

entire length. West end is crushing. East end hollow.  
Stringer 5—West end hollow with numerous horizontal cracks. East end hollow.  
Stringer 6—East end hollow.  
Stringer 7—East end hollow.  
Stringer 8—West end hollow, decayed and crushing with horizontal cracks.

In span 1, a vertical gap of approximately .75 inches exists between the south rail and the tie plates, and a vertical gap of 1.25 inches exists between the track ties and stringer 8 at the southwest corner of the span.

Span 1 was observed while a westbound mixed freight train crossed the bridge at approximately 10 miles per hour. Vertical deflection of stringer 8 was measured at mid-span by attaching a tape measure to the stringer and referencing the movement against a fixed object near the ground. Several loaded cars each caused a deflection of approximately 1.25 inches. A deflection measurement was not taken while the locomotive was on the span. Significant vertical deflection was also observed but not measured in span 3.

Many of the cross blocks in bents 1 and 2 have various degrees of decay and voids. The timber under the west end of the stringers in span 1 has split lengthwise with approximately one-quarter of the timber broken off.

#### *Evaluation of Bridge Conditions*

Using the live load deflection measurements in span 1 and by observing deterioration, crushing, and distress of the stringers in spans 1 and 3, FRA has determined that TPW's Bridge 29.11 is in imminent danger of catastrophic failure under a train at any time.

Failure of the bridge under load could have very serious consequences. The bridge failure could cause the train to fall into the creek below, seriously injuring any railroad employees on the train and any other persons in the vicinity of Prairie Creek. A derailment could block the creek resulting in widespread flooding in the immediate area. Locomotive diesel fuel or hazardous materials in the train could cause severe environmental damage to Prairie Creek and the Iroquois River into which it eventually flows.

#### **Finding and Order**

FRA has concluded that any future railroad use of Bridge 29.11 on the Toledo, Peoria and Western Railway poses an imminent and unacceptable threat to public and employee safety. The past failure of the Toledo, Peoria and Western Railway to voluntarily

remove the bridge from service and perform proper repairs persuades FRA that the agency cannot rely upon the cooperation of the railroad to protect public safety in relation to the Bridge 29.11. I find that these unsafe conditions create an emergency situation involving a hazard of death or injury to persons.

Accordingly, pursuant to the authority of 49 U.S.C. 20104 delegated to me by the Secretary of Transportation (49 CFR 1.49), it is ordered that the Toledo, Peoria and Western Railway Company shall discontinue, and shall not permit, the operation of trains or any railroad on-track equipment over its Bridge 29.11 while this emergency Order remains in effect.

#### **Relief**

The Toledo, Peoria and Western Railway may obtain relief from this Emergency Order by providing the Federal Railroad Administrator with a report of inspection and evaluation of repairs, indicating to FRA's satisfaction that Bridge 29.11 has been acceptably repaired. The report shall be prepared and sealed by a registered professional engineer who is licensed to practice in the State of Illinois and is technically proficient in the field of timber railroad bridge engineering. The report shall state that the capacity of the entire bridge to carry safely railroad cars and locomotives has been restored. The configuration and weights of the loads for which the determination has been made shall be stated in the report, together with all calculations upon which that determination is based. The engineer's evaluation shall include a calculation of the capacity of every load-bearing member of each span in Bridge 29.11. The original of the engineer's report, bearing the embossed imprint of the seal of the engineer, shall be provided to the Regional Administrator of FRA's Region 4 before the report will be considered by FRA. Upon FRA's approval of the engineer's assessment of the bridge restoration, and following an inspection by FRA in which the agency finds the bridge properly repaired to safe condition, the Administrator will rescind this Emergency Order.

#### **Penalties**

Any violation of this order shall subject the person committing the violation to a civil penalty of up to \$27,000, 49 U.S.C. 21301, 28 U.S.C. 2461, and see 69 FR 30591. FRA may, through the Attorney General, also seek injunctive relief to enforce this order. 49 U.S.C. 20112.

#### **Effective Date and Notice to Affected Persons**

The Emergency Order shall take effect at 12:01 a.m. (CST) on December 15, 2006, and apply to all operations of trains or railroad on-track equipment on Bridge 29.11 on or after that time. Notice of this Emergency Order will be provided by publishing it in the **Federal Register**. Copies of this Emergency Order will be sent by mail or facsimile prior to publication to Mr. Buford Hunter, General Manager, Toledo, Peoria and Western Railway, 1990 East Washington Street, East Peoria, Illinois, 61611; Mr. Joe Spirk, Chief Engineer-Central Business Unit of Rail America; and Mr. Scott Linn, Senior Vice President-Asset Management of RailAmerica, 5300 Broken Arrow Sound, NW., Boca Raton, Florida 33487; the Association of American Railroads; and the American Short Line and Regional Railroad Association.

#### **Review**

Opportunity for formal review of this Emergency Order will be provided in accordance with 49 U.S.C. 20104(b) and section 554 of Title 5 of the United States Code. Administrative procedures governing such review are found at 49 CFR part 211. See 49 CFR 211.47, 211.71, 211.73, 211.75, and 211.77.

Issued in Washington, DC, on December 14, 2006.

**Joseph H. Boardman,**  
*Administrator.*

[FR Doc. 06-9788 Filed 12-15-06; 2:56 pm]

BILLING CODE 4910-06-M

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Railroad Administration**

#### **Petition for Waiver of Compliance: Date and Location of Public Hearings**

By public notice published on December 8, 2006 (71 FR 71237), The Federal Railroad Administration (FRA) announced the receipt of a petition from BNSF Railway and Norfolk Southern Railway, two Class I Railroads, for a waiver of compliance from certain provisions of Title 49 Code of Federal Regulations (CFR) Part 232 *Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment*, to begin implementation of Electronically Controlled Pneumatic (ECP) brake technology. In the notice, FRA stated that the facts appear to warrant a public hearing. (The petition is identified as Docket FRA-2006-26435.)

A public hearing is hereby set for 1 p.m.-6 p.m. on Tuesday, January 16,

2006, at the Washington Plaza Hotel, 10 Thomas Circle NW., Washington, DC 20005. Interested parties are invited to present oral statements at the hearing. The hearing will be informal and will be conducted by a representative designated by FRA in accordance with FRA's Rules of Practice (49 CFR 211.25). The hearing will be a non-adversarial proceeding; therefore, there will be no cross examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons wishing to make a brief rebuttal will be given the opportunity to do so in the same order in which initial statements were made. Additional procedures, as necessary for the conduct of the hearing, will be announced at the hearing.

Issued in Washington, DC on December 14, 2006.

**Grady C. Cothen, Jr.,**

*Deputy Associate Administrator for Safety Standards and Program Development.*

[FR Doc. E6-21658 Filed 12-19-06; 8:45 am]

**BILLING CODE 4910-06-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34960]

#### **The Chicago, Lake Shore and South Bend Railway Company—Acquisition and Operation Exemption—Norfolk Southern Railway Company**

The Chicago, Lake Shore and South Bend Railway Company (CLS&SB), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to purchase and operate lines currently owned by Norfolk Southern Railway Company. The lines consist of approximately 3.2 miles of railroad between milepost UV 0.0 and milepost UV 2.8 and between milepost ZO 9.48 and milepost ZO 9.9, including any ownership interest in the spur leading to the University of Notre Dame near the City of South Bend, IN (City).<sup>1</sup>

<sup>1</sup> The 3.2 miles of line and spur at issue in this notice of exemption are also the subject of an adverse abandonment proceeding in *Norfolk Southern Railway Company—Adverse Abandonment—St. Joseph County, IN*, STB Docket No. AB-290 (Sub-No. 286) (STB served and published at 71 FR 12933 on Dec. 11, 2006). The City, Sisters of the Holy Cross, Inc., and Brothers of Holy Cross, Inc., the applicants in STB Docket No. AB-290 (Sub-No. 286), on November 22, 2006, filed a petition to revoke, and a request to stay the effective date of, the notice of exemption at issue here. The Board issued a housekeeping stay in a decision served on November 22, 2006, to give interested persons an opportunity to submit

CLS&SB certifies that its projected annual revenues as a result of the transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed \$5 million.

CLS&SB planned to consummate the transaction no sooner than 7 days after the filing date of this notice of exemption and commence operations once the necessary rehabilitation of the lines is complete.

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 does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34960, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on John D. Heffner, 1920 N Street, NW., Suite 800, Washington, DC 20036.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: December 14, 2006.

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

**Vernon A. Williams,**

*Secretary.*

[FR Doc. E6-21759 Filed 12-19-06; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34963]

#### **James Riffin d/b/a The Raritan Valley Connecting Railroad—Acquisition and Operation Exemption—On Raritan Valley Connecting Track**

James Riffin d/b/a The Raritan Valley Connecting Railroad (Mr. Riffin), a Class III rail carrier,<sup>1</sup> has filed an amended notice of exemption under 49 CFR 1150.41 to acquire and operate an approximately 1.25-mile segment of a rail line known as the Raritan Valley Connecting Track (Line Code 0326, Sub. No. 1038), extending from the Northerly sideline of the Lehigh Valley Line (at former Delaware & Bound Brook

additional information. The revocation request will be handled in a subsequent Board decision.

<sup>1</sup> In a decision served in *CSX Transportation, Inc.—Abandonment Exemption—In Allegany County, MD (In the Matter of an Offer of Financial Assistance)*, STB Docket No. AB-55 (Sub-No. 659X) (STB served Aug. 18, 2006), Mr. Riffin was substituted for WMS, LLC, as the purchaser of a rail line in Maryland.

milepost 57.25), in Manville Borough, to the intersection with the southerly sideline of the former Raritan Valley Line, now New Jersey Transit's Raritan Valley Commuter Line (at former Delaware & Bound Brook milepost 58.50), in Bridgewater Township, all in Somerset County, NJ (the Line).<sup>2</sup> Mr. Riffin states that no agreement has been reached, but he proposes to acquire the Line and operating rights from its owner (the titleholder), which may be Consolidated Rail Corporation (Conrail), within 90 days of the December 6, 2006 filing of the notice.

Mr. Riffin certifies that the projected annual revenues as a result of this transaction will not exceed those that would qualify Mr. Riffin as a Class III carrier, and further certifies that Mr. Riffin's projected annual revenues will not exceed \$5 million.

The earliest this transaction may be consummated is the January 5, 2006 effective date of the exemption (30 days after the exemption was filed).

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 does not automatically stay the transaction. Petitions for stay must be filed no later than December 29, 2006.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34963, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on James Riffin, 1941 Greenspring Drive, Timonium, MD 21093.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: December 12, 2006.

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

**Vernon A. Williams,**

*Secretary.*

[FR Doc. E6-21424 Filed 12-19-06; 8:45 am]

**BILLING CODE 4915-01-P**

<sup>2</sup> Mr. Riffin originally filed a notice of exemption on November 21, 2006. However, acknowledging that it was erroneously filed under 49 CFR 1150.31 (for a noncarrier), Mr. Riffin filed an amended notice under 49 CFR 1150.41 (for a Class III carrier) on December 1, 2006. He subsequently filed additional information on December 6, 2006. Accordingly, the filing date for this notice of exemption is December 6, 2006.