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SERVICE DATE – APRIL 17, 2009

DO

FR-4915-01-P

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 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 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

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.

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, S.W., Washington, DC 20423-0001.

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.

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, N.W., 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 website at "WWW.STB.DOT.GOV."

Decided: April 3, 2009.

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

Anne K. Quinlan

Acting Secretary