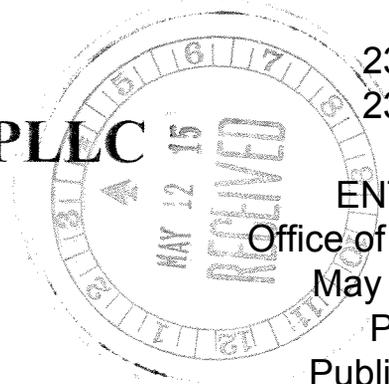


BAKER & MILLER PLLC

ATTORNEYS and COUNSELLORS
2401 PENNSYLVANIA AVENUE, NW
SUITE 300
WASHINGTON, DC 20037
TELEPHONE: (202) 663-7820
FACSIMILE: (202) 663-7849



238372

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ENTERED
Office of Proceedings
May 12, 2015
Part of
Public Record

William A. Mullins

(202) 663-7823 (Direct Dial)
E-Mail: wmullins@bakerandmiller.com

May 12, 2015

BY HAND DELIVERY

Cynthia T. Brown, Chief
Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington DC 20423-0001

Re: Norfolk Southern Railway Company – Discontinuance of Service Exemption – In Lucas County, Ohio, AB-290 (Sub-No. 377X); Midwest Rail, LLC d/b/a Toledo, Lake Erie and Western Railway – Discontinuance of Service Exemption – In Lucas County, Ohio, AB-1231X

Dear Ms. Brown:

Enclosed please find an original and eleven copies of a jointly-filed notice of exemption seeking authority for Norfolk Southern Railway Company (“NS”) to discontinue rail service and Midwest Rail, LLC d/b/a Toledo, Lake Erie and Western Railway (“TLEW”) to discontinue lease operations over an approximately 1.80-mile rail line owned by NS extending from milepost TS 13.2 (near Maumee, Ohio) to milepost TS 15.0 (at Waterville, Ohio) in Lucas County, Ohio. Please acknowledge receipt and filing of this jointly-filed notice of exemption by date-stamping the enclosed eleventh copy and returning it to the courier to return to me. This submission also includes an electronic copy of the entire filing and a separate electronic file of a draft Federal Register notice. Finally, pursuant to 49 C.F.R. § 1002.2(f)(21)(ii), I have enclosed two filing fee checks totaling \$7,600.00 to cover the fees for both NS and TLEW. If you have any questions, please contact me directly, either by telephone: 202-663-7823 or by e-mail: wmullins@bakerandmiller.com.

Sincerely,

William A. Mullins
Counsel for Norfolk Southern Railway
Company and Midwest Rail, LLC d/b/a
Toledo, Lake Erie and Western Railway

Enclosures
cc: Marc Hoecker, LaWada Poarch

FEE RECEIVED
May 12, 2015
SURFACE

FILED
May 12, 2015
SURFACE

TRANSPORTATION BOARD TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

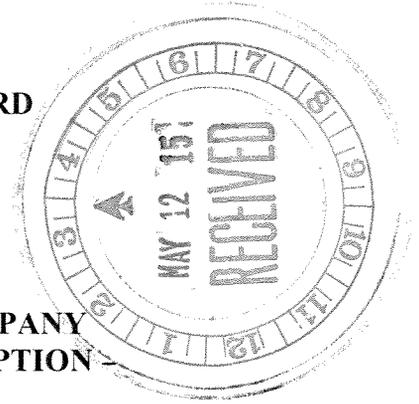
AB-290 (Sub-No. 377X)

**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN LUCAS COUNTY, OHIO**

AB-1231X

**MIDWEST RAIL, LLC D/B/A TOLEDO, LAKE ERIE AND WESTERN RAILWAY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN LUCAS COUNTY, OHIO**

JOINTLY-FILED NOTICE OF EXEMPTION



**Maquiling B. Parkerson
General Attorney
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510
Telephone: (757) 533-4939
Facsimile: (757) 533-4872**

**William A. Mullins
Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., NW
Suite 300
Washington, DC 20037
Tel: (202) 663-7820
Fax: (202) 663-7849**

May 12, 2015

**Attorneys for Norfolk Southern Railway
Company and Midwest Rail, LLC D/B/A
Toledo, Lake Erie and Western Railway**

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-290 (Sub-No. 377X)

**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN LUCAS COUNTY, OHIO**

AB-1231X

**MIDWEST RAIL, LLC D/B/A TOLEDO, LAKE ERIE AND WESTERN RAILWAY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN LUCAS COUNTY, OHIO**

JOINTLY-FILED NOTICE OF EXEMPTION

Norfolk Southern Railway Company (“NS”) and Midwest Rail, LLC d/b/a Toledo, Lake Erie and Western Railway (“TLEW”) (jointly referred to herein as “Applicants”) hereby jointly invoke the Board’s class exemption procedures at 49 C.F.R. part 1152 subpart F (Exempt Abandonments and Discontinuances of Service and Trackage Rights) for NS to discontinue rail service and TLEW to discontinue lease operations over an approximately 1.80-mile rail line owned by NS and located in Lucas County, Ohio extending from milepost TS 13.2 (near Maumee, Ohio) to milepost TS 15.0 (at Waterville, Ohio) (referred to herein as the “Line”). TLEW originally obtained authority to operate the Line in 2012;¹ however, TLEW did not handle any business on the Line, and eventually defaulted on their lease. Thereafter, NS cancelled the lease pursuant to the terms of the parties’ contract, and NS has been given power of

¹ Midwest Rail, LLC d/b/a Toledo, Lake Erie and Western Railway – Lease and Operation Exemption – Norfolk Southern Railway Company, F.D. 35634 (STB served June 29, 2012).

attorney to file for discontinuance of TLEW's lease operation on its behalf. In accordance with the Board's regulations at 49 C.F.R. §§ 1152.50(b) and (d), Applicants provide the following information in support of their jointly-filed notices of exempt discontinuance:

Certification: 49 C.F.R. § 1152.50(b)

The Line satisfies the criteria for a discontinuance of service exemption, under the provisions located at 49 C.F.R. part 1152, subpart F. See Certification of G. R. Comstock General Manager Northern Region for Norfolk Southern Railway Company attached hereto and made part hereof as Exhibit A.

Proposed Consummation Date: 49 C.F.R. § 1152.50 (d)(2)

The subject discontinuance will be consummated on or after July 1, 2015 (50 days after filing the notice of exemption).

Additional Information Required: 49 C.F.R. §§ 1152.22(a)(1)-(4), (7)-(8) and (e)(4)

Exact name of applicant (49 C.F.R. § 1152.22(a)(1)):

Norfolk Southern Railway Company and Midwest Rail, LLC d/b/a Toledo, Lake Erie and Western Railway

Whether applicant is a common carrier by railroad (49 C.F.R. § 1152.22(a)(2)):

Applicants are common carriers by railroad subject to 49 U.S.C. Subtitle IV, chapter 105.

Relief sought (49 C.F.R. § 1152.22(a)(3)):

NS has invoked the Board's two-year-out-of-service class exemption procedures to discontinue rail service and TLEW has invoked the Board's two-year-out-of-service class exemption procedures to discontinue lease operations over an approximately 1.80-mile rail line owned by NS and located in Lucas County, Ohio, extending from milepost TS 13.2 (near Maumee, Ohio) to milepost TS 15.0 (at Waterville, Ohio).

Map (49 C.F.R. § 1152.22(a)(4)):

A detailed map showing the location of the Line is attached hereto as Exhibit B.

Applicant's representatives (49 C.F.R. § 1152.22(a)(7)):

NS's and TLEW's representatives to whom correspondence regarding this discontinuance should be sent are as follows:

William A. Mullins
Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., NW
Suite 300
Washington, DC 20037
Tel: (202) 663-7820
Fax: (202) 663-7849

USPS ZIP codes (49 C.F.R. § 1152.22(a)(8)):

The Line lies within the following U.S. Postal Service ZIP Code territories: 43537 and 43566.

Rural and Community Impact (49 C.F.R. § 1152.22(e)(4)):

The Line has been out of service for over two years, so Applicants anticipate no rural or community impact from the joint discontinuance. Because the Line has not been used for rail shipments for over twenty-four (24) months, there should be no effect on regional or local transportation systems and patterns, and no diversion of traffic to other transportation systems or modes would result from Applicants' action.

The informational requirement of section 1152.22(e)(4) (alternative public uses of rail property) appears to be pertinent only in cases where the railroad proposes to abandon rail property.² In this proceeding, NS and TLEW are filing a joint notice of exemption to discontinue

² See, e.g., Columbus and Greenville Railway Company – Discontinuance of Service Exemption – in Greenwood, MS, AB-297 (Sub-No. 103X), slip op. at 2 n.2 (STB served July 3, 2007) (“CAGY-Greenwood”) (“Because this is a discontinuance proceeding and not an abandonment,

service over the Line, not abandon it, and for this reason NS has no opinion on whether or not the subject rail property might be appropriate for use for other public purposes. Although the following is of questionable relevance here (because the proposed action does not entail abandonment of a rail line), based on the information in its possession, NS is unaware of any condition that would affect the transfer of title to or the use of the railroad right-of-way for other than rail purposes.

Labor Protection

The interests of affected railroad employees, if any, will be protected by the conditions discussed in Oregon Short Line Railroad —Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 99991 (1979).

Certifications

Attached hereto as Exhibit C are the Certificates of Service and Publication pursuant to the notice requirements of 49 C.F.R. §§ 1105.12 and 1152.50(d)(1). For reasons set forth in the “Environmental and Historic Report” section below, the certification of service requirement at 49 C.F.R. § 1105.11 (transmittal of Environmental and Historic Reports) is not applicable here.

Environmental and Historic Report

The Board does not normally require a carrier seeking to discontinue service over a particular rail line to prepare and submit for review a combined environmental and historic

trail use/rail banking and public use conditions are not appropriate”); Norfolk Southern Railway Company—Discontinuance Exemption—in Mahoning County, OH, AB-290 (Sub-No. 292X), slip op. at 2 n.2 (“NS-Mahoning”) (STB served March 15, 2007) (same); Chillicothe-Brunswick Rail Maintenance Authority—Discontinuance Exemption—in Livingston, Linn, and Chariton Counties, MO, AB-1001X, slip op at 2 n.3 (“CBRA-Livingston”) (STB served Feb 23, 2007) (same).

report.³ Here, the discontinuances are exempt from environmental reporting requirements under 49 C.F.R. § 1105.6(c) and from historic reporting requirements under 49 C.F.R. § 1105.8(b) because NS seeks only to discontinue service, and TLEW only seeks to discontinue lease operations. Further Board approval will be required for NS to abandon service on the Line. As such, NS does not anticipate engaging in any salvage activities, including the removal of any potentially historic structures (such as bridges) as a result of NS and TLEW obtaining discontinuance authority. Accordingly, no environmental or historic report was prepared, and the STB will not prepare an environmental assessment.

Respectfully submitted,

Maquiling B. Parkerson
General Attorney
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510
Telephone: (757) 533-4939
Facsimile: (757) 533-4872


William A. Mullins
Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., NW
Suite 300
Washington, DC 20037
Tel: (202) 663-7820
Fax: (202) 663-7849

May 12, 2015

Attorneys for Norfolk Southern Railway
Company and Midwest Rail, LLC d/b/a
Toledo, Lake Erie and Western Railway

³ See, e.g., Everett Railroad Company – Discontinuance of Service Exemption – In Blair County, PA, AB-271X slip op. at 2 n.2 (STB served Nov. 16, 2007) (“Because this is a discontinuance proceeding and not an abandonment, . . . no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively”); Columbus and Greenville Railway Company – Discontinuance of Service Exemption – in Greenwood, MS, AB-297 (Sub-No. 103X), slip op. at 2 n.2 (STB served July 3, 2007) (same); Norfolk Southern Railway Company—Discontinuance Exemption—in Mahoning County, OH, AB-290 (Sub-No. 292X), slip op. at 2 n.2 (STB served March 15, 2007) (same); Chillicothe-Brunswick Rail Maintenance Authority—Discontinuance Exemption—in Livingston, Linn, and Chariton Counties, MO, AB-1001X, slip op at 2 n.3 (STB served Feb 23, 2007) (same).

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-290 (Sub-No. 377X)

**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN LUCAS COUNTY, OHIO**

AB-1231X

**MIDWEST RAIL, LLC D/B/A TOLEDO, LAKE ERIE AND WESTERN RAILWAY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN LUCAS COUNTY, OHIO**

JOINTLY FILED NOTICE OF EXEMPTION

EXHIBIT A

**CERTIFICATION PURSUANT TO
49 C.F.R. § 1152.50(b)**

CERTIFICATION

STATE OF GEORGIA:

ss:

CITY OF ATLANTA:

G. R. Comstock makes oath and says that he is General Manager Northern Region for Norfolk Southern Railway Company (NSR) and authorized to make such certification on behalf of both NSR and, acting through power of attorney, the Toledo, Lake Erie & Western Railway; that the rail line between Mileposts TS 13.2 and TS 15.0, over which service is to be discontinued, is subject to his supervision and direction; that no local traffic has moved over the line for at least two years, that no overhead traffic has moved over the line for at least two years and that overhead traffic, if there were any, could be rerouted over other lines; and that no formal complaint filed by a user of rail service on the line or a state or local government entity acting on behalf of such user regarding cessation of service over the line either is pending before the Surface Transportation Board or any U. S. District Court or has been decided in favor of the complainant within the two-year period.



G. R. Comstock

Subscribed and sworn to before me
this 20 day of March, 2015.



Notary Public

My commission expires:

9/16/18

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-290 (Sub-No. 377X)

**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN LUCAS COUNTY, OHIO**

AB-1231X

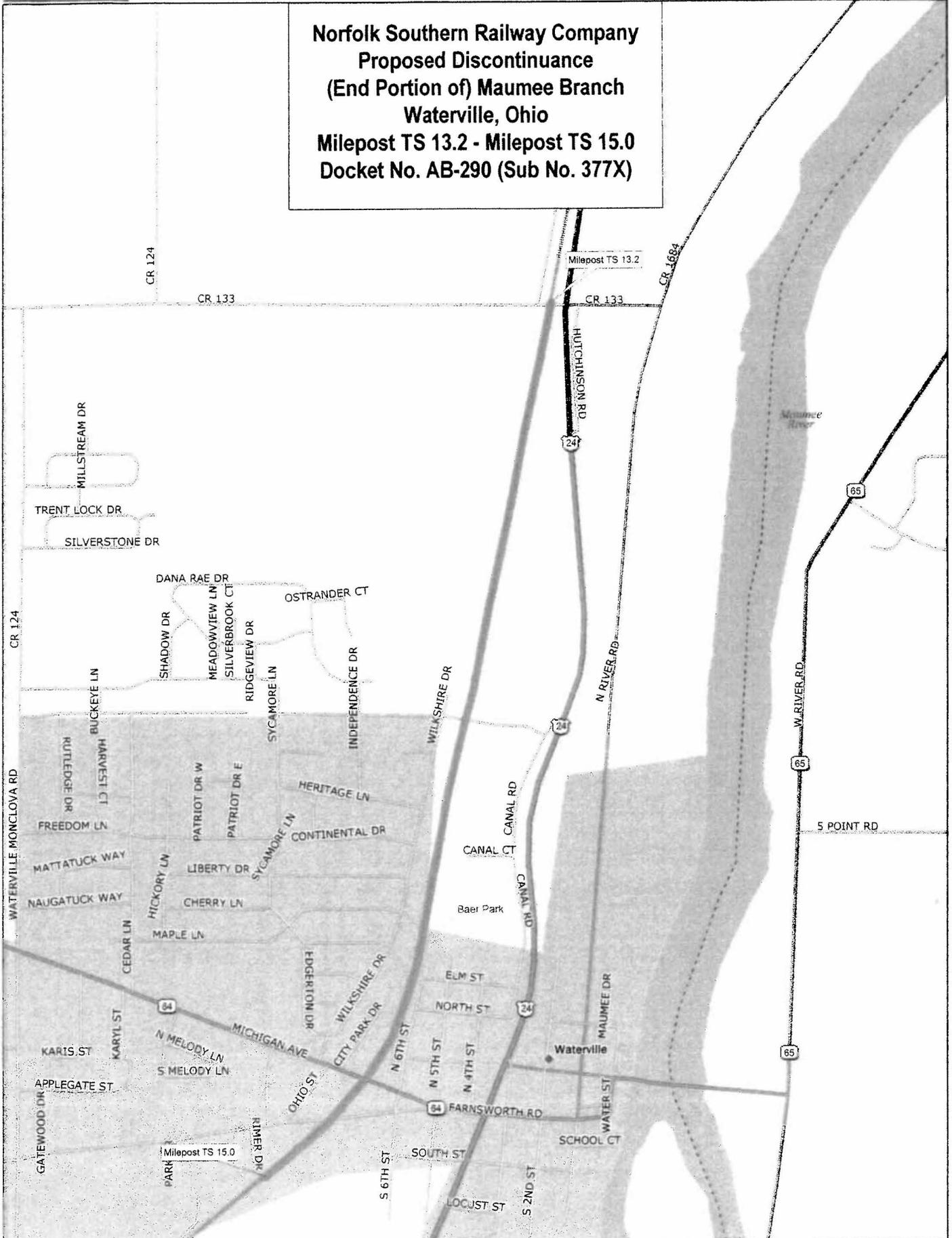
**MIDWEST RAIL, LLC D/B/A TOLEDO, LAKE ERIE AND WESTERN RAILWAY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN LUCAS COUNTY, OHIO**

JOINTLY FILED NOTICE OF EXEMPTION

EXHIBIT B

MAP

**Norfolk Southern Railway Company
Proposed Discontinuance
(End Portion of) Maumee Branch
Waterville, Ohio
Milepost TS 13.2 - Milepost TS 15.0
Docket No. AB-290 (Sub No. 377X)**



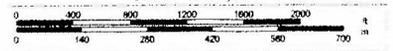
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Scale 1 : 16,000



1" = 1,333.3 ft

Data Zoom 13-6

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-290 (Sub-No. 377X)

**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN LUCAS COUNTY, OHIO**

AB-1231X

**MIDWEST RAIL, LLC D/B/A TOLEDO, LAKE ERIE AND WESTERN RAILWAY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN LUCAS COUNTY, OHIO**

JOINTLY FILED NOTICE OF EXEMPTION

EXHIBIT C

**CERTIFICATIONS OF
SERVICE/PUBLICATION**

Certificate of Service

49 C.F.R. § 1152.50(d)(1) – Notice

I certify that, on March 12, 2015 in keeping with 49 C.F.R. § 1152.50(d)(1), I caused the following parties to be served with written notice of the intent of Norfolk Southern Railway Company and Midwest Rail, LLC d/b/a Toledo, Lake Erie and Western Railway to jointly invoke the Board's notice of exemption procedures for NS to discontinue rail service and TLEW to discontinue lease operations over an approximately 1.80-mile NS owned rail line in Lucas County, Ohio.

Matthew Dietrich, Executive Director
Ohio Rail Development Commission
The Ohio Department of Transportation
1980 West Broad Street, Mail Stop #3140
Columbus Ohio 43223

The Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215

Dave Dorfman
SDDC TEA
Attn: MTT-SA
709 Ward Drive
Scott Air force Base, IL 62225

Charlie Stockman
Rivers, Trails and Conservation Assistance
Program
National Park Service
RTCA Program
1201 Eye St., NW, 9th Floor (Org Code 2240)
Washington, DC 20005
Contact # 202-354-6907

Thomas Tidwell, Chief
U.S. Forest Service
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, D.C. 20250-0003

May 12, 2015



William A. Mullins

Attorney for Norfolk Southern Railway Company &
Midwest Rail, LLC d/b/a Toledo, Lake Erie and
Western Railway

Certificate of Publication

49 C.F.R. § 1105.12 – Newspaper Notice

I certify that a “Notice of Intent to Discontinue Rail Service” for Norfolk Southern Railway Company & Midwest Rail, LLC d/b/a Toledo, Lake Erie and Western Railway was published in the form prescribed by the Surface Transportation Board for a notice of exemption to discontinue rail service. The notice was published one time on April 12, 2015 in the Toledo Free Press, a newspaper of general circulation in Lucas County, OH, where the Line is located.

May 12, 2015



William A. Mullins
Attorney for Norfolk Southern Railway Company &
Midwest Rail, LLC d/b/a Toledo, Lake Erie and
Western Railway

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-290 (Sub-No. 377X)

**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN LUCAS COUNTY, OHIO**

AB-1231X

**MIDWEST RAIL, LLC D/B/A TOLEDO, LAKE ERIE AND WESTERN RAILWAY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN LUCAS COUNTY, OHIO**

JOINTLY FILED NOTICE OF EXEMPTION

**DRAFT FEDERAL REGISTER
NOTICE OF EXEMPTION**

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[AB-290 (Sub-No. 377X)]

[AB-1231X]

Norfolk Southern Railway Company—Discontinuance of Service Exemption—in Lucas County, OH; Midwest Rail, LLC d/b/a Toledo, Lake Erie and Western Railway – Discontinuance of Service Exemption – In Lucas County, Ohio.

Norfolk Southern Railway Company (“NS”) and Midwest Rail, LLC d/b/a Toledo, Lake Erie and Western Railway (“TLEW”)(collectively, “Applicants”) jointly filed on May 12, 2015 a notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments and Discontinuances of Service and Trackage Rights for NS to discontinue rail service and TLEW to discontinue lease operations over an approximately 1.80-mile NS owned rail line extending from milepost TS 13.2 (near Maumee, Ohio) to milepost TS 15.0 (at Waterville, Ohio) (the “Line”). The entire Line is located in Lucas County, Ohio. The Line traverses through United States Postal Service Zip Code territories 43537 and 43566.

Applicants have certified that: (1) no local traffic has moved over the line for at least 2 years; (2) that no overhead traffic has moved over the line for at least two years and that 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 applicable requirements at 49 C.F.R. § 1105.12

(newspaper publication), and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 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 June ____, 2015, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 C.F.R. § 1152.27(c)(2) must be filed by _____.¹ Petitions to reopen must be filed by _____, 2015, 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 and TLEW's representative: William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave., NW, suite 300, Washington, DC 20037.

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

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: _____, 2015.

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

¹ Each OFA must be accompanied by the filing fee, which is currently set at \$1,600. See 49 C.F.R. § 1002.2(f)(25). Because these cases are discontinuances and not abandonments, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively.

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-290 (Sub-No. 377X)

**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN LUCAS COUNTY, OHIO**

AB-1231X

**MIDWEST RAIL, LLC D/B/A TOLEDO, LAKE ERIE AND WESTERN RAILWAY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN LUCAS COUNTY, OHIO**

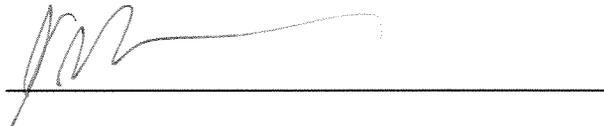
JOINTLY FILED NOTICE OF EXEMPTION

VERIFICATION

Verification

I, John Friedmann, Vice President for Norfolk Southern Railway Company ("NSR"), hereby verify under penalty of perjury that to the best of my knowledge the foregoing discontinuance notice of exemption is true and correct. Further, I certify that I am qualified and authorized to make such verification on behalf of both NSR and, acting through power of attorney, the Toledo, Lake Erie & Western Railway in connection with this proceeding before the Surface Transportation Board.

Executed this twenty-fifth day of March, 2015.

A handwritten signature in black ink, appearing to read 'JH Friedmann', is written above a solid horizontal line.

John H. Friedmann
Vice President