

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-290 (Sub-No. 210X)<sup>1</sup>

NORFOLK SOUTHERN RAILWAY COMPANY – ABANDONMENT EXEMPTION – IN  
FULTON COUNTY, GA

STB Finance Docket No. 35215

NATIONAL RAILROAD PASSENGER CORPORATION – APPLICATION UNDER  
49 U.S.C. 24311(c) to CONDEMN CERTAIN RAIL CARRIER PROPERTY IN ATLANTA,  
FULTON COUNTY, GA – NORFOLK SOUTHERN RAILWAY COMPANY

Decided: March 13, 2009

On December 3, 2008, Norfolk Southern Railway Company (NSR) filed a verified notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 4.30-mile line of railroad between mileposts DF 633.10 and DF 637.40, in Atlanta, Fulton County, Georgia (line). The exemption was scheduled to become effective on January 22, 2009; however, a petition to stay the exemption was filed by the Georgia Department of Transportation (GDOT) and supported by the National Railroad Passenger Corporation (Amtrak). The Board postponed the effectiveness of the exemption to supplement the record with regard to six specific concerns. See Norfolk Southern Railway Company – Abandonment Exemption – In Fulton County, GA, STB Docket No. AB-290 (Sub-No. 210X) (STB served Jan. 21, 2009) (January 21 Decision). Concurrently, on January 21, 2009, Amtrak petitioned the Board to institute a proceeding under 49 U.S.C. 24311(c), and requested the Board order that NSR convey its rail passenger service easement over the line to Amtrak.<sup>2</sup>

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<sup>1</sup> These proceedings are not consolidated. A single decision is being issued for administrative convenience.

<sup>2</sup> NSR holds passenger and freight easements over the line, while the Atlanta Development Authority (Authority) is the record owner of the property underlying the right-of-way. The Authority is also the redevelopment agent for the BeltLine Tax Allocation District of the City of Atlanta, which is the primary local funding source for the BeltLine project. The BeltLine project is a proposed comprehensive economic development project that combines transit, green space, trails, and new commercial, residential, and public facility development along a 22-mile ring of former and current rail lines that encircle Atlanta's core. The Atlanta BeltLine, Inc., (ABI) was created by the Authority to be the implementation agent for the BeltLine project.

On February 3, 2009, a joint motion to hold in abeyance the abandonment proceeding and the section 24311 proceeding was filed by the Authority, ABI, NSR, GDOT, and Amtrak. The Board granted that motion and held both proceedings in abeyance until March 6, 2009, with a requirement that the parties file a status report on that date. See Norfolk Southern Railway Company—Abandonment Exemption—In Fulton County, GA, et al. STB Docket No. AB-290 (Sub-No. 210X), et al. (STB served Feb. 5, 2009) (February 5 Decision). The parties filed a status report on March 6, 2009, noting that constructive discussions were still ongoing, and jointly moved that: (1) the Board further hold both proceedings in abeyance until March 23, 2009; (2) require the filing, either jointly or individually, of a status report regarding the discussions no later than March 23, 2009; and (3) extend the schedule set in the January 21 Decision in STB Docket No. AB-290 (Sub-No. 210X) for the filing of responses to Amtrak's and GDOT's supplemental information to March 27, 2009.

As noted in the February 5 Decision, the Board has a longstanding policy favoring the private resolution of complex matters such as these. As the parties are continuing discussions to resolve their respective concerns and have made a reasonable request to hold the abandonment and section 24311 proceedings in abeyance, the Board will grant the joint motion. No party will be prejudiced by this action.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. STB Docket No. AB-290 (Sub-No.-210X) will be held in abeyance pending further order of the Board.
2. STB Finance Docket No. 35215 will be held in abeyance pending further order of the Board.
3. The procedural schedule set in the January 21 Decision in STB Docket No. AB-290 (Sub-No. 210X), as amended by the February 5 Decision, is revised to change the deadline for the filing of responses to Amtrak and GDOT's supplemental information from March 11, 2009, to March 27, 2009.
4. The parties will be required to file, either jointly or individually, a status report on the progress of their discussions by no later than March 23, 2009.
5. This decision is effective on its date of service.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Anne K. Quinlan  
Acting Secretary