

SERVICE DATE – DECEMBER 19, 2024

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 290 (Sub-No. 414X)

NORFOLK SOUTHERN RAILWAY COMPANY—  
ABANDONMENT EXEMPTION—IN PITT COUNTY, N.C.

Decided: December 19, 2024

On October 31, 2024, Norfolk Southern Railway Company (NSR) filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments to abandon an approximately one-mile rail line, extending from West 14th Street northward to Dickinson Avenue in Pitt County, N.C. (the Line). The Line has no mileposts. Notice of the exemption was served and published in the Federal Register on November 20, 2024 (89 Fed. Reg. 91,871). The exemption is scheduled to become effective on December 20, 2024.

On December 2, 2024, the City of Greenville, N.C. (the City), requested issuance of a notice of interim trail use or abandonment (NITU) to negotiate with NSR to establish interim trail use and railbanking for the Line, under the National Trails System Act, 16 U.S.C. § 1247(d). On December 13, 2024, NSR filed a letter agreeing to negotiate with the City toward a possible interim trail use/railbanking arrangement for this portion of the Line.

The Board's Office of Environmental Analysis (OEA) served a Draft Environmental Assessment (Draft EA) on November 25, 2024, and solicited public comments. OEA stated that NSR submitted a historic report as required by 49 C.F.R. § 1105.8(a) and served a copy of the report on the North Carolina Department of Natural and Cultural Resources, State Historic Preservation Office (SHPO), pursuant to 49 C.F.R. § 1105.8(c). The Draft EA noted that, based on available information, the SHPO submitted comments concluding that no historic resources would be affected as a result of the proposed abandonment. OEA concurred with the SHPO's no-adverse effect determination. Accordingly, pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, OEA determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register of Historic Places. The Draft EA also noted that, pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the U.S. Department of Housing and Urban Development Tribal Directory Assessment Tool to identify federally recognized tribes that may have ancestral connections to the project area.

In addition, the Draft EA stated that the National Geodetic Survey (NGS) commented that there may be geodetic survey markers in or near the right-of-way that could be disturbed by the proposed abandonment. NGS requested to be contacted at least 90 days prior to beginning any salvage or other ground-disturbing activities to allow for their relocation. OEA concluded

that no further consultation is required because NSR has indicated that no abandonment-related salvage or other ground-disturbing activities would occur. Based on the information provided from all sources at that time, OEA concluded that, as currently proposed, abandonment of the Line will not significantly affect the quality of the human environment and recommended no conditions be imposed on any decision granting abandonment authority.

OEA issued a Final Environmental Assessment on December 16, 2024, noting that one comment was received on the Draft EA. In its November 22, 2024 comment, NGS stated that it had conducted a search of its integrated database and found that no geodetic markers would be impacted as a result of the proposed abandonment. Therefore, NGS concurred with OEA's determination that no further consultation is required.

In sum, no environmental or historic preservation issues have been raised by any party or identified by OEA. Accordingly, a finding of no significant impact under 49 C.F.R. § 1105.10(g) will be made pursuant to 49 C.F.R. § 1011.7(a)(2)(ix).

Interim Trail Use. The City's request for a NITU complies with the requirements of 49 C.F.R. § 1152.29, and NSR has notified the Board that it is willing to negotiate with the City toward an agreement for interim trail use. Therefore, a NITU will be issued for the Line. The parties may negotiate an agreement during the one-year period prescribed below. If an interim trail use/railbanking agreement is reached (and thus, interim trail use/railbanking is established), the parties shall jointly notify the Board within 10 days that an agreement has been reached. 49 C.F.R. § 1152.29(d)(2) & (h). If no agreement is reached within one year, NSR may fully abandon the Line, subject to any outstanding conditions. See 49 C.F.R. § 1152.29(d)(1). Use of the right-of-way for trail purposes is subject to possible future reconstruction and reactivation of the right-of-way for rail service.

It is ordered:

1. This proceeding is reopened.
2. Abandonment of the Line will have no significant effect on the quality of the human environment and conservation of energy resources or on historic resources.
3. The notice served and published in the Federal Register on November 20, 2024, exempting the abandonment of the Line described above is modified to the extent necessary to implement interim trail use/railbanking as set forth below to permit the City to negotiate with NSR for trail use for the Line for a period of one year from the service date of this decision and notice, until December 19, 2025.
4. If an interim trail use/railbanking agreement is reached, it must require the trail sponsor to assume, for the term of the agreement, full responsibility for: (i) managing the right-of-way; (ii) any legal liability arising out of the transfer or use of the right-of-way (unless the sponsor is immune from liability, in which case it need only indemnify the railroad against any potential liability); and (iii) the payment of any and all taxes that may be levied or assessed against the right-of-way.

5. Interim trail use/railbanking is subject to possible future reconstruction and reactivation of the right-of-way for rail service and to the trail sponsor's continuing to meet its responsibilities for the right-of-way described in paragraph 4 above.

6. If an interim trail use agreement is reached (and thus, interim trail use is established), the parties shall jointly notify the Board within 10 days that an agreement has been reached. See 49 C.F.R. § 1152.29(d)(2) and (h).

7. If interim trail use is implemented, and subsequently the trail sponsor intends to terminate trail use on all or any portion of the right-of-way covered by the interim trail use agreement, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.

8. If an agreement for interim trail use/railbanking is reached by December 19, 2025, interim trail use may be implemented. If no agreement is reached, NSR may fully abandon the Line, subject to any outstanding conditions.

9. This decision is effective on its service date.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.