

BAKER & MILLER PLLC

ATTORNEYS and COUNSELLORS
2401 PENNSYLVANIA AVENUE, NW
SUITE 300
WASHINGTON, DC 20037

TELEPHONE: (202) 663-7820
FACSIMILE: (202) 663-7849

CRYSTAL M. ZORBAUGH



(202) 663-7831 (Direct Dial)
E-Mail: czorbaugh@bakerandmiller.com

248390

August 27, 2019

BY HAND DELIVERY

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

ENTERED
Office of Proceedings
August 27, 2019
Part of
Public Record

Re: East Penn Railroad, LLC – Discontinuance of Service and Lease Operations – In
Northeast Philadelphia, PA, AB-1020 (Sub-No. 2X)

Dear Ms. Brown:

Enclosed are an original and eleven copies of a verified notice of exemption (“Notice”) pursuant to 49 C.F.R. Part 1152, Subpart F – Exempt Abandonments and Discontinuances of Service and Trackage Rights, to permit East Penn Railroad, LLC (“ESPN”) to discontinue service and terminate its lease operations over approximately 1.8 miles of rail line owned by Norfolk Southern Railway Company located between milepost VE 0.00 and milepost VE 1.80 in Northeast Philadelphia, Pa. (the “Line”). The Line traverses United States Postal Zip Code territories 19004 and 19127. There have been no customers on the Line proposed for discontinuance for over two years.

Please acknowledge receipt and filing of this Notice 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), a check in the amount of \$4,200.00 is enclosed to cover the applicable filing fee. 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 may contact William A. Mullins, who can be reached at (202) 663-7823 or by e-mail at wmullins@bakerandmiller.com.

Sincerely,

Crystal M. Zorbaugh
Attorney for East Penn Railroad, LLC

FEE RECEIVED
August 27, 2019
SURFACE
TRANSPORTATION BOARD

cc: Greg Summy, Laura Hoag, Scott Plum

FILED
August 27, 2019
SURFACE
TRANSPORTATION BOARD

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

AB-1020 (Sub-No. 2X)

**EAST PENN RAILROAD, LLC – DISCONTINUANCE OF SERVICE AND LEASE
OPERATIONS – IN NORTHEAST PHILADELPHIA, PA**

**VERIFIED NOTICE OF EXEMPT DISCONTINUANCE
PURSUANT TO 49 C.F.R. § 1152.50**

**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**

August 27, 2019

Attorneys for East Penn Railroad, LLC

***This Filing Contains Color**

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

AB-1020 (Sub-No. 2X)

**EAST PENN RAILROAD, LLC – DISCONTINUANCE OF SERVICE AND LEASE
OPERATIONS – IN NORTHEAST PHILADELPHIA, PA**

**VERIFIED NOTICE OF EXEMPT DISCONTINUANCE
PURSUANT TO 49 C.F.R. § 1152.50**

East Penn Railroad, LLC (“ESPN”) hereby submits a verified notice of exemption (“Notice”) pursuant to 49 C.F.R. part 1152, subpart F – Exempt Abandonments and Discontinuances of Service and Trackage Rights, for ESPN to discontinue service and terminate its lease operations over approximately 1.8 miles of rail line owned by Norfolk Southern Railway Company (“NSR”) located between milepost VE 0.00 and milepost VE 1.80 in Northeast Philadelphia, Pa. (the “Line”). There have been no customers on the Line proposed for discontinuance for over two years

In accordance with the requirements of 49 C.F.R. §§ 1152.50(b) and (d), ESPN provides the following information in support of the Notice.

Certification: 49 C.F.R. § 1152.50(b)

ESPN certifies that the Line satisfies the criteria for discontinuance under the exemption provisions at 49 C.F.R. part 1152, subpart F. See Certification of Alfred M. Sauer, President and CEO for East Penn Railroad, LLC (attached hereto as part of Exhibit A). During the past two years, ESPN has not provided local or overhead common carrier service over the Line, nor has ESPN received any requests for common carrier service over it. Furthermore, 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 is pending with the Surface Transportation Board (“Board”) or with

any U.S. District Court nor has such a complaint been decided in favor of complainant during the past two years.

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

The proposed discontinuance will be consummated on or after October 16, 2019 (50 days after filing the Notice).

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

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

East Penn Railroad, LLC

Whether applicants are common carriers by railroad (49 C.F.R. § 1152.22(a)(2)):

ESPN is a common carrier by railroad subject to the Board's jurisdiction under 49 U.S.C. Subtitle IV, Chapter 105.

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

Pursuant to this verified notice of exemption, ESPN is seeking authority to discontinue service and terminate its lease operations over approximately 1.8 miles of rail line owned by NSR located between milepost VE 0.00 and milepost VE 1.80 in Northeast Philadelphia, Pa.

Map (49 C.F.R. § 1152.22(a)(4)):

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

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

The representatives of the railroads to whom correspondence regarding these proceedings should be sent are 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 portions of the following United States Postal Zip Codes: 19004 and 19127.

Suitability of the Line for Other Public Purposes (49 C.F.R. § 1152.22(e)(4)):

The informational requirement of section 1152.22(e)(4) (alternative public uses of rail property) appears to be pertinent only where the railroad proposes to *abandon* rail property.¹ Here, ESPN is only seeking to *discontinue service and terminate its lease operations* over the Line, and NSR, the owner of the Line has no current plans to abandon any portion of the Line. Should NSR decide to abandon any portion of the Line at a future date, it will seek appropriate authority from the Board at that time and fully respond as to whether there are alternative public uses of rail property.

Although of questionable relevance here (because the proposed action does not entail abandonment of a rail line), ESPN 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.

Labor Protection

The interests of affected railroad employees, if any, will be protected by the conditions discussed in Oregon Short Line R.R. — Abandonment — Goshen, 360 I.C.C. 91 (1979). ESPN does not anticipate that any employees will be adversely affected by the proposed discontinuance.

¹ See, e.g., 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) (“CAGY-Greenwood”) (“Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate”); Norfolk Southern Railway Company—Discontinuance Exemption—in Mahoning County, OH, STB Docket No. AB-290 (Sub-No. 292X), slip op. at 2 n.2 (“NS-Mahoning”) (STB served March 15, 2007) (same); 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 (“CBRA-Livingston”) (STB served Feb 23, 2007) (same).

Certifications

Attached hereto as Exhibit C are Certificates of Service and Publication certifying compliance with the advance notice and newspaper publication requirements set forth at 49 C.F.R. § 1152.50(d)(1) and 49 C.F.R. § 1105.12, respectively. 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 inapplicable here.

Environmental and Historic Report

A notice of exemption to discontinue service over (rather than to abandon) a line of railroad that has been out of service for more than two years does not require the preparation or submission of an Environmental and/or Historic Report.²

Respectfully submitted,



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

August 27, 2019

Attorneys for East Penn Railroad, LLC

² See, e.g., Everett Railroad Company – Discontinuance of Service Exemption – in Blair County, PA, STB Docket No. AB-721X 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”); CAGY-Greenwood at 2 n.2 (same); NS-Mahoning at 2 n.2 (same); CBRA-Livingston at 2 n.3 (same).

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

AB-1020 (Sub-No. 2X)

**EAST PENN RAILROAD, LLC – DISCONTINUANCE OF SERVICE AND LEASE
OPERATIONS – IN NORTHEAST PHILADELPHIA, PA**

**VERIFIED NOTICE OF EXEMPT DISCONTINUANCE
PURSUANT TO 49 C.F.R. § 1152.50**

VERIFICATION

Verification

I, Alfred M. Sauer, President and CEO for East Penn Railroad, LLC ("ESPN"), hereby verify under penalty of perjury that to the best of my knowledge, the foregoing abandonment notice of exemption is true and correct. Further, I certify that I am qualified and authorized to make such verification on behalf of ESPN in connection with this proceeding before the Surface Transportation Board.

Executed this 26 day of August, 2019



Alfred M. Sauer
President and CEO
East Penn Railroad, LLC

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

AB-1020 (Sub-No. 2X)

**EAST PENN RAILROAD, LLC – DISCONTINUANCE OF SERVICE AND LEASE
OPERATIONS – IN NORTHEAST PHILADELPHIA, PA**

**VERIFIED NOTICE OF EXEMPT DISCONTINUANCE
PURSUANT TO 49 C.F.R. § 1152.50**

EXHIBIT A

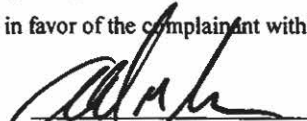
ESPN CERTIFICATION

STATE OF PENNSYLVANIA:

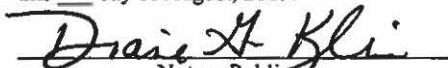
ss:

CITY OF Kennett Square:

Alfred M. Sauer, President and CEO for East Penn Railroad, LLC makes oath that the approximately 1.8 miles of rail line owned by Norfolk Southern Railway Company located between milepost VE 0.00 and milepost VE 1.80 in Northeast Philadelphia, Pa. (the "Line"), over which service is to be discontinued, is subject to his supervision and direction; that ESPN has not moved any local traffic over the Line for at least two years, that ESPN has not moved any overhead traffic 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 has been decided in favor of the complainant within the two-year period.

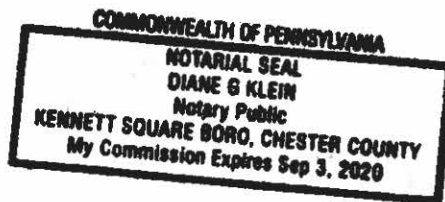

Alfred M. Sauer

Subscribed and sworn to before me
this ___ day of August, 2019.


Notary Public

My commission expires:

Sept. 3, 2020



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

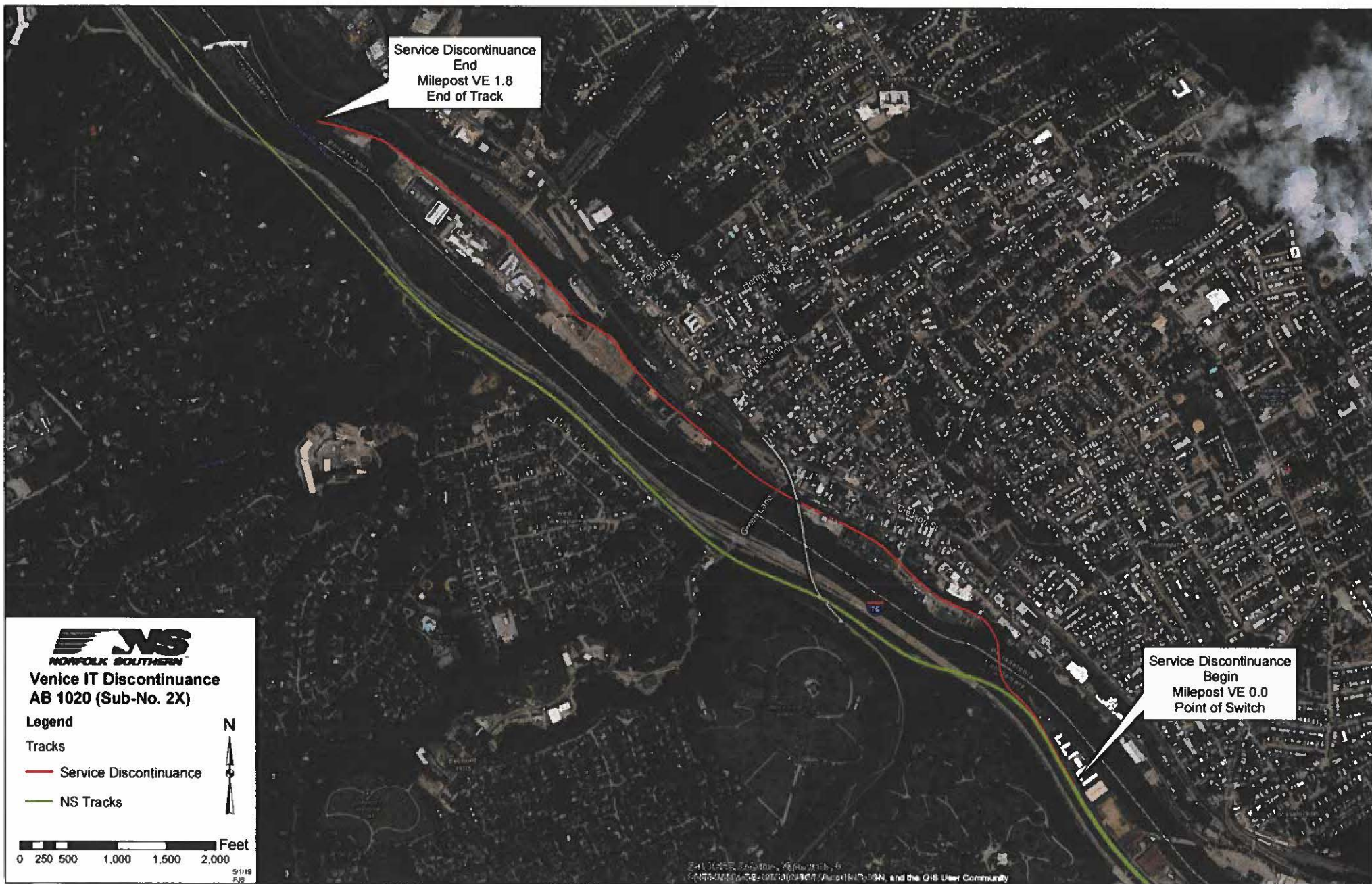
AB-1020 (Sub-No. 2X)

**EAST PENN RAILROAD, LLC – DISCONTINUANCE OF SERVICE AND LEASE
OPERATIONS – IN NORTHEAST PHILADELPHIA, PA**

**VERIFIED NOTICE OF EXEMPT DISCONTINUANCE
PURSUANT TO 49 C.F.R. § 1152.50**

EXHIBIT B

MAP



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

AB-1020 (Sub-No. 2X)

**EAST PENN RAILROAD, LLC – DISCONTINUANCE OF SERVICE AND LEASE
OPERATIONS – IN NORTHEAST PHILADELPHIA, PA**

**VERIFIED NOTICE OF EXEMPT DISCONTINUANCE
PURSUANT TO 49 C.F.R. § 1152.50**

EXHIBIT C

**CERTIFICATES OF
SERVICE/PUBLICATION**

Certificate of Service of Advance Notice

49 C.F.R. § 1152.50(d)(1) – Notice

I certify that, on August 15, 2019, in keeping with 49 C.F.R. § 1152.50(d)(1), I caused the following parties to be served with the written notice of intent of ESPN's intent to invoke the Board's notice of exemption procedures to discontinue service and terminate its lease operations over approximately 1.8 miles of rail line located between milepost VE 0.00 and milepost VE 1.80 in Northeast Philadelphia, Pa. (the "Line"). I also certify that the Line does not contain federally granted rights-of-way.

Pennsylvania Department of Transportation
Bureau of Rail Freight, Ports and Waterways
Keystone Building
400 North St., Fifth Floor
Harrisburg, PA 17120

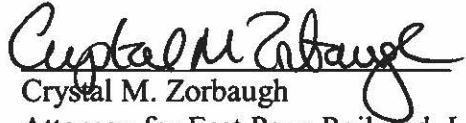
Pennsylvania Public Utility Commission
400 North Street
Keystone Bldg.
Harrisburg, PA 17120

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

Mr. Stephan Nofield
National Park Service
Rivers, Trails and Conservation Assistance Program
1849 C Street NW, Room 1344
Washington DC 20240

Vicki Christiansen, Chief
Forest Service
U.S. Department of Agriculture
Sidney R. Yates Federal Building
201 14th Street SW
Washington, DC 20024

August 27, 2019

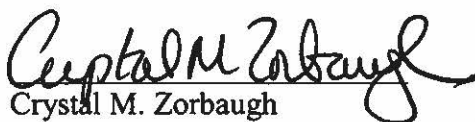

Crystal M. Zorbaugh
Attorney for East Penn Railroad, LLC

Certificate of Newspaper Publication

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

I certify that a “Notice of Intent to Discontinue Rail Service” was published in the form prescribed by the Board for discontinuance notices of exemption (49 C.F.R. § 1105.12). The notice was published one time on August 15, 2019, in The Philadelphia Public Record and one time on August 15, 2019, in The Times Herald, newspapers of general circulation in the USPS ZIP codes 19004 and 19127 in Philadelphia, PA. Attached are an affidavit of publication and tear sheet from each of the papers.

August 27, 2019


Crystal M. Zorbaugh
Attorney for East Penn Railroad, LLC

CITY & STATE PA

City and State PA, LLC
21 S. 11th St. Suite 205
Philadelphia, PA 19107
State of Pennsylvania, County of Philadelphia

I, Allison Cunningham, being duly sworn and say, I am the Director of Pennsylvania
Operations for City and State PA, LLC published in Philadelphia, PA, and that the
advertisement, a printed copy of which is attached hereto, was printed and published in The
Philadelphia Public Record newspaper on the following date(s): 8/15/19.


Allison Cunningham, Director of Pennsylvania Operations for City and State PA, LLC

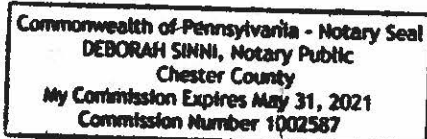
Hereby subscribed and sworn to before me on this 15 day of August, 20 19.



Notary Public

MY COMMISSION EXPIRES ON

5/31/21



Fun Down Under



THE TIME-HONORED Local 98 Down Under Party was begun by Harry Foy, Local 98 Past President, 2nd from R. He was thanked for his years of service by Local 98 members including his son Jim, 2nd from L, Local 98 business agent, and City Commissioner Lisa Deeley. Photos by Joe Stivala

WARD LEADERS and candidates galore flocked to the Local 98 Down Under Party in Keenan's North Wildwood for the decades-old event. Seen amid the high revelry are, L-R rear, Common Pleas judicial candidates Jim Crumlish and Josh Roberts; Jack O'Neill, Local 98 counsel; Ward Leaders Brian Eddis, Pat Parkinson, Jim Donnelly and Shawn Dillion; and Carl Levin, Esq.; below, Ozzie Myers, Local 98 consultant; Commissioner Lisa Deeley; and Ward Leader Donna Aument.

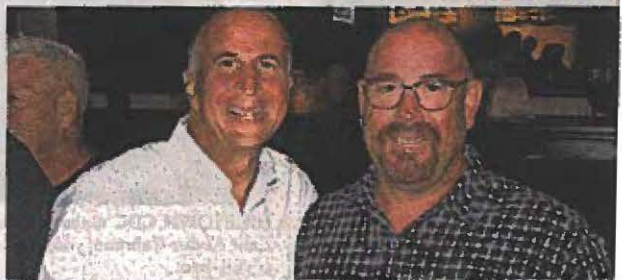


THE LOCAL 98 Down Under Party included a salute to John Dougherty, Sr., 2nd from L, father of Local 98 Business Manager John Dougherty and State Supreme Court Justice Kevin Dougherty, 2nd from R. John, Sr. served many years in Common Pleas court and now is enjoying a long retirement.

Squilla Shores u



PHILADELPHIA citizens and leaders, all sporting Bermuda shorts, flocked to the Summer Soirée honoring 1st District City Councilman Mark Squilla, C, in N. Wildwood. Seen are, L-R, John Stevenson, Strategic Consultant; Steve Lauer, constituent consultant; Joe Trullo; Bill Heeney, GOP candidate for Council at large; Squilla; Hon. Joe Rullo; Joe Trullo; Luigi Borda; and Rick Centron.



NOTICE OF INTENT TO DISCONTINUE RAIL SERVICE AB-1020 (Sub-No. 2X)

East Penn Railroad, LLC ("ESPN") hereby gives notice that on or about August 26, 2019, it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption pursuant to 49 C.F.R. Part 1152 Subpart F — Exempt Abandonments and Discontinuances of Service and Trackage Rights, permitting ESPN to discontinue service and terminate its lease operations over approximately 1.8 miles of rail line located between milepost VE 0.00 and milepost VE 1.80 near Philadelphia, Pa. (the "Line"). The Line traverses United States Postal Zip Code territories 19004 and 19127. There have been no customers on the Line proposed for discontinuance for over two years. The proceeding will be docketed as AB-1020 (Sub-No. 2X).

The proposed action entails the discontinuance of rail service and lease operations over the Line and further Board approval would be required for Norfolk Southern Railway Company 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 49 C.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 railbanking/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 ESPN'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 ESPN'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.

MEET YOUR WALL NEW BFF

FREE KASASA
CASH BACK CHECKING

EARN 2.00%
CASH BACK!

OPEN AN ACCOUNT AT PFCU.COM

Not here for our profit.
Here for yours.

PFCU

PHILADELPHIA GROUP

AFFIDAVIT OF PUBLICATION
307 Derstine Avenue • Lansdale, PA 19446

BAKER & MILLER
2401 PENNSYLVANIA AVE NW

Ste 300

WASHINGTON, DC 20037
Attention:

STATE OF PENNSYLVANIA,
COUNTY OF MONTGOMERY

The undersigned *Joseph W. Kelly*, being duly sworn the he/she is the principal clerk of The Times Herald, Times Herald Digital, published in the English language for the dissemination of local or transmitted news and intelligence of a general character, which are duly qualified newspapers, and the annexed hereto is a copy of certain order, notice, publication or advertisement of:

BAKER & MILLER

Published in the following edition(s):

The Times Herald	08/15/19
Times Herald Digital	08/15/19

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
MAUREEN SCHMID, Notary Public
Lansdale Boro., Montgomery County
My Commission Expires March 31, 2021

Sworn to the subscribed before me this 8/26/19.

Maureen Schmid
Notary Public, State of Pennsylvania
Acting in County of Montgomery

NOTICE OF INTENT TO DISCONTINUE RAIL SERVICE
AB-1020 (Sub-No. 2X)
East Penn Railroad, LLC ("ESPN") hereby gives notice that on or about August 26, 2019, it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption pursuant to 49 C.F.R. Part 1152 Subpart F - Exempt Abandonments and Discontinuances of Service and Trackage Rights, permitting ESPN to discontinue service and terminate its lease operations over approximately 1.5 miles of rail line located between milepost VE 6.00 and milepost VE 1.80 near Philadelphia, Pa. (the "Line"). The Line traverses United States Postal Zip Code territories 19004 and 19127. There have been no customers on the Line proposed for discontinuance for over two years. The proceeding will be docketed as AB-1020 (Sub-No. 2X). The proposed action entails the discontinuance of rail service and lease operations over the Line and further Board approval would be required for Norfolk Southern Railway Company 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 49 C.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 railbanking/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 ESPN's representative [See 49 C.F.R. § 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 ESPN'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.
T11-Aug 15-1a

Advertisement Information

Client Id: 1298272

Ad Id: 1855808

PO:

Sales Person: 093301

**NOTICE OF INTENT TO
DISCONTINUE RAIL SERVICE
AB-1020 (Sub-No. 2X)**

East Penn Railroad, LLC ("ESPN") hereby gives notice that on or about August 26, 2019, it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption pursuant to 49 C.F.R. Part 1152 Subpart F – Exempt Abandonments and Discontinuances of Service and Trackage Rights, permitting ESPN to discontinue service and terminate its lease operations over approximately 1.8 miles of rail line located between milepost VE 0.00 and milepost VE 1.80 near Philadelphia, Pa. (the "Line"). The Line traverses United States Postal Zip Code territories 19004 and 19127. There have been no customers on the Line proposed for discontinuance for over two years. The proceeding will be docketed as AB-1020 (Sub-No. 2X).

The proposed action entails the discontinuance of rail service and lease operations over the Line and further Board approval would be required for Norfolk Southern Railway Company 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 49 C.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 railbanking/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 ESPN'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 ESPN'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.

TH-Aug 15-1a

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

AB-1020 (Sub-No. 2X)

**EAST PENN RAILROAD, LLC – DISCONTINUANCE OF SERVICE AND LEASE
OPERATIONS – IN NORTHEAST PHILADELPHIA, PA**

**VERIFIED NOTICE OF EXEMPT DISCONTINUANCE
PURSUANT TO 49 C.F.R. § 1152.50**

**DRAFT NOTICE OF EXEMPTION
[CAPTION SUMMARY]**

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[AB-1020 (Sub-No. 2X)]

East Penn Railroad, LLC – Discontinuance of Service and Lease Operations – In Northeast Philadelphia, PA

On August 27, 2019, East Penn Railroad, LLC filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F–Exempt Abandonments for ESPN to discontinue service over approximately 1.8 miles of rail line owned by Norfolk Southern Railway Company located between milepost VE 0.00 and milepost VE 1.80 in Northeast Philadelphia, Pa. (the “Line”). The Line traverses United States Postal Zip Code territories 19004 and 19127. The Line is located in Northeast Philadelphia, Pa. There have been no customers on the Line proposed for discontinuance for over two years.

ESPN certified that: (1) no local traffic has moved over the Line for at least 2 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 2-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) to continue rail service under a subsidy has been received, this exemption will be effective on October 16, 2019, 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 _____.³ Petitions to reopen must be filed by _____, 2019, 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 Railroads' 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: _____, 2019.

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

³ 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.