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SERVICE DATE – NOVEMBER 26, 2014

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 290 (Sub-No. 350X)]

Norfolk Southern Railway Company—Abandonment and Discontinuance of Service  
Exemption—in Essex County, N.J.

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments and Discontinuance of Service for NSR to abandon and discontinue service over approximately 2.0 miles of rail line as follows: NSR will abandon 0.71 miles of rail line between milepost 8.50 OJ and milepost 8.616 OJ and between milepost 9.905 OJ and milepost 10.50 OJ; and NSR will discontinue service over a 1.29-mile operating easement over a New Jersey Transit (NJT) line from milepost 8.616 OJ to milepost 9.905.OJ, all located in Essex County, N.J. (the Line).<sup>1</sup> The Line traverses United States Postal Service Zip Codes 07003, 07109, 07104 and 07107.

NSR has certified that: (1) no local traffic has moved over the Line for at least two years; (2) no overhead traffic has moved over the Line for at least two years and that overhead traffic, if there were any, could be rerouted over other lines; (3) no formal complaint has been filed by a user of rail service on the Line (or by a state or local

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<sup>1</sup> NSR states that NJT has title to the segment proposed for discontinuance of NSR service.

government entity acting on behalf of such user) regarding cessation of service over the Line, and no such complaint is either pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-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 this exemption, any employee adversely affected by the abandonment or discontinuance shall be protected under Oregon Short Line 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, this exemption will be effective on December 27, 2014, 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.

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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 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.

§ 1152.27(c)(2),<sup>3</sup> and trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by December 8, 2014. Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by December 16, 2014, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.<sup>4</sup>

A copy of any petition filed with the Board should be sent to NSR's representative: William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037.

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

NSR has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. OEA will issue an environmental assessment (EA) by December 2, 2014. 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 at (800) 877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

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<sup>3</sup> Each OFA must be accompanied by the filing fee, which is currently set at \$1,600. See 49 C.F.R. § 1002.2(f)(25).

<sup>4</sup> NSR states that it may not have fee title to the entire right-of-way for the Line segment proposed for abandonment, which could affect any requests for public use.

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 fully abandoned the Line. If consummation has not been effected by NSR's filing of a notice of consummation by November 26, 2015, 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: November 20, 2014.

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