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232860

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VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, D. C. 20423

re: Docket No. FD 35660, GWI Voting Trust and R. Lawrence
McCaffrey, Voting Trustee--Control Exemption--
RailAmerica, Inc., et al.

Dear Ms. Brown:

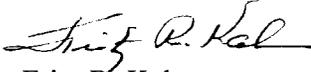
Attached for filing in the subject proceeding is the Petition of Napa Valley
Railroad Company and Yreka Western Railroad Company.

Information about the credit card to be charged \$250.00 in payment of the filing
fee was facsimile transmitted to the Board earlier today.

As shown on the certificate of service, copies of the Petition were served upon
Genesee & Wyoming, Inc. and Mr. R. Lawrence McCaffrey by e-mailing copies to their
counsel, David H. Coburn, Esq. and Eric M. Hockey, Esq.

If you have a question concerning this filing or I otherwise can be of assistance,
please let me know.

Sincerely yours,


Fritz R. Kahn

cc: David H. Coburn, Esq.
Eric M. Hocky, Esq.

FEE RECEIVED
August 24, 2012
SURFACE
TRANSPORTATION BOARD

FILED
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SURFACE TRANSPORTATION BOARD

Docket No. FD 35660

GWI VOTING TRUST AND R. LAWRENCE MCCAFFREY, VOTING
TRUSTEE--CONTROL EXEMPTION--RAILAMERICA, INC., ET AL.

PETITION
OF
NAPA VALLEY RAILROAD COMPANY
AND YREKA WESTERN RAILROAD COMPANY

Fritz R. Kahn
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Washington, DC 20036
Tel.: (202) 263-4152

Attorney for

NAPA VALLEY RAILROAD COMPANY
YREKA WESTERN RAILROAD COMPANY

Dated: August 24, 2012

SURFACE TRANSPORTATION BOARD

Docket No. FD 35660

GWV VOTING TRUST AND R. LAWRENCE MCCAFFREY, VOTING TRUSTEE--CONTROL EXEMPTION--RAILAMERICA, INC., ET AL.

PETITION
OF
NAPA VALLEY RAILROAD COMPANY
AND YREKA WESTERN RAILROAD COMPANY

Petitioners, Napa Valley Railroad Company of Napa, CA ("NVR") and Yreka Western Railroad Company of Yreka, CA ("YW"), Class III rail carriers subject to the Board's jurisdiction, pursuant to 49 C.F.R. §1117.1. respectfully petition the Board to declare the Verified Notice of Exemption, filed August 6, 2012, in this proceeding void *ab initio* for having contained false or misleading information, and in support thereof NVR and YW state, as follows:

1. At page 2 of their Verified Notice of Exemption, Genesee & Wyoming, Inc. ("GWI") and the Voting Trustee declare, "Following the satisfaction of the closing conditions set forth in the Merger Agreement, GWI expects to close the transaction by completing the Merger and immediately placing the Shares of RailAmerica into the GWI Voting Trust which is being established in accordance with the Board's regulations at 49 C.F.R. Part 1013 [footnote omitted]"

2. The pertinent regulation, 49 C.F.R. 1013.1(c), provides, "Neither the trustee, the settlor, nor their respective affiliates should have any officers or board members in

common or direct business arrangements, other than the voting trust, that could be construed as creating an indicium of control by the settlor over the trustee."

3. A typical Voting Trust Agreement, as the one recently employed in Docket No. MC-F-21042, *Student Transportation of America Inc -- Control - -Dairyland Buses, Inc.*, served December 14, 2011, requires that "[n]either the Trustee nor any affiliate of the Trustee may have (i) any officers, partners, corporate directors or other principals in common with Settlor, Beneficiary or any of their affiliates, or (ii) any direct or indirect business arrangements or dealings, financial or otherwise, with Settlor, Beneficiary or any of their affiliates, other than dealings pertaining to the establishment and effectuation of the Trust."

4. At page 1 of the Verified Notice of Exemption filed in the instant proceeding, the Settlor is identified as GWI, and, at pages 3-4, the Voting Trustee is identified as R. Lawrence McCaffrey, Voting Trustee, c/o Unirail, 110 East 59th Street, 23rd floor, New York, NY 1022.

5. Mr. McCaffrey is the President of UniRail LLC. *See* the attached Contact sheet retrieved from UniRail LLC's web page.

6. UniRail LLC proudly proclaims having established strategic relations with GWI, which it notes is a key firm in the railroad industry. The two companies evidently are joint venturers in procuring and operating railroads in South America. *See* the attached Partners sheet retrieved from the UniRail LLC's web page.

7. It would be difficult to find a business arrangement that could be construed as creating a greater indicium of control by the Settlor over the Trustee than the one between GWI and Mr. McCaffrey.

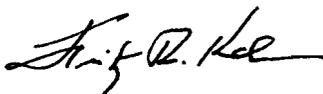
8. Contrary to the assertion in their Verified Notice of Exemption, GWI and Mr. McCaffrey have not established the GWI Voting Trust in accordance with the Board's regulations, 49 C.F.R. Part 1013.

WHEREFORE, petitioners, Napa Valley Railroad Company and Yreka Western Railroad Company ask the Board to declare the Verified Notice of Exemption filed by Genesee & Wyoming, Inc., as Settlor, and Mr. R. Lawrence McCaffrey, as Voting Trustee, void *ab initio* for its false and misleading information.

Respectfully submitted,

NAPA VALLEY RAILROAD COMPANY
YREKA WESTERN RAILROAD COMPANY

By their attorney,



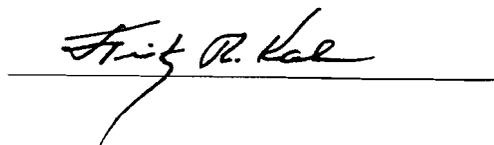
Fritz R. Kahn
Fritz R. Kahn, P.C.
1919 M Street, NW (7th fl.)
Washington, DC 20036
Tel.: (202) 263-4152

Dated: August 24, 2012

CERTIFICATE OF SERVICE

I certify that I this day have served the foregoing Petition on Genesee & Wyoming, Inc., and Mr. R. Lawrence McCaffrey by e-mailing copies to their counsel, David H. Coburn, Esq., at dcoburn@steptoe.com, and Eric M. Hocky, at ehocky@thorpreed.com.

Dated at Washington, DC, this 24th day of August 2012.





Home About UniRail Partners Investments Contact

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Contact Us

UniRail LLC
110 East 59th Street
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New York, NY 10022

R. Lawrence McCaffrey
President

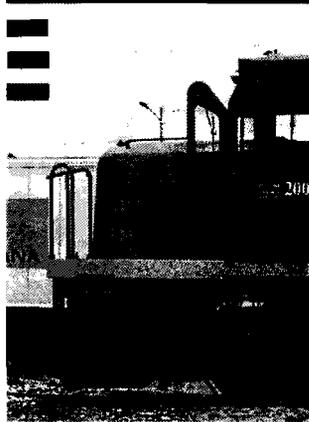
Telephone: (212) 753-7782
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Email: rmccaffrey@unirail.com



CONTACT

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Contact UniRail



Our Partnerships

UniRail has established strategic relations with key firms in the railroad industry

Genesee & Wyoming, Inc.

UniRail has an exclusive relationship with Genesee & Wyoming for the development of South American railroad projects. In 1999, Genesee & Wyoming acquired a portion of UniRail's investment in Ferrocarril del Pacifico S.A. (Fepasa) in Chile. In 2000, Genesee & Wyoming and UniRail acquired control of Ferroviana Oriental S.A. (FCOSA) in Bolivia. Together Genesee & Wyoming and UniRail continue to pursue opportunities throughout the southern cone of South America.

» Visit Genesee & Wyoming online

Washington Transportation Group

UniRail works with Washington Transportation Group and its subsidiary, Montana Rail Link (MRL), on strategic issues and new opportunities. MRL is a 900-mile railroad serving western Montana, northern Idaho, and eastern Washington with 1,000 employees. Mr. McCaffrey is a member of MRL's Board of Directors. Washington Transportation Group is part of The Washington Companies.

» Visit Washington Transportation Group online

PARTNERS