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Office of Proceedings
July 27, 2021
Part of
Public Record

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July 27, 2021

VIA E-FILING

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

Re: C&NC Railroad, LLC – Discontinuance Exemption – In Wayne and
Henry Counties, Indiana, AB-1093 (Sub-No. 2X)

Dear Ms. Brown:

On July 9, 2021, Norfolk Southern Railway Company's ("NSR") operator of its approximately 21-mile rail line extending from M.P. CB 5.4 (at Beesons, IN) to M.P. 25.30 (at New Castle, IN) and M.P. R 0.1 to M.P. R 1.16 (at New Castle, IN) ("Line"), C&NC Railroad, LLC ("C&NC"), filed a petition for exemption ("Petition") under 49 U.S.C. § 10502 from the provisions of 49 U.S.C. § 10903 to discontinue its lease operations over the Line effective August 10, 2021, or upon the earliest possible date thereafter permitted by the Board subject to coordination with NSR to ensure a smooth transition of common carrier service.¹

NSR, as the owner of the Line, is aware that petitions for discontinuances involve a longer processing period than notices of exemptions; however,² NSR shares C&NC's desire to make the transition effective as soon as replacement operations preparations are complete. Accordingly, NSR has already begun the preparations necessary to ensure a smooth transition and believes that expedited processing of C&NC's discontinuance would benefit NSR, shippers, and the public interest. As such, NSR is writing to request that the Board-process of C&NC's

¹ As noted on page one of the Petition, earlier this year, NSR provided notice to C&NC that its lease was being terminated effective August 10, 2021. After receiving notice of termination, it took C&NC almost two months to file for discontinuance authority.

² Under the ICC Termination Act of 1995, the Board is required to decide an abandonment exemption petition within 110 days to allow for offers of financial assistance to be submitted by the 120th day.

petition be expedited³ to allow for C&NC's operations to terminate at 12am on September 20, 2021, and replacement operations to commence. Granting the discontinuance to be effective on September 20, 2021, is fair and benefits both C&NC and NSR, while simultaneously ensuring that there is no interruption of service to shippers and that the proposed discontinuance will not have an adverse impact on shippers. If you have any questions, please contact me at (202) 663-7831 or by email at czorbaugh@bakerandmiller.com.

Sincerely,

/s/ Crystal M. Zorbaugh

Crystal M. Zorbaugh
Attorney for Norfolk Southern Railway Company

cc: Parties of Record

³ The Board has previously expedited processing of petitions for exemption when requested and were doing so promotes a specific goal, such as in this case is intended to benefit shippers. Canadian Nat'l Ry. Co. — Abandonment Exemption — In Niagara Cnty., NY, AB 279 (Sub-No.6X)(S.T.B. served Aug. 3, 2012) (granting CN's request to expedite processing of an abandonment petition for exemption to allow for the line to be dedicated to an alternative use and allow construction related to that use to begin in a timely manner); See also Railamerica, Inc., Palm Beach Holding, Inc., Railamerica Transp. Corp., Railtex, INC., Fortress Inv. Group, LLC, And RR Acquisition Holding, LLC – Control Exemption – Marquette Rail, LLC, FD 35592 (Decision served Apr. 13, 2012) (granting petitioners request to expedite handling of their petition for exemption to allow them to make capital improvements to the Line and to the locomotive fleet in order to improve cycle time for shippers); see also San Joaquin Valley R.R. Co. – Abandonment Exemption – In Kings and Fresno Counties, CA, AB-398 (Sub-No. 4x), slip op at 5 (S.T.B. served March 5, 1999) (recognizing that the Board does not always need the entire 110 days to reach a final decision on the merits).