

SERVICE DATE – SEPTEMBER 30, 2026

SURFACE TRANSPORTATION BOARD

DECISION

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

NORFOLK SOUTHERN RAILWAY COMPANY—
ABANDONMENT EXEMPTION—IN THE CITY OF BALTIMORE, MD.

Digest:¹ In this decision, the Board denies James Riffin’s motion to reject the verified notice of exemption filed by Norfolk Southern Railway Company (NSR) to abandon approximately one mile of rail line in Baltimore, Md., lifts the stay on the effectiveness of the notice, and grants NSR’s motion to strike Riffin’s rebuttal.

Decided: September 29, 2026

On December 3, 2025, Norfolk Southern Railway Company (NSR) filed a verified notice of exemption to abandon its freight rail easement over an approximately one-mile rail line in Baltimore, Md. On January 12, 2026, the Board stayed the effective date of the exemption due to pending federal litigation involving the same line. For the reasons discussed below, the Board will lift the stay and allow the exemption to become effective. The Board will also deny a motion filed by James Riffin (Riffin) to summarily reject the verified notice and will grant a motion filed by NSR to strike a rebuttal filed by Riffin.

BACKGROUND

NSR filed the verified notice under 49 C.F.R. part 1152 subpart F—Exempt Abandonments to abandon its freight rail easement over an approximately one-mile rail line extending from milepost UU 0.00 +/- to milepost UU 1.00 +/- in the City of Baltimore (the Line). NSR formerly used the Line to provide rail service to and from an NSR-operated bulk transfer terminal. (Verified Notice 4 n.3.) The verified notice indicated that NSR has not accessed that facility since before 2018, that NSR sold its property interest in the facility in 2019, and that the Maryland Transit Administration (MTA)—which owns the real property and track from milepost UU .050 +/- to milepost UU 0.10 +/- —subsequently removed certain rail infrastructure used by NSR to access the facility. (Verified Notice, Ex. D at App’x D.) Notice of the exemption was served and published in the Federal Register on December 23, 2025 (90 Fed. Reg. 60,221). The notice indicated that the exemption would become effective on January 22, 2026, unless stayed by the Board or unless a formal expression of intent to file an offer of financial assistance (OFA) was filed by January 2, 2026.

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol’y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

On January 2, 2026, Riffin filed a notice of intent to participate with a comment attached. In his comment, he alleges that NSR's verified notice contains six "false or misleading statements," and two "significant omissions." (Riffin Comment 1, Jan. 2, 2026.) Also on January 2, 2026, Riffin filed a notice of intent to file an OFA under 49 U.S.C. § 10904 and 49 C.F.R. § 1152.27 to purchase a portion of the Line from milepost UU 0.00 to approximately milepost UU 0.90. (Notice of Intent to File OFA 2, Jan. 2, 2026.) On January 9, 2026, NSR filed a motion to reject Riffin's notice of intent to file an OFA and attached a corrected map of the Line to its motion.

By decision served January 12, 2026, the Board rejected Riffin's notice of intent to file an OFA for failure to satisfy the requirements for demonstrating preliminary financial responsibility set forth in 49 C.F.R. § 1152.27(c)(1)(ii). Norfolk S. Ry.—Aban. Exemption—in Balt. City, Md., AB 290 (Sub-No. 420X), slip op. at 2 (STB served Jan. 12, 2026). The decision also stayed the effective date of the exemption until further Board order due to pending litigation involving a verified notice of exemption to abandon the Line previously filed by NSR on October 31, 2024, in Docket No. AB 290 (Sub-No. 412X). Id. at 3. In that prior proceeding, Riffin had timely filed a notice of intent to file an OFA to purchase the Line. Subsequently, on December 6, 2024, NSR requested permission to withdraw its verified notice to resolve certain real estate and other issues that Riffin had raised.² The Acting Director of the Office of Proceedings (now, the Office of Chief Counsel) granted NSR's request to withdraw its verified notice and dismissed the proceeding without prejudice to NSR seeking authority to abandon the Line in the future. Norfolk S. Ry.—Aban. Exemption—in Balt. City, Md., AB 290 (Sub-No. 412X) (STB served Dec. 9, 2024). Riffin filed a petition before the Board challenging the Acting Director's decision, and by decision served April 14, 2025, the Board rejected Riffin's arguments, finding that the Acting Director was correct in granting NSR's request to withdraw its request for abandonment authority. Norfolk S. Ry.—Aban. Exemption—in Balt. City, Md., AB 290 (Sub-No. 412X) (STB served Apr. 14, 2025). Riffin sought review before the U.S. Court of Appeals for the District of Columbia Circuit. Riffin v. STB, Nos. 24-1385 & 25-1141 (consol.) (D.C. Cir.). To prevent the Line from being removed from the Board's jurisdiction during the pendency of that litigation, the Board stayed the effective date of the exemption in this proceeding. Norfolk S. Ry.—Aban. Exemption—in Balt. City, Md., AB 290 (Sub-No. 420X), slip op. at 3 (STB served Jan. 12, 2026). The D.C. Circuit subsequently denied Riffin's petition for review of the Board's December 9, 2024 decision and dismissed his petition seeking review of the Board's April 14, 2025 decision. Riffin v. STB, Nos. 24-1385 & 25-1141 (consol.) (D.C. Cir. Apr. 3, 2026).

On April 20, 2026, the Board issued a decision in this proceeding directing NSR to respond to the allegations in Riffin's January 2, 2026 comments. On April 29, 2026, Riffin filed

² In responding to 49 C.F.R. § 1180(e)(4), which requires the provision of information pertaining to underlying ownership interests and potential future use, NSR originally stated that MTA owned the physical assets underlying the Line. (Verified Notice 5, AB 290 (Sub-No. 412X), Oct. 31, 2004.) NSR's has since clarified that the physical assets are owned both by Amtrak (from milepost UU 0.00 +/- to milepost UU 0.50 +/-) and MTA (from milepost UU 0.50 +/- to milepost UU 1.00 +/-). (Verified Notice 5, 8, Dec. 3, 2025.)

a motion to summarily reject the verified notice, arguing that the verified notice contains six false and/or misleading statements and two significant omissions—the same identified in his comments. NSR filed a reply to Riffin’s January 2, 2026 comments on April 30, 2026, and a reply to Riffin’s motion to reject on May 19, 2026.

On May 15, 2026, Riffin filed a pleading styled as a “rebuttal” to NSR’s April 30, 2026 response. NSR then moved to strike Riffin’s May 15, 2026 rebuttal as an improper reply to a reply.

PRELIMINARY MATTERS

NSR’s motion to strike. NSR asks the Board to strike Riffin’s May 15, 2026 rebuttal as “an unauthorized reply to a reply.” (NSR Letter 1, May 18, 2026 (citing 49 C.F.R. § 1104.13(c)).) NSR notes that the Board has recently begun to more strictly enforce its prohibition against replies to replies. (*Id.* (citing Norfolk S. Corp.—Acquis. of Control—Norfolk & Portsmouth Belt Line R.R., FD 36836, slip op. at 10 (STB served Mar. 14, 2025) (Chairman Fuchs concurrence); Sunflower State Indus. Ry.—Pet. for Declaratory Ord., FD 36714 (Sub-No. 1) (STB served Mar. 28, 2025).) In his May 15, 2026 rebuttal filing, Riffin does not address the Board’s regulations prohibiting replies to replies, nor does he seek leave to file such a reply. Moreover, Riffin’s rebuttal largely reiterates arguments articulated in his other filings. (*Id.* at 2 n.2.) Because the Board’s regulations prohibit such filings (and the Board did not otherwise order such a response from Riffin) and Riffin has asserted no justification for waiving that regulation, the Board will grant NSR’s request to strike Riffin’s May 15, 2026 rebuttal. 49 C.F.R. § 1104.13(c).

Riffin’s jurisdictional argument. In his motion to reject the verified notice, Riffin argues that, during the D.C. Circuit’s judicial review of the Board’s order permitting NSR to withdraw its earlier verified notice in Docket No. AB 290 (Sub-No. 412X), the Board was “divested of its jurisdiction over the status of the subject Line,” but that its jurisdiction would “revest[] on the day that the Court of Appeals issues its Mandate” in that case. (Riffin Mot. 1-2, Apr. 29, 2026.) The D.C. Circuit denied Riffin’s petition for review, Riffin v. STB, Nos. 24-1385 & 25-1141 (consol.), slip op. at 4 (D.C. Cir. Apr. 3, 2026), and the mandate issued on May 26, 2026. The Board need not address Riffin’s jurisdictional assertion because, by its own terms, his argument is moot.

NSR’s sale of the bulk transfer facility and related trackage. Riffin argues that NSR “failed to seek abandonment authority” prior to selling its property interest in its bulk transfer terminal facility and rail infrastructure associated with that facility. (Riffin Mot. 4, Apr. 29, 2026; Riffin Comment 3, 15, Jan. 2, 2026.)³ He argues that MTA’s removal of the rail

³ Although Riffin casts this allegation as a “significant omission[]” from NSR’s verified notice, (Riffin Comment 3; Riffin Mot. 4), it speaks less to whether the verified notice is false or misleading, and more to the legal question of whether NSR needed to seek separate abandonment authority for its disposition of the bulk transfer facility and connecting track. Accordingly, the Board will treat this allegation as distinct from those urging rejection of the verified notice. And to the extent Riffin alleges omission, the Board notes that NSR did in fact

infrastructure (a turnout and two crossing diamonds) connecting the Line to the transfer facility likewise required abandonment authority. (Riffin Mot. 4, Apr. 29, 2026; Riffin Comment 3, 15.)

In response, NSR confirmed that it sold the bulk transfer facility, which contained 12 yard tracks and a “tail track” leading from those tracks to the Line, to MTA in 2019. It contends that the sale of these facilities, and the removal of the yard and tail track, crossing diamonds, and turnout by MTA, was excepted from Board authority under 49 U.S.C. § 10906. (NSR Reply 6, 14-15, Apr. 30, 2026.)

The Board agrees. The Board “does not have authority” over the abandonment of “spur, industrial, team, switching, or side tracks.” 49 U.S.C. § 10906. In determining whether a particular track segment is excepted track, the agency and courts consider factors such as the track’s intended use, physical characteristics, relationship to the rail system, and history. N.E. La. Multimodal Dist.—Pet. for Declaratory Ord., FD 36809, slip op. at 6 (STB served Sept. 15, 2025). Indicia such as the length of the track, whether it serves more than one shipper, whether it is stub-ended, and whether it was built to penetrate new markets are all relevant considerations. Id. Evidence regarding some indicia may be sufficient to determine the legal status of the track without needing to consider all potential indicia. Id. In determining the legal status of track, the Board has long held that if trackage is primarily “used for loading, unloading, storage, switching, or other purposes incidental to transportation service, it is excepted trackage under section 10906.” E.g., Union Pac. R.R.—Operation Exemption—in Yolo Cnty., Cal., FD 34252, slip op. at 4 (STB served Dec. 5, 2002). This includes “short, parallel, stub-ended” yard tracks used within rail terminal facilities, as well as tracks that “simply allow[]” traffic to “reach” the terminal facilities from the mainline, and vice versa. N.Y. Econ. Dev. Corp.—Pet. for Declaratory Ord., FD 36467, slip op. at 4-5 (STB served June 11, 2021).⁴ Based on these criteria and precedent, the turnout, crossing diamonds, tail track, and yard track are plainly the types of facilities falling under 49 U.S.C. § 10906. Thus, NSR could sell and/or remove these facilities without authority from the Board.⁵

disclose the sale of the bulk transfer facility and removal of the crossings by attaching MTA’s February 8, 2023, letter to its verified notice.

⁴ Riffin appears to suggest that Board authority is needed to abandon the turnout, crossings, and trail track on the ground that “track that provides access to a yard track is, by the definition of line, a line track.” (Riffin Comment 15). Riffin cites no authority for this proposition. Rather, the relevant indicia indicate that these facilities were excepted under § 10906: they were short segments used to facilitate the loading and unloading of bulk commodities at NSR’s transfer facility. And they ran parallel to NSR’s main line and hence were not used to penetrate new markets.

⁵ Riffin’s argument that MTA’s removal of the crossing diamonds “violated the provisions” in Railroad Ventures Inc. v. STB, 299 F.3d 523 (6th Cir. 2002) is similarly incorrect. (See Riffin Comments 14, Jan. 2, 2026.) There, the Court held that, “at the point of filing the abandonment petition, the abandoning rail line owner cannot reduce or diminish the rail line or the nature of the property interests associated with the line,” because doing so could interfere with sale provisions at 49 U.S.C. § 10904. R.R. Ventures, Inc. v. STB, 299 F.3d at 552. Even if the diamonds were part of the Line, and not exempt from Board exit licensing under § 10906, their removal was not prohibited by Railroad Ventures because, as Riffin himself acknowledges,

DISCUSSION AND CONCLUSIONS

The Board has largely exempted from regulation the abandonment of “out-of-service” rail lines: i.e., lines on which no traffic has originated or terminated for at least two years. 49 C.F.R. § 1152.50(b); see generally 49 U.S.C. § 10502. To qualify for such an exemption, the railroad must file a verified notice of exemption that certifies the following: (1) no local traffic has moved over the line for at least two years, (2) any overhead traffic on the line can be rerouted over other lines, and (3) there are no pending complaints regarding cessation of service over the line or any that have been resolved in the complainant’s favor during the prior two years. 49 C.F.R. § 1152.50(b). The verified notice must include, among other requirements, a map of the subject line and a statement of whether the properties proposed to be abandoned are appropriate for use for other public purposes and whether the rail carrier is aware of title restrictions that would affect its future use. 49 C.F.R. § 1152.22(a)(4). Additionally, the railroad must prepare a report on the potential impacts of the proposed abandonment on the environment and on historic resources, send it to certain entities specified in the Board’s regulations, and certify in its verified notice that it has done so. See 49 C.F.R. §§ 1105.7, 1105.8, 1105.11, and 1152.50(d)(2).

If the verified notice contains false or misleading information, “the use of the exemption is void ab initio and the Board shall summarily reject the exemption notice.” 49 C.F.R. § 1152.50(d)(3). In applying this standard, the Board examines the allegedly false or misleading statement to determine if it is material to the exemption sought. Mohawk, Adirondack & N. R.R.—Aban. Exemption—in Lewis & Jefferson Cntys., N.Y., AB 768X et al, slip op. at 6 (STB served Jan. 14, 2025). Cf. TGS Cedar Port R.R.—Operation Exemption—in Chambers Cnty., Tex., FD 36627, slip op. at 3, 11-13 (STB served Apr. 1, 2024). “Material” means the transaction would not have otherwise qualified for an exemption. Berkshire Scenic Ry. Museum, Inc. v. ICC, 52 F.3d 378, 381 (1st Cir. 1995). Failure to disclose material information also can render a notice misleading by omission. Ohio River Partners—Acquis. & Operation Exemption—Hannibal Dev., FD 35984, slip op. at 3 (STB served Apr. 1, 2016).

As an initial matter, Riffin does not challenge NSR’s certification that the Line has had no local rail traffic for at least two years and otherwise meets the regulatory requirements for the class exemption. In addition, Riffin does not argue that the verified notice should be rejected because regulation is necessary to carry out the rail transportation policy, 49 U.S.C. § 10101, or that the circumstances presented here require additional scrutiny and a more detailed record beyond what is provided for in the class exemption process. See, e.g., Mohawk, Adirondack, & N. R.R., AB 768X et al., slip op. at 6-7 (describing different bases for rejecting a verified notice).

(Riffin Comment 14, Jan. 2, 2026), their removal occurred well before NSR sought authority to abandon the Line. And generally, a “carrier may remove track on a line over which it has a common carrier obligation, as long as no shipper seeks service and the carrier is prepared to restore the track should a reasonable request for service be made.” Colo. Pac. Rio Grande R.R.—Aban. Exemption—in Rio Grande Cnty., Colo., AB 1344X, slip op. at 8 (STB served Apr. 15, 2026) (citing BNSF Ry.—Pet. for Declaratory Ord., FD 35164 et al., slip op. at 5-6 (STB served May 7, 2010).)

Rather, Riffin asks the Board to reject the verified notice because it contains six allegedly false or misleading statements and because NSR allegedly omitted required information from its historic report. (Riffin Mot. 2, Apr. 29, 2026.) As discussed below, none of the challenged statements or omissions are materially false or misleading so as to warrant rejecting the verified notice.

First, Riffin alleges that NSR's statement on page 5 of the verified notice that "MTA currently operates light rail transit service over the Line," and that "MTA's light rail transit system now carries 24,000 passengers per day over the Line" is false because the particular track that NSR used to support its freight operations is not the same track over which MTA operates its passenger operations. (Riffin Mot. 2, Apr. 29, 2026; Riffin Comment 9-12.) On reply, NSR explains that there are three parallel tracks within the right-of-way that comprise the Line: two "dedicated" light rail tracks operated by MTA and the "freight track" used by NSR. (NSR Reply 8, Apr. 30, 2026.)

NSR's statement was not false or misleading. The Board has consistently understood "the Line" to encompass the right-of-way, or corridor, within which NSR has its freight operating easement.⁶ And as NSR points out, the verified notice "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." (NSR Reply 8, Apr. 21, 2026.) Indeed, in providing the information required under 49 C.F.R. § 1152.22(e)(4), the verified notice explained that the "physical assets of the Line are owned by the MTA and Amtrak, and light rail transit services provided by MTA will continue after NSR's abandonment of its freight rail easement." (*Id.*)⁷ Greater precision by NSR regarding the specific track over which it operated would not have been necessary or relevant. Section 1152.22(e)(4) requires disclosure of

⁶ In 1990, MTA acquired approximately 14 miles of "right-of-way, track and facilities," known as the Cockeysville Industrial Track (CIT), from NSR's predecessor-in-interest, the Consolidated Rail Corporation (Conrail). See Cover Ltr. to Pet. for Declaratory Order, Md. Transit Admin.—Pet. for Declaratory Order, FD 34975, Dec. 22, 2006. "Conrail, [however] retained a permanent, exclusive, and assignable freight operating easement over the CIT, which is now NSR's." Md. Transit Admin.—Pet. for Declaratory Order, FD 34975, slip op. at 5 (STB served Oct. 9, 2007). The Line comprises a portion of the CIT, with NSR having abandoned its easement over the northern 13 or so miles of the CIT owned by MTA in 2010. Norfolk S. Ry.—Pet. for Exemption—in Balt. City and Balt. Cnty., Md., AB 290 (Sub-No. 311X), slip op. at 1 (STB served Apr. 5, 2010). The Board has consistently referred to the CIT as the Line and has understood MTA to provide "commuter rail passenger operations on the Line," and NSR to have retained "freight operating rights over the Line." Norfolk S. Ry.—Pet. for Exemption—in Balt. City and Balt. Cnty., Md., AB 290 (Sub-No. 311X), slip op. at 1 (STB served Apr. 5, 2010). That is, the Board views the CIT/Line collectively as a shared rail asset without reference to individual trackage within the right-of-way.

⁷ MTA informed the Board years ago that, to improve its light rail passenger service, it installed additional track within the CIT right-of-way. Md. Transit Admin.—Pet. for Declaratory Order, FD 34975, slip op. at 2 (STB served Oct. 9, 2007); see also *id.* at 6 (explaining that the Operating Agreement between MTA and NSR "grants MTA the right to make changes to the CIT, which MTA had done by moving and adding track").

information regarding whether the properties “proposed to be abandoned are appropriate for use for other public purposes” and whether there are property interests that would affect “use of [the] property for other than rail purposes.” The verified notice made clear that MTA will continue using the assets within the corridor to provide light rail service post-NSR abandonment, and that the “corridor [otherwise] is not available for redeployment for alternative public use(s).” (Verified Notice 6, Dec. 12, 2025.) Because MTA owns the track used for freight purposes by NSR, that statement would appear to be true regardless of whether MTA operates its passenger service over that track or a different track. Taken in its appropriate context, NSR’s statement that MTA operates light rail service over the Line was not false or misleading, nor would additional detail have been pertinent.

Second, Riffin claims that NSR’s statement on page 5 of the verified notice that it “is contractually obligated to abandon its freight rights under its agreement with MTA” is inconsistent with NSR’s explanation—contained within a footnote to that same discussion—that NSR need only “seek abandonment” (i.e., “file for abandonment”) under its agreement with MTA should it cease providing freight rail service for 60 months, and that the Board “would still have to authorize the abandonment.” (Riffin Mot. 3 Apr. 29, 2026 (citing Verified Notice 5 n.4.)) The statement to which Riffin objects is not false or misleading given that NSR’s footnote to that very discussion clarified that it is required only to seek abandonment authority, not actually obtain it. (Verified Notice 5 n.4.)

Third, Riffin alleges that NSR’s statement on pages 5-6 of the verified notice that “the Line will remain intact and operational for light rail transit purposes” was false because, as discussed above, MTA removed rail infrastructure connecting the Line to NSR’s former bulk transfer facility. (See Riffin Mot. 3, Apr. 29, 2026.) According to Riffin, removal of the crossings has made “operation of the Line” impossible. (*Id.*) However, as NSR explained in its April 30 response, NSR’s statement “refer[red] to the light rail portion of the corridor remaining in operation, not to freight access to a former terminal or yard connection.” (NSR Reply 10, Apr. 30, 2026.) And NSR emphasized that its removal of the connecting infrastructure “did not affect the light rail tracks . . . or MTA’s continued operation of light rail service over those tracks.” (*Id.*) There is nothing in the record that suggests otherwise. NSR’s statement regarding the Line remaining intact and operational for light rail transit purposes was neither false nor misleading.

Fourth, Riffin alleges that the map that NSR attached to the verified notice “depicts [the] Line where [the] Line is not actually located.” (Riffin Mot. 3, Apr. 29, 2026; see also Riffin Comment 16-17.) Specifically, Riffin contends that the map “falsely depicts as Line” certain trackage used by MTA. (Riffin Comment 16-17.) Indeed, the map appears to include as part of “the Line” a segment of track running some distance southwest of, but parallel to, the Line. (See Verified Notice, Ex. B.) NSR has also acknowledged this “mapping error.” (NSR Reply 4, 11, Apr. 30, 2026; see also NSR Mot. 5 n.3, Jan. 9, 2026.) Prior to the effective date of the verified notice, NSR submitted a replacement map that accurately depicts the Line. (NSR Mot., App’x A, Jan. 9, 2026). The Board has permitted rail carriers to supplement or amend a notice of exemption for abandonment authority with additional information. E.g., Growth Res. of Wellsboro Found.—Aban. Exemption—in Tioga Cnty., Pa., AB 1320X, slip op. at 4-5 (STB served Nov. 9, 2022) (“These supplemental filings satisfactorily address the issues identified in

the [Board's order]."); see also Norfolk S. Ry.—Aban.—in Mingo Cnty., W. Va., AB 290 (Sub-No. 417X), slip op. 1 n.1 (STB served Nov. 20, 2024) (noting that NSR corrected an error in the verified notice regarding the mileposts of the line to be abandoned through an errata). Here, NSR amended its verified notice to include an accurate map shortly after it filed its verified notice, and long before the exemption is to become effective. The "mapping error" was cured and, accordingly, was immaterial under the circumstances.⁸

Fifth, Riffin alleges that NSR's statement in its historic report that it "has no knowledge regarding changes made to the right-of-way by Amtrak or MTA" is false because, per a 2023 letter from MTA that NSR attached to that same historic report, MTA informed NSR that it was "currently undertaking improvements along the CIT to improve its light rail service, which include the removal of crossings formerly used by NSR to access the [bulk terminal]." (Riffin Mot. 3, Apr. 29, 2026 (citing Verified Notice, Environmental & Historic Report (E&H Report) at 11-12 & App'x D.) Here too, context is important. In response to 49 C.F.R. § 1105.8(d)(2), which requires that the historic report include a "written description of the right-of-way (including approximate widths, to the extent known)," NSR disclosed that, "Conrail, predecessor to NSR, conveyed portions of the right-of-way to Amtrak in 1976 and the MTA in 1990, and only retained freight rights on the Line. NSR has no knowledge regarding changes made to the right-of-way by Amtrak or MTA." (Verified Notice 11.) In that same report, NSR also stated that "[n]o customers have been served on the Line for over five years." (Id.) As NSR subsequently explained, its statement about alterations to the right-of-way was meant as a disclaimer that NSR lacked control over the right-of-way and that it had no first-hand knowledge of changes that may have been made by its owners. (NSR Reply 12, Apr. 30, 2026.) The statement certainly can be read that way, especially given NSR's surrounding and repeated representation that "[t]here are no NSR-owned or maintained structures on the Line." (E&H Report 11-12.) And while the statement could have been more precise, any imprecision was clarified by NSR's inclusion of the letter as an attachment to its historic report, which disclosed MTA's changes. The statement cited by Riffin was not false or misleading.⁹

Sixth, Riffin points out that NSR purported to send the E&H Report to the Baltimore County Executive but mistakenly addressed the mailing to the wrong named individual. (Riffin Mot. 3, Apr. 29, 2026; Riffin Comments 6.) Specifically, NSR sent the E&H Report to "Dr. John A. Olszewski, Baltimore County Executive, The Historic Courthouse, 400 Washington Avenue, Towson, MD 21204." Riffin contends this statement was false because Dr. Olszewski was not the Baltimore County Executive at the time. This mistake, however, was immaterial because, under the Board's regulations, NSR was not required to serve the Baltimore County Executive in the first place, as the Line is in the City of Baltimore¹⁰ and does not run through

⁸ Nor did the error prejudice Riffin or impact his ability to identify which portions of the Line he proposed to purchase. In his notice of intent to file an OFA, Riffin describes the portion of the Line that he proposed to purchase, which does not include any of the track that was mistakenly included in the original map. (See Riffin Notice of Intent 2, Jan. 2, 2026 (describing the portion of the Line that Riffin proposed to purchase).)

⁹ Nor was it material for the reasons given below. See *infra* 9 - 10 & n.11.

¹⁰ NSR certified that it served the mayor of Baltimore. (Verified Notice, Ex. D, Certificate of Compliance, Dec. 3, 2025.)

Baltimore County. See 49 C.F.R. § 1105.7(b)(4). Moreover, the E&H report was sent to the correct mailing address for the office of the Baltimore County Executive, and it is reasonable to assume that it was delivered to the then-current holder of that office.

Finally, Riffin argues that NSR’s E&H Report is deficient because it omits information regarding “two historic railroad structures”: (i) a stone retaining wall separating the Line from MTA’s North Avenue Passenger Station; and (ii) three stone culverts that convey the Jones Falls (a stream) under the Line in the vicinity of the North Howard Street Bridge. (Riffin Mot. 4; Riffin Comments 3-5.) Specifically, Riffin contends that NSR failed to provide a map sufficiently detailed to show these structures, as well as photographs of the structures, a description of them, and the dates of their construction and major alterations, as required by 49 C.F.R. § 1105.8(d)(1)-(4). (Riffin Comments 3-5.) Regarding the map, NSR appended a satellite imagery map to its E&H report, which the Board’s Office of Environmental Assessment (OEA) found “contain[ed] enough detail to show the location of the proposed abandonment, including buildings and other structures in the vicinity,” and was thus sufficient for the purposes of 49 C.F.R. § 1105.8(d)(1). (Suppl. Final EA 1, Jun. 25, 2026). NSR otherwise provided no photographs, descriptions, or other information regarding historic structures under 49 C.F.R. § 1105.8(d)(2)-(4) because, as it explained, “[t]here are no NSR-owned or maintained structures on the Line proposed for abandonment” and that it is “only abandoning its freight rights, and that no salvage activities will be undertaken by NSR.” (Verified Notice, E&H Report at 11-12.)

The Board agrees that under these circumstances, where NSR is merely abandoning a freight operating easement and does not own or control the underlying rail property, it was not necessary for it to identify historic properties adjacent to or underlying the right-of-way.¹¹ Any post-abandonment actions by MTA or Amtrak concerning their property would not fall “under the direct or indirect jurisdiction” of the Board, or otherwise require a Board “license, permit, or approval,” and hence are not part of NSR’s abandonment (i.e., “undertaking”) as defined by regulations implementing the National Historic Preservation Act (NHPA). 36 C.F.R. § 800.16(y); cf. Seven Cnty. Infra. Coal. v. Eagle Cnty., Colo., 605 U.S. 168, 186 (holding that agencies have no obligation under the National Environmental Policy Act to consider environmental effects from “potential future projects,” especially those “fall[ing] outside” the agency’s authority and that may be “initiated, if at all, by third parties”). The Maryland Historic Trust (MHT), which serves as Maryland’s State Historic Preservation Office and with whom the Board must consult under the NHPA regulations, 36 C.F.R. § 800.4(d)(1), has raised no concerns. MHT received a copy of NSR’s E&H Report, including NSR’s representation that it was not providing information regarding historic structures because it did own or control any, and concluded that the abandonment “will have no effect on historic properties.” (Verified Notice, E&H Report at App’x D.) Had MHT found NSR’s E&H’s historic report lacking, it

¹¹ The Board’s regulations permit any of the requirements for the submission of historic reports to be waived “when the information is not necessary to determine the presence of historic properties and the effect of the proposed action on them.” 49 C.F.R. § 1105.8(e). To the extent necessary, the Board waives the requirements at 49 C.F.R. § 1180.d(2)-(4) for the reasons given herein.

could have said so or requested additional information.¹² NSR's historic report was sufficient under 49 C.F.R. § 1105.8(d).

The Board has reviewed and otherwise adopts OEA's findings set forth in the Draft Environmental Assessment, Final Environmental Assessment, and Supplemental Environmental Assessment, as well as its conclusions that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register and that, as proposed, abandonment of the Line will not significantly affect the quality of the human environment.

Riffin has failed to demonstrate that the verified notice contains materially false or misleading information or omits information that renders it materially false or misleading. Therefore, the Board will deny Riffin's motion to reject the notice, lift the stay, and allow the exemption to become effective.

It is ordered:

1. NSR's motion to strike Riffin's May 15, 2026 rebuttal is granted.
2. Riffin's motion to summarily reject the verified notice is denied.
3. The stay of the exemption's effective date is lifted, and the exemption will be effective on October 14, 2026.
4. This decision is effective on its service date.

By the Board, Board Members Fuchs, Hedlund, Kloster, and Schultz.

¹² As OEA explained, MHT is well aware of the infrastructure in place to "control the Jones Falls through Baltimore." (Suppl. Final EA 2.) Indeed, MHT's online Cultural Resource Information System (MEDUSA) contains substantial information and documentation regarding the retaining walls that contain the Jones Falls and the conduit that carries a portion of the Jones Falls underground and into the Inner Harbor. See Jones Falls Retaining Walls, B-1313; Jones Falls Conduit, B-5192, available at <https://apps.mht.maryland.gov/medusa/>.