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GRANTED

Office of
Proceedings

DECISION ID NO.: 51308
DECIDED DATE: 7/25/2022
SERVED DATE: 7/25/2022
APPROVED: *madair* Director

Extended to 8/12/23

Crystal M. Zorbaugh

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June 17, 2022

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 – Abandonment Exemption – In
Bergen County, New Jersey, AB-290 (Sub-No. 407X)

Dear Ms. Brown:

I am writing on behalf of Norfolk Southern Railway Company (“NSR”) in connection with the above-referenced railroad abandonment proceeding to request relief from the consummation notice requirements set forth at 49 C.F.R. § 1152.29(e)(2). Specifically, for the reasons set forth below, NSR hereby requests a one-year extension of the applicable consummation notice deadline.

On October 14, 2020, NSR filed a verified petition of exemption pursuant to 49 C.F.R. Part 1152, Subpart G –Special Rules Applicable to Petitions for Abandonments to abandon rail service over an approximately 1.2-mile rail line, extending from Milepost UQ 9.0 to Milepost UQ 10.2, in Bergen County, New Jersey (the “Line”). Notice of the exemption was served and published in the Federal Register on November 3, 2020 (85 Fed. Reg. 69,676). The exemption became effective on February 25, 2021.¹

In its final Environmental Assessment (“EA”), served on January 15, 2021, the Board’s Office of Environmental Analysis (“OEA”) recommended that the Board impose one condition on any decision granting abandonment authority. Specifically, OEA recommended that NSR be required to consult with the New Jersey Department of Environmental Protection, Coastal Management Program and obtain state coastal management consistency certification under the Coastal Zone Management Act of 1972, 16 U.S.C. §§ 1451-1465, if necessary. The proposed

¹ Per the Board’s decision served January 26, 2021, the original consummation deadline was January 26, 2022.

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condition prohibited NSR from filing its consummation notice or initiating salvage activities related to abandonment (including removal of tracks and ties) until NSR reported the results of these consultations in writing to OEA and the Board has removed the condition. The Board imposed this condition in its decision served on January 26, 2021. See AB-290 (Sub-No. 407X) Decision ID 50486 (STB served January 26, 2021).

On December 21, 2021, NSR requested a one-year extension from the Board for filing a notice of consummation as a resolution between the NSR and the New Jersey Department of Environmental Protection, Coastal Management Program did not appear likely prior to the January 26, 2022, consummation deadline. On January 27, 2022, the Board denied NSR's request for an extension of time to consummate the abandonment as premature.²

In a May 2, 2022, decision, OEA recommended that the Board remove the coastal zone condition imposed by the Board in its January 26, 2021 decision based on a letter from the New Jersey Department of Environmental Protection, stating that it concurs with NSR's determination that the proposed abandonment would not adversely affect the resources within New Jersey's coastal zone. The Board removed the condition in a decision served on June 13, 2022. See AB-290 (Sub-No. 407X) Decision ID 51249 (STB served June 13, 2022). Per the aforementioned decision, NSR has until August 12, 2022, to file its consummation notice. Id. at FN 1.

As stated above per the Board's January 26, 2021 decision, NSR was prohibited from "initiating salvage activities related to abandonment (including removal of tracks and ties) until NSR reported the results of these consultations in writing to OEA *and the Board has removed the condition.*" See AB-290 (Sub-No. 407X) Decision ID 50486 (STB served January 26, 2021). While the condition was removed on June 13, 2022, unfortunately, NSR will not be able to complete salvage in the 60 days permitted (by August 13, 2022). As such, for good cause shown, NSR respectfully requests a one-year extension of the current deadline for filing a notice of consummation in this proceeding.

Sincerely,

/s/ Crystal M. Zorbaugh

Crystal M. Zorbaugh
Counsel for Norfolk Southern Railway Company

cc: Parties of Record
Hanna Chouest
Scott Plum

² See AB-290 (Sub-No. 407X) Decision ID 51079 (STB served January 27, 2022).