


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

FILED

APR 25 2008

James R. Paschall
Senior General Attorney

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

**SURFACE
TRANSPORTATION BOARD**

April 24, 2008



Via DHL Express

Honorable Anne K. Quinlan, Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

Re: STB Docket No. AB-290 (Sub-No. 299X) Norfolk Southern Railway
Company - Discontinuance of Service
STB Docket No. AB-1047X - Norfolk and Portsmouth Belt Line Railroad
Company - Discontinuance of Trackage Rights
Chesapeake, Virginia - Notice of Exemption

222/98
222200

Dear Ms. Quinlan:

Enclosed for filing with the Board in the subject docket are an original and ten copies of Norfolk Southern Railway Company's and Norfolk and Portsmouth Belt Line Railroad Company's Verified Notice of Exemption. Also, enclosed are checks totaling \$6,400 for the filing fees.

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

ENTERED
Office of Proceedings

APR 28 2008

Part of
Public Record

Enclosures

cc: James L. Chapman, IV

FEE RECEIVED

APR 25 2008

SURFACE
TRANSPORTATION BOARD

FEE RECEIVED

APR 25 2008

**SURFACE
TRANSPORTATION BOARD**

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-290 (SUB-NO. 299X)

NORFOLK SOUTHERN RAILWAY COMPANY

-- DISCONTINUANCE OF SERVICE EXEMPTION

CHESAPEAKE, VIRGINIA



DOCKET NO. AB-101X

NORFOLK AND PORTSMOUTH BELT LINE RAILROAD COMPANY

-- DISCONTINUANCE OF TRACKAGE RIGHTS EXEMPTION --

CHESAPEAKE, VIRGINIA

FILED

APR 25 2008

**SURFACE
TRANSPORTATION BOARD**

VERIFIED NOTICE OF EXEMPTION

ENTERED
Office of Proceedings

APR 28 2008

Part of
Public Record

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

James L. Chapman, IV
Crenshaw, Ware & Martin, P.L.C.
1200 Bank of America Center
One Commercial Place
Norfolk, VA 23510
(757) 623-3000
**Attorney for Norfolk and Portsmouth
Belt Line Railroad Company**

Dated: April 24, 2008

**Before the
Surface Transportation Board**

**Docket No AB-290 (Sub-No. 299X)
Norfolk Southern Railway Company
-- Discontinuance of Service Exemption --
Chesapeake, Virginia**

**1024X
Docket No. AB-~~1024X~~
Norfolk and Portsmouth Belt Line Railroad Company
-- Discontinuance of Trackage Rights Exemption --
Chesapeake, Virginia**

Verified Notice of Exemption

COMES NOW Norfolk Southern Railway Company ("NSR"), and Norfolk and Portsmouth Belt Line Railroad Company ("NPBL"), a jointly owned company of Norfolk Southern Railway Company (57.143%) and CSX Transportation, Inc. (42.857%), and file this joint 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 NSR's discontinuance of service and NPBL's discontinuance of trackage rights over the line of railroad lying between Milepost NS 1.40 and Milepost NS 2.30 in Chesapeake, Virginia (the "Line").

By Resolution dated December 19, 2007, the Board of Directors of NPBL approved the request from NSR to discontinue NPBL trackage rights over the Line.

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

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

As the attached certificates of NSR General Manager G. R. Comstock and NPBL President and General Manager M. D. Gooden confirm, no traffic has originated or terminated on this line segment for at least two years, all overhead traffic, if any, can be 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 NSR's discontinuance of service and NPBL's discontinuance of trackage rights over the Line between Milepost NS 1.40 and Milepost NS 2.30 in Chesapeake, Virginia, will be June 16, 2008.

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

The full names of the parties filing this Notice of Exemption are Norfolk Southern Railway Company, a Virginia corporation, and Norfolk and Portsmouth Belt Line Railroad Company, a jointly owned company of NSR and CSX Transportation, Inc. NSR is a common carrier by railroad subject to STB jurisdiction under Title 49 of the United States Code, Subtitle IV, Chapter 105. NPBL is a Class III carrier under 49 CFR

Part 1201 1-1(d), and is jointly controlled by Norfolk Southern Railway Company and CSX Transportation, Inc.

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

NPBL's representative to whom correspondence with respect to this Notice of Exemption may be sent is:

James L. Chapman, IV
Crenshaw, Ware & Martin, P.L.C.
1200 Bank of America Center
One Commercial Place
Norfolk, VA 23510
(757) 623-3000

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 and NPBL's discontinuance of trackage rights over the Line. The Line for which the discontinuance of service and discontinuance of trackage rights exemption is sought consists of 0.90 miles of track between Milepost NS 1.40 and Milepost NS 2 30 in Chesapeake, Virginia. A map showing the line over which service and trackage rights 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 Code 23324.

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

Because this is a discontinuance of service and trackage rights 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

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

Based on information in the possession of NSR and NPBL, the Line does not contain federally-granted rights-of-way. Any documentation in NSR's and NPBL'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 and NPBL believe no employees will be adversely affected by the discontinuance of service and trackage rights over this Line. However, as a condition to granting the exemption and exercise of the discontinuance permitted in this matter, NSR and NPBL will accept the imposition of standard labor protective conditions as set forth in *Oregon Short Line R.*

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).

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 and trackage rights 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.

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

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

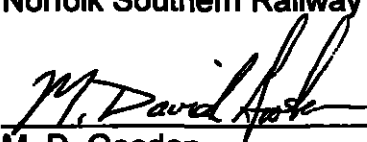
acquire the line for continued rail service.³ The OFA provisions for a subsidy to provide continued rail service do apply to discontinuances, but since there has been no rail service over this Line for more than two years, there is no current rail service that can be subsidized.

Conclusion

For the foregoing reasons, NSR and NPBL state that the proposed discontinuance of service and discontinuance of trackage rights 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 request that the Board serve the appropriate notice of exemption.

Respectfully submitted,



Daniel M. Mazur
Vice President
Norfolk Southern Railway Company

M. D. Gooden
President and General Manager
Norfolk and Portsmouth Belt Line
Railroad Company

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).

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

James L. Chapman, IV
Crenshaw, Ware & Martin, P.L.C.
1200 Bank of America Center
One Commercial Place
Norfolk, VA 23510
(757) 623-3000
Attorney for Norfolk and Portsmouth Belt Line Railroad Company

Dated: April 24, 2008

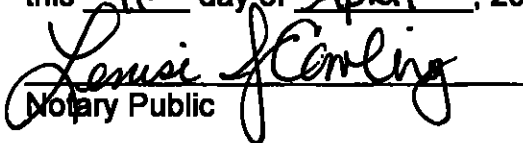
VERIFICATION

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. 299X) 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

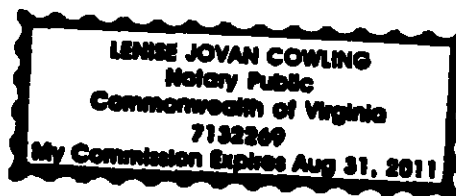
Subscribed and sworn to before me
this 11th day of April, 2008.


Notary Public

My commission expires:

Aug. 31, 2011

[SEAL]



VERIFICATION

COMMONWEALTH OF VIRGINIA

SS:

CITY OF Portsmouth

:

M. D. Gooden, being duly sworn, deposes and says that he is President and General Manager of Norfolk and Portsmouth Belt Line Railroad 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-1024X^{1024X}~~1047X~~ on behalf of Norfolk and Portsmouth Belt Line Railroad 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



M. D. Gooden
President and General Manager
Norfolk and Portsmouth Belt Line Railroad Company

Subscribed and sworn to before me
this 2nd day of April, 2008.



Notary Public

My commission expires:

March 31, 2011

[SEAL]

SYBILSHA D. DALE

Notary Public

Commonwealth of Virginia

My Commission Expires March 31, 2011

Notary Commission# 7091671

CERTIFICATION

I hereby certify that (1) pursuant to 49 C.F.R. §1105.12, a notice of intent to discontinue rail service and discontinue trackage rights was published in *The Virginian Pilot*, Norfolk, Virginia, on April 3, 2008, (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. April 24, 2008

STATE OF GEORGIA

SS:

CITY OF ATLANTA

J. R. Comstock

G. R. Comstock

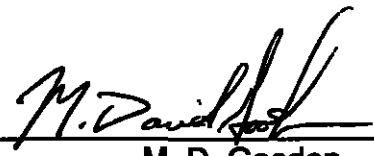
William L. Adams Jr.
Notary Public

My commission expires:
WILBUR L. ADAMS, JR.
NOTARY PUBLIC, HENRY COUNTY, GA
MY COMMISSION EXPIRES SEPT. 29, 2010

CERTIFICATION

STATE OF VIRGINIA :
 ss:
CITY OF Portsmouth :

M. D. Gooden makes oath and says that he is President and General Manager for Norfolk and Portsmouth Belt Line Railroad Company; that the line between milepost NS 1.40 and milepost NS 2.30 in Chesapeake, Virginia, over which trackage rights are to be discontinued, is subject to his supervision and direction; that no local traffic has moved over the line for at least two years and that overhead traffic, if there were any, can 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 or has been decided in favor of the complainant within the two-year period.



M D. Gooden

Subscribed and sworn to before me
this 2nd day of April, 2008.



Notary Public

My commission expires:

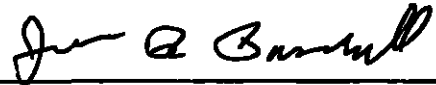
March 31, 2011

SYBIL D. DALE
Notary Public
Commonwealth of Virginia
My Commission Expires March 31, 2011

Notary Commission# 7091671

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Exemption was served upon Theodore V. Morrison, Jr., Chairman, Virginia State Corporation Commission; Kevin Page, Director of Rail Programs, Virginia Department of Rail and Public Transportation; 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 April 24, 2008, by first class mail, postage prepaid.



James R. Paschall

NORFOLK AND PORTSMOUTH BELT LINE RAILROAD COMPANY

**1050 VIRGINIA AVENUE
P O BOX 7547
PORTSMOUTH, VIRGINIA 23707
(757) 393-2622
(757) 393-3605 FAX**

**Donna N. Coleman
Comptroller and Corporate Secretary**

December 19, 2007

**Resolution of Board of Directors
Discontinuance of Trackage Rights**

I CERTIFY that I am the duly elected Secretary of the Norfolk and Portsmouth Belt Line Railroad Company, and

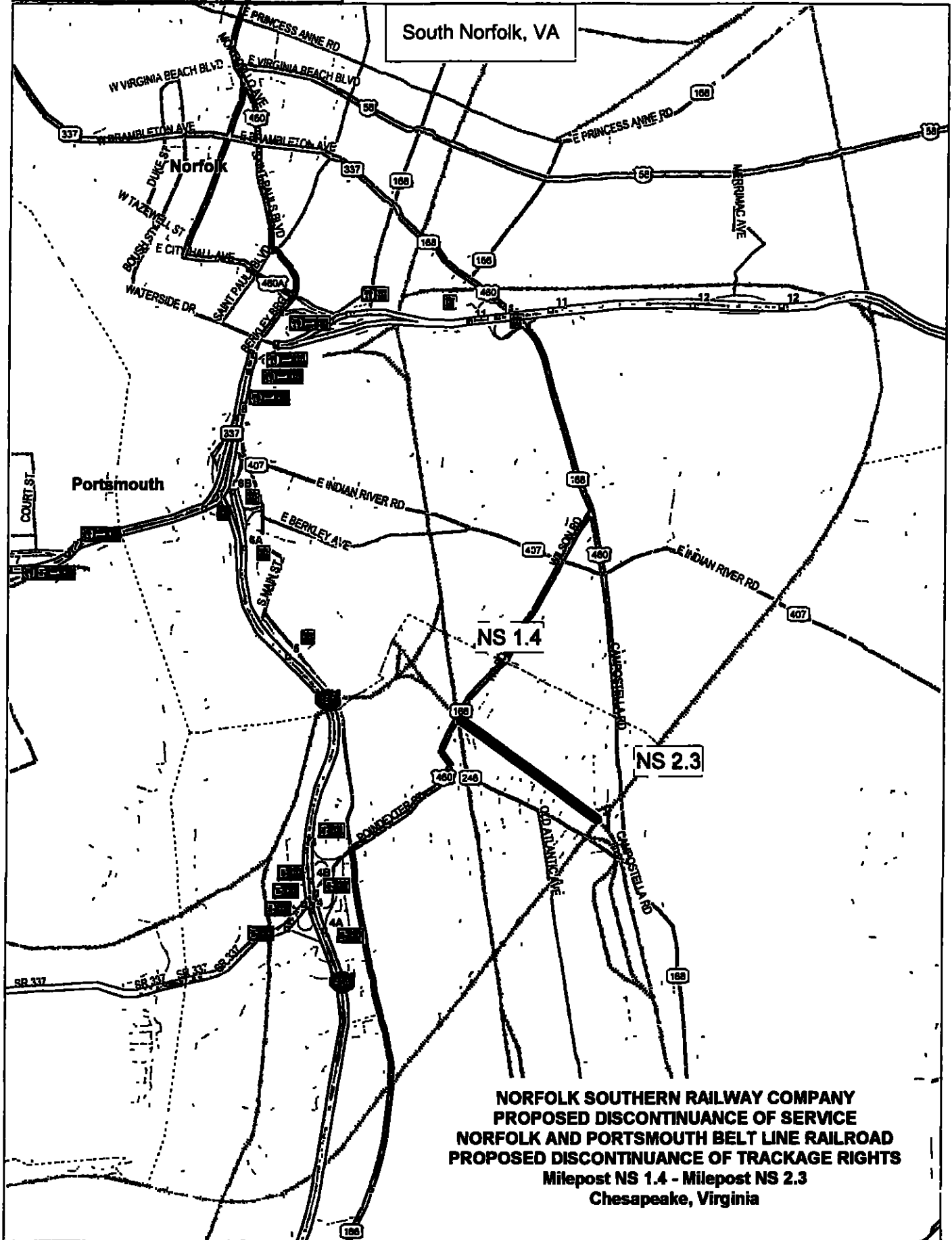
I FURTHER CERTIFY, that Mr. M. David Gooden is the duly elected President of the Norfolk and Portsmouth Belt Line Railroad Company, and

I FURTHER CERTIFY that in the meeting of the Board of Directors held in the City of Norfolk, Virginia on December 19, 2007, the President, by memo, informed the members of the Board of a request from Norfolk Southern to discontinue NPBL trackage rights over the Norfolk Southern between NS Junction and Carolina Junction in the Berkley area of South Norfolk, and

WHEREAS, after determining that the foregoing resolution is in the best interest of the Norfolk and Portsmouth Belt Line Railroad Company, and after due consideration, the following resolution was, on motion, duly made and seconded, adopted:

RESOLVED, The NPBL discontinue trackage rights over the Norfolk Southern between NS Junction and Carolina Junction in the Berkley area of South Norfolk.

**D. N. Coleman
Secretary**



THE VIRGINIAN-PILOT
NORFOLK, VIRGINIA
AFFIDAVIT OF PUBLICATION

The Virginian-Pilot

NORFOLK SOUTHERN CORP.
12TH FLOOR
STRATEGIC PLANNING D
NORFOLK VA 23510

REFERENCE: 39166886
18543565 NOTICE OF INTENT TO

**State of Virginia
City of Norfolk**

This day, Jacqueline Whitfield, personally appeared before me and after being duly sworn, made oath that:

1) She is affidavit clerk of The Virginian-Pilot, a newspaper published by Landmark Communications Inc., in the cities of Norfolk, Portsmouth, Chesapeake, Suffolk, and Virginia Beach, Commonwealth of Virginia and in the state of North Carolina 2) That the advertisement hereto annexed has been published in said newspaper on the date stated.

TOTAL COST:	565.62	AD SPACE:	132 LINE
FILED ON:	04/04/08		

PUBLISHED ON. 04/03

Legal Affiant:

AD SPACE: 132 LINE

Subscribed and sworn to before me in my city and state on the day and year
aforesaid this 2 of April in the year of 2008. (NRN. 7145124)

Notary: [Signature] My commission expires October 31, 2011.

**NOTICE OF INTENT TO
DISCONTINUE RAIL SERVICE
AND TO DISCONTINUE
TRACKAGE RIGHTS**

[illegible][illegible]



Exhibit 3

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

James R. Paschall
Senior General Attorney

(757) 629-2759

April 4, 2008

Kevin Page, Director
Commonwealth of Virginia
Department of Rail and Public Transportation
1313 East Main Street, Suite 300
Richmond, VA 23219

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

Theodore V. Morrison, Jr., Chairman
Virginia State Corporation Commission
P. O. Box 1197
Richmond, VA 23218

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

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

Re: STB Docket No. AB-290 (Sub-No. 299X), Norfolk Southern Railway Company –
Discontinuance of Service
STB Docket No. AB-~~48~~^{1024X}, Norfolk and Portsmouth Belt Line Railroad Company –
Discontinuance of Trackage Rights
Notice of Exemption – Chesapeake, Virginia

Ladies and Gentlemen:

Pursuant to 49 CFR 1152.50(d)(1), Norfolk Southern Railway Company (NSR) and Norfolk and Portsmouth Belt Line Railroad Company (NPBL) hereby give notice that on or about April 25, 2008, they 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 and NPBL's discontinuance of trackage rights over a 0.90-mile line of railroad lying between milepost NS 1.40 and milepost MS 2.30 in Chesapeake, Virginia (see attached map). No revenue traffic has originated or terminated on the line for more than two years. Overhead traffic, if any, can be rerouted. Based on information in our possession, the line does not contain federally granted rights-of-way. Any documentation in the railroads' possession will be made available promptly to those requesting it.

Very truly yours,

James R. Paschall

JRP:kch
Enclosure

20