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SERVICE DATE – FEBRUARY 22, 2021

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36485

CITY OF ATLANTA, GA.—PETITION FOR PRELIMINARY INJUNCTION AND
PETITION FOR DECLARATORY ORDER

Decided: February 22, 2021

On February 12, 2021, the City of Atlanta, Ga. (City), filed a petition for preliminary injunction to enjoin Norfolk Southern Corporation and Lincoln Terminal Company from all further excavation, construction, and operations on the site of the former Chattahoochee Brick Company in Atlanta, until the Board issues a decision on the City's petition for declaratory order, which it intended to file at a later date.

On February 19, 2021, Norfolk Southern Railway Company, a subsidiary of Norfolk Southern Corporation (collectively, NS), filed a motion to dismiss the City's petition for preliminary injunction as moot, stating that NS has terminated its project to construct a rail transfer facility on the site. In a reply filed the same day, the City agrees that the proceeding is moot and requests that the Board grant NS's motion without prejudice.

Accordingly, because the City and NS agree that the petition for preliminary injunction is moot, the motion to dismiss will be granted.

It is ordered:

1. NS's motion to dismiss is granted.
2. The City's petition for preliminary injunction is dismissed without prejudice.
3. This decision is effective on its date of service.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.