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SERVICE DATE – NOVEMBER 12, 2008

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-290 (Sub-No. 284X)

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT EXEMPTION—  
IN KALAMAZOO COUNTY, MI

Decided: November 12, 2008

Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 1.4-mile line of railroad extending between milepost CQ 41.3, and milepost CQ 42.7, located in Parchment, Kalamazoo County, MI. Notice of the exemption was served and published in the Federal Register on November 9, 2006 (71 FR 65880-81). The exemption became effective on December 12, 2006.

In the November 9, 2006 notice, the Board stated that, if consummation had not been effected by NSR's filing of a notice of consummation by November 9, 2007, and there were no legal or regulatory barriers to consummation, the authority to abandon would automatically expire. Under 49 CFR 1152.29(e)(2), a railroad may, for good cause, file a request for an extension of time to file a notice of consummation in abandonment proceedings. By decision served on November 9, 2007, the Board granted a NSR request for an extension, until November 9, 2008, of the time to file its notice of consummation in this proceeding.

On October 31, 2008, NSR requested a further extension, until November 9, 2009, of the time to consummate the abandonment. In support, NSR states that NSR and the City of Parchment are close to agreements concerning the long-term disposition of the line. NSR states that these agreements are outside of the public use condition or trail use condition procedures, but the parties believe that consummation of the abandonment prior to execution of the agreements would be inappropriate and might limit their flexibility, thereby impeding the processing and finalization of the agreements.<sup>1</sup> NSR has shown good cause to extend the time to consummate the abandonment and for filing a notice of consummation in this proceeding. Accordingly, the request will be granted.

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<sup>1</sup> By decision served on December 11, 2006, the proceeding was reopened at the request of the Board's Section of Environmental Analysis and the exemption was made subject to two environmental conditions, and a historic preservation condition. Subsequently, by decision served on February 15, 2007, the proceeding was again reopened, a third environmental condition was added, the historic preservation condition was removed, and a public use condition under 49 U.S.C. 10905 was imposed. The public use condition expired on June 10, 2007, and cannot be extended. The three environmental conditions remain in effect.

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 an extension of time to consummate the abandonment is granted.
2. The authority to abandon must be exercised, and the notice of consummation must be filed, on or before November 9, 2009.
3. This decision is effective on its date of service.

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

Anne K. Quinlan  
Acting Secretary