

explained that the systems are not identical and that this inaccuracy could lead to a public misperception that the Mexican market vehicles are equipped with advanced airbag system capabilities.

The agency notes that DCC did not challenge the similarity of the Mexican model to its U.S.-certified counterpart for the purpose of establishing the Mexican model's eligibility for importation into the United States. DCC observed that it chose to install advanced air bag systems in 2004 Jeep Liberty multipurpose passenger vehicles that it certified for sale in the United States.

The Transportation Equity Act for the 21st Century (TEA 21), enacted by Congress on June 9, 1998 as Public Law 105-178, directed NHTSA to issue a new rule "to improve occupant protection for occupants of different sizes, belted and unbelted, under Federal Motor Vehicle Safety Standard No. 208, while minimizing the risk to infants, children, and other occupants from injuries and deaths caused by air bags, by means that include advanced air bags."

NHTSA issued the new rule (referred to as "the advanced air bag rule") on December 18, 2001 (66 FR 65376). Under the new rule, sled testing is no longer an option to demonstrate compliance with the standard's requirements. In addition, offset, oblique, and full frontal barrier crash tests (using both rigid and deformable barriers) are stipulated for assessing the protection of both belted and unbelted occupants. Other tests are included to prove compliance with airbag low risk deployment and suppression requirements. The test speeds and injury criteria for barrier tests have been revised, and the use of an entire family of test dummies is now included. High volume vehicle manufacturers are subject to certain phase-in requirements and may also voluntarily certify vehicles to the advanced airbag requirements prior to the time when such requirements become mandatory.

Small volume manufacturers (which NHTSA considers Registered Importers to be for FMVSS phase-in purposes), need only meet the new rules for all passenger vehicles manufactured on or after September 1, 2006.

Since the vehicles at issue were manufactured prior to the date when the advanced air bag requirements will go into effect for all passenger vehicles, the agency concluded that the issue raised by DCC was not germane to the issue of whether those vehicles are eligible for importation. Accordingly, the agency decided to grant the petition.

### Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP-457 is the vehicle eligibility number assigned to vehicles admissible under this notice of final decision.

### Final Decision

Accordingly, on the basis of the foregoing, NHTSA has decided that 2004 Jeep Liberty multipurpose passenger vehicles manufactured for the Mexican market that were not originally manufactured to comply with all applicable FMVSS are substantially similar to 2004 Jeep Liberty multipurpose passenger vehicles originally manufactured for sale in the United States and certified under 49 U.S.C. 30115, and are capable of being readily altered to conform to all applicable FMVSS.

**Authority:** 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. E6-2433 Filed 2-21-06; 8:45 am]

**BILLING CODE 4910-59-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34421]

#### HolRail LLC—Construction and Operation Exemption—In Orangeburg and Dorchester Counties, SC

**AGENCY:** Surface Transportation Board, Transportation.

**ACTION:** Notice of Availability of Final Scope of Study for the Environmental Impact Statement.

**SUMMARY:** On November 13, 2003, HolRail LLC (HolRail) filed a petition with the Surface Transportation Board (the Board or STB) pursuant to 49 U.S.C. 10502 for authority to construct and operate a rail line in Orangeburg and Dorchester counties, South Carolina (SC). The proposed project would involve the construction and operation of approximately two miles of new rail line from the existing cement production factory owned by HolRail's parent company, Holcim (US) Inc. (Holcim), located near Holly Hill in Orangeburg County, to the terminus of an existing rail line of the Norfolk Southern Railway Company (NSR),

located to the south near Giant in Dorchester County.

Based on consultations conducted to date, the Board's Section of Environmental Analysis (SEA) determined that the preparation of an Environmental Impact Statement (EIS) is appropriate. To help determine the scope of the EIS, and as required by the Board's regulations at 49 CFR 1105.10(a)(2), SEA published in the **Federal Register** on July 29, 2005, the Notice of Intent to Prepare an EIS; Notice of Initiation of the Scoping Process; Notice of Availability of Draft Scope of Study for the EIS and Request for Comments. The scoping comment period originally concluded on August 31, 2005, but due to an inadvertent omission in the scoping notice mailed to Federal, state and local agencies, SEA accepted comments from any interested agency through October 28, 2005. After review and consideration of all comments received, this notice sets forth the Final Scope of Study for the EIS. The Final Scope of Study reflects changes to the Draft Scope of Study as a result of the comments, and summarizes and addresses the principal environmental concerns raised by the comments.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Navecky, Section of Environmental Analysis, Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001, or 202-565-1593, or [naveckyd@stb.dot.gov](mailto:naveckyd@stb.dot.gov). Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

#### SUPPLEMENTARY INFORMATION:

**Background:** By petition filed on November 13, 2003, HolRail seeks an exemption from the Board under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 for authority to construct and operate a rail line in Orangeburg and Dorchester counties, SC, approximately 40 miles northwest of Charleston and 60 miles southeast of Columbia.

The new rail line would establish alternative rail service at the Holly Hill facility which is presently served only by CSX Transportation, Inc. (CSX). Holcim recently completed an expansion of the Holly Hill plant and has determined that alternative rail access is necessary to achieve the full benefits of the expanded production capacity. HolRail would arrange for a third-party operator to provide rail service, and would employ a contractor to provide maintenance service for the line, or engage the third-party operator to perform this service.

Pursuant to the Board's responsibilities under the National Environmental Policy Act (NEPA), SEA has begun the environmental review of HolRail's proposal by consulting with appropriate Federal, state, and local agencies, as well as HolRail, and conducting technical surveys and analyses. SEA has also consulted with the South Carolina State Historic Preservation Office (SHPO) in accordance with the regulations implementing section 106 of the National Historic Preservation Act (NHPA) at 36 CFR part 800 and identified appropriate consulting parties to the section 106 process.

Based on the nature and content of the public and agency comments received, SEA determined that the effects of the proposed project on the quality of the natural environment may be significant, and thus, preparation of an EIS is appropriate. For the environmental review process, SEA intends to analyze the potential environmental impacts of the proposed route, the no-action or no-build alternative (i.e., continuing use of the CSX line), and one alternative route that SEA has preliminarily determined as a reasonable and feasible build alternative.

*Environmental Review Process:* The NEPA process is intended to assist the Board and the public in identifying and assessing the potential environmental consequences of a proposed action before a decision on the proposed action is made. SEA is responsible for ensuring that the Board complies with NEPA and related environmental statutes. The first stage of the EIS process is scoping. Scoping is an open process for determining the scope of environmental issues to be addressed in the EIS. For this scoping process, SEA developed a Draft Scope of Study for the EIS and issued the document for public review and written comment. In response to the Draft Scope of Study, SEA received written comments from four agencies and one interested party. After review and consideration of all comments received, this notice sets forth the Final Scope of Study for the EIS. The Final Scope of Study reflects changes to the Draft Scope of Study as a result of the comments.

With the issuance of this Final Scope of Study, SEA will now prepare a Draft EIS (DEIS) for the project. The DEIS will address those environmental issues and concerns identified during the scoping process. It will also contain SEA's preliminary recommendations for environmental mitigation measures. Upon its completion, the DEIS will be made available for public and agency

review and comment for at least 45 days. SEA will then prepare a Final EIS (FEIS) that addresses the comments on the DEIS from the public and agencies. Then, in reaching its decision in this case, the Board will take into account the DEIS, the FEIS, and all environmental comments that are received.

#### **Summary of and Response to Scoping Comments**

Written comments on the Draft Scope of Study were received from the U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), SC Department of Transportation (SCDOT), SC Office of Ocean and Coastal Resource Management (OCRM) and CSX Transportation, Inc. (CSX).

The USFWS, NMFS and SCDOT offered no specific comments on the Draft Scope of Study. In its comment letter, OCRM certified that the proposed project would be consistent with the SC Coastal Zone Management Program provided that (1) no freshwater wetlands are disturbed or altered and that (2) all necessary erosion and sediment control practices are maintained until the entire site is stabilized. If the proposed action would include disturbing two acres or more of land, or if less than two acres but within one-half mile of a receiving water body, a stormwater permit application must be submitted and approved by OCRM prior to any land disturbing activity. If land disturbing activities will be two acres or less and not within one-half mile of a receiving water body then a "Disturbing Less Than Two Acres Form" must be submitted to OCRM. Because the Draft Scope of Study already addressed wetland and surface water impacts and related permitting requirements, changes to the Scope of Study in response to OCRM's comments were not needed.

CSX's comments addressed the level of detail to be provided in the description of the alternatives and the nature of environmental impacts to be provided in the EIS. CSX also expressed conclusions on environmental impacts to be expected. Regarding the description of the alternatives, CSX listed the project design specifications and types of construction and operation activities it believes should be provided in the EIS. SEA will incorporate those details that SEA deems relevant and applicable to this EIS. SEA has clarified in the Final Scope of Study that the reasonable and feasible alternatives to be addressed in the EIS are construction and operation over Alignments A and B,

and the no-action or no-build alternative.

In comments on environmental impacts, CSX addressed impact categories in general, and provided specific comments on the nature and types of impacts that should be addressed in the EIS in the areas of transportation and traffic safety; public health and worker health and safety; water resources; biological resources; geology and soils; and noise and vibration. SEA will address those impacts as appropriate based on the alternative descriptions and affected environment discussions yet to be prepared.

#### **Final Scope of Study for the EIS**

##### *Proposed Action and Alternatives*

The proposed project would provide alternative rail access to the Holcim facility, which is currently served only by CSX. The existing CSX line begins at the terminus of an NSR rail line at Giant, SC, passes to the immediate west of the Holcim facility, and continues to Creston, SC. The proposed action would involve the construction and operation of an approximately 2-mile rail line that would also begin at the terminus of the NSR line at Giant, SC, and end at the Holcim facility.

HolRail proposes two potential alignments, both of which are on the east side of and parallel to the existing CSX line across Four Hole swamp, a world class heritage swamp according to comments submitted by the U.S. Army Corps of Engineers, SC Department of Natural Resources, and National Audubon Society during preliminary consultations. Alignment A would involve constructing the new rail line largely within the existing ROW of the CSX rail line. Alignment B would be constructed approximately 50 yards east of the CSX ROW, on property almost entirely owned by Holcim. Either alignment would connect with NSR to the south on land owned by a neighboring cement facility, over which HolRail intends to obtain access by easement or other arrangement.

HolRail intends to construct and own the track, which would be a part of the common carrier rail network. HolRail would arrange for a third-party operator to provide rail service. HolRail would also employ a contractor to provide maintenance service for the line, or engage the third-party operator to perform this service.

##### *Environmental Impact Analysis*

The reasonable and feasible alternatives that will be evaluated in the EIS are (1) a new rail line utilizing

Alignment A, (2) a new rail line using Alignment B, and (3) the no-action or no-build alternative. Any other alternatives that were considered but not carried forward in the EIS and the reasons they were discarded will also be briefly described in the EIS.

#### *Proposed New Construction*

The EIS will document the activities associated with the construction and operation of the proposed new rail line.

#### *Impact Categories*

Impact areas addressed in the EIS will include the effects of the proposed construction and operation of the new rail line on transportation and traffic safety, public health and worker health and safety, water resources, biological resources, air quality, geology and soils, land use, environmental justice, noise, vibration, recreation and visual resources, cultural resources, and socioeconomics. The EIS will include a discussion of each of these categories as they currently exist in the project area and will address the potential impacts from the proposed project on each category, as described below:

#### 1. Transportation and Traffic Safety

The EIS will:

- a. Describe the potential impacts of the proposed new rail line construction and operation on the existing transportation network in the project area.
- b. Describe the potential for train derailments or accidents from proposed rail operations.
- c. Describe potential pipeline safety issues at rail/pipeline crossings, as appropriate.
- d. Propose mitigative measures to minimize or eliminate potential project impacts to transportation and traffic safety, as appropriate.

#### 2. Public Health and Worker Health and Safety

The EIS will:

- a. Describe potential public health impacts from the proposed new rail line construction and operation.
- b. Describe potential impacts to worker health and safety from the proposed new rail line construction and operation.
- c. Propose mitigative measures to minimize or eliminate potential project impacts to public health and worker health and safety, as appropriate.

#### 3. Water Resources

The EIS will:

- a. Describe the existing groundwater resources within the project area, such as aquifers and springs, and the

potential impacts on these resources resulting from construction and operation of the proposed new rail line.

b. Describe the existing surface water resources within the project area, including watersheds, streams, rivers, and creeks, and the potential impacts on these resources resulting from construction and operation of the proposed new rail line.

c. Describe existing wetland systems in the project area, including Four Hole Swamp, and the potential impacts on these resources resulting from construction and operation of the proposed new rail line.

d. Describe the permitting requirements that are appropriate for the proposed new rail line construction and operation regarding wetlands, stream crossings (including floodplains), water quality, and erosion control.

e. Propose mitigative measures to minimize or eliminate potential project impacts to water resources, as appropriate.

#### 4. Biological Resources

The EIS will:

- a. Describe the existing biological resources within the project area, including vegetative communities, wildlife and fisheries, and Federal and state threatened or endangered species and the potential impacts to these resources resulting from the proposed new rail line construction and operation.
- b. Propose mitigative measures to minimize or eliminate potential project impacts to biological resources, as appropriate.

#### 5. Air Quality Impacts

The EIS will:

- a. Describe the potential air quality impacts resulting from the proposed new rail line construction and operation.
- b. Propose mitigative measures to minimize or eliminate potential project impacts to air quality, as appropriate.

#### 6. Geology and Soils

The EIS will:

- a. Describe the native soils and geology of the proposed project area.
- b. Describe the potential impacts to soils and geologic features from the proposed new rail line construction and operation.
- c. Propose mitigative measures to minimize or eliminate potential project impacts on soils and geologic features, as appropriate.

#### 7. Land Use

The EIS will:

- a. Describe existing land use patterns within the project area and identify

those land uses that would be potentially impacted by the proposed new rail line construction and operation.

b. Describe the potential impacts associated with the proposed new rail line construction and operation to land uses identified within the project area.

c. Propose mitigative measures to minimize or eliminate potential project impacts to land use, as appropriate.

#### 8. Environmental Justice

The EIS will:

- a. Describe the demographics of the communities potentially impacted by the construction and operation of the proposed new rail line.
- b. Evaluate whether new rail line construction or operation would have a disproportionately high adverse impact on any minority or low-income group.
- c. Propose mitigative measures to minimize or eliminate potential project impacts on environmental justice communities of concern, as appropriate.

#### 9. Noise

The EIS will:

- a. Describe the existing noise environment of the project area and potential noise impacts from the proposed new rail line construction and operation.
- b. Propose mitigative measures to minimize or eliminate potential project impacts to noise receptors, as appropriate.

#### 10. Vibration

The EIS will:

- a. Describe the potential vibration impacts from the proposed new rail line construction and operation.
- b. Propose mitigative measures to minimize or eliminate potential project impacts from vibration, as appropriate.

#### 11. Recreation and Visual Resources

The EIS will:

- a. Describe existing recreation and visual resources in the proposed project area and potential impacts to recreation and visual resources from construction and operation of the proposed new rail line.
- b. Propose mitigative measures to minimize or eliminate potential project impacts to recreation and visual resources, as appropriate.

#### 12. Cultural Resources

The EIS will:

- a. Describe the cultural resources in the area of the proposed project and potential impacts to cultural resources from the proposed new rail line construction and operation.
- b. Describe the NHPA section 106 process for the proposed project, and

propose mitigative measures to minimize or eliminate potential project impacts to cultural resources, as appropriate.

### 13. Socioeconomics

The EIS will:

- a. Describe the demographic characteristics of the project area.
- b. Describe the potential environmental impacts to employment and the local economy as a result of the proposed new rail line construction and operation.
- c. Propose mitigative measures to minimize or eliminate potential project adverse impacts to socioeconomic resources, as appropriate.

### 14. Cumulative and Indirect Impacts

The EIS will:

- a. Address any identified potential cumulative impacts of the proposed new rail line construction and operation, as appropriate. Cumulative impacts are the impacts on the environment which result from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-federal) or person undertakes such actions.
- b. Address any identified potential in direct impacts of the proposed new rail line construction and operation, as appropriate. Indirect impacts are impacts that are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable.

Decided: February 16, 2006.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. E6-2456 Filed 2-21-06; 8:45 am]

**BILLING CODE 4915-00-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. MC-F-21014]

### KBUS Holdings, LLC, & CUSA, LLC-Acquisition of Control-America Charters, Ltd. et al.

**AGENCY:** Surface Transportation Board.

**ACTION:** Notice Tentatively Approving Finance Transaction.

**SUMMARY:** KBUS Holdings, LLC (KBUS), and CUSA, LLC (CUSA) (collectively, Applicants), have filed an application under 49 U.S.C. 14303 to acquire control of American Coach Lines, Inc. (ACL), by acquiring all of the

outstanding stock of ACL from ACL Acquisition LLC, William Bergstrom, George Del Pino, Mark Konttinen, John Garrett, Bruce Bechard, Robert Finne, Ron Dillon, Sr., and Vesa Nikunen (collectively, Sellers). ACL currently controls the following federally regulated motor carriers of passengers: America Charters, Ltd.; American Coach Lines of Atlanta, Inc.; American Coach Lines of Jacksonville, Inc.; American Coach Lines of Miami, Inc.; American Coach Lines of Orlando, Inc.; Dillon's Bus Service, Inc.; Florida Cruise Connection, Inc., d/b/a Cruise Connection; Midnight Sun Tours, Inc.; Southern Coach Company; and Southern Tours, Inc. Persons wishing to oppose this application must follow the rules at 49 CFR 1182.5 and 1182.8. The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

**DATES:** Comments must be filed by April 10, 2006. Applicants may file a reply by April 24, 2006. If no comments are filed by April 10, 2006, this notice is effective on that date.

**ADDRESSES:** Send an original and 10 copies of any comments referring to STB Docket No. MC-F-21014 to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, send one copy of comments to the Applicants' representative: Stephen Flott, Flott & Co. PC, P.O. Box 17655, Arlington, VA 22216-7655.

**FOR FURTHER INFORMATION CONTACT:** Eric S. Davis, (202) 565-1608 [Federal Information Relay Service (FIRS) for the hearing impaired: 1-800-877-8339].

**SUPPLEMENTARY INFORMATION:** CUSA is a noncarrier which owns 23 federally regulated and several non-federally regulated motor carriers. CUSA is, in turn, wholly owned by noncarrier KBUS Holdings, LLC, which acquired the assets and business operations of the federally regulated motor carriers owned by Coach USA, Inc., then consolidated those assets/operations into the motor passenger carriers now controlled by CUSA.<sup>1</sup> The CUSA group of companies generated more than \$215 million in gross revenue for the calendar year ending December 31, 2004.

The Sellers own 100% of the shares of ACL, a noncarrier, which in turn owns 100% of the shares of the federally regulated motor carriers listed above. The ACL-controlled carriers have facilities in the six coastal states from Maryland to Florida, operate a fleet of

<sup>1</sup> See *KBUS Holdings, LLC—Acquisition of Assets and Business Operations—All West Coachlines, Inc., et al.*, STB Docket No. MC-F-21000 (STB served July 23, 2003).

more than 430 motor coaches and 110 minibuses, and had, as of December 31, 2005, approximately 1,200 employees.

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction found to be consistent with the public interest, taking into consideration at least: (1) The effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

KBUS and CUSA have submitted information, as required by 49 CFR 1182.2, including the information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b). Applicants state that the proposed transaction will have no impact on the adequacy of transportation services available to the public, that the proposed transaction will not have an adverse effect on total fixed charges, and that the interests of employees of the carriers controlled by ACL will not be adversely impacted. Additional information, including a copy of the application, may be obtained from the Applicants' representative.

On the basis of the application, we find that the proposed acquisition of control is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated, and unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. See 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this notice will take effect automatically and will be the final Board action.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

*It is ordered:*

1. The proposed finance transaction is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this notice will be deemed as having been vacated.

3. This notice will be effective April 10, 2006, unless timely opposing comments are filed.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 400 7th Street, SW., Room 8214, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street &