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SERVICE DATE - JANUARY 18, 2005

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-290 (Sub-No. 242X)]

Norfolk Southern Railway Company—Discontinuance of Service Exemption—Between Newark and Kearny, NJ, in Essex and Hudson Counties, NJ

Norfolk Southern Railway Company (NSR) has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments and Discontinuances of Service to discontinue service over a 10.0-mile line of railroad between milepost WD-2.2 in Newark, NJ, and milepost WD-8.4 in Kearny, NJ (which is a segment of a branch line known as the Boonton line), and between milepost NK-4.3 and milepost NK-8.1 on the adjacent Newark Industrial Track in Essex and Hudson Counties, NJ. The line traverses United States Postal Service Zip Codes 07029, 07032, 07094, 07099, 07102-07108, 07112 and 07114.

NSR has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) any overhead traffic can 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 requirements at

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 discontinuance 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 February 17, 2005,<sup>1</sup> unless stayed pending reconsideration. Petitions to stay and formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2)<sup>2</sup> must be filed by January 28, 2005. Petitions to reopen must be filed by February 7, 2005, with: Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001.

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

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<sup>1</sup> Because this is a discontinuance of service proceeding and not an abandonment, there is no need to provide an opportunity for trail use/rail banking or public use condition requests. Likewise, no environmental or historic documentation is required under 49 CFR 1105.6(c)(6) and 1105.8.

<sup>2</sup> Effective October 31, 2004, the filing fee for an OFA increased to \$1,200. See Regulations Governing Fees and Services Performed in Connection with Licensing and Related Services - 2004 Update, STB Ex Parte No. 542 (Sub-No. 11) (STB served Oct. 1, 2004).

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

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“WWW.STB.DOT.GOV.”

Decided: January 7, 2005.

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

Vernon A. Williams

Secretary