

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 290 (Sub-No. 408X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Hudson and Essex Counties, N.J.

On June 19, 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 8.6-mile rail line, extending from milepost WD 2.9 in the City of Jersey City, to milepost WD 11.5 in the Township of Montclair, in Hudson and Essex Counties, N.J. (the Line). The Line traverses U.S. Postal Service Zip Codes 07306, 07094, 07032, 07104, 07109, 07003, 07028, and 07042.

NSR states that it is seeking to abandon the Line because the Line has been dormant for more than a decade.¹ (Pet. 5.) According to NSR, it plans to convey the

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. 4, 11.) According to NSR, in 2005, it discontinued service over a 6.2-mile segment between milepost WD 2.2 in Jersey City and milepost WD 8.4 in Newark. (*Id.*) See Norfolk S. Ry.—Discontinuance of Serv. Exemption—Between Newark & Kearney, N.J., in Essex & Hudson Ctys., N.J., AB 290 (Sub-No. 242X) (STB served Jan. 18, 2005). NSR states that New Jersey Transit operated commuter rail passenger service over the Line until 2002, (pet. 10-11), and the 6.2-mile segment served as an overhead route to serve one customer located on the Newark Industrial Track, (*id.* at 4-5). NSR states that no freight traffic has moved over the remaining segment of the Line from milepost WD 8.4 to milepost WD 11.5 since 2009, before which the segment served as an overhead route to access one customer located on the Orange Industrial Track. (*Id.* at 4, 11.)

Line's right-of-way, pursuant to an interim trail use/rail banking agreement, to Open Space Institute Land Trust, Inc. (OSI) so that the Line may be used for a public redevelopment project. (Id. at 3, 5.) NSR states that OSI, in partnership with Hudson and Essex Counties, plans to redevelop the Line, create greenways, and provide for alternative modal access to various sites located along the Line, which would promote economic growth in the region. (Id. at 3, 5, 15.)

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. 17-18.) According to NSR, the reinstitution of freight rail service under § 10904 would be incompatible with the intended use of the Line by OSI and Hudson and Essex Counties. (Id. at 17.) This request will be addressed in the final decision.

According to NSR, the Line does not contain any federally granted rights-of-way. 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 October 7, 2020.

Any offer of financial assistance (OFA) under 49 C.F.R. § 1152.27(b)(2) for continued rail service 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 July 20, 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 authorization for 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 July 29, 2020.²

All pleadings, referring to Docket No. AB 290 (Sub-No. 408X), must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on NSR's representative, William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Avenue, N.W., Suite 300, Washington, DC 20037. Replies to the petition are due on or before July 29, 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.

² The filing fees for OFAs and trail use requests can be found at 49 C.F.R. §§ 1002.2(f)(25) and (27), respectively.

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 agencies or other 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.

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

Decided: July 6, 2020.

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