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ENTERED  
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Part of  
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May 19, 2026

**VIA E-FILING**

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

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") Reply to James Riffin's Motion To Summarily Reject the Exemption Notice, which he filed on April 29, 2026. 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](mailto: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](mailto: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**

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**AB-290 (Sub-No. 420X)**

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

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**REPLY TO JAMES RIFFIN'S MOTION TO SUMMARILY  
REJECT THE EXEMPTION NOTICE**

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**May 19, 2026**

**Attorneys for Norfolk Southern Railway  
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**BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC**

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**AB-290 (Sub-No. 420X)**

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

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**REPLY TO JAMES RIFFIN'S MOTION TO SUMMARILY  
REJECT THE EXEMPTION NOTICE**

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Norfolk Southern Railway Company ("NSR") respectfully submits this reply to James Riffin's Motion To Summarily Reject The Exemption Notice ("Riffin Motion"), which Mr. Riffin filed on April 29, 2026. The Riffin Motion should be denied because (1) the D.C. Circuit's April 3, 2026 judgment resolved the separate petition for review on which Riffin relies, which petition was based upon the AB-290 (Sub-No. 412X) filing; (2) this proceeding, AB-290 (Sub-No. 420X) is a new, separate exemption proceeding with its own administrative record; and (3) Riffin's repetition of previously raised arguments does not reopen or undermine the Board's January 12, 2026 decision rejecting his Notice of Intent to File an Offer of Financial Assistance. NSR respectfully incorporates by reference its April 30, 2026, Response addressing the alleged false or misleading statements and alleged omissions in the Notice of Exemption.

**PROCEDURAL HISTORY**

This proceeding was initiated on December 3, 2025, when 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, 90 Fed. Reg. 6022, 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 Surface Transportation Board (“STB” or “Board”) issued a decision directing NSR to respond by April 30, 2026 to allegations raised by James Riffin's

January 2, 2026 comments. NSR did so on April 30, 2026. On April 29, 2026, notwithstanding the D.C. Circuit's order, Mr. Riffin filed his Riffin Motion whereby he repeated the same allegations he raised his January 2, 2026, comment and that were more than sufficiently addressed in NSR's April 30, 2026, filing. Then, on May 15, 2026, Mr. Riffin filed a self-styled "response" to NSR's April 30, 2026, filing. On May 18, 2026, NSR requested the Board to reject that response as an unlawful reply to a reply. NSR hereby responds to the issues raised by the Riffin Motion filed April 29, 2026. NSR is not addressing Mr. Riffin's May 15, 2026, unlawful response to NSR's April 30, 2026 response.<sup>1</sup>

### **STATEMENT OF FACTS**

In addition to repeating some of the same allegations that Riffin has raised several times, the April 29, 2026, Riffin Motion makes a new jurisdictional argument based upon the timing and nature of the two separate proceedings. To address that argument, it is important for the Board to remember that there are two separate proceedings involving the line at issue in this Sub-No. 420X proceeding. The Sub-No. 412X proceeding ultimately resulted in the Board's December 9, 2024 approval of NSR's request to withdraw a prior notice of exemption. Riffin challenged that decision by filing a petition for review on December 23, 2024. His appeal was rejected by the D.C. Circuit on April 3, 2026. That ended the Sub-No. 412X proceeding. As a result, the prior notice of exemption had no legal effect or significance.

The Sub-No. 420X proceeding is a new exemption filing made on December 3, 2025, published in the Federal Register on December 23, 2025. This new filing initiated a new proceeding with a new administrative record. The Board has been actively exercising

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<sup>1</sup> If the Board does not reject Riffin's unlawful response, then NSR requests an opportunity to file a rebuttal to the merits of the May 15, 2026, response.

jurisdiction over the Sub-No. 420X proceeding by issuing a Final Environmental Assessment on January 16, 2026, and a Decision on April 20, 2026, directing NSR to respond to Riffin's allegations. The Board stayed the effective date of the Sub-No. 420X Notice of Exemption pending resolution of Riffin's petitions for review in the Sub-No. 412X proceeding, thereby preserving the status quo and preventing any irreversible action on the merits. Norfolk Southern Railway Company – Abandonment Exemption – In The City of Baltimore, Maryland, AB-290 (Sub-No. 420X) (STB served Jan. 12, 2026). It is this Sub-No. 420X proceeding that is ongoing, and not the Sub-No. 412X proceeding. The Sub-No. 420X proceeding is not on appeal, but rather in abeyance – no final order has yet been issued. As set forth in this Reply to the Riffin Motion, the Board should remove the Sub-No. 420X proceeding from abeyance and deny the Riffin Motion.

### **SUMMARY OF ARGUMENT**

Norfolk Southern Railway Company respectfully submits that because the STB retained full jurisdiction over docket AB-290 (Sub-No. 420X), notwithstanding James Riffin's petition for review of a separate withdrawal order in docket AB-290 (Sub-No. 412X), Riffin's Motion should be denied.

First, the Sub-No. 412X and Sub-No. 420X proceedings are separate and independent matters. The Sub-No. 412X proceeding ultimately concluded with the Board's decision to grant NSR's motion to withdraw the prior notice of exemption and the court's upholding that Board action. The Sub-No. 420X proceeding is a new exemption filing that initiated a new proceeding with its own administrative record. Divestiture of agency jurisdiction upon filing of a petition for review applies only to the specific matter that is the subject of the appeal, not to all proceedings before the agency concerning the same subject matter. Furthermore, the lack of issuance of the

mandate in the Sub-No. 412X proceeding does not preclude the Board from moving forward with the Sub-No. 420X proceeding.

Second, the alleged “false” and “misleading” statements asserted by Riffin are neither false nor misleading, as NSR thoroughly addressed in its April 30, 2026, Response. Repeating them does not provide a basis to reject the notice of exemption.

For these reasons, the Riffin Motion should be denied.

### **ARGUMENT**

#### **A. The Board Retains Jurisdiction Over the Sub-No. 420X Proceeding And The Failure Of The Court’s Mandate To Issue Does Not Divest The STB Of Jurisdiction Or Require The STB To Continue To Hold This Case In Abeyance**

##### **1. The Court’s April 3, 2026, Decision Resolved the Appeal**

Riffin’s jurisdictional argument rests on the premise that the Board lacks authority to proceed until the D.C. Circuit issues its mandate in Case No. 24-1385. That premise is incorrect. The D.C. Circuit issued its decision on April 3, 2026, dismissing and denying Riffin’s petitions for review. That decision fully resolved the issues presented in the appeal. The subsequent issuance of the mandate for the Sub-No. 412X proceeding has no bearing on the Board’s processing of the Sub-No. 420X proceeding. The issuance of the mandate in Sub-No. 412X is a separate procedural step governed by Federal Rule of Appellate Procedure 41. Under Rule 41, the mandate consists of the judgment, any opinion, and cost directions, and becomes effective when issued. See Fed. R. App. P. 41(a)–(c). The D.C. Circuit’s April 3, 2026, judgment had already resolved the appeal. The issuance of the mandate is a procedural step with regard to Sub-No. 412X that has no bearing on the Board’s jurisdiction to move forward with the Sub-No. 420X docket. Put simply: the Board’s jurisdiction attaches to the docketed proceeding—not to

the rail line in the abstract. The fact that the same mile of track is involved does not transform a later-filed notice of exemption into the same “matter” that was before the court in Sub-No. 412X.

## **2. The Sub-No. 420X Proceeding Is Separate from the Appealed Sub-No. 412X Proceeding**

Even apart from the mandate issue, Riffin’s argument fails because it conflates two distinct proceedings, one of which has been officially withdrawn. NSR agrees that a petition for review of a decision of the STB divests the STB of its jurisdiction concerning the matter that is the subject of an appeal and that the STB retains its jurisdiction only over matters separate from matters under consideration on appeal. *See, US. v. Christy*, 3 F.3d 765 (4<sup>th</sup> Cir, 1993). *See, e.g., Air Methods v. Dep’t of Workforce Services*, 432 P.3d 476, 490 (Wy. 2018) (“The jurisdiction a district court acquires as an appellate court extends only to the matters appealed. The administrative agency, in turn, implicitly retains jurisdiction over matters not decided by or at issue in the appealed order.”).

But what Riffin ignores is that the petition for review concerned the Board’s action in Sub-No. 412X (withdrawal of a prior notice of exemption). This proceeding—Sub-No. 420X—arises from a new Notice of Exemption filed on December 3, 2025, creating a new docket, a new record, and a new administrative process. Any divestiture of jurisdiction associated with the petition for review could apply only to the specific order under review in Sub-No. 412X, not to a separate proceeding such as Sub-No. 420X. The Board has continued to exercise jurisdiction over Sub-No. 420X, including issuing its January 12, 2026, stay and its April 20, 2026, decision directing NSR to respond to Riffin’s allegations. Nothing in the D.C. Circuit’s decision disturbed that authority.

Although both proceedings involve the same physical mile of track, that fact does not make them the same “matter” for jurisdictional purposes. Administrative law distinguishes

between the subject of a proceeding and the matter under review. The petition for review in Sub-No. 412X concerned only the Board’s December 9, 2024, withdrawal order. The Sub-No. 420X docket arises from a new Notice of Exemption filed a year later, supported by a new record, new environmental review, new comment deadlines, and new OFA procedures. Overlap in geography does not merge two independent administrative actions into a single matter or divest the Board of jurisdiction over the later-filed docket.

**B. The Riffin Motion Improperly Repeats Previously Raised Arguments**

Apart from the jurisdictional claim, the Riffin Motion in this Sub-No. 420X proceeding largely restates the same allegations presented in Riffin’s January 2, 2026, comments. Those allegations—concerning purported “false or misleading” statements and alleged omissions—were:

- Presented by Riffin in January, 2026;
- Addressed by the Board in its April 20, 2026, decision; and
- Fully answered by NSR in its April 30, 2026, Response.

Repetition of previously asserted arguments or asserting that he has some convoluted plan to use the line at issue in this proceeding does not make the Board’s January 12, 2026, decision rejecting Riffin’s notice of intent to file an OFA invalid. Nor does it justify removing the proceeding from abeyance and allowing the exemption to become effective.

The April 29, 2026 Riffin Motion does not identify new facts,<sup>2</sup> new legal authorities, or changed circumstances. Instead, it repeats arguments already made. Repetition of previously

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<sup>2</sup> Riffin’s recitation of his unverified plan to restore service does not constitute new evidence justifying reopening of the January 12, 2026 decision rejecting his OFA. Nor has Riffin argued as such. Such “facts” are not “new” evidence at all. Such “evidence” was previously available and should have been set forth in Riffin’s notice of intent to file an OFA. The Board would be fully justified in striking that material. See Sierra R.R.—Abandonment—in Tuolumne Cnty.,

asserted arguments does not provide a basis for summary rejection of a notice of exemption. To the extent the Board evaluates those issues, it should do so based on the complete record, including NSR's April 30, 2026, Response, and proceed with this docket in the ordinary course. Given the D.C. Circuit's April 3, 2026, decision, there is likewise no basis to continue holding this proceeding in abeyance.

### **CONCLUSION**

The Riffin Motion should be denied because it rests on the mistaken premise that the Board lacks jurisdiction over Sub-No. 420X pending issuance of the mandate in the separate Sub-No. 412X appeal, even though Sub-No. 420X is a separate proceeding initiated by a new notice of exemption with its own record, and because the Riffin Motion largely repeats arguments that NSR already addressed in its April 30, 2026, Response. The Board should remove the proceeding from abeyance and proceed with this docket in the ordinary course.

Respectfully submitted,

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Attorneys for Norfolk Southern Railway  
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May 19, 2026

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Cal., AB-239X (I.C.C. served Jan. 20, 1988) (noting that previously available evidence is not "new" evidence and striking the material).

## **CERTIFICATE OF SERVICE**

I hereby certify that on May 19, 2026, I caused a true and correct copy of the foregoing Reply to James Riffin's Motion to Summarily Reject the Exemption Notice to be served upon all parties of record in Docket No. AB-290 (Sub-No. 420X) by electronic filing with the Surface Transportation Board and by email to the following:

Via Email  
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jimriffin@yahoo.com

/s/ William A. Mullins

William A. Mullins  
Attorney for Norfolk Southern Railway Company

May 19, 2026