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SERVICE DATE - DECEMBER 13, 2002

DO

FR-4915-00

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34266]

Martin Marietta Materials, Inc.–Continuance in Control Exemption–Alamo North Texas  
Railroad Corporation

Martin Marietta Materials, Inc. (MMM), a noncarrier, has filed a verified notice of exemption to continue in control of Alamo North Texas Railroad Corporation (Alamo North) upon Alamo North's becoming a Class III railroad.<sup>1</sup>

The transaction was scheduled to be consummated on or after November 20, 2002, the effective date of the exemption (7 days after the notice was filed).

At the time this notice was filed, MMM indirectly controlled two railroads, Fredonia Valley Railroad, Inc., operating in Kentucky, and Alamo Gulf Coast Railroad Co., operating in Texas.

MMM states that: (i) 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 railroads with each other or any railroad in their corporate

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<sup>1</sup> See Alamo North Texas Railroad Corporation–Construction and Operation Exemption–Wise County, TX, STB Finance Docket No. 34002 (STB served Sept. 3, 2002 and Nov. 16, 2001).

family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval of 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©), however, does not provide for the 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 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.

An original and ten copies of all pleadings referring to STB Finance Docket No. 34266, must be filed with the Surface Transportation Board, 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.

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Decided: December 6, 2002.

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

Vernon A. Williams

Secretary