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Office of Proceedings
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Part of
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May 18, 2018

VIA E-FILING

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

Re:

Norfolk Southern Railway Company – Adverse Abandonment – St. Joseph's
County, Indiana, AB-290 (Sub-No. 286X)

Dear Ms. Brown:

On November 21, 2006, the City of South Bend, IN, and two religious orders – the Brothers of Holy Cross, Inc. and the Sisters of the Holy Cross, Inc. (collectively “Applicants” or “Petitioners”) filed an application under 49 U.S.C. 10903 asking the Board to find that the public convenience and necessity (“PC&N”) required or permitted the adverse abandonment of two Norfolk Southern Railway Company (“NSR”) rail lines in St. Joseph County, IN. In a decision served February 14, 2008, the Board denied the application after finding that Applicants have not met their burden of establishing that the PC&N required or permitted the adverse abandonment of the rail lines at that time. However, the Board’s finding was without prejudice to Applicants seeking to reopen or filing a new abandonment application, should the line transfer, rehabilitation, and restoration of operations not occur within a reasonable period of time. In a decision served August 27, 2008, the Board denied the Applicants’ first petition to reopen. However, the Applicants petitioned to reopen a second time, on September 13, 2011.¹ In a decision served April 17, 2012, the Board granted the Applicants’ second petition to reopen and authorized the adverse abandonment of the two NSR rail lines. On January 24, 2013, a consummation notice pursuant to 49 C.F.R. § 1152.24(f) removing the subject lines from the Board’s jurisdiction was filed.

¹ While NSR generally disfavors adverse abandonments, on October 3, 2011, NSR filed a letter stating that “due to the very unique circumstances of this particular situation, NSR does not object to the relief sought by Petitioners.”

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Recently, NSR was reviewing its records for the above transaction in preparation of a sale of a portion of the real estate underlying the rail lines for which adverse abandonment in AB-290 (Sub-No. 286X) was granted. In doing so, NSR discovered that the previously-filed consummation notice may have been ambiguous. To the extent that the January 24, 2013 consummation notice was in any way ambiguous, NSR seeks to clarify for the record that the January 24, 2013 filing consummated abandonment of all lines, for which the Board granted adverse abandonment authority in AB-290 (Sub-No. 286X).

Sincerely,



Crystal M. Zorbaugh
Counsel for Norfolk Southern Railway Company

cc: All parties of record
Greg Summy