

SERVICE DATE – JULY 24, 2025

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 290 (Sub-No. 418X)

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN
CUYAHOGA, GEAUGA, AND PORTAGE COUNTIES, OHIO

Decided: July 24, 2025

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments for NSR to abandon an approximately 7.0-mile rail line extending between milepost RH 15.0 +/- in Cuyahoga County, Ohio, and milepost RH 22.0 +/- in Portage County, Ohio (the Line).¹ Notice of the exemption was served and published in the Federal Register on June 25, 2025 (90 Fed. Reg. 27,064). The exemption is scheduled to become effective on July 25, 2025.

The Surface Transportation Board's (Board) Office of Environmental Analysis (OEA) served a Draft Environmental Assessment (Draft EA) on June 30, 2025, recommending that two conditions be imposed on any decision granting abandonment authority.

First, OEA stated that the U.S. Fish and Wildlife Service (USFWS) submitted comments identifying two threatened and endangered species, the Indiana bat (*Myotis sodalis*) and northern long-eared bat (*Myotis septentrionalis*), that may be affected by the proposed abandonment. According to USFWS, if no caves or abandoned mines are present and removal of trees of at least three inches diameter at breast height (dbh) must occur, such removal should only occur between October 1 and March 31 to avoid adverse effects. USFWS notes that such protective mitigation would also benefit the proposed endangered tricolored bat (*Perimyotis subflavus*), which is also present throughout Ohio. To address potential impacts to these species, OEA recommended a condition be imposed upon any decision granting abandonment authority requiring NSR to conduct removal of trees with three-inch dbh or greater between October 1 and March 31 in connection with abandonment-related salvage activities.

Second, OEA stated that the Geauga County Board of Commissioners (GCBC), in coordination with the County Engineer's Office, the Planning Commission, and the Department of Water Resources, submitted a comment regarding the consistency of the proposed abandonment with existing land use plans. Accordingly, OEA recommended a condition be

¹ In the same jointly filed verified notice, Cleveland & Cuyahoga Railway, LLC, sought to discontinue service over the Line. See Cleveland & Cuyahoga Ry.—Discontinuance of Serv. Exemption—in Cuyahoga, Geauga, & Portage Cntys., Ohio, AB 1257 (Sub-No. 1X) (STB served June 25, 2025).

imposed upon any decision granting abandonment authority requiring NSR to consult with GCBC prior to commencement of any abandonment-related salvage activities.

Comments on the Draft EA were due by July 15, 2025. OEA issued its Final Environmental Assessment (Final EA) on July 18, 2025, indicating that no comments were received. Accordingly, OEA recommends that the two conditions previously recommended in the Draft EA be imposed upon any decision granting abandonment authority. Based on OEA's analysis, the conditions recommended in the Final EA will be imposed.

On July 1, 2025, Open Space Institute Land Trust, Inc. (OSILT), filed a request for issuance of a notice of interim trail use or abandonment (NITU) under the National Trails System Act, 16 U.S.C. § 1247(d), to establish interim trail use/railbanking on the Line. On July 9, 2025, NSR responded that it is willing to negotiate toward an interim trail use agreement.

Interim Trail Use. OSILT's request for a NITU complies with the requirements of 49 C.F.R. § 1152.29, and NSR has indicated that it is willing to negotiate an agreement for interim trail use with OSILT. Therefore, a NITU will be issued. The parties may negotiate an agreement during the one-year period prescribed below. If an interim trail use agreement is reached (and thus, interim trail use is established), the parties shall jointly notify the Board within 10 days that an agreement has been reached. 49 C.F.R. § 1152.29(d)(2) & (h). If no agreement is reached within one year, NSR may fully abandon the Line, subject to any outstanding conditions. See 49 C.F.R. § 1152.29(d)(1). Use of the right-of-way for trail purposes is subject to possible future reconstruction and reactivation of the right-of-way for rail service.

This decision, and the proposed abandonment if implemented as conditioned, will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. The notice served and published in the Federal Register on June 25, 2025, exempting the abandonment of the Line described above, is modified to the extent necessary to implement interim trail use/railbanking as set forth below to permit the parties to negotiate for interim trail use for the rail line, for a period of one year from the service date of this decision and notice, until July 24, 2026.
3. The abandonment is also subject to the following two conditions:² (1) NSR shall only conduct removal of trees with three-inch dbh or greater in connection with abandonment-related

² If an interim trail use agreement under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 were to be reached for the Line (or a portion thereof), compliance with these conditions would not be required with respect to any portion of the Line covered by the interim trail use agreement for the duration of the agreement.

salvage activities between October 1 and March 31; and (2) NSR shall, prior to commencement of any abandonment-related salvage activities, consult with GCBC to address its concerns regarding consistency with local land use plans.

4. If an interim trail use/railbanking agreement is reached, it must require the trail sponsor to assume, for the term of the agreement, full responsibility for: (i) managing the right-of-way; (ii) any legal liability arising out of the transfer or use of the right-of-way (unless the sponsor is immune from liability, in which case it need only indemnify the railroad against any potential liability); and (iii) the payment of any and all taxes that may be levied or assessed against the right-of-way.

5. Interim trail use/railbanking is subject to possible future reconstruction and reactivation of the right-of-way for rail service and to the trail sponsor's continuing to meet its responsibilities for the right-of-way described in paragraph 4 above.

6. If an interim trail use/railbanking agreement is reached (and thus, interim trail use/railbanking is established), the parties shall jointly notify the Board within 10 days that an agreement has been reached. See 49 C.F.R. § 1152.29(d)(2), (h).

7. If interim trail use/railbanking is implemented, and subsequently the trail sponsor intends to terminate trail use on all or any portion of the right-of-way covered by the interim trail use/rail banking agreement, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.

8. If an agreement for interim trail use/railbanking is reached by July 24, 2026, interim trail use/railbanking may be implemented. If no agreement is reached, NSR may fully abandon the Line, subject to any outstanding conditions.

9. This decision and notice is effective on its service

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.