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ENTERED
Office of Proceedings
September 5, 2014
Part of
Public Record

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September 5, 2014

VIA E-FILING

Cynthia T. Brown, Chief
Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington DC 20423-0001

 GRANTED Office of Proceedings	DECISION ID NO.: <u>44014</u>
	DECIDED DATE: <u>9/22/14</u>
	SERVICE DATE: <u>9/22/14</u>
	APPROVED: <u>Racold Campbell</u> Director
	☒ <u>extended to 9/24/15</u>

Re: *Norfolk Southern Railway Company – Abandonment and Discontinuance of Service Exemption – In Lake County, Indiana, and Cook County, Illinois, STB Docket No. AB-290 (Sub-No. 336X)*

Dear Ms. Brown:

Norfolk Southern Railway Company ("NSR") hereby requests for good cause shown an additional one-year extension of its abandonment authority, until September 24, 2015, in the above-referenced proceeding.¹ As this letter will demonstrate this abandonment has been subject to a series of atypical delays, which warrant a second extension of the consummation deadline.

Per the Director's Order served on October 23, 2012, the line was subject to a public use condition, to allow interested parties to ascertain, whether the 6.30 miles of rail line proposed for abandonment, known as the Eastern Line Segment, could be obtained for a public purpose. From the onset of this proceeding, NSR declined to negotiate trails use, because the purpose of the abandonment proceeding was to allow Canadian National Railway Company ("CN") and Elgin, Joliet & Eastern Railway ("EJ&E") to construct a grade separation over U.S. Route 30, consistent with the conditions imposed by the Board in approving CN's acquisition of control of EJ&E.² The public use condition, which expired on April 22, 2013, was implemented to enable any state or local government agency, or other interested person, to negotiate the acquisition of the Eastern Line

¹ NSR originally had until September 23, 2013 to consummate this abandonment; however, a Director's Stamp Decision served September 18, 2013, extended NSR's deadline for consummation until September 24, 2014.

² Canadian Nat'l Ry. and Grand Trunk Corp.—Control—EJ&E W. Co., FD 35087 (STB served Dec. 24, 2008).

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Segment for public use (including the possible the extension of the existing 21.5-mile Old Plank Road Trail in Illinois, which could provide connections to the Pennsy Greenway and Erie-Lackawanna in Indiana). The condition was subject to the limitation that the public use not interfere with or delay plans to use a portion of the Eastern Line Segment for the U.S. Route 30 grade separation project.

In addition to the public use condition, the October 23, 2012 Director's Order imposed several salvage conditions, including the following: (1) prior to commencement of any salvage activities, NSR shall consult with the Illinois Environmental Protection Agency, Division of Pollution Control regarding National Pollutant Discharge Elimination System permit requirements; and (2) NSR shall consult with NGS and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.

Due to imposition of the above public use and salvage conditions, NSR was significantly delayed in consummating its abandonment authority. As a result, NSR, based on good cause shown, was granted an additional year, until September 24, 2014, to consummate its abandonment authority. NSR now writes to request another one year extension of the consummation deadline.

Over the past year, NSR began making preparations to consummate its abandonment authority in this proceeding. During the course of those preparations, NSR was approached by a petroleum pipeline operator regarding the possibility of installing a pipeline along the Hartsdale right-of-way for appropriate remuneration. Negotiations are ongoing, and real estate title investigations are being performed in connection with this potential transaction. If these negotiations prove fruitful, NSR plans to execute discontinuance authority rather than abandonment authority.³ Further, NSR would also exercise its contractual right to activate trackage rights over the parallel CN line and would seek appropriate authority at that time.

Given these developments, NSR needs additional time to consummate either its discontinuance or abandonment authority and to determine whether it would need to activate its trackage rights over the CN line. Accordingly, for the good cause shown above, NSR respectfully requests another 1-year extension of the current deadline for filing a notice of consummation in this proceeding. NSR would appreciate prompt action on this matter. Please let me know if you require anything else in order to grant the subject extension.

³ The Board has held that if a railroad wishes to discontinue service over a portion of a rail line, after it has been granted authority to abandon but before it has consummated abandonment, it may exercise the lesser included authorization of discontinuance. See T&P Ry.--Aban.--Shawnee, Jefferson, & Atchison Count., KS, 2 S.T.B. 36, 40 (1997). See also The Alabama Great Southern Railroad Company - Discontinuance Exemption - In Saint Bernard Parish, LA, STB Docket No. AB-290 (Sub-No. 323X) (STB served December 17, 2013).

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Sincerely,

A handwritten signature in black ink, appearing to read 'William A. Mullins', with a long horizontal flourish extending to the right.

William A. Mullins
Attorney for Norfolk Southern Railway Company

cc: All parties of record
Maquiling Parkerson, Marc Kirchner, LaWada Poarch