

234728

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August 27, 2013



VIA FEDEX

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

**Re: Genesee & Wyoming Inc. -
Corporate Family Transaction
STB Docket No. FD 35764**

ENTERED
Office of Proceedings
AUG 28 2013
Part of
Public Record

Dear Ms. Brown:

Enclosed for filing are the original and 10 copies of a Verified Notice of Exemption being filed on behalf of Genesee & Wyoming Inc., together with 20 extra copies of the maps. Also enclosed is a check in the amount of \$1,400.00 representing the filing fee for this Verified Notice.

Please time stamp the extra copy of this Verified Notice to indicate receipt of all of the foregoing, and return it to me in the stamped, self-addressed envelope provided for your convenience.

FEE RECEIVED
AUG 28 2013
SURFACE
TRANSPORTATION BOARD

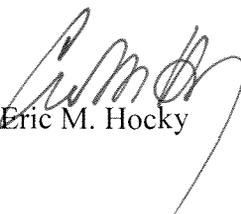
FILED
AUG 28 2013
SURFACE
TRANSPORTATION BOARD

August 27, 2013
Page 2

Please let me know if there are any questions regarding this filing.

Very truly yours,

CLARK HILL THORP REED



Eric M. Hocky

EMH/e
Encls.

234728

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB DOCKET NO. FD 35764

GENESEE & WYOMING INC.

- CORPORATE FAMILY EXEMPTION -



ENTERED
Office of Proceedings

AUG 28 2013

Part of
Public Record

VERIFIED NOTICE OF EXEMPTION
UNDER 49 C.F.R. § 1180.2(d)(3)

FILED

AUG 28 2013

SURFACE
TRANSPORTATION BOARD

FEE RECEIVED

AUG 28 2013

SURFACE
TRANSPORTATION BOARD

ERIC M. HOCKY
CLARK HILL THORP REED
One Commerce Square
2005 Market Street, Suite 1000
Philadelphia, PA 19103
(215) 640-8500

Dated: August 27, 2013

Attorneys for Genesee & Wyoming Inc.

BEFORE THE
SURFACE TRANSPORTATION BOARD
STB DOCKET NO. FD 35764

GENESEE & WYOMING INC.
- CORPORATE FAMILY EXEMPTION

VERIFIED NOTICE OF EXEMPTION
UNDER 49 C.F.R. § 1180.2(d)(3)



Genesee & Wyoming Inc. (“GWI” or “Applicant”), a non-carrier holding company, files this Notice of Exemption pursuant to 49 C.F.R. §1180.2(d)(3) to exempt from the provisions of 49 U.S.C. §11323, a transaction within the family of business entities in which it owns controlling interests. GWI proposes to eliminate two intermediate holding company subsidiaries, GSW Acquisition Sub, Inc. and MMID Holding, Inc., which will change GWI’s indirect control of two of its railroad subsidiaries to direct control of those subsidiaries. This change will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

Required Information

In accordance with the provisions of 49 C.F.R. 1180.4(g), Applicant provides the following information as required by 49 C.F.R. §1180.6(a)(1)(i)-(iii), (a)(5), (a)(6), and (a)(7)(ii):

(a)(1)(i) GWI currently controls, directly and indirectly, 101 US railroads. *Genesee & Wyoming Inc. – Control - RailAmerica Inc., et al. (“GWI Control”)*, STB Docket No. FD 35654 (served December 20, 2012). Applicant proposes to merge two of its intermediate holding company subsidiaries GSW Acquisition Sub, Inc. and MMID Holding, Inc., with and into their respective Class III common carrier subsidiaries, Georgia Southwestern Railroad Company, Inc. (“GSWR”) and Maryland Midland Railway, Inc. (“MMID”). Upon

consummation of the mergers, GWI will have direct control of GSWR and MMID instead of the indirect control which GWI holds today. The transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

The name, business address and telephone number of Applicant are: Genesee & Wyoming Inc., 20 West Avenue, Darien, CT 06820, (203) 202-8900.

The name, business address and telephone number of counsel to whom questions regarding the transaction can be addressed are: Eric M. Hocky, Clark Hill Thorp Reed, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia, PA 19103; (215) 640-8500.

(a)(1)(ii) GWI intends to consummate the mergers immediately upon the effective date of this exemption – on the 30th day following filing of this Notice of Exemption.

(a)(1)(iii) The purpose of the transaction is to eliminate two unnecessary intermediate subsidiaries which will save unnecessary accounting and corporate maintenance.

(a)(5) GWI currently controls, directly and indirectly, 101 railroads in the United States, with operations in 39 states. *See GWI Control, supra.* With respect to the carriers involved in this proceeding, GSWR operates in Georgia and Alabama, and MMID operates in Maryland.

(a)(6) Maps showing the locations of the two railroads that will be affected by the transaction, GSWR and MMID, are attached as Exhibit A. Also attached as Exhibit B is a map showing the locations of the GWI controlled railroads in the United States. Twenty extra copies of the maps are also included.

(a)(7)(ii) Attached as Exhibit C are the Agreements of Merger related to the proposed mergers of GSW Acquisition Sub, Inc. with and into GSWR, and of and MMID

Holding, Inc., with and into MMID. There are no documents relating to GWI's continuing control of GSWR and MMID following the proposed mergers.

Labor Protection

Since only non-operating subsidiaries are going to be eliminated and there will be no change in rail operations, no employees will be affected. However, Applicant recognizes that 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. Although the corporate family transaction involves only two Class III carriers, because GWI controls one Class II carrier together with 100 Class II carriers, GWI understands that the Board may impose the labor protection required under 49 U.S.C. §11326(b) and *Wisconsin Central Ltd. – Acquisition Exemption – Lines of Union Pacific Railroad*, STB Finance Docket No. 33116 (served April 17, 1997).

Environmental and Historic Reports

Under 49 C.F.R. §1105.6(c)(2)(ii) and 49 C.F.R. §1105.8(b)(2), no environmental or historic documentation is required.

Respectfully submitted,


ERIC M. HOCKY
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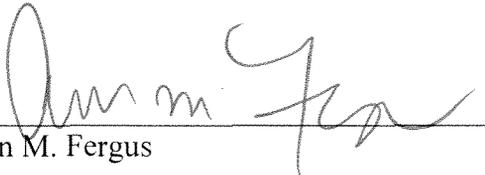
Dated: August 27, 2013

Attorneys for Genesee & Wyoming Inc.

VERIFICATION

I, Allison M. Fergus, General Counsel and Secretary of Genesee & Wyoming Inc., verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file the foregoing document.

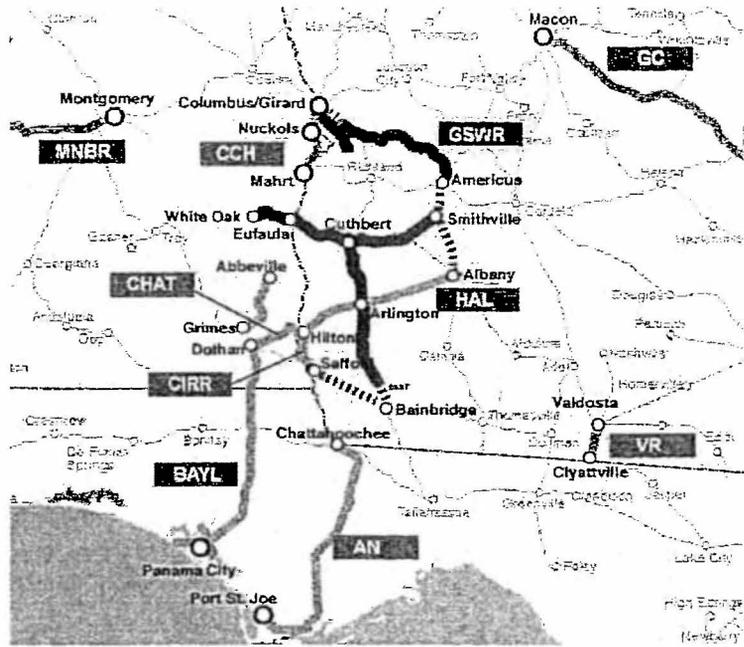
Executed on August 27, 2013.


Allison M. Fergus

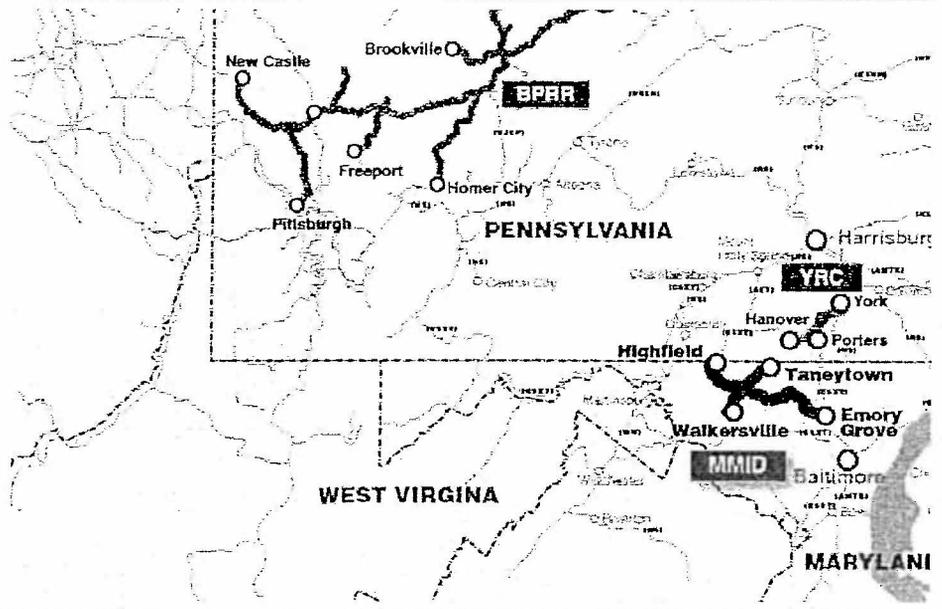
MAPS OF GSWR AND MMID

EXHIBIT A

Georgia Southwestern Railroad, Inc.



Maryland Midland Railway, Inc.



MAP OF GWI RAILROAD LOCATIONS

EXHIBIT B

Genesee & Wyoming North American Operations



AGREEMENTS OF MERGER

EXHIBIT C

**STATE OF DELAWARE
DELAWARE INTO DELAWARE
AGREEMENT OF MERGER**

Now on this 26th day of August,
2013 A.D., the GSW Acquisition Sub, Inc.
and the Georgia Southwestern Railroad, Inc.,
both Delaware Corporations, pursuant to Section 251 of the General Corporation Law of
the State of Delaware, have entered into the following Agreement of Merger;

WITNESSETH that:

WHEREAS, the respective Boards of Directors of the foregoing named corporations deem it advisable that the corporations merge into a single corporation as hereinafter specified; and

WHEREAS, said GSW Acquisition Sub, Inc.
filed its Certificate of Incorporation in the office of the Secretary of State of the State of Delaware on September 25, 2008; and

WHEREAS, said Georgia Southwestern Railroad, Inc.
filed its Certificate of Incorporation in the office of the Secretary of State of the State of Delaware on September 29, 1994;

NOW, THEREFORE, the corporations, parties to this Agreement, by and between their respective Boards of Directors, in consideration of the mutual covenants, agreements and provisions hereinafter contained, do hereby prescribe the terms and conditions of said merger and of carrying the same into effect as follows:

FIRST: The Georgia Southwestern Railroad, Inc. hereby merges into itself GSW Acquisition Sub, Inc. and said GSW Acquisition Sub, Inc. shall be and hereby is merged into Georgia Southwestern Railroad, Inc., which shall be the surviving corporation.

SECOND: The Certificate of Incorporation of Georgia Southwestern Railroad, Inc., as in effect on the date of the merger provided for in this Agreement, shall continue in full force and effect as the Certificate of Incorporation of the corporation surviving this merger.

THIRD: The manner of converting the outstanding shares of each of the constituent corporations shall be as follows:

Each share of common stock of Georgia Southwestern Railroad, Inc., which shall be issued and outstanding on the effective date of this Agreement, shall remain issued and outstanding. Each share of GSW Acquisition Sub, Inc., which shall be issued and outstanding on the effective date of this Agreement, shall be cancelled.

FOURTH: This merger shall become effective upon filing with the Secretary of State of Delaware.

IN WITNESS WHEREOF, the parties to this Agreement, pursuant to authority duly given by their respective Boards of Directors, have caused this Agreement of Merger to be executed by an authorized officer of each party hereto.

GEORGIA SOUTHWESTERN RAILROAD, INC.

(Name of Corporation)
By: Allison M. Fergus
Authorized Officer

Allison M. Fergus
Name: _____
Print or Type

Secretary
Title: _____

GSW ACQUISITION SUB, INC

(Name of Corporation)
By: Allison M. Fergus
Authorized Officer

Allison M. Fergus
Name: _____
Print or Type

Secretary
Title: _____

ARTICLE I

The Maryland Corporation and the Delaware Corporation shall be merged into a single corporation, in accordance with applicable provisions of the laws of the State of Maryland and of the State of Delaware, by the Delaware Corporation merging into the Maryland Corporation, which shall be the surviving Corporation.

ARTICLE II

Upon the merger becoming effective as provided in the applicable laws of the State of Maryland and of the State of Delaware (the time when the merger shall so become effective being sometimes herein referred to as the "EFFECTIVE DATE OF THE MERGER"):

1. The two Constituent Corporations shall be a single corporation, which shall be Maryland Midland Railway, Inc. as the Surviving Corporation, and the separate existence of MMID Holding Inc.

shall cease except to the extent provided by the laws of the State of Delaware in the case of a corporation after its merger into another corporation.

ARTICLE III

The Certificate of Incorporation of Maryland Midland Railway, Inc. shall not be amended in any respect by reason of this Agreement of Merger.

ARTICLE IV

The manner of converting the outstanding shares of each of the Constituent Corporations shall be as follows:

Each share of common stock of Maryland Midland Railway, Inc., which shall be issued and outstanding on the effective date of this Agreement, shall remain issued and outstanding. Each share of MMID Holding Inc., which shall be issued and outstanding on the effective date of this Agreement, shall be cancelled.

ARTICLE V

The surviving corporation agrees that it may be served with process in the State of Delaware in any proceeding for enforcement of any obligation of any constituent corporation of Delaware, as well as for enforcement of any obligation of the surviving corporation arising from this merger, including any suit or other proceeding to enforce the rights of any stockholders as determined in appraisal proceedings pursuant to the provisions of Section 262 of the Delaware General Corporation laws, and irrevocably appoints the Secretary of State of Delaware as its agent to accept service of process in any such suit or proceeding. The Secretary of State shall mail any such process to the surviving corporation at 40 N. Main Street, Union Bridge, Maryland 21791.

IN WITNESS WHEREOF, the Maryland Corporation and the Delaware Corporation, pursuant to the approval and authority duly given by resolutions adopted by their respective Boards of Directors have caused this Plan and Agreement of Merger to be executed by an authorized officer of each party thereto.

MMID Holding Inc.

(A Delaware Corporation)

BY:

Allison M. Fergus

Authorized Officer/Title

Name: Allison M. Fergus / Secretary

Print or Type

Maryland Midland Railway, Inc.

(A Maryland Corporation)

BY:

Allison M. Fergus

Authorized Officer/Title

Name: Allison M. Fergus / Secretary

Print or Type