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ENTERED
Office of Proceedings
December 15, 2014
Part of
Public Record

William A. Mullins

(202) 663-7823 (Direct Dial)
E-Mail: wmullins@bakerandmilller.com

December 15, 2014

BY HAND DELIVERY

Cynthia T. Brown, Chief
Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington DC 20423-0001

Re: Norfolk Southern Railway Company – Discontinuance of Service Exemption – In Henry County, VA, STB Docket No. AB-290 (Sub-No. 363X)

Dear Ms. Brown:

Enclosed please find an original and eleven copies of a Notice of Exemption by Norfolk Southern Railway Company to discontinue rail service over an approximately 1.40-mile rail line extending from milepost DW 45.8 (near Highway 220B) to milepost DW 47.2 (near Woodvale Ct) in Henry County, VA. Please acknowledge receipt and filing of this notice of exemption by date-stamping the enclosed eleventh copy and returning it to the courier to return to me. This submission also includes an electronic copy of the entire filing and a separate electronic file of a draft Federal Register notice.

Finally, pursuant to 49 C.F.R. § 1002.2(f)(21)(ii), I have enclosed a filing fee check in the amount of \$3,800.00. If there are any questions about this matter, please contact me directly, either by telephone: 202-663-7823 or by e-mail: wmullins@bakerandmilller.com.

FEE RECEIVED
December 15, 2014
SURFACE
TRANSPORTATION BOARD

Sincerely,



William A. Mullins
Counsel for Norfolk Southern Railway Company

Enclosures

cc: Marc Kirchner
Maquiling Parkerson
LaWada Poarch

FILED
December 15, 2014
SURFACE
TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB DOCKET NO. AB-290 (Sub-No. 363X)

**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN HENRY COUNTY, VA**

NOTICE OF EXEMPTION

**Maquiling B. Parkerson
General Attorney
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510
Telephone: (757) 533-4939
Facsimile: (757) 533-4872**

**William A. Mullins
Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., NW
Suite 300
Washington, DC 20037
Tel: (202) 663-7820
Fax: (202) 663-7849**

**Attorneys for Norfolk Southern Railway
Company**

December 15, 2014

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB DOCKET NO. AB-290 (Sub-No. 363X)

**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN HENRY COUNTY, VA**

NOTICE OF EXEMPTION

INTRODUCTION

Norfolk Southern Railway Company (“NSR”) hereby submits a notice of exemption pursuant to 49 C.F.R. part 1152, subpart F (Exempt Abandonments and Discontinuances of Service and Trackage Rights), to discontinue service over an approximately 1.40-mile rail line in Henry County, Virginia (the “Line”), extending from milepost DW 45.8 (near Highway 220B) to milepost DW 47.2 (near Woodvale Ct). In accordance with the Board’s regulations at 49 C.F.R. §§ 1152.50(b) and (d), NSR provides the following information in support of its notice:

Certification: 49 C.F.R. § 1152.50(b)

The Line satisfies the criteria for a discontinuance of service exemption, under the provisions located at 49 C.F.R. part 1152, subpart F. See Certification of G.R. Comstock, General Manager Eastern Region for Norfolk Southern Railway Company, attached hereto and made part hereof as Exhibit A.

Proposed Consummation Date: 49 C.F.R. § 1152.50 (d)(2)

The subject discontinuance will be consummated on or after February 3, 2015 (50 days after filing the notice of exemption).

Additional Information Required: 49 C.F.R. §§ 1152.22(a)(1)-(4), (7)-(8) and (e)(4)

Exact name of applicant (49 C.F.R. § 1152.22(a)(1)):

Norfolk Southern Railway Company

Whether applicant is a common carrier by railroad (49 C.F.R. § 1152.22(a)(2)):

NSR is a Class I common carrier by railroad subject to the Board's jurisdiction under 49 U.S.C. Subtitle IV.

Relief sought (49 C.F.R. § 1152.22(a)(3)):

NSR has invoked the Board's two-year-out-of-service class exemption procedures to discontinue service over an approximately 1.40-mile rail line in Henry County, VA, extending from milepost DW 45.8 (near Highway 220B) to milepost DW 47.2 (near Woodvale Ct).

Map (49 C.F.R. § 1152.22(a)(4)):

A detailed map showing the location of the Line is attached hereto as Exhibit B.

Applicant's representatives (49 C.F.R. § 1152.22(a)(7)):

NSR's representatives to whom correspondence regarding this discontinuance should be sent is as follows:

William A. Mullins
Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., NW
Suite 300
Washington, DC 20037
Tel: (202) 663-7820
Fax: (202) 663-7849

USPS ZIP codes (49 C.F.R. § 1152.22(a)(8)):

The Line lies within the following U.S. Postal Service ZIP Code territory: 24112.

Rural and Community Impact (49 C.F.R. § 1152.22(e)(4)):

The Line has been dormant for over two years due to a railway bridge maintenance issue, so NSR anticipates no rural or community impact from the discontinuance of its common carrier obligation. Because the Line has not been used for local rail shipments for over twenty-four (24) months, there will be no effect on regional or local transportation systems and patterns, and no diversion of traffic to other transportation systems or modes would result from NSR's action.

The informational requirement of section 1152.22(e)(4) (alternative public uses of rail property) appears to be pertinent only in cases where the railroad proposes to *abandon* rail property.¹ In this proceeding, NSR is filing a notice of exemption to *discontinue service* over the Line, not abandon it, and for this reason NSR has no opinion on whether or not the subject rail property might be appropriate for use for other public purposes. Although the following is of questionable relevance here (because the proposed action does not entail abandonment of a rail line), based on the information in its possession, NSR is unaware of any condition that would affect the transfer of title to or the use of the railroad right-of-way for other than rail purposes.

¹ See, e.g., Columbus and Greenville Railway Company – Discontinuance of Service Exemption – in Greenwood, MS, STB Docket No. AB-297 (Sub-No. 103X), slip op. at 2 n.2 (STB served July 3, 2007) (“CAGY-Greenwood”) (“Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate”); Norfolk Southern Railway Company—Discontinuance Exemption—in Mahoning County, OH, STB Docket No. AB-290 (Sub-No. 292X), slip op. at 2 n.2 (“NS-Mahoning”) (STB served March 15, 2007) (same); Chillicothe-Brunswick Rail Maintenance Authority—Discontinuance Exemption—in Livingston, Linn, and Chariton Counties, MO, STB Docket No. AB-1001X, slip op at 2 n.3 (“CBRA-Livingston”) (STB served Feb 23, 2007) (same).

Labor Protection

The interests of affected railroad employees, if any, will be protected by the conditions discussed in Oregon Short Line Railroad —Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

Certifications

Attached hereto as Exhibit C are the Certificates of Service and Publication pursuant to the notice requirements of 49 C.F.R. §§ 1105.12 and 1152.50(d)(1). For reasons set forth in the “Environmental and Historic Report” section below, the certification of service requirement at 49 C.F.R. § 1105.11 (transmittal of Environmental and Historic Reports) is not applicable here.

Environmental and Historic Report

The Board does not normally require a carrier seeking to discontinue service over a particular rail line to prepare and submit for review a combined environmental and historic report.² Here, the discontinuance is exempt from environmental reporting requirements under 49 C.F.R. § 1105.6(c) and from historic reporting requirements under 49 C.F.R. § 1105.8(b) because NSR seeks only to discontinue service. NSR does not anticipate engaging in any salvage activities, including the removal of any potentially historic structures (such as bridges) as a result of obtaining discontinuance authority. Further Board approval is required for NSR to

² See, e.g., Everett Railroad Company – Discontinuance of Service Exemption – In Blair County, PA, STB Docket No. AB-271X slip op. at 2 n.2 (STB served Nov. 16, 2007) (“Because this is a discontinuance proceeding and not an abandonment, . . . no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively”); Columbus and Greenville Railway Company – Discontinuance of Service Exemption – in Greenwood, MS, STB Docket No. AB-297 (Sub-No. 103X), slip op. at 2 n.2 (STB served July 3, 2007) (same); Norfolk Southern Railway Company—Discontinuance Exemption—in Mahoning County, OH, STB Docket No. AB-290 (Sub-No. 292X), slip op. at 2 n.2 (STB served March 15, 2007) (same); Chillicothe-Brunswick Rail Maintenance Authority—Discontinuance Exemption—in Livingston, Linn, and Chariton Counties, MO, STB Docket No. AB-1001X, slip op at 2 n.3 (STB served Feb 23, 2007) (same).

abandon service on the Line. Accordingly, no environmental or historic report was prepared, and the STB will not prepare an environmental assessment.

Respectfully submitted,

Maquiling B. Parkerson
General Attorney
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510
Telephone: (757) 533-4939
Facsimile: (757) 533-4872



William A. Mullins
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Fax: (202) 663-7849

Attorneys for Norfolk Southern Railway
Company

December 15, 2014

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB DOCKET NO. AB-290 (Sub-No. 363X)

**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN HENRY COUNTY, VA**

NOTICE OF EXEMPTION

EXHIBIT A

**CERTIFICATION PURSUANT TO
49 C.F.R. § 1152.50(b)**

CERTIFICATION

STATE OF GEORGIA:

ss:

CITY OF ATLANTA:

G. R. Comstock makes oath and says that he is General Manager Eastern Region for Norfolk Southern Railway Company; that the rail line between Milepost DW 45.8 and Milepost DW 47.2, over which service is to be discontinued, is subject to his supervision and direction; that no local traffic has moved over the line for at least two years, that no overhead traffic has moved over the line for at least two years and that overhead traffic, if there were any, could be rerouted over other lines; and that no formal complaint filed by a user of rail service on the line or a state or local government entity acting on behalf of such user regarding cessation of service over the line either is pending before the Surface Transportation Board or any U. S. District Court or has been decided in favor of the complainant within the two-year period.



G. R. Comstock

Subscribed and sworn to before me
this 2nd day of October, 2014.



Notary Public

My commission expires: **SANDRA Y. GAMBRELL**
NOTARY PUBLIC
COBB COUNTY, GEORGIA
4/20/15 MY COMMISSION EXPIRES APRIL 20, 2015

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB DOCKET NO. AB-290 (Sub-No. 363X)

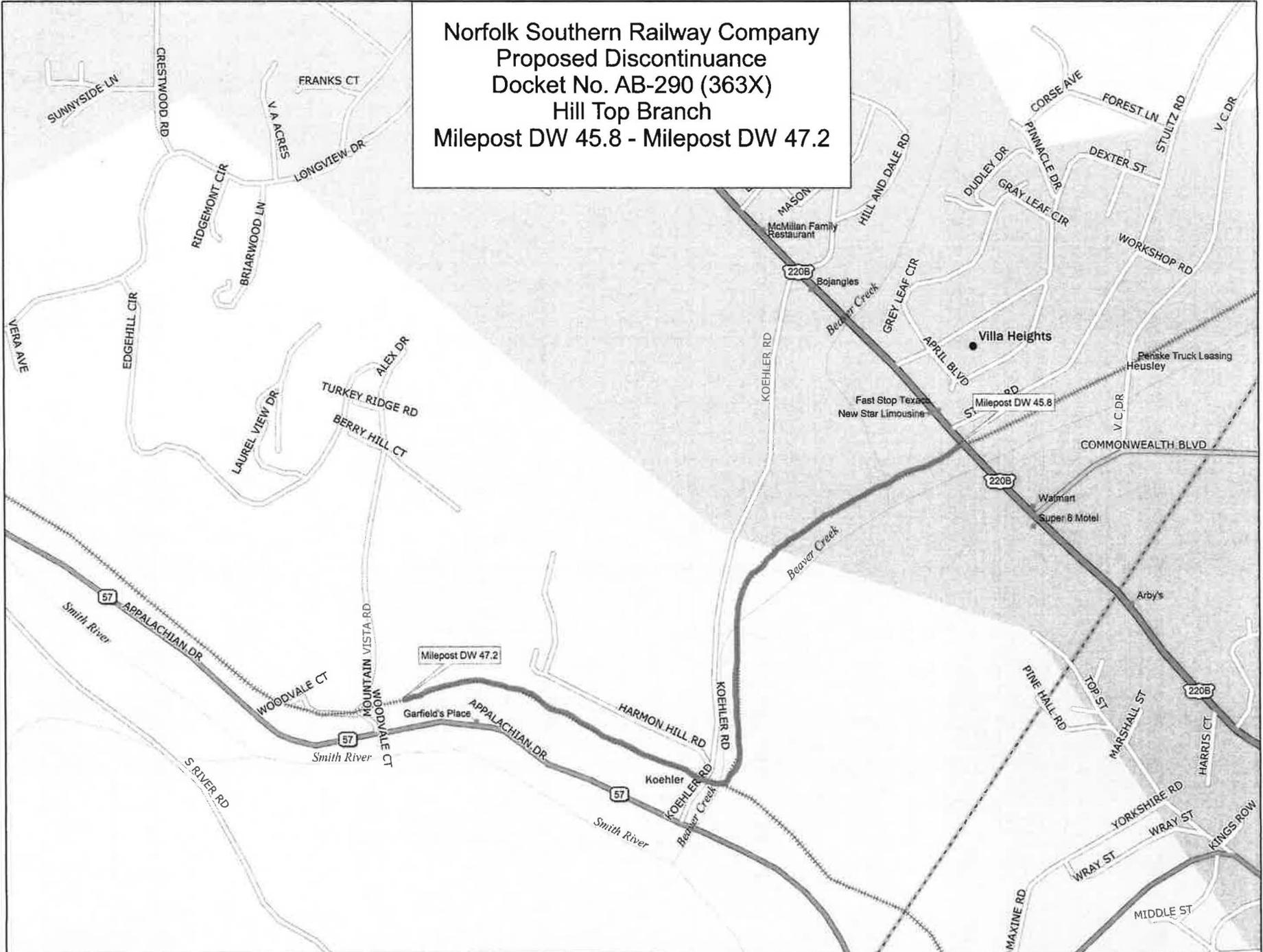
**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN HENRY COUNTY, VA**

NOTICE OF EXEMPTION

EXHIBIT B

MAP

Norfolk Southern Railway Company
 Proposed Discontinuance
 Docket No. AB-290 (363X)
 Hill Top Branch
 Milepost DW 45.8 - Milepost DW 47.2

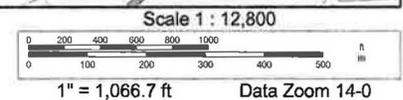


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**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB DOCKET NO. AB-290 (Sub-No. 363X)

**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN HENRY COUNTY, VA**

NOTICE OF EXEMPTION

EXHIBIT C

**CERTIFICATIONS OF
SERVICE/PUBLICATION**

Certificate of Service

49 C.F.R. § 1152.50(d)(1) – Notice

I certify that, on November 24, 2014, in keeping with 49 C.F.R. § 1152.50(d)(1), I caused the following parties to be served with written notice of the intent of Norfolk Southern Railway Company to invoke the Board’s notice of exemption procedures to discontinue approximately 1.40-miles of rail line in Henry County, VA

State Corporation Commission
Office of General Counsel
P.O. Box 1197
Richmond, VA 23218

Virginia Department of Transportation
1401 E. Broad St.
Richmond, VA 23219

Dave Dorfman
SDDC TEA
Attn: MTT-SA
709 Ward Drive
Scott Air force Base, IL 62225

Charlie Stockman
Rivers, Trails and Conservation Assistance
Program
National Park Service
RTCA Program
1201 Eye St., NW, 9th Floor (Org Code 2240)
Washington, DC 20005
Contact # 202-354-6907

Thomas Tidwell, Chief
U.S. Forest Service
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, D.C. 20250-0003

December 15, 2014



William A. Mullins
Attorney for Norfolk Southern Railway Company

Certificate of Publication

49 C.F.R. § 1105.12 – Newspaper Notice

I certify that a “Notice of Intent to Discontinue Rail Service” for Norfolk Southern Railway Company was published in the form prescribed by the Surface Transportation Board for a notice of exemption to discontinue rail service. The notice was published one time on December 1, 2014 in the Martinsville Bulletin, a newspaper of general circulation in Henry County, VA, where the Line is located. A copy of the Affidavit of Publication is attached.

December 15, 2014



William A. Mullins
Attorney for Norfolk Southern Railway Company

Affidavit of Publication

STATE OF VIRGINIA }
COUNTY OF HENRY } SS

NOTICE OF
INTENT TO
DISCONTINUE RAIL SERVICE
STB DOCKET NO. AB-290 (Sub-No. 363X)

Margie Cannaday, being duly sworn, says:

That she is Class Manager of the MARTINSVILLE BULLETIN, a daily newspaper of general circulation, printed and published in Martinsville, Henry County, Virginia; that the publication, a copy of which is attached hereto, was published in the said newspaper on the following dates:
December 01, 2014

That said newspaper was regularly issued and circulated on those dates.
SIGNED:


Class Manager

Subscribed to and sworn to me this 1st day of December 2014.


Jennifer Lynn Prillaman, Notary, Henry County,

My commission expires: October 31, 2018

Norfolk Southern Railway Company ("NSR") gives notice that on or about December 5, 2014, it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption under 49 C.F.R. Part 1152 Subpart F — Exempt Abandonments and Discontinuances of Service and Trackage Rights permitting NSR to discontinue service over an approximately 1.40-mile rail line (referred to herein as the "Line") extending from milepost DW 45.8 near Highway 220B to milepost DW 47.2 near Woodvale Ct. The entire line is located in Henry County, VA. The Line traverses through United States Postal Service Zip Code territory 24112. The proceeding will be docketed as STB Docket No. AB-290 (Sub-No. 363X). The proposed action entails the discontinuance of rail service over the Line for which further Board approval would be required for NSR to abandon service on the line. Accordingly, this proceeding is exempt from environmental reporting requirements under 49 C.F.R. § 1105.6(c) and from historic reporting requirements under 49 C.F.R. § 1105.8(b), and the STB will not prepare an environmental assessment. Appropriate offers of financial assistance to continue rail service under a subsidy can be filed with the Board. Because the proposed action is for the discontinuance of service over, but not the abandonment of the Line, requests for public use conditions and rail banking/trails will not be accepted. An original and 10 copies of any pleading in response to the proposed discontinuance of service (such as offers of financial assistance) must be filed directly with the Board's Section of Administration, Office of Proceedings, 395 E Street, S.W., Washington, DC 20423 [See 49 C.F.R. §§ 1104.1(a) and 1104.3(a)], and one copy must be served on NSR's representative [See 49 CFR § 1104.12(a)]. Questions regarding offers of financial assistance or other such matters may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at 202-245-0230. Copies of any comments or requests for specific Board action should be served on NSR's representative: William A. Mullins, BAKER & MILLER PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037; phone: 202-663-7820; fax 202-663-7849.

JENNIFER LYNN PRILLAMAN
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #7611770
My Commission Expires Oct. 31, 2018

00010100 00016281

KENNETH JACOBS
BAKER & MILLER PLLC
2401 PENNSYLVANIA AVE NW
SUITE 300
WASHINGTON, DC 20037

1105.6(c) and from historic reporting requirements under 49C.F.R. § 1105.8(b), and the STB will not prepare an environmental assessment. Appropriate offers of financial assistance to continue rail service under a subsidy can be filed with the Board. Because the proposed action is for the discontinuance of service over, but not the abandonment of the Line, requests for public use conditions and rail banking/trails will not be accepted. An original and 10 copies of any pleading in response to the proposed discontinuance of service (such as offers of financial assistance) must be filed directly with the Board's Section of Administration, Office of Proceedings, 395 E Street, S.W., Washington, DC 20423 [See 49 C.F.R. §§ 1104.1(a) and 1104.3(a)], and one copy must be served on NSR's representative [See 49 CFR § 1104.12(a)]. Questions regarding offers of financial assistance or other such matters may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at 202-245-0230. Copies of any comments or requests for specific Board action should be served on NSR's representative: William A. Mullins, BAKER & MILLER PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037; phone: 202-663-7820; fax 202-663-7849.

NOTICE OF INTENT TO DISCONTINUE RAIL SERVICE
STB DOCKET NO. AB-290 (Sub-No. 363X)
Norfolk Southern Railway Company ("NSR") gives notice that on or about December 5, 2014, it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption under 49 C.F.R. Part 1152 Subpart F — Exempt Abandonments and Discontinuances of Service and Trackage Rights permitting NSR to discontinue service over an approximately 1.40-mile rail line (referred to herein as the "Line") extending from milepost DW 45.8 near Highway 220B to milepost DW 47.2 near Woodvale Ct. The entire line is located in Henry County, VA. The Line traverses through United States Postal Service Zip Code territory 24112. The proceeding will be docketed as STB Docket No. AB-290 (Sub-No. 363X). The proposed action entails the discontinuance of rail service over the Line for which further Board approval would be required for NSR to abandon service on the line. Accordingly, this proceeding is exempt from environmental reporting requirements under 49 C.F.R. §

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB DOCKET NO. AB-290 (Sub-No. 363X)

**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN HENRY COUNTY, VA**

NOTICE OF EXEMPTION

**DRAFT FEDERAL REGISTER
NOTICE OF EXEMPTION**

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB-290 (Sub-No. 363X)]

Norfolk Southern Railway Company—Discontinuance of Service Exemption—in Henry County,
VA

Norfolk Southern Railway Company (“NSR”) filed on December 15, 2014, a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments and Discontinuances of Service and Trackage Rights to discontinue service over an approximately 1.40-mile rail line extending from milepost DW 45.8 (near Highway 220B) to milepost DW 47.2 (near Woodvale Ct) (the “Line”). The entire Line is located in Henry County, VA. The Line traverses through United States Postal Service Zip Code territory 24112.

NSR has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) that no overhead traffic has moved over the line for at least two years and that overhead traffic, if there were any, could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the applicable requirements at 49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To

address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January ___, 2015, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 C.F.R. § 1152.27(c)(2) must be filed by _____.¹ Petitions to reopen must be filed by _____, 2015, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to NSR's representative: William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave., NW, suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: _____, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

¹ Each OFA must be accompanied by the filing fee, which is currently set at \$1,600. See 49 C.F.R. § 1002.2(f)(25). Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively.

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB DOCKET NO. AB-290 (Sub-No. 363X)

**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN HENRY COUNTY, VA**

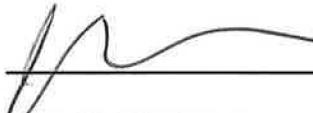
NOTICE OF EXEMPTION

VERIFICATION

Verification

I, John Friedmann, Vice President for Norfolk Southern Railway Company ("NSR"), hereby verify under penalty of perjury that to the best of my knowledge the foregoing discontinuance of service notice of exemption is true and correct. Further, I certify that I am qualified and authorized to make such verification on behalf of NSR in connection with this proceeding before the Surface Transportation Board.

Executed this eighth day of October 2014

A handwritten signature in black ink, appearing to read 'John H. Friedmann', is written over a solid horizontal line.

John H. Friedmann
Vice President