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SERVICE DATE - JULY 10, 2000

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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-290 (Sub-No. 202X)]

Norfolk Southern Railway Company--Discontinuance of Service Exemption--in

Mecklenburg County, NC

Norfolk Southern Railway Company (NS) has filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments and Discontinuances to discontinue service over a 1.1-mile line of railroad under lease with the North Carolina Railroad Company (NCRC) between Station 11110+45 and Station 11158+29, in Charlotte, Mecklenburg County, NC. The line traverses United States Postal Service Zip Codes 28209 and 28227.¹

¹ The lease was executed in 1895 by NCRR and Southern Railway Company (NS's predecessor). See Norfolk Southern Railway Company and Atlantic and East Carolina Railroad Company--Lease and Operation Exemption--North Carolina Railroad Company, Finance Docket No. 32820 (ICC served Dec. 22, 1995).

Through a transaction that was the subject of a notice of exemption, The City of Charlotte, North Carolina (City) proposed to acquire from the North Carolina Railroad Company a 1.1-mile line of railroad. The City simultaneously filed a motion to dismiss the notice of exemption. The City purchased the 1.1-mile line of railroad and the notice of exemption was dismissed for lack of jurisdiction. See City of Charlotte, North Carolina--Acquisition Exemption--Certain Assest of the North Carolina Railroad Company, STB Finance Docket No. 33529 (STB served Dec. 29, 1997, and Feb. 24, 1998).

A Board staff member consulted with NS's representative concerning the mileage stated in its verified notice. On June 23, 2000, NS informed the Board that it is its view that the line conveyed to the City is the same line for which the discontinuance authority is being requested and that, recognizing the possibility that approximations might have been used in the past, track realignments might have changed the mileage, or that an

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NS has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no 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 requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line R. Co.--Abandonment--Goshen, 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 August 9, 2000,² unless stayed pending reconsideration. Petitions to stay that do not involve environmental

¹(...continued)

outdated reference might have been used, while it cannot account for the length of the line stated in its notice, it does not object to describing the line as 1.1 miles in length, instead of 0.91-mile in length, as stated in its verified notice.

² 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 historic documentation is required under 49 CFR 1105.6(b)(3) and (c)(5).

issues,³ and formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),⁴ must be filed by July 20, 2000. Petitions to reopen must be filed by July 31, 2000, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: James R. Paschall, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510-2191.

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: June 29, 2000.

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

Vernon A. Williams

Secretary

³ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

⁴ Each offer of financial assistance must be accompanied by the filing fee, which currently is set at \$1000. See 49 CFR 1002.2(f)(25).