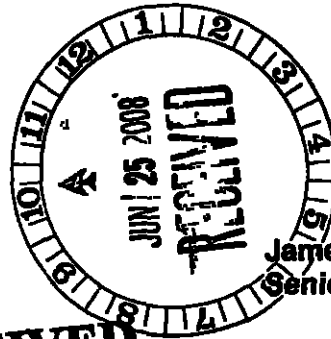




Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191

Direct Dial Number
(757) 629-2759
fax (757) 533-4872



James R. Paschall
Senior General Attorney

FEE RECEIVED

JUN 25 2008

**SURFACE
TRANSPORTATION BOARD**

June 24, 2008

Via DHL Express

Honorable Anne K. Quinlan, Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

Re STB Docket No. AB-290 (Sub-No. 308) Norfolk Southern Railway
Company - Discontinuance of Service - Notice of Exemption
Toledo, Lucas County, Ohio

Dear Ms. Quinlan:

Enclosed for filing with the Board in the subject docket are an original and ten copies of Norfolk Southern Railway Company's Verified Notice of Exemption. Also, enclosed is a check in the amount of \$3,200 for the filing fees.

Please acknowledge receipt of this filing on the enclosed copy of this letter and return it to me in the self-addressed, stamped envelope.

Yours very truly,

James R. Paschall

Enclosures

**ENTERED
Office of Proceedings**

JUN 25 2008

**Part of
Public Record**

FILED

JUN 25 2008

**SURFACE
TRANSPORTATION BOARD**

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO AB-290 (SUB-NO. 308X)
NORFOLK SOUTHERN RAILWAY COMPANY
– DISCONTINUANCE OF SERVICE EXEMPTION –
TOLEDO, LUCAS COUNTY, OHIO

VERIFIED NOTICE OF EXEMPTION

James R. Paschall
Senior General Attorney
Norfolk Southern Railway Company
Three Commercial Place
Norfolk, VA 23510
(757) 629-2759
Attorney for
Norfolk Southern Railway Company

Dated June 24, 2008

**Before the
Surface Transportation Board**

**Docket No. AB-290 (Sub-No 308X)
Norfolk Southern Railway Company
– Discontinuance of Service Exemption –
Toledo, Lucas County, Ohio**

Verified Notice of Exemption

COMES NOW Norfolk Southern Railway Company ("NSR") and files this notice of exemption from regulation under 49 U S C §10903, pursuant to the provisions of 49 U S C §10502 and 49 CFR §1152 50, for NSR's discontinuance of service over a 2.00-mile line of railroad lying between Milepost TM 10.70 and Milepost TM 12.70 in Toledo, Lucas County, Ohio (the "Line")

Pursuant to the Board's regulations codified at 49 CFR §1152 50, NSR states as follows

Traffic Certification - §§1152.50(b) and (d)(2)

As the attached certificate of NSR General Manager R. A. Bartle confirms, no traffic has originated or terminated on this line segment for at least two years, all overhead traffic has been rerouted over other lines, and no complaint is pending with the Board or a U. S. District Court or has been decided in favor of a complainant concerning cessation of service over this Line within the two-year period prior to the filing date of this Notice of Exemption

Consummation Date - §1152.50(d)(2)

The effective date of NSR's discontinuance of service over the Line between Milepost TM 10 70 and Milepost TM 12 70 in Toledo, Lucas County, Ohio, will be August 14, 2008

General Corporate Information - §1152.22(a)(1-2) and (7)

The full name of the party filing this Notice of Exemption is Norfolk Southern Railway Company, a Virginia corporation. NSR is a common carrier by railroad subject to STB jurisdiction under Title 49 of the United States Code, Subtitle IV, Chapter 105

NSR's representative to whom correspondence with respect to this Notice of Exemption may be sent is:

James R. Paschall
Senior General Attorney
Norfolk Southern Railway Company
Three Commercial Place
Norfolk, Virginia 23510
(757) 629-2759

Description of the Line and the Relief Sought - §1152.22(a)(3-4 and 7)

The relief sought is an exemption for NSR's discontinuance of service over the Line. The Line for which the discontinuance of service is sought consists of 2 00 miles of track between Milepost TM 10.70 and Milepost TM 12 70 in Toledo, Lucas County, Ohio. A map showing the line over which service is to be discontinued, other rail lines in the area, highways, and population centers is attached as Exhibit 1 to this notice. The line traverses United States Postal Service ZIP Codes 43609 and 43614 and includes the station of Gould.

Suitability of the Line for Other Public Purposes - §1152.22(e)(4)

Because this is a discontinuance of service proceeding and not an abandonment proceeding, there is no need to provide an opportunity for trail use/rail banking or public use condition requests.¹ Thus, this item is not relevant to the exemption sought in this docket

Statement Concerning Federally-Granted Right-of-Way - §1152.50(d)(1)

Based on information in the possession of NSR, the Line does not contain federally-granted rights-of-way. Any documentation in NSR's possession will be made available promptly to those requesting it

Labor Protection - §1152.50(d)(2)

Since the Line has been out of service for over two years, NSR believes no employees will be adversely affected by the discontinuance of service over this Line. However, as a condition to granting the exemption and exercise of the discontinuance permitted in this matter, NSR will accept the imposition of standard labor protective

¹Recent Board notices of exemption stating this principle are *Norfolk Southern Railway Company - Discontinuance of Service Exemption - in Chesapeake, VA*, STB Docket No. AB-290 (Sub-No. 299X) (STB served May 15, 2008), *Willamette Valley Railway Company - Discontinuance of Service Exemption - in Linn County, OR*, STB Docket No. AB-435 (Sub-No. 2X) (STB served November 16, 2007); and *Columbus and Greenville Railway Company - Discontinuance of Service Exemption - in Greenwood, MS*, STB Docket No. AB-297 (Sub-No. 103X) (STB served July 3, 2007). See also STB Docket No. AB-999X, *Caldwell County Railroad Company - Discontinuance Of Service Exemption - in Caldwell County, NC* (STB served July 9, 2007) (petition) and *Union Pacific Railroad Company - Discontinuance - in Utah County, Utah*, STB Docket No. AB-33 (Sub-No. 209) (STB served January 2, 2008) (application).

conditions as set forth in *Oregon Short Line R. Co. - Abandonment - Goshen*, 360 I.C.C. 91 (1979)

Environmental and Historic Reports; Certifications - §1105.6, §1105.7, §1105.8, §1105.9 and §1105.11

Because this is a discontinuance of service proceeding and not an abandonment proceeding, no environmental or historic documentation is required under 49 CFR 1105.6(c)(2) and 49 CFR 1105.8(b) and no transmittal letter is required under 49 CFR 1105.11.² Further STB approval is required for NSR to abandon the Line.

Service and Newspaper Notice Requirements Certification - §1152.50(d)(1-2)

As the attached certification indicates, NSR certifies that the service and notice requirements of §1152.50(d)(1)(certain governmental agencies) and §1105.12 (newspaper notice) have been complied with.

Offers of Financial Assistance

Because this is a discontinuance proceeding and not an abandonment proceeding, the Board need not consider offers of financial assistance (OFAs) to

²Recent Board notices of exemption and decisions stating this principle include the notices and decisions cited in footnote 1 and *Norfolk Southern Railway Company - Discontinuance Exemption - in Mahoning County, OH*, STB Docket No. AB-290 (Sub-No. 292X) (STB served March 15, 2007) and *Union Pacific Railroad Company - Discontinuance of Service Exemption - in Yuba County, CA*, STB Docket No. AB-33 (Sub-No. 238X) (STB served December 8, 2006).

acquire the line for continued rail service.³ The OFA provisions for a subsidy to provide continued rail service do apply to discontinuances, but since there has been no rail service over this Line for more than two years, there is no current rail service that can be subsidized

Conclusion

For the foregoing reasons, NSR states that the proposed discontinuance of service over the subject rail Line is exempt from the prior approval requirements of 49 U S C §10903 pursuant to the class exemption set forth in 49 C.F R §1152 50 and request that the Board serve the appropriate notice of exemption

Respectfully submitted,



John H. Friedmann
Vice President
Norfolk Southern Railway Company

James R. Paschall
Senior General Attorney
Norfolk Southern Railway Company
Three Commercial Place
Norfolk, Virginia 23510-2191
(757) 629-2759
Attorney for Norfolk Southern Railway Company

Dated June 24, 2008

³See the notices of exemption and decisions cited in footnote 1 and CSX Transportation Inc. - Discontinuance Exemption in Knox County, TN, STB Docket No AB-55 (Sub-No. 641X) (STB served January 2, 2004)

CERTIFICATION

STATE OF PENNSYLVANIA

ss

CITY OF HARRISBURG

R A. Bartle makes oath and says that he is General Manager Northern Region for Norfolk Southern Railway Company; that the line between milepost TM 10 70 and milepost TM 12.70 in Toledo, Lucas County, Ohio, over which service is to be discontinued, is subject to his supervision and direction, that no local traffic has moved over the line for at least two years; that all overhead traffic, if any, has been rerouted over other lines, and that no formal complaint filed by a user of rail service on the line or a state or local government entity acting on behalf of such user regarding cessation of service over the line either is pending before the Surface Transportation Board or any U S. District Court or has been decided in favor of the complainant within the two-year period.



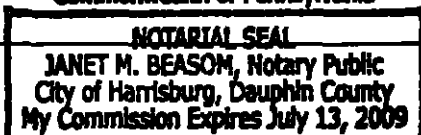
R A. Bartle

Subscribed and sworn to before me
this 20th day of May, 2008.


Notary Public

My commission expires:

Commonwealth of Pennsylvania



VERIFICATION

COMMONWEALTH OF VIRGINIA

SS.

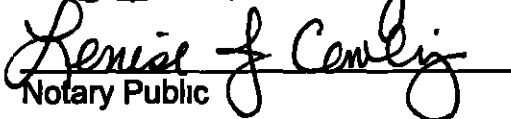
CITY OF NORFOLK

John H. Friedmann, being duly sworn, deposes and says that he is Vice President of Norfolk Southern Railway Company, that he is authorized to sign, verify, and file with the Surface Transportation Board the foregoing Notice of Exemption in STB Docket No. AB-290 (Sub-No 308X) on behalf of Norfolk Southern Railway Company; that he has carefully examined all of the statements contained in said Notice of Exemption, that he has knowledge of the matters set forth therein; and that all such statements made and matters set forth are true and correct to the best of his knowledge, information, and belief.



John H. Friedmann
Vice President
Norfolk Southern Railway Company

Subscribed and sworn to before me
this 27th day of May, 2008

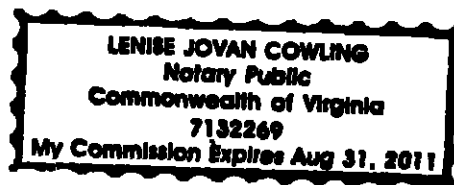


Notary Public

My commission expires.

Aug. 31, 2011

[SEAL]



CERTIFICATION

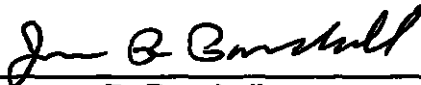
I hereby certify that (1) pursuant to 49 C F R §1105.12, a notice of intent to discontinue rail service was published in *The Blade*, Toledo, Ohio, on May 27, 2008, (see Exhibit 2); and (2) that the notice required by 49 C F R §152.50(d)(1) was given (see Exhibit 3)

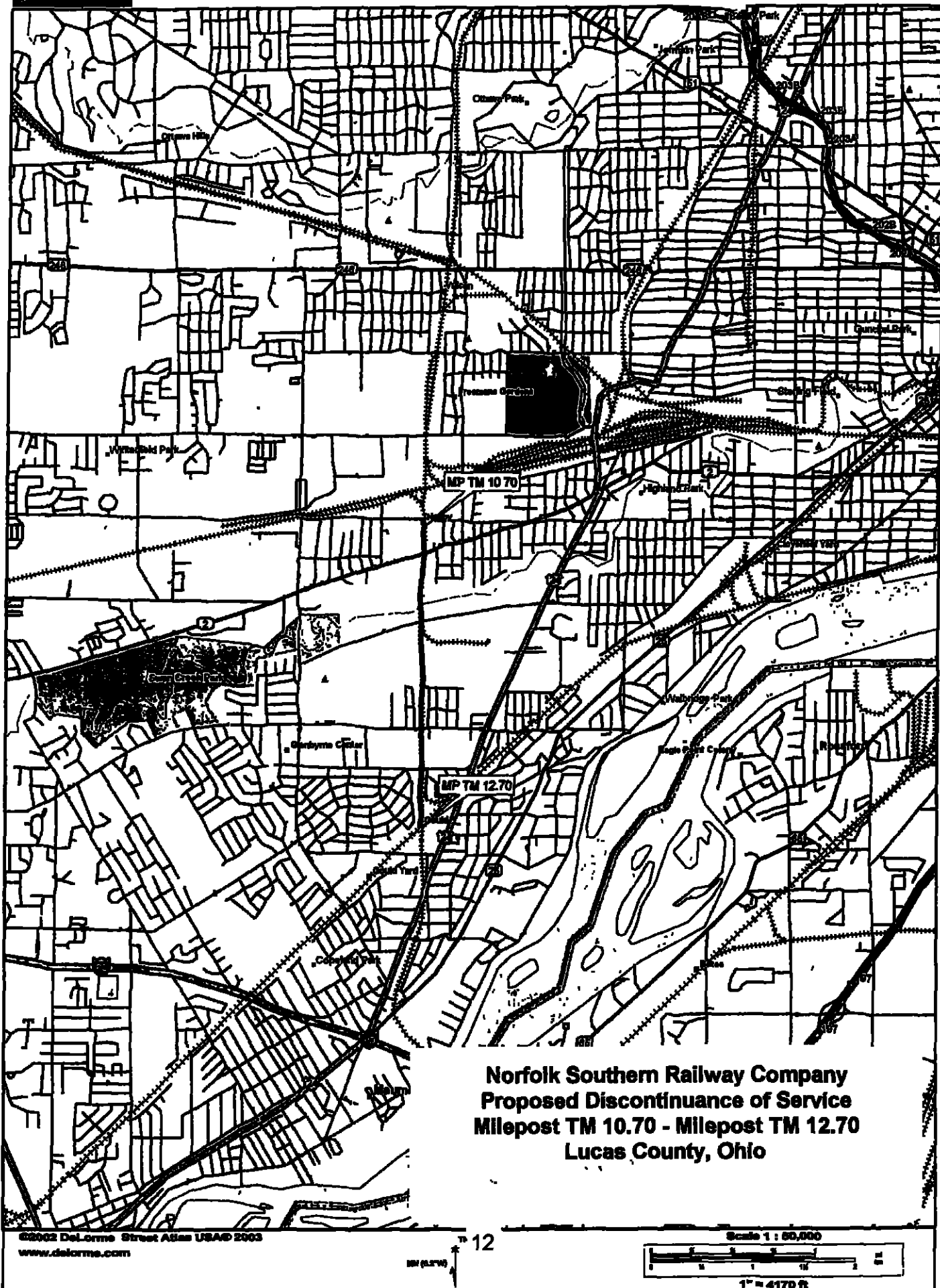

James R. Paschall

Dated: June 24, 2008

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Exemption was served upon Ohio Department of Transportation, Rail Development Commission; Alan R. Schnber, Chairman, Public Utility Commission of Ohio; U S. Department of Agriculture, Chief of the Forest Service; Regional Director, National Park Service, Midwest Region, Ms Jan Matthews, Associate Director, U. S Department of the Interior-National Park Service; and the United States Department of Defense (MTMCTEA), on June 24, 2008, by first class mail, postage prepaid.


James R. Paschall



**Norfolk Southern Railway Company
Proposed Discontinuance of Service
Milepost TM 10.70 - Milepost TM 12.70
Lucas County, Ohio**

**AFFIDAVIT OF PUBLICATION
STATE OF OHIO, LUCAS COUNTY}SS.**

Exhibit 2

Advertiser Name NORFOLK SOUTHERN CORPORATION

Account # H140027

Width 1

Depth 6 153

Ad # 00355214

Price \$ 378 76

Run dates 5/27 1x

Classification 0010 - Legal Notices

I, Jim Mackey being first duly sworn, make oath and say that I am an Advertising Clerk in the employ of The TOLEDO BLADE CO., the publishers of THE BLADE, that I personally know the facts herein stated, that said BLADE is a daily newspaper printed, and of general circulation in excess of 15,000, in said County, and in said State, and that the notice of which the below is a true copy of the text, was published in said Daily BLADE according to the above run schedule

Subscribed in my presence and sworn to before me this 30 day of May A D 2008

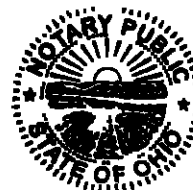
Wanda L. Lamb

Notary Public, State of Ohio

Legal Proof:

NOTICE OF INTENT TO DISCONTINUE RAIL SERVICE
Norfolk Southern Railway Company (NSR) gives notice that on or about June 25 2008 it intends to file with the Surface Transportation Board (STB) Washington DC 20423 a notice of exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 permitting NSR's discontinuance of service over a 2.00-mile line of railroad between milepost TM 10 70 and milepost TM 12 70, which traverses through United States Postal Service ZIP Codes 43609 and 43614 in Toledo Lucas County Ohio. The line includes the station of Gould. The proceeding will be docketed as No. AB-290 (Sub No. 308X). Appropriate offers of financial assistance to subsidize continued rail service can be filed with the STB. Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise no environmental or historical documentation is required here under 49 CFR 1105.6(c) and 1105.8(b) respectively. An original and 10 copies of any pleading that raises matters other than environmental issues (such as offers of financial assistance) must be filed

directly with the STB's Office of the Secretary 395 E Street S.W. Washington DC 20423-0001 (See 49 CFR 1104.1(f) and 1104.3(a)) and one copy must be served on applicant's representative (See 49 CFR 1104.12(a)). Questions regarding offers of financial assistance may be directed to the STB's Office of Congressional and Public Services at 202-245-0230. Copies of any comments or requests for conditions should be served on the applicant's representative James R. Paschal, Senior General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510-9241 (757) 629-2759. #00355214



WANDA L. LAMB
Notary Public, State of Ohio
My Commission Expires 10-23-2011