

52289

SERVICE DATE – SEPTEMBER 25, 2024

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 290 (Sub-No. 553X)]

Norfolk Southern Railway Company—Discontinuance of Trackage Rights Exemption—
in Cuyahoga County, Ohio

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—Exempt Abandonments and Discontinuances of Service to discontinue trackage rights over approximately 1.3 miles of rail line owned by CSX Transportation, Inc. (CSXT), between milepost BJB 73.21 and milepost BJB 74.51 (the Line) on CSXT’s Cleveland Subdivision.¹ The Line traverses U.S. Postal Service Zip Codes 44113 and 44115.

NSR has certified that: (1) no local traffic has moved over the Line for at least two years; (2) any common carrier overhead traffic can be rerouted; (3) no formal

¹ CSXT received authority to abandon the Line in 2023. See CSX Transp., Inc.—Aban. Exemption—in Cuyahoga Cnty., Ohio, AB 55 (Sub-No. 812X) (STB served Sept. 1, 2023). CSXT did not disclose the existence of NSR’s trackage rights in that proceeding. On September 6, 2024, in that docket, CSXT filed a request for an extension of the consummation deadline. CSXT states that NSR’s trackage rights constitute a barrier to CSXT’s consummation of abandonment and requests that the Board extend the deadline to consummate until 60 days after NSR’s discontinuance authority in this docket is granted. CSXT’s request for an extension will be addressed in a separate decision in Docket No. AB 55 (Sub-No. 812X).

In light of that pending request, however, NSR is directed to notify CSXT when NSR has consummated its authority to discontinue service over the Line. See BNSF Ry.—Aban. Exemption—in Flathead Cnty., Mont., AB 6 (Sub-No. 495X), slip op. at 2 n.2 (STB served Aug. 14, 2017).

complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service on the Line is either pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA)² to subsidize continued rail service has been received, this exemption will be effective on October 25, 2024, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2)³ must be filed by October 4, 2024.⁴ Petitions to reopen must be filed by October 15, 2024.

² Persons interested in submitting an OFA to subsidize continued rail service must first file a formal expression of intent to file an offer, indicating the intent to file an OFA for subsidy and demonstrating that they are preliminarily financially responsible. See 49 CFR 1152.27(c)(2)(i).

³ The filing fee for OFAs can be found at 49 CFR 1002.2(f)(25).

⁴ Because this is a discontinuance proceeding and not an abandonment, interim trail use/rail banking and public use conditions are not appropriate. As noted, supra note 1, CSXT received authority to abandon the Line in CSX Transportation, Inc.—Abandonment Exemption—in Cuyahoga County, Ohio, AB 55 (Sub-No. 812X) (STB

All pleadings, referring to Docket No. AB 290 (Sub-No. 553X), must be filed with the Board via e-filing on the Board’s website 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, Mullins Law Group PLLC, 2001 L Street, N.W., Suite 720, Washington, DC 20036.

If the verified notice contains false or misleading information, the exemption is void ab initio.

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

Decided: September 20, 2024.

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

served Sept. 1, 2023). In its environmental review in that proceeding, the Board’s Office of Environmental Analysis found that the abandonment would not significantly affect the quality of the human environment and recommended no environmental conditions. As a result, none were imposed. CSX Transp., Inc.—Aban. Exemption—in Cuyahoga Cnty., Ohio, AB 55 (Sub-No. 812X) (STB served Sept. 28, 2023). Because the Line has already been subject to environmental review during the abandonment proceeding, this discontinuance does not require environmental review.