

lessors and lessees are lawful because, under the terms of its relationships with both lessors and lessees, the Exchange has the right to adopt by-laws, rules, or regulations that affect those lessors and lessees. Pennsylvania law holds that a contracting party may lawfully exercise its own contractual rights against another party to the contract, even if doing so interferes with the terms of a separate agreement of the other party. Here, the potential suspension or termination of a lease agreement in accordance with the rules of the Exchange is permissible under the terms of the Exchange's separate agreements with each of the parties to the lease agreement.

Both lessors and lessees (as members) agree respectively as a condition of approval of the right to lease seats and as a condition of approval for membership that the Exchange may effectuate changes to their lease agreements, including termination. As a condition of the right to lease their seats, lessors agree "to abide by the [Exchange's] By-Laws as they have or shall be from time to time amended, and by all rules and regulations adopted pursuant to the By-Laws." See By-Law Art. XII, § 12-9(b). Lessees (as members) likewise make the same commitment. See *id.* at 12-9(a). By agreeing to abide by future by-laws, rules, and regulations, lessors and lessees necessarily grant permission to the Exchange to adopt rules pursuant to which their lease agreements may be suspended or terminated. Indeed, the Exchange has already repeatedly exercised its right to adopt rules and by-laws directly impacting lessors and lessees in a variety of rules, including Rule 930, which closely regulates the terms and conditions of lease agreements.¹¹ Accordingly, Article Nineteenth, which would provide in express form the authorization for the adoption of rules suspending or terminating lease agreements, would simply authorize that which is countenanced by the terms of the Exchange's existing relationship with lessors and lessees, and is thereby permissible as a matter of Pennsylvania contract law.

Thus, the Exchange believes that proposed Article Nineteenth was properly adopted by the Exchange Board under Delaware law and is permissible as a matter of Pennsylvania contract law.

III. Discussion

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of section 6 of the Act¹² and the rules and regulations thereunder applicable to a national securities exchange.¹³ In particular, the Commission finds the proposed rule change is consistent with section 6(b)(5) of the Act,¹⁴ in that it promotes just and equitable principles of trade and protects investors and the public interest.

The Phlx represented that it needs Article Nineteenth in order to give the Board the express authorization to adopt specific rules relating to the leasing of memberships, including suspending or terminating lease agreements. The Commission finds that the proposed rule change promotes just and equitable principles of trade and protects investors and the public interest because it enables the Board to determine whether, and under what terms and conditions, memberships can be leased. Furthermore, the Phlx acknowledges that any such rules or resolutions, which are adopted by the Board under Article Nineteenth, shall be filed with the Commission to the extent required pursuant to section 19(b) of the Act.¹⁵

The Commission is not required under section 19(b)(2) of the Act to find that a proposed rule change by a self-regulatory organization is lawful under state law. In approving this proposal, the Commission is relying on the Phlx's representation that it has the general power under applicable provisions of Delaware corporate law to adopt Article Nineteenth without the approval of members, or by owners, lessors, or lessees of memberships. Furthermore, the Commission is also relying on the Phlx's representation that, under the applicable powers of Pennsylvania contract law, the Phlx has the right to adopt by-laws, rules, or regulation that affect those lessors and lessees contractual relationships. The Commission has not independently evaluated the accuracy of Phlx's

representations about Delaware or Pennsylvania law.

Thus, the Commission finds that the proposed rule change is consistent with the Act.

IV. Conclusion

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,¹⁶ that the proposed rule change (SR-Phlx-99-50), and Amendment No. 1 thereto, are approved.

By the Commission, for the Division of Market Regulation, pursuant to delegated authority.¹⁷

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-4754 Filed 2-26-01; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Klickitat and Skamania Counties, Washington and Hood River County, Oregon

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed new Columbia River crossing project in Klickitat County or Skamania County, Washington and Hood River County, Oregon. Northern and southern termini for the new crossing would be located in or near the cities of White Salmon and Bingen, Washington, and Hood River, Oregon.

FOR FURTHER INFORMATION CONTACT: Michael Kulbacki, Transportation and Environmental Engineer, Federal Highway Administration, 711 S. Capitol Way, Suite 501, Olympia, WA 98501, Telephone: 360-753-9556; or Dale Robins, Project Manager, Southwest Washington Regional Transportation Council, 1351 Officers Row, Vancouver, WA 98661, Telephone: 360-397-6067. Additional information can also be obtained at the project web site: <http://www.rtc.wa.gov/studies/sr35>.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Washington State Department of Transportation, the Southwest Washington Regional Transportation Council, and the Oregon Department of Transportation, will prepare an EIS on

¹¹ Other examples include By-Law Art. I, § 1-1 (defining lessor and lessee); By-Law Art. XII, § 12-1 (a member conducts business on the Exchange); By-Law Art. XII, § 12-8 (authorizing lessor application fee, lessor initiation fee, and fees upon transfer of equitable title); By-Law Art. XIV, §§ 14-1, 14-2, 14-5 (the Exchange can impose charges on members, including penalties for non-payment of fees); By-Law Art. XV, § 15-1 (the Exchange approves lessees); Rule 931 (the Exchange approves lessors); Rule 960.1 *et seq.* (the Exchange may discipline members).

¹² 15 U.S.C. 78f.

¹³ In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ 15 U.S.C. 78s(b).

¹⁶ 15 U.S.C. 78s(b)(2).

¹⁷ 17 CFR 200.30-3(a)(12).

a proposal to establish a new or improved transportation crossing of the Columbia River. This crossing will involve either existing facility improvements or new connections between SR 14 in Washington to SR 35 and/or I-84 in Oregon. The Washington State Department of Transportation has designated this proposed crossing as State Route 35 (SR-35).

A new or improved Columbia River crossing is necessary to effectively accommodate current and future traffic demands, address multi-modal accessibility, enhance movement of freight and other goods, improve public safety, and improve current and future traffic operations.

Alternatives under consideration include (1) no action; (2) multi-modal options; (3) improvements to traffic and toll operations, (4) improvements to the existing bridge; and (5) constructing a new bridge or tunnel at or near the existing location. Potential crossing corridors being evaluated along the Columbia River include: West Hood River I-84 interchange, Second Street in Hood River (using the City Center exit on I-84), the existing bridge crossing, and east of Hood River near Stanley Rock. Design variations being evaluated include adjustments to grade, alignment, and crossing type.

A series of preliminary meetings have already been conducted between various public groups, the project Steering Committee, a Local Advisory Committee, and a Resource and Regulatory agency Committee since this project has been introduced. The ideas presented at these meetings will be incorporated into the environmental process as will all the necessary impacts and alternatives required by the National Environmental Protection Act (NEPA) and Council on Environmental Quality (CEQ) regulations.

Letters soliciting comments will be sent to appropriate Federal, State, and Local agencies, including private organizations and citizens who have previously expressed or are known to have interest in this proposal.

A public scoping meeting will be held on March 8, 2001, from 5 to 8 p.m. at Fidel's at the Gorge (restaurant), located on SR 14 at 120 East Steuben in Bingen, Washington. On March 8, 2001, a resource and regulatory agency scoping meeting will be held in Troutdale, Oregon, at the Oregon Department of Transportation Maintenance Facility from 1:30 to 3:00 p.m. Notification of the public scoping meeting will be published in the local newspaper and through mailed announcements.

In addition, a public meeting will be held prior to completion of the draft

EIS. Public notice will be given of the time and place of all proposed meetings during Draft and Final EIS development. The draft EIS will be made available to the public and all agencies for review and comment prior to all public meetings.

Interested parties are encouraged to provide suggestions and comments in order to ensure that the full range of issues related to this proposed action are addressed and all potential impacts identified. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA, Washington Division or Southwest Washington Regional Transportation Council at the addresses or telephone numbers provided in the Contact Information Section.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: February 14, 2001.

Michael Kulbacki,

Transportation and Environmental Engineer, Olympia, Washington.

[FR Doc. 01-4706 Filed 2-26-01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Mendocino County, California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Mendocino County, near the town of Hopland, California.

FOR FURTHER INFORMATION CONTACT: C. Glenn Clinton, Team Leader, Program Delivery Team—North, Federal Highway Administration, 980 Ninth Street, Suite 400, Sacramento, California 95814-2724, Telephone: 916-498-5020.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation (Caltrans), will prepare an environmental impact statement (EIS) on a proposed project to construct a four lane freeway or expressway bypass of the community of Hopland, on Route 101 in Southern Mendocino County. The project limits extend from kp 14.2 to 22.5 (pm 8.8 to 14.0). The project is

needed to reduce operational conflicts, accommodate existing and future traffic demand, reduce travel time, increase safety, improve air quality, reduce noise in Hopland and provide the facility concept identified in the "Inter-regional Transportation Strategic Plan".

Three alignments are being proposed at this time as well as a "No Build" alternative. All of the alignments potentially affect oak woodlands, riparian forest and pre-historic cultural resources. A Public Open House has been held to solicit opinions from the community and a Project Development Team has been formed to determine the scope of the project. There will be a public scoping meeting to discuss the proposed project and another opportunity for public comment on the draft environmental document during the circulation phase of the draft environmental impact statement (DEIS).

To ensure that the full range of issues related to this proposed action is addressed and all significant issues identified, comments and suggestions are invited from all interested parties. The views of agencies that may have interest in the effect of the proposal on historic properties are specifically solicited. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on February 15, 2001.

C. Glenn Clinton,

Team Leader, Program Delivery Team—North, Sacramento, California.

[FR Doc. 01-4705 Filed 2-26-01; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD-2001-8952]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel CHARISMA.

SUMMARY: As authorized by Public Law 105-383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is