imposed in New Jersey. Consequently, shipments of explosives and detonators move in truckload quantities unimpeded in commerce as long as they are in compliance with the HMR until they enter or leave sites in New Jersey.

In order to comply with the State's quantity limitations, companies have few options. They can load detonators and explosives on separate vehicles or they can reconfigure detonator/explosive shipments to meet the State's restriction. These options present unacceptable safety risks.

In the first case, unnecessary truck traffic, and traffic carrying explosives, is added to the roadways. It has been shown that the more trucks on the road, irrespective of the cargo, the higher likelihood of an accident. The public along these routes of travel, which may include jurisdictions outside of New Jersey, is exposed to this relative increased risk.

In the second case, not only are two or more trucks needed to transport the same quantity of explosives that could efficiently be carried by one truck, but there is the added risk from the unnecessary handling during loading or re-loading to conform explosive/detonator shipments to New Jersey's restrictions. In the case of Division 1.1, 1.2, and 1.3 materials, the risk from this unnecessary handling is shifted to locations outside of the State because the HMR prohibit the transfer of these explosive materials ''from one container to another, or from one motor vehicle to another vehicle, or from another vehicle to a motor vehicle, on any public highway, street, or road, except in case of emergency.'' [23] New Jersey cannot, for whatever reason, be allowed to isolate itself from the risks associated with the commerce of these products.

We do not contest the authority of the State to regulate the movement of explosives that is outside of the scope of the HMTA. In short, transportation that is entirely on private property is not transportation in commerce within the meaning of the HMTA and is not covered by the HMR.[24] In our disussion with the NJDL over these requirements, we have endeavored to see if any accommodation could be made to restrict the applicability of the rule to vehicles transporting explosives between locations on one site where a public way is never entered or crossed. Regrettably, the NJDL said they could not interpret the rules that way, and that vehicles would be in violation if they carried both explosives and detonators the moment they left a public road. While admitting to the folly of a rule that would allow vehicles carrying explosives to off-load on a public road, rather than in the security of a consignee's site, the NJDL pointed to the plain words of the Statute which state that the quantity limitation for explosives transported with detonators applies to any transportation within the State. Heretofore, we have had to contend with the consequences of the State's requirement when it applies to commercial transportation at off-highway locations. However, we must ask RSPA to consider the ramifications to safety and commerce if the State decided to implement its law verbatim.

No transportation is risk-free. The packaging and handling provisions of the HMR related to explosives are intended to minimize the consequences of an incident if it should occur. The HMR have been incredibly effective in this regard as they apply to the transportation of Class 1 materials. The IME is aware of no fatalities occurring when detonators and explosives are transported and handled as required. Since 1990, there have been 200 incidents involving explosives of which 53 were serious.[25] None of the 200 incidents resulted in a fatality. In all, there were 2 injuries that required hospitalization. Of the 200 incidents, only one, non-''serious'' incident occurred in New Jersey and that incident did not involve a detonator/explosive shipment, which is the focus of this proceeding.

Standard of Preemption

While ''handling'' is not a term defined in the HMTA, RSPA has defined this term to mean ''the operation of loading and unloading.'' [26] The State's requirements affect the handling of Class 1 materials being transported in commerce because the restriction demands loading and unloading activity beyond that contemplated in the HMR. Inasmuch as non-federal requirements ''about any . . . handling . . . of hazardous materials'' that are not substantively the same as the HMR are preempted, we ask that RSPA preempt these requirements on the basis of 49 U.S.C. 5125(b)(1)(B). Otherwise, we ask RSPA to preempt these requirements on the basis of its obstacle test authority at 49 U.S.C. 5125(a)(2). Without doubt, the State's requirements are ''an obstacle to accomplishing and carrying out . . . a regulation prescribed under [the HMTA],'' and are a detriment to safety.

Conclusion

We believe the State's requirements imposed on the transportation of certain Class 1 materials are preempted by federal law. The State is enforcing the above suspect requirements. Despite efforts to resolve this matter directly with the State, affected parties believe a determination of preemption is the most effective way to address this matter. Consequently, we request timely consideration of the concerns we have raised.

Certification

Pursuant to 49 CFR 107.205(a), we hereby certify that a copy of this application has been forwarded with an invitation to submit comments to: Fred Cohen, Legal Liaison, NJ Department of Labor, P.O. Box 110, Trenton, NJ 08625–0110.

Respectfully submitted,

Cynthia Hilton,

Vice President.

Attachments

(A) N.J.S.A. 21:1A–129(f)—Definition of ''Explosives''
(B) N.J.S.A. 21:1A–130—Enforcement
(C) N.J.S.A. 21:1A–137—Transportation of Explosives
(D) N.J.S.A. 21:1A–140—Violations; Penalties; Revocation of Permits; Nonconforming Uses
(E) N.J.A.C. 12:190–6.5—Off Highway Transportation of Explosives
(F) Affidavits of:

Jack E. Costello, Maurer & Scott, Inc.
Ronald J. Lutz, Jr., Explo Tech, Inc.
Richard J. Coons, Energetic Solutions Quarry & Construction Services

[FR Doc. 00–8662 Filed 4–6–00; 8:45 am]

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[23] 49 CFR 177.835(j).

[24] 49 U.S.C. 5102 (1) and (12).

[25] Serious incidents are those that result in one or more of the following: death; accident/derailment of vehicle; evacuation of six or more individuals; injury requiring hospitalization; or road closure.

[26] 49 CFR 176.2. We recognize that this definition is contained in that section of the HMR dealing with the carriage of hazardous materials by vessel. However, we cannot believe that RSPA would define this term inconsistently as it is applied to other modes of transportation.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

STB Docket No. MC–F–20964

Laidlaw Inc.—Continuance in Control—the Gray Line of Victoria Ltd.

AGENCY: Surface Transportation Board.

ACTION: Notice tentatively approving finance transaction.

SUMMARY: In an application filed under 49 U.S.C. 14303, Laidlaw Inc. (Laidlaw), a noncarrier, seeks approval of its continuance in control of The Gray Line of Victoria Ltd. (Gray Line) upon Gray Line's becoming a regulated motor carrier of passengers. Persons wishing to oppose the application must follow the rules under 49 CFR 1182.5 and 1182.8. The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by May 22, 2000. Applicant may file a reply by June 6, 2000. If no comments are filed by May 22, 2000, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC–F–20964 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, send one copy of comments to applicant's representative: Fritz R. Kahn, Suite 750 West, 1100 New York Avenue, NW, Washington, DC 20005–3934.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1600. [TDD for the hearing impaired: 1–800–877–8339].

SUPPLEMENTARY INFORMATION: Laidlaw controls Gray Line through Laidlaw Transit Ltd. (Laidlaw Ltd.), which is authorized to transport passengers, in charter and special operations, pursuant to authority in No. MC–102189. Gray Line conducts charter and special passenger carrier operations within Canada. Laidlaw seeks authority to continue in control of Gray Line through Laidlaw Ltd. upon Gray Line's becoming a regulated carrier pursuant to an application it has filed with the Federal Highway Administration.

Laidlaw currently controls 23 motor carriers of passengers, including Greyhound Lines, Inc. (Greyhound) (MC–1515), which Laidlaw considers its domestic flagship carrier.[1] The controlled carrier's operations, with the exception of those of Greyhound, are largely limited to charter and special operations within the United States. Greyhound conducts mainly nationwide, scheduled regular-route operations.

Laidlaw asserts that, because Gray Line is an experienced and well regarded carrier that has established contacts with hotels, tourist attractions, and other institutions, the addition of Gray Line to the Laidlaw family of regulated carriers will contribute significantly to the breadth of services that Greyhound and the other Laidlaw affiliates will be able to provide the public. Laidlaw maintains also that the proposed transaction will inure to the benefit of Gray Line's passengers. This benefit is expected to partly take the form of reasonable fares, in view of the access to the financial resources and expertise of the Laidlaw system that Gray Line will have following the transaction.

Under 49 U.S.C. 14303(b), we must approve and authorize a transaction we find consistent with the public interest, taking into consideration at least: (1) The effect of the transaction on the adequacy of transportation to the public; (2) The total fixed charges that result; and (3) The interest of affected carrier employees.

Applicant has submitted the information required by 49 CFR 1182.2, including information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b). Specifically, applicant has shown that the proposed transaction will have a positive effect on the adequacy of transportation to the public and will result in no increase in fixed charges and no changes in employment. *See* 49 CFR 1182.2(a)(7). Additional information may be obtained from applicant's representative.

On the basis of the application, we find that the proposed transaction is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated, and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.

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This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proposed continuance in control is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this decision will be deemed as having been vacated.

3. This decision will be effective on May 22, 2000, unless timely opposing comments are filed.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration—HMCE–20, 400 Virginia Avenue, SW, Suite 600, Washington, DC 20024; (2) The U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, NW, Washington, DC 20530; and (3) The U.S. Department of Transportation, Office of the General Counsel, 400 7th Street, SW, Washington, DC 20590.

Decided: April 3, 2000.

By the Board, Chairman Morgan, Vice Chairman Burkes, and Commissioner Clyburn.

Vernon A. Williams,

Secretary.

[FR Doc. 00–8664 Filed 4–6–00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33857]

Colorado, Kansas & Pacific Railway Company—Lease, Operation, and Future Purchase Exemption—Colorado Department of Transportation

Colorado, Kansas & Pacific Railway Company (CKPR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31. CKPR has entered into an agreement with the Colorado Department of Transportation (CDOT) whereby CKPR will lease and initiate common carrier operations over an abandoned line of railroad between milepost 747.5, near Towner, and milepost 869.4, near NA Junction, in Kiowa, Crowley, and Pueblo Counties, CO, a distance of approximately 121.9 route miles (rail line). In addition, the agreement grants CKPR the right to purchase the rail line under specified conditions on or before December 31, 2001.

The parties report that they intended to consummate the transaction on or about March 29, 2000. The earliest the transaction could have been consummated was March 29, 2000, 7 days after the exemption was filed.

This transaction is related to STB Finance Docket No. 33856, *Court Hammond, et al.—Continuance in Control Exemption—Colorado Central Railroad Company and Colorado, Kansas & Pacific Railway Company,* wherein Court Hammond, *et al.* have concurrently filed a verified notice to continue in control of Colorado Central Railroad Company and CKPR upon their becoming Class III rail carriers.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding 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. 33857, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on John D. Heffner, Esq., 1707 L Street, NW, Suite 570, Washington, DC 20036.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: March 31, 2000.

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

Vernon A. Williams,

Secretary.

[FR Doc. 00–8575 Filed 4–6–00; 8:45 am]

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[1] Greyhound controls 9 of the 23 carriers.