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**BAKER & MILLER PLLC**

ATTORNEYS and COUNSELLORS  
2401 PENNSYLVANIA AVENUE, NW  
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WASHINGTON, DC 20037  
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ROBERT A. WIMBISH

(202) 663-7824 (Direct Dial)  
E-Mail: [rwimbish@bakerandmiller.com](mailto:rwimbish@bakerandmiller.com)

August 30, 2013

**BY HAND DELIVERY**

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

ENTERED  
Office of Proceedings  
SEP - 3 2013  
Part of  
Public Record

Re: *Norfolk Southern Railway Company – Discontinuance of Service Exemption – In Monroe County, Michigan, STB Docket No. AB-290 (Sub-No. 357X)*

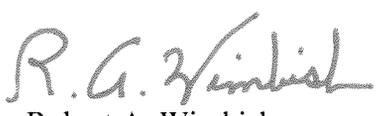
Dear Ms. Brown:

Pursuant to the Board's exemption procedures for the discontinuance of rail service over lines with no local business for at least two years (49 C.F.R. § 1152.50), enclosed on behalf of Norfolk Southern Railway Company are an original and 11 copies of a verified discontinuance of service notice of exemption, along with an electronic version of the same.

A check in the amount of \$3,700.00 is enclosed as the filing fee.

Please acknowledge receipt and filing of this notice of exemption by date-stamping the enclosed eleventh copy and returning it to the courier to return to me.

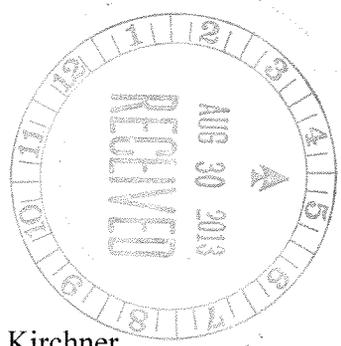
Sincerely,



Robert A. Wimbish  
Counsel for Norfolk Southern Railway Company

Enclosures

cc: Marc Kirchner  
Maquiling Parkerson  
LaWada Poarch



**FILED**  
AUG 30 REC'D  
SURFACE  
TRANSPORTATION BOARD

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

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**STB DOCKET NO. AB-290 (Sub-No. 357X)**

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**NORFOLK SOUTHERN RAILWAY COMPANY  
- DISCONTINUANCE OF SERVICE EXEMPTION -  
IN MONROE COUNTY, MICHIGAN**

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**EXEMPTION NOTICE**

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**Robert A. Wimbish  
BAKER & MILLER PLLC  
2401 Pennsylvania Ave., NW  
Suite 300  
Washington, DC 20037  
Tel: (202) 663-7824  
Fax: (202) 663-7849**

**Attorney for Norfolk Southern  
Railway Company**

**Dated: August 30, 2013**

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

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**STB DOCKET NO. AB-290 (Sub-No. 357X)**

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**NORFOLK SOUTHERN RAILWAY COMPANY  
- DISCONTINUANCE OF SERVICE EXEMPTION -  
IN MONROE COUNTY, MICHIGAN**

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**EXEMPTION NOTICE**

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Norfolk Southern Railway Company (“NSR”) hereby submits a notice of exemption pursuant to 49 C.F.R. part 1152, subpart F (Exempt Abandonments and Discontinuances of Service and Trackage Rights), to discontinue service over an approximately 1.7-mile line of railroad (hereinafter, the “Line”) located in Monroe County, Michigan. In accordance with the Board’s regulations at 49 C.F.R. §§ 1152.50(b) and (d), NSR provides the following information in support of its notice:

**Certification: 49 C.F.R. § 1152.50(b)**

The Line satisfies the criteria for discontinuance under the exemption at 49 C.F.R. part 1152, subpart F. See Verification of John Friedmann, Vice President 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 October 19, 2013 (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.

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

NSR is a Class I common carrier by railroad subject to the Board's jurisdiction under 49 U.S.C. Subtitle IV.

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

NSR is invoking the Board's two-year-out-of-service class exemption procedures to discontinue service over an approximately 1.7-mile line of railroad (the Line) located in Monroe County, Michigan, extending from milepost XV 0.0 (near the intersection of E Front St.) to milepost XV 1.7 (near the intersection of E First St. and Eastchester St.), all of which is located in the City of Monroe, Michigan

**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 representative (49 C.F.R. § 1152.22(a)(7)):**

NSR's representative to whom correspondence regarding this discontinuance should be sent is as follows:

Robert A. Wimbish  
BAKER & MILLER PLLC  
2401 Pennsylvania Ave., NW  
Suite 300  
Washington, DC 20037  
Tel: (202) 663-7824  
Fax: (202) 663-7849

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

The Line lies within U.S. Postal Service ZIP Codes territory 48161.

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

The Line has been dormant for at least two years due to a lack of demand for service, so NSR anticipates no rural or community impact from the discontinuance of its common carrier obligation. Because the Line has not been used for local rail shipments for over twenty-four (24) months, there will 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 NSR's action.

The informational requirement of section 1152.22(e)(4) (alternative public uses of rail property) appears to be pertinent only where the railroad proposes to *abandon* rail property.<sup>1</sup> Here NSR seeks to *discontinue service* over the Line, not abandon it, and for this reason NSR has no opinion on whether or not the subject rail property might be appropriate for use for other public purposes. Although of questionable relevance here (because the proposed action does not entail abandonment of a rail line), NSR nevertheless states as follows: based upon the information in its possession, NSR 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. 91 (1979).

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<sup>1</sup> See, e.g., Columbus and Greenville Railway Company – Discontinuance of Service Exemption – in Greenwood, MS, STB Docket No. 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, trail use/rail banking and public use conditions are not appropriate”); Norfolk Southern Railway Company—Discontinuance Exemption—in Mahoning County, OH, STB Docket No. 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, STB Docket No. AB-1001X, slip op at 2 n.3 (“CBRA-Livingston”) (STB served Feb 23, 2007) (same).

**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 inapplicable here.

**Environmental and Historic Report**

A notice of exemption to discontinue service over (rather than to abandon) a line of railroad that has been out of service for more than two years does not require the preparation or submission of an Environmental and/or Historic Report.<sup>2</sup>

Respectfully submitted,



Robert A. Wimbish  
BAKER & MILLER PLLC  
2401 Pennsylvania Ave., NW  
Suite 300  
Washington, DC 20037  
Tel: (202) 663-7824  
Fax: (202) 663-7849

Attorney for Norfolk Southern Railway Company

Dated: August 30, 2013

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<sup>2</sup> See, e.g., Everett Railroad Company – Discontinuance of Service Exemption – In Blair County, PA, STB Docket No. 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”); CAGY-Greenwood at 2 n.2 (same); NS-Mahoning at 2 n.2 (same); CBRA-Livingston at 2 n.3 (same).

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

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**STB DOCKET NO. AB-290 (Sub-No. 357X)**

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**NORFOLK SOUTHERN RAILWAY COMPANY  
- DISCONTINUANCE OF SERVICE EXEMPTION -  
IN MONROE COUNTY, MICHIGAN**

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**EXEMPTION NOTICE**

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**EXHIBIT A**

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

**CERTIFICATION**

STATE OF GEORGIA:

SS:

CITY OF ATLANTA:

R. A. Bartle makes oath and says that he is General Manager Northern Region for Norfolk Southern Railway Company; that the rail line between Milepost XV 0.0 and Milepost XV 1.7, over which service is to be abandoned, 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.

*R. A. Bartle*

\_\_\_\_\_  
R. A. Bartle

Subscribed and sworn to before me  
this 23<sup>rd</sup> day of July, 2013.

*Sandra Y. Gambrell*  
\_\_\_\_\_  
Notary Public

My commission expires:

4/20/15

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

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**STB DOCKET NO. AB-290 (Sub-No. 357X)**

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**NORFOLK SOUTHERN RAILWAY COMPANY  
- DISCONTINUANCE OF SERVICE EXEMPTION -  
IN MONROE COUNTY, MICHIGAN**

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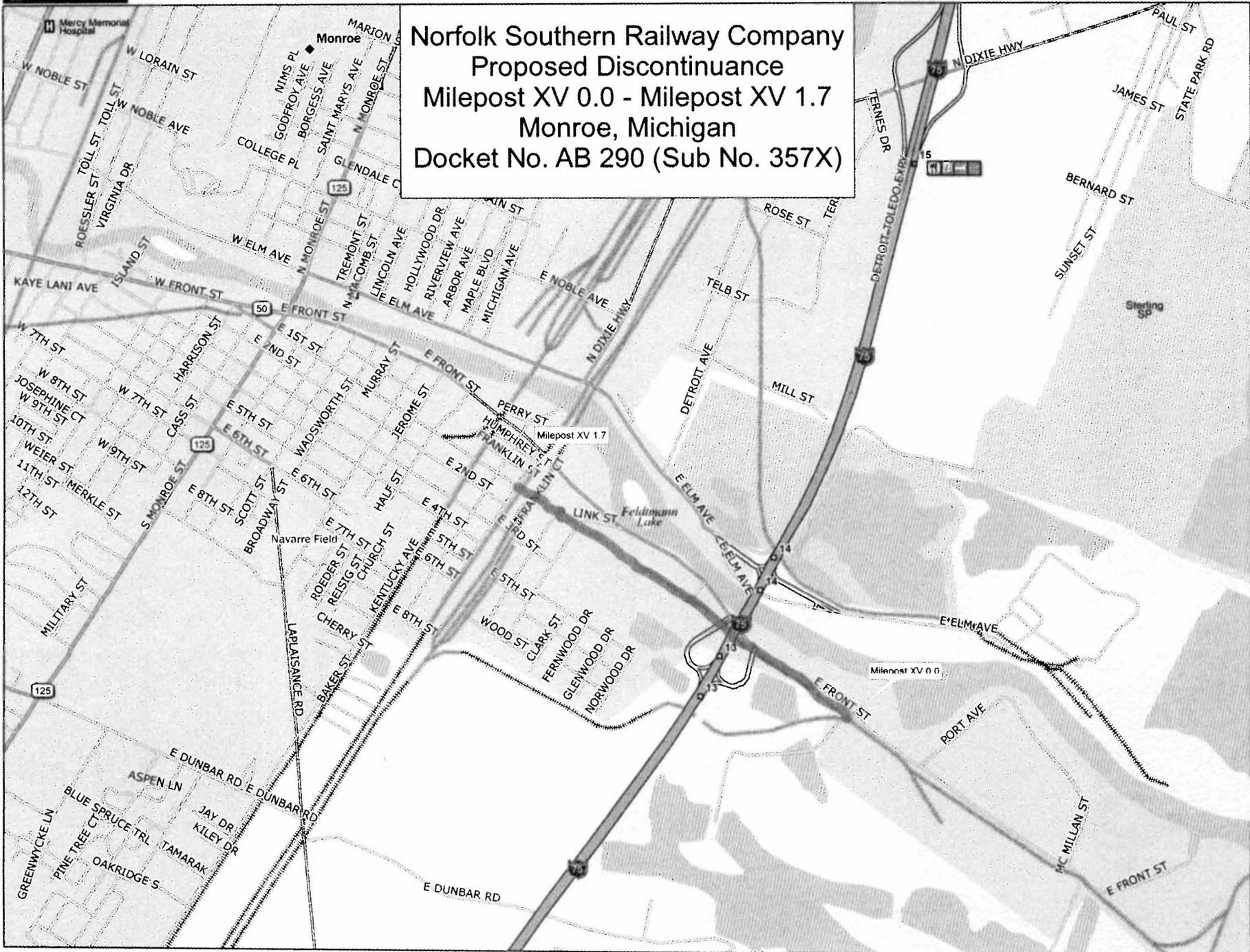
**EXEMPTION NOTICE**

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**EXHIBIT B**

**MAP**

Norfolk Southern Railway Company  
 Proposed Discontinuance  
 Milepost XV 0.0 - Milepost XV 1.7  
 Monroe, Michigan  
 Docket No. AB 290 (Sub No. 357X)



6

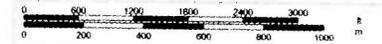
Data use subject to license.

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www.delorme.com



Scale 1 : 25,000



1" = 2,083.3 ft Data Zoom 13-0

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

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**STB DOCKET NO. AB-290 (Sub-No. 357X)**

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**NORFOLK SOUTHERN RAILWAY COMPANY  
- DISCONTINUANCE OF SERVICE EXEMPTION -  
IN MONROE COUNTY, MICHIGAN**

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**EXEMPTION NOTICE**

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**EXHIBIT C**

**CERTIFICATIONS OF  
SERVICE/PUBLICATION**

**Certificate of Service**

**49 C.F.R. § 1152.50(d)(1) – Notice**

I hereby certify that Norfolk Southern Railway Company supplied written notice of its intent to use the Surface Transportation Board's notice of exemption procedures to discontinue service over approximately 1.7 miles of rail line located in Monroe County, Michigan. Written notice (a representative copy of which is attached), was served on August 13, 2013, upon the following:

John Quackenbush  
Michigan Public Service Commission  
4300 W. Saginaw Highway  
PO Box 30221  
Lansing, MI 48909

Chairman Jerrold M. Jung  
Michigan State Transportation Commission  
Murray D. Van Wagoner Transportation Building  
Fourth Floor  
P.O. Box 30050  
Lansing, MI 48909

Charlie Stockman  
National Park Service  
Rivers & Trails Conservation Program  
1201 Eye Street, NW, 9th Floor  
(Org. Code 2220)  
Washington, D.C. 20005

Thomas L. Tidwell, Chief  
Forest Service  
U.S. Department of Agriculture  
Sidney R. Yates Federal Building  
201 14th Street SW  
Washington, DC 20024

David Dorfman  
SDDC TEA  
Railroads for National Defense  
709 Ward Dr., Bldg. 1990  
Scott AFB, IL 62225

August 30, 2013

  
\_\_\_\_\_  
Robert A. Wimbish  
Attorney for Norfolk Southern Railway Company

# BAKER & MILLER PLLC

ATTORNEYS and COUNSELLORS

2401 PENNSYLVANIA AVENUE, NW  
SUITE 300  
WASHINGTON, DC 20037

TELEPHONE: (202) 663-7820  
FACSIMILE: (202) 663-7849

ROBERT A WIMBISH

(202) 663-7824 (Direct Dial)  
E-Mail: [rwimbish@bakerandmiller.com](mailto:rwimbish@bakerandmiller.com)

August 13, 2013

Chairman Jerrold M. Jung  
Michigan State Transportation Commission  
Murray D. Van Wagoner Transportation Building  
Fourth Floor  
P.O. Box 30050  
Lansing, MI 48909

Re: *Norfolk Southern Railway Company – Discontinuance of Service Exemption – In Monroe County, Michigan, STB Docket No. AB-290 (Sub-No. 357X)*

Dear Chairman Jung:

On or about August 28, 2013, Norfolk Southern Railway Company (“NSR”) expects to file with the Surface Transportation Board (“STB”) a notice of exemption (“Notice”) pursuant to 49 C.F.R. Part 1152, Subpart F – *Exempt Abandonments and Discontinuances of Service and Trackage Rights*, to discontinue service over an approximately 1.7-mile line of railroad (hereinafter, the “Line”) located in Monroe County, Michigan, extending from milepost XV 0.0 (near the intersection of E Front St.) to milepost XV 1.7 (near the intersection of E First St. and Eastchester St.), all of which is located in the City of Monroe, Michigan. The subject rail line traverses United States Postal Service ZIP Code territory 48161. The proceeding will be docketed as STB Docket No. AB-290 (Sub-No. 357X). A map depicting the Line is enclosed herewith.

This proceeding involves the discontinuance of common carrier service and not abandonment, so NSR understands that the question of whether the Line contains federally-granted rights-of-way is inapplicable. The Line is not suited at this time for alternative public use. Any documentation in the railroad’s possession will be made available promptly to those requesting it.

If you have any questions about the discontinuance Notice that NSR plans to file, please review the applicable regulations or contact me or the Surface Transportation Board, 395 E Street, SW Washington, DC 20423-0001; TEL: (202) 245-0230.

Sincerely,



Robert A. Wimbish

Counsel for Norfolk Southern Railway Company

Enclosure

**Certificate of Publication**

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

I certify that a “Notice of Intent to Discontinue Rail Service” was published in the form prescribed by the Surface Transportation Board for a notice of exemption strictly to discontinue rail service. The notice was published one time in the *The Monroe Evening News* (August 16, 2013), a newspaper of general circulation in Monroe county, Michigan, where the subject Line is located.

August 30, 2013



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Robert A. Wimbish  
Attorney for Norfolk Southern Railway Company

STATE OF MICHIGAN SS  
COUNTY OF MONROE

PAID PUBLIC NOTICE

NOTICE OF INTENT TO DISCONTINUE RAIL SERVICE  
STB DOCKET NO. AB-290  
(Sub-No. 357X)

Norfolk Southern Railway Company ("NSR") gives notice that on or about August 28, 2013, it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption under 49 C.F.R. Part 1152 Subpart F — Exempt Abandonments and Discontinuances of Service and Trackage Rights permitting NSR to discontinue common carrier service on an approximately 1.7-mile line of railroad (hereinafter, the "Line") located in Monroe County, Michigan, extending from milepost XV 0.0 (near the intersection of E Front St.) to milepost XV 1.7 (near the intersection of E First St. and Eastchester St.), all of which is located in the City of Monroe, Michigan. The subject rail line traverses United States Postal Service ZIP Code territory 48161. The proceeding will be docketed as STB Docket No. AB-290 (Sub-No. 357X).

The proposed action entails the discontinuance of rail common carrier service over the subject rail line, but not abandonment. Accordingly, no environmental and/or historic reports will be prepared as part of this proceeding.

Appropriate offers of financial assistance to subsidize continued rail service can be filed with the Board. An original and 10 copies of any pleading pertaining to offers of financial assistance or responding generally to the proposed discontinuance of service must be filed directly with the Board's Section of Administration, Office of Proceedings, 395 E Street, S.W., Washington, DC 20423 [See 49 C.F.R. §§ 1104.1(a) and 1104.3(a)], and one copy must be served on NSR's representative [See 49 C.F.R. § 1104.12(a)]. Questions regarding offers of financial assistance may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at 202-245-0230. Copies of any comments or requests for specific Board action should be served on NSR's representative: Robert A. Wimbish, BAKER & MILLER PLLC, 2401 Pennsylvania Ave., N.W., #300, Washington, DC 20037(phone: 202-663-7824; fax 202-663-7849).  
AUGUST 16, 2013

Jay S. Hollon being first duly sworn, says that he is the Treasurer of The Monroe Evening News, a newspaper published in the English language for the dissemination of local or transmitted news and intelligence of a general character and legal news and which is a duly qualified newspaper, printed, published and circulated in the County of Monroe. The annexed notice is a printed copy taken from said newspaper, and has been duly published in said newspaper for one insertions, and that the first publication thereof was on the 16th day of August A.D. 2013 and the last publication thereof was on the 16th day of August A.D. 2013 .

*Jay S. Hollon*

Sworn to and subscribed before me this 16th day of August A.D. 2013 .

*Janet Latondress*

Notary Public, Monroe County, Mich.

My commission expires \_\_\_\_\_

JANET LATONDRESS  
NOTARY PUBLIC - STATE OF MICHIGAN  
COUNTY OF MONROE  
My Commission Expires Jan. 25, 2019  
Acting in the County of \_\_\_\_\_

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

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**STB DOCKET NO. AB-290 (Sub-No. 357X)**

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**NORFOLK SOUTHERN RAILWAY COMPANY  
- DISCONTINUANCE OF SERVICE EXEMPTION -  
IN MONROE COUNTY, MICHIGAN**

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**EXEMPTION NOTICE**

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**DRAFT FEDERAL REGISTER  
NOTICE OF EXEMPTION**

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB-290 (Sub-No. 357X)]

Norfolk Southern Railway Company—Discontinuance of Service Exemption—in Monroe County, Michigan

Norfolk Southern Railway Company (NSR) filed on August 28, 2013, a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments and Discontinuances of Service and Trackage Rights to discontinue service over approximately 1.7 miles of railroad in Monroe County, Indiana. The subject rail line extends from milepost XV 0.0 (near the intersection of E Front St.) to milepost XV 1.7 (near the intersection of E First St. and Eastchester St.), all of which is located in the City of Monroe, Michigan. The line traverses United States Postal Service Zip Code 48161.

NSR has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line that has been, or would need to be, rerouted; (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 October 19, 2013, 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)<sup>1</sup> must be filed by September \_\_, 2013.<sup>2</sup> Petitions to reopen must be filed by \_\_\_\_\_, 2013, 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:  
Robert A. Wimbish, 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: \_\_\_\_\_.

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

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<sup>1</sup> 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 this proceeding involves the proposed discontinuance of rail service and not abandonment, 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.

<sup>2</sup> Because NSR is seeking to discontinue service, not to abandon the line, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historic documentation is required here under 49 C.F.R. § 1105.6(c) and 49 C.F.R. § 1105.8(b), respectively.

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

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**STB DOCKET NO. AB-290 (Sub-No. 357X)**

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**NORFOLK SOUTHERN RAILWAY COMPANY  
- DISCONTINUANCE OF SERVICE EXEMPTION -  
IN MONROE COUNTY, MICHIGAN**

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**EXEMPTION NOTICE**

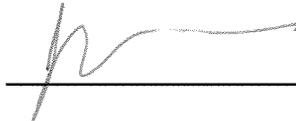
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**VERIFICATION**

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 of service notice of exemption is true and correct. Further, I certify that I am qualified and authorized to make such verification on behalf of NSR in connection with this proceeding before the Surface Transportation Board.

Executed this second day of July 2013



---

John H. Friedmann  
Vice President