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BAKER & MILLER PLLC

ATTORNEYS and COUNSELLORS
2401 PENNSYLVANIA AVENUE, NW
SUITE 300
WASHINGTON, DC 20037

TELEPHONE: (202) 663-7820
FACSIMILE: (202) 663-7849

CRYSTAL M. ZORBAUGH

ENTERED
Office of Proceedings
August 23, 2021
Part of
Public Record

(202) 663-7831 (Direct Dial)
E-Mail: czorbaugh@bakerandmiller.com

August 23, 2021

VIA E-FILING

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

Re: C&NC Railroad, LLC – Discontinuance Exemption – In Wayne and
Henry Counties, Indiana, AB-1093 (Sub-No. 2X)

NCSR, LLC d/b/a New Castle Southern Railroad – Lease and Operation
Exemption with Interchange Commitment – Norfolk Southern Railway
Company, FD 36542

Dear Ms. Brown:

As the Board is aware, on July 9, 2021, Norfolk Southern Railway Company's ("NSR") operator of its approximately 21-mile rail line extending from M.P. CB 5.4 (at Beesons, IN) to M.P. 25.30 (at New Castle, IN) and M.P. R 0.1 to M.P. R 1.16 (at New Castle, IN) ("Line"), C&NC Railroad, LLC ("C&NC"), filed a petition for exemption ("Petition") under 49 U.S.C. § 10502 from the provisions of 49 U.S.C. § 10903 in AB-1093 (Sub-No. 2X) to discontinue its lease operations over the Line effective August 10, 2021, or upon the earliest possible date thereafter permitted by the Board subject to coordination with NSR to ensure a smooth transition of common carrier service.¹ On July 27, 2021, NSR, as the owner of the Line, filed a request for expedited consideration asking the Board to (1) expedite processing of the Petition and (2) order that C&NC's operations terminate effective at 12:01 am on September 20, 2021, and replacement operations may commence.

¹ Earlier this year, NSR provided notice to C&NC that its lease was being terminated effective August 10, 2021. After receiving notice of termination, it took C&NC almost two months to seek discontinuance authority.

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In a decision served August 20, 2021,² the Board granted the Petition and ordered that the C&NC discontinuance was to be effective September 20, 2021. Additionally, in light of the claims raised in A.F. Gelhar Co. v. C&NC R.R., NOR 42172, regarding C&NC's service over the Line, the Board's August 20th decision directed NSR to advise the Board by August 25, 2021, of the earliest date that NSR will be prepared to provide service over the Line.³

While NSR had contemplated operating over the Line itself, for various operating and efficiency reasons it has since decided to contract with NCSR, LLC d/b/a New Castle Southern Railroad ("NCSR") to operate over the Line. NSR and NCSR originally intended for such operations to commence on or after September 20, 2021. However, in light of the concerns raised by the Board in Decision No. 50916, NCSR (at the request of NSR) is today filing both a notice of exemption pursuant to 49 C.F.R. § 1150.31 to lease and operate over the Line and a motion to expedite the effective date of the notice of exemption to September 13, 2021 (21 days after the Notice was filed) to allow replacement operations by NCSR to begin as quickly as possible. Expediting NCSR's entry onto the Line will benefit NSR, shippers, and the public interest, and ensure a smooth transition of common carrier service. If you have any questions, please contact me at (202) 663-7831 or by email at czorbaugh@bakerandmiller.com.

Sincerely,

/s/ Crystal M. Zorbaugh

Crystal M. Zorbaugh
Attorney for Norfolk Southern Railway Company

cc: Parties of Record - AB-1093 (Sub-No. 2X)
Robert Wimbish

² C&NC Railroad, LLC – Discontinuance Exemption – In Wayne and Henry Counties, IND, AB-1093 (Sub-No. 2X) (STB served August 20, 2021)

³ The August 20th decision indicated once NSR's response was received, the Board may need to issue a subsequent decision adjusting the effective date for C&NC's discontinuance.