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SERVICE DATE - JULY 16, 2004

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-290 (Sub-No. 251X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Chowan County, NC

[STB Docket No. AB-866X]

North Carolina & Virginia Railroad Company, Inc., The Chesapeake and Albemarle

Division—Discontinuance of Service Exemption—in Chowan County, NC

Norfolk Southern Railway Company (NSR) and North Carolina & Virginia Railway Company, Inc., The Chesapeake and Albemarle Division (NCVA) have jointly filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments and Discontinuances of Service for NSR to abandon, and for NCVA to discontinue service under a lease from NSR over, a 0.33-mile line of railroad between approximately milepost NS-73.67 and milepost NS-74.00 in Edenton, Chowan County, NC. The line traverses United States Postal Service Zip Code 27932.

NSR and NCVA 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 has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 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 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, these exemptions will be effective on August 17, 2004,¹ unless stayed pending reconsideration. Petitions to stay that do not involve environmental

¹ Pursuant to 49 CFR 1152.50(d)(2), the railroad must file a verified notice with the Board at least 50 days before the abandonment or discontinuance is to be consummated. While applicants initially indicated a proposed consummation date of August 16, 2004, because the verified notice was filed on June 28, 2004, consummation may not take place prior to August 17, 2004. By facsimile filed on July 6, 2004, NSR's representative confirmed that the consummation date will be August 17, 2004.

issues,² formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),³ and trail use/rail banking requests under 49 CFR 1152.29 must be filed by July 26, 2004.

Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 5, 2004, with: Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001.⁴

A copy of any petition filed with the Board should be sent to applicants' representatives: James R. Paschall, Three Commercial Place, Norfolk, VA 23510; and Gary A. Laakso, 5300 Broken Sound Blvd., N.W., 2nd Floor, Boca Raton, FL 33487.

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

NSR and NCVA have filed an environmental report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic

² The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service 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.

³ Each OFA must be accompanied by the filing fee, which currently is set at \$1,100. See 49 CFR 1002.2(f)(25).

⁴ NSR states that the right-of-way underlying the segment is being sold to Dominion Resources (Virginia Power). According to NSR, this use of the right-of-way, which will benefit the public through more efficient electric power transmission service in the area, precludes any potential public use other than that proposed by Virginia Power.

resources. SEA will issue an environmental assessment (EA) by July 23, 2004.

Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565-1539.

[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 CFR 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 July 16, 2005, 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."

STB Docket No. AB-290 (Sub-No. 251X) et al.

Decided: July 9, 2004.

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

Vernon A. Williams

Secretary