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SERVICE DATE - JANUARY 28, 2002

DO

FR-4915-00

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34163]

Martin Marietta Materials, Inc.–Continuance in Control Exemption–Fredonia Valley
Railroad, Inc.

Martin Marietta Materials, Inc. (MMM), a noncarrier, has filed a verified notice of exemption to continue in control of Fredonia Valley Railroad, Inc. (FVRR) upon FVRR's becoming a rail carrier. MMM previously controlled Alamo Gulf Coast Railroad Company (AGCRC).¹ FVRR owns and operates approximately 9.65 miles of railroad line between milepost 87.60 near Fredonia and milepost 97.25 near Princeton in Caldwell County, KY; and AGCRC leases and operates a rail line from milepost 252 to milepost 257, near Beckmann Station, in Bexar County, TX.

FVRR became a carrier on or about December 17, 1998. Due to an apparent oversight, MMM did not file its verified notice of exemption with the Board until December 28, 2001. Thus, the effective date of the exemption is January 4, 2002 (7 days after the exemption was filed).²

¹ See Fredonia Valley Railroad, Inc.–Acquisition and Operation Exemption–in Caldwell County, KY, STB Finance Docket No. 33695 (STB served Jan. 6, 1999); and Alamo Gulf Coast Railroad Company–Lease and Operation Exemption–Certain Lines of Southern Pacific Transportation Company, Finance Docket No. 32855 (STB served Jan. 26, 1996).

² The class exemption invoked by MMM does not provide for retroactive
(continued...)

MMM states that: (1) the railroads do not connect with each other or any railroad in their corporate family; (ii) the continuance in control is not part of a series of anticipated transactions that would connect the two railroads with each other or any railroad in their corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

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. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

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 will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34163, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Fritz R. Kahn, P.C., 1920 N Street, N.W. 8th Floor, Washington, DC 20036-1601.

²(...continued)
effectiveness.

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Decided: January 22, 2002.

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

Vernon A. Williams

Secretary