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SERVICE DATE – OCTOBER 19, 2010

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 290 (Sub-No. 322X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Polk County, Iowa

[Docket No. AB 414 (Sub-No. 5X)]

Iowa Interstate Railroad—Discontinuance of Service Exemption—in Polk County, Iowa

Norfolk Southern Railway Company (NSR) and Iowa Interstate Railroad (IAIS) (collectively, applicants) have jointly filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments and Discontinuances of Service for NSR to abandon, and for IAIS to discontinue service over, a 1.70-mile line of railroad between milepost DU 353.00 and milepost DU 354.70, in Grimes, Polk County, Iowa.<sup>1</sup> The line traverses United States Postal Service Zip Code 50111.

Applicants have certified that: (1) no local traffic has moved over the line for at least 2 years; (2) no overhead traffic has moved over the line for at least 2 years and 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

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<sup>1</sup> In 1995, IAIS was authorized to lease and operate 13.9 miles of rail line owned by Norfolk and Western Railway Company (NSR's predecessor), including the segment at issue here. Iowa Interstate R.R.—Lease and Operation Exemption—Norfolk and W. Ry., FD 32731 (ICC served Oct. 13, 1995).

has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 C.F.R. § 1105.7(c) (environmental report), 49 C.F.R. § 1105.11 (transmittal letter), 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 these exemptions, any employee adversely affected by the abandonment or discontinuance shall be protected under Oregon Short Line Railroad & The Union Pacific 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, these exemptions will be effective on November 18, 2010, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>2</sup> formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),<sup>3</sup> and trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by October 29, 2010. Petitions to reopen or requests for public use conditions under

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<sup>2</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the abandonment exemption's effective date. See Exemption of Out-of-Serv. 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.

<sup>3</sup> Each OFA must be accompanied by the filing fee, which is currently set at \$1,500. See 49 C.F.R. § 1002.2(f)(25).

49 C.F.R. § 1152.28 must be filed by November 8, 2010, with: 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 applicants' representatives: (1) Daniel G. Kruger, Attorney, Norfolk Southern Railway Company, Three Commercial Place, Norfolk, VA 23510; and (2) Lanny M. Van Daele, Corporate Counsel, Iowa Interstate Railroad, Ltd., 5900 6th Street, S.W., Cedar Rapids, IA 52404.

If the verified notice contains false or misleading information, the exemptions are void ab initio.

Applicants have filed a joint combined environmental and historic report, which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. OEA will issue an environmental assessment (EA) by October 22, 2010. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA, at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 C.F.R. § 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and

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fully abandoned the line. If consummation has not been effected by NSR's filing of a notice of consummation by October 19, 2011, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

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

Decided: October 12, 2010.

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