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SERVICE DATE – AUGUST 17, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-70 (Sub-No. 5X)

FLORIDA EAST COAST RAILWAY, L.L.C.—ABANDONMENT EXEMPTION—
IN BREVARD COUNTY, FL

IN THE MATTER OF AN OFFER OF FINANCIAL ASSISTANCE

Decided: August 16, 2005

Florida East Coast Railway, L.L.C. (FEC) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 9.8-mile line of railroad known as the Titusville Branch, extending from milepost TB 0.0 in Titusville to milepost TB 9.8 in Aurantia, Brevard County, FL. Notice of the exemption was served and published in the Federal Register on June 16, 2005 (70 FR 35155). The notice provided that the exemption would become effective on July 16, 2005, unless stayed by the Board or unless a formal expression of intent to file an offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27(c) was filed by June 27, 2005.

On June 27, 2005, Hust Brothers, Inc. (Hust) timely filed a formal expression of intent to file an OFA to purchase the entire line. As a result of the filing, the effective date of the exemption was automatically stayed until July 26, 2005. Hust simultaneously asked that FEC provide it with the financial data and information prescribed in 49 CFR 1152.27(a). By pleading filed on July 14, 2005, FEC submitted its reply pursuant to the Board's regulations at 49 CFR 1152.27(a) and its response to Hust's request.

By decision served on July 21, 2005, the proceeding was reopened at the request of the Board's Section of Environmental Analysis (SEA), and the exemption was made subject to an environmental condition. The decision also tolled the time period for Hust to file its OFA until August 10, 2005, and postponed the effective date of the exemption until August 20, 2005. By decision served on July 26, 2005, a motion for a protective order was granted allowing Hust and FEC to make available to one another and to file under seal certain confidential documents and information in connection with Hust's anticipated OFA.

On August 10, 2005, Hust timely filed an OFA under 49 U.S.C. 10904 and 49 CFR 1152.27 to purchase the 9.8-mile line. On August 12, 2005, FEC filed a response to Hust's OFA.

By letter filed on August 15, 2005, Hust seeks to withdraw its OFA. Therefore, the OFA process will be terminated and the exemption that was the subject of the notice served and published on June 16, 2005, will become effective on the service date of this decision.

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

It is ordered:

1. The OFA process in this proceeding is terminated.
2. The abandonment exemption will be effective on August 17, 2005, subject to the employee protective conditions previously imposed and to the environmental condition imposed in the decision served on July 21, 2005.
3. This decision is effective on its service date.

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

Vernon A. Williams
Secretary