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SERVICE DATE – JUNE 25, 2010

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 290 (Sub-No. 287X)

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN  
BRUNSWICK COUNTY, VA.

Decided: June 24, 2010

Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 C.F.R. § 1152 Subpart F—Exempt Abandonments to abandon a 5.00-mile line of railroad between mileposts FD 90.20 and FD 95.20, in Lawrenceville, Brunswick County, Va. Notice of the exemption was served and published in the Federal Register on May 2, 2007 (72 FR 24,355-56). The exemption became effective on June 1, 2007. In the May 2007 notice, the Board stated that, if consummation had not been effected by NSR's filing of a notice of consummation by May 2, 2008, and there were no legal or regulatory barriers to consummation, the authority to abandon would automatically expire.

By decision and notice of interim trail use or abandonment (NITU) served on May 31, 2007, the proceeding was reopened and a 180-day period was authorized for Roanoke River Rails-to-Trails, Inc. (Roanoke), to negotiate an interim trail use/rail banking agreement with NSR for the right-of-way involved in this proceeding pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (Trails Act). The decision also imposed a condition requiring NSR to retain its interest in and take no steps to alter the historic integrity of all sites, buildings, and structures within the project right-of-way that are eligible for listing or are listed in the National Register of Historic Places (generally, 50 years old or older) until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f (NHPA).<sup>1</sup> By decision served on December 17, 2007, the NITU negotiating period was extended to May 26, 2008, and the historic preservation condition was removed.

By letter filed on April 22, 2008, NSR indicated that the segment of the line between mileposts FD 90.20 and FD 92.40 will be reclassified as industrial lead track, with no salvage of tracks or materials. It also noted that the segment between FD 92.40 and FD 95.20 remained subject to trail use negotiations. In a decision served June 11, 2008, the Board extended the NITU negotiating period until November 21, 2008. By decision served May 1, 2009, the Board extended until May 2, 2010, the due date for NSR to file a consummation notice in this proceeding.

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<sup>1</sup> The May 31 decision also imposed a public use condition, which expired on November 28, 2007.

By letter filed on April 12, 2010, NSR requests an additional 1-year extension to file its consummation notice until May 2, 2011, for the segment between mileposts FD 92.40 and FD 95.20. NSR states that negotiations for disposition of the property for the purpose of creating a trail are still on-going. NSR asks the Board to extend the due date for it to file its consummation notice to allow sufficient time for the disposition of the line to be settled.

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. Good cause has been shown, and the deadline for filing the notice of consummation will be extended to May 2, 2011.

This action 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 a 1-year extension of time to exercise the abandonment authority is granted.
2. The authority to abandon must be exercised, and the notice of consummation must be filed, on or before May 2, 2011.
3. This decision is effective on its service date.

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