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SERVICE DATE – JUNE 1, 2015

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 290 (Sub-No. 377X)]

Norfolk Southern Railway Company—Discontinuance of Service Exemption—in Lucas County, Ohio

[Docket No. AB 1231X]

Midwest Rail, LLC d/b/a/ Toledo, Lake Erie and Western Railway—Discontinuance of Service Exemption—in Lucas County, Ohio

Norfolk Southern Railway Company (NSR) and Midwest Rail, LLC d/b/a Toledo, Lake Erie and Western Railway (TLEW) (collectively, applicants) have jointly filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments and Discontinuances of Service for NSR to discontinue rail service, and for TLEW to discontinue lease operations, over approximately 1.80-miles of rail line owned by NSR between milepost TS 13.2 near Maumee, to milepost TS 15.0 at Waterville, in Lucas County, Ohio (the Line). Applicants state that TLEW originally obtained authority to operate the Line in 2012;¹ however, TLEW did not conduct any business on the Line and eventually defaulted on the lease. Thereafter, NSR cancelled the lease pursuant to the terms of the parties' contract, and NSR has been given power of attorney to file for

¹ Midwest Rail, LLC d/b/a Toledo, Lake Erie & W. Ry.—Lease & Operation Exemption—Norfolk S. Ry., FD 35634 (STB served June 29, 2012).

discontinuance of TLEW's lease operations on TLEW's behalf. The Line traverses United States Postal Service Zip Codes 43537 and 43566.

Applicants have 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 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 or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the 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 these exemptions, any employee adversely affected by the discontinuance of service 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 subsidize continued rail service has been received, these exemptions will be effective on July 1, 2015, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to

subsidize continued rail service under 49 C.F.R. § 1152.27(c)(2)² must be filed by June 11, 2015.³ Petitions to reopen must be filed by June 22, 2015, 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 applicants' representative: William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037.

If the notice contains false or misleading information, these exemptions are void ab initio.

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

Decided: May 27, 2015.

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

² 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).

³ Because applicants are seeking to discontinue service, not to abandon the Line, trail use/rail banking and public use conditions are not appropriate.