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April 30, 2026

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VIA E-FILING

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

ENTERED
Office of Chief Counsel
April 30, 2026
Part of
Public Record

Re: Norfolk Southern Railway Company – Abandonment Exemption – In The City of Baltimore, Maryland AB-290 (Sub-No. 420X)

Dear Chief of Case Administration:

Please accept for filing this Norfolk Southern Railway Company's ("NSR") Response to the Board's decision issued April 20, 2026 in the above-referenced proceeding. If there are any questions about this matter, please contact me directly, either by telephone: 202-663-7823 or by e-mail at wmullins@mullinslawgroup.net. If I am unavailable, you may contact John V. Edwards at 202-663-7853 or by e-mail at jedwards@mullinslawgroup.net.

Respectfully submitted,

/s/ William A. Mullins

William A. Mullins
Attorney for Norfolk Southern Railway Company

Enclosures

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

AB-290 (Sub-No. 420X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF BALTIMORE, MARYLAND**

RESPONSE TO APRIL 20, 2026 STB ORDER

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April 30, 2026

**Attorneys for Norfolk Southern Railway
Company**

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

AB-290 (Sub-No. 420X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF BALTIMORE, MARYLAND**

RESPONSE TO APRIL 20, 2026 STB DECISION

Norfolk Southern Railway Company ("NSR") respectfully submits this Response to the Surface Transportation Board's April 20, 2026 Decision directing NSR to respond by April 30, 2026 to allegations raised by James Riffin's January 2, 2026 comment regarding NSR's Notice of Exemption filed in this proceeding. By this Response, NSR addresses Riffin's six alleged "false or misleading statements" and two alleged "significant omissions" in NSR's Notice of Exemption.

NSR will demonstrate that: (1) the statements challenged by Riffin are either accurate, not materially misleading, or subject to reasonable interpretation within the context of the Notice of Exemption; and (2) the alleged omissions do not materially affect the adequacy of the Notice of Exemption. Mr. Riffin's January 2 filing largely reflects disagreements with characterization and/or matters outside the scope of the abandonment exemption noticed in this docket, rather than material misstatements about the specific freight common carrier obligation at issue.

PROCEDURAL HISTORY

On December 3, 2025, NSR filed a Notice of Exemption under 49 C.F.R. part 1152 subpart F seeking exemption from prior approval requirements to abandon its freight rail

easement over approximately one mile of rail line extending from milepost UU 0.00 to milepost UU 1.00 in the City of Baltimore, Maryland. The Notice of Exemption was published in the Federal Register on December 23, 2025, with an effective date of January 22, 2026, unless stayed by the Board or unless a formal expression of intent to file an offer of financial assistance was filed by January 2, 2026.

On January 2, 2026, James Riffin filed a Notice of Intent to Participate with Verified Comments alleging that NSR's Notice of Exemption contains six false or misleading statements and two significant omissions. That same day, Riffin filed a Notice of Intent to File an Offer of Financial Assistance and a Request for Information.

On January 9, 2026, NSR filed a Motion to Reject Riffin's Notice of Intent to File an Offer of Financial Assistance, arguing that Riffin's filing was not submitted timely to the carrier, vague and unworkable, failed to demonstrate preliminary financial responsibility, and served no public purpose. With that motion, NSR submitted a corrected replacement map to address an acknowledged mapping error in the original Notice of Exemption.

On January 12, 2026, the Board issued a decision rejecting Riffin's Notice of Intent to File an Offer of Financial Assistance and staying the effective date of the Notice of Exemption pending resolution of Riffin's then-pending petitions for review before the United States Court of Appeals for the District of Columbia Circuit.

On April 3, 2026, the D.C. Circuit issued an order dismissing one petition for review and denying the other in *Riffin v. Surface Transportation Board*, Nos. 24-1385 & 25-1141 (consolidated). The D.C. Circuit held that the Board retained authority to grant NSR's motion to withdraw its prior Notice of Exemption, that Riffin had no vested right to continue the abandonment proceeding, and that the Board's procedures were lawful.

On April 20, 2026, the Board issued a Decision directing NSR to respond to the allegations raised by Riffin's January 2, 2026 comment by April 30, 2026.

FACTUAL BACKGROUND

The allegations raised by Riffin appear to be based upon his lack of understanding of the factual context. His claims must be read in the context of what NSR is actually seeking to abandon, not against extraneous or collateral matters based upon actions (1) taken on track designated as 49 U.S.C. § 10906 track or (2) undertaken by third parties on track not subject to the jurisdiction of the STB. When examined in this proper context, the alleged false or misleading statements do not rise to the level of material misrepresentations that would render the exemption void ab initio.

As shown on the maps attached here as Exhibit A, the “Line” that NSR has a latent common carrier obligation over, via an easement, is the Cockeysville Industrial Track, extending from milepost UU 0.00 to milepost UU 1.00 in the City of Baltimore, Maryland, a distance of approximately one mile. The Line is located in a corridor containing three parallel tracks: Two light rail tracks operated by the Maryland Transit Administration, which carry over 24,000 passengers per day and extend from Baltimore Street to Hunt Valley; and one freight track (the easternmost track) over which NSR holds a residual freight common carrier obligation.

The underlying real property is owned by MTA and Amtrak, with the property boundary located approximately between milepost UU 0.12 (North Avenue Bridge) and milepost UU 0.74 (28th Street Bridge). NSR does not own the underlying property but holds a latent common carrier obligation to operate over the tracks and property.

The main freight track extends from milepost UU 0.00 to approximately milepost UU 0.90, a distance of approximately 0.90 miles. This segment is located on the east side of the light

rail tracks and is physically separated from the light rail tracks by the light rail right-of-way. At approximately milepost UU 0.90, a derail is located on the freight track, which prevents access to the segment north of the derail (from approximately UU 0.90 to UU 1.00).

West of the main freight track, there was formerly a Norfolk Southern Tail Track and a Flexi-Flow facility (also known as the Thoroughbred Bulk Transfer Terminal) containing approximately 12 yard tracks. These were classic Section 10906 tracks. These facilities were accessed via a left-hand turnout in the freight track at approximately milepost UU 0.85, which connected to crossing diamonds that carried the freight track across the light rail tracks.

Because NSR no longer had a need to use the Flexi-Flow facility and the Tail Track and because those tracks and operations (being former Section 10906 tracks that were sold to MTA in 2019 and converted to private industrial tracks) could be discontinued and/or removed without any STB authority, in February 2023, MTA removed the crossing diamonds and the turnout that provided access to the Flexi-Flow facility and Norfolk Southern Tail Track. This removal was documented in a letter from the Maryland Department of Transportation dated February 8, 2023, which is included in NSR's Notice of Exemption. As of November 12, 2024, all yard tracks at the former Flexi-Flow facility were removed, and the property was and is being used as a contractor's storage yard.

MTA's light rail passenger transit cars are powered solely by electricity conveyed via catenary wires suspended above the center-line of the light rail tracks. No catenary wires exist above the freight tracks. Therefore, MTA's passenger transit cars cannot and do not operate on the freight tracks.

ARGUMENT

Riffin alleges that NSR's Notice of Exemption contains the following six false or misleading statements:

1. MTA currently operates light rail transit service over the Line and carries over 24,000 passengers per day over the Line.
2. NSR is contractually obligated to abandon its freight rights under its agreement with MTA.
3. The Line will remain intact and in operation for light rail transit purposes.
4. The detailed map showing the location of the Line (Exhibit B) depicts Line where Line is not actually located.
5. NSR has no knowledge regarding changes made to the right-of-way by Amtrak or MTA.
6. Dr. John A. Olszewski, Jr. is identified as Baltimore County Executive.

He also alleges that NSR's Notice of Exemption contains the following two significant omissions:

1. NSR failed to disclose that it sold the Flexi-Flow facility in 2019 without seeking Board authority.
2. NSR's Historic Report does not comply with 49 C.F.R. § 1105.8(d) requirements, including failure to provide a sufficiently detailed map, right-of-way widths, photographs of railroad structures 50 or more years old, construction dates and alteration dates, and documentation of the Jones Falls culverts and stone retaining wall as railroad structures.

Riffin's allegations are based upon an incomplete understanding of the facts. The statements challenged by Riffin, when read in context of what NSR is actually seeking to abandon, do not establish that NSR's Notice of Exemption was false or misleading. NSR addresses each of these allegations and alleged omissions as follows:

SIX ALLEGATIONS

1. MTA Light Rail Operations and Passenger Volume

Challenged Assertion: NSR stated that MTA operates light rail over the Line and carries 24,000 plus passengers per day.

Riffin's Contention: Riffin alleges this statement is false or misleading because MTA's light rail vehicles do not operate on the freight track, which is part of the corridor.

NSR's Explanation: The corridor contains three parallel tracks: two light rail tracks operated by MTA and one track for which NSR has a latent common carrier obligation over. MTA's light rail service operates exclusively on the two dedicated light rail tracks. The Notice of Exemption's reference to MTA's light rail operations and passenger volume was descriptive of the corridor as a whole and its current use. NSR's use of the word "Line" was intended to refer only to the freight track subject to the STB's jurisdiction. In this statement it probably should have referred to the corridor rather than the "Line," or alternatively, NSR could have made it clearer that MTA did not operate over, and would not operate over, the freight track.

Why Not Materially False or Misleading: Mr. Riffin is intentionally putting a technical grammatical or definition error above the overall contest of the proceeding. The statement is not materially false or misleading in context. The Notice of Exemption did not claim that MTA operates on the freight track specifically; rather, it described the corridor's overall configuration and the light rail service that operates over the corridor. The absence of catenary over the freight track does not render the statement about MTA's light rail operations false. The statement accurately conveys the transportation reality of the corridor and is not reasonably susceptible to misinterpretation as claiming that MTA operates on all tracks within the corridor and this was fully disclosed to the STB.

2. Contractual Obligation to Abandon Freight Rights

Challenged Assertion: NSR stated that it is contractually obligated to abandon its freight rights.

Riffin's Contention: Riffin challenges the characterization of NSR's contractual obligation, arguing that NSR is only obligated to seek abandonment authority, not to abandon.

NSR's Explanation: NSR's statement reflects its understanding of its contractual obligations regarding the freight easement and rights over the corridor. The practical effect of the obligation is that NSR must pursue abandonment authority, which it is attempting to do. The distinction between being obligated to abandon and being obligated to seek abandonment authority is merely semantics and does not materially mislead about NSR's position or the Board's decision-making.

Why Not Materially False or Misleading: A party's statement regarding its own contractual obligations, made in good faith based on its understanding of the contract, is not materially false or misleading merely because another party disputes the interpretation of those obligations. The statement reflects NSR's good-faith understanding of its contractual position and does not warrant voiding the Notice of Exemption. Further, it could be considered false and misleading (or at least an unreasonable interpretation) if NSR had interpreted its contractual obligations as being obligated to seek abandonment authority, but being free to disregard that abandonment authority once sought and received. In this instance in particular, that interpretation would be contrary to the apparent contractual intent of the parties in the drafting of this section—namely, to remove NSR as a freight common carrier over the track.

3. Line Remaining Intact and in Operation for Light Rail

Challenged Assertion: NSR stated that the Line will remain intact and in operation for light rail.

Riffin's Contention: Riffin alleges this is false or misleading because the removal of diamonds and crossings around February 2023 has altered the physical configuration of the corridor.

NSR's Explanation: Again, the use of the word “Line” could have referred only to the freight track, but NSR was using it in the broader context to the freight tracks but was inclusive of the entire corridor. The two light rail tracks operated by MTA will remain intact and in operation for light rail service. The removal of diamonds and crossings affected access to the former Flexi-Flow facility and the freight track connection, tracks that are not subject to the STB’s jurisdiction, or to the extent they were, they were Section 10906 tracks for which NSR could sell to MTA, and MTA could convert to private industrial track, without STB approval. The removal of the diamond and crossing did not affect the light rail tracks themselves or MTA's continued operation of light rail service over those tracks. NSR's statement refers to the light rail portion of the corridor remaining in operation, not to freight access to a former terminal or yard connection. NSR seeks to abandon its latent common carrier obligation over the freight rail track, which is distinct from the light rail tracks that will continue in operation.

Why Not Materially False or Misleading: The statement accurately describes the status of the light rail tracks and MTA's continued light rail operations. The removal of diamonds and crossings does not render the statement false because those removals affected freight access, not the light rail tracks themselves. Nor is the statement misleading because it refers to the light rail service and tracks, which will indeed remain intact and in operation. The distinction between

the light rail tracks (which remain in operation) and the freight easement (which is being extinguished through this abandonment proceeding) is clear from the context of the abandonment proceeding.

NSR acknowledges that the statement could have been clearer. However, this lack of precision does not rise to the level of a material misrepresentation that would warrant voiding the Notice of Exemption.

4. Exhibit B Map Depicting Track Location

Challenged Assertion: Exhibit B map allegedly depicts track that was not located.

Riffin's Contention: Riffin alleges that the map submitted with the Notice of Exemption inaccurately depicts the location of track.

NSR's Explanation: NSR acknowledges that it previously filed an incorrect map from a prior docket. However, NSR submitted a corrected and replacement map with its January 9, 2026 motion. The corrected map is now part of the record and governs the proceedings and is being reattached here. The earlier error has been cured by the submission of the accurate replacement map.

Why Not Materially False or Misleading: The submission of a corrected map in the record eliminates any prejudice from the earlier error. The accurate map is now available to all parties and the decision-maker. The correction of a map error through the submission of an accurate replacement is a standard and appropriate remedy that does not warrant voiding the Notice of Exemption. The record now contains the correct depiction of track location.

5. NSR's Knowledge of Changes by Amtrak/MTA

Challenged Assertion: NSR stated that it has no knowledge of changes by Amtrak/MTA.

Riffin's Contention: Riffin alleges this is false or misleading because NSR received an MDOT letter dated February 8, 2023 that referenced track reconfiguration and removal of crossings.

NSR's Explanation: NSR acknowledges receipt of the MDOT letter dated February 8, 2023, which is included in NSR's Notice of Exemption. The intended meaning of NSR's statement regarding no knowledge is that NSR has no direct control over or independent verification of the specific construction details and implementation of changes made by third parties such as Amtrak and MTA. NSR's receipt of the MDOT letter does not constitute NSR's own knowledge of the technical details of the changes or NSR's ability to verify their implementation.

NSR confirms its understanding that crossings were removed around February 2023, as reflected in the MDOT letter and the record. The statement should be understood in the context of NSR's lack of direct involvement in and control over third-party construction activities.

Why Not Materially False or Misleading: The statement is not materially false or misleading when understood in its proper context. NSR's receipt of a letter describing changes does not equate to NSR's independent knowledge or verification of those changes. The statement accurately reflects NSR's position regarding its lack of direct control over third-party construction activities.

NSR acknowledges that the statement could have been clearer by specifying that NSR received notification of changes but did not have direct knowledge of technical details. However, the inclusion of the MDOT letter in the Notice of Exemption itself demonstrates that NSR disclosed the information it received about the changes. This disclosure substantially undermines any claim that NSR made a material misrepresentation.

6. Identification of Dr. John A. Olszewski, Jr. as Baltimore County Executive

Challenged Assertion: NSR identified Dr. John A. Olszewski, Jr. as Baltimore County Executive in the Notice of Exemption.

Riffin's Contention: Riffin alleges this is a service or notice defect that warrants voiding the Notice of Exemption.

NSR's Explanation: The identification of Dr. John A. Olszewski, Jr. as Baltimore County Executive is a clerical matter relating to the title or designation of the individual to be served. If the title is incorrect or outdated, this is a curable defect that does not affect the substance of the proceeding or NSR's obligation to provide proper notice. NSR will ensure that correct service is provided to the appropriate Baltimore County official if needed.

Why Not Materially False or Misleading and No Basis to Void the Notice of Exemption: A clerical error in the title or designation of a public official does not warrant voiding the Notice of Exemption. Service on the Baltimore County Executive or the appropriate county official, regardless of the specific title used, satisfies the notice requirements. There is no prejudice to Riffin or any other party from a clerical designation error, and the error is readily curable through corrected service if necessary. The substance of the Notice of Exemption and the abandonment proceeding is not affected by a clerical error in an official's title.

TWO OMISSIONS

1. The 2019 Sale and Alleged Unauthorized Removal of Rail Infrastructure

Riffin's Allegation: NSR failed to inform the STB, failed to seek abandonment authority, prior to removing all the rail infrastructure, prior to abandoning, by selling, in 2019, all of its legal interests associated with Conrail's former Flexi-Flow bulk terminal facility, associated with NSR's former rail service.

NSR's Explanation: Riffin's first allegation of omission fails because the Notice of Exemption already includes the MDOT letter dated February 8, 2023, which explicitly references that MTA understood NSR had sold its property interest in the terminal in 2019. The letter further indicates that MTA was undertaking improvements including removal of crossings. Accordingly, the factual predicate for Riffin's concern - the 2019 sale - is already disclosed in the record. There is no omission where the relevant information appears in the submitted documentation.

Why Not Materially False or Misleading and No Basis to Void the Notice of Exemption: The critical distinction that renders Riffin's theory inapplicable is the scope of the relief sought in this abandonment proceeding. This docket concerns NSR's abandonment of its freight rail easement and common carrier obligation over the identified mileposts on the rail line subject to the jurisdiction of the STB. The STB does not have authority over, and this proceeding does not constitute an adjudication of, property transactions undertaken by NS or other third parties where the sale of such property and/or track removal were not subject to the prior approval of the STB.

Riffin conflates two distinct regulatory matters: (1) abandonment or discontinuance of an easement over a rail line and the associated common carrier obligation, which does require STB authority; and (2) the sale or disposition of property, yard facilities, or terminal trackage that did not require prior approval of the STB because it involved Section 10906 track that was then either removed and/or portions sold to MTA; all of which could be done outside of the STB's jurisdiction. The fact that NSR may have sold or removed Section 10906 track and underlying property in a terminal facility in 2019 does not render defective a Notice of Exemption filed years later seeking abandonment of a freight rail easement over identified mileposts that are not

part of Conrail's former Flexi-Flow bulk terminal facility, associated with NSR's former rail service.

Riffin's implicit suggestion that NSR is conducting unauthorized salvage in connection with the abandonment that is subject to this proceeding is factually and legally unfounded. Conrail's former Flexi-Flow bulk terminal facility, associated with NSR's former rail service, was classic Section 10906 track for which NSR was free to remove, sell, or otherwise dispose of without STB approval. Once it was sold to MTA, MTA, as a third party, whose tracks and property were no longer under the STB's jurisdiction, could do what they want with the track and/or property, including removal of crossings, not NSR. NSR did not conduct and is not conducting salvage activity with respect to track that is STB jurisdictional Section 10901 track. The removal of infrastructure by MTA as part of its own improvement project is a separate matter from NSR's abandonment of its common carrier obligation and does not implicate STB authority over NSR's abandonment action.

2. The Historic Report and Section 106 Compliance

Riffin's Allegation: NSR's Historic Report does not comply with 49 C.F.R. § 1105.8(d) requirements, including failure to provide a sufficiently detailed map, right-of-way widths, photographs of railroad structures 50 or more years old, construction dates and alteration dates, and documentation of the Jones Falls culverts and stone retaining wall as railroad structures.

NSR's Explanation: NSR submitted the required information. NSR was not required to disclose structures that it did not own or control or were not within the scope of the project area. OEA and the Maryland state agency responsible for historic review were fully satisfied with the EA and the Historic Report. The STB has no obligation to or legal requirement to accept Riffin's analysis over that of OEA and the SHPO. Contrary to his own beliefs, Riffin is not the

Office of Environmental Analysis nor is he the Maryland State Historic Preservation Officer and the Board has no legal obligation to accept his views when the relevant agencies are satisfied.

Why Not Materially False or Misleading and No Basis to Void the Notice of Exemption:

NSR understands that its obligations under Section 106 are limited to the proposed action area for the abandonment of the identified mileposts. The regulation requires documentation of historic properties within the scope of the action being undertaken. NSR prepared a Historic Report addressing the properties and structures within the geographic and functional scope of the abandonment of the freight rail easement. The SHPO did not question the scope or the adequacy of the Historic Report. Nor did OEA. Furthermore, Riffin failed to file any comments regarding OEA's findings as set forth in the draft EA or the FES.

The Office of Environmental Assessment issued a Final Environmental Assessment on January 16, 2026, with no conditions imposed and no comments received on the Draft Environmental Assessment. This completion of environmental review without conditions or requests for additional information indicates that the environmental and historic review process has been satisfied. Had OEA or the State Historic Preservation Officer identified deficiencies in the Historic Report, such concerns would have been raised during the public comment period or in the Final Environmental Assessment. The absence of such comments supports the conclusion that the Historic Report meets applicable requirements for this action.

CONCLUSION

For the foregoing reasons, Norfolk Southern Railway Company respectfully requests that the Surface Transportation Board reject the allegations that NSR's Notice of Exemption contains material false or misleading statements or significant omissions that would warrant voiding the

exemption ab initio. NSR's statements are accurate when read in proper context. NSR has already corrected the identified mapping error by submitting an accurate replacement map and stands willing to provide any additional information the Board may requests.

Mr. Riffin's claims and assertions are directed at actions that are not under the Board's jurisdiction because they involved either Section 10906 track that can be removed, sold, and salvaged without Board authority or because they involved infrastructure owned and operated by third parties not subject to the Board's jurisdiction. NSR has provided all information as applicable to the railroad line involved in the proposed abandonment (mileposts UU 0.00 to UU 1.00). NSR is not required to provide information about yard/terminal trackage, facilities outside the abandonment scope, or non-existent infrastructure. The Board should permit the abandonment to proceed without further delay.

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Attorneys for Norfolk Southern Railway
Company

April 30, 2026

CERTIFICATE OF SERVICE

I hereby certify that on April 30, 2026, I served a true and correct copy of the foregoing Response to the Board's decision issued April 20, 2026 upon all parties of record in Docket No. AB 290 (Sub-No. 420X) by electronic filing with the Surface Transportation Board and by email.

//s// William A. Mullins

April 30, 2026

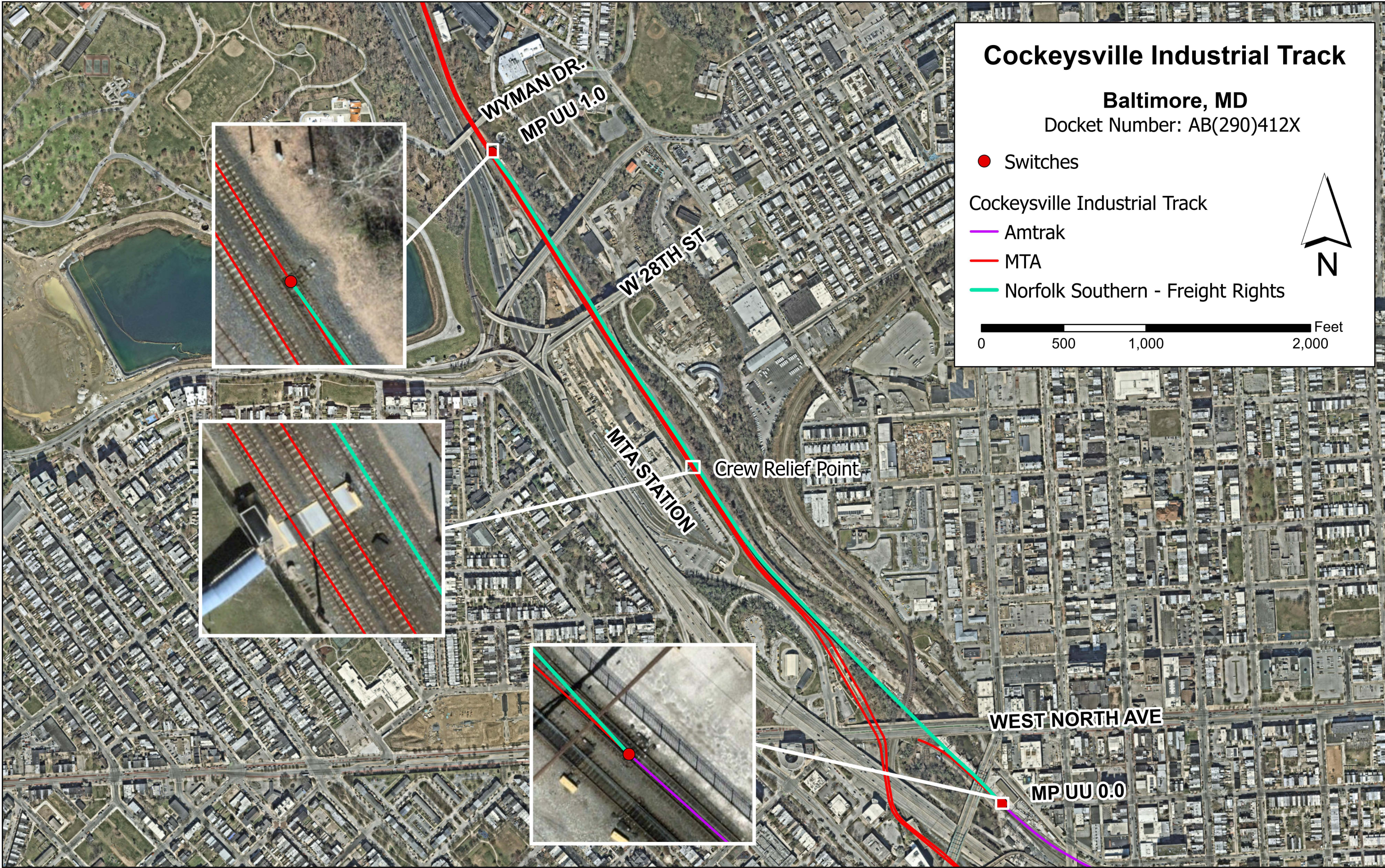
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AB-290 (Sub-No. 420X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF BALTIMORE, MARYLAND**

RESPONSE TO APRIL 20, 2026 STB ORDER

EXHIBIT A





MP UU 1.0

WYMAN PARK DRIVE

W 29TH STREET

W 28TH STREET

MARYLAND TRANSIT
ADMINISTRATION - MTA

JONES FALL EXPRESSWAY

WEST NORTH AVE

NORTH HOWARD STREET

MP UU 0.00

COCKEYSVILLE IT

UU 1.00 to UU 0.00
BALTIMORE MARYLAND
Docket Number: AB(290)412X



— MTA Rail - NS Overhead Freight Rights Only

MILEPOST LOCATIONS ARE APPROXIMATE

