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SERVICE DATE – SEPTEMBER 18, 2020

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 290 (Sub-No. 409X)]

Norfolk Southern Railway Company—Abandonment Exemption—in the City of Clifton, Passaic County, N.J.

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments to abandon an approximately 0.4-mile rail line extending from milepost IA 12.5 to milepost IA 12.9 in the City of Clifton in Passaic County, N.J. (the Line). The Line traverses U.S. Postal Service Zip Code 07011.

NSR has certified that: (1) no local traffic has moved over the Line for at least two years; (2) no overhead traffic has moved over the Line for at least two years, and 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 two-year period; and (4) the requirements at 49 C.F.R. §§ 1105.7 and 1105.8 (notice of environmental and historic report), 49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

Any employee of NSR adversely affected by the abandonment 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,<sup>1</sup> the exemption will be effective on October 18, 2020, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>2</sup> formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2), and interim trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by September 28, 2020.<sup>3</sup> Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by October 8, 2020, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

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<sup>1</sup> Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (i.e., subsidy or purchase) and demonstrating that they are preliminarily financially responsible. See 49 C.F.R. § 1152.27(c)(2)(i).

<sup>2</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. 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.

<sup>3</sup> Filing fees for OFAs and trail use requests can be found at 49 C.F.R. § 1002.2(f)(25) and (27), respectively.

A copy of any petition filed with the Board should be sent to NSR's representative, William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037.

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

NSR has filed a combined environmental and historic report that addresses the potential effects, if any, of the abandonment on the environment and historic resources. OEA will issue a Draft Environmental Assessment (Draft EA) by September 25, 2020. The Draft EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the Draft EA becomes available to the public.

Environmental, historic preservation, public use, or interim trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 C.F.R. § 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 September 18, 2021, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

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Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

Decided: September 14, 2020.

By the Board, Allison C. Davis, Director, Office of Proceedings.