

SERVICE DATE – MAY 11, 2018

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36190

TERMINAL RAILWAY ALABAMA STATE DOCKS—TEMPORARY TRACKAGE
RIGHTS EXEMPTION—NORFOLK SOUTHERN RAILWAY COMPANY

Digest:¹ This decision grants a request by Terminal Railway Alabama State Docks for temporary overhead trackage rights on an expedited basis over a line of Norfolk Southern Railway Company per the railroads' agreement. Doing so will accommodate emergency detour operations while an out-of-service bridge on the affected line is repaired.

Decided: May 9, 2018

On April 27, 2018, Terminal Railway Alabama State Docks (TASD) filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(8) to obtain temporary overhead trackage rights from Norfolk Southern Railway Company (NSR) over NSR's 3-B South District rail line between the connection with TASD at approximately milepost 146.9 MB at CN Crossing and the connection with TASD at approximately milepost 144.0 MB at Terminal Junction, a distance of approximately 2.9 miles in Mobile, Ala. Notice of the trackage rights exemption is due to be published in the Federal Register on May 11, 2018. Under 49 C.F.R. § 1180.4(g), a notice of exemption must be filed at least 30 days before the covered transaction can be consummated. Under that rule, the earliest date TASD may consummate the transaction is May 27, 2018.

However, simultaneously with its notice, TASD filed a petition to waive the 30-day requirement and allow the exemption to take effect immediately. TASD explains that it recently experienced a structural failure on the Viaduct Bridge that carries TASD's rail line over Bay Bridge Road in Mobile, isolating TASD's Chickasaw Line from the remainder of TASD's system. TASD arranged to begin emergency detour operations over 2.9 miles of parallel NSR rail line in order to reach the Chickasaw Line, on the understanding that TASD would seek immediate authority from the Board to continue those detour operations over NSR as temporary trackage rights. (Pet. 1-2.) TASD states that the waiver is needed to accommodate TASD's emergency detour operations while repairs are made to its out-of-service bridge, and to effectuate the cooperative arrangements with NSR and rail labor that allowed those emergency operations to commence immediately. (Id. at 1.)

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. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

For good cause shown, the Board will grant the petition, waive the 30-day requirement under 49 C.F.R. § 1180.4(g), and allow the exemption to become effective immediately. See Ark. Midland R.R.—Trackage Rights Exemption—Caddo Valley R.R., FD 35530 (STB served June 14, 2011); CSX Transp.—Temp. Trackage Rights—Norfolk S. Ry., FD 35460 (STB served Jan. 18, 2011).

It is ordered:

1. The petition for waiver is granted.
2. The 30-day provision under 49 C.F.R. § 1180.4(g) is waived, and TASP's exemption for temporary trackage rights shall become effective on the service date of this decision.
3. This decision is effective on its service date.

By the Board, Board Members Begeman and Miller.