



308847

ENTERED  
Office of Proceedings  
October 25, 2024  
Part of  
Public Record

Justin J. Marks  
T (202) 772-0916  
F +12027720919  
Email:jmarks@ClarkHill.com

Clark Hill  
1001 Pennsylvania Avenue N.W.  
Suite 1300 South  
Washington, DC 20004  
T (202) 772-0909  
F (202) 772-0919

October 25, 2024

**VIA E-FILING**  
**49 C.F.R. §1150.42(e) WAIVER REQUESTED**

Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street SW  
Washington, DC 20024

Re: STB Docket No. FD 36777  
First Coast Railroad Inc.  
- Lease and Operation Exemption -  
CSX Transportation, Inc.

Dear Ms. Brown:

Enclosed for e-filing on behalf of First Coast Railroad Inc. is a Notice of Exemption being filed in accordance with 49 CFR 1150.43. Included within this Notice of Exemption is a request for waiver of the notice requirements of 49 C.F.R. §1150.42(e).

The filing fee was paid using Pay.gov. Please let me know if there are any questions regarding this filing.

Sincerely,

Justin J. Marks  
Counsel for First Coast Railroad Inc.

Enclosure  
cc: Peter Denton, Counsel for CSX Transp., Inc.

FILED  
October 25, 2024  
SURFACE  
TRANSPORTATION BOARD

FEE RECEIVED  
October 25, 2024  
SURFACE [clarkhill.com](http://clarkhill.com)  
TRANSPORTATION BOARD

**Before the**  
**SURFACE TRANSPORTATION BOARD**

STB Docket No. FD 36777

**FIRST COAST RAILROAD INC.**  
**- LEASE AND OPERATION EXEMPTION-**  
**CSX TRANSPORTATION, INC.**

---

**VERIFIED NOTICE OF EXEMPTION**  
**UNDER 49 U.S.C. §10902**

---

*(includes color images)*

Eric M. Hocky  
Clark Hill PLC  
Two Commerce Square  
2001 Market St.  
Suite 2620  
Philadelphia, PA 19103  
(215) 640-8523  
[ehocky@clarkhill.com](mailto:ehocky@clarkhill.com)

Justin J. Marks  
Clark Hill PLC  
1001 Pennsylvania Ave. N.W.  
Suite 1300 South  
Washington, DC 20004  
(202) 772-0916  
[jmarks@clarkhill.com](mailto:jmarks@clarkhill.com)

*Attorneys for First Coast Railroad Inc.*

Dated: October 25, 2024

**Before the  
SURFACE TRANSPORTATION BOARD**

STB Docket No. FD 36777

**FIRST COAST RAILROAD INC.  
- LEASE AND OPERATION EXEMPTION-  
CSX TRANSPORTATION, INC.**

---

**VERIFIED NOTICE OF EXEMPTION  
UNDER 49 U.S.C. §10902**

First Coast Railroad Inc. (“FCRD”), a Class III railroad and wholly-owned subsidiary of Genesee & Wyoming Inc. (“GWI”),<sup>1</sup> files this Notice of Exemption under 49 USC § 10902 to exempt from regulation, FCRD’s entry into an amendment (“Lease Amendment”) with CSX Transportation, Inc. (“CSXT”) to extend the term of, and to make other minor changes to, a lease for a line of railroad extending from Yulee, FL at milepost S 611.95 to the end of track at Seals, GA, milepost S 593.4, on the Kingsland Subdivision; and from Yulee, FL, milepost SMA 35.1, to the end of track at Fernandina, FL, milepost SMA 48.38, on the Fernandina Subdivision, a distance of approximately 31.83 miles (the “Leased Line”), as shown on the map attached as Exhibit A. FCRD first received authority to enter into a lease with CSXT and to operate the Leased Line in 2005 (“Original Lease”). *First Coast Railroad, Inc. – Lease and Operation Exemption – CSX Transp., Inc.*, STB Finance Docket No. 34670 (served Apr. 25, 2005).

**Notice**

In accordance with 49 C.F.R. §1150.43, FCRD hereby provides the following information:

- (a) The full name and address of Applicant: First Coast Railroad Inc., 13901 Sutton

---

<sup>1</sup> *Genesee & Wyoming Inc. – Continuance in Control Exemption – First Coast Railroad, Inc.*, STB Finance Docket No. 34671 (served Apr. 25, 2005).

Park Drive South, Suite 270, Jacksonville, FL 32224.

(b) Applicant's Representatives:

Eric M. Hocky  
Clark Hill PLC  
Two Commerce Square  
2001 Market St.  
Suite 2620  
Philadelphia, PA 19103  
(215) 640-8523

Justin J. Marks  
Clark Hill PLC  
1001 Pennsylvania Ave. N.W.  
Suite 1300 South  
Washington, DC 20004  
(202) 772-0916

(c) FCRD and CSXT are entering into the Lease Amendment which would extend the term of the Original Lease for an additional five years through April 30, 2029.

(d) The current operator of the Leased Line is FCRD, and FCRD will continue to be the operator after the transaction.

(e) Brief Summary of the Proposed Transaction: In 2005, FCRD entered into an agreement for FCRD to lease from CSXT and operate the Leased Line. *First Coast Railroad, Inc. – Lease and Operation Exemption – CSX Transp., Inc.*, STB Finance Docket No. 34670 (served Apr. 25, 2005). FCRD and CSXT have now agreed to amend the agreement extending it through April 30, 2029. Board approval of this Lease Amendment is incorporated as a condition precedent for CSXT to close on its acquisition of the MNBR rail line that was approved by the Board in *CSX Transp., Inc. – Acquisition and Operation – Rail Line of Meridian & Bigbee Railroad, L.L.C.*, STB Finance Docket No. 36727, Decision No. 6 (served Oct. 17, 2024) (the “CSXT Transaction”).

- i. The name and address of the company leasing the Leased Line to FCRD is CSX Transportation, Inc. 500 Water Street, Jacksonville, FL 32202.
- ii. The Lease Amendment will be effective upon the later of the closing of the CSXT Transaction or the date that is thirty days after filing of this Notice of Exemption (or upon the grant of the requested labor notice waiver). FCRD is currently operating the Leased Line and will continue to do so after the Lease Amendment becomes effective.
- iii. The mileposts of the Leased Line are (1) between milepost S 611.95 at Yulee, FL to the end of track, milepost S 593.4 at Seals, GA on the Kingsland Subdivision and (2) between Yulee, FL, milepost SMA 35.1, to the end of track at Fernandina, FL, milepost SMA 48.38, on the Fernandina Subdivision.
- iv. The total route miles to be leased and operated is approximately 31.83 miles.
- (f) Attached as Exhibit A to this Notice of Exemption is a map of the Leased Line.
- (g) FCRD certifies that its projected revenues as a result of the transaction will not exceed those that would qualify it as a Class III carrier.
- (h) FCRD certifies that the lease which is being amended does not include an interchange commitment.
- (i) In addition to the information set forth above, FCRD certifies that its revenues currently exceed \$5,000,000. However, since FCRD will continue to be the operator of the Leased Line both before and after the transaction, FCRD is requesting a waiver of the labor notice requirements under 49 C.F.R. §1150.42(e). *See request for waiver set forth below.*

### **Labor Protection**

FCRD is a Class III carrier and, pursuant to 49 U.S.C. §10902(d), approval of this transaction may not be subjected to labor protection conditions. Additionally, since FCRD is already the operator of the Leased Line, there will be no employees adversely affected by the lease arrangements.

### **Environmental and Historic Reports**

This is an extension of a lease for continued rail operations that will not result in changes in carrier operations that will exceed the thresholds established in 49 C.F.R. §1105.7(e)(4) or (5). Further Board approval is required for FCRD to discontinue service or for CSXT to abandon the line. Accordingly, no environmental or historic documentation is required. *See* 49 C.F.R. §1105.6(c)(1); 49 C.F.R. §1105.8(b)(1).

### **Caption Summary**

Attached hereto as Exhibit B is the caption summary required by 49 C.F.R. §1150.44.

### **Request for Waiver of Notice Requirements of 49 C.F.R. §1150.42(e)**

As noted above, FCRD's total revenues exceed \$5,000,000. Under the Board's regulations at 49 C.F.R. §1150.42(e), FCRD would be required to give sixty days' notice to employees working on the Leased Line (and the national offices of their collective bargaining representatives). However, the Board has held: "The purpose of the notice requirements at 49 C.F.R. § 1150.42(e) is to ensure that rail labor unions and employees who would be affected by the transfer of a line are given sufficient notice of the transaction before consummation."

*Louisiana & Delta Railroad, Inc. – Lease Amendment and Operation Exemption – Union Pacific Railroad Company*, STB Finance Docket No. 36379, slip op. at 2 (served Mar. 4, 2020). *See also Acquisition of Leased Lines under 49 USC 10901 and 10902 – Advance Notice of Proposed Transactions ("Advanced Notice of Proposed Transactions")*, 2 STB 592 (1997). In adopting

the notice requirement, the Board specifically recognized that “exceptional situations may occur necessitating acquirer requests for waiver of the 60 day notice provision ...” *Advanced Notice of Proposed Transactions, supra* at 601.

In this instance, FCRD should not be required to comply with the requirements of Section 1150.42(e) because there will be no changes for any employees working on the Leased Line. FCRD already leases the rail facilities, and it has been the sole common carrier operator of the Leased Line since 2005. The Lease Amendment extends the term of the Original Lease and FCRD will continue to be the sole common carrier operator of the Leased Line. No employees of the transferring carrier, CSXT, have worked on the line since 2005, and there are no employees of CSXT who will be affected or have to make any career choices as a result of the sale. Posting notices on the Leased Line would not provide notice to any CSXT employees since none work on the Leased Line. Further, there will be no operational changes and no employees of FCRD will be affected. Thus, under the circumstances of this transaction, compliance with the notice requirements will not further the purposes of the rule and should be waived. Granting FCRD a waiver would be consistent with other circumstances in which the Board has granted waivers from the labor notice requirements when a common carrier has filed to extend a lease it was previously leasing and will remain as the common carrier operator on the line. *See North Carolina & Virginia Railroad Company, LLC, Chesapeake & Albemarle Railroad Division – Lease Amendment Exemption – Norfolk Southern Railway Company*, STB Docket No. FD 35564 (Sub-No. 1) (served December 23, 2011). *See also Louisiana Southern Railroad, LLC – Lease*

*Exemption containing Interchange Commitment – The Kansas City Southern Railway Company,*  
STB Docket No. FD 35983 (served February 18, 2016).

FCRD asks that the waiver of the labor notice requirements be granted expeditiously so that this Notice of Exemption can become effective upon the later of the closing of the CSXT Transaction or 30 days from the filing of this Notice of Exemption.

### **Conclusion**

Accordingly, FCRD requests that the Board issue a notice allowing the Lease Amendment to become effective upon the later of the closing of the CSXT Transaction or 30 days from the filing of this Notice of Exemption.

Respectfully submitted,



---

Eric M. Hocky  
Clark Hill PLC  
Two Commerce Square  
2001 Market St.  
Suite 2620  
Philadelphia, PA 19103  
(215) 640-8523  
[ehocky@clarkhill.com](mailto:ehocky@clarkhill.com)

Justin J. Marks  
Clark Hill PLC  
1001 Pennsylvania Ave. N.W.  
Suite 1300 South  
Washington, DC 20004  
(202) 772-0916  
[jmarks@clarkhill.com](mailto:jmarks@clarkhill.com)

*Attorneys for First Coast Railroad Inc.*

Dated: October 25, 2024



### VERIFICATION

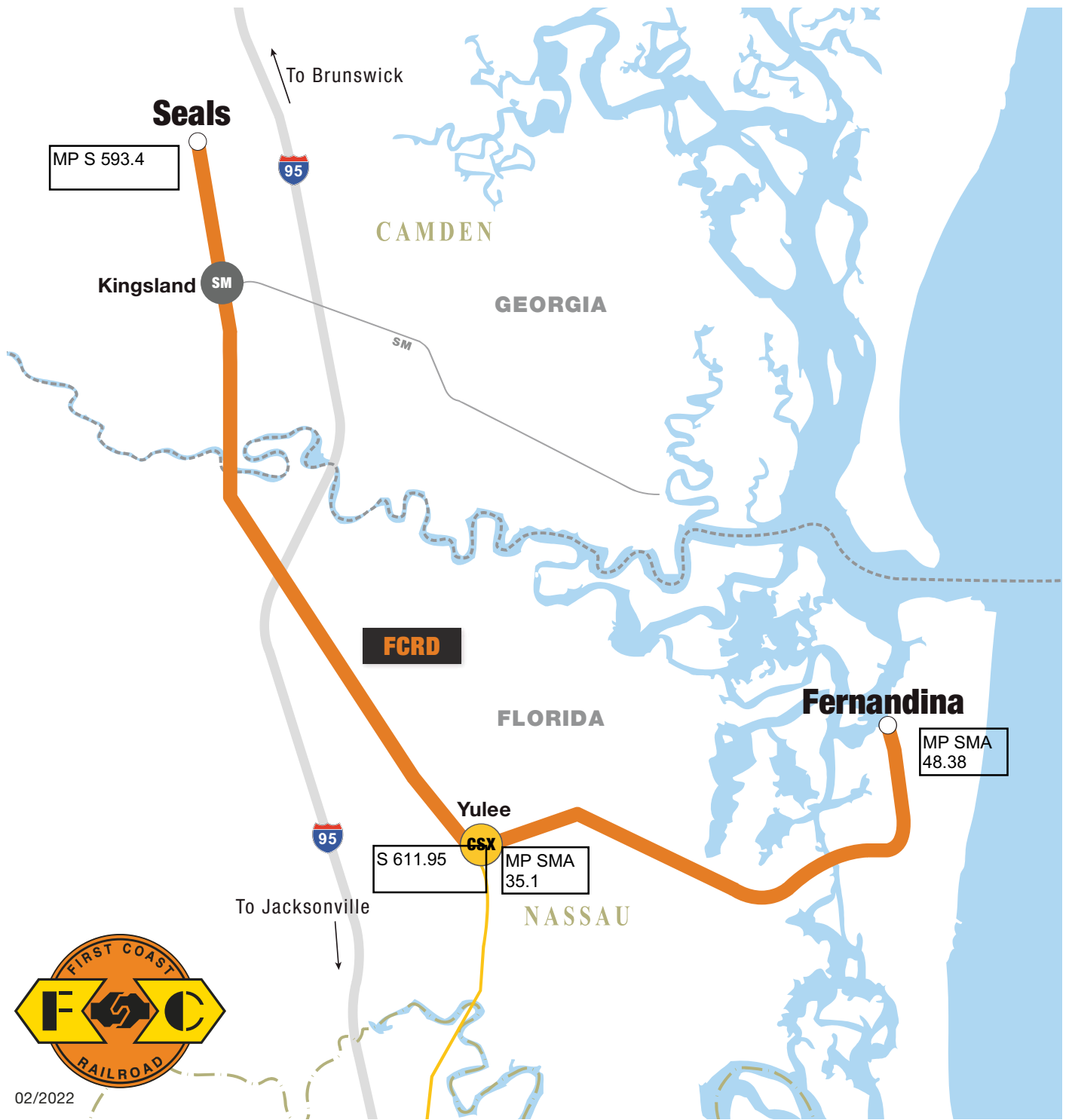
I, Gary Fillingame, President of *First Coast Railroad Inc.*, verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file the foregoing document.

Executed on October 25, 2024

  
\_\_\_\_\_  
Gary Fillingame

# **EXHIBIT A**

## **MAP**



**FCRD** First Coast Railroad Inc.

## **EXHIBIT B**

### **CAPTION SUMMARY**

**Before the  
SURFACE TRANSPORTATION BOARD  
STB Docket No. FD 36777**

**FIRST COAST RAILROAD INC.  
- LEASE AND OPERATION EXEMPTION-  
CSX TRANSPORTATION, INC.**

---

**VERIFIED NOTICE OF EXEMPTION  
UNDER 49 U.S.C. §10902**

First Coast Railroad Inc. (“FCRD”), a Class III railroad, files this Notice of Exemption under 49 USC § 10902 to exempt from regulation, FCRD’s entry into an amendment (“Lease Amendment”) with CSX Transportation, Inc. (“CSXT”) to extend the term of, and to make other minor changes to, a lease for a line of railroad extending from Yulee, FL at milepost S 611.95 to the end of track at Seals, GA, milepost S 593.4, on the Kingsland Subdivision; and from Yulee, FL, milepost SMA 35.1, to the end of track at Fernandina, FL, milepost SMA 48.38, on the Fernandina Subdivision, a distance of approximately 31.83 miles (the “Leased Line”).

Comments must be filed with the Board and served on FCRD’s representative, Eric M. Hocky, Esq., Clark Hill, PLC, Two Commerce Square, 2001 Market St., Suite 2620, Philadelphia, PA 19103; (215) 640-8523.

The Notice is filed under 49 C.F.R. §1150.41. If the Notice contains false or misleading information, the exemption is void *ab initio*. Petitions 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.

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

Decided: \_\_\_\_\_, 2024.

By the Board, Mai T. Dinh, Director, Office of Proceedings.