

expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),² and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 31, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 10, 2002, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to CSXT's representative: Paul R. Hitchcock, Assistant General Counsel, CSX Transportation, Inc., 500 Water Street, J150, Jacksonville, FL 32202.

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

CSXT has filed an environmental report which addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 28, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565-1552. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CSXT shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned its line. If consummation has not been effected by CSXT's filing of a notice of consummation by December 21, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

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Decided: December 11, 2001.

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

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investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

² Each offer of financial assistance must be accompanied by the filing fee, which currently is set at \$1000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-43 (Sub-No. 172X)]

Illinois Central Railroad Company- Abandonment Exemption—in Adams County, MS

On December 4, 2001, Illinois Central Railroad Company (ICR), filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a line of railroad known as the Natchez Spur, between milepost LN 94.48 and milepost LN 98.38, a distance of 3.9 miles in Natchez, Adams County, MS.¹ The line traverses U.S. Postal Service Zip Code 39120. There are no stations on the line.

The line does not contain federally granted rights-of-way. Any documentation in ICR'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 R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of 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 22, 2002.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a \$1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than January 10, 2002. Each trail use request must be accompanied by a \$150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB-43 (Sub-No. 172X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423—

¹ According to petitioner, the southernmost 0.56 miles of the line is ICR terminal trackage and former Natchez & Southern trackage not formally included in ICR's milepost numbering system. The southern boundary of the abandonment is the equivalent of milepost LN 98.38 under the numbering system used on the remainder of the line.

0001; and (2) Michael J. Barron, Jr., 455 North Cityfront Plaza Drive, Chicago, IL 60611-5317. Replies to the IC petition are due on or before January 10, 2002.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565-1552. [TDD for the hearing impaired is available at 1-800-877-8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these 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 will generally be within 30 days of its service.

Board decisions and notices are available on our web site at "WWW.STB.DOT.GOV."

Decided: December 14, 2001.

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-596]

New York City Economic Development Corporation—Adverse Abandonment— New York Cross Harbor Railroad, Inc., in New York, NY

On December 4, 2001,¹ New York City Economic Development Corporation (NYCEDC) on behalf of the City of New York (City) filed an adverse application under 49 U.S.C. 10903 requesting that the Surface Transportation Board

¹ On December 4, 2001, NYCEDC filed a petition for a 1-day extension of time in order to gather the information necessary to file its application for adverse abandonment. Board regulations and case law permit extension of time for filing when good cause is shown and no party will be prejudiced by the delayed submission. *See Huron Valley Steel Co. v. Seaboard System RR, Inc.*, ICC Docket No. 39886 (ICC served Feb. 12, 1988). The extension is granted and the application is accepted because NYCEDC has shown good cause and no party will be prejudiced by the delay.

(Board) authorize the abandonment by New York Cross Harbor Railroad, Inc. (NYCH), of the Bush Terminal Yard (a/k/a "First Avenue Yard") and the Harborside Industrial Center (a/k/a "Brooklyn Army Terminal") (jointly the Tracks and Facilities), in New York, Kings County, NY. The line traverses United States Postal Service ZIP Codes 11232 and 11220. There is no indication that there are stations on the line.

NYCEDC maintains that NYCH has caused and will continue to cause significant environmental damage to the tracks and facilities by dumping chemicals and pesticides used in the operation and maintenance of a railroad. NYCEDC indicates that it filed the adverse abandonment application so that it could proceed with plans to bring suit in state court to evict NYCH from the tracks and facilities.² NYCEDC also claims that NYCH has incurred \$20,107.61 in late fees since July 1995.

In an application by a third party for a determination that the public convenience and necessity permits service over a line to be discontinued or abandoned, the issue before the Board is whether the public interest requires that the line in question be retained as part of the national rail system. By granting a third party application, the Board withdraws its primary jurisdiction over the line. Questions of the disposition of the line, including the adjudication of various claims of ownership or other rights and obligations, are then left to state or local authorities. See *Kansas City Pub. Ser. Frgt. Operations Exempt.—Aban.*, 7 I.C.C.2d 216, 224–26 (1990).

NYCEDC states that, to the best of its knowledge, the line does not contain any federally granted rights-of-way. Any documentation in NYCEDC's possession will be made available promptly to those requesting it. The applicant's entire case for abandonment was filed with the application.³

² NYCH does not own the tracks and facilities or the underlying land; rather it leases the tracks and facilities from the City. NYCEDC contends that NYCH has breached its lease by violating local fire codes and state and Federal environmental law. In its Combined Environmental and Historic Report, NYCEDC indicates that the tracks and facilities will continue to be used for rail purposes because of the planned re-development and expansion of the adjacent maritime terminals in order to promote water to rail movement of cargo.

³ In a decision served in this proceeding on December 3, 2001, NYCEDC was granted a waiver from many of the filing requirements of the Board's abandonment regulations at 49 CFR 1152 that were found to be not relevant to NYCEDC's adverse abandonment application. On December 10, 2001, NYCEDC filed a supplement to its application to address the requirements not waived in the December 3 decision. The supplement is accepted for filing.

The interests of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

Any interested person may file written comments concerning the proposed abandonment or protests (including protestant's entire opposition case) by January 18, 2002. Applicant's reply is due on February 4, 2002. Because the line is publicly owned and is expected to remain in rail service under some new arrangement, trail use/rail banking, and public use requests are not appropriate. In light of the proposed eviction and subsequent resumption of rail service, offers of financial assistance to acquire or subsidize service on the line are not required by the public interest and will not be entertained in this proceeding.

Persons opposing the abandonment who wish to participate actively and fully in the process should file a protest. Persons who may oppose the abandonment but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments. Persons seeking information concerning the filing of protests should refer to 49 CFR 1152.25.

All filings in response to this notice must refer to STB Docket No. AB–596 and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001; and (2) Charles A. Spitulnik and Alex Menendez, One Massachusetts Ave, NW, Suite 800, Washington, DC 20001. The original and 10 copies of all comments or protests shall be filed with the Board with a certificate of service. Except as otherwise set forth in part 1152, every document filed with the Board must be served on all parties to the abandonment or discontinuance proceeding. 49 CFR 1104.12(a).

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 545–1552. [TDD for the hearing impaired is available at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact

SEA to obtain a copy of the EA (or EIS). EAs in abandonment or discontinuance proceedings normally will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.

Board decisions and notices are available on our website at WWW.STB.DOT.GOV.

Decided: December 14, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub-No. 221X)]

Norfolk Southern Railway Company— Abandonment Exemption—in Wise County, VA

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 0.9-mile line of railroad between milepost RC–0.0, at Russell Creek, and milepost RC–0.9, at Caledonia, in Wise County, VA (line).¹ The line traverses United States Postal Service Zip Code 24293.

Applicant has certified that: (1) no local or overhead traffic has moved over the line for at least 2 years; (2) any overhead traffic, if there is any, can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government agency acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

¹ NSR notes that authority to discontinue operations on the line was granted by the former Interstate Commerce Commission. See *Norfolk and Western Railway Company-Discontinuance Exemption-in Wise County, VA*, Docket No. AB 290 (Sub-No. 98X) (ICC served July 16, 1990).