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Crystal M. Zorbaugh

(202) 663-7831 (Direct Dial)
E-Mail: czorbaugh@bakerandmiller.com

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ENTERED
Office of Proceedings
December 6, 2016
Part of
Public Record

December 6, 2016

BY HAND DELIVERY

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 Service Exemption – In Rockingham and Shenandoah Counties, VA, AB-290 (Sub-No. 391X)

Dear Ms. Brown:

Enclosed please find an original and eleven copies of a notice of exemption by Norfolk Southern Railway Company, successor to Southern Railway Company to discontinue rail service over an approximately 15.5-mile rail line (referred to herein as the "Line") extending from milepost B-84.0 (at Mt. Jackson, VA) to milepost B-99.5 (at Broadway, VA) in Rockingham and Shenandoah Counties, VA. Please acknowledge receipt and filing of this notice of exemption by date-stamping the enclosed eleventh copy and returning it to the courier for return to me. This submission also includes an electronic copy of the entire filing and a separate electronic file of a draft Federal Register notice.

Finally, pursuant to 49 C.F.R. § 1002.2(f)(21)(ii), I have enclosed a filing fee for \$4,000.00. If there are any questions about this matter, please do not hesitate to contact me directly or William A. Mullins, who can be reached at (202) 663-7823 or by e-mail at wmullins@bakerandmiller.com.

FEE RECEIVED
December 6, 2016
SURFACE
TRANSPORTATION BOARD

Sincerely,

Crystal M. Zorbaugh
Counsel for Norfolk Southern Railway Company

FILED
December 6, 2016
SURFACE
TRANSPORTATION BOARD

Enclosures

cc: Greg Summy, Garrett Urban, LaWada Poarch, Laura Hoag

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

AB-290 (Sub-No. 391X)

**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN ROCKINGHAM AND SHENANDOAH COUNTIES, VA**

NOTICE OF EXEMPTION

**Greg Summy
General Attorney
NORFOLK SOUTHERN CORPORATION
Three Commercial Place
Norfolk, Virginia 23510
Tel: (757) 533-4939
Fax: (757) 533-4872**

**William A. Mullins
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**

December 6, 2016

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

AB-290 (Sub-No. 391X)

**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN ROCKINGHAM AND SHENANDOAH COUNTIES, VA**

NOTICE OF EXEMPTION

INTRODUCTION

Norfolk Southern Railway Company ("NSR"), successor to Southern Railway Company hereby submits a notice of exemption ("Notice") pursuant to 49 C.F.R. part 1152, subpart F (Exempt Abandonments and Discontinuances of Service and Trackage Rights) to discontinue service over an approximately 15.5-mile rail line (referred to herein as the "Line") extending from milepost B-84.0 (at Mt. Jackson, VA) to milepost B-99.5 (at Broadway, VA) in Rockingham and Shenandoah Counties, VA.¹ The Line traverses through United States Postal

¹ Please note the following:

On June 27, 2016, Chesapeake Western Railway ("CW"), a wholly-owned subsidiary of NSR filed for discontinuance authority over the same line segment extending from Mt. Jackson, VA to Broadway, Virginia in AB-290 (Sub-No. 387X). CW leased the line segment as part of a larger line that extended from milepost B-84.0 (at Mount Jackson, VA) to milepost B-112.00 beginning in 1989. See Chesapeake Western Railway – Lease and Operation Exemption – Southern Railway Company, FD 31339 (STB served Feb. 14, 1989). CW renamed the line segment (CW 84.0 to CW 99.5) upon commencement of operations. CW's June 27, 2016 filing inadvertently stated the line extended from milepost CW 84.4 (at Mt. Jackson, VA) to milepost CW 99.5 (at Broadway, VA). Thus, CW filed a request to correct an erroneous milepost (milepost CW 84.4 should have been milepost CW 84.0) in a letter submitted to the Board on September 23, 2016. NSR is now filing the Notice to discontinue its common carrier obligation over the same 15.5-mile line.

Service Zip Code territories 22815, 22842, 22844, 22847 and 22853. In accordance with the Board's regulations at 49 C.F.R. §§ 1152.50(b) and (d), NSR provides the following information in support of its notice:

Certification: 49 C.F.R. § 1152.50(b)

The Line satisfies the criteria for a discontinuance of service exemption under the provisions located at 49 C.F.R. part 1152, subpart F. See Certification of T.L. Reynolds, General Manager Southern Region for Norfolk Southern Railway Company, attached hereto and made part hereof as Exhibit A.

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

The subject discontinuance will be consummated on or after January 25, 2017 (50 days after filing the notice of exemption).

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

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

Norfolk Southern Railway Company

Whether applicant is a common carrier 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.

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

NSR has invoked the Board's two-year-out-of-service class exemption procedures to discontinue rail service over an approximately 15.5-mile rail line extending from milepost B-84.0 (at Mt. Jackson, VA) to milepost B-99.5 (at Broadway, VA) in Rockingham and Shenandoah Counties, VA.

Map (49 C.F.R. § 1152.22(a)(4)):

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

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

NSR's representatives to whom correspondence regarding this discontinuance should be sent is as follows:

William A. Mullins
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 lies within the following U.S. Postal Service ZIP Code territories: 22815, 22842, 22844, 22847, and 22853.

Rural and Community Impact (49 C.F.R. § 1152.22(e)(4)):

The Line has been dormant for over two years, so NSR anticipates no rural or community impact from the discontinuance of its common carrier obligation. Because the Line has not been used for local rail shipments for over twenty-four (24) months, there will be no effect on regional or local transportation systems and patterns, and no diversion of traffic to other transportation systems or modes would result from NSR's action.

The informational requirement of section 1152.22(e)(4) (alternative public uses of rail property) appears to be pertinent only in cases where the railroad proposes to abandon rail property.² In this proceeding, NSR is filing a notice of exemption to discontinue service over the

² See Columbus and Greenville Railway Company – Discontinuance of Service Exemption – in Greenwood, MS, STB Docket No. AB-297 (Sub-No. 103X), slip op. at 2 n.2 (STB served July 3, 2007 (“Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate”)); see also, Norfolk Southern Railway Company—Discontinuance Exemption—in Mahoning County, OH, STB Docket No. AB-290 (Sub-No. 292X), slip op. at 2 n.2 (STB served March 15, 2007); Chillicothe-Brunswick Rail

Line, not abandon it, and for this reason NSR has no opinion on whether or not the subject rail property might be appropriate for use for other public purposes. Although the following is of questionable relevance here (because the proposed action does not entail abandonment of a rail line), based on the information in its possession, 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.

Labor Protection

The interests of affected railroad employees, if any, will be protected by the conditions discussed in Oregon Short Line Railroad —Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

Certifications

Attached hereto as Exhibit C are the Certificates of Service and Publication pursuant to the notice requirements of 49 C.F.R. §§ 1105.12 and 1152.50(d)(1). 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 not applicable here.

Environmental and Historic Report

The Board does not normally require a carrier seeking to discontinue service over a particular rail line to prepare and submit for review a combined environmental and historic report.³ Here, the discontinuance is exempt from environmental reporting requirements under 49

Maintenance Authority—Discontinuance Exemption—in Livingston, Linn, and Chariton Counties, MO, STB Docket No. AB-1001X, slip op at 2 n.3 (STB served Feb 23, 2007).

³ See Everett Railroad Company – Discontinuance of Service Exemption – In Blair County, PA, STB Docket No. AB-271X slip op. at 2 n.2 (STB 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”); see also, Columbus and Greenville Railway Company – Discontinuance of Service Exemption – in Greenwood, MS, STB Docket No. AB-297 (Sub-No. 103X), slip op. at 2 n.2 (STB served July 3, 2007); Norfolk Southern Railway Company—Discontinuance Exemption—in Mahoning

C.F.R. § 1105.6(c) and from historic reporting requirements under 49 C.F.R. § 1105.8(b) because NSR seeks only to discontinue service. NSR does not anticipate engaging in any salvage activities as a result of obtaining discontinuance authority and has no plans to remove any potentially historic structures (such as bridges). Further Board approval is required for NSR to abandon service on the Line. Accordingly, no environmental or historic report was prepared, and the STB will not prepare an environmental assessment.

Respectfully submitted,

Greg Summy
General Attorney
NORFOLK SOUTHERN CORPORATION
Three Commercial Place
Norfolk, Virginia 23510
Tel: (757) 533-4939
Fax: (757) 533-4872



William A. Mullins
Crystal M. Zorbaugh
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December 6, 2016

Attorneys for Norfolk Southern Railway
Company

County, OH, STB Docket No. AB-290 (Sub-No. 292X), slip op. at 2 n.2 (STB served March 15, 2007); and Chillicothe-Brunswick Rail Maintenance Authority-Discontinuance Exemption-in Livingston, Linn, and Chariton Counties, MO, STB Docket No. AB-1001X, slip op at 2 n.3 (STB served Feb 23, 2007).

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

AB-290 (Sub-No. 391X)

**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN ROCKINGHAM AND SHENANDOAH COUNTIES, VA**

NOTICE OF EXEMPTION

EXHIBIT A

**CERTIFICATION PURSUANT TO
49 C.F.R. § 1152.50(b)**

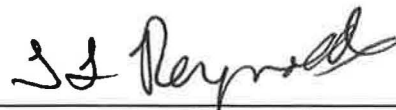
CERTIFICATION

STATE OF GEORGIA:

ss:

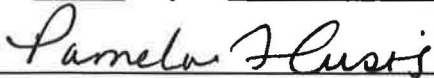
CITY OF ATLANTA:

T. L. Reynolds makes oath and says that he is General Manager Southern Region for Norfolk Southern Railway Company; that the rail line between Mileposts B 99.5 and B 84.0 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 no overhead traffic has moved over the line for at least two years and that overhead traffic, if there were any, could be 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.



T. L. Reynolds

Subscribed and sworn to before me
this 20 day of October, 2016.



Notary Public

My commission expires:

6/20/2020



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

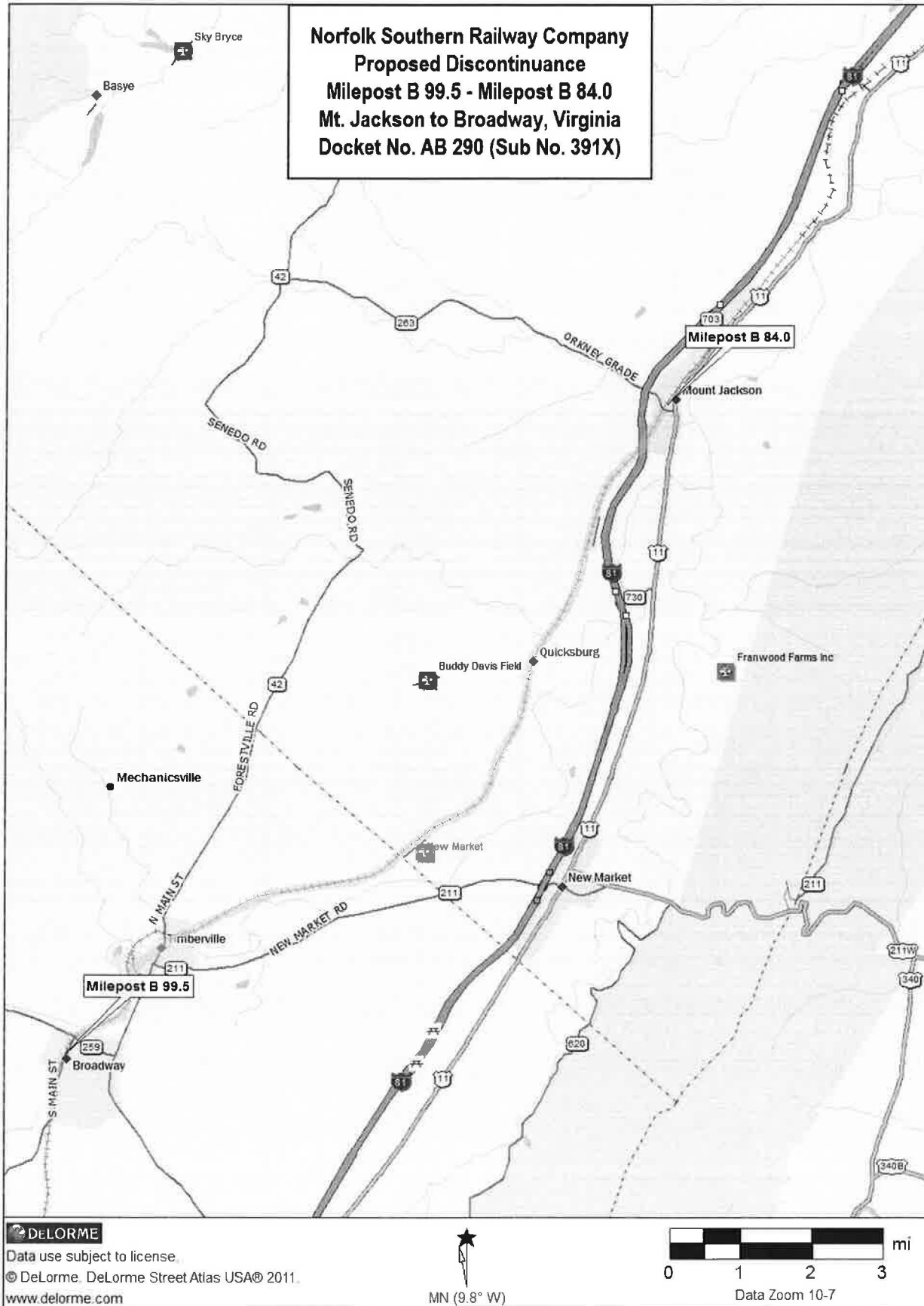
AB-290 (Sub-No. 391X)

**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN ROCKINGHAM AND SHENANDOAH COUNTIES, VA**

NOTICE OF EXEMPTION

EXHIBIT B

MAP



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

AB-290 (Sub-No. 391X)

**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN ROCKINGHAM AND SHENANDOAH COUNTIES, VA**

NOTICE OF EXEMPTION

EXHIBIT C

CERTIFICATIONS OF SERVICE/PUBLICATION

Certificate of Service

49 C.F.R. § 1152.50(d)(1) – Notice

I certify that, on November 1, 2016, in keeping with 49 C.F.R. § 1152.50(d)(1), I caused the following parties to be served with written notice of the intent of Norfolk Southern Railway Company to invoke the Board's notice of exemption procedures to discontinue approximately 15.5 miles of rail line in Rockingham and Shenandoah Counties, VA. I also certify that the Line does not contain federally granted rights-of-way.

Virginia Department of Transportation
1401 E. Broad St.
Richmond, VA 23219

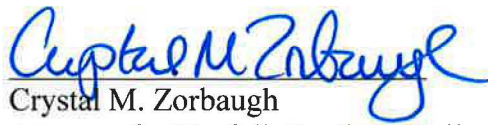
David Dorfman
Headquarters Military Surface Deployment
and Distribution Command
Transportation Engineering Agency
ATTN: SDTE-SA
Railroads for National Defense Program
1 Soldier Way, Building 1900W
Scott AFB, IL 62225

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

Charlie Stockman
National Park Service
Rivers and Trails Conversation Program
1201 Eye Street, NW, 9th Floor (Org. Code
2220)
Washington, DC 20005

Division of Utility and Railroad Safety
P.O. Box 1197
Richmond, Virginia 23218

December 6, 2016


Crystal M. Zorbaugh
Attorney for Norfolk Southern Railway
Company

Certificate of Publication

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

I certify that a “Notice of Intent to Discontinue Rail Service” for Norfolk Southern Railway Company was published in the form and manner prescribed by the Surface Transportation Board regulations for a notice of exemption to discontinue rail service. The notice was published one time on November 9, 2016 in Daily News Record, a newspaper of general circulation in Rockingham and Shenandoah Counties, VA where the Line is located. Attached is a proof of publication from the Daily News Record.

December 6, 2016



Crystal M. Zorbaugh

Attorney for Norfolk Southern Railway Company

DAILY NEWS-RECORD

STATE OF VIRGINIA
CITY/COUNTY OF ROCKINGHAM

Subscribed and sworn to before me in
the jurisdiction aforesaid this
9th day of November, 2016 by

Sharon L. Posey

Pamela R. Smith
Pamela R. Smith - Notary Public
My commission expires 06/30/2018
Notary Registration Number: 7040502

Certificate of Publication

PREPAID LEGAL ADS

THIS IS TO CERTIFY that the attached
advertisement of:

NSR NOTICE OF INTENT TO
DISCONTINUE RAIL SERVICE
PO#: AB-290 (SUB-NO. 391X)

appeared in the DAILY NEWS-RECORD
on the following dates:

11/09/2016

At 16.75 per inch, ~~line~~. Cost \$234.50

DUPLICATE by *Sharon L. Posey*

**NOTICE OF INTENT
TO DISCONTINUE
RAIL SERVICE
AB-290 (Sub-No. 391X)**

Norfolk Southern Railway Company ("NSR"), successor to Southern Railway Company, gives notice that on or about November 14, 2016, it intends to file with the Surface Transportation Board ("Board"), Washington, DC 20423, a notice of exemption under 49 C.F.R. Part 1152 Subpart F — Exempt Abandonments and Discontinuances of Service and Trackage Rights permitting NSR to discontinue rail service over an approximately 15.5-mile rail line (referred to herein as the "Line") extending from milepost B-84.0 (at Mt. Jackson, VA) to milepost B-99.5 (at Broadway, VA) in Rockingham and Shenandoah Counties, VA. The Line traverses through United States Postal Service Zip Code territories 22842, 22847, 22844, 22853, and 22815. There have been no customers on the Line proposed for discontinuance for over two years. The proceeding will be docketed as AB-290 (Sub-No. 391X).

The proposed action entails the discontinuance of rail service over the Line for which further Board approval would be required to abandon service on the Line. Accordingly, this proceeding is exempt from environmental reporting requirements under 49 C.F.R. § 1105.6(c) and from historic reporting requirements under 49 C.F.R. § 1105.8(b), and the Board will not prepare an environmental assessment.

Appropriate offers of financial assistance ("OFA") to continue rail service under a subsidy can be filed with the Board. Because the proposed action is for the discontinuance of service over, but not the abandonment of the Line, requests for public use conditions and rail banking/trails will not be accepted. An original and 10 copies of any pleading in response to the proposed discontinuance of service (such as offers of financial assistance) must be filed directly with the Board's Section of Administration, Office of Proceedings, 395 E Street, S.W., Washington, DC 20423 [See 49 C.F.R. §§ 1104.1(a) and 1104.3(a)], and one copy must be served on NSR's representative [See 49 CFR § 1104.12(a)]. Questions regarding OFA or other such matters may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at 202-245-0230. Copies of any comments or requests for specific Board action should be served on NSR's representative: Crystal M. Zorbaugh, BAKER & MILLER PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037; phone: 202-663-7820; fax 202-663-7849.

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

AB-290 (Sub-No. 391X)

**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN ROCKINGHAM AND SHENANDOAH COUNTIES, VA**

NOTICE OF EXEMPTION

**DRAFT FEDERAL REGISTER
NOTICE OF EXEMPTION**

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB-290 (Sub-No. 391X)]

Norfolk Southern Railway Company – Discontinuance of Service Exemption – in Rockingham and Shenandoah Counties, VA

On December 6, 2016, Norfolk Southern Railway Company (“NSR”) filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F–Exempt Abandonments and Discontinuances of Service and Trackage Rights to discontinue service over an approximately 15.5 miles rail line (referred to herein as the “Line”) extending from milepost B-84.0 (at Mt. Jackson, VA) to milepost B-99.5 (at Broadway, VA) in Rockingham and Shenandoah Counties, VA. The Line traverses through United States Postal Service Zip Code territories 22842, 22847, 22844, 22853, and 22815. NSR has certified that: (1) no local traffic has moved over the line for at least two years; (2) that no overhead traffic has moved over the line for at least two years and that 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 with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) 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) has been received, this exemption will be effective on January __, 2017, 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 _____.¹ Petitions to reopen must be filed by _____, 2016, 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 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: _____, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

¹ Each OFA must be accompanied by the filing fee, which is currently set at \$1,600. 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.

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

AB-290 (Sub-No. 391X)

**NORFOLK SOUTHERN RAILWAY COMPANY
- DISCONTINUANCE OF SERVICE EXEMPTION -
IN ROCKINGHAM AND SHENANDOAH COUNTIES, VA**

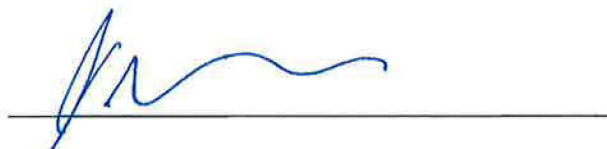
NOTICE OF EXEMPTION

VERIFICATION

Verification

I, John Friedmann, Vice President for Norfolk Southern Railway Company ("NSR"), hereby verify under penalty of perjury that to the best of my knowledge the foregoing discontinuance notice of exemption is true and correct. Further, 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 day of November 21, 2016.



John H. Friedmann
Vice President