

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

222466



James R. Paschall  
Senior General Attorney

**FILED**

**MAY 29 2008**

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

**SURFACE  
TRANSPORTATION BOARD**

May 28, 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 307) Norfolk Southern Railway  
Company - Discontinuance of Service - Notice of Exemption -  
St. Joseph and LaPorte Counties, Indiana

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 Verified Notice of Exemption. Also, enclosed is a check in the amount of \$3,200 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,

**FEE RECEIVED**

**MAY 29 2008**

James R. Paschall

Enclosures

**SURFACE  
TRANSPORTATION BOARD**

**ENTERED**  
Office of Proceedings

**MAY 29 2008**

Part of  
Public Record

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**DOCKET NO AB-290 (SUB-NO 307X)  
NORFOLK SOUTHERN RAILWAY COMPANY  
-- DISCONTINUANCE OF SERVICE EXEMPTION --  
ST JOSEPH AND LAPORTE COUNTIES, INDIANA**

---

**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 May 28, 2008**

**Before the  
Surface Transportation Board**

---

**Docket No AB-290 (Sub-No 307X)  
Norfolk Southern Railway Company  
-- Discontinuance of Service Exemption --  
St Joseph and LaPorte Counties, Indiana**

---

**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 NSR's discontinuance of service over a 4 40-mile line of railroad lying between Milepost I 131.60 and Milepost I 136 00 in St. Joseph and LaPorte Counties, Indiana (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 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 NSR's discontinuance of service over the Line between Milepost I 131 60 and Milepost I 136 00 in St Joseph and LaPorte Counties, Indiana, will be July 18, 2008

**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 is sought consists of 4.40 miles of track between Milepost I 131 60 and Milepost I 136.00 in St Joseph and LaPorte

Counties, Indiana 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 Code 46574 and includes the station of Kankakee

**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<sup>1</sup> 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, 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

---

<sup>1</sup>Recent Board notices of exemption stating this principle are *Norfolk Southern Railway Company - Discontinuance of Service Exemption - in Chesapeake, VA*, STB Docket No AB-290 (Sub-No 299X) (STB served May 15, 2008), *Willamette Valley Railway Company - Discontinuance of Service Exemption - in Linn County, OR*, STB Docket No AB-435 (Sub-No 2X) (STB served November 16, 2007); and *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) 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) and *Union Pacific Railroad Company - Discontinuance - in Utah County, Utah*, STB Docket No AB-33 (Sub-No. 209) (STB served January 2, 2008) (application).

**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 granting 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.<sup>2</sup> 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.

---

<sup>2</sup>Recent Board notices of exemption and decisions stating this principle include the notices and decisions cited in footnote 1 and *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).

## **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.<sup>3</sup> 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 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 request that the Board serve the appropriate notice of exemption.

Respectfully submitted,

  
\_\_\_\_\_  
John H. Friedmann  
Vice President  
Norfolk Southern Railway Company

---

<sup>3</sup>See the notices of exemption and decisions cited in footnote 1 and CSX Transportation Inc. - Discontinuance Exemption in Knox County, TN, STB Docket No AB-55 (Sub-No. 641X) (STB served January 2, 2004)

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 May 28, 2008

**CERTIFICATION**

STATE OF PENNSYLVANIA

SS

CITY OF HARRISBURG

R A Bartle makes oath and says that he is General Manager Northern Region for Norfolk Southern Railway Company, that the line between milepost I 131 60 and milepost I 136 00 in St Joseph and LaPorte Counties, Indiana, 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

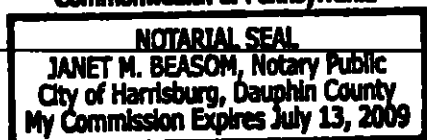


R A Bartle

Subscribed and sworn to before me  
this 8th day of May, 2008

  
Notary Public

My commission expires  
Commonwealth of Pennsylvania



VERIFICATION

COMMONWEALTH OF VIRGINIA

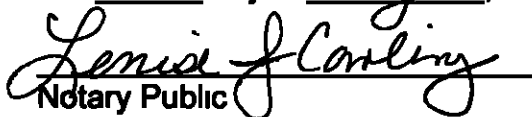
SS

CITY OF NORFOLK

John H. Friedmann, 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. 307X) 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.

  
\_\_\_\_\_  
John H. Friedmann  
Vice President  
Norfolk Southern Railway Company

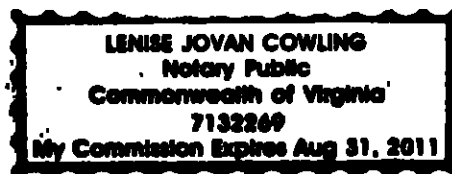
Subscribed and sworn to before me  
this 27<sup>th</sup> day of May, 2008

  
\_\_\_\_\_  
Notary Public

My commission expires

Aug. 31, 2011  
\_\_\_\_\_

[SEAL]



## CERTIFICATION

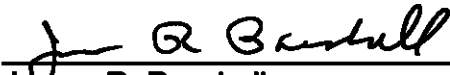
I hereby certify that (1) pursuant to 49 C F R §1105 12, a notice of intent to discontinue rail service was published in *The South Bend Tribune*, South Bend, Indiana, on May 7, 2008, (see Exhibit 2), and (2) that the notice required by 49 C.F R §152 50(d)(1) was given (see Exhibit 3)

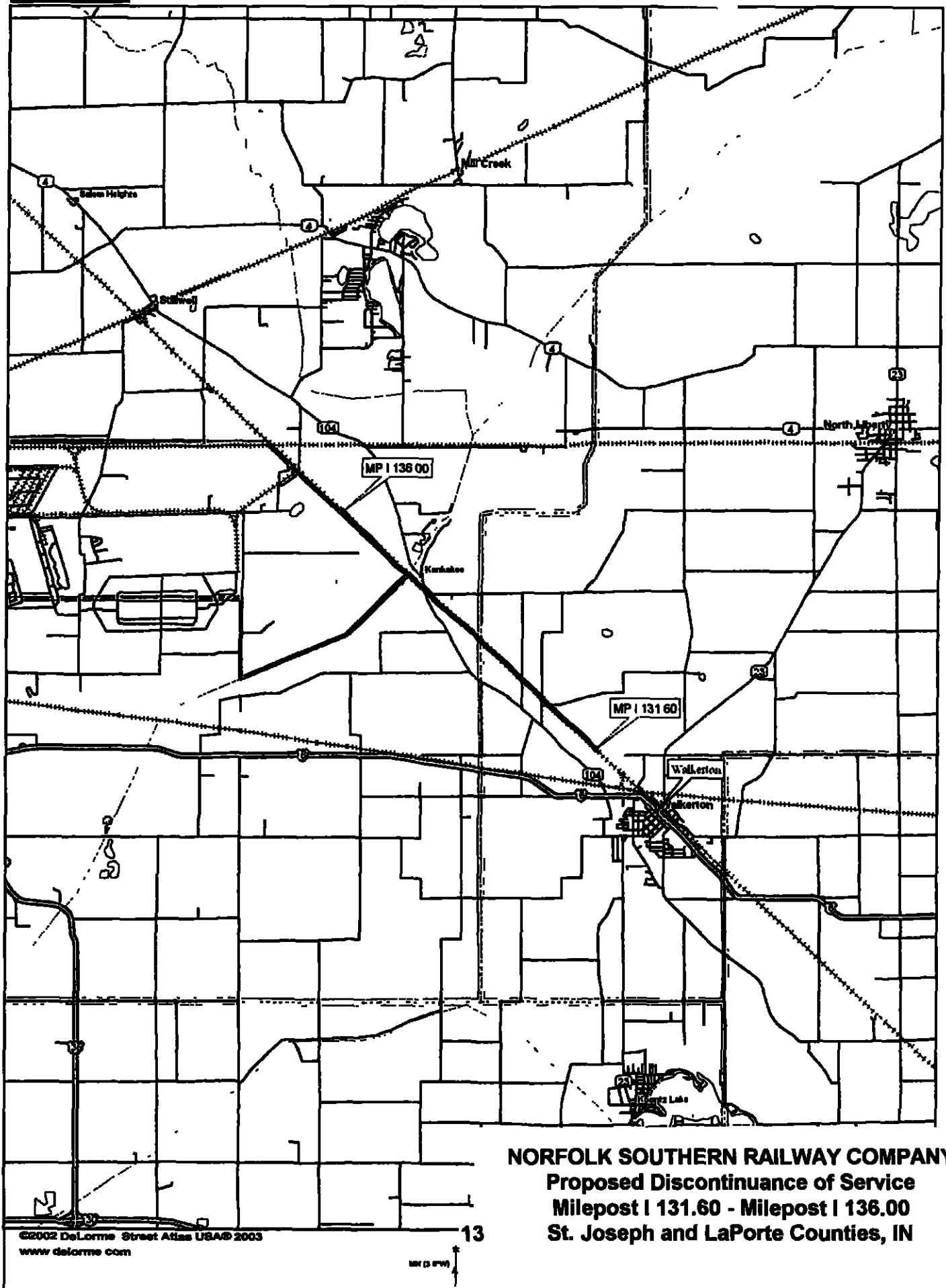
  
James R Paschall

Dated: May 28, 2008

## **CERTIFICATE OF SERVICE**

**I hereby certify that a copy of the foregoing Notice of Exemption was served upon David L Hardy, Chairman, Indiana Utility Regulatory Commission, Karl B Browning, Commissioner, Indiana Department of Transportation, U S Department of Agriculture, Chief of the Forest Service; Regional Director, National Park Service, Midwest Region, Ms Jan Matthews, Associate Director, U S Department of the Interior-National Park Service; and the United States Department of Defense (MTMCTEA); on May 28, 2008, by first class mail, postage prepaid**

  
\_\_\_\_\_  
**James R. Paschall**



**NORFOLK SOUTHERN RAILWAY COMPANY**  
**Proposed Discontinuance of Service**  
**Milepost | 131.60 - Milepost | 136.00**  
**St. Joseph and LaPorte Counties, IN**

**NOTICE OF INTENT TO  
DISCONTINUE  
RAIL SERVICE**

Norfolk Southern Railway Company (NSR) gives notice that on or about May 29, 2008, it intends to file with the Surface Transportation Board (STB), Washington, DC 20423, a notice of exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 permitting NSR's discontinuance of service over a 4.40 mile line of railroad between milepost 1.131.60 and milepost 1.136.00 which traverses through United States Postal Service ZIP Code 46574, in St. Joseph and LaPorte Counties, Indiana. The line includes the station of Kankakee. The proceeding will be docketed as No. AB 290 (Sub No. 307X).

Appropriate offers of financial assistance to subsidize continued rail service can be filed with the STB. Because this is a discontinuance proceeding and not an abandonment and public use conditions are not appropriate. Likewise no environmental or historical documentation is required here under 49 CFR 1105.6(b) and 1105.8(b) respectively. An original and 10 copies of any pleading that raises matters other than environmental issues (such as offers of financial assistance) must be filed directly with the STB's Office of the Secretary, 395 E Street S.W., Washington, DC 20423-0001. [See 49 CFR 1104.1(a) and 1104.3(a)] and one copy must be served on applicant's representative. [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance may be directed to the STB's Office of Congressional and Public Services at 202-245-0230. Copies of any comments or requests for conditions should be served on the applicant's representative. James R. Paschall, Senior General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510-9241, (757) 628-2759.

11 5 7

**State of Indiana  
St. Joseph County ss:**

Personally appeared before me, a notary public in and for said county and state, the undersigned Carol Smith

who, being duly sworn says that she is of competent age and is

Advertising Director of The South Bend Tribune, a daily newspaper which for at least five (5) consecutive years has been published in the City of South Bend, county of St. Joseph, State of Indiana, and which during that time, has been a newspaper of general circulation, having a bona fide paid circulation, printed in the English language and entered, authorized and accepted by the post office department of the United States of America as mailable matter of the second-class as defined by the act of Congress of the United States of March 3, 1879, and that the printed matter attached hereto is a true copy, which was duly published in said newspaper

1 time s, the dates of publication being as follows:

May 7, 2008

Carol Smith

Subscribed and sworn to before me this 7th day

of May 2008.

Geraldine Dickey

Geraldine Dickey  
Notary Public  
Resident of St. Joseph County

My commission expires January 28, 2009

Charges \$655.65



Exhibit 3

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

**James R. Paschall**  
**Senior General Attorney**

(757) 629-2759

May 12, 2008

David L. Hardy, Chairman  
Indiana Utility Regulatory Commission  
101 W. Washington Street, Suite 1500E  
Indianapolis, IN 46204

Karl B. Browning, Commissioner  
Indiana Department of Transportation  
100 N. Senate Avenue, Room N758  
Indianapolis, IN 46204

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

Regional Director  
National Park Service-Midwest Region  
601 Riverfront Drive  
Omaha, NE 68102

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

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. 307X), Norfolk Southern Railway Company –  
Abandonment, in St. Joseph and LaPorte Counties, Indiana

Ladies and Gentlemen:

Pursuant to 49 CFR 1152.50(d)(1), Norfolk Southern Railway Company (NSR) hereby gives notice that on or about May 29, 2008, 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 4.40-mile line of railroad lying between milepost 131.60 and milepost 136.00 in St. Joseph and LaPorte Counties, Indiana (see attached map). No revenue traffic has originated or terminated or moved overhead on the line to be abandoned 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 railroads' possession will be made available promptly to those requesting it.

Very truly yours,

James R. Paschall

JRP:kch  
Enclosure