

**BEFORE THE
UNITED STATES SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Chief Counsel
November 18, 2025
Part of
Public Record

DOCKET NO. FD 36863

**SOUTH CENTRAL FLORIDA EXPRESS, INC. – TRackage RIGHTS RENEWAL
EXEMPTION – FLORIDA EAST COAST RAILWAY, LLC**

VERIFIED NOTICE OF EXEMPTION

Pursuant to 49 C.F.R. §1180.2, §1180.2(d)(7), and §1180.4(g), and Surface Transportation Board (“Board” or “STB”) precedent, South Central Florida Express, Inc. (“SCFE”) hereby files this Verified Notice of Exemption for after-the-fact exemption authority to renew, and to some extent revise, certain overhead and local trackage rights described below previously granted to SCFE by the Florida East Coast Railway Company (“FEC”), which is now Florida East Coast Railway, LLC (“FECR”).¹ *See* STB Finance Docket No. 33562, *South Central Florida Express, Inc.—Trackage Rights Exemption—Florida East Coast Railway Company* (served March 11, 1998).

49 C.F.R. §1180.6 Supporting Information (Pursuant to §1180.4(g)(1)(i))

§1180.6 (a)(1)(i) Description of the Proposed Transaction²

In 1998, FEC granted SCFE overhead trackage rights over the FEC’s line of railroad running between milepost K-0.0 near Ft. Pierce, FL and milepost K-15.0, and local trackage rights

¹ The original trackage rights agreement was between SCFE and Florida East Coast Railway Company. That entity was merged into FECR which was assigned the former’s obligations under the agreement. See Exhibit B at 1.

² This paragraph also supplies the information required by 49 C.F.R. 1180.4(g)(1)(ii).

running between milepost K-15-0 and milepost K-70.9 (the entire line from milepost K-0.0 and milepost K-70.9 is known as the “K-Branch”). This transaction was approved by the Board in STB Finance Docket No. 33562, *South Central Florida Express, Inc.—Trackage Rights Exemption—Florida East Coast Railway* (served March 11, 1998).

In 2016, as the end of the 20-year term of their initial 1998 agreement approached, FECR and SCFE entered into a First Amendment of the Trackage Rights Agreement, effective December 6, 2016 (“First Amendment”). The First Amendment extended the term of the trackage rights agreement and modified the rights granted to SCFE. In pertinent part: (1) SCFE was granted non-exclusive local trackage rights to operate its trains carrying certain carload products, operated by SCFE’s crews, over the entire K-Branch; (2) SCFE’s local trackage rights include the right to develop new customers between milepost K-15.0 and milepost 70.9; and (3) SCFE’s use of the K-Branch is in common with FECR and other users permitted by FECR, along with other conditions.

Due to inadvertent error when the First Amendment was executed, SCFE did not seek exemption authority for the renewal of the trackage rights in 2016 pursuant to 49 C.F.R. §1180.2(d)(7). The lapse did not come to light until relatively recently because upon execution of the First Amendment SCFE and FECR proceeded to operate under the amended trackage rights agreement without incident for the eight years following its effective date. The prior failure to seek Board approval of the First Amendment came to light in late 2024 when SCFE, FECR and potential new shipper customers entered into discussions concerning business opportunities on the K-Branch.

Filing this Notice seeking after-the-fact authority was further delayed into 2025 due to various events, including the personal medical issues of key individuals of both SCFE and FECR. SCFE now respectfully seeks after-the-fact authority to correct its prior inadvertent error, and to

also clarify the public record of SCFE's rights on the K-Branch to eliminate any confusion on the part of shippers and other third parties going forward.

Applicant's representative is:

Thomas W. Wilcox
Law Office of Thomas W. Wilcox, LLC
1629 K. Street NW, Suite 300
Washington, D.C. 20006
(202) 508-1065
tom@twilcoxlaw.com

§1180.6 (a)(1)(ii) Consummation Date

As stated, SCFE has been operating under the renewed and extended trackage rights agreement since its execution. It is not necessarily seeking retroactive authority back to the date of the First Amendment's effective date of December 6, 2016, however. SCFE does not object to the consummation date being the effective date of the exemption authority requested herein.

§1180.6 (a)(1)(iii) Purpose Sought to be Accomplished

The purpose of the transaction was to amend the trackage rights originally granted to SCFE, and this Notice is filed to correct the inadvertent failure of SCFE to obtain exemption authority for the extension and modification of the original trackage rights agreement approved in Finance Docket No. 33562, and to update and clarify the public record of the parties' contractual relationship.

§1180.6 (a)(5) List of States

The subject rail line is located in Florida.

§1180.6 (a)(6) Map

A map of the affected rail line (marked in yellow) is attached as Exhibit A.

§1180.6 (a)(7)(ii) Agreement

A redacted copy of the original Agreement was submitted with the Notice of Exemption filed in Finance Docket No. 33562. A copy of the First Amendment with certain commercially sensitive provisions redacted is attached as Exhibit B to this Notice.

LABOR PROTECTION

No employee of SCFE or FEC has been adversely affected by the First Amendment, and so none will be adversely affected by the transaction receiving after-the-fact authority.

ENVIRONMENTAL AND HISTORIC IMPACTS

The First Amendment enabled SCFE to continue the operations that SCFE conducted over the K-Branch prior to 2016. The K-Branch is not in a non-attainment area. Consequently, none of the thresholds set forth in 49 C.F.R. §1105.7(e)(4) or (5) were exceeded (increase of 8 trains per day, increase of rail yard activity by at least 100%, or average increase in truck traffic of more than 10% of average vehicle traffic or 50 vehicles a day). Operations since the effective date of the First Amendment have not exceeded those thresholds.

Similarly, the existing operations over the K-Branch are being extended, and so there are no plans to dispose of or alter properties subject to Board jurisdiction over 50 years old, to the extent they exist. Accordingly, this Notice of Exemption does not require a historic report under 49 C.F.R. §1105.8(b)(1).

Respectfully submitted,

/ss/ Thomas W. Wilcox
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(202) 508-1065
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Attorney for South Central Florida Express, Inc.

November 18, 2025

EXHIBIT A

K0.0-70.9 Entire K-Branch
K15.0-K70.9 K-Branch Maintenance Track
K49.0-K70.9 K-Branch Cane Branch

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- RR-CSX
- RR-FEC
- RR-SCFE
- RR-USSC

- RR-CSX
- RR-FEC
- RR-SCFE
- RR-USSC

Image Landsat / Copernicus
Data SIO, NOAA, U.S. Navy, NGA, GEBCO

EXHIBIT B

FIRST AMENDMENT OF THE
"TRACKAGE RIGHTS AGREEMENT"

THIS FIRST AMENDMENT OF THE "TRACKAGE RIGHTS AGREEMENT" ("First Amendment") effective this 6 day of December 2016, modifies/amends a certain "Trackage Rights Agreement" by and between FLORIDA EAST COAST RAILWAY COMPANY, a Florida corporation, and SOUTH CENTRAL FLORIDA EXPRESS, INC.; a Florida corporation ("SCFE") dated February 6, 1998 ("Agreement").

WHEREAS, effective October 2, 2000, FLORIDA EAST COAST RAILWAY COMPANY merged into FLORIDA EAST COAST RAILWAY, LLC, a Florida limited liability company ("FECR"), which merger included the assignment and assumption of all respective obligations under the Agreement.

WHEREAS, FECR and SCFE have mutually agreed to extend the term of the Agreement and modify/amend the Agreement as provided for herein.

NOW, THEREFORE, for and in consideration of the foregoing and in consideration of the mutual covenants and agreements hereafter set forth, and for other good and valuable consideration, the parties hereto agree as follows:

1. All capitalized terms used herein are defined in this First Amendment or defined in the Agreement. The following definitions are added after the WITNESSTH clause:

Cane Branch – The Cane Branch is defined as FECR owned track between milepost K-49.0 and milepost 70.9.

K- Branch – The K- Branch is defined as FECR owned track between Ft. Pierce Milepost K-0.0 to Lake Harbor Milepost K-70.9

Maintenance Track – is FECR owned track maintained by SCFE between milepost K-15.0 to milepost K-70.9.

2. Paragraph 1(a) of the Agreement is deleted in its entirety and replaced with the following:

(a) FECR hereby grants to SCFE and SCFE accepts, subject to the provisions and terms of this Agreement including but not limited to FECR's reservation of rights and use as set forth in this Agreement, the non-exclusive right to operate its trains carrying the carload products, operated by SCFE's own crews over the K-Branch.

3. Paragraph 1(b) of the Agreement is deleted in its entirety and replaced with the following:

(b) The use of the K-Branch shall also include use by SCFE of property and appurtenances that SCFE may at its option find necessary to construct and maintain for the safe and prompt passage of trains over the K-Branch during the term of this Agreement.

4. Paragraph 1(c) of the Agreement is deleted in its entirety and replaced with the following:

(c) SCFE's use of the K-Branch shall be in common with FECR and any other user FECR may permit to operate on the K-Branch.

5. Paragraph 1(d) of the Agreement is deleted in its entirety and replaced with the following:



6. Paragraph 1(e) of the Agreement is deleted in its entirety and replaced with the following:




7. Paragraph 1(f) of the Agreement is deleted in its entirety and replaced with the following:

(e) Subject to coordinating its operations over the K-Branch so as not to interfere with SCFE's operation over the Cane Branch, FECR retains the exclusive right to operate any and all passenger trains over the K-Branch. Any increase in costs or additional obligations associated with such passenger trains including, but not limited to, obligations to and costs of upgrading the Track and Structures, signals and communication assets and/or the installation of Positive Train Control necessitated or otherwise warranted by such use, if any, shall be at the sole responsibility, cost and expense of FECR.

8. Paragraph 1(g) of the Agreement is deleted in its entirety and replaced with the following:

(f) In the event FECR operates trains under the provisions of paragraphs (e) or (f); maintenance costs shall be prorated as set forth in paragraph 5.

9. Paragraph 1(h) of the Agreement is deleted in its entirety and replaced with the following:

(g) As of the Commencement Date of this Amendment, in the event FECR operates trains under the provisions of paragraphs (e) or (f) such operations shall be subject to dispatch control of SCFE on the Maintenance Track. SCFE will provide commercially expeditious dispatch and operating windows for FECR's trains taking into account SCFE's train traffic over the Cane Branch. However, after securing new customers, FECR may choose to take over the exclusive dispatch of the entire K-Branch with a 90 day written notice to SCFE after which the parties agree to a transition period not to exceed 180 days, whereupon:

i. Notwithstanding anything herein or in the Agreement to the contrary, SCFE cane trains on the Cane Branch will have priority between milepost K-49.0 and milepost K-70.9 during the term of this agreement, and FECR agrees to recognize the perishable nature of the commodity and the time to plant requirements as well as car cycles needed to support the harvest and efficient plant operation. In the event SCFE develops rail service to haul sugar cane between milepost K-15.0 to milepost K-49.0 and FECR

agrees to the Interchange connection, then, in such event, SCFE will have priority between milepost K-15.0 and milepost K-49.0.

- i. FECR will provide commercially expeditious dispatch and operating windows for SCFE.

10. Paragraph 1(i) of the Agreement is deleted in its entirety and replaced with the following:

(h) FECR retains the exclusive right to use the trackage right-of-way for fiber optics, wireless communications towers and like usage ("Telecommunications Use"); provided, however, that such Telecommunications Use shall not interfere with SCFE's use of the Maintenance Trackage for freight service and that any cost related to or caused by such Telecommunications Use including, but not limited to, construction, operation, and maintenance of such Telecommunications Use shall be born solely by FECR.

11. Paragraph 1(j) of the Agreement is deleted in its entirety and replaced with the following:

(i) FECR shall have the right to convey to third parties such new licensing agreements, easements, crossing easements and other interests over the K- Branch as it shall deem appropriate, provided the new licensing does not unreasonably interfere with SCFE's use of the tracks.

12. Paragraph 1(k) of the Agreement is deleted in its entirety and replaced with the following:



13. Paragraph 1(l) of the Agreement is deleted in its entirety and replaced with the following:

(l) In addition to those rights expressly retained by FECR as set forth above, FECR retains all rights not expressly granted to SCFE herein.

14. Paragraph 2 of the Agreement is deleted in its entirety and replaced with the following:

2. **OPERATING AUTHORITY.**

(a) The right of use hereby granted to SCFE is the non-exclusive right, subject to this Agreement, to run trains daily at its discretion on the K-Branch. Until FECR executes its right to take over the exclusive dispatch of the entire K-Branch as described in Paragraph (h), all trains will operate on the K-Branch in accordance with FECR operating rules and at the direction of the FECR dispatcher between milepost K-0.0 and milepost K-15.0 and all trains will operate on the K-Branch in accordance with SCFE operating rules and at the direction of the SCFE dispatcher on the Maintenance Track as is the current practice today. FECR's dispatcher will arrange for the movement of SCFE trains in an expeditious and nondiscriminatory manner. SCFE's dispatcher will arrange for the movement of FECR trains in an expeditious and nondiscriminatory manner.

(b) Each party shall comply with all applicable rules and regulations of the Federal Railroad Administration ("FRA") and Department of Transportation ("DOT"), including, but not limited to, FRA Title 49, Part 240. FECR shall provide reasonable assistance to assure that SCFE's employees are qualified to operate trains on the K-Branch according to FECR operational rules in those areas where FECR has operating authority. SCFE shall provide reasonable assistance to assure that FECR's employees are qualified to operate trains on the K-Branch according to SCFE operational rules on those areas where SCFE has operating authority.

15. Paragraph 3 of the Agreement is deleted in its entirety and replaced with the following:

3. FECR shall have entire charge and control of its train movements and SCFE shall have entire charge and control of its train movements subject to the obligations set forth in Paragraph 1 and Paragraph 2.

16. Paragraph 4(a) of the Agreement is deleted in its entirety and replaced with the following:

(a) SCFE will assume no responsibility to FECR for any taxes, of whatsoever nature assessed against the K-Branch, and all taxes shall be solely borne by FECR.

17. Paragraph 4(d) of the Agreement is deleted in its entirety and replaced with:

(b) The sole consideration for this Agreement shall be the mutual promises and obligations of the parties and the following amounts to be paid annually by SCFE during the month of January of each year:

<u>Calendar Years</u>	<u>Trackage Amounts (annually)</u>
2017 through and including 2020	
2021 through and including 2025	
2026 through and including 2030	
2031 through and including 2035	
2036 through and including 2040	
2041 through and including 2045	

18. Add a new Paragraph 4(e) as follows:

In the event SCFE serves notice of its intention to substantially reduce its use of the Cane Branch for the movement of sugar cane, the parties will renegotiate the annual Trackage Amounts provided in Paragraph 4(d) to reflect its anticipated reduced usage of the K-Branch.

19. Paragraph 12(a) of the Agreement is deleted in its entirety and replaced with the following:

(a) The 1998 TRA (a.k.a. "Agreement") is set to expire on January 1, 2025. The term of the Agreement is hereby extended through and including December 31, 2035; except that, the Agreement shall automatically extend for ten additional years at the expiration of each term unless either party has given written notice of termination no sooner than December 1, of the last year of the ten year term, whereupon this Agreement shall only extend for one additional ten year term and shall expire on the tenth anniversary of the next ensuing December 31st. By way of example, if either party hereto gives notice of termination to the other party on December 15, 2035 (again, notice of termination can be given no sooner than December 1, 2035), then the agreement shall expire on December 31, 2045 (to wit, the tenth anniversary of December 31, 2035). In other words, once either party has given proper written notice of termination, the Agreement shall only automatically extend for one additional ten year term after such notice. Accordingly, the Agreement will not expire prior to December 31, 2045.

20. Notwithstanding anything herein or in the Agreement to the contrary, SCFE's trains carrying sugarcane on the Cane Branch shall be given priority over all other traffic.

21. Paragraph 12(d) of the Agreement is deleted in its entirety and replaced with the following:



22. For "notice" purposes pursuant to Section 14 of the Agreement, any notice required or permitted to be given under the Agreement will be addressed as follows:

To SCFE: South Central Florida Express, Inc.
900 W.C. Owens Avenue
Clewiston, Florida 33440
Attn: President

With a copy to:
United States Sugar Corporation
111 Ponce de Leon Avenue
Clewiston, Florida 33440
Attn: Vice President Legal Affairs

To FEC: Florida East Coast Railway, LLC
7411 Fullerton Street, Suite 300
Jacksonville, Florida 32256
Attn: VP Carload

With a copy to:
Florida East Coast Railway, LLC
7411 Fullerton Street, Suite 300
Jacksonville, Florida 32256
Attn: General Counsel

23. In the event there is a conflict between the provisions of this First Amendment and the provisions of the Agreement, the provisions of this First Amendment shall in all respects govern and control.

24. This First Amendment shall be deemed to be a part of the Agreement and the terms hereof shall be incorporated therein. All other terms and conditions of the Agreement not expressly modified or amended herein remain as original in full force and effect.

IN WITNESS WHEREOF, the parties have caused this First Amendment to be executed as of the date first written above.

FLORIDA EAST COAST RAILWAY, LLC

Signed and delivered
in the presence of:

Latisha Thompson

Witness Signature

Latisha Thompson

Print Witness Name

Robert B. Ledoux

Witness Signature

Robert B. Ledoux

Print Witness Name

By:

James R. Herting

Print Name:

JAMES R. HERTING

Title:

CEO & PRESIDENT

SOUTH CENTRAL FLORIDA EXPRESS, INC.

Signed and delivered
in the presence of:

Witness Signature

Eneyda P. Os

Print Witness Name

Ann Marie Pulling

Witness Signature

ANN MARIE PULLING

Print Witness Name

By:

Knduff

Kenneth W. McDuffie,
President

VERIFICATION

I, Robert W. Lawson, Jr., Vice President of South Central Florida Express, state, under penalty of perjury, that the facts set forth in the foregoing Notice of Exemption are true and correct to the best of my knowledge.

Executed: November 14, 2025

A handwritten signature in blue ink, reading "Robert W. Lawson, Jr.", is written over a horizontal line.

Robert W. Lawson, Jr.