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SERVICE DATE – AUGUST 9, 2011

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 1073X]

Alabama & Florida Railway Co., Inc.—Abandonment Exemption—in Geneva, Coffee and Covington Counties, Ala.

Alabama & Florida Railway Co., Inc. (A&F) has filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon its line of railroad between milepost 581.3 at Andalusia, Ala., and milepost 624.2 at Geneva, Ala., a distance of 42.9 miles, in Geneva, Coffee and Covington Counties, Ala. The line constitutes A&F's entire rail system and traverses United States Postal Service Zip Codes 36340, 36420, 36421, 36453, 36467, and 36477.

A&F has certified that: (1) no local traffic has moved over the line for at least 2 years;¹ (2) there is no overhead traffic on the line that has been, or would need to be, rerouted as a result of the proposed abandonment; (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

¹ A&F states that during the past 2 years, there has been no local common carrier service provided over the line nor have there been any requests for common carrier service during that period, but portions of the line have been used for purposes of freight car storage. A&F asserts that movement of its empty rail cars for storage does not disqualify A&F from the use of the notice of exemption process to obtain abandonment authority for the line. See Ind. Sw. Ry.—Aban. Exemption—in Posey and Vanderburgh Cntys., Ind., AB 1065X, slip op. at 1 n.1 (STB served Dec. 23, 2010).

Transportation Board (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 C.F.R. § 1105.7(c) (environmental report), 49 C.F.R. § 1105.11 (transmittal letter), 49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

Where, as here, the carrier is abandoning a line that constitutes its entire rail system, the Board does not normally impose labor protection under 49 U.S.C. § 10502(g), unless the evidence indicates the existence of: (1) a corporate affiliate that will continue substantially similar rail operations; or (2) a corporate parent that will realize substantial financial benefits over and above relief from the burden of deficit operations by its subsidiary railroad. See Honey Creek R.R.—Aban. Exemption—in Henry Cnty., Ind., AB 865X (STB served Aug. 20, 2004); Wellsville, Addison & Galetton R.R.—Aban. of Entire Line in Potter & Tioga Cntys., Pa., 354 I.C.C. 744 (1978); and Northampton & Bath R.R.—Aban. Near Northampton & Bath Junction in Northampton Cnty, Pa., 354 I.C.C. 784 (1978). Because A&F does not appear to have a corporate affiliate or parent that will continue similar operations or that could benefit from the proposed abandonment, employee protection conditions will not be imposed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on September 8, 2011, unless stayed pending reconsideration. Petitions to stay that do not involve environmental

issues,² formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),³ and trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by August 19, 2011. Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by August 29, 2011,⁴ with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to A&F's representatives: William A. Mullins and Robert A. Wimbish, Baker & Miller PLLC, 2401 Pennsylvania Avenue., N.W., Suite 300, Washington, DC 20037.

² The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. 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.

³ Each OFA must be accompanied by the filing fee, which currently is set at \$1,500. See 49 C.F.R. § 1002.2(f)(25).

⁴ A&F states that it does not own title to the real property comprising the line's right-of-way (ROW); rather, the title remains with CSX Transportation, Inc. (CSXT). According to A&F, when the line was sold in 1986 to an unaffiliated short line railroad predecessor of A&F (Alabama & Florida Railroad, Inc., or "A&F Railroad"), CSXT's predecessor, Seaboard System Railroad, Inc., conveyed to A&F Railroad the common carrier obligation associated with the line but retained for itself an ownership interest in the underlying real estate and remained as a lessor of the lines's ROW. A&F states that it acquired the line from A&F Railroad subject to this arrangement with CSXT. Citing Seminole Gulf Railway—Abandonment Exemption—in Lee County, Florida, AB 400 (Sub-No. 2X) (ICC served Dec. 22, 1994), A&F states that it is now seeking abandonment authority on the understanding that it is the appropriate entity to do so and that CSXT does not need to file its own abandonment authority or otherwise join in this request. A&F states that it believes that the ROW might be suitable for other public purposes, if CSXT is amendable to such an arrangement.

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

A&F has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by August 12, 2011. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA, 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 C.F.R. § 1152.29(e)(2), A&F 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 A&F's filing of a notice of consummation by August 9, 2012, 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: August 4, 2011.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.