

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-290 (Sub-No. 210X)¹

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

STB Finance Docket No. 35215

NATIONAL RAILROAD PASSENGER CORPORATION—APPLICATION UNDER
49 U.S.C. 24311(c) TO CONDEMN CERTAIN RAIL CARRIER PROPERTY IN ATLANTA,
FULTON COUNTY, GA—NORFOLK SOUTHERN RAILWAY COMPANY

Decided: February 5, 2009

On December 3, 2008, Norfolk Southern Railway Company (NSR) filed a verified notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 4.30-mile line of railroad between mileposts DF 633.10 and DF 637.40, in Atlanta, Fulton County, Georgia. The exemption was scheduled to become effective on January 22, 2009; however, a petition to stay the exemption was filed by the Georgia Department of Transportation (GDOT) and supported by the National Railroad Passenger Corporation (Amtrak). The Board postponed the effectiveness of the exemption to supplement the record with regard to certain specific issues. See Norfolk Southern Railway Company—Abandonment Exemption—In Fulton County, GA, STB Docket No. AB-290 (Sub-No. 210X) (STB served Jan. 21, 2009) (January 21 Decision).

In that decision, the Board established a procedural schedule for the supplementation of the record. In accord with that schedule, on January 28, 2009, Amtrak and GDOT filed their supplemental information. Responses to that information were to be due February 9, 2009.

On January 21, 2009, Amtrak petitioned the Board to institute a condemnation proceeding under 49 U.S.C. 24311(c), and requested the Board order that NSR convey its rail passenger service easement over the line to Amtrak.² Amtrak does not currently operate over the line, as no traffic has moved over the line for 9 years. Amtrak claims, however, that the line is part of the routing Amtrak would use in the future for its regular intercity rail passenger trains

¹ These proceedings are not consolidated. A single decision is being issued for administrative convenience.

² NSR holds passenger and freight easements over the line, while the Atlanta Development Authority (Authority) is the record owner of the property underlying the right-of-way.

and for possible high-speed rail passenger trains to reach the proposed Multimodal Passenger Terminal in Atlanta, when that facility is constructed. Amtrak claims that there is no practical alternative route.

On the other hand, the Authority and the Atlanta BeltLine, Inc. (ABI) plan to use the line, once it is abandoned, as part of the BeltLine project, a proposed comprehensive economic development project that combines transit, green space, trails, and new commercial, residential, and public facility development along a 22-mile ring of former and current rail lines that encircle Atlanta's core. ABI was created by the Authority to be the implementation agent for the BeltLine project. The Authority is also the redevelopment agent for the BeltLine Tax Allocation District of the City of Atlanta, which is the primary local funding source for the BeltLine project.

On February 3, 2009, a joint motion to hold in abeyance the abandonment proceeding and the section 24311 proceeding was filed by the Authority, ABI, NSR, GDOT, and Amtrak. The joint motion stated that the parties are engaged in discussions toward a common solution that will accommodate the BeltLine project, intercity passenger rail, and high-speed rail in the region. The parties requested that: (1) the Board hold both proceedings in abeyance until March 6, 2009; (2) require the filing, either jointly or individually, of a status report regarding the discussions no later than March 6, 2009; and (3) extend the schedule set in the January 21 Decision in STB Docket No. AB-210 (Sub-No. 210X) for the filing of responses to Amtrak's and GDOT's supplemental information to March 11, 2009.

The Board has a longstanding policy favoring the private resolution of complex matters such as these. As the parties are in discussions to resolve their respective concerns and have made a reasonable request to hold the abandonment and section 24311 condemnation proceedings in abeyance, the Board will grant the joint motion. No party will be prejudiced by this action.

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

It is ordered:

1. STB Docket No. AB-290 (Sub-No. 210X) will be held in abeyance pending further order of the Board.
2. STB Finance Docket No. 35215 will be held in abeyance pending further order of the Board.
3. The procedural schedule set in the January 21 Decision in STB Docket No. AB-210 (Sub-No. 210X) is revised to change the deadline for the filing of responses to Amtrak and GDOT's supplemental information from February 9, 2009, to March 11, 2009.
4. The parties will be required to file, either jointly or individually, a status report on the progress of their discussions by no later than March 6, 2009.

5. This decision is effective on its date of service.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan
Acting Secretary