

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Proceedings
October 9, 2019
Part of
Public Record

DOCKET NO. FD 36359

**NORFOLK SOUTHERN RAILWAY COMPANY
– TEMPORARY TRACKAGE RIGHTS EXEMPTION –
THE KANSAS CITY SOUTHERN RAILWAY COMPANY**

**PETITION FOR WAIVER AND FOR
IMMEDIATE EFFECTIVE DATE**

EXPEDITED CONSIDERATION REQUESTED

**Garrett D. Urban
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510
757-629-2761
garrett.urban@nscorp.com**

***Counsel for Norfolk Southern
Railway Company***

Dated: October 9, 2019

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET NO. FD 36359

**NORFOLK SOUTHERN RAILWAY COMPANY
– TEMPORARY TRackage RIGHTS EXEMPTION –
THE KANSAS CITY SOUTHERN RAILWAY COMPANY**

**PETITION FOR WAIVER AND FOR
IMMEDIATE EFFECTIVE DATE**

EXPEDITED CONSIDERATION REQUESTED

Norfolk Southern Railway Company (“NSR”) hereby petitions the Surface Transportation Board (“Board”) to waive the 30-day effectiveness period specified by 49 C.F.R. § 1180.4(g) to permit the temporary trackage rights notice of exemption concurrently filed by NSR over The Kansas City Southern Railway Company (“KCS”) in this docket under 49 C.F.R. § 1180.2(d)(8) to become effective immediately. Waiver will accommodate NSR’s emergency need to operate over portions of KCS’s lines in order to create an accessible route between Moberly and Kansas City, Missouri areas while service is being restored over NSR’s Grand River Bridge in Brunswick, Missouri. Expedited consideration of this petition is requested.

As explained in NSR’s notice of exemption, NSR has been forced to suspend train service over the Grand River Bridge in Brunswick, Missouri following a debris strike and washout of NSR’s railroad bridge on October 1, 2019, due to heavy rains and rising river waters. Until bridge operations can be restored, NSR does not have an accessible route between Moberly and Kansas City, Missouri, via its own routing, causing significant impacts for the service that NSR can provide to its customers.

NSR is currently seeking emergency detour operations over portions of the lines of its interline partners. However, detours are much less efficient than trackage rights movements due to the potential need under labor requirements for KCS to supply an experienced train crew member as a pilot to supplement the normal crew of the detouring train. NSR anticipates the need for emergency trackage rights operations will continue for several weeks or months. Temporary trackage rights are required to minimize, as much as possible, the impacts to customers while working through these weather-created disruptions.

Under 49 C.F.R. § 1180.4(g), NSR's temporary trackage rights exemption would ordinarily not become effective until 30 days after the filing of the accompanying notice. Waiver of that period in the limited, exigent circumstances present here would help improve service during the restoration period and reduce the impacts to NSR's customers. Allowing that exemption to become effective immediately is reasonable in this situation to accommodate NSR's emergency arrangements to meet customer transportation needs.

The Board has previously granted waivers to allow immediate effectiveness of temporary trackage rights in analogous emergency circumstances, including earlier this year over this very line. See Norfolk S. Ry. Co. – Temp. Trackage Rights Exemption – The Kansas City S. Ry. Co., FD 36315 (STB served June 13, 2019) (permitting exemption to become effective immediately in response to severe flooding in Missouri); Terminal Ry. State Docks – Temp. Trackage Rights Exemption – Norfolk S. Ry. Co., FD 36190 (STB served May 11, 2018) (permitting exemption to become effective immediately in response to bridge structural failure); 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 Co., FD 35460 (STB served Jan. 18, 2011).

Accordingly, NSR respectfully requests that the Board waive the 30-day effectiveness period specified by 49 C.F.R. § 1180.4(g) to permit the temporary trackage rights notice of exemption concurrently filed by NSR in this docket under 49 C.F.R. § 1180.2(d)(8) to become effective immediately.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Garrett D. Urban", written over a horizontal line.

Garrett D. Urban
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510
757-629-2761
garrett.urban@nscorp.com

*Counsel for Norfolk Southern Railway
Company*

Dated: October 9, 2019