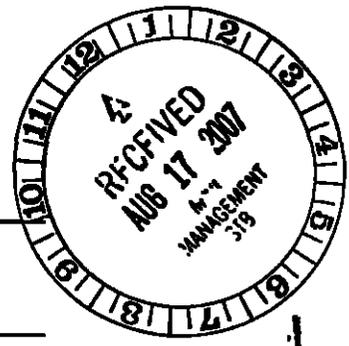


220071

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



STB DOCKET NO. AB-290 (Sub- No. 293X)

**NORFOLK SOUTHERN RAILWAY COMPANY
ABANDONMENT EXEMPTION
NORFOLK AND VIRGINIA BEACH, VIRGINIA**

**ENTERED
Office of Proceedings**

AUG 17 2007

**Part of
Public Record**

COMMENTS OF JAMES RIFFIN

1. Notice is herewith given that James Riffin ("Riffin" or "Protestant") intends to participate as a party of record in the above entitled proceeding. All documents, filings or decisions in the above entitled case should be served on Riffin at:
James Riffin
1941 Greenspring Drive
Timonium, MD 21093
(443) 414-6210

2. Riffin, pursuant to the applicable regulations of the Surface Transportation Board ("STB" or "Board") herewith files his Comments on Norfolk Southern Railway Company's ("NSR") Notice of Exemption ("NOE") to Abandon 15.34 miles of rail line in Norfolk and Virginia Beach, Virginia, which NOE is the subject of the above entitled case, and states:

3. On July 19, 2007, NSR filed an Abandonment Exemption ("AE") to abandon 15.34 miles of railroad line between Mileposts VB 0.12 and VB 15.46, in Norfolk and Virginia Beach, Virginia ("Line").

4. A. Protestant's Business: Riffin is a Class III railroad.

B. Riffin's interest in the proceeding: Riffin's has an interest in acquiring this line of railroad.

C. Riffin does not represent any group or other public interest.

5. On page 5 of its NOE, in subparagraph (5), NSR made the following representation:

“(5) System Diagram Map. This Line has not been included as a rail line to be abandoned or over which service is to be discontinued on the carrier’s system diagram map because it was not expected to be the subject of an abandonment application. (Emphasis added.)

6. On page 24 of NSR’s NOE, in NSR’s Environmental and Historic Reports section, in paragraph 3, NSR made the following representation:

“NSR had previously served Environmental and Historic Reports in the first quarter 2006 ANTICIPATING an abandonment filing covering the subject line. (Emphasis added.)

7. System Diagram Maps are to be amended as line designations change. 49 CFR 1152.13 (b).

8. A system diagram map must show all “lines or portions of lines which the carrier **anticipates** will be the subject of an abandonment or discontinuance application to be filed within the 3-year period following the date upon which the diagram, or any amended diagram or narrative, is filed with the Board;” 49 CFR 1152.10 (b) (1). (Emphasis added.)

9. 49 CFR 1152.13 (c) states:

“(c) The Board will reject an abandonment or discontinuance application filed by a rail carrier if any part of the application includes a line that has not been identified and described, by amendment or otherwise, on the carrier’s system diagram map or narrative, as appropriate, as a line in category 1 (§1152.10(b)(1)) for at least 60 days.”

10. It would appear NSR’s statement on page 5 of its NOE regarding its System Diagram Map is either misleading or false, for it directly contradicts NSR’s statement in NSR’s Environmental and Historic Reports, wherein NSR stated it had served, in the first quarter of 2006, Environmental and Historic Reports, “anticipating an abandonment filing covering the subject line.”

11. While 49 CFR 1152.13 (c) states the Board will reject an abandonment application if the line has not been shown on the carrier’s system diagram map as being in category 1 for at least 60 days prior to filing the application, the Board may also waive any of its rules. In the instant

case, rather than the Board rejecting NSR's Abandonment Petition, your Protestant might suggest NSR amend its statement on page 5 of its NOE, so that it is consistent with other statements in its NOE. NSR then could ask that the Board find that when NSR published its Notice of Intent to Abandon Rail Service in the *Virginian-Pilot* newspaper on June 28, 2007, that effectively put parties on notice that the line was subject to abandonment, thereby forming a basis for waiving the 60-day requirement of 49 CFR 1152.13 (c). NSR then could ask that the Board start the 60-day clock on June 28, 2007, hold the 60-day waiting period expires on August 27, 2007, then accept NSR's NOE, effective August 27, 2007. Doing this would conserve the Board's resources, would save NSR the cost of refileing its NOE, and in all likelihood, would not adversely affect the rights of any interested party.

Respectfully submitted,


James Riffin

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of August, 2007, a copy of the foregoing Comments of James Riffin, was served by first class mail, postage prepaid, upon James R Paschall, Senior General Attorney, Norfolk Southern Railway Company, Law Department, Three Commercial Place, Norfolk, VA 23510.



James Riffin