



COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION
1401 EAST BROAD STREET
RICHMOND, VA 23219-2000

GREGORY A. WHIRLEY
COMMISSIONER
May 1, 2013

VIA E-FILE

Ms. Cynthia T. Brown
Chief of the Section of Administration
Office of Proceedings Surface Transportation Board
395 E Street S.W.
Washington, D.C. 20423

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Office of Proceedings
May 1, 2013
Part of
Public Record

Re: **CSX Transportation, Inc.**, Abandonment and Discontinuance of Service Exemption in the City of Richmond and Henrico County, VA – STB Docket No. – AB-55 (Sub-No. 726X)
Norfolk Southern Railway Company, Abandonment and Discontinuance of Service Exemption in the City of Richmond and Henrico County, VA – STB Docket No. AB-290 (Sub-No. 303X)

Dear Ms. Brown:

This petition is filed on behalf of the Virginia Department of Transportation, which is an agency of the Commonwealth of Virginia interested in transportation, hereinafter referred to as “proponent.” While not taking a position on the merits of this abandonment, proponent requests issuance of a Public Use Condition as well as an Interim Trails Use Condition rather than an outright abandonment authorization of the Southern Region, Huntington Division, Peninsula Subdivision, also known as the James River Industrial Track from the boundary line between the City of Richmond and Henrico County to the location on the track approximately 0.650 miles south of the boundary line between the City of Richmond and Henrico County (the “Trails Use Line”).

A. Request for Public Use Condition

Proponent asks the Surface Transportation Board (STB) to find that this property is suitable for other public use, specifically trail use, and to place the following conditions on the abandonment:

1. An order prohibiting the carrier from disposing of the corridor, other than the tracks, ties and signal equipment, except for public use on reasonable terms. Justification for this condition is that the corridor would make an excellent recreational trail along the James River and conversion of the property to trail use is in accordance with our state plans. The time period sought is 180 days from the effective date of the abandonment authorization. Proponent needs this much time to review title information and begin negotiations with the carrier.
2. An order barring removal or destruction of potential trail-related structures such as bridges, trestles, culverts, and tunnels. The justification for this condition is that these structures have

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considerable value for recreational trail purposes. The time period requested is 180 days from the effective date of the abandonment authorization for the same reason as indicated above.

B. Request for Interim Trail Use

The railroad right-of-way in this proceeding is suitable for railbanking. In addition to the public use conditions sought above, proponent also makes the following request:

STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY

In order to establish interim trail use and rail banking under 16 U.S.C. §1247(d) and 49 CFR §1152.29, the Virginia Department of Transportation is willing to assume full responsibility for management of, for indemnification of the applicant railroads against any legal liability arising out of the transfer or use of, and for the payment of any taxes that may be levied or assessed against, the Trails Use Line.

The property described herein as the "Trails Use Line" is known as the Southern Region, Huntington Division, Peninsula Subdivision, also known as the James River Industrial Track, from the boundary line between the City of Richmond and Henrico County to the location on the track approximately 0.650 miles south of the boundary line between the City of Richmond and Henrico County. The distance is approximately 0.650 miles in Henrico County, Virginia. The right-of-way is part of a line of railroad proposed for abandonment in STB Docket Nos. AB-55 (Sub-No. 726X) and AB-290 (Sub-No. 303X).

A map of the property depicting the Trails Use Line is attached.

The Virginia Department of Transportation acknowledges that the use of right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the applicant railroads on the same date it is being served on the Board.

The Virginia Department of Transportation is a state agency that is filing this petition for interim trail use/rail banking for a public purpose. As such, the Virginia Department of Transportation respectfully requests waiver of the filing fee pursuant to 49 C.F.R. §1002.2(e)(1). This petition is being filed late due to legal research and analysis required by this agency from the Office of the Attorney General of Virginia in order to assure that signing and filing this request on behalf of the Virginia Department of Transportation would not violate any laws of the Commonwealth of Virginia.

Respectfully Submitted,



Richard R. Bennett
State Right of Way Director, Virginia Department of Transportation

cc: Robert Wimbush, Esq.
Steven Armbrust, Esq.
Louis E. Gitomer, Esq.
Joseph V. Jagdmann, Esq.

Attachment 1
Map Depicting Trails Use Line

