

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 290 (Sub-No. 210X)

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN  
FULTON COUNTY, GA.

Decided: June 21, 2010

On December 3, 2008, Norfolk Southern Railway Company (NSR) filed a verified notice of exemption under 49 C.F.R. § 1152 Subpart F—Exempt Abandonments to abandon a 4.30-mile line of railroad extending between mileposts DF 633.10 and DF 637.40, in Atlanta, Fulton County, Ga. Notice of the exemption was served and published in the Federal Register on December 23, 2008 (73 Fed. Reg. 78,870-71) (December 2008 notice). The exemption was scheduled to become effective on January 22, 2009; however, on January 2, 2009, a petition to stay the exemption was filed by the Georgia Department of Transportation (GDOT); and, on January 15, 2009, the National Railroad Passenger Corporation filed a petition to intervene in support of GDOT's stay petition. On January 21, 2009, the Board served a decision staying the effectiveness of the exemption pending further order of the Board.<sup>1</sup> By decision served on April 10, 2009, the stay decision was vacated and the exemption became effective on that date, subject to two previously imposed environmental conditions.<sup>2</sup> In the December 2008 notice, the Board stated that, if consummation had not been effected by NSR's filing of a notice of consummation by December 23, 2009, and there were no legal or regulatory barriers to consummation, the authority to abandon would automatically expire.<sup>3</sup> By decision served on December 22, 2009, the consummation date for the 4.30-mile line was extended until June 23, 2010.

Under 49 C.F.R. § 1152.29(e)(2), a railroad may, for good cause shown, file a request for an extension of time to file a notice of consummation in abandonment proceedings. On June 11,

---

<sup>1</sup> See Norfolk S. Ry.—Aban. Exemption—Fulton County, Ga., AB 290 (Sub-No. 210X) (STB served Jan. 21, 2009).

<sup>2</sup> See Norfolk S. Ry.—Aban. Exemption—Fulton County, Ga., AB 290 (Sub-No. 210X) (STB served Apr. 10, 2009).

<sup>3</sup> By decision served on June 9, 2009, the proceeding was reopened at the request of the Board's Section of Environmental Analysis and one of the previously imposed environmental conditions, an historic preservation condition, was removed. The remaining environmental condition is still in effect, but it is self-executing and not a barrier to consummation by NSR of this abandonment.

2010, NSR filed a request to extend the time to file its notice of consummation by 6 months. According to NSR, salvage of the track and materials on the rail line is still not complete. NSR has shown good cause to extend the time to consummate the abandonment and to file a notice of consummation in this proceeding. The request will be granted.

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

It is ordered:

1. NSR's request for an extension of time to consummate the abandonment is granted.
2. The authority to abandon must be exercised, and the notice of consummation must be filed, on or before December 23, 2010.
3. This decision is effective on its service date.

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