

38879

SERVICE DATE – APRIL 1, 2008

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-325 (Sub-No. 4X)]

Florida Midland Railroad Company, Inc.—Abandonment Exemption—in Sumter
County, FL

Florida Midland Railroad Company, Inc. (FMID),¹ has filed a verified notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 4.0-mile line of railroad between milepost ST-762.10 in Wildwood and milepost ST-766.10 (the end of the track) near Orange Home, known as the Wildwood Branch, in Sumter County, FL.² The line traverses United States Postal Service Zip Code 34785.

FMID has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line to be rerouted; (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 Transportation Board (Board) or with any U.S. District Court or has been

¹ FMID is a wholly owned subsidiary of Pinsly Railroad Company, a noncarrier holding company.

² In STB Docket No. AB-325 (Sub-No. 2X), Florida Midland Railroad Company—Abandonment Exemption—in Sumter and Lake Counties, FL, FMID had filed a petition for exemption for abandonment of a line of railroad that included the Wildwood Branch. In a decision served on February 23, 2001, the Board granted the exemption, but FMID chose not to consummate the abandonment, and the authorization expired.

decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on May 1, 2008, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,³ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),⁴ and trail use/rail banking requests under 49 CFR 1152.29 must be filed by April 11, 2008.⁵ Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be

³ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service 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.

⁴ Each OFA must be accompanied by the filing fee, which currently is set at \$1,300. See 49 CFR 1002.2(f)(25).

⁵ FMID notes in its verified notice of exemption that it is committed to consummating the abandonment as part of a settlement agreement with adjoining land owners.

filed by April 21, 2008,⁶ 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 FMID's representative: Michael J. Barron, Jr., Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606-2832.

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

FMID has filed a combined environmental and historic report addressing the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by April 4, 2008. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, 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 CFR 1152.29(e)(2), FMID 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 FMID's filing of a

⁶ FMID states that it does not own the realty underlying the Wildwood Branch and that it believes that the public use condition would be unavailable based on Board precedent, citing Florida Central Railroad Company, Inc.—Abandonment Exemption—in Seminole County, FL, Docket No. AB-319X (ICC served Dec. 20, 1989).

notice of consummation by April 1, 2009, 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: March 24, 2008.

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

Anne K. Quinlan

Acting Secretary