

of the railroad's line is to be abandoned and it is not part of a system that will benefit from the abandonment. *See Yreka Western Railroad Company—Abandonment Exemption—In Siskiyou County, CA*, STB Docket No. AB-246 (Sub-No. 2X) (STB served May 4, 1999).

In an application by a third party for a determination that the public convenience and necessity permits service over a line to be discontinued and the line itself to be 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 (or "adverse") application, the Board withdraws its primary jurisdiction over the line. Questions concerning 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).

Because IDOT intends to convert the property underlying the subject rail line to highway purposes, conflicting public use requests are not appropriate, and offers of financial assistance to acquire or subsidize service on the line will not be entertained in this proceeding.

Any interested person may file with the Board its protest of, or written comments concerning, the proposed abandonment and discontinuance of service.² Written comments and protests must identify the proceeding, *i.e.*, STB Docket No. AB-No. 838, in the case of the abandonment of the ESLJ line, and STB Docket No. AB-33 (Sub-No. 199), in the case of the discontinuance of service by UP, and must be filed by no later than October 6, 2003.

Protests must contain that party's entire case in opposition (case in chief) including the following: (1) Protestant's name, address, and business; (2) a statement describing protestant's interest in the proceeding including: (i) A description of the protestant's use of the line; (ii) if protestant does not use the line, information concerning the group or public interest it represents; and (iii) if protestant's interest is limited to the retention of service over a portion of the line, a description of the portion of the line subject to protestant's interest (with milepost designations if

available); (3) specific reasons why protestant opposes the application including information regarding protestant's reliance on the involved service (this information must be supported by affidavits of persons with personal knowledge of the fact(s)); and (4) any rebuttal of material submitted by applicant.

In addition, a commenting party or protestant may provide a statement of position and evidence regarding: (i) Environmental impact; (ii) impact on rural and community development; or (iii) recommended provisions for protection of the interests of employees.

All filings in response to this notice must refer to STB Docket No. AB-838 and STB Docket No. AB-33 (Sub-No. 199), and should be sent to: (1) Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001, and (2) Fritz R. Kahn, Esq., 1920 N Street, NW., (8th floor), Washington, DC 20036-1601. The original and 10 copies of all comments or protests shall be filed with the Board, together 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 and discontinuance proceeding. 49 CFR 1104.12(a).

Persons seeking information concerning the filing of protests may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment and 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) 565-1539. [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 Web site at <http://www.stb.dot.gov>.

Decided: September 2, 2003.

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. 238X)]

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

Norfolk Southern Railway Company (NSR) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon 4.0 miles of its line of railroad between milepost BH-0.0 at Bull Creek and milepost BH-4.0 at Harman, in Buchanan County, VA. The line traverses United States Postal Service Zip Code 24618.

NSR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) no overhead traffic has moved over the line for at least 2 years and overhead traffic, if there were any, could 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 entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with 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.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 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) has been received, this exemption will be effective on October 9, 2003,¹ unless

¹ In its notice, NSR indicated a proposed consummation date of October 8, 2003. Under 49 CFR 1152.50(d)(2), however, the earliest the exemption could become effective is 50 days after the verified notice of exemption was filed. The notice was filed on August 20, 2003. Therefore, the

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² Persons opposing the proposed abandonment or discontinuance who wish to participate actively and fully in the process through the submission of their entire opposition case in the form of verified statements and arguments, 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.