

47271

SERVICE DATE – OCTOBER 10, 2019

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 290 (Sub-No. 405X)]

Norfolk Southern Railway Company—Abandonment Exemption—in the City of Cincinnati, Ohio and Hamilton County, Ohio

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments to abandon rail service over an approximately 0.64-mile rail line, from milepost CT 3.06 to milepost CT 3.70, including 2,868 feet of unmileposted runaround track located at milepost CT 3.49, in the City of Cincinnati, Ohio, and Hamilton County, Ohio (the Line). The Line traverses U.S. Postal Service Zip Codes 45207 and 45212.

NSR has certified that: (1) no local traffic has moved over the Line for at least two years; (2) no overhead traffic has moved over the Line for at least two years, and overhead traffic, if there were any, could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 C.F.R. § 1105.12 (newspaper publication), 49 C.F.R. § 1152.50(d)(1)

(notice to governmental agencies), and 49 C.F.R. §§ 1105.7 and 1105.8 (environmental and historic report), have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA)¹ has been received, this exemption will be effective on November 9, 2019, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues must be filed by October 18, 2019.² Formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2) and trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by October 21, 2019.³ Petitions to reopen or requests for public

¹ Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (i.e., subsidy or purchase) and demonstrating that they are preliminarily financially responsible. See 49 C.F.R. § 1152.27(c)(2)(i).

² The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

³ Filing fees for OFAs and trail use requests can be found at 49 C.F.R. § 1002.2(f)(25) and (27), respectively.

use conditions under 49 C.F.R. § 1152.28 must be filed by October 30, 2019, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to NSR's representatives, William A. Mullins and Crystal M. Zorbaugh, Baker & Miller PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void ab initio.

NSR has filed a combined environmental and historic report that addresses the potential effects of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by October 15, 2019. The EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 C.F.R. § 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by NSR's filing a notice of consummation by October 10, 2020, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

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Board decisions and notices are available at www.stb.gov.

Decided: October 4, 2019.

By the Board, Allison C. Davis, Director, Office of Proceedings.