

Statement of Brian O'Boyle
Staff Attorney, STB Office of Proceedings

STB Finance Docket No. 34421

HOLRAIL LLC—CONSTRUCTION AND OPERATION EXEMPTION—
IN ORANGEBURG AND DORCHESTER COUNTIES, SC

STB Finance Docket No. 34421 (Sub-No. 1)

HOLRAIL LLC—
PETITION FOR CROSSING AUTHORITY UNDER 49 U.S.C. 10901(d)

Good morning Chairman Nober, Vice Chairman Mulvey, and Commissioner Buttrey.

In these proceedings, HolRail, LLC seeks an exemption under section 10502 from the prior approval requirements of section 10901 for authority to construct and operate approximately 2 miles of rail line in Orangeburg and Dorchester Counties, SC. The proposed new line would extend from a connection with the Norfolk Southern Railway Company near Giant, SC, to a cement production facility called Holly Hill, owned by HolRail's parent company, Holcim (US) Inc. The stated purpose of the proposed construction is to provide competitive rail service to Holly Hill, as the only rail carrier with direct access to Holly Hill today is CSX Transportation, Inc.

HolRail proposes two potential routes for the build-out. HolRail's preferred route would run parallel to CSXT's track and at least partially within CSXT's right-of-way for most of its length; it would connect with Norfolk Southern's line on land owned by a neighboring cement factory. HolRail currently has no right to use CSXT's right-of-way, but it states that it intends, if it is necessary to do so, to file a petition with the Board for authority to cross CSXT's right-of-way pursuant to Section 10901(d). HolRail's alternative route, like its preferred route, would run parallel to CSXT's line, but it would be constructed approximately 50 yards outside CSXT's

right-of-way, on land already owned by Holcim. According to HolRail, its preferred route would have fewer environmental impacts than its alternative route.

CSXT has filed a motion to dismiss HolRail's petition for an exemption to construct the new line. Both HolRail and CSXT have filed motions to compel discovery in connection with HolRail's proposal.

CSXT asks the Board to dismiss the proceeding on the ground that HolRail's proposal is insufficiently developed to warrant Board consideration, is necessarily predicated on an impermissible use of the crossing provision of our statute, and would physically interfere with operation of the CSXT line. Due to the lack of a complete record at this point in this case, we recommend that the Board find that it would be premature to dismiss the case at this time. To develop the record, we recommend that the Board grant most aspects of the parties' motions to compel discovery, which would give each party access to information it needs to present its case.

The draft decision before you would carry out these recommendations. While the draft would not dismiss HolRail's proposal, it would also not give preliminary approval to the proposal, which the draft notes is not fully defined.

If you have any questions, we'll be happy to address them.