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ENTERED  
Office of Proceedings

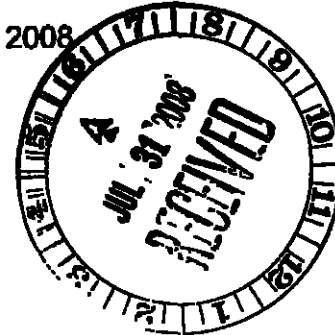
AUG 1 2008

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Part of  
Public Record

July 31, 2008



Via fax 202-245-0458 and  
Original and 10 copies via U.S. Mail

Ms. Anne K. Quinlan, Acting Secretary  
Surface Transportation Board  
395 E Street, S.W.  
Washington, DC 20423-0001

**Re STB Docket No AB-290 (Sub-No. 283X), Norfolk Southern Railway  
Company - Abandonment Exemption - In Orange County, New York -  
Request to Withdraw Petition and Discontinue Proceeding**

Dear Ms. Quinlan:

Norfolk Southern Railway Company ("NSR") withdraws the petition for exemption in this proceeding. Alternatively, to the extent required, NSR requests leave to withdraw the petition for exemption. NSR further requests that the Board dismiss this proceeding without prejudice. Also to the extent required, NSR requests that the Board treat this letter as a motion for the requested leave to withdraw and dismissal of the proceeding.

In a decision served May 2, 2007 in the subject proceeding, the Board granted NSR an exemption for the abandonment of a 1.64-mile line of railroad, extending from milepost ZU 45.00 to milepost ZU 46.64 at Hamman, in Orange County, NY (the "Line") because the only shipper on the line closed its facility and there is no traffic and no immediate prospect of any traffic that could move over the line. The proceeding has remained in abeyance because of a questionable notice of Intent to file an OFA by James Riffin. NSR also previously asked that the Board modify the exemption to permit only the discontinuance of service over the Line.

NSR's petition noted that the segment of the Line between milepost ZU 45.00, where it connects to the Port Jervis, NJ-Binghamton, NY main line, and milepost ZU 45.90 has been dormant since October, 2005 when the sole shipper located on the Line, Nepera Chemical Company, permanently closed its plant. NSR's purpose in abandoning this segment of the line was to reclassify it as industrial track and to keep it within NSR's system as a potential industrial development site, not to dispose of it.

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NSR's petition also noted that the adjacent segment of the Line between mileposts ZU 45.90 and ZU 46.64, where the track dead ends, was taken out of service by Conrail several years before NSR acquired the Line and that the track materials had been removed from the segment. No shippers have been located on this end segment for many years, if any ever were. Through prior Conrail abandonments, the subject track segment had become a dead-end spur or industrial lead track that served only one shipper in all but official status before NSR acquired it. No shipper is located, or is likely to locate along the final 0.74-mile of the line because of surrounding development and land uses. NSR surmises that Conrail did not include this segment in a prior filing for abandonment authority or exemption because it wished to keep the track for storage of cars or turning trains in connect with service to Nepara Chemical. In any event, this additional short segment of the Line has not been needed for railroad operations for many years. The information about the Line that NSR obtained from Conrail showed that Conrail in fact had scheduled this 0.74-mile long-dormant end segment for abandonment. However, NSR found no record that Conrail actually ever received abandonment authority or exemption for this segment of the Line from the ICC or from the Board. Thus, the 0.74-mile track segment has been "ghost mileage" since before NSR acquired it, but it apparently is still technically a railroad line. In order to put the matter in order, NSR included it as part of the subject Line in the petition for exemption.

NSR now believes it would be better to handle the abandonment of the "ghost mileage" separately from the retention of the remaining track segment, whether that is done through discontinuance of service over or abandonment and reclassification of the segment of that track or no current action at all. These separate objectives would appear be most cleanly and easily accomplished through separate actions and, to the extent required, in separate filings to the Board.

There are no active or potential railroad customers currently located on the Line. Mr. James Riffin has filed a notice of Intent to file an Offer of Financial Assistance to acquire the Line. Since (1) the purpose of an OFA is to provide continued rail service on a line that would otherwise be abandoned, (2) there is no rail service on the subject Line to continue, (3) there is no potential railroad customer currently located along the Line, (4) NSR intends to resume service over the track if a railroad customer locates along it, and (5) Riffin has engaged in questionable actions in connection with OFAs that do not appear to be submitted with a serious purpose of retaining rail service on the subject lines, the OFA proceeding would serve no purpose and Riffin can not be prejudiced by the withdrawal of the petition. We have described Riffin's apparent motives in previous letters or filings in this matter and they appear to need no further exposition here.

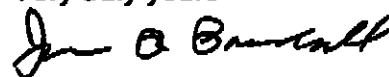
When a rail road is authorized to abandon a line, that authority is permissive, not

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mandatory The railroad can choose to exercise that authority or not. Because railroads are not compelled to abandon lines by the Board's authority or exemption, the Board normally grants a railroad's motion to withdraw its application, petition or notice for abandonment authority or exemption.<sup>1</sup> Thus, withdrawal of the petition for exemption and dismissal of this proceeding is justified by the facts and is consistent with Board precedent.

Therefore, NSR requests that the Board permit withdrawal of the petition for exemption in this proceeding and dismiss the proceeding without prejudice.

Very truly yours



James R. Paschall

cc. James Riffin  
 1941 Greenspring Drive  
 Timonium, MD 21093

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<sup>1</sup> *Norfolk Southern Railway Company - Abandonment Exemption - In Bergen County, NJ*, STB Docket No AB-290 (Sub-No. 288X) (STB served May 14, 2008), *Reading Blue Mountain and Northern Railroad Company - Abandonment Exemption - in Schuylkill County, PA*, STB Docket No AB-896X (STB served February 5, 2008), *Norfolk Southern Railway Company - Discontinuance of Service Exemption - In Somerset County, PA*, STB Docket No AB-290 (Sub-No. 298X) (STB served September 20, 2007); *The Cincinnati, New Orleans and Texas Pacific Railway Company - Abandonment Exemption - In Scott County, TN*, STB Docket No. AB-290 (Sub-No. 279X) (STB served April 24, 2007), *Norfolk Southern Railway Company - Abandonment Exemption - in Lorain County, OH*, STB Docket No. AB-290 (Sub-No. 268X) (STB served October 25, 2006), *The Burlington Northern and Santa Fe Railway Company - Abandonment Exemption - In Hamilton and Merrick Counties, NE*, STB Docket No AB-6 (Sub-No. 408X) (STB served May 26, 2004)(partial withdrawal of exemption notice), *Almona LP - Abandonment Exemption - In Allegheny County, PA*, STB Docket No AB-842X (STB served Jan. 28, 2004); *Massachusetts Port Authority - Acquisition Exemption - Certain Assets of Boston and Maine Corporation*, STB Finance Docket No. 34276 (STB served March 25, 2003) embracing *Boston and Maine Corporation - Abandonment - in Suffolk County, MA*, STB Docket No AB-32 (Sub-No. 92), *Kansas Southwestern Railway, L.L.C. - Abandonment - in Sumner, Harper, Barber, Reno and Kingman Counties, KS*, STB Docket No. AB-437 (Sub-No. 1) (STB served May 23, 2001); *Maine Central Railroad Company - Abandonment Exemption - In Androscoggin County, ME*, STB Docket No. AB-83 (Sub-No. 16X) (STB served September 15, 2000), *Soo Line Railroad Company - Abandonment Exemption - in Marshall and Roberts Counties, SD*, STB Docket No AB-57 (Sub-No. 50X) (STB served August 15, 2000); *Soo Line Railroad Company - Abandonment - in Roberts County, SD*, STB Docket No AB-57 (Sub-No. 51) (STB served August 14, 2000) and other cases cited in NSR's Reply to Motion to Compel, filed December 18, 2007