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ENTERED
Office of Proceedings
August 2, 2021
Part of
Public Record

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August 1, 2021

BY E-FILING

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

Re: Norfolk Southern Railway Company– Discontinuance of Trackage Rights
Exemption– In Luzerne and Carbon Counties, PA, AB-290 (Sub-No.
410X)

Dear Ms. Brown:

Enclosed is a verified notice of exemption (“Notice”) pursuant to 49 C.F.R. Part 1152, Subpart F – Exempt Abandonments and Discontinuances of Service and Trackage Rights, to permit Norfolk Southern Railway Company (“NSR”) to discontinue overhead trackage rights over approximately 56.7 miles of rail line owned by Reading Blue Mountain and Northern Railroad Company (“RBMN”) located between milepost 119.3 (in Lehigh Yard) and milepost 175.5 (in Dupont, PA) (the “Line”). The Line traverses United States Postal Zip Code territories 18235, 18229, 18255, 18661, 18711, 18707, 18706, 18640 and 18641. NSR is discontinuing its overhead trackage rights and has never provided local service over the Line.

Pursuant to 49 C.F.R. § 1002.2(f)(21)(ii), a filing fee in the amount of \$4,600.00 has been paid on pay.gov.

FILED
August 2, 2021
SURFACE
TRANSPORTATION BOARD

Sincerely,

/s/ Crystal M. Zorbaugh

Crystal M. Zorbaugh
Attorney for Norfolk Southern Railway Company

FEE RECEIVED
August 2, 2021
SURFACE
TRANSPORTATION BOARD

cc: Thomas E. Zoeller, Hanna M. Chouest (NSR)

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-290 (Sub-No. 410X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– DISCONTINUANCE OF TRACKAGE RIGHTS EXEMPTION –
IN LUZERNE AND CARBON COUNTIES, PA**

**VERIFIED NOTICE OF EXEMPT DISCONTINUANCE
PURSUANT TO 49 C.F.R. § 1152.50**

**Hanna Chouest
Deputy General Counsel
NORFOLK SOUTHERN CORPORATION
Three Commercial Place
Norfolk, Virginia 23510
Tel: (470) 571-5208**

August 1, 2021

***Filing contains color**

**William A. Mullins
Amber L. McDonald
Crystal M. Zorbaugh
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**Attorneys for Norfolk Southern
Railway Company**

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-290 (Sub-No. 410X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– DISCONTINUANCE OF TRackage RIGHTS EXEMPTION –
IN LUZERNE AND CARBON COUNTIES, PA**

**VERIFIED NOTICE OF EXEMPT DISCONTINUANCE
PURSUANT TO 49 C.F.R. § 1152.50**

Norfolk Southern Railway Company (“NSR”) hereby submits a verified notice of exemption (“Notice”) pursuant to 49 C.F.R. part 1152, subpart F – Exempt Abandonments and Discontinuances of Service and Trackage Rights, for NSR to discontinue overhead trackage rights operations over approximately 56.7 miles of rail line owned by Reading Blue Mountain and Northern Railroad Company (“RBMN”) located between milepost 119.3 (in Lehighton Yard) and milepost 175.5 (in Dupont, PA) (the “Line”).¹ The Line traverses United States Postal Zip Code territories 18235, 18229, 18255, 18661, 18711, 18707, 18706, 18640 and 18641. NSR is discontinuing overhead trackage rights and has never provided local service over the Line.

In accordance with the requirements of 49 C.F.R. §§ 1152.50(b) and (d), NSR provides the following information in support of the Notice:

¹ NSR acquired overhead trackage rights for the Line in 2002. See Norfolk S. Ry. Co. – Trackage Rights Exemption – Reading Blue Mountain and N. R.R. Co., FD 34225 (S.T.B. served July 25, 2002).

Certification: 49 C.F.R. § 1152.50(b)

NSR certifies that the Line satisfies the criteria for discontinuance under the exemption provisions at 49 C.F.R. part 1152, subpart F. See Certification of Randall W. Hunt, Senior Director, Interline Services for Norfolk Southern Corporation. During the past two years, NSR has moved no local traffic over the Line and any common carrier overhead traffic on the Line can be rerouted, 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 with the Board or any U.S. District Court or has been decided in favor of the complainant within the 2-year period.

Proposed Consummation Date: 49 C.F.R. § 1152.50(d)(2)

The proposed discontinuance will be consummated on or after September 20, 2021 (50 days after filing the Notice) or the approval date of the transaction proposed in AB-290 (Sub-No. 410X), whichever is later.

Additional Information Required: 49 C.F.R. §§ 1152.22(a)(1)-(4), (7)-(8) and (e)(4)

Exact name of applicants (49 C.F.R. § 1152.22(a)(1)):

Norfolk Southern Railway Company

Whether applicants are common carriers by railroad (49 C.F.R. § 1152.22(a)(2)):

NSR is a common carrier by railroad subject to the Board's jurisdiction under 49 U.S.C. Subtitle IV, Chapter 105.

Relief sought (49 C.F.R. § 1152.22(a)(3)):

NSR hereby invokes the Board's two-year-out-of-service class exemption procedures to discontinue overhead trackage rights operations over approximately 56.7 miles of rail line owned by RBMN located between milepost 119.3 (in Lehighton Yard) and milepost 175.5 (in Dupont, PA).

Map (49 C.F.R. § 1152.22(a)(4)):

A map showing the location of the Line is attached hereto as Exhibit A.

Applicants' representatives (49 C.F.R. § 1152.22(a)(7)):

The representatives of the railroads to whom correspondence regarding these proceedings should be sent are as follows:

William A. Mullins
Amber L. McDonald
Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., NW, Suite 300
Washington, DC 20037
Tel: (202) 663-7820
Fax: (202) 663-7849

USPS ZIP codes (49 C.F.R. § 1152.22(a)(8)):

The Line traverses portions of the following United States Postal Zip Codes: 18235, 18229, 18255, 18661, 18711, 18707, 18706, 18640 and 18641.

Suitability of the Line for Other Public Purposes (49 C.F.R. § 1152.22(e)(4)):

The informational requirement of section 1152.22(e)(4) (alternative public uses of rail property) appears to be pertinent only where the railroad proposes to abandon rail property.² Here, NSR is only seeking to terminate its overhead trackage rights operations over the Line, and RBMN, the owner of the Line, has no current plans to abandon any portion of the Line. Should RBMN decide to abandon any portion of the Line at a future date, it will seek appropriate authority from the Board at that time and fully respond as to whether there are alternative public uses of rail property.

² See, e.g., Columbus and Greenville Ry. Co. – Discontinuance of Service Exemption – in Greenwood, MS, STB Docket No. AB-297 (Sub-No. 103X), slip op. at 2 n.2 (S.T.B. served July 3, 2007) (“CAGY-Greenwood”) (“Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate”); Norfolk S. Ry. Co.—Discontinuance Exemption—in Mahoning Cnty., OH, STB Docket No. AB-290 (Sub-No. 292X), slip op. at 2 n.2 (“NS-Mahoning”) (S.T.B. served March 15, 2007) (same); Chillicothe-Brunswick Rail Maintenance Auth.—Discontinuance Exemption—in Livingston, Linn, and Chariton Counties, MO, STB Docket No. AB-1001X, slip op at 2 n.3 (“CBRA-Livingston”) (S.T.B. served Feb. 23, 2007) (same).

Although of questionable relevance here (because the proposed action does not entail abandonment of a rail line), NSR is unaware of any condition that would affect the transfer of title to or the use of the railroad right-of-way for other than rail purposes. The Line does not contain any federally granted right-of-way. As appropriate, NSR is willing promptly to make available any information in its possession to anyone so requesting it.

Labor Protection

The interests of affected railroad employees, if any, will be protected by the conditions discussed in Oregon Short Line R.R. — Abandonment — Goshen, 360 I.C.C. 91 (1979). NSR does not anticipate that any employees will be adversely affected by the proposed discontinuance.

Certifications

Attached hereto as Exhibit B are Certificates of Service and Publication certifying compliance with the advance notice and newspaper publication requirements set forth at 49 C.F.R. § 1152.50(d)(1) and 49 C.F.R. § 1105.12, respectively. For reasons set forth in the “Environmental and Historic Report” section below, the certification of service requirement at 49 C.F.R. § 1105.11 (transmittal of Environmental and Historic Reports) is inapplicable here.

Environmental and Historic Report

A notice of exemption to discontinue service over (rather than to abandon) a line of railroad does not require the preparation or submission of an Environmental and/or Historic Report.³

³ See, e.g., Everett R.R. Co. — Discontinuance of Service Exemption — in Blair County, PA, STB Docket No. AB-721X slip op. at 2 n.2 (S.T.B. served Nov. 16, 2007) (“Because this is a discontinuance proceeding and not an abandonment, . . . no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively”); CAGY-Greenwood at 2 n.2 (same); NS-Mahoning at 2 n.2 (same); CBRA-Livingston at 2 n.3 (same).

**Hanna Chouest
Deputy General Counsel
NORFOLK SOUTHERN CORPORATION
Three Commercial Place
Norfolk, Virginia 23510
Tel: (470) 571-5208**

August 1, 2021

Respectfully Submitted,

**/s/ Crystal M. Zorbaugh
William A. Mullins
Amber L. McDonald
Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., NW
Suite 300
Washington, DC 20037
Tel: (202) 663-7820
Fax: (202) 663-7849**

**Attorneys for Norfolk Southern
Railway Company**

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-290 (Sub-No. 410X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– DISCONTINUANCE OF TRACKAGE RIGHTS EXEMPTION –
IN LUZERNE AND CARBON COUNTIES, PA**

**VERIFIED NOTICE OF EXEMPT DISCONTINUANCE
PURSUANT TO 49 C.F.R. § 1152.50**

CERTIFICATION AND VERIFICATION

Certification and Verification

I, Randall W. Hunt, Senior Director, Interline Services for Norfolk Southern Corporation, hereby certify and verify under penalty of perjury as follows:

1. The approximately 56.7 miles of rail line owned by Reading Blue Mountain and Northern Railroad Company (“RBMN”) and operated by Norfolk Southern Railway Company (“NSR”) located between milepost 119.3 (in Lehighton Yard) and milepost 175.5 (in Dupont, PA) (the “Line”), over which overhead trackage rights is to be discontinued, is subject to my supervision and direction.
2. During the past two years, NSR has moved no local traffic over the Line and any common carrier overhead traffic on the Line can be rerouted, 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 with the Board or any U.S. District Court or has been decided in favor of the complainant within the 2-year period.
3. I have read the foregoing Notice of Exemption and know that the facts stated herein are true and correct.
4. I certify that I am qualified and authorized to make such verification on behalf of NSR in connection with this proceeding before the Surface Transportation Board.

Executed this 27th day of July 2021



Randall W. Hunt
Senior Director, Interline Services
Norfolk Southern Corporation

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

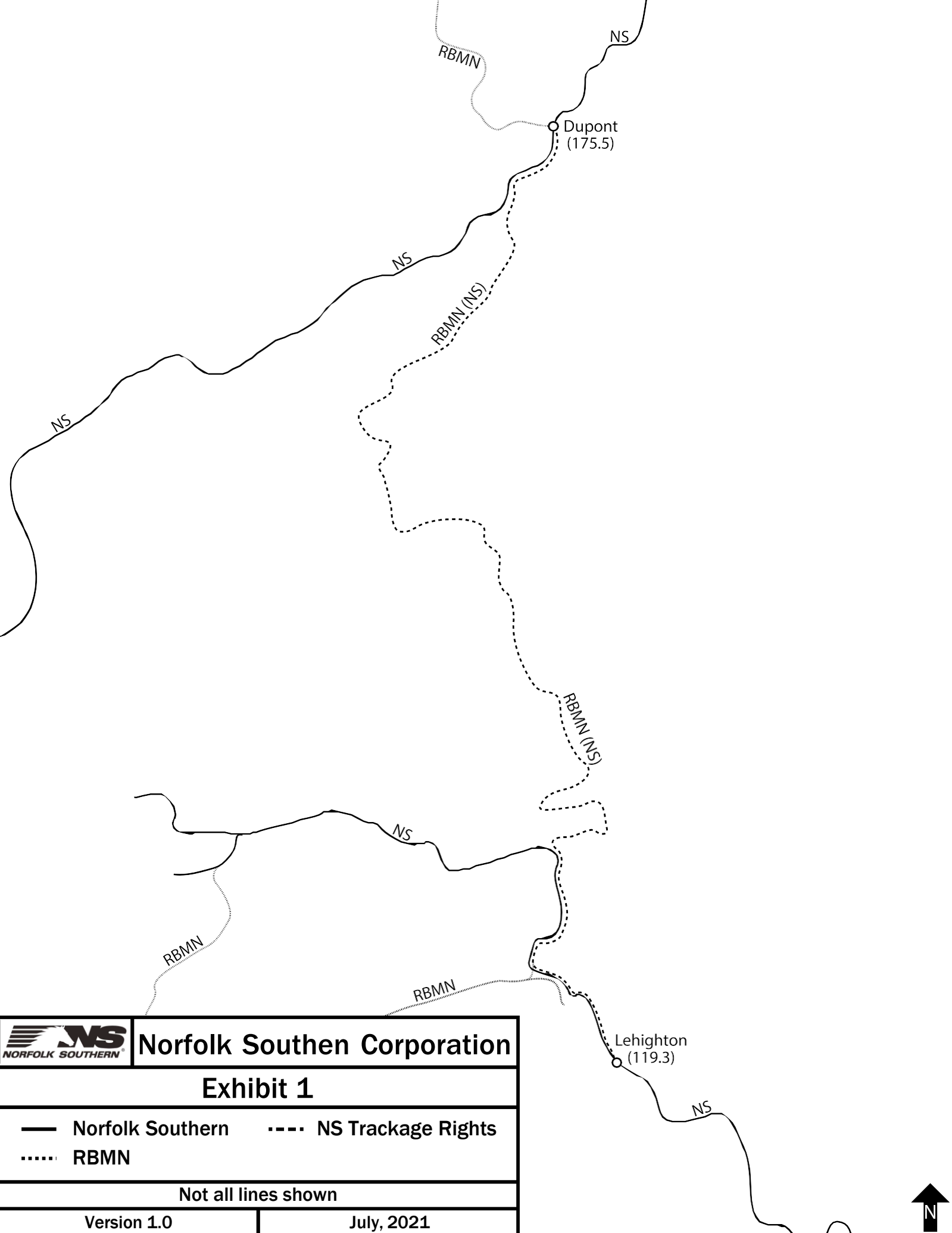
AB-290 (Sub-No. 410X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– DISCONTINUANCE OF TRACKAGE RIGHTS EXEMPTION –
IN LUZERNE AND CARBON COUNTIES, PA**

**VERIFIED NOTICE OF EXEMPT DISCONTINUANCE
PURSUANT TO 49 C.F.R. § 1152.50**

EXHIBIT A

MAP



 Norfolk Southern Corporation	
Exhibit 1	
— Norfolk Southern	---- NS Trackage Rights
..... RBMN	
Not all lines shown	
Version 1.0	July, 2021



**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-290 (Sub-No. 410X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– DISCONTINUANCE OF TRACKAGE RIGHTS EXEMPTION –
IN LUZERNE AND CARBON COUNTIES, PA**

**VERIFIED NOTICE OF EXEMPT DISCONTINUANCE
PURSUANT TO 49 C.F.R. § 1152.50**

EXHIBIT B

**CERTIFICATES OF
SERVICE/PUBLICATION**

Certificate of Service of Advance Notice

49 C.F.R. § 1152.50(d)(1) – Notice

I certify that, on July 22, 2021, in keeping with 49 C.F.R. § 1152.50(d)(1), I caused the following parties to be served with the written notice of intent of Norfolk Southern Railway Company's ("NSR") intent to invoke the Board's notice of exemption procedures to discontinue overhead trackage rights over approximately 56.7 miles of rail line owned by Reading Blue Mountain and Northern Railroad Company ("RBMN") and operated by NS located between milepost 119.3 (in Lehighton Yard) and milepost 175.5 (in Dupont, PA) (the "Line"). I also certify that the Line does not contain federally granted rights-of-way.

Pennsylvania Public Utility Commission
400 North Street
Harrisburg, Pennsylvania 17120

PA Department of Transportation
Keystone Building
400 North St., Fifth Floor
Harrisburg, PA 17120

David Dorfman
Headquarters Military Surface Deployment
and Distribution Command
Transportation Engineering Agency
ATTN: SDTE-SA
Railroads for National Defense Program
1 Soldier Way, Building 1900W
Scott AFB, IL 62225

Mr. Stephan Nofield
National Park Service
Rivers, Trails and Conservation Assistance
Program
1849 C Street NW, Room 1344
Washington DC 20240

Vicki Christiansen, Chief
Forest Service
U.S. Department of Agriculture
Sidney R. Yates Federal Building
201 14th Street SW
Washington, DC 20024

August 1, 2021

/s/ Crystal M. Zorbaugh
Crystal M. Zorbaugh
Attorney for Norfolk Southern Railway Company

Certificate of Newspaper Publication

49 C.F.R. § 1105.12 – Newspaper Notice

I certify that a “Notice of Intent to Discontinue Rail Service” was published in the form prescribed by the Board for discontinuance notices of exemption (49 C.F.R. § 1105.12). The notice was published one time on July 30, 2021, in the Times Leader and the Times News, newspapers of general circulation in the USPS ZIP code territories 18235, 18229, 18255, 18661, 18711, 18707, 18706, 18640 and 18641.

August 1, 2021

/s/ Crystal M. Zorbaugh

Crystal M. Zorbaugh

Attorney for Norfolk Southern Railway Company

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-290 (Sub-No. 410X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– DISCONTINUANCE OF TRACKAGE RIGHTS EXEMPTION –
IN LUZERNE AND CARBON COUNTIES, PA**

**VERIFIED NOTICE OF EXEMPT DISCONTINUANCE
PURSUANT TO 49 C.F.R. § 1152.50**

**DRAFT NOTICE OF EXEMPTION
[CAPTION SUMMARY]**

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[AB-290 (Sub-No. 410X)]

Norfolk Southern Railway Company – Discontinuance of Trackage Rights Exemption– In Luzerne and Carbon Counties, PA

On August 1, 2021, Norfolk Southern Railway Company (“NSR”) filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F–Exempt Abandonments to discontinue overhead trackage rights operations over approximately 56.7 miles of rail line owned by Reading Blue Mountain and Northern Railroad Company (“RBMN”) and operated by NSR located between milepost 119.3 (in Lehighton Yard) and milepost 175.5 (in Dupont, PA) (the “Line”). The Line traverses United States Postal Zip Code territories 18235, 18229, 18255, 18661, 18711, 18707, 18706, 18640 and 18641. During the past two years, NSR has moved no local traffic over the Line and NSR’s common carrier overhead traffic on the Line can be rerouted.

NS certified that: NSR has moved no local traffic over the Line and any common carrier overhead traffic on the Line can be rerouted; 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 with the Board or any U.S. District Court or has been decided in favor of the complainant within the 2-year period;; and the applicable requirements at 49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance 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) to continue rail service under a subsidy has been received, this exemption will be effective on September____, 2021 unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 C.F.R. § 1152.27(c)(2) must be filed by _____.⁴ Petitions to reopen must be filed by_____, 2021, 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 Railroads' representative: Crystal M. Zorbaugh, Baker & Miller PLLC, 2401 Pennsylvania Ave., NW, Suite 300, Washington, DC 20037.

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

Board decisions and notices are available on our website at WWW.STB.DOT.GOV.

Decided:_____, 2021.

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

⁴ Each OFA must be accompanied by the filing fee, which is currently set at \$2,000.00. See 49 C.F.R. § 1002.2(f)(25). Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b), respectively.