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SERVICE DATE – DECEMBER 26, 2019

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 290 (Sub-No. 406X)]

Norfolk Southern Railway Company—Abandonment Exemption—in the City of Fort Wayne, Ind.

On December 6, 2019, Norfolk Southern Railway Company (NSR) filed with the Surface Transportation 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 2.29-mile rail line, previously known as the Fourth Street Industrial Track, extending from milepost GI 0.0 to milepost GI 2.29 in the City of Fort Wayne, Allen County, Ind. (the Line). The Line traverses U.S. Postal Service Zip Codes 46805 and 46808. NSR states that the Line previously included the station of Fourth Street.

NSR states that it is seeking to abandon the Line because it has been dormant for nearly two decades. (NSR Pet. 11.) On October 23, 2019, the Board rejected a verified notice of exemption filed by NSR to abandon the Line, finding that the class exemption procedure was inappropriate given the factual and legal questions raised by the verified notice of exemption, including questions regarding the Line’s classification. Norfolk S. Ry.—Aban. Exemption—in the City of Fort Wayne, Ind., AB 290 (Sub-No. 403X) (STB served Oct. 23, 2019). In its petition, NSR states that, on balance, the facts suggest that the Line is a line of railroad governed by 49 U.S.C. § 10901 rather than excepted track governed by 49 U.S.C. § 10906. (NSR Pet. 11.)

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 March 25, 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 January 6, 2019, 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 trail use/rail banking under 49 C.F.R. § 1152.29 will be due no later than January 15, 2020.<sup>1</sup>

All pleadings, referring to Docket No. AB 290 (Sub-No. 406X), must be filed

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<sup>1</sup> The filing fees for OFAs and trail use requests can be found at 49 C.F.R. §§ 1002.2(f)(25) and (27), respectively.

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 representatives, William A. Mullins and Crystal M. Zorbaugh, Baker & Miller PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037. Replies to the petition are due on or before January 15, 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 1-800-877-8339.

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](http://www.stb.gov).

Decided: December 17, 2019.

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