

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 35110

FLORIDA DEPARTMENT OF TRANSPORTATION—ACQUISITION EXEMPTION—
CERTAIN ASSETS OF CSX TRANSPORTATION, INC.

Decided: June 19, 2009

The notice of exemption under 49 CFR 1150.31 for Florida Department of Transportation (FDOT), a noncarrier, to acquire from CSX Transportation, Inc. (CSXT) certain physical assets and associated right-of-way, including approximately 61.5 miles of rail line in Poinciana, Volusia, Seminole, Orange and Osceola Counties, FL, was served and published on April 17, 2009 (74 FR 17896-97). Together with the notice of exemption, FDOT filed a motion to dismiss the notice of exemption on the ground that the Board lacks jurisdiction over the acquisition because CSXT would retain an exclusive, permanent rail freight easement and FDOT would not obtain the right to provide freight service over the rail line. Replies to the motion to dismiss were due by May 7, 2009.¹

On May 7, 2009, FDOT filed a letter to withdraw its previous request for expedited consideration of its motion to dismiss and requested that the Board hold this proceeding in abeyance. FDOT stated that the Florida legislature did not pass the legislation required for the proposed transaction to proceed and that the implications of this development are under review. FDOT stated that it would advise the Board of its intentions within 30 days. By decision served on May 14, 2009, the Board held the proceeding in abeyance until June 8, 2009.

In a letter filed on June 5, 2009, FDOT requests that the Board continue to hold this proceeding in abeyance for an additional 60 days. FDOT states it has not yet completed its ongoing review of the situation and needs additional time in which to do so and determine its next step in the pending matter. FDOT also states it will advise the Board of its intentions by August 7, 2009. Accordingly, because the request is reasonable, the Board will continue to hold this proceeding in abeyance to give FDOT time to complete its ongoing review of the situation.

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

¹ On May 5, 2009, The Brotherhood of Railroad Signalmen filed a motion requesting an extension of time until May 22, 2009, to respond to FDOT's motion to dismiss the notice of exemption. In a decision served on May 7, 2009, that request was granted.

It is ordered:

1. This proceeding will be held in abeyance until August 7, 2009.
2. This decision is effective on the date of service.

By the Board, Anne K. Quinlan, Acting Secretary.

Anne K. Quinlan
Acting Secretary