

37994

SERVICE DATE – MAY 24, 2007

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-1005X]

Finger Lakes Railway Corp.—Abandonment Exemption—in Yates County, NY

Finger Lakes Railway Corp. (FGLK) has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 4.95-mile line of railroad between milepost 41.35, in the Village of Penn Yan, Township of Benton, and milepost 46.3, outside the Township of Benton, located in Yates County, NY. The line traverses United States Postal Service Zip Code 14527. The line for which the abandonment exemption request was filed includes one station, Bellona, located at milepost 46.3 – SPLC 183992.

FGLK certifies that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic to be rerouted; (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 of 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment 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 June 23, 2007, unless stayed pending reconsideration.<sup>1</sup> Petitions to stay that do not involve environmental issues,<sup>2</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>3</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by June 4, 2007. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by June 13, 2007, with: Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

---

<sup>1</sup> The earliest this transaction may be consummated is June 23, 2007. FGLK has originally indicated a consummation date of on or after June 18, 2007.

<sup>2</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

<sup>3</sup> Each OFA must be accompanied by the filing fee, which currently is set at \$1,300. See 49 CFR 1002.2(f)(25).

A copy of any petition filed with the Board should be sent to FGLK's representative: Eric M. Hocky, Gollatz, Griffin & Ewing, P.C., Four Penn Center, Suite 200, 1600 John F. Kennedy Blvd., Philadelphia, PA 19103.

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

FGLK has filed a combined environmental and historic report which addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by May 29, 2007. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 245-0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), FGLK shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by FGLK's filing of a notice of consummation by May 24, 2008, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at

“WWW.STB.DOT.GOV.”

Decided: May 18, 2007.

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

Vernon A. Williams

Secretary