

BAKER & MILLER PLLC

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WASHINGTON, DC 20037

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WILLIAM A. MULLINS

301685

ENTERED
Office of Proceedings
February 25, 2021
Part of
Public Record

(202) 663-7823 (Direct Dial)
E-Mail: czorbaugh@bakerandmiller.com

February 25, 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: SMS Rail Lines of New York, LLC– Discontinuance of Lease and Operations
Authority– In, Albany County, NY, AB-1312X

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 SMS Rail Lines of New York, LLC (“SMS”) to discontinue common carrier service and terminate its lease operations over approximately 15 miles of rail line owned by Norfolk Southern Railway Company located between milepost 11.00 in Voorheesville, NY and a point 50 feet south of the centerline of the bridge at milepost 26.14 (or engineering station 6136+/-) in Delanson, NY, including the use of wye track and any track leading to the Northeast Industrial Park at milepost 12.1 and 12.29, in Albany County, NY. (the “Line”). The Line traverses United States Postal Zip Code territories 12053 and 12009 (which according to zip code boundary maps now encompasses 12085). There has been no local traffic located on the Line proposed for discontinuance for over two years.

This submission is being submitted as a related transaction to Docket No. FD 36472, *CSX Corporation and CSX Transportation, Inc., Et. AL – Control and Merger – Pan Am Systems, Inc., Pan Am Railways, Inc., Boston & Maine Corporation, Maine Central Railroad Company, Northern Railroad, Pan Am Southern LLC, Portland Terminal Company, Springfield Terminal Railroad Company, Stony Brook Railroad Company, and Vermont & Massachusetts Railroad Company*. Pursuant to 49 C.F.R. § 1002.2(f)(21)(ii), a separate filing fee in the amount of \$4,600.00 has been paid on pay.gov.

Sincerely,

/s/ William A. Mullins

Attorney for Norfolk Southern Railway Company, acting on
behalf of SMS Rail Lines of New York, LLC

FILED
February 25, 2021
SURFACE
TRANSPORTATION BOARD

cc: Thomas E. Zoeller, Hanna M. Chouest, Elaina L. Blanks-Green (NS)

FEE RECEIVED
February 25, 2021
SURFACE
TRANSPORTATION BOARD

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

AB-1312X

**SMS RAIL LINES OF NEW YORK, LLC – DISCONTINUANCE OF LEASE AND
OPERATIONS AUTHORITY – IN ALBANY COUNTY, NY**

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

**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**

February 25, 2021

**Attorneys for Norfolk Southern Railway, acting
on behalf of SMS Rail Lines of New York, LLC**

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

AB-1312X

**SMS RAIL LINES OF NEW YORK, LLC – DISCONTINUANCE OF LEASE AND
OPERATIONS AUTHORITY – IN ALBANY COUNTY, NY**

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

SMS Rail Lines of New York, LLC (“SMS”) 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,¹ for SMS to discontinue common carrier service and terminate its lease operations over approximately 15 miles of rail line owned by Norfolk Southern Railway Company (“NSR”)² located between milepost 11.00 in Voorheesville, NY and a point 50 feet south of the centerline of the bridge at milepost 26.14 (or engineering station 6136+/-) in Delanson, NY,

¹ In a related transaction, FD 36472, CSX seeks to acquire all of the railroads in the Pan Am Railways, Inc (“PAR”) corporate family. See FD 36472, CSX Corporation and CSX Transportation, Inc., Et. AL. – Control and Merger – Pan Am Systems, Inc., Pan Am Railways, Inc., Boston & Maine Corporation, Maine Central Railroad Company, Northern Railroad, Pan Am Southern LLC, Portland Terminal Company, Springfield Terminal Railroad Company, Stony Brook Railroad Company, and Vermont & Massachusetts Railroad Company. The discontinuance authority sought pursuant to this Notice of Exemption will not be consummated until that transaction is consummated. In accordance with 49 C.F.R. § 1152.50(d)(1), today, SMS is concurrently sending its 10-day consultation notices. If the Board believes it necessary to ensure strict compliance with 49 C.F.R. § 1152.50(d)(1), SMS does not object to the Board treating this notice as filed on March 8, 2021, i.e., 10 days after serving its 10-day consultation letters.

² NSR acquired the Voorheesville Running Track from Delaware and Hudson Railway Company, Inc. (“D&H”), a wholly owned, indirect subsidiary of Canadian Pacific Railway Company (“CP”), in 2015, in FD 35873. See Norfolk Southern Railway Company – Acquisition and Operation – Certain Rail Lines of the Delaware and Hudson Railway Company, Inc., FD 35873 (STB served May 15, 2015).

including the use of wye track and any track leading to the Northeast Industrial Park at milepost 12.1 and 12.29, in Albany County, NY. (the “Line”).³ The Line traverses United States Postal Zip Code territories 12053 and 12009 (which according to zip code boundary maps now encompasses 12085). There has been no local traffic located on the Line proposed for discontinuance for over two years.^{4,5}

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

Certification: 49 C.F.R. § 1152.50(b)

SMS 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 Jeffrey L. Sutch, Managing Member for SMS Rail Lines of New York, LLC. During the past two years, no local traffic has moved over the Line and any common carrier overhead traffic on the Line can be rerouted,⁶ 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 SMS acquired lease and operation authority for the Line in 2007. See SMS Rail Lines of New York, LLC—Lease and Operation Exemption—Delaware and Hudson Railway Company, Inc. Line in Albany County, NY, FD 35083 (STB served October 5, 2007).

⁴ In this proceeding, SMS is discontinuing its common carrier local service and common carrier overhead trackage rights over the Line. However, SMS will continue to utilize overhead operating rights over the Line for the sole purpose of interchanging with NSR.

⁵ This transaction is related to four sets of trackage rights being sought as related notices of exemption in Docket No. FD 36472. Collectively the trackage rights and this discontinuance are a part of series of transactions necessary to improve NS’s ability to move intermodal traffic and automotive vehicles into the greater Boston marketplace in order to create a second route for this traffic upon CSX’s acquisition of the PAR corporate family.

⁶ As described in n.4, above, traffic will be rerouted through a continued interchange with NSR utilizing overhead operating rights over the Line for the sole purpose of interchanging with NSR.

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

The proposed discontinuance will be consummated on or after April 16, 2021 (50 days after filing the Notice) or the approval date of the transaction proposed in Docket No. FD 36472, 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)):

SMS Rail Lines of New York, LLC

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

SMS 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)):

Pursuant to this verified notice of exemption, SMS is seeking authority to discontinue service and terminate its lease operations over approximately 15 miles of rail line owned by NSR located between milepost 11.00 in Voorheesville, NY, and a point 50 feet south of the centerline of the bridge at milepost 26.14 (or engineering station 6136+/-) in Delanson, NY, including the use of wye track and any track leading to the Northeast Industrial Park at milepost 12.1 and 12.29, in Albany County, NY.

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
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: 12053 and 12009 (which according to zip code boundary maps now encompasses 12085).

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.⁷ Here, SMS is only seeking to discontinue service and terminate its lease operations over the Line, and NSR, the owner of the Line, has no current plans to abandon any portion of the Line. Should NSR 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.

Although of questionable relevance here (because the proposed action does not entail abandonment of a rail line), SMS 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 R.R. — Abandonment — Goshen, 360 I.C.C. 91 (1979). SMS does not anticipate that any employees will be adversely affected by the proposed discontinuance.

⁷ See, e.g., 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) (“CAGY-Greenwood”) (“Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate”); Norfolk Southern Railway Company—Discontinuance Exemption—in Mahoning County, OH, STB Docket No. AB-290 (Sub-No. 292X), slip op. at 2 n.2 (“NS-Mahoning”) (STB served March 15, 2007) (same); 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 (“CBRA-Livingston”) (STB served Feb 23, 2007) (same).

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 that has been out of service for more than two years does not require the preparation or submission of an Environmental and/or Historic Report.⁸

Respectfully submitted,

/s/ William A. Mullins

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

February 25, 2021

Attorneys for Norfolk Southern Railway, acting on
behalf of SMS Rail Lines of New York, LLC

⁸ See, e.g., Everett Railroad Company – Discontinuance of Service Exemption – in Blair County, PA, STB Docket No. AB-721X 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”); CAGY-Greenwood at 2 n.2 (same); NS-Mahoning at 2 n.2 (same); CBRA-Livingston at 2 n.3 (same).

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

AB-1312X

**SMS RAIL LINES OF NEW YORK, LLC – DISCONTINUANCE OF LEASE AND
OPERATIONS AUTHORITY – IN ALBANY COUNTY, NY**

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

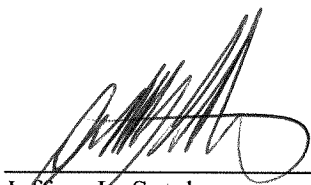
CERTIFICATION AND VERIFICATION

Certification and Verification

I, Jeffrey L Sutch, Managing Member for SMS Rail Lines of New York, LLC ("SMS"), hereby certify and verify under penalty of perjury as follows:

1. The approximately 15 miles of rail line owned by Norfolk Southern Railway Company and leased and operated by SMS located between milepost 11.00 in Voorheesville, NY and a point 50 feet south of the centerline of the bridge at milepost 26.14 (or engineering station 6136+/-) in Delanson, NY, including the use of wye track and any track leading to the Northeast Industrial Park at milepost 12.1 and 12.29, in Albany County, NY. (the "Line"), over which service is to be discontinued, is subject to my supervision and direction;
2. That SMS has not moved any local traffic over the Line for at least two years and any common carrier overhead traffic on the Line can be rerouted through a continued interchange with NSR 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 SMS in connection with this proceeding before the Surface Transportation Board.

Executed this 24th day of February 2021



Jeffrey L. Sutch
Managing Member
SMS Rail Lines of New York, LLC



Norfolk Southern Corporation
Law Department
Three Commercial Place
Norfolk, Virginia 23510-9241

Hanna M. Chouest
Deputy General Counsel

(470) 571-5208
E-mail: Hanna.Chouest@nscorp.com

February 24, 2021

Jeffrey L. Sutch
SMS Rail Lines of New York, LLC
Managing Member

Re: SMS Rail Lines of New York, LLC– Discontinuance of Lease and Operations Authority–
In, Albany County, NY, AB-1312X

Dear Mr. Sutch:

Norfolk Southern Railway Company ("NS") is writing to confirm that SMS Rail Lines of New York, LLC ("SNY") agrees to discontinue common carrier service and terminate its lease operations over approximately 15 miles of rail line owned by Norfolk Southern Railway Company ("NS") located between milepost 11.00 in Voorheesville, NY and a point 50 feet south of the centerline of the bridge at milepost 26.14 (or engineering station 6136+/-) in Delanson, NY, including the use of wye track and any track leading to the Northeast Industrial Park at milepost 12.1 and 12.29, in Albany County, NY. (the "Line"). There has been no local traffic located on the Line proposed for discontinuance for over two years. SNY and NS have reached an agreement pursuant to which SNY will continue to utilize overhead rights over the Line for interchange purposes to preserve SNY's ability to interchange with NS upon Board approval of the discontinuance. Please confirm that SNY consents to NS having its outside counsel, Baker & Miller PLLC file for discontinuance of its Lease and Operations Authority with the Surface Transportation Board ("STB"), by signing on the signature line below. Thank you in advance for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads 'Hanna Chouest'.

Hanna Chouest
Deputy General Counsel, Markets & Regulations

Agreed upon by

A handwritten signature in cursive script that reads 'Jeffrey L. Sutch'.

Jeffrey L. Sutch
Managing Member
February 24, 2021
SMS Rail Lines of New York, LLC

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

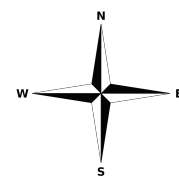
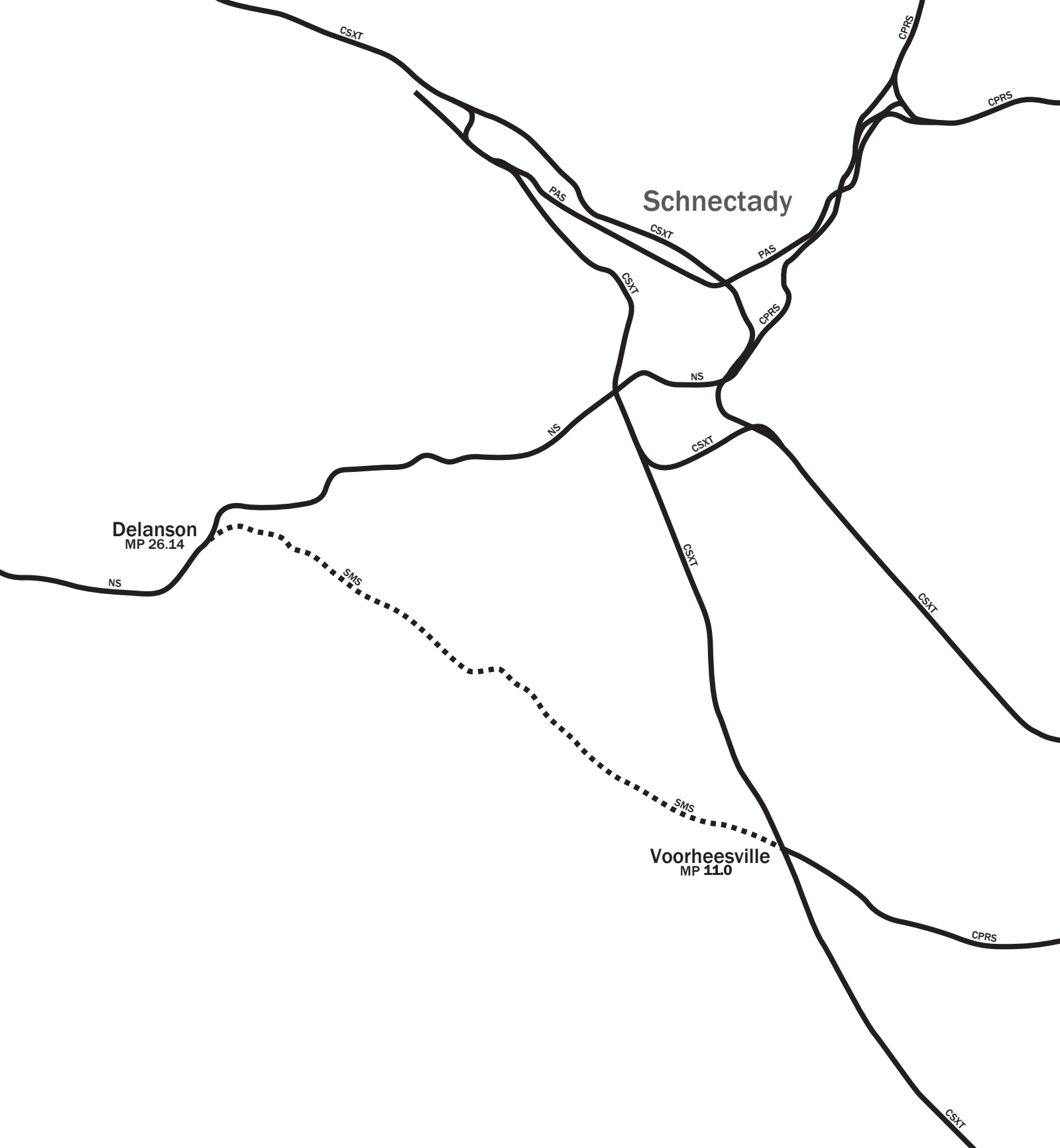
AB-1312X

**SMS RAIL LINES OF NEW YORK, LLC – DISCONTINUANCE OF LEASE AND
OPERATIONS AUTHORITY – IN ALBANY COUNTY, NY**

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

EXHIBIT A

MAP



 NORFOLK SOUTHERN	Norfolk Southern Corporation
Exhibit 1	
Railroad SMS Proposed Discontinuance	
Not all lines shown - Line designations are freight operator	
Docket: AB 1312X	February, 2021

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

AB-1312X

**SMS RAIL LINES OF NEW YORK, LLC – DISCONTINUANCE OF LEASE AND
OPERATIONS AUTHORITY – IN ALBANY COUNTY, NY**

**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 February 25, 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 SMS's intent to invoke the Board's notice of exemption procedures to discontinue service and terminate its lease operations over approximately 15 miles of rail line owned by Norfolk Southern Railway Company located between milepost 11.00 in Voorheesville, NY and a point 50 feet south of the centerline of the bridge at milepost 26.14 (or engineering station 6136+/-) in Delanson, NY, including the use of wye track and any track leading to the Northeast Industrial Park at milepost 12.1 and 12.29, in Albany County, NY. (the "Line"). I also certify that the Line does not contain federally granted rights-of-way.

New York Public Service Commission
90 Church St
New York, NY 10007

Raymond F. Hessinger, P.E.
New York State Department of Transportation
50 Wolf Road
Albany, NY 12232

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

February 25, 2021

/s/ **Crystal M. Zorbaugh**

Crystal M. Zorbaugh
Attorney for Norfolk Southern Railway, acting on behalf of SMS
Rail Lines of New York, LLC

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 February 25, 2021, in The Daily Gazette, a newspaper of general circulation in the USPS ZIP code territories 12053 and 12009 (which according to zip code boundary maps now encompasses 12085)

February 25, 2021

/s/ **Crystal M. Zorbaugh**

Crystal M. Zorbaugh

Attorney for Norfolk Southern Railway, acting on behalf of SMS
Rail Lines of New York, LLC

-Public Notice Ad Proof-

This is the proof of your ad scheduled to run on the dates indicated below. Please proof read carefully if changes are needed, please contact us prior to deadline at Schenectady (518) 382-1100 or email at legals@dailygazette.net

Date: 02/24/21

Account #: 1097479
Company Name: BAKER & MILLER PLLC

Address: 2401 PENNSYLVANIA AVE. NW
SUITE 300
WASHINGTON

Telephone: (202) 663-7846
Fax:

Publications:

THE DAILY GAZETTE, Online
Advertising

Ad ID: 2431158

Copy Line: NOTICE OF INTENT TO
DISCO. RAI

PO Number:

Start: 02/25/21

Stop:

Total Cost: \$68.97

of Lines: 121

Total Depth: 10.903

of Inserts: 2

Ad Class: 101

NOTICE OF INTENT TO DISCONTINUE RAIL SERVICE AB-1312X

SMS Rail Lines of New York, LLC ("SNY") hereby gives notice that on or about February 25, 2021, it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption pursuant to 49 C.F.R. Part 1152 Subpart F - Exempt Abandonments and Discontinuances of Service and Trackage Rights, permitting SNY to discontinue common carrier service and terminate its lease operations over approximately 15 miles of rail line owned by Norfolk Southern Railway Company located between milepost 11.00 in Voorheesville, NY and a point 50 feet south of the centerline of the bridge at milepost 26.14 (or engineering station 6136+/-) in Delanson, NY, including the use of wye track and any track leading to the Northeast Industrial Park at milepost 12.1 and 12.29, in Albany County, NY. (the "Line"). The Line traverses United States Postal Zip Code territories 12053 and 12009 (which according to zip code boundary maps now encompasses zip code 12085). There has been no local traffic located on the Line proposed for discontinuance for over two years. The proceeding will be docketed as AB-1312X. The proposed action entails the discontinuance of rail service and lease operations over the Line and further Board approval would be required for Norfolk Southern Railway Company 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 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 SNY's representative [See 49 C.F.R. § 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 SNY's representative William A. Mullins, BAKER & MILLER PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037; phone: 202-663-7820; fax 202-663-7849.

2/25

2431158

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

AB-1312X

**SMS RAIL LINES OF NEW YORK, LLC – DISCONTINUANCE OF LEASE AND
OPERATIONS AUTHORITY – IN ALBANY COUNTY, NY**

**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- 1312X]

SMS Rail Lines of New York, LLC – Discontinuance of Service and Lease Operations – In
Albany County, NY

On February 25, 2021, SMS Rail Lines of New York, LLC filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F–Exempt Abandonments for SMS to discontinue service and lease operations over approximately 15 miles of rail line owned by Norfolk Southern Railway Company located between milepost 11.00 in Voorheesville, NY and a point 50 feet south of the centerline of the bridge at milepost 26.14 (or engineering station 6136+/-) in Delanson, NY, including the use of wye track and any track leading to the Northeast Industrial Park at milepost 12.1 and 12.29, in Albany County, NY. (the “Line”).⁹ The Line traverses United States Postal Zip Code territories 12053 and 12009 (which according to zip code boundary maps now encompasses 12085). There has been no local traffic located on the Line proposed for discontinuance for over two years.

SMS certified that: (1) no local traffic has moved over the Line for at least 2 years; (2) any common carrier overhead traffic on the Line can be rerouted; (3) no formal complaint filed

⁹ The notice is a related transaction to FD 36472 whereby CSX seeks to acquire all of the railroads in the Pan Am Railways, Inc. (“PAR”) corporate family, including Boston and Maine Corporation (“B&M”). The acquisition of B&M would include B&M’s interest in Pan Am Southern LLC (“PAS”). See FD 36472, CSX Corporation and CSX Transportation, Inc., Et. AL. – Control and Merger – Pan Am Systems, Inc., Pan Am Railways, Inc., Boston & Maine Corporation, Maine Central Railroad Company, Northern Railroad, Pan Am Southern LLC, Portland Terminal Company, Springfield Terminal Railroad Company, Stony Brook Railroad Company, and Vermont & Massachusetts Railroad Company. The discontinuance authority sought pursuant to this Notice of Exemption will not be consummated until that transaction is consummated.

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 (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) to continue rail service under a subsidy has been received, this exemption will be effective on April 16, 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 _____.¹⁰ 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: William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave., NW, Suite 300, Washington, DC 20037.

¹⁰ 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.

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, Allison C. Davis, Director, Office of Proceedings, Office of Proceedings