



FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36303]

City of Oakland, Cal.—Acquisition Exemption—Former Oakland Army Base, Alameda County, Cal.

The City of Oakland, Cal. (the City), has filed a verified notice of exemption under 49 C.F.R. 1150.31 for authority after-the-fact to acquire from the U.S. Army approximately 15,000 feet of track situated within City-owned areas of the former Oakland Army Base (OAB) in the City of Oakland, Alameda County, Cal. (the Line).<sup>1</sup> The City states that it is not aware that the Line has milepost numbers.

According to the City, it acquired the Line, through its predecessors-in-interest Oakland Base Reuse Authority and Oakland Redevelopment Agency, in a series of fee and easement transactions between 2003 and 2012. The City states that, at the time of the acquisition, it was not aware that the OAB contained trackage subject to the jurisdiction of the Board and did not seek Board authority to acquire the Line. The City states that it previously had entered into an agreement with Oakland Bulk & Oversized Terminal, LLC (OBOT) permitting OBOT to conduct “rail activities,” and that OBOT in turn

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<sup>1</sup> As explained more fully in previous decisions in this docket, the City filed its verified notice in response to the Board’s decision in Oakland Global Rail Enterprise—Petition for Declaratory Order, FD 36168 (STB served Mar. 15, 2019), and thereafter, the effective date of the exemption was postponed pending further order of the Board. Concurrent with the publication of this notice, the Board is serving a decision making the exemption effective on **November 11, 2019**. See Oakland Glob. Rail Enter.—Acquis. Exemption—Rail Line in Alameda Cty., Cal., FD 36301 et al. (STB served **October 28, 2019**).

“subleased rail activities to [Oakland Global Rail Enterprise, LLC].” According to the City, however, both agreements were terminated effective November 23, 2018. The City states that it will contract with a third-party operator for the Line “once there is demonstrated demand and funding for rail service.”<sup>2</sup>

The City certifies that its revenues from freight operations will not result in the creation of a Class I or Class II carrier. The City also states that no interchange agreements are involved in the subject transaction.

This exemption will become effective on November 11, 2019.

If the verified 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 effectiveness of the exemption. Petitions to stay must be filed no later than November 4, 2019 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36303, must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on the City’s representative, Charles A. Spitulnik, Kaplan Kirsch & Rockwell LLP, 1634 I (Eye) Street, N.W., Suite 300, Washington, DC 20006.

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<sup>2</sup> The City states that it never has had any intention of holding itself out as a common carrier by rail or providing rail service itself on the Line. In general, however, acquiring a rail line imposes a common carrier obligation to provide service upon reasonable request. See, e.g., Groome & Assoc., Inc. v. Greenville Cty. Econ. Dev. Corp., NOR 42087, slip op. at 10 (STB served July 27, 2005).

According to the City, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic reporting requirements under 49 CFR 1105.8(b).

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

Decided: October 23, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Raina Contee,

Clearance Clerk.

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