

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

STB Docket No. AB-914X

ORIGINAL



McCLOUD RAILWAY COMPANY
-ABANDONMENT AND DISCONTINUANCE OF SERVICE EXEMPTION-
IN SISKIYOU, SHASTA AND MODOC COUNTIES, CA

REBUTTAL OF SEASIDE HOLDINGS, INC.

ORIGINAL

Respectfully submitted,

ENTERED
Office of Proceedings
AUG 4 - 2006
Part of
Public Record

SEASIDE HOLDINGS, INC.

By its attorney,

Fritz R. Kahn
Fritz R. Kahn, P.C.
1920 N Street, NW (8th fl.)
Washington, D.C. 20036-1601

Date: August 4, 2006

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Pursuant to leave granted by the Board, offeror, Seaside Holdings, Inc., ("Seaside") replies to the Reply of McCloud Railway Company ("MCR"), filed July 31, 2006, to Seaside's Request To Set Terms and Conditions Pursuant to 49 U.S.C. 10904(c) and 49 C.F.R. 1152.27(g)(1), as follows:

1. On June 26, 2006, Seaside filed its OFA to acquire and operate MCR's lines authorized for abandonment, and two days later, on June 28, 2006, the Board served its Decision, finding Seaside to be a financially responsible person, stating that Seaside had explained the basis for the difference between its estimate of the net liquidation value of the MCR's railroad lines and the carrier's estimated value of the line and postponing the effective date of the exemption authorizing the abandonment. The Board's Decision specifically noted that appeals of the Board's Decision would need to be filed within ten days' time, pursuant to 49 C.F.R. 1011.2(a)(7). MCR, however, chose not to appeal the Board's Decision, although it then was in possession of the very same information which it now contends is sufficient to warrant the

rejection or dismissal of Seaside's OFA .

2. Seaside's OFA had attached to it the sworn statements of its owners, Mr. Dan Corcoran, one of Seaside's two Directors, its President and Treasurer, and Mr. John E. Higley, the other one of Seaside's two Directors, its Vice President and Secretary, in which they expressly committed their net worth "to the purchase and two-year operation by Seaside Holdings, Inc., of the properties formerly operated by the McCloud Railway Company." At page 3 of its Reply, MCR infers that Messrs. Corcoran and Higley are not to be believed, because neither they nor their representatives contacted Sierra Pacific Industries, the only major shipper on the MCR's lines. There was no need for Messrs. Corcoran and Higley to contact Sierra Pacific Industries, because MCR's Petition for Exemption, filed June 27, 2005, at pages 7-8, disclosed that Sierra Pacific operates a sawmill near Burney, California, from which it has shipped an average of 1,466 carloads of lumber and woodchips annually in the years 2002-2004. Attached is the Affidavit of Mr. Corcoran in which he states, "Seaside has every intention to continue railroad operations on the McCloud railway line for a minimum of two years, as required by the regulations of the Surface Transportation Board." Mr. Corcoran added, "It will continue to operate beyond the two-year mark if it is commercially reasonable to do so."

3. At page 3 of its Reply, MCR questions the bona fides of Messrs. Corcoran and Higley because they have not "ever been involved in owning or operating a rail line." Neither the enabling legislation, 49 U.S.C. 10904, nor the implementing regulations, 49 C.F.R. 1552.27, et seq., make prior ownership of a railroad and experience in operating a rail line a prerequisite for making an OFA to acquire and operate a railroad line slated for abandonment. Agency precedent merely provides that "an offer need not be detailed." It [the offer] must simply be sufficient to

show (1) that the offeror is financially responsible, and (2) that the offer is reasonable because it approximates that proposed purchase or subsidy amount or explains why those figures are too high and its figure should be considered.” See, Conrail Abandonments Under NERSA, 365 I.C.C. 472, 476 (1981); 49 CFR 1152.27(c)(1)(C)(ii) (the offer also must identify the line in question). And the Board made those findings when it concluded that Seaside was financially responsible. Indeed, the Board, as the Interstate Commerce Commission before it, has never inquired into the background of a purchaser of a railroad. Under MCR’s theory, Mr. Phillip F. Anschutz, could not have purchased the Denver & Rio Grande Western Railroad, because he previously had not owned a railroad or had any experience in operating a railroad line. Yet Mr. Anschutz has done very well for himself, currently being the largest single stockholder of the Union Pacific Corporation.

4. Lacking any other basis for challenging the *bona fides* of Seaside’s offer, MCR suggests the fact that Seaside’s principals have engaged A&K Railroad Materials (“A&K”) to appraise the track materials indicates that Seaside is a “stalking horse” for A&K. By that same reasoning, MCR’s engagement of Railroad Materials Salvage would make it a proxy for MCR. As the Board is well aware, A&K is a long established vendor in the railroad industry and has frequently provided appraisal services for class I, II, and III railroads in a variety of transactions.

5. In support of the fact that there is no corporate or ownership relationship between Seaside and A&K, no contract to salvage the subject rail line, and no plan to abandon this line at this time or to abandon it at any future date except in accordance with applicable law, Seaside submits the affidavits of its President Dan Corcoran and A&K’s Chairman Kern W. Schumacher.

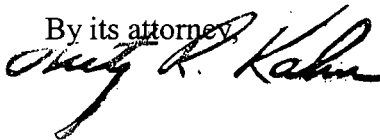
WHEREFORE, Seaside Holdings, Inc., requests that the Board issue a decision setting

terms and conditions for its purchase of the subject rail line.

Respectfully submitted,

SEASIDE HOLDINGS, INC.

By its attorney,



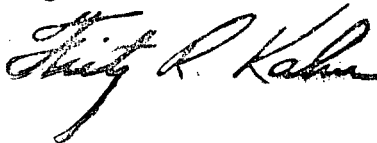
Fritz R. Kahn
Fritz R. Kahn, P.C.
1920 N Street, NW (8th fl.)
Washington, D.C. 20036-1601

Date: August 4, 2006

CERTIFICATE OF SERVICE

I certify that I this day have served a copy of the foregoing Reply upon McCloud River Railway Company by facsimile transmission and mailing by first class mail copies thereof to its attorney, Thomas F. McFarland, Esq.

Dated at Washington, D.C., this 4th day of August, 2006.



Fritz R. Kahn

McCloud Railway Company--)
Abandonment and) DOCKET NO.
Discontinuance of Service Exemption –) AB-914X
In Siskiyou, Shasta and Modoc Counties, CA)

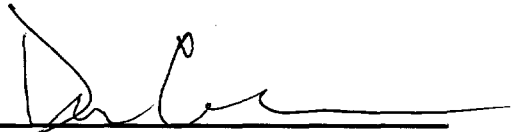
STATE OF Florida)
COUNTY OF Palm Beach) ss

1. I am over the age of eighteen (18) years, competent, and have personal knowledge of the facts to which I will testify.
2. I am currently the President of Seaside Holdings, Inc. ("Seaside").
3. I am a resident of the State of Florida and currently reside in Palm Beach Gardens, Florida.
4. Seaside has made an offer to purchase and operate the McCloud Railroad Lines in question ("Lines")
5. McCloud Railway Company ("MCR") has misrepresented Seaside's relationship with A&K Railroad Materials ("A&K") and Seaside's intent concerning the operation of the Lines.
6. A&K is not affiliated in anyway with Seaside. Neither corporation has an ownership interest in the other. There are no common officers, owners or employees between Seaside and A&K. There is no contract with A&K to salvage the Lines.
7. Seaside engaged A&K to provide an appraisal of the Lines. A&K is a recognized expert in the valuation of railroad track materials.
8. Seaside has every intention to continue railroad operations on the McCloud railway line for a minimum of two years, as required by the regulations of the

Surface Transportation Board. It will continue to operate beyond the two-year mark if it is commercially reasonable to do so. Specifically, Seaside will serve Sierra Pacific Industries, in accordance with Seaside's statutory obligation to provide shippers with adequate railroad service upon reasonable request.

9. If, in the future, Seaside should elect to no longer operate the line, it will first seek approval from the Surface Transportation Board to abandon the line.

SEASIDE HOLDINGS, INC.



Dan Corcoran
President

NOTARY PUBLIC

On this 2nd day of August in the year 2006, before me Melanie C Higley, a notary public, personally appeared Dan Corcoran, proved on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged he executed the same on behalf of Seaside Holdings, Inc.. Witness my hand and official seal.



Notary Public

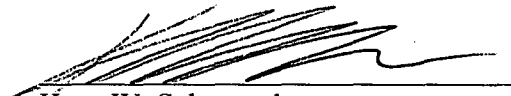
Melanie C. Higley
MY COMMISSION # DD192360 EXPIRES
March 11, 2007
BONDED THRU TROY FAIN INSURANCE, INC.

McCloud Railway Company--)
Abandonment and) DOCKET NO.
Discontinuance of Service Exemption –) AB-914X
In Siskiyou, Shasta and Modoc Counties, CA)

STATE OF NEVADA)
COUNTY OF Washoe)ss
)

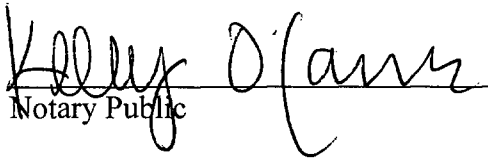
1. I am over the age of eighteen (18) years, competent, and have personal knowledge of the facts to which I will testify.
2. I am currently the Chairman of A&K Railroad Materials, Inc. ("A&K").
3. I am a resident of the State of Nevada and currently reside in Incline Village, Nevada.
4. A&K is one of the largest suppliers of new and used railroad track materials in the United States. A&K has provided appraisal services for the railroad industry for nearly 40 years.
5. Seaside engaged A&K to provide an appraisal of the McCloud Railroad lines, to be submitted with its Offer of Financial Assistance. A&K's appraisal was based on the current net liquidation values for the railroad track materials in question.
6. A&K has no affiliation or ownership interest in Seaside.

A&K Railroad Materials, Inc.


Kern W. Schumacher
Chairman

NOTARY PUBLIC

On this 1 day of August in the year 2006, before me Kelly O'Connor, a notary public, personally appeared Kern W. Schumacher, proved on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged he executed the same on behalf of A&K Railroad Materials, Inc. Witness my hand and official seal.


Notary Public

