

1150.31 to acquire from CSX Transportation, Inc. (CSXT) certain physical assets and associated right-of-way, including approximately 61.5 miles of rail line, the Orlando Line, extending between milepost A-749.7 in DeLand, and milepost A-814-1 in Poinciana, Volusia, Seminole, Orange, and Osceola Counties, FL.¹

FDOT states that it will acquire neither the right nor ability to provide or control freight service on the Orlando Line but will develop and operate a commuter rail system on the Orlando Line.² CSXT, according to FDOT, will continue to provide all common carrier rail freight service over the Orlando Line, retaining an exclusive and perpetual freight operating easement.³

FDOT will also obtain an option to acquire from CSXT the physical assets and associated right-of-way of CSXT's Aloma Spur extending from a connection with the Orlando Line at milepost AU-766.0 in Sanford, to milepost AU-771.8, near Airport Boulevard and the Orlando/Sanford International Airport, a distance of approximately 5.8 miles, and CSXT's DeLand Spur extending from a connection with the Orlando Line at milepost ASE-750.3 (DeLand Junction) to milepost ASE-753.3, near downtown DeLand, a distance of approximately 3.0 miles. FDOT does not intend to acquire the Aloma Spur and DeLand Spur at this time, but they are included so that any jurisdictional determination made by the Board pursuant to FDOT's motion to dismiss will also cover those tracks.⁴

The transaction is scheduled to take place on June 30, 2009 (after the May 3, 2009 effective date of the exemption).

If the verified notice contains false or misleading information, the exemption

¹ FDOT indicates that, due to a relocation project in Sanford, FL, the distance between milepost A-768 and milepost A-771 is only 749 feet. Accordingly, the actual length of the line is 2.9 miles shorter than indicated by its milepost termini.

² Because, FDOT asserts that it is not acquiring a common carrier obligation to provide freight service, FDOT has also included a motion to dismiss in this proceeding. The motion will be addressed in a subsequent Board decision.

³ Florida Central Railroad Company, Inc., an existing tenant of CSXT, will continue to operate over a portion of the Orlando Line for purposes of interchanging traffic with CSXT, and the National Railroad Passenger Corporation, also an existing tenant of CSXT, will continue to operate four daily passenger trains over the length of the Orlando Line.

⁴ FDOT does not include a time frame for any future transactions. FDOT is put on notice that a substantial lag time between the publication of this notice and any future transactions could put in doubt the validity of the notice requirements pertaining to any new transactions. Accordingly, the Board reserves the right to require any future transactions to be noticed in the **Federal Register** before the Board can entertain a motion to dismiss.

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. Petitions for stay will be due no later than April 24, 2009 (at least 7 days before the effective date of the exemption).

An original and 10 copies of all pleadings referring to STB Finance Docket No. 35110 must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on William C. Sippel, Fletcher & Sippel, LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606-2832.

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

Decided: April 10, 2009.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Jeffrey Herzig,
Clearance Clerk.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-1027X]

Seaside Holdings, Inc.— Discontinuance of Service Exemption—in Harlan County, KY

Seaside Holdings, Inc. (Seaside) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over a 12.56-mile line of railroad extending from milepost OWH 258.5 to the end of the track at milepost OWH 271.06 in Harlan County, KY. The line traverses United States Postal Service Zip Codes 40828, 40843 and 40927.¹

Seaside has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service

¹ Seaside initially filed this notice on March 12, 2009, but supplemented it on March 19, 2009 to comply fully with the requirement of 49 CFR 1152.50(d) that the railroad seeking the exemption notify certain governmental entities 10 days prior to filing the notice of exemption. Therefore, 10 days from the filing of the supplement (March 30, 2009) will be considered the official filing date of this notice of exemption.

over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.²

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on May 19, 2009, unless stayed pending reconsideration.³ Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 CFR 1152.27(c)(2),⁴ must be filed by April 27, 2009.⁵ Petitions to reopen must be filed by May 7, 2009, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to Seaside's representative: Fritz R. Kahn, Fritz R. Kahn, P.C., 1920 N Street, NW., 8th floor, Washington, DC 20036.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

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

Decided: April 3, 2009.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Kulunie L. Cannon,
Clearance Clerk.

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² Because this is a discontinuance of service proceeding and not an abandonment, the proceeding is exempt from the requirements of 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), and 49 CFR 1105.11 (transmittal letter).

³ Applicant states that its anticipated consummation date is May 4, 2009. Because of the new file date, this transaction cannot be consummated before May 19, 2009.

⁴ Each OFA must be accompanied by the filing fee, which is currently set at \$1,500. *See Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2008 Update*, STB Ex Parte No. 542 (Sub-No. 15) (STB served June 18, 2008).

⁵ Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate.