

NS
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191

Direct Dial Number
(757) 629-2759
fax (757) 533-4872

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Public Record



James R. Paschall
Senior General Attorney

October 17, 2007

Via DHL Express

Honorable Vernon A. Williams, Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

Re: STB Docket No. AB-290 (Sub-No. 297X) Norfolk Southern Railway
Company - Discontinuance of Service - Phoenixville, Chester
County, Pennsylvania - Notice of Exemption

Dear Mr. Williams:

Enclosed for filing with the Board in the subject docket are an original and ten copies of Norfolk Southern Railway Company's Verified Notice of Exemption. Also, enclosed is a check in the amount of \$3,200 for the filing fee.

Please acknowledge receipt of this filing on the enclosed copy of this letter and return it to me in the self-addressed, stamped envelope.

Yours very truly,

James R. Paschall

Enclosures

FEE RECEIVED

OCT 18 2007

**SURFACE
TRANSPORTATION BOARD**

FILED
OCT 18 2007
**SURFACE
TRANSPORTATION BOARD**



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**DOCKET NO. AB-290 (SUB-NO. 297X)
NORFOLK SOUTHERN RAILWAY COMPANY
-- DISCONTINUANCE OF SERVICE EXEMPTION --
PHOENIXVILLE, CHESTER COUNTY, PENNSYLVANIA**

VERIFIED NOTICE OF EXEMPTION

**James R. Paschall
Senior General Attorney
Norfolk Southern Railway Company
Three Commercial Place
Norfolk, VA 23510**

(757) 629-2759

**Attorney for
Norfolk Southern Railway Company**

Dated: October 17, 2007

**Before the
Surface Transportation Board**

Docket No. AB-290 (Sub-No. 297X)

Norfolk Southern Railway Company

– Discontinuance of Service Exemption –

Phoenixville, Chester County, Pennsylvania

Verified Notice of Exemption

COMES NOW Norfolk Southern Railway Company ("NSR"), and files this notice of exemption from regulation under 49 U.S.C. §10903, pursuant to the provisions of 49 U.S.C. §10502 and 49 CFR §1152.50, for the discontinuance of service over its line of railroad lying between Milepost PX 3.10 and Milepost PX 10.80 in Phoenixville, Chester County, Pennsylvania (the "Line").

Pursuant to the Board's regulations codified at 49 CFR §1152.50, NSR states as follows:

Traffic Certification - §§1152.50(b) and (d)(2)

As the attached certificate of NSR General Manager R. A. Bartle confirms, no traffic has originated or terminated on this line segment for at least two years, all

overhead traffic, if any, has been rerouted over other lines, and no complaint is pending with the Board or a U. S District Court or has been decided in favor of a complainant concerning cessation of service over this Line within the two-year period prior to the filing date of this Notice of Exemption.

Consummation Date - §1152.50(d)(2)

The effective date of the discontinuance of service over the Line between Milepost PX 3.10 and Milepost PX 10.80 in Phoenixville, Chester County, Pennsylvania, will be December 7, 2007.

General Corporate Information - §1152.22(a)(1-2) and (7)

The full name of the party filing this Notice of Exemption is Norfolk Southern Railway Company, a Virginia corporation. NSR is a common carrier by railroad subject to STB jurisdiction under Title 49 of the United States Code, Subtitle IV, Chapter 105 NSR's representative to whom correspondence with respect to this Notice of Exemption may be sent is:

James R. Paschall
Senior General Attorney
Norfolk Southern Railway Company
Three Commercial Place
Norfolk, Virginia 23510
(757) 629-2759

Description of the Line and the Relief Sought - §1152.22(a)(3-4 and 7)

The relief sought is an exemption for NSR's discontinuance of service over the Line. The Line for which the discontinuance of service exemption is sought consists of 7.70 miles of track between Milepost PX 3.10 and Milepost PX 10.80 in Phoenixville, Chester County, Pennsylvania. A map showing the line over which service is to be discontinued, other rail lines in the area, highways, and population centers is attached as Exhibit 1 to this notice. The line traverses United States Postal Service ZIP Codes 19453 and 19460, and includes the stations of Phoenixville, Pickering and Devault. Phoenixville is also a station on NSR's Harrisburg line, which will continue to be served by NSR.

Suitability of the Line for Other Public Purposes - §1152.22(e)(4)

Because this is a discontinuance of service proceeding and not an abandonment proceeding, there is no need to provide an opportunity for trail use/rail banking or public use condition requests.¹ Thus, this item is not relevant to the exemption sought in this docket.

¹Recent Board notices of exemption stating this principle are *Columbus and Greenville Railway Company - Discontinuance of Service Exemption - In Greenwood, MS*, STB Docket No. AB-297 (Sub-No 103X) (STB served July 3, 2007) and *Norfolk Southern Railway Company - Discontinuance Exemption - in Mahoning County, OH*, STB Docket No. AB-290 (Sub-No 292X) (STB served March 15, 2007). See also STB Docket No. AB-999X, *Caldwell County Railroad Company - Discontinuance Of Service Exemption - In Caldwell County, NC* (STB served July 9, 2007) (petition).

Statement Concerning Federally-Granted Right-of-Way - §1152.50(d)(1)

Based on information in the possession of NSR, the Line does not contain federally-granted rights-of-way. Any documentation in NSR's possession will be made available promptly to those requesting it.

Labor Protection - §1152.50(d)(2)

Since the Line has been out of service for over two years, NSR believes no employees will be adversely affected by the discontinuance of service over this Line. However, as a condition to the grant of the exemption and exercise of the discontinuance permitted in this matter, NSR will accept the imposition of standard labor protective conditions as set forth in *Oregon Short Line R. Co. - Abandonment - Goshen*, 360 I.C.C. 91 (1979).

Environmental and Historic Reports; Certifications - §1105.6, §1105.7, §1105.8, §1105.9 and §1105.11

Because this is a discontinuance of service proceeding and not an abandonment proceeding, no environmental or historic documentation is required under 49 CFR 1105.6(c)(2) and 49 CFR 1105.8(b) and no transmittal letter is required under 49 CFR 1105.11.² Further STB approval is required for NSR to abandon the Line.

²Recent Board notices of exemption stating this principle are *Columbus and Greenville Railway Company - Discontinuance of Service Exemption - In Greenwood, MS*, STB Docket No. AB-297 (Sub-No. 103X) (STB served July 3, 2007); *Norfolk Southern Railway Company - Discontinuance Exemption - in Mahoning County, OH*, STB Docket No. AB-290 (Sub-No. 292X) (STB served March 15, 2007); and *Union Pacific Railroad*

Service and Newspaper Notice Requirements Certification - §1152.50(d)(1-2)

As the attached certification indicates, NSR certifies that the service and notice requirements of §1152.50(d)(1)(certain governmental agencies) and §1105.12 (newspaper notice) have been complied with.

Offers of Financial Assistance

Because this is a discontinuance proceeding and not an abandonment proceeding, the Board need not consider offers of financial assistance (OFAs) to acquire the line for continued rail service.³ The OFA provisions for a subsidy to provide continued rail service do apply to discontinuances, but since there has been no rail service over this Line for more than two years, there is no current rail service that can be subsidized.

Company - Discontinuance of Service Exemption - in Yuba County, CA, STB Docket No. AB-33 (Sub-No. 238X) (STB served December 8, 2006).

³See *Caldwell County Railroad Company - Discontinuance Of Service Exemption - In Caldwell County, NC, STB Docket No. AB-999X (STB served July 9, 2007); Norfolk Southern Railway Company - Discontinuance Exemption - in Mahoning County, OH, STB Docket No. AB-290 (Sub-No. 292X) (STB served March 15, 2007; and CSX Transportation Inc. - Discontinuance Exemption in Knox County, TN, STB Docket No. AB-55 (Sub-No. 641X) (STB served January 2, 2004).*

Conclusion

For the foregoing reasons, NSR states that the proposed discontinuance of service over the subject rail Line is exempt from the prior approval requirements of 49 U.S.C. §10903 pursuant to the class exemption set forth in 49 C.F.R. §1152.50 and requests that the Board serve the appropriate notice of exemption.

Respectfully submitted,



Daniel M. Mazur
Vice President
Norfolk Southern Railway Company

Of Counsel.

James R. Paschall
Senior General Attorney
Norfolk Southern Railway Company
Three Commercial Place
Norfolk, Virginia 23510-2191
(757) 629-2759

Attorney for Norfolk Southern Railway Company

Dated. October 17, 2007

CERTIFICATION

STATE OF PENNSYLVANIA :
CITY OF HARRISBURG :
SS:

R. A. Bartle makes oath and says that he is General Manager Northern Region for Norfolk Southern Railway Company; that the line between milepost PX 3.10 and milepost PX 10.80 in Phoenixville, Chester County, Pennsylvania, over which service is to be discontinued, is subject to his supervision and direction; that no local traffic has moved over the line for at least two years; that all overhead traffic, if any, has been 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 or has been decided in favor of the complainant within the two-year period.

Robert A. Beall

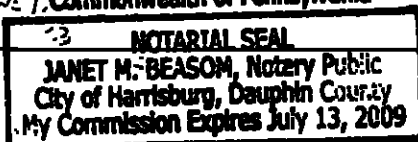
R. A. Bartle

Subscribed and sworn to before me
this 9th day of October, 2007.

Janet M. Beason
Notary Public

My commission expires:

Commonwealth of Pennsylvania



VERIFICATION

COMMONWEALTH OF VIRGINIA

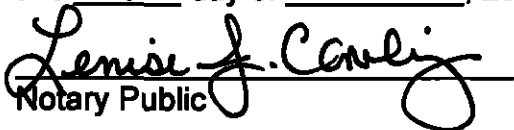
SS:

CITY OF NORFOLK

Daniel M. Mazur, being duly sworn, deposes and says that he is Vice President of Norfolk Southern Railway Company; that he is authorized to sign, verify, and file with the Surface Transportation Board the foregoing Notice of Exemption in STB Docket No. AB-290 (Sub-No. 297X) on behalf of Norfolk Southern Railway Company; that he has carefully examined all of the statements contained in said Notice of Exemption; that he has knowledge of the matters set forth therein; and that all such statements made and matters set forth are true and correct to the best of his knowledge, information, and belief.


Daniel M. Mazur
Vice President
Norfolk Southern Railway Company

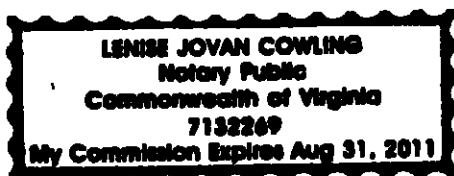
Subscribed and sworn to before me
this 9th day of October, 2007.


Notary Public

My commission expires:

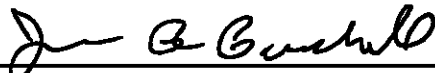
Aug. 31, 2011

[SEAL]



CERTIFICATION

I hereby certify that (1) pursuant to 49 C.F.R. §1105.12, a notice of intent to discontinue rail service was published in the *Daily Local News*, West Chester, Pennsylvania, on September 21, 2007, (see Exhibit 2); and (2) that the notice required by 49 C F R. §152.50(d)(1) was given (see Exhibit 3).

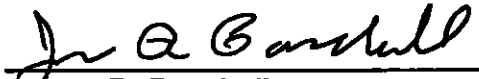


James R. Paschall

Dated. October 17, 2007

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Exemption was served upon Wendell F. Holland, Chairman, Pennsylvania Public Utilities Commission; Pennsylvania Department of Transportation, Bureau of Rail Freight, Port & Waterways; U. S. Department of Agriculture, Chief of the Forest Service; Regional Director, National Park Service, Northeast Region, Ms. Jan Matthews, Associate Director, U. S. Department of the Interior-National Park Service; and the United States Department of Defense (MTMCTEA), on October 17, 2007, by first class mail, postage prepaid.



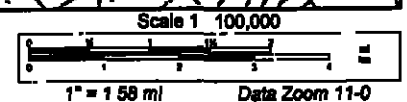
James R. Paschall

DELOME



**Norfolk Southern Railway Company
Proposed Discontinuance of Service
Milepost PX 3.10 - Milepost PX 10.80
Phoenixville, Chester County, PA**

13



Proof of Publication of Notice in the Daily Local News

Under Newspaper Advertising Act No. 587, Approved May 16, 1929

Exhibit 2

State of Pennsylvania
County of Chester

{ss

{No

Term, 2007

Patricia Sigda, Legal Representative of the Daily Local News Company, a corporation, of the County and State aforesaid, being duly affirmed, deposes and says that the Daily Local News, a newspaper of general circulation, published at 250 N Bradford, Ave., West Chester, PA, County and State aforesaid, was established November 19, 1872, and incorporated December 11, 1911, since which date the Daily Local News has been regularly issued in said county, and that the printed notice or publication attached hereto is exactly the same as printed and published in the regular editions and issues of the said Daily Local News on the following dates viz

September 21

A.D. 2007

Affiant further deposes that he/she is the proper person duly authorized by the Daily Local News Company, a corporation, publishers of said Daily Local News, a newspaper of general circulation, to verify the foregoing statement under oath, and that affiant is not interested in the subject matter of the aforesaid notice or advertisement, and that all allegations in the foregoing statements as to time, place and character of publication are true

COPY OF NOTICE OR PUBLICATION

NOTICE OF INTENT TO DISCONTINUE RAIL SERVICE

Norfolk Southern Railway Company, gives notice that on or about October 18, 2007, it intends to file with the Surface Transportation Board (STB), Washington, DC 20423 a notice of discontinuance of 49 U.S.C. 10502 from the prior approval of 49 U.S.C. 10503 permitting the discontinuance of service over a 7.70-mile line of railroad between Depot PK 3 and Depot PK 10 BC in Phoenixville, Chester County, Pennsylvania which traverses through United States Postal Service ZIP Codes 19380 and 19453 and includes the stations of Phoenixville, Pottsville and Devault. The proceeding will be docketed as No. AB-290 (Sub-No. 297X).

Appropriate offers of financial assistance to continue rail service can be filed with the STB. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the STB. However, because this is a discontinuance of service proceeding and not an abandonment proceeding, rail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historic documentation is required under 49 CFR 1105.6(a) and 1105.8. An original and 10 copies of any pleading that raises matters other than environmental issues (such as rail use, public use, and offers of financial assistance) must be filed directly with the STB's Office of the Secretary, 395 E. St. SE, Washington, DC 20423-5000. (See 49 CFR 1104.1(a) and 1104.3(a)). And one copy must be served on the public at a public hearing. (See 49 CFR 1104.21(a)). Persons seeking information concerning the discontinuance proceeding, offers of financial assistance, public use or trails use may contact the Board's Office of Congressional and Public Services at (202) 245-0230 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339. Copies of any comments or requests for conditions should be served on the applicant's representative James R. Paschak, Senior General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510-9241, (757) 629-2759.

Patricia Sigda

affirmed to and subscribed before me this 21st

day of September 2007

Beverly A. Wolfe
Notary Public

My Commission Expires:

Beverly A. Wolfe, Notary Public
East Bradford Twp., Chester County
My Commission Expires June 4th, 2009
Member Pennsylvania Association of Notaries

Kathy Headrick- Coordinator Abandonments

Strategic Planning Dept. - 12th Floor

Norfolk Southern Corporation

Three Commercial Place

Norfolk, VA 23510

To DAILY LOCAL NEWS COMPANY, Dr.

For publishing the notice or publication attached
hereto on the above stated dates \$
Probating same \$
Total \$

Publisher's Receipt for Advertising Costs

Local News Company, a corporation, publishers of the Daily Local News, a newspaper of general circulation, hereby acknowledges receipt of the aforesaid notice and publication costs and certifies that the same has been duly paid.

DAILY LOCAL NEWS, a Corporation, Publishers of the DAILY LOCAL NEWS, a newspaper of General Circulation.



Exhibit 3

Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191

James R. Paschall
Senior General Attorney

(757) 629-2759

October 1, 2007

Mr. Wendell F. Holland, Chairman
Pennsylvania Public Utilities Commission
P. O. Box 3265
Harrisburg, PA 17120

Pennsylvania Department of Transportation
Bureau of Rail Freight, Port & Waterways
Keystone Building
400 North Street
Harrisburg, PA 17120

United States Department of Defense
Military Traffic Management Command
Transportation Engineering Agency (MTMCTEA)
Railroads for National Defense Program
720 Thimble Shoals Blvd., Suite 130
Newport News, VA 23606-2574

Regional Director
National Park Service, Northeast Region
U. S. Custom House
200 Chestnut Street, Fifth Floor
Philadelphia, PA 19106

Ms. Jan Matthews, Associate Director
U. S. Dept. of the Interior-National Park Service
Cultural Resources, Room 3126
1849 C Street, N.W
Washington, DC 20240

U. S. Department of Agriculture
Chief of the Forest Service
Sidney R. Yates Federal Building
1400 Independence Ave., SW
Washington, DC 20250-0003

Re: STB Docket No. AB-290 (Sub-No. 297X), Norfolk Southern Railway Company –
Discontinuance of Service – Chester County, PA

Ladies and Gentlemen:

Pursuant to 49 CFR 1152.50(d)(1) Norfolk Southern Railway Company (NSR), hereby gives notice that on or about October 18, 2007, it will file with the Surface Transportation Board a notice of exemption from regulation in accordance with the exemption regulations set forth at 49 CFR Part 1152, Subpart F. That notice of exemption will permit NSR's discontinuance of service over a 7.70-mile line of railroad lying between milepost PX 3.10 and milepost PX 10.80 in Phoenixville, Chester County, Pennsylvania (see attached map). No revenue traffic has originated or terminated or moved overhead on the line over which service is to be discontinued for more than two years. Based on information in our possession, the line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

Very truly yours,

James R. Paschall

JRP:kch
Enclosure