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SERVICE DATE – NOVEMBER 3, 2020

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 290 (Sub-No. 407X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Bergen County,
N.J.

On October 14, 2020, Norfolk Southern Railway Company (NSR) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. § 10502 for exemption from the prior approval requirements of 49 U.S.C. § 10903 to abandon an approximately 1.2-mile rail line in Bergen County, N.J. (the Line). The Line extends from milepost UQ 9.0 to milepost UQ 10.2 and traverses U.S. Postal Service Zip Codes 07070 and 07073.

NSR states that it is seeking to abandon the Line because the Line has been dormant for more than two decades.¹ (Pet. 2-3, 12.) According to NSR, it plans to convey the Line's right-of-way to Open Space Institute Land Trust, Inc. (OSI), and ultimately to Bergen County, so that the Line may be used for a public redevelopment project. (Id. at 2, 14.) NSR states that OSI, in partnership with Bergen County, plans to redevelop the Line, create greenways, and provide for alternative modal access to various sites located along the Line. (Id. at 2, 4, 10.)

¹ NSR states that it has served no customers on the Line since it acquired the property from the Consolidated Rail Corporation in 1999. (Pet. 3.)

In addition to an exemption from 49 U.S.C. § 10903, NSR also seeks an exemption from the offer of financial assistance procedures of 49 U.S.C. § 10904. In support, NSR states that the Line is needed for a valid public purpose, i.e., the redevelopment project, and there is no overriding public need for continued freight rail service along the Line. (Pet. 15.) According to NSR, the reinstitution of freight rail service under § 10904 would be incompatible with the intended use of the Line by OSI and Bergen County. (Id.) This request will be addressed in the final decision.

NSR states that, based on the information in its possession, the Line does not contain federally granted rights-of-way. (Id. at 3.) Any documentation in NSR's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in Oregon Short Line Railroad—Abandonment Portion Goshen Branch between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. § 10502(b). A final decision will be issued by February 1, 2021.

Any offer of financial assistance (OFA) under 49 C.F.R. § 1152.27(b)(2) will be due no later than 120 days after the filing of the petition for exemption, or 10 days after service of a decision granting the petition for exemption, whichever occurs sooner. Persons interested in submitting an OFA must first file a formal expression of intent to file an offer by November 13, 2020, indicating the type of financial assistance they wish to provide (i.e., subsidy or purchase) and demonstrating that they are preliminarily financially responsible. See 49 C.F.R. § 1152.27(c)(1)(i).

Following abandonment, the Line may be suitable for other public use, including

interim trail use. Any request for a public use condition under 49 C.F.R. § 1152.28 or for interim trail use/rail banking under 49 C.F.R. § 1152.29 will be due no later than November 23, 2020.²

All pleadings, referring to Docket No. AB 290 (Sub-No. 407X), should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on NSR's representative, William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037. Replies to the petition are due on or before November 23, 2020.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment regulations at 49 C.F.R. part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by OEA will be served upon all parties of record and upon any other agencies or persons who comment during its preparation. Other interested persons may contact OEA to obtain a copy of the EA (or EIS). EAs in abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA generally will be within 30 days of its service.

² According to NSR, because it plans to sell the Line to OSI (and ultimately Bergen County), it is unwilling to negotiate for interim trail use. (Pet. 14.) Nevertheless, filing fees for OFAs and trail use requests can be found at 49 C.F.R. § 1002.2(f)(25) and (27), respectively.

Board decisions and notices are available at www.stb.gov.

Decided: October 28, 2020.

By the Board, Allison C. Davis, Director, Office of Proceedings.