

SURFACE TRANSPORTATION BOARD

DECISION

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

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

Decided: May 18, 2011

Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 C.F.R. pt. 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 Fed. Reg. 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).¹ 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. By decision served June 11, 2008, the Board, at Roanoke's request, extended the NITU negotiating period for the segment between FD 92.40 and FD 95.20 until November 21, 2008.

The Board has issued numerous decisions extending the due date for NSR to file a consummation notice, with the latest extension expiring on May 2, 2011. By letter filed on April 26, 2011, NSR requests an additional 1-year extension to file its consummation notice until May 2, 2012, 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.

¹ Two conditions were also imposed in the May 31 decision—a Section 106 historic preservation condition and a public use condition. The public use condition expired on November 28, 2007, and the Section 106 condition was removed by decision served December 17, 2007.

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, 2012.

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, 2012.
3. This decision is effective on its service date.

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