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JAN 25 2002

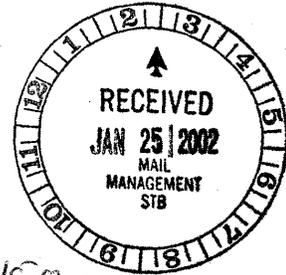
**SURFACE
TRANSPORTATION BOARD**

HAND DELIVERED

January 25, 2002

Honorable Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423

ENTERED
Office of the Secretary
JAN 25 2002
Part of
Public Record



Re: Holland America Line - Westours Inc.
Control - Westours Motor Coaches, Inc., et al.
Surface Transportation Board
Docket MC-F- 20988

204587

Dear Secretary Williams:

204588

There are transmitted herewith the original and ten copies of an application under 49 U.S.C. §14303(a) for approval of the control by Holland America Line - Westours Inc., through stock acquisition by a motor carrier subsidiary, of Horizon Coach Lines Ltd., as more fully described in the application.

THE APPLICATION INCLUDES A REQUEST FOR INTERIM APPROVAL OF CONTROL UNDER 49 U.S.C. §14303(i), EFFECTIVE FEBRUARY 1, 2002.

DID # 0101880001

I call to your attention that the necessary signatures under the "Verification" heading on pages 12 and 12A are facsimile copies of original signatures. These facsimile copies are submitted in light of the time urgency surrounding this filing. The original pages with original signatures shall be submitted to the Board as soon as they are received.

Also attached is a check payable to "Surface Transportation Board" in the amount of \$1,700.00, as the filing fee for the application (\$1,400.00) and interim approval (\$300.00).

Finally, enclosed are a copy of this letter and a pre-addressed, stamped envelope with which to acknowledge receipt of this filing.

FILED

JAN 25 2002

**SURFACE
TRANSPORTATION BOARD**

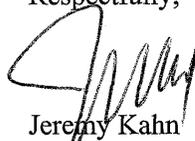
Honorable Vernon A. Williams

January 25, 2002

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Should you require anything further, your request to the undersigend shall receive my immediate attention.

Respectfully,



Jeremy Kahn
Counsel for the Parties

JK:hs

Enc.

CC: Holland America Line - Westours Inc.
F. Roger M. Pryke, Esq.

FILED

JAN 25 2002

SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

IN THE MATTER OF

HOLLAND AMERICA LINE - WESTOURS INC.

-- CONTROL --

WESTOURS MOTOR COACHES, INC.

EVERGREEN TRAILS, INC.

WESTMARK HOTELS OF CANADA LTD.

and

HORIZON COACH LINES LTD.



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FEE RECEIVED

JAN 25 2002

SURFACE
TRANSPORTATION BOARD

STB DOCKET NO. MC-F- 20988

0101880002

APPLICATION UNDER 49 U.S.C. § 14303(a)
FOR APPROVAL OF ACQUISITION OF CONTROL
and

REQUEST UNDER 49 U.S.C. § 14303(I)
FOR INTERIM APPROVAL

PENDING DETERMINATION OF THE APPLICATION

204588

ENTERED
Office of the Secretary

JAN 28 2002

Part of
Public Record

0101880001

Come now, HOLLAND AMERICA LINE - WESTOURS, INC. ("HAL"), a non-carrier holding company, which with prior approval of the Interstate Commerce Commission ("ICC) and Surface Transportation Board ("STB") controls three motor passenger carrier subsidiaries, WESTOURS MOTOR COACHES, INC. ("WMC"), EVERGREEN TRAILS, INC. ("EVERGREEN"), and WESTMARK HOTELS OF CANADA LTD. ("WESTMARK"), and respectfully submits this, its Application under 49 U.S.C. §14303(a) and STB Regulations at 49 CFR §1182, for approval of the acquisition of

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control by HAL, through its WESTMARK subsidiary, of another Federally regulated passenger carrier, HORIZON COACH LINES LTD. ("HORIZON"), all as more fully described herein. **Included as a part of this application** (see pages 9 - 11, *infra*) is a **request under 49 U.S.C. §14303(i) and STB Regulations at 49 CFR §1182.7 for interim approval of control, NOT LATER THAN FEBRUARY 1, 2002, pending final determination of the application.**

Parties to This Transaction

The parties involved in the proposed transaction are (1) HOLLAND AMERICA LINE - WESTOURS INC. ("HAL"), a non-carrier holding company which presently controls three motor carriers of passengers, (2) WESTOURS MOTOR COACHES, INC. ("WMC"), a motor carrier of passengers holding authority at MC-118832, (3) EVERGREEN TRAILS, INC. ("EVERGREEN"), a motor carrier of passengers holding authority at MC-107638, (4) WESTMARK HOTELS OF CANADA LTD. ("WESTMARK"), a motor carrier of passengers holding authority at MC-405618, and (5) HORIZON COACH LINES LTD. ("HORIZON"), a motor carrier of passengers holding authority at MC-144339.

HAL's control of WMC, EVERGREEN, and WESTMARK was most recently approved by the STB in Holland America Line - Westours Inc. - Control - Westmark Hotels of Canada Ltd., STB Docket MC-F-20985, served October 10, 2001.

HAL, a non carrier, is a corporation whose main office is located at 300 Elliott Avenue West, Seattle, WA 98119.

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WMC, a corporation, is a motor carrier of passengers, holding operating authority in MC-118832. Its main office is located at 300 Elliott Avenue West, Seattle, WA 98119. WMC is a wholly owned subsidiary of HAL.

EVERGREEN, a corporation, is a motor carrier of passengers, holding operating authority in MC-107638. Its main office is located at 4500 West Marginal Way, S.W., Seattle, WA 98106. EVERGREEN is a wholly owned subsidiary of HAL.

WESTMARK, a corporation, is a motor carrier of passengers, holding U.S. operating authority in MC-405618. Its main office is located at 999 Canada Place, World Trade Centre - Suite 699, Vancouver, BC V6C 3C1 Canada. WESTMARK is in essence a wholly owned subsidiary of HAL; a portion of WESTMARK's shares are held directly by HAL and the remainder are held by another HAL non-carrier subsidiary.

HORIZON, a corporation, is a motor carrier of passengers, holding U.S. operating authority in MC-144339. Its main office is located at 7984 Webster Rd., Delta, BC V4G 1G6 Canada.

Pertinent Operating Authorities

WMC holds a series of Certificates issued by the ICC and now administered by Federal Motor Carrier Safety Administration ("FMCSA") in Docket MC-118832 and subnumbers thereunder, generally authorizing the transportation of passengers in charter and special operations. The most pertinent authority is that in Certificate MC-118832 (Sub No. 11), authorizing transportation of passengers, in charter and special operations, between points in the United States.

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EVERGREEN holds Certificates issued by the ICC and now administered by FMCSA in Docket MC-107638, authorizing transportation of passengers, in charter and special operations. The most pertinent authority is that in Certificate MC-107638 (Sub 14), authorizing, in part, transportation of passengers, in charter and special operations, between points in the United States.

WESTMARK holds a Certificate issued by FMCSA in Docket MC-405618, authorizing transportation of passengers, in charter and special operations, between points in the United States.

HORIZON holds a Certificate issued by the ICC and now administered by FMCSA in Docket MC-144339, authorizing transportation of passengers in charter and special operations, between points in the United States.

Description of the Proposed Transaction

Today, with Federal approval in MC-F-20985 (*supra*), HAL, a non-carrier holding company, controls three motor passenger carriers, namely WMC, EVERGREEN, and WESTMARK. This application arises from HAL's acquisition, through its WESTMARK subsidiary, of all the stock of HORIZON, another passenger carrier. Upon the proposed transaction's closing, HAL will then become in control of four passenger carriers.

STB has jurisdiction over this "transaction" under 49 U.S.C. §14303(a)(5), since it involves the "acquisition of control of a carrier [i.e., HORIZON] by a person that is not a carrier [i.e., HAL] but that controls any number of carriers [i.e., WMC, EVERGREEN, and WESTMARK]. The "transaction" is WESTMARK's acquisition of the stock of

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HORIZON, effective on or about February 1, 2002, which will bring HORIZON under the control of HAL.

Federally Regulated Carrier Affiliates

Except for the four motor carriers previously identified in the application, namely WMC, EVERGREEN, WESTMARK, and HORIZON, there are no other affiliated carriers involved.

Jurisdictional Statement - Revenues

The Surface Transportation Board has jurisdiction over this matter under 49 U.S.C. §14303(g), because the annual aggregate gross operating revenues of the carriers involved significantly exceed \$2 million.

Specifically, for the fiscal year ended November 30, 2001, the gross operating revenues of WMC were in excess of \$32 million and those of EVERGREEN were in excess of \$11 million. The international revenues of WESTMARK, a newly authorized carrier domiciled in Canada, were *de minimis*. The international revenues of HORIZON, a carrier domiciled in Canada, for the year 2001, were approximately \$20,000.

Environmental Impact

The parties assert approval of this application will not constitute a Federal action having a significant effect on the quality of the human environment and the conservation of energy resources.

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Public Interest Considerations

a. Adequacy of Transportation Services

The proposed transaction will have no impact on the adequacy of transportation services available for the public. Although the HAL bus companies hold nationwide operating authority, the HAL organization focuses its motor passenger transportation services in the Pacific Northwest, primarily the States of Washington and Alaska and adjacent Canadian areas, including the Province of British Columbia (where HORIZON is domiciled) and the Yukon Territory. Such international transportation is organized and conducted with regulatory and operational requirements of both the United States and Canada in mind. As can be seen from HORIZON's limited U.S. revenues, that carrier's operations are primarily focused in Canada. Thus, it can be seen that HAL's acquisition of control of HORIZON is primarily Canada focused. WMC and EVERGREEN are both U.S. domiciled carriers; newly controlled WESTMARK and soon to be controlled HORIZON are Canada domiciled carriers. The addition of HORIZON to the HAL family will permit increased flexibility in operation, taking into account regulatory and operational advantages and requirements of both countries in connection with international passenger service.

As a result of the proposed transaction, there will not be any change in the conduct of operations by any of the carriers now controlled by HAL; instead, there will be greater responsiveness to the overall needs of passengers traveling for pleasure throughout the Pacific Northwest.

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The HAL organization has long been a participant in the coach marketplace in the Pacific Northwest. To the extent ownership by holding companies of multiple passenger carriers becomes *de rigueur* in the bus community, the acquisition of control by a holding company of a fourth carrier is just another example of strong, well managed companies to bring under their corporate umbrella a number of charter carriers, each serving its own customers, and all contributing to the overall goal of better service. The acquisition of HORIZON is only a logical expansion in the territory the HAL carriers have served for so long; it will assure the continued viability of all four motor carrier properties, resulting in the continued availability of adequate service for the public.

b. Fixed Charges

There are no fixed charges associated with this transaction.

c. Employee Interests

No carrier employees will be adversely affected by the contemplated "transaction" giving rise to this application.

d. Competition and the Public Interest

The STB (and predecessor ICC) have traditionally found that mergers, acquisitions, and assumptions of control within the bus community are not anti-competitive, because of healthy, consumer-oriented competition within the bus industry, and healthy competition between the bus industry, on the one hand, and on the other, other modes of transportation (including private automobiles), all of which make up the

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"relevant market." GLI Acquisition Co. -Purchase - Trailways Lines, Inc., 4 I.C.C. 2d 591, 598-602 (1988).

More recently, the STB has been called upon to rule on the "public interest" and "competition" issues inherent in the dramatic consolidation of the bus industry by reason of large, non-carrier "consolidators" acquiring control of dozens of formerly independent carriers. In an unbroken line of decisions in recent years, among them Stagecoach Holdings PLC - Control - St. Louis Executive Coach, Inc., STB Docket No. MC-F-20984, dated October 10, 2001 and the recent HAL decision, *supra*, the Board has consistently and without deviation ruled that the market - especially for charter and tour services which the carriers in this application provide - is so highly competitive that consolidation, rather than harm competition, actually promotes competition and is in the public interest. In at least two other recent decisions, the Board has applied this same sort of reasoning to international bus service with the same conclusion. Laidlaw, Inc. - Continuance in Control - Victoria Tours Limited, STB Docket No. MC-F-20981, dated February 2, 2001 and Americanos USA, LLC - Acquisition - Autobuses Adame, Inc., STB Docket No. MC-F-20982, dated October 15, 2001.

In this application, there will be no further consolidation, but just another motor carrier, HORIZON, entering the HAL family, with the expected result of further enhanced competition and better service for the public.

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As the STB has found in so many cases in recent years, (a very few of which are cited above), the acquisition of control proposed here is consistent with the public interest and serves to promote competition.

U.S. DOT Safety Fitness Rating

The parties certify that the U.S. Department of Transportation Safety Fitness Rating of WMC, EVERGREEN, and HORIZON is "satisfactory." WESTMARK, a relatively newly certificated carrier, has not been rated.

Insurance Certification

The four motor carriers involved in the transaction each has on file with FMCSA evidence of appropriate insurance coverage for bodily injury and property damage at limits of not less than \$5 million. WMC and EVERGREEN satisfy that requirement, in part, through self-insurance of the first \$1 million of bodily injury and property damage coverage as authorized by the ICC in Westours Motor Coaches, Inc., et al., Application to Activate Self-Insurance Authorization, ICC Docket MC-118832, served May 25, 1994.

Mexico Certification

The parties certify that none of the companies named in this application are domiciled in Mexico, nor are they owned or controlled by persons of that country.

REQUEST FOR INTERIM APPROVAL

While STB is considering the request for approval, **THE PARTIES REQUEST THE STB TO GRANT INTERIM APPROVAL FOR HAL TO CONTROL HORIZON NOT LATER THAN FEBRUARY 1, 2002**, because failure to grant such

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interim approval will likely result in injury to the motor carrier properties and/or substantially interfere with their future usefulness in providing adequate and continuous service to the public.

As explained above, although this transaction falls within the STB's jurisdiction by reason of HORIZON holding FMCSA operating authority, HAL's acquisition of HORIZON, a Canadian domiciled carrier, is focused on Canadian regulatory and business issues. The acquisition is a "business driven" one, which means due to Canadian considerations the buyer must take control within a certain time frame for the transaction successfully to go forward. For business reasons relating to the transaction, it is necessary for HAL to assume temporary control of HORIZON on or about February 1, 2002. As is true of so many business transactions, although discussions have been underway, they have only recently been finalized, so that the transaction may now proceed to a conclusion.

The business aspects of the transaction, which is focused in Canada to meet Canadian concerns, require the parties to move forward on the February 1 target date. In part, this target date takes into account the highly seasonal nature of the pleasure tour market in the Pacific Northwest, which kicks into gear in late spring. HAL believes it must acquire HORIZON now in order to employ its resources to make necessary modifications in HORIZON's business in anticipation of the quickly approaching busy tour season.

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The STB (and previously ICC) have long recognized business considerations such as these as a driving force to warrant interim approval, especially when a transaction involves a foreign carrier with only limited operations subject to U.S. jurisdiction. The same considerations apply here.

HAL has made the financial commitment to invest in the present and future of HORIZON to assure continuation of this carrier as an able competitor in the Pacific Northwest, to engage in competition with the many other carriers in that market, some of which are members of the major consolidated groups in the bus industry. Under today's conditions, the new owner must be able to take control as scheduled, to insure HORIZON's continued competitive edge, to avoid any harm to the carrier properties. Holding HORIZON's fate "in limbo," even for a few months, especially with the busy spring season not far away, could have severe adverse consequences to the carriers and their continued ability to provide service for the public.

The parties request interim approval to be issued not later than February 1, 2002, in order to meet the business needs of this transaction, and to avoid injury to the motor carrier properties involved.

Verification

Each person signing this application verifies under penalty of perjury, under the laws of the United States of America, that all information supplied in connection with this application is true and correct. Further, each person signing this application is qualified and authorized to file this application.

Each person signing further certifies under penalty of perjury under the laws of the United States, that he knows that willful misstatements or omissions of material facts constitute Federal criminal violations punishable under 18 U.S.C. §1001 by imprisonment

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up to five years and fines up to \$10,000 for each offense. Additionally, these misstatements are punishable as perjury under 18 U.S.C. §1621, which provides for fines up to \$2,000 or imprisonment up to five years for each offense.

ENTITY IN CONTROL

HOLLAND AMERICA LINE - WESTOURS INC.



David Beagle, Vice President

CARRIERS NOW UNDER COMMON CONTROL:

WESTOURS MOTOR COACHES, INC.

EVERGREEN TRAILS, INC.



David Beagle, Vice President



David Beagle, Vice President

WESTMARK HOTELS OF CANADA LTD.



David Beagle, Vice President

CARRIER TO BE CONTROLLED:

HORIZON COACH LINES LTD.

- 12A -

up to five years and fines up to \$10,000 for each offense. Additionally, these misstatements are punishable as perjury under 18 U.S.C. §1621, which provides for fines up to \$2,000 or imprisonment up to five years for each offense.

ENTITY IN CONTROL

HOLLAND AMERICA LINE - WESTOURS INC.

David Beagle, Vice President

CARRIERS NOW UNDER COMMON CONTROL:

WESTOURS MOTOR COACHES, INC. EVERGREEN TRAILS, INC.

David Beagle, Vice President

David Beagle, Vice President

WESTMARK HOTELS OF CANADA LTD.

David Beagle, Vice President

CARRIER TO BE CONTROLLED:

HORIZON COACH LINES LTD.

* 

PETER DAKHA
PRESIDENT

* VERIFICATION RELATING TO
INFORMATION REGARDING
HORIZON COACH LINES LTD. ONLY

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Applicants' Representative

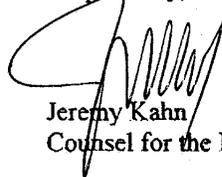
Applicant's representative is:

Jeremy Kahn, Esq.
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Washington, D.C. 20036
telephone (202) 887-0037
facsimile (202) 833-1219

Conclusion

As provided by in 49 CFR §1182 and for the reasons set forth herein, the Surface Transportation Board is requested respectfully to (1) authorize interim control pending final determination of this application, and (2) upon further consideration approve this application.

Respectfully,



Jeremy Kahn
Counsel for the Parties

Jeremy Kahn, Esq.
Kahn & Kahn
1730 Rhode Island Ave., N.W.
Suite 810
Washington, D.C. 20036