

28420

SERVICE DATE - OCTOBER 23, 1997

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33472]

Fun Trains, Inc.--Operation Exemption--Lines of CSX Transportation, Inc. and
the Florida Department of Transportation

Fun Trains, Inc. (Fun Trains), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150, Subpart D--Exempt Transactions to operate an excursion rail passenger service pursuant to trackage rights granted by CSX Transportation, Inc. (CSXT) and the Florida Department of Transportation (FDOT) over approximately 241 miles of their lines of railroad between MP 1034 at Hialeah, FL, and MP 793.5 at Poinciana, FL. The transaction was scheduled to be consummated on October 1, 1997.

On October 31, 1996, and January 6, 1997, Fun Trains and its corporate parent, First American Railways, Inc. (First American), entered into an agreement with CSXT entitled "Trackage Rights Agreement" and an agreement with FDOT entitled "Operating Agreement" (collectively, the Agreements). Pursuant to the Agreements, CSXT and FDOT will grant Fun Trains exclusive overhead trackage rights over their rail properties to operate a privately funded excursion passenger train to be known as the "Florida Fun Train." The Agreements are for a 5-year term with an option to renew for another 5-year term, subject to Amtrak's right to operate intercity rail passenger service, the rights of publicly funded government agencies (or their agents) to run passenger service, the rights of others to operate

high speed passenger service, and CSXT's right to run freight service over these lines.

Amtrak will supply locomotives and crews. First American and Fun Trains will jointly and severally assume the obligations established under the Agreements.

Fun Trains will provide a one-way and a round-trip entertainment service between Hollywood and the Poinciana, FL areas, offering deluxe coach accommodations, food and beverage service, and on-board entertainment. No service will be provided to intermediate points in competition with the service presently provided by Amtrak or Tri-County Commuter Rail Authority and no joint ticketing arrangements will be available.¹

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void ab initio. A petition to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33472, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on John D. Heffner, Rea, Cross & Auchincloss, Suite 420, 1920 "N" Street, N.W., Washington, DC 20036.

Decided: October 16, 1997

By the Board, David M. Konschnik, Director, Office of Proceedings.

¹ Concurrently, Fun Trains filed a Motion to Dismiss for Lack of Jurisdiction, asserting that the proposed service is outside the Board's jurisdiction as a wholly intrastate excursion rail passenger service. The entire Board will address the jurisdictional issue raised by the motion to dismiss in a subsequent decision.

STB Finance Docket No. 33472

Vernon A. Williams

Secretary