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Part of
Public Record

Danielle Gosselin
Director
Office of Environmental Analysis
Surface Transportation Board
395 E Street S.W.
Washington, DC 20423

Re: *Norfolk Southern Railway Company – Trackage Rights – Kansas City Southern*, FD 36500 (Sub-No. 5)

Dear Ms. Gosselin:

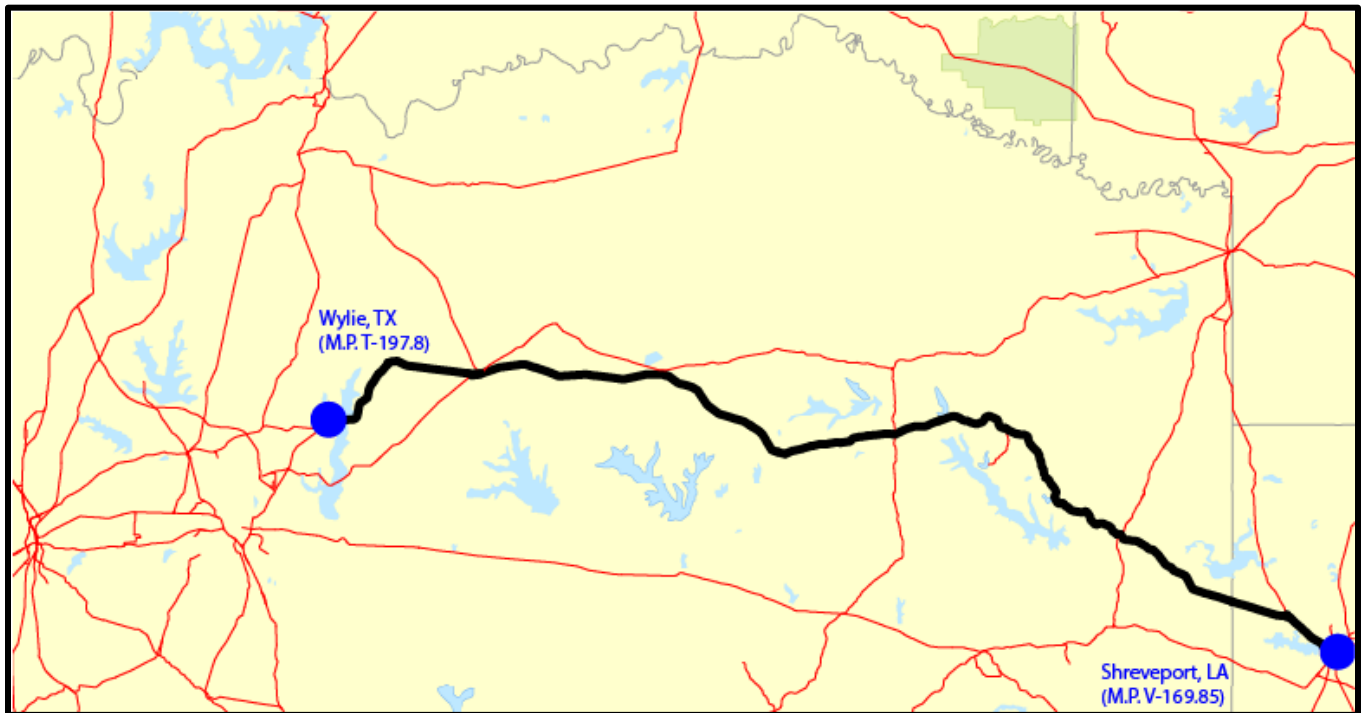
Norfolk Southern Railway Company (“NS”) submits the following environmental information to the Surface Transportation Board (“Board”) Office of Environmental Analysis (“OEA”).

NS’s Responsive Application, filed on February 28, 2022, requests that the Board condition any approval of the acquisition of Kansas City Southern (“KCS”) by Canadian Pacific Railway (“CP”) on the grant of limited contingent trackage rights to move certain intermodal traffic over the KCS line between Shreveport, LA and an intermodal facility in Wylie, TX (the “Wylie Intermodal Terminal”). KCS and NS currently offer interline service for the intermodal traffic for which NS is seeking contingent trackage rights. If NS chooses to exercise its right to purchase the Wylie Intermodal Terminal¹, then KCS will provide haulage service for the intermodal traffic. The contingent trackage rights would not become exercisable unless KCS (CPKC) fails to provide adequate haulage service.

A map of the KCS line between Shreveport, LA and Wylie, TX is below.

¹ The Wylie Intermodal Terminal is located in Wylie, TX and is owned by KCS.

Map Showing the KCS Line between Shreveport, LA and Wylie, TX



The acquisition of contingent trackage rights under 49 U.S.C. § 11323(a)(6) can require an environmental assessment under 49 C.F.R. § 1105.6 if the acquisition would result in certain changes in rail traffic, rail yard use, or diversion from rail to motor carriage, but only if the operational changes would exceed any of the thresholds in 49 C.F.R. § 1105.7(e) (4) or (5) or would result in an action that would normally require environmental documentation.

The thresholds in 49 C.F.R. § 1105.7(e) (4) and (5) are:

- 1105.7(e)(4)(iv) The proposed transaction will cause diversions from rail to motor carriage of (A) more than 1,000 rail carloads a year or (B) an average of 50 rail carloads per mile per year for any part of the affected line.
- 1105.7(e)(5)(i) (A) An increase in rail traffic of at least 100 percent or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or (B) an increase in rail yard activity of at least 100 percent, or (C) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment.

- Under 1105.7(e)(5)(ii), if the proposed action affects a class I or nonattainment area under the Clean Air Act, and will result in (A) an increase in rail traffic of at least 50 percent or an increase of at least three trains a day on any segment of rail line, or (B) an increase in rail yard activity of at least 20 percent.

At the outset, NS notes that the requested trackage rights are contingent on an event that is not certain to occur, and if that event does not occur there would be no operational changes resulting from the grant of the contingent trackage rights. If the contingent trackage rights become exercisable and NS chooses to make operational changes as a result, NS anticipates that those operational changes would not exceed any of the thresholds described above. In essence, the same traffic that should have been moving in haulage service on the trains of CPKC would instead move along the exact same route via trackage rights on the trains of NS. Further, the grant of the contingency is intended to ensure reasonable service, and thus prevent short-term diversion of traffic from rail to the highways. If triggered, the exercise of that contingency would take place to prevent long-term diversion of traffic from rail to the highways.

In particular, NS's operational change would not:

1. Result in a diversion from rail to motor carriage of more than 1,000 rail cars;
2. Result in diversions from rail to motor carriage of an average of 50 rail carloads per mile per year for any part of the affected line;
3. Result in an increase in rail traffic of at least 100 percent or eight trains a day on any segment of the affected line;
4. Result in an increase in rail yard activity of at least 100 percent;
5. Result in an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment;
6. In designated nonattainment areas, result in an increase in rail traffic of at least 50 percent or an increase of at least three trains a day on any segment of affected rail line; or
7. In designated nonattainment areas, result in an increase in rail yard activity of at least 20 percent.

Finally, the contingent trackage rights do not implicate any rail line construction or abandonment.

Because the anticipated operational changes that NS would take if the contingent trackage rights become exercisable do not exceed any of the thresholds described above, NS believes no environmental assessment is required. NS is willing to work with the OEA if additional information is required.

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Sincerely,

Brianne Kucerik

Brianne Kucerik

Attorney for Norfolk Southern Railway Company

cc: Secretary of Transportation
Attorney General of the United States
David L. Meyer
William A. Mullins
Hon. Thomas McCarthy

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of March 2022 the above letter has been e-filed via the STB's e-filing system and served via email or regular postage pre-paid mail on all parties of record in this proceeding.

/s/ Daniel Baquet

Daniel Baquet

March 8, 2022