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Crystal M. Zorbaugh

ENTERED
Office of Proceedings
July 26, 2018
Part of
Public Record
(202) 663-7831 (Direct Dial)
E-Mail: czorbaugh@bakerandmiller.com

July 26, 2018

BY HAND DELIVERY

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 – Discontinuance of Service Exemption – In Washington County, PA, AB-290 (Sub-No. 382X)

Dear Ms. Brown:

Enclosed please find an original and eleven copies of a notice of exemption by Norfolk Southern Railway Company to discontinue rail service over an approximately 7.58-mile rail line extending from milepost EL 11.818 (near Ellsworth, PA) to milepost EL 19.4 (at Marianna, PA) in Washington County, PA. Please acknowledge receipt and filing of this notice of exemption by date-stamping the enclosed eleventh copy and returning it to the courier for return to me. This submission also includes an electronic copy of the entire filing and a separate electronic file of a draft Federal Register notice.

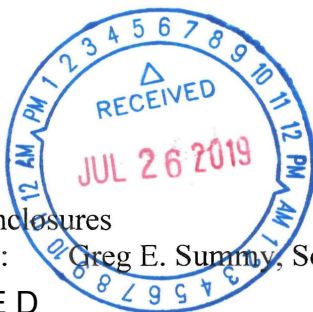
Finally, pursuant to 49 C.F.R. § 1002.2(f)(21)(ii), I have enclosed a filing fee check in the amount of \$4,100.00. If there are any questions about this matter, please contact me directly, either by telephone: 202-663-7831 or by e-mail: czorbaugh@bakerandmiller.com. If I am unavailable, you can contact William A. Mullins, by telephone: 202-663-7823 or by e-mail: wmullins@bakerandmiller.com

Sincerely,



Crystal M. Zorbaugh
Counsel for Norfolk Southern Railway Company

Enclosures
cc: Greg E. Summy, Scott Plum, Laura Hoag



FILED
JULY 26, 2018
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
JULY 26, 2018
SURFACE
TRANSPORTATION BOARD

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

AB-290 (Sub-No. 382X)

**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN WASHINGTON COUNTY, PA**

NOTICE OF EXEMPTION

**Greg E. Summy
General Solicitor
NORFOLK SOUTHERN CORPORATION
Three Commercial Place
Norfolk, Virginia 23510
Tel: (757) 533-4939
Fax: (757) 533-4872**

**William A. Mullins
Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., NW
Suite 300
Washington, DC 20037
Tel: (202) 663-7820
Fax: (202) 663-7849**

July 26, 2018

**Attorneys for Norfolk Southern Railway
Company**

****This Filing Contains Color**

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

AB-290 (Sub-No. 382X)

**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN WASHINGTON COUNTY, PA**

NOTICE OF EXEMPTION

INTRODUCTION

Norfolk Southern Railway Company (“NSR”) hereby submits a notice of exemption pursuant to 49 C.F.R. part 1152, subpart F (Exempt Abandonments and Discontinuances of Service and Trackage Rights) to discontinue service over an approximately 7.58-mile rail line extending from milepost EL 11.818 (near Ellsworth, PA) to milepost EL 19.4 (at Marianna, PA) in Washington County, PA (hereinafter, the “Line”). The Line traverses through United States Postal Service Zip Code territories 15345, 15360, 15331, and 15314. In accordance with the Board’s regulations at 49 C.F.R. §§ 1152.50(b) and (d), NSR provides the following information in support of its notice:

Certification: 49 C.F.R. § 1152.50(b)

The Line satisfies the criteria for a discontinuance of service exemption under the provisions located at 49 C.F.R. part 1152, subpart F. See Certification of G.R. Comstock, General Manager Northern Region for Norfolk Southern Railway Company, attached hereto and made part hereof as Exhibit A.

Proposed Consummation Date: 49 C.F.R. § 1152.50 (d)(2)

The subject discontinuance will be consummated on or after September 14, 2018 (50 days after filing the notice of exemption).

Additional Information Required: 49 C.F.R. §§ 1152.22(a)(1)-(4), (7)-(8) and (e)(4)

Exact name of applicant (49 C.F.R. § 1152.22(a)(1)):

Norfolk Southern Railway Company

Whether applicant is a common carrier by railroad (49 C.F.R. § 1152.22(a)(2)):

NSR is a Class I common carrier by railroad subject to the Board's jurisdiction under 49 U.S.C. Subtitle IV.

Relief sought (49 C.F.R. § 1152.22(a)(3)):

NSR has invoked the Board's two-year-out-of-service class exemption procedures to discontinue rail service over an approximately 7.58-mile rail line extending from milepost EL 11.818 (near Ellsworth, PA) to milepost EL 19.4 (at Marianna, PA) in Washington County, PA.

Map (49 C.F.R. § 1152.22(a)(4)):

A detailed map showing the location of the Line is attached hereto as Exhibit B.

Applicant's representatives (49 C.F.R. § 1152.22(a)(7)):

NSR's representatives to whom correspondence regarding this discontinuance should be sent is as follows:

William A. Mullins
Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., NW
Suite 300
Washington, DC 20037
Tel: (202) 663-7820
Fax: (202) 663-7849

USPS ZIP codes (49 C.F.R. § 1152.22(a)(8)):

The Line traverses through United States Postal Service Zip Code territories 15345, 15360, 15331, and 15314.

Rural and Community Impact (49 C.F.R. § 1152.22(e)(4)):

The Line has been dormant for well over two years. As a result, NSR anticipates no rural or community impact from the discontinuance of its common carrier obligation. Because the Line has not been used for local rail shipments for over twenty-four (24) months, there will be no effect on regional or local transportation systems and patterns, and no diversion of traffic to other transportation systems or modes would result from NSR's action.

The informational requirement of section 1152.22(e)(4) (alternative public uses of rail property) appears to be pertinent only in cases where the railroad proposes to abandon rail property.¹ In this proceeding, NSR is filing a notice of exemption to discontinue service over the Line, not abandon it, and for this reason NSR has no opinion on whether or not the subject rail property might be appropriate for use for other public purposes. Although the following is of questionable relevance here (because the proposed action does not entail the abandonment of a rail line), based on the information in its possession, NSR is unaware of any condition that would affect the transfer of title to or the use of the railroad right-of-way for other than rail purposes.

¹ See Columbus and Greenville Railway Company – Discontinuance of Service Exemption – in Greenwood, MS, STB Docket No. AB-297 (Sub-No. 103X), slip op. at 2 n.2 (STB served July 3, 2007)(“Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate”); see also, Norfolk Southern Railway Company—Discontinuance Exemption—in Mahoning County, OH, STB Docket No. AB-290 (Sub-No. 292X), slip op. at 2 n.2 (STB served March 15, 2007); and Chillicothe-Brunswick Rail Maintenance Authority—Discontinuance Exemption—in Livingston, Linn, and Chariton Counties, MO, STB Docket No. AB-1001X, slip op at 2 n.3 (STB served Feb 23, 2007).

Labor Protection

The interests of affected railroad employees, if any, will be protected by the conditions discussed in Oregon Short Line Railroad —Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

Certifications

Attached hereto as Exhibit C are the Certificates of Service and Publication pursuant to the notice requirements of 49 C.F.R. §§ 1105.12 and 1152.50(d)(1). For reasons set forth in the “Environmental and Historic Report” section below, the certification of service requirement at 49 C.F.R. § 1105.11 (transmittal of Environmental and Historic Reports) is not applicable here.

Environmental and Historic Report

The Board does not normally require a carrier seeking to discontinue service over a particular rail line to prepare and submit for review a combined environmental and historic report.² Here, the discontinuance is exempt from environmental reporting requirements under 49 C.F.R. § 1105.6(c) and from historic reporting requirements under 49 C.F.R. § 1105.8(b) because NSR seeks only to discontinue service. NSR does not anticipate engaging in any salvage activities as a result of obtaining discontinuance authority and has no plans to remove any potentially historic structures. Further Board approval is required for NSR to abandon

² See Everett Railroad Company – Discontinuance of Service Exemption – In Blair County, PA, STB Docket No. AB-271X slip op. at 2 n.2 (STB served Nov. 16, 2007) (“Because this is a discontinuance proceeding and not an abandonment, . . . no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively”); see also, Columbus and Greenville Railway Company – Discontinuance of Service Exemption – in Greenwood, MS, STB Docket No. AB-297 (Sub-No. 103X), slip op. at 2 n.2 (STB served July 3, 2007) (same); Norfolk Southern Railway Company—Discontinuance Exemption—in Mahoning County, OH, STB Docket No. AB-290 (Sub-No. 292X), slip op. at 2 n.2 (STB served March 15, 2007); Chillicothe-Brunswick Rail Maintenance Authority—Discontinuance Exemption—in Livingston, Linn, and Chariton Counties, MO, STB Docket No. AB-1001X, slip op at 2 n.3 (STB served Feb 23, 2007).

service on the Line. Accordingly, no environmental or historic report was prepared, and the STB will not prepare an environmental assessment.

Respectfully submitted,

Greg E. Summy
General Solicitor
NORFOLK SOUTHERN CORPORATION
Three Commercial Place
Norfolk, Virginia 23510
Tel: (757) 533-4939
Fax: (757) 533-4872



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Attorneys for Norfolk Southern Railway
Company

July 26, 2018

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

AB-290 (Sub-No. 382X)

**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN WASHINGTON COUNTY, PA**

NOTICE OF EXEMPTION

EXHIBIT A

**CERTIFICATION PURSUANT TO
49 C.F.R. § 1152.50(b)**

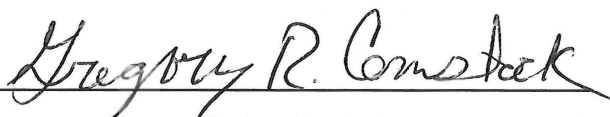
CERTIFICATION

STATE OF GEORGIA:

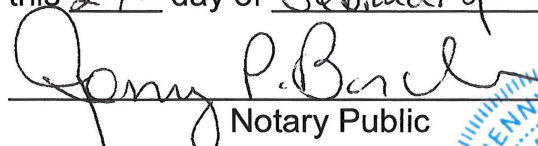
ss:

CITY OF ATLANTA:

G. R. Comstock makes oath and says that he is General Manager Northern Region for Norfolk Southern Railway Company (NSR); that the rail line between Mileposts EL 11.818 and EL 19.4, over which service is to be discontinued, is subject to his supervision and direction; that no local traffic has moved over the line for at least two years, that no overhead traffic has moved over the line for at least two years and that overhead traffic, if there were any, could be rerouted over other lines; and that no formal complaint filed by a user of rail service on the line or a state or local government entity acting on behalf of such user regarding cessation of service over the line either is pending before the Surface Transportation Board or any U. S. District Court or has been decided in favor of the complainant within the two-year period.

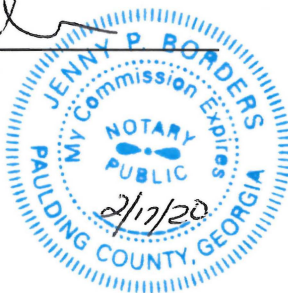

G. R. Comstock

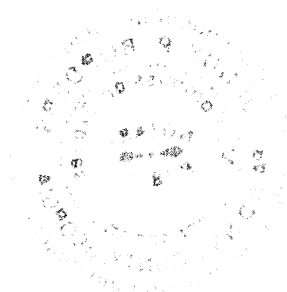
Subscribed and sworn to before me
this 27th day of February, 2018.


Notary Public

My commission expires:

2/17/2020





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

AB-290 (Sub-No. 382X)

**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN WASHINGTON COUNTY, PA**

NOTICE OF EXEMPTION

EXHIBIT B

MAP



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

AB-290 (Sub-No. 382X)

**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN WASHINGTON COUNTY, PA**

NOTICE OF EXEMPTION

EXHIBIT C

**CERTIFICATIONS OF
SERVICE/PUBLICATION**

Certificate of Service

49 C.F.R. § 1152.50(d)(1) – Notice

I certify that, May 18, 2018, in keeping with 49 C.F.R. § 1152.50(d)(1), I caused the following parties to be served with written notice of the intent of Norfolk Southern Railway Company (“NSR”) to invoke the Board’s notice of exemption procedures to discontinue operations over an approximately 7.58-mile rail line in Washington County, PA. I certify that based on the information in NSR’s possession the rail line proposed for abandonment does not contain federally granted rights-of-way.

PA Department of Transportation
Keystone Building
400 North St., Fifth Floor
Harrisburg PA 17120

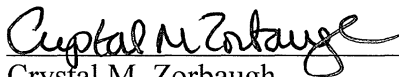
Public Utilities Commission
Attn: Rodney Bender
Commonwealth of Pennsylvania,
PO Box 3265
Harrisburg, PA 17105

David Dorfman
Headquarters Military Surface Deployment
and Distribution Command
Transportation Engineering Agency
ATTN: SDTE-SA
Railroads for National Defense Program
1 Soldier Way, Building 1900W
Scott AFB, IL 62225

National Forest System Staff
Forest Service
U.S. Department of Agriculture
Sidney R. Yates Federal Building
201 14th Street SW
Washington, DC 20024

Stephan Nofield
National Park Service
Rivers & Trails Conservation Program
1201 Eye Street, NW, 9th Floor (Org. Code
2220)
Washington, D.C. 20005

July 26, 2018


Crystal M. Zorbaugh
Attorney for Norfolk Southern Railway
Company

Certificate of Publication

49 C.F.R. § 1105.12 – Newspaper Notice

I certify that a “Notice of Intent to Discontinue Rail Service” for Norfolk Southern Railway Company was published in the form and manner prescribed by the Surface Transportation Board regulations for a notice of exemption to discontinue rail service. The notice was published one time on May 21, 2018 in the Observer-Reporter, a newspaper of general circulation in Washington County, Pennsylvania, where the Line is located. Attached is a proof of publication from the Observer-Reporter.

July 26, 2018



Crystal M. Zorbaugh

Attorney for Norfolk Southern Railway Company

**Observer-Reporter
122 S. Main Street
Washington, PA 15301**

**Phone:(724) 222-2200 Fax:(724) 223-2639
Proof of Publication**

In compliance with the Newspaper Advertising Act of July 9, 1976, P.L. 877, No. 160, as amended
COMMONWEALTH OF PENNSYLVANIA, COUNTY OF
WASHINGTON SS:

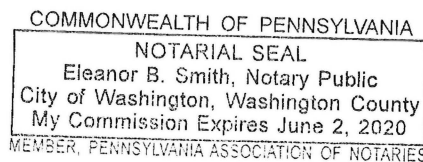
Before me, a Notary Public in and for said County and State, personally appeared

David F. Lyle who being duly sworn according to law, deposes and says that he is **CFO** of
Observer Publishing Company, a Pennsylvania corporation, and its agent in this behalf, that the
said company is the owner and publisher of the Observer-Reporter, successor to The Washington
Observer, established September 18, 1871, and The Washington Reporter, established August 15,
1808, a daily newspaper of general circulation, printed and published and having its place of busi-
ness in Washington, Washington County, and Waynesburg, Greene County, Pennsylvania where it
or its predecessors have been established and published continuously for more than six months
prior to the publication of the notice hereto shown: that the printed notice or advertisement hereto
shown is a copy of an official advertisement, official notice, legal notice or legal advertisement
exactly as printed or published in the Observer-Reporter in its regular editions on the following
date or dates:

Observer-Reporter 05/21/18

that neither the affiant nor the Observer Publishing Company is interested in the subject matter of
said notice or advertising and that all allegations of this affidavit as to the time, place and character
of publication are true.

Sworn to and subscribed before me this 21 day of May 2018
Eleanor B Smith



**NOTICE OF INTENT TO DISCONTINUE RAIL SERVICE
AB-290 (Sub-No. 382X)**

Norfolk Southern Railway Company ("NSR"), gives notice that on or about May 31, 2018, it intends to file with the Surface Transportation Board ("Board"), Washington, DC 20423, a notice of exemption under 49 C.F.R. Part 1152 Subpart F — Exempt Abandonments and Discontinuances of Service and Trackage Rights permitting NSR to discontinue rail service over an approximately 7.58-miles rail line extending from milepost EL 11.818 (near Ellsworth, PA) to milepost EL 19.4 (at Marianna, PA) in Washington County, PA (referred to herein as the "Line"). The Line traverses through United States Postal Service Zip Code territories 15345, 15360, 15331, and 15314. There have been no customers on the Line proposed for discontinuance for over two years. The proceeding will be docketed as AB-290 (Sub-No. 382X).

The proposed action entails the discontinuance of rail service over the Line for which further Board approval would be required to abandon service on the Line. Accordingly, this proceeding is exempt from environmental reporting requirements under 49 C.F.R. § 1105.6(c) and from historic reporting requirements under 49C.F.R. § 1105.8(b), and the Board will not prepare an environmental assessment.

Appropriate offers of financial assistance ("OFA") to continue rail service under a subsidy can be filed with the Board. Because the proposed action is for the discontinuance of service over, but not the abandonment of the Line, requests for public use conditions and rail banking/trails will not be accepted. An original and 10 copies of any pleading in response to the proposed discontinuance of service (such as offers of financial assistance) must be filed directly with the Board's Section of Administration, Office of Proceedings, 395 E Street, S.W., Washington, DC 20423 [See 49 C.F.R. §§ 1104.1(a) and 1104.3(a)], and one copy must be served on NSR's representative [See 49 CFR § 1104.12(a)]. Questions regarding OFA or other such matters may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at 202-245-0230. Copies of any comments or requests for specific Board action should be served on NSR's representative: Crystal M. Zorbaugh, BAKER & MILLER PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037; phone: 202-663-7820; fax 202-663-7849.

5-21

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

AB-290 (Sub-No. 382X)

**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN WASHINGTON COUNTY, PA**

NOTICE OF EXEMPTION

**DRAFT FEDERAL REGISTER
NOTICE OF EXEMPTION**

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB-290 (Sub-No. 382X)]

Norfolk Southern Railway Company—Discontinuance of Service Exemption – in Washington County, Pennsylvania.

On July 26, 2018, Norfolk Southern Railway Company (“NSR”) filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments and Discontinuances of Service and Trackage Rights to discontinue service over an approximately 7.58-mile rail line extending from milepost EL 11.818 (near Ellsworth, PA) to milepost EL 19.4 (at Marianna, PA) in Washington County, PA (hereinafter, the “Line”). The Line traverses through United States Postal Service Zip Code territories 15345, 15360, 15331, and 15314.

NSR has certified that: (1) no local traffic has moved over the line for at least two years; (2) that no overhead traffic has moved over the line for at least two years and that overhead traffic, if there were any, could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the applicable requirements at 49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To

address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on September____, 2018, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 C.F.R. § 1152.27(c)(2) must be filed by _____.¹ Petitions to reopen must be filed by _____, 2018, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to NSR's representative:
Crystal M. Zorbaugh, Baker & Miller PLLC, 2401 Pennsylvania Ave., NW, Suite 300,
Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: _____, 2018.

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

¹ Each OFA must be accompanied by the filing fee, which is currently set at \$1,800. See 49 C.F.R. § 1002.2(f)(25). Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively.

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

AB-290 (Sub-No. 382X)

**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN WASHINGTON COUNTY, PA**

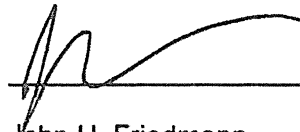
NOTICE OF EXEMPTION

VERIFICATION

Verification

I, John Friedmann, Vice President for Norfolk Southern Railway Company ("NSR"), hereby verify under penalty of perjury that to the best of my knowledge the foregoing discontinuance notice of exemption is true and correct. Further, I certify that I am qualified and authorized to make such verification on behalf of NSR in connection with this proceeding before the Surface Transportation Board.

Executed this eighteenth day of January, 2018.

A handwritten signature in black ink, appearing to be 'JH Friedmann', is written over a horizontal line.

John H. Friedmann
Vice President