

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-290 (Sub-No. 210X)

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN
FULTON COUNTY, GA

Decided: April 10, 2009

On December 3, 2008, Norfolk Southern Railway Company (NSR) filed a verified notice of exemption under 49 CFR 1152.50 to abandon a 4.30-mile line of railroad between mileposts DF 633.10 and DF 637.40, in Atlanta, Fulton County, Georgia. The exemption was scheduled to become effective on January 22, 2009. On January 2, 2009, a petition to stay the exemption was filed by the Georgia Department of Transportation (GDOT); and, on January 15, 2009, the National Railroad Passenger Corporation (Amtrak) filed a petition to intervene in support of GDOT's stay petition. The Board, on January 21, 2009, served a decision staying the effectiveness of the exemption and requesting submission of supplemental evidence by January 28, 2009. See Norfolk Southern Railway Company – Abandonment Exemption – In Fulton County, GA, STB Docket No. AB-290 (Sub-No. 210X) (STB served Jan. 21, 2009) (January 21 Decision). Also, on January 21, 2009, Amtrak filed a notice of intent to file an application under 49 U.S.C. 24311(c) in National Railroad Passenger Corporation – Application Under 49 U.S.C. 24311(c) to Condemn Certain Rail Carrier Property in Atlanta, Fulton County, GA – Norfolk Southern Railway Company, STB Finance Docket No. 35215, and requested that the Board order NSR to convey its rail passenger service easement over the line to Amtrak.¹

On January 28, 2009, GDOT and Amtrak filed their supplemental evidence in accord with the January 21 Decision. On February 3, 2009, the Authority, ABI, NSR, GDOT, and Amtrak jointly filed a motion to hold in abeyance this proceeding and the section 24311 proceeding, due to ongoing discussions toward a common solution that would accommodate the BeltLine project, intercity passenger rail, and high-speed rail in the region. By decision served on February 5, 2009, the Board held these proceedings in abeyance until March 6, 2009. A second joint motion to hold both proceedings in abeyance was filed on March 6, 2009. By

¹ NSR holds passenger and freight easements over the line, and the Atlanta Development Authority (Authority) is the record owner of the property underlying the right-of-way. The Authority is also the redevelopment agent for the BeltLine Tax Allocation District of the City of Atlanta, which is the primary local funding source for the BeltLine project. The BeltLine project is a proposed comprehensive economic development project that combines transit, green space, trails, and new commercial, residential, and public facility development along a 22-mile ring of former and current rail lines that encircle Atlanta's core. The Atlanta BeltLine, Inc. (ABI) was created by the Authority to be the implementation agent for the BeltLine project.

decision served on March 13, 2009, the Board held these proceedings in abeyance until March 23, 2009.

On March 23, 2009, the parties jointly filed a status report stating that they had negotiated and prepared a Framework Agreement that resolved their respective concerns with regard to the line. On March 25, 2009, citing the Framework Agreement, GDOT and Amtrak filed notices withdrawing their requests for stay and stating that they no longer oppose the abandonment. On March 25, 2009, Amtrak also filed a request to withdraw its notice of intent to file an application under 49 U.S.C. 24311(c) in STB Finance Docket 35215.

The Board has a longstanding policy favoring the private resolution of matters such as these. Accordingly, the Board will vacate the stay and thereby allow the abandonment exemption to become effective on the date of service of this decision, subject to the previously imposed conditions.²

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The stay in the January 21 Decision is vacated.
2. This decision will be effective on its service date.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Anne K. Quinlan
Acting Secretary

² By order served today, the Board is also discontinuing the proceeding initiated in National Railroad Passenger Corporation—Application Under 49 U.S.C. 24311(c) to Condemn Certain Rail Carrier Property in Atlanta, Fulton County, GA—Norfolk Southern Railway Company, STB Finance Docket No. 35215.