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ENTERED
Office of Proceedings
December 28, 2017
Part of
Public Record

December 28, 2017

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

 GRANTED Office of Proceedings	DECISION ID NO.: <u>46224</u>
	DECIDED DATE: <u>1-8-18</u>
	SERVICE DATE: <u>1-9-18</u>
	APPROVED: <u>[Signature]</u> Acting Director
	☒ <u>consummation deadline for segment SC 2.3 to SC 1.85 extended to 2-18-19</u>

Re: Norfolk Southern Railway Company - Abandonment Exemption - In
Charleston, South Carolina, AB-290 (Sub-No. 386X)

Notice of Consummation & Request for Consummation Deadline Extension

Dear Ms. Brown:

I am writing on behalf of Norfolk Southern Railway Company ("NSR") in connection with the above-referenced proceeding to notify the Board that NSR will be consummating its abandonment authority over a portion of the rail line proposed for abandonment but needs a consummation deadline extension to give NSR time to consummate over the remaining portion of the rail line authorized for abandonment for the reasons explained herein.

On July 20, 2016, NSR filed a verified notice of exemption for NSR to abandon approximately 1.97 miles of rail line between milepost SC 0.33 and milepost SC 2.3 in Charleston, S.C. (the "Line"). Notice of the exemption was served and published in the Federal Register on August 9, 2016 (81 Fed. Reg. 52,733).

The exemption was originally scheduled to become effective on September 8, 2016. However, in a decision served on September 6, 2016, the Board imposed a historic preservation condition requiring (1) NSR to retain its interest in and take no steps to alter the historic integrity of all historic properties, including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register until the Section 106 process of the National Historic Preservation Act ("NHPA") has been completed; (2) report back to the Board's Office of Environmental Analysis ("OEA") regarding any consultations with the State Historic Preservation Office ("SHPO") and the public; and (3) not file its consummation notice or initiate any salvage activities related to abandonment

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(including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed the condition.¹

Over the past year, NSR has worked to complete the Section 106 process and consult with the DHEC-BWPC-OCCRM.² NSR has periodically updated the Board concerning its efforts. Recently, the SHPO notified OEA that the proposed abandonment will not adversely affect any properties listed in or eligible for listing in the National Register of Historic Places. As a result, OEA recommended to the Board that the Section 106 condition be removed, and in a decision served on December 20, 2017, the Board issued a Director's Order removing the Section 106 Condition.

Under the Board's rules at 49 C.F.R. § 1152.29(e)(2) and per the Consummation Decision,³ NSR now has 60 days (until February 26, 2018) from the removal of the final barrier, the Section 106 Condition, to consummate the subject abandonment. Due to the short period of time NSR has to consummate its abandonment authority, NSR checked with its engineering department to see if it could consummate the abandonment over the entire Line in 60 days. Unfortunately, the engineering department has indicated it will be unable to consummate the abandonment before the end of the 60-day period for the entire Line.

As a result, NSR has decided to consummate its abandonment over a portion of the Line and request a consummation deadline extension for the remainder of the Line. Accordingly, for good cause shown, NSR respectfully requests a one-year extension of the current deadline for filing a notice of consummation for the portion of the Line from milepost SC 2.3 to approximately milepost SC 1.85 (the northern portion) of the Line. Additionally, in accordance with the provisions of 49 C.F.R. § 1152.29(e)(2) and the Board's August 9, 2016 decision as

¹ The Board also directed NSR to consult with the South Carolina Department of Health and Environmental Control, Bureau of Water Pollution Control, Office of Ocean and Coastal Resource Management ("DHEC-BWPC-OCCRM") to (1) determine whether state coastal management consistency certification is required, pursuant to the Coastal Zone Management Act of 1986 (16 U.S.C. § 1451 et seq.); (2) not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until it reports the results of these consultations in writing to OEA and the Board has removed this condition; and (3) consult with and notify U.S. National Geodetic Survey at least 90 days prior to beginning salvage activities that would disturb or destroy any geodetic station markers.

² Consultation with the DHEC-BWPC-OCCRM was complete on September 16, 2016 and OEA was forwarded a copy of DHEC-BWPC-OCCRM's response stating that the proposed abandonment will have no effect on coastal resources.

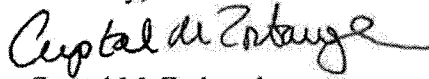
³ See Consummation of Rail Line Abandonments that are Subject to Historic Preservation and Other Environmental Conditions, EP 678 (STB served April 23, 2008) ("Consummation Decision").

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modified by the Board's decision served September 6, 2016, NSR hereby advises the Board that it has exercised the authority granted to it and has consummated abandonment of the portion of the Line from milepost SC 1.85 to approximately milepost SC 0.33 (the southern portion) of the Line. Should you have any questions concerning this notice of consummation, please contact the undersigned counsel for NSR.

Sincerely,



Crystal M. Zorbaugh
Counsel for Norfolk Southern Railway Company

Enclosures

cc: Greg Summy
Laura Hoag
Scott Plum
LaWada Poarch
South Carolina Department of Transportation
South Carolina Public Services Commission
