CFR 103.17.

The information collected on the form is required to be provided pursuant to 31 U.S.C. 5318(g), 31 CFR 103.17 and 31

¹ Language expanding the scope of the Bank Secrecy Act to intelligence or counter-intelligence activities to protect against international terrorism was added by Section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the “USA PATRIOT Act”), Public Law 107–56.