

SURFACE TRANSPORTATION BOARD

DECISION

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

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

Decided: May 2, 2008

Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 CFR 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 15755-56). 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 and 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).¹ 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 indicates 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 notes that the segment between FD 92.40 and FD 95.20 remains subject to trail use negotiations, which period expires on May 26, 2008. Because additional time may be needed to complete the contract, NSR believes that the trail proponent, Roanoke, will seek a further extension for negotiations. NSR adds that it would like to handle the trail use, consummation, and reclassification for this line at the same time, and therefore asks the Board to extend the due date for it to file its consummation notice for one year (to May 2, 2009) or until

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

60 days after trail use negotiations expire, whichever is later, to allow sufficient time for the disposition of the entire line to be settled.

Under 49 CFR 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 until May 2, 2009. If the 1-year extension does not prove to be sufficient, NSR may request a new consummation deadline in advance of that May 2, 2009 date.

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 file a notice of consummation is granted in part, as discussed in this decision.
2. The authority to abandon must be exercised, and the notice of consummation must be filed, on or before May 2, 2009.
3. This decision is effective on its service date.

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

Anne K. Quinlan
Acting Secretary