

ENTERED
Office of Proceedings
June 20, 2023
Part of
Public Record

BAKER & MILLER PLLC

ATTORNEYS and COUNSELLORS
2401 PENNSYLVANIA AVENUE, NW
SUITE 300
WASHINGTON, DC 20037

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

WILLIAM A. MULLINS

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

June 19, 2023

VIA E-FILING

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 – Abandonment Exemption – In The City Of Greensboro, North Carolina, AB-290 (Sub-No. 404X)

Dear Ms. Brown:

Norfolk Southern Railway Company (“NSR”) hereby replies to the June 19, 2023, letter filed by The City Of Greensboro, North Carolina (the “City”). The City requests expedited consideration of its unprecedented request to remove a portion of a railbanked right-of-way (“Portion”) over NSR’s objection and notwithstanding that NSR has a residual common carrier obligation over that portion and has the right to acquire and buy it back. The request should be denied.

The City appears to blame the Surface Transportation Board’s (“STB” or “Board”) workload for any delay in the decision-making process, but the blame lies solely with the City. Rather than follow the standard process and file an adverse abandonment, which is the proper process to use to remove a STB jurisdictional portion of a railroad right-of-way in an adverse situation, the City took an unprecedented and novel approach, relying on Missouri Pac. R.R. Co. - Abandonment Exemption - In Red River and Bowie Counties, Tex., AB-3 (Sub-No. 137X) (STB served July 29, 2021) (“MP-Red River”). The MP-Red River case, which itself was precedent setting, has never been used, nor should it be, to remove any portion of a railroad’s residual common carrier obligation over a railbanked line over the objection of the railroad holding that residual common carrier obligation. The proper procedure for the City to follow was to file an adverse abandonment petition.

BAKER & MILLER PLLC

June 19, 2023

Page 2

Having now forced the Board to resolve and decide whether the Board should use the MP-Red River process in an adverse situation, it is no wonder that the Board needs time to resolve what has become a complicated legal issue. Given the unprecedented use of the MP-Red River case, the Board should carefully consider all the issues and facts before making its decision. The Board should reject any effort to “expedite” its careful and methodical review.

If there are any questions about this matter, please contact me directly, either by telephone: (202) 663-7823 or by e-mail: wmullins@bakerandmiller.com.

Sincerely,

/s/ William A. Mullins

William A. Mullins

cc: Parties of Record