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SERVICE DATE – DECEMBER 23, 2008

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

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

Norfolk Southern Railway Company–Abandonment Exemption–in Fulton County, GA

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption¹ under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 4.30-mile line of railroad between milepost DF 633.10 and milepost DF 637.40, in Atlanta, Fulton County, GA. The line traverses United States Postal Service Zip Codes 30303, 30306, 30307, 30308, 30309, 30312, 30324, 30337, 30340, and 30354.²

NSR has certified that: (1) no local or overhead traffic has moved over the line for at least 2 years; (2) overhead traffic on the line, if 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.

¹ NSR concurrently filed a petition seeking an exemption from the offer of financial assistance (OFA) and the public use provisions at 49 U.S.C. 10904 and 49 U.S.C. 10905, respectively. The merits of the petition will be addressed in a separate decision.

² NSR states that the property underlying the line proposed for abandonment between milepost DF 633.10 and the crossing at grade of DeKalb Avenue/Decatur Street at approximately milepost DF 636.56 was conveyed to a local developer in 2004, and that the developer subsequently conveyed the property to NE Corridor Partners, LLC, which intends to develop the property as part of the Atlanta BeltLine project. NSR also states that it has retained an operating easement and complete operating authority over this property pending receipt of abandonment authority or exemption from the Board.

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 this exemption, any employee adversely affected by the abandonment 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, this exemption will be effective on January 22, 2009, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,³ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),⁴ and trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 2, 2009.⁵ Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be

³ 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.

⁴ Effective July 18, 2008, the filing fee for an OFA increased to \$1,500. See Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services–2008 Update, STB Ex Parte No. 542 (Sub-No. 15) (STB served June 18, 2008).

⁵ NSR states that it does not have fee title to the right-of-way underlying the line proposed for abandonment and, therefore, that it will not have a corridor available for public use.

filed by January 12, 2009, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to NSR's representative: James R. Paschall, Senior General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

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

NSR has filed environmental and historic reports that address the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 24, 2008. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 245-0305. [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 December 23, 2009, 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: December 12, 2008.

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

Anne K. Quinlan

Acting Secretary