

## APPENDIX A: AGENCY CORRESPONDENCE

This appendix contains written correspondence with Federal and state agencies. Table A-1 lists all of the agencies with whom correspondence occurred and the dates of the correspondence. Copies of the correspondence listed in Table A-1 are included.

**Table A-1**  
**Agencies Consulted and Dates of Correspondence**

<b>Agency</b>	<b>Dates of Correspondence</b>
<b>Federal Agencies</b>	
U.S. Fish and Wildlife Service	10/16/2008; 9/24/2008
<b>State Agencies</b>	
New York Natural Heritage Program	9/13/2008
New York State Historic Preservation Office	9/8/2008
Massachusetts Natural Heritage and Endangered Species Program	12/9/1999
Massachusetts State Historic Preservation Office	9/11/2008



## United States Department of the Interior

### FISH AND WILDLIFE SERVICE



New York Field Office  
3817 Luker Road, Cortland, NY 13045  
Phone: (607) 753-9334  
Fax: (607) 753-9699

Long Island Field Office  
3 Old Barto Rd., Brookhaven, NY 11719  
Phone: (631) 776-1401  
Fax: (631) 776-1405

### Endangered Species Act List Request Response Cover Sheet

This cover sheet is provided in response to a search of our website\* for information regarding the potential presence of species under jurisdiction of the U.S. Fish and Wildlife Service (Service) within a proposed project area.

Attached is a copy of the New York State County List of Threatened, Endangered, and Candidate Species for the appropriate county(ies). The database that we use to respond to list requests was developed primarily to assist Federal agencies that are consulting with us under Section 7(a)(2) of the Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*). Our lists include all Federally-listed, proposed, and candidate species known to occur, as well as those likely to occur, in specific counties.

The attached information is designed to assist project sponsors or applicants through the process of determining whether a Federally-listed, proposed, or candidate species and/or “critical habitat” may occur within their proposed project area and when it is appropriate to contact our offices for additional coordination or consultation. You may be aware that our offices have provided much of this information in the past in project-specific letters. However, due to increasing project review workloads and decreasing staff, we are now providing as much information as possible through our website. We encourage anyone requesting species list information to print out all materials used in any analyses of effects on listed, proposed, or candidate species.

The Service routinely updates this database as species are proposed, listed, and delisted, or as we obtain new biological information or specific presence/absence information for listed species. If project proponents coordinate with the Service to address proposed and candidate species in early stages of planning, this should not be a problem if these species are eventually listed. However, we recommend that both project proponents and reviewing agencies retrieve from our online database an *updated* list every 90 days to append to this document to ensure that listed species presence/absence information for the proposed project is *current*.

**Reminder:** Section 9 of the ESA prohibits unauthorized taking\*\* of listed species and applies to Federal and non-Federal activities. For projects not authorized, funded, or carried out by a Federal agency, consultation with the Service pursuant to Section 7(a)(2) of the ESA is not required. However, no person is authorized to “take\*\*” any listed species without appropriate authorizations from the Service. Therefore, we provide technical assistance to individuals and agencies to assist with project planning to avoid the potential for “take\*\*,” or when appropriate, to provide assistance with their application for an incidental take permit pursuant to Section 10(a)(1)(B) of the ESA.

Additionally, endangered species and their habitats are protected by Section 7(a)(2) of the ESA, which requires Federal agencies, in consultation with the Service, to ensure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. An assessment of the potential direct, indirect, and cumulative impacts is required for all Federal actions that may affect listed species.

For instance, work in certain waters of the United States, including wetlands and streams, may require a permit from the U.S. Army Corps of Engineers (Corps). If a permit is required, in reviewing the application pursuant to the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 *et seq.*), the Service may concur, with or without recommending additional permit conditions, or recommend denial of the permit depending upon potential adverse impacts on fish and wildlife resources associated with project construction or implementation. The need for a Corps permit may be determined by contacting the appropriate Corps office(s).\*

For additional information on fish and wildlife resources or State-listed species, we suggest contacting the appropriate New York State Department of Environmental Conservation regional office(s) and the New York Natural Heritage Program Information Services.\*

Since wetlands, ponds, streams, or open or sheltered coastal waters may be present in the project area, it may be helpful to utilize the National Wetlands Inventory (NWI) maps as an initial screening tool. However, they may or may not be available for the project area. Please note that while the NWI maps are reasonably accurate, they should not be used in lieu of field surveys for determining the presence of wetlands or delineating wetland boundaries for Federal regulatory purposes. Online information on the NWI program and digital data can be downloaded from Wetlands Mapper, [http://wetlands.fws.gov/mapper\\_tool.htm](http://wetlands.fws.gov/mapper_tool.htm).

Project construction or implementation should not commence until all requirements of the ESA have been fulfilled. After reviewing our website and following the steps outlined, we encourage both project proponents and reviewing agencies to contact our office to determine whether an accurate determination of species impacts has been made. If there are any questions about our county lists or agency or project proponent responsibilities under the ESA, please contact the New York or Long Island Field Office Endangered Species Program at the numbers listed above.

Attachment (county list of species)

\*Additional information referred to above may be found on our website at:  
<http://www.fws.gov/northeast/nyfo/es/section7.htm>

\*\* Under the Act and regulations, it is illegal for any person subject to the jurisdiction of the United States to *take* (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these), import or export, ship in interstate or foreign commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any endangered fish or wildlife species and most threatened fish and wildlife species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. "Harm" includes any act which actually kills or injures fish or wildlife, and case law has clarified that such acts may include significant habitat modification or degradation that significantly impairs essential behavioral patterns of fish or wildlife.



## Saratoga County

### Federally Listed Endangered and Threatened Species and Candidate Species

This list represents the best available information regarding known or likely County occurrences of Federally-listed and candidate species and is subject to change as new information becomes available.

<u>Common Name</u>	<u>Scientific Name</u>	<u>Status</u>
Bald eagle <sup>1</sup>	<i>Haliaeetus leucocephalus</i>	D
Indiana bat (S) <sup>2</sup>	<i>Myotis sodalis</i>	E
Karner blue butterfly	<i>Lycaeides melissa samuelis</i>	E

Status Codes: E=Endangered T=Threatened P=Proposed C=Candidate D=Delisted

W=Winter S=Summer

<sup>1</sup> The bald eagle was delisted on August 8, 2007. While there are no ESA requirements for bald eagles after this date, the eagles continue to receive protection under the Bald and Golden Eagle Protection Act (BGEPA). Please follow the Service's May 2007 Bald Eagle Management Guidelines to determine whether you can avoid impacts under the BGEPA for your projects. If you have any questions, please contact the endangered species branch in our office.

<sup>2</sup> While Indiana bats could be present in this county, we do not have any specific roost information to date and they are in such small numbers that is unlikely that they would be present and impacted by any specific proposed projects. This determination may change once we have conducted spring emergence or mistnetting studies for the Albany County hibernaculum.

Information current as of: 10/16/2008



## United States Department of the Interior



FISH AND WILDLIFE SERVICE  
New England Field Office  
70 Commercial Street, Suite 300  
Concord, New Hampshire 03301-5087  
<http://www.fws.gov/northeast/newenglandfieldoffice>

September 24, 2008

Reference:	<u>Project</u>	<u>Location</u>
	EA, NPDES stormwater discharge general permit	Ayer, MA

David Johnson  
ICF International  
9300 Lee Highway  
Fairfax, VA 22031

Dear Mr. Johnson:

This responds to your recent correspondence requesting information on the presence of federally-listed and/or proposed endangered or threatened species in relation to the proposed activity(ies) referenced above.

Based on information currently available to us, no federally-listed or proposed, threatened or endangered species or critical habitat under the jurisdiction of the U.S. Fish and Wildlife Service are known to occur in the project area(s). Preparation of a Biological Assessment or further consultation with us under Section 7 of the Endangered Species Act is not required.

This concludes our review of listed species and critical habitat in the project location(s) and environs referenced above. No further Endangered Species Act coordination of this type is necessary for a period of one year from the date of this letter, unless additional information on listed or proposed species becomes available.

In order to curtail the need to contact this office in the future for updated lists of federally-listed or proposed threatened or endangered species and critical habitats, please visit the Endangered Species Consultation page on the New England Field Office's website:

[www.fws.gov/northeast/newenglandfieldoffice/EndangeredSpec-Consultation.htm](http://www.fws.gov/northeast/newenglandfieldoffice/EndangeredSpec-Consultation.htm)

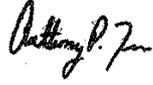
In addition, there is a link to procedures that may allow you to conclude if habitat for a listed species is present in the project area. If no habitat exists, then no federally-listed species are present in the project area and there is no need to contact us for further consultation. If the above conclusion cannot be reached, further consultation with this office is advised. Information describing the nature and location of the proposed activity that should be provided to us for further informal consultation can be found at the above-referenced site.

*Appendix A - Agency Correspondence*

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Thank you for your coordination. Please contact us at 603-223-2541 if we can be of further assistance.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Anthony P. Tur". The signature is written in a cursive style with a prominent initial "A".

Anthony P. Tur  
Endangered Species Specialist  
New England Field Office

*Appendix A - Agency Correspondence*

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION**  
**Division of Fish, Wildlife & Marine Resources**  
**New York Natural Heritage Program**  
625 Broadway, Albany, New York 12233-4757  
Phone: (518) 402-8935 • FAX: (518) 402-8925



September 13, 2008

Jack H Hecht  
H D R  
1 Blue Hill Plaza, 12<sup>th</sup> floor, Bx 1509  
Pearl River, NY 10965

Dear Mr. Hecht:

In response to your recent request, we have reviewed the New York Natural Heritage Program database with respect to an Environmental Assessment for the proposed Intermodal and Automotive Handling Facility - 100 acres, area as indicated on the map you provided, located in the City of Mechanicville and Town of Halfmoon, Saratoga County.

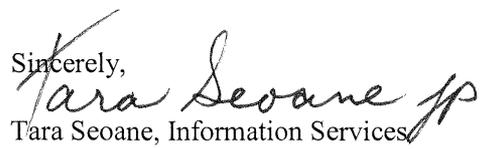
We have no records of known occurrences of rare or state-listed animals or plants, significant natural communities, or other significant habitats, on or in the immediate vicinity of your site.

The absence of data does not necessarily mean that rare or state-listed species, natural communities or other significant habitats do not exist on or adjacent to the proposed site. Rather, our files currently do not contain any information which indicates their presence. For most sites, comprehensive field surveys have not been conducted. For these reasons, we cannot provide a definitive statement on the presence or absence of rare or state-listed species, or of significant natural communities. This information should not be substituted for on-site surveys that may be required for environmental assessment.

Our databases are continually growing as records are added and updated. If this proposed project is still under development one year from now, we recommend that you contact us again so that we may update this response with the most current information.

This response applies only to known occurrences of rare or state-listed animals and plants, significant natural communities and other significant habitats maintained in the Natural Heritage Data bases. Your project may require additional review or permits; for information regarding other permits that may be required under state law for regulated areas or activities (e.g., regulated wetlands), please contact the appropriate NYS DEC Regional Office, Division of Environmental Permits, at the enclosed address.

Sincerely,

  
Tara Seoane, Information Services  
NY Natural Heritage Program

Enc.

cc: Reg. 5, Wildlife Mgr.  
Reg. 5, Fisheries Mgr.

*Appendix A - Agency Correspondence*

**DIVISION OF ENVIRONMENTAL PERMITS REGIONAL OFFICES**

<b>REGION</b>	<b>COUNTIES</b>	<b>REGIONAL PERMIT ADMINISTRATORS</b>
1	Nassau & Suffolk	John Pavacic NYS-DEC BLDG. 40 SUNY at Stony Brook Stony Brook, NY 11790-2356 Telephone: (631) 444-0365
2	New York City (Boroughs of Manhattan, Brooklyn, Bronx, Queens, & Staten Island)	John Cryan NYS-DEC One Hunters Point Plaza 47-40 21st Street Long Island City, NY 11101-5407 Telephone: (718) 482-4997
3	Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster & Westchester	Margaret Duke NYS-DEC 21 South Putt Corners Road New Paltz, NY 12561-1696 Telephone: (845) 256-3054
4	Albany, Columbia, Greene, Montgomery, Rensselaer & Schenectady	William Clarke NYS-DEC 1150 North Wescott Road Schenectady, NY 12306-2014 Telephone: (518) 357-2069
4 (sub-office)	Delaware, Otsego & Schoharie	Kent Sanders NYS-DEC Route 10 HCR#1, Box 3A Stamford, NY 12167-9503 Telephone: (607) 652-7741
5	Clinton, Essex, Franklin & Hamilton	Thomas Hall NYS-DEC Route 86, PO Box 296 Ray Brook, NY 12977-0296 Telephone: (518) 897-1234
5 (sub-office)	Fulton, Saratoga, Warren & Washington	Thomas Hall NYS-DEC County Route 40 PO Box 220 Warrensburg, NY 12885-0220 Telephone: (518) 623-1281
6	Jefferson, Lewis & St. Lawrence	Brian Fenlon NYS-DEC State Office Building 317 Washington Street Watertown, NY 13601-3787 Telephone: (315) 785-2245
6 (sub-office)	Herkimer & Oneida	J. Joseph Homburger* NYS-DEC State Office Building 207 Genesee Street Utica, NY 13501-2885 Telephone: (315) 793-2555

Appendix A - Agency Correspondence

7	Cayuga, Madison, Onondaga & Oswego	John Feltman NYS-DEC 615 Erie Blvd. West (Env. Permits Room 206) Syracuse, NY 13204-2400 Telephone: (315) 426-7438
7 (sub-office)	Broome, Chenango, Cortland, Tioga & Thompson	Michael Barylski* NYS-DEC 1285 Fisher Avenue Cortland, NY 13045-1090 Telephone: (607) 753-3095
8	Chemung, Genesee, Livingston, Monroe, Ontario, Orleans, Schuyler, Seneca, Steuben, Wayne & Yates	Peter Lent NYS-DEC 6274 East Avon Lima Road Avon, NY 14414-9519 Telephone: (625) 226-2466
9	Erie, Niagara & Wyoming	Steve Doleski NYS-DEC 270 Michigan Avenue Buffalo, NY 14203-2999 Telephone: (716) 851-7165
9 (sub-office)	Allegany, Cattaraugus, Chautauqua	Ken Taft* NYS-DEC 182 East Union, Suite 3 Allegany, NY 14706-1328 Telephone: (716) 372-0645

\* Deputy Regional Permit Administrator



**New York State Office of Parks,  
Recreation and Historic Preservation**

Historic Preservation Field Services Bureau • Peebles Island, PO Box 189, Waterford, New York 12188-0189  
518-237-8643  
www.nysparks.com

**David A. Paterson**  
Governor

**Carol Ash**  
Commissioner

September 08, 2008

Richard Starzak  
ICF  
811 W. 7th St. 800  
Los Angeles, California 90017

Re: STB  
Norfolk Southern Railway Co., Pan Am  
Railways -Rehab of former B&M and D&H RR  
yard site - South of Rt. 67  
HALFMOON, MECHANICVILLE,  
STILLWATER, Saratoga County  
08PR04526

Dear Mr. Starzak:

Thank you for requesting the comments of the Office of Parks, Recreation and Historic Preservation (OPRHP) concerning your project's potential impact/effect upon historic and/or prehistoric cultural resources. Our staff has reviewed the documentation that you provided on your project. Preliminary comments and/or requests for additional information are noted on separate enclosures accompanying this letter. A determination of impact/effect will be provided only after ALL documentation requirements noted on any enclosures have been met. Any questions concerning our preliminary comments and/or requests for additional information should be directed to the appropriate staff person identified on each enclosure.

In cases where a state agency is involved in this undertaking, it is appropriate for that agency to determine whether consultation should take place with OPRHP under Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law. In addition, if there is any federal agency involvement, Advisory Council on Historic Preservation's regulations, "Protection of Historic and Cultural Properties" 36 CFR 800 requires that agency to initiate Section 106 consultation with the State Historic Preservation Officer (SHPO).

When responding, please be sure to refer to the OPRHP Project Review (PR) number noted above.

Sincerely,

Ruth L. Pierpont  
Director

Enclosure

**ARCHEOLOGY COMMENTS**  
**08PR04526**

Based on reported resources, there is an archeological site in or adjacent to your project area. Therefore the Office of Parks, Recreation and Historic Preservation (OPRHP) recommends that a Phase 1 archeological survey is warranted for all portions of the project to involve ground disturbance, unless substantial prior ground disturbance can be documented. If you consider the project area to be disturbed, documentation of the disturbance will need to be reviewed by OPRHP. Examples of disturbance include mining activities and multiple episodes of building construction and demolition.

A Phase 1 survey is designed to determine the presence or absence of archeological sites or other cultural resources in the project's area of potential effect. The OPRHP can provide standards for conducting cultural resource investigations upon request. Cultural resource surveys and survey reports that meet these standards will be accepted and approved by the OPRHP.

Our office does not conduct cultural resources surveys. A 36 CFR 61 qualified archeologist should be retained to conduct the Phase 1 survey. Many archeological consulting firms advertise their availability in the yellow pages. The services of qualified archeologists can also be obtained by contacting local, regional, or statewide professional archeological organizations. Phase 1 surveys can be expected to vary in cost per mile of right-of-way or by the number of acres impacted. We encourage you to contact a number of consulting firms and compare examples of each firm's work to obtain the best product.

Documentation of ground disturbance should include a description of the disturbance with confirming evidence. Confirmation can include current photographs and/or older photographs of the project area which illustrate the disturbance (approximately keyed to a project area map), past maps or site plans that accurately record previous disturbances, or current soil borings that verify past disruptions to the land. Agricultural activity is not considered to be substantial ground disturbance and many sites have been identified in previously cultivated land.

Please also be aware that a Section 233 permit from the New York State Education Department (SED) may be necessary before any archeological survey activities are conducted on State-owned land. If any portion of the project includes the lands of New York State you should contact the SED before initiating survey activities. The SED contact is Christina B. Rieth and she can be reached at (518) 402-5975. Section 233 permits are not required for projects on private lands.

If you have any questions concerning archeology, please contact Michael Schifferli at 518-237-8643. ext 3281

Commonwealth of Massachusetts



# Division of Fisheries & Wildlife

Tom Poole

Wayne F. MacCallum, *Director*

9 December 1999

Ayer Conservation Commission  
Main Street  
Ayer, MA 01432

Dyer  
Sam Vel.

Project Applicant:	Guilford Rail System
Project Location:	Willow Park, Willow Road
Project Description:	Construct an automobile unloading facility on 57.7 acres of land
NHESP File No.	99-6049

Dear Commissioners:

The applicant listed above has submitted a Notice of Intent with project plans (dated 7/13/99) to the Natural Heritage & Endangered Species Program (NHESP) in compliance with the inland rare wildlife species section of the Massachusetts Wetlands Protection Act Regulations (310 CMR 10.59) for the subject project.

A Rare Animal Observation Form was recently submitted to the NHESP that documents the presence of Blanding's Turtles within the wetlands adjacent to the subject site. Based on this record, the NHESP prepared an interim Estimated Habitat map (enclosed) for use by the Commission with the current filing and future NOI filings. We recommend that this Estimated Habitat map be attached to your most recent wall-sized Estimated Habitat map.

Based on a review of the information that was provided and the information that is currently contained in our database, the NHESP has determined that this project occurs near but not within the actual habitat of the Blanding's Turtle (*Emydoidea blandingii*). The Blanding's Turtle is state-protected as "Threatened" pursuant to the Massachusetts Endangered Species Act (MGL c.131A). **It is our opinion that this project, as currently proposed, may adversely effect the actual wetland habitat of the Blanding's Turtle.**

The NHESP concerns include 1) the possible contamination of Blanding's Turtle habitat from surface and groundwater discharge from the proposed stormwater detention system, and 2) alteration of the hydroperiod within the adjacent wetland habitat. The proposed automobile unloading facility would create about 40 acres of impervious service, and would direct this drainage into detention basins that discharge at the edge of wetland habitat for Blanding's Turtles. Projects that direct stormwater discharge into rare species habitat do not meet the performance standard of "no short or long term adverse effects" to rare species habitat. Please note that stormwater detention systems are designed to only partially treat stormwater. The applicant must clearly show how habitat will not be contaminated by stormwater discharge.



## Natural Heritage & Endangered Species Program

Route 135, Westborough, MA 01581 Tel: (508) 792-7270 x 200 Fax: (508) 792-7275  
An Agency of the Department of Fisheries, Wildlife & Environmental Law Enforcement  
<http://www.state.ma.us/dfwele>



*Appendix A - Agency Correspondence*

Ayer Conservation Commission  
NHESP File No. 99-6049  
9 December 1999  
Page 2

The NHESP is also concerned about the infiltration of contaminants into rare species habitat via the groundwater, particularly since the proposed stormwater system is over excessively drained to moderately drained sandy soils. The proposed infiltration system represents a direct conduit for contaminants to enter habitat through groundwater. The applicant must show how the proposed stormwater system will not contribute to the contamination of wetland habitat.

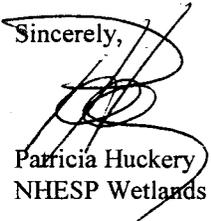
Lastly, the proposed stormwater system would alter the existing hydroperiod of the adjacent rare species habitat by changing the existing seasonal groundwater flow that sustains Blanding's Turtle wetland habitat throughout the year. Precipitation that normally infiltrates and replenishes groundwater across the area of the proposed 40-acre parking lot would now be diverted to the edge of rare species wetland habitat where it will be infiltrated at one point and then pass through the system. The applicant must show how they will not significantly alter the hydroperiod of the wetland habitat.

The applicant must thoroughly and clearly address the concerns stated above, as well as supply 1:40 scale plans to the Commission and the NHESP that show wetlands resource areas, location of erosion and sedimentation controls, the limit of work line, anticipated site grading, and any other pertinent information such as wetlands reports, wildlife habitat reports, a stormwater detention basin long-term management plan, and the anticipated percentage TSS removal from the proposed stormwater system. The NHESP may have additional concerns based on the supplementary information submitted.

It would be prudent for the applicant to consider restoring and maintaining a 100 foot native plant buffer along the adjoining wetland habitat.

Please note that this determination addresses only the matter of **rare** wildlife habitat and does not pertain to other wildlife habitat issues that may be pertinent to the proposed project.

Sincerely,



Patricia Huckery  
NHESP Wetlands Environmental Reviewer

Enclosures: DWW Policy 90-2  
Blanding's Turtle factsheet  
New Estimated Habitat for Blanding's Turtle record

cc: Cynthia Scarano, Guilford Rail System  
Michael F. Gragnolati  
Spectacle Pond Association  
Marielle Stone, DEP Central Regional Office, Wetlands Section  
file



Natural Heritage Program  
MA Division of Fisheries and Wildlife  
100 Cambridge Street, Boston, MA 02202  
(617) 727-9194

**MASSACHUSETTS RARE AND ENDANGERED WILDLIFE**

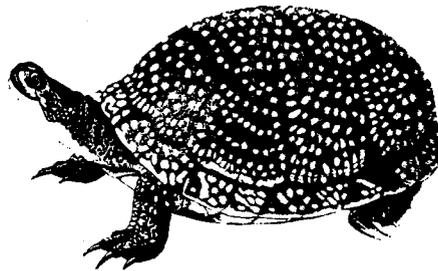
**BLANDING'S TURTLE**  
Emydoidea blandingii

DESCRIPTION

The Blanding's Turtle is a medium sized long-necked turtle ranging between 8 and 10 inches (20-25 cm). Its high-domed carapace (top shell) is black covered with pale yellow spots and streaks. The yellowish plastron (bottom shell) is hinged allowing movement of the front section. Its upper jaw is notched and its yellow throat and chin make it recognizable at a distance. Hatchlings have a brown carapace and a dark brown or black plastron, and range between 3.4 and 3.7 cm in carapace length.

RANGE

The Blanding's Turtle is found primarily in the Midwest but disjunct populations are found from southern Nova Scotia to Nebraska. In New England, it is found in eastern Massachusetts, southern New Hampshire and southern Maine.



DeGraaf, Richard. Amphibians and Reptiles of New England. U. Mass Press. 1983.

HABITAT

The Blanding's Turtle is primarily aquatic preferring densely vegetated shallow ponds, marshes, or small streams. It is most often observed on land during nesting activities but has been known to feed and wander there as well.

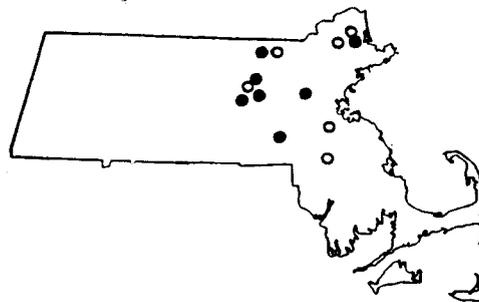
FEEDING HABITS

The Blanding's Turtle feeds on fresh-water plants, fishes, insects, crustaceans, and molluscs. On land, it has been observed eating vegetation, slugs, insect larvae, and earthworms.

(continued overleaf)



 Range



- Verified since 1978
- Reported prior to 1978

Breeding Distribution in Massachusetts  
by Town

1987

NESTING HABITS

Female Blanding's Turtles reach sexual maturity and begin breeding at about 12 years of age. Females select unvegetated nest sites that are composed of hard soil. Plowed fields, railroad embankments, and dirt roads provide a suitable substrate. Eggs are usually laid at the end of June with emergence occurring in late September or early October. Clutch size ranges from six to eleven eggs.

POPULATION STATUS

The Blanding's Turtle is listed as Threatened by the Massachusetts Division of Fisheries and Wildlife. As this turtle is relatively difficult to study, it is not known how great a decline this species has experienced in comparison to earlier years. In Massachusetts, only seven nesting sites are currently known containing an undetermined number of individuals. A variety of factors are attributed to this species' low numbers. Development has destroyed appropriate habitat by altering the land and introducing human related impacts such as pet predation, road mortality, and vandalism. Hatchlings are especially vulnerable to these threats as well as to natural predation by fishes, bullfrogs, snakes, birds, and mammals. The presence of these threats in addition to the species' natural characteristics of late maturation age and low rate of reproduction (less than one-half of breeding age females reproduce yearly), make it difficult for the Blanding's Turtle to thrive.

## Rare Species: Standards and Procedures for Determining Adverse Impacts to Rare Species Habitat (DWW Policy 90-2)

Issued: August 13, 1990

### Purpose

The purpose of this policy is to clarify the rules regarding rare species habitat contained in the Wetlands Protection Regulations (The "regulations") at 310 CMR 10.37 and 10.59. This policy provides a clear standard and specific procedural guidelines for determining whether a project will have an adverse effect (short or long term) on state listed (rare) species habitat and whether such effects can be mitigated.

### Regulatory Standards

Coastal and inland regulations pertaining to projects which impact Rare Species wetlands habitat are found at 310 CMR 10.37 and 10.59 respectively. Both sections refer to the roles of the "issuing authority" (Conservation Commissions and the Department) and "the Program" (Natural Heritage and Endangered Species Program). The regulations provide in part that:

"... if a proposed project is found by the issuing authority to alter a resource area which is part of the habitat of a state-listed species, such project shall not be permitted to have any short or long term adverse effects on the habitat of the local population of that species. A determination of whether or not a proposed project will have such an adverse effect shall be made by the issuing authority. However, a written opinion of the Program on whether or not a proposed project will have such an adverse effect shall be presumed by the issuing authority to be correct. This presumption is rebuttable and may be overcome upon a clear showing to the contrary." (310 CMR 10.37 and 10.59, emphasis added).

### Analysis

When work is proposed in a rare species habitat, the applicant shall have the burden of demonstrating to the

issuing authority that the alteration will not adversely effect the habitat of the local population of that species. In order to meet this burden, the applicant shall be required to: 1) identify the relevant habitat requirements of the rare species in question; 2) identify the habitat characteristics of the resource areas and the important wildlife functions provided for that rare species; and 3) demonstrate that the proposed work will not alter any habitat characteristics which are providing important wildlife functions for the rare species. Wildlife habitat functions to be analyzed are important food, shelter, migratory or overwintering areas, or breeding areas. (Wildlife habitat characteristics for inland resource areas can be found at 310 CMR 10.60(2).)

The issuing authority shall presume a written opinion from the Program on whether a proposed project will have an adverse effect to be correct. This presumption is rebuttable and may be overcome upon a clear showing to the contrary. In the absence of a finding by the Program, the issuing authority may require additional information, which may include a written opinion from the Program or other qualified wildlife expert, to show that the proposed project will not have an adverse effect.

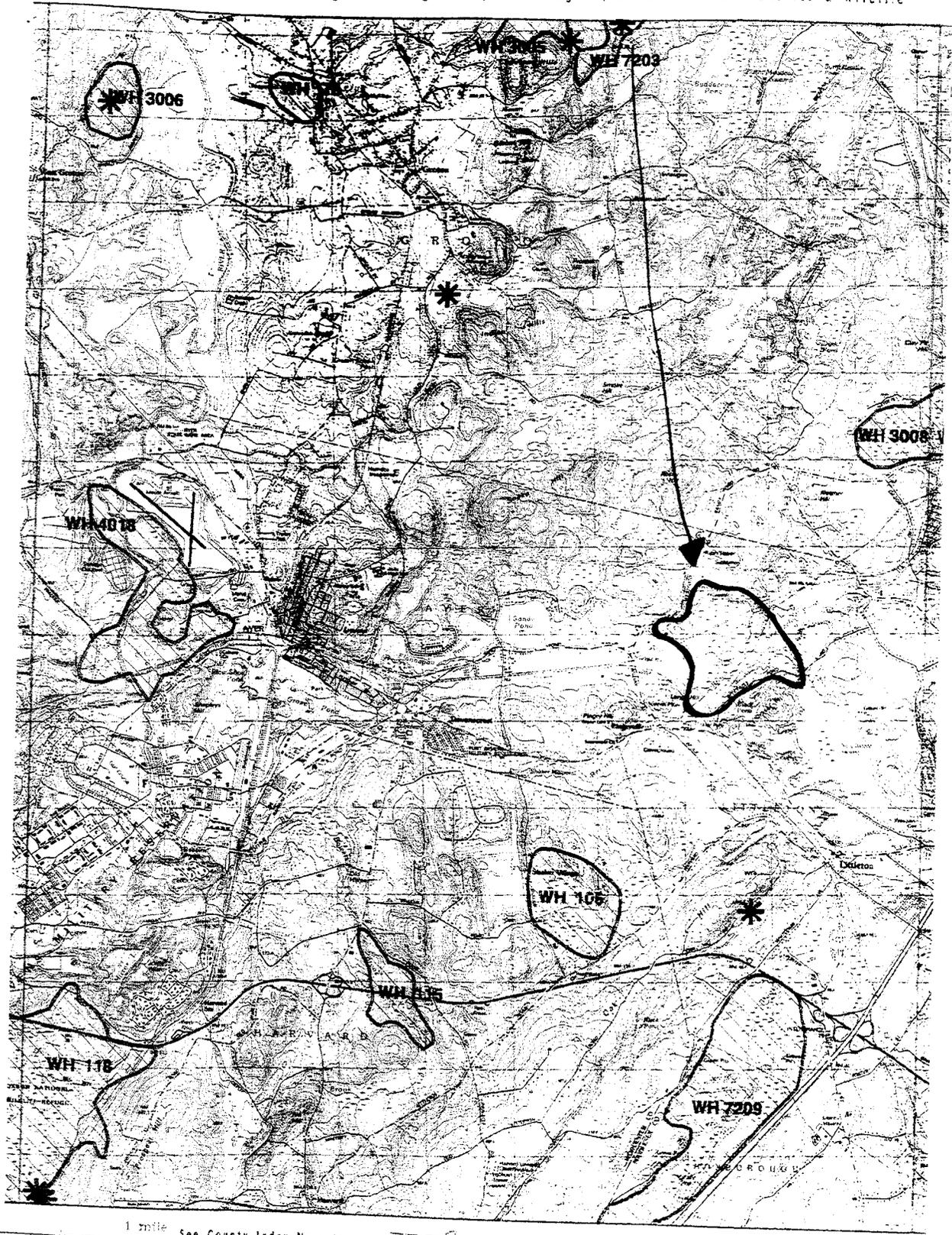
The issuing authority is prohibited from allowing any project which has not met the burden of demonstrating no adverse effect. Furthermore, habitat replication, relocation of individual animals, or other proposed measures purported to offset adverse effects, shall not be permitted because these activities cannot meet the performance standard of no adverse short or long term effect on the habitat of the local population.



Appendix A - Agency Correspondence



ESTIMATED HABITATS OF RARE WILDLIFE AND CERTIFIED VERNAL POOLS  
For use with the MA Wetlands Protection Act regulations (310 CMR 10).  
Produced by Natural Heritage & Endangered Species Program, MA Division of Fisheries & Wildlife



0 1 mile  
0 1 kilometer  
See County Index Maps to locate adjacent quadrangles

AYER QUAD 1997

379

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APPENDIX A MASSACHUSETTS HISTORICAL COMMISSION 220 MORRISSEY BOULEVARD BOSTON, MASS. 02125 617-727-8470, FAX: 617-727-5128

RECEIVED

SEP 11 2008

**PROJECT NOTIFICATION FORM**

MASS. HIST. COMM

Project Name: Norfolk Southern Railway Company, Pan Am Railways, Inc. et.al. Joint Control and Operating/Pooling Agreements – Pan Am Southern, LLC RC 45110

Location / Address: Bridge No. 82.04 over Tunnel Street in Athol

City / Town: Athol, Massachusetts

Project Proponent Name: ICF on behalf of Norfolk Southern Railway Company and Pan Am Railways, Inc.

Address: 811 W. 7<sup>th</sup> Street, Suite 800

City/Town/Zip/Telephone: Los Angeles, California 90017, 213.627.5376

Agency license or funding for the project (list all licenses, permits, approvals, grants or other entitlements being sought from state and federal agencies).

After review of MHC files and the materials you submitted, it has been determined that this project is unlikely to affect significant historic or archaeological resources.

RC 45110

Agency Name

Type of License or funding (specify)

9/19/08

U.S. Surface Transportation Board

Approval of railroad transaction

Jonathan K. Patton  
Archaeologist / Preservation Planner  
Massachusetts Historical Commission

XC: Athol Historical Commission

**Project Description (narrative):**

**Regulatory Framework:** The Surface Transportation Board (STB), through its Section of Environmental Analysis (SEA), undertakes the Section 106 process in railroad licensing proceedings. The STB's regulations governing the Section 106 process may be found at Section 1105.8 of Title 49, Code of Federal Regulations (49 CFR 1105.8). (Further information can be found at <http://www.stb.dot.gov/stb/environment/preservation.html>).

**Description of Undertaking:** The transaction between Norfolk Southern Railway Company and Pan Am Railways, Inc. (formerly Guilford Transportation and the Boston & Maine Railroad), currently pending before the federal Surface Transportation Board (STB) in Finance Docket No. 35147, would create a new railroad entity, Pan Am Southern LLC (PAS), to operate certain rail lines that are now owned and/or operated by Pan Am Railways or its subsidiaries. No new rail lines are proposed to be constructed and no abandonments will occur. Three separate elements of the transaction in three different towns in Massachusetts would have discrete Areas of Potential Effects. Each of these elements has been identified on a project notification form sent under separate cover.

As part of the proposed transaction, the parties anticipate existing railroad Bridge No. 82.04 may undergo substructure repair and superstructure replacement.

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BOULEVARD BOSTON, MASS. 02125 617-727-8470, FAX: 617-727-5128

**Does the project include demolition? If so, specify nature of demolition and describe the building(s) which are proposed for demolition.**

The parties anticipate that the superstructure of Bridge No. 82.04 may be replaced and the substructure may be repaired.

**Does the project include rehabilitation of any existing buildings? If so, specify nature of rehabilitation and describe the building(s) which are proposed for rehabilitation.**

Bridge No. 82.04 over Tunnel Street in Athol was built in 1910, with alterations in 1930, 1940, and 1946. It has a riveted deck plate girder superstructure with open timber deck and maintenance walkway, with a 32' 7" span, with stone masonry abutments and wingwalls. The parties anticipate that the existing superstructure may be replaced and the substructure may undergo structural repairs. Substructure repairs may include replacement of the backwalls and bearing seats with poured concrete. The bearing seat and backwall replacement would not alter the cut stone abutment, which would remain intact. The west abutment of Bridge No. 82.04 is adjacent to the beginning of a stone arch bridge over Mill Brook (Bridge No. 82.05). No repairs or modifications are planned for Bridge No. 82.05. Photos are included as Appendix A/Figures 1 through 4.

**Does the project include new construction? If so, describe (attach plans and elevations if necessary).**

As part of the proposed transaction, the parties anticipate replacement of the superstructure on Bridge No. 82.04. In addition, the backwall and bearing seats may be replaced.

**To the best of your knowledge, are any historic or archaeological properties known to exist within the project's area of potential impact? If so, specify.**

There are no known archaeological properties at the existing bridge location.

**What is the total acreage of the project area?**

Woodland _____ acres	Productive Resources:
Wetland _____ acres	Agriculture _____ acres
Floodplain _____ acres	Forestry _____ acres
Open space: _____ acres	Mining/Extraction _____ acres
Developed _____ acres	Total Project Acreage <u>less than 1 acre</u>

The existing bridge encompasses less than one acre of previously disturbed land.

**What is the acreage of the proposed new construction?**

Less than one acre. The proposed new construction would be confined to an existing bridge.

**What is the present land use of the project area?**

The present land use is rail and roadway.

*Appendix A - Agency Correspondence*

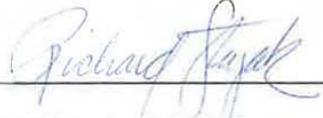
950 CMR: OFFICE OF THE SECRETARY OF THE COMMONWEALTH

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BOULEVARD BOSTON, MASS. 02125 617-727-8470, FAX: 617-727-5128

**Please attach a copy of the section of the USGS quadrangle map which clearly marks the project location.**

This Project Notification Form has been submitted to the MHC in compliance with 950 CMR 71.00.

Signature of Person submitting this form:



Date: September 10, 2008

Name: Richard Starzak, Senior Architectural Historian, Principal

Address: ICF, 811 W. 7<sup>th</sup> Street, Suite 800

City/Town/Zip: Los Angeles, California 90017

Telephone: 213.627.5376

REGULATORY AUTHORITY 950 CMR 71.00: M.G.L. c. 9, §§ 26-27C as amended by St. 1988, c. 254.

7/1/93 950

CMR - 276

5/31/96 (Effective 7/1/93) - corrected 950

CMR - 275

JR

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BOULEVARD BOSTON, MASS. 02125 617-727-8470, FAX: 617-727-5128

RECEIVED

SEP 11 2008

**PROJECT NOTIFICATION FORM**

MASS. HIST. COMM

Project Name: Norfolk Southern Railway Company, Pan Am Railways, Inc. et.al. Joint Control and Operating/Pooling Agreements – Pan Am Southern, LLC

Location / Address: Bridge No. 103.73 over a former branch line near McClelland Road in East Deerfield.

City / Town: East Deerfield, Massachusetts

Project Proponent Name: ICF on behalf of Norfolk Southern Railway Company and Pan Am Railways, Inc.

Address: 811 W. 7<sup>th</sup> Street, Suite 800

City/Town/Zip/Telephone: Los Angeles, California 90017, 213.627.3376

After review of MHC files and the materials you submitted, it has been determined that this project is unlikely to affect significant historic or archaeological resources.

RC. 45109

9/19/08

Agency license or funding for the project (list all licenses, permits, approvals, or other entitlements being sought from state and federal agencies).

Jonathan K. Patton  
Archaeologist / Preservation Planner  
Massachusetts Historical Commission

Agency Name

Type of License or funding (specify)

xc: Deerfield Historical Commission

U.S. Surface Transportation Board

Approval of railroad transaction

**Project Description (narrative):**

**Regulatory Framework:** The Surface Transportation Board (STB), through its Section of Environmental Analysis (SEA), undertakes the Section 106 process in railroad licensing proceedings. The STB's regulations governing the Section 106 process may be found at Section 1105.8 of Title 49, Code of Federal Regulations (49 CFR 1105.8). (Further information can be found at <http://www.stb.dot.gov/stb/environment/preservation.html>).

**Description of Undertaking:** The transaction between Norfolk Southern Railway Company and Pan Am Railways, Inc. (formerly Guilford Transportation and the Boston & Maine Railroad), currently pending before the federal Surface Transportation Board (STB) in Finance Docket No. 35147, would create a new railroad entity, Pan Am Southern LLC (PAS), to operate certain rail lines that are now owned and/or operated by Pan Am Railways or its subsidiaries. No new rail lines are proposed to be constructed and no abandonments will occur. Three separate elements of the transaction in three different towns in Massachusetts would have discrete Areas of Potential Effects. Each of these elements has been identified on a project notification form sent under separate cover.

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BOULEVARD BOSTON, MASS. 02125 617-727-8470, FAX: 617-727-5128

As part of the proposed transaction, the parties anticipate placing fill underneath existing railroad Bridge No. 103.73 and the superstructure may be removed.

**Does the project include demolition? If so, specify nature of demolition and describe the building(s) which are proposed for demolition.**

The parties anticipate placing fill underneath existing Bridge No. 103.73 and the superstructure may be removed.

**Does the project include rehabilitation of any existing buildings? If so, specify nature of rehabilitation and describe the building(s) which are proposed for rehabilitation.**

Bridge No. 103.73 over a former branch line near McClelland Road in East Deerfield was built in 1911 with alterations in 1939, 1956, and 1960. It has a riveted deck plate girder superstructure with a 40' span, open timber deck and maintenance walkways along both sides. The abutments and wingwalls are stone masonry with concrete backwalls. The parties anticipate placing fill underneath Bridge No. 103.73 and the superstructure may be removed. The tangent tracks that pass under this bridge have been removed; therefore, there is no longer a need for a bridge in this location. This bridge is an approach to the main span, Bridge No. 103.75 over the Connecticut River (which features a two-part deck truss supported on a stone pier and stone abutments). No repairs or modifications are planned for Bridge No. 103.75. Moreover, the main spans of the bridge are not in the direct Area of Potential Effects for construction related to the transaction. Photos are included as Appendix A/Figures 1 through 4.

**Does the project include new construction? If so, describe (attach plans and elevations if necessary).**

There will be no new construction on Bridge No. 103.73. The parties anticipate placing fill underneath existing railroad Bridge No. 103.73, and the superstructure may be removed.

**To the best of your knowledge, are any historic or archaeological properties known to exist within the project's area of potential impact? If so, specify.**

There are no known archaeological properties at the existing bridge location.

**What is the total acreage of the project area?**

Woodland _____ acres	Productive Resources:
Wetland _____ acres	Agriculture _____ acres
Floodplain _____ acres	Forestry _____ acres
Open space: _____ acres	Mining/Extraction _____ acres
Developed _____ acres	Total Project Acreage <u>less than 1 acre</u>

The existing bridge encompasses less than one acre of previously disturbed land.

**What is the acreage of the proposed new construction?**

There will be no new construction on Bridge No. 103.73.

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APPENDIX A MASSACHUSETTS HISTORICAL COMMISSION 220 MORRISSEY  
BOULEVARD BOSTON, MASS. 02125 617-727-8470, FAX: 617-727-5128

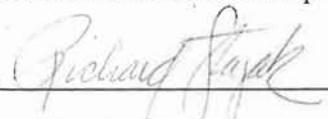
**What is the present land use of the project area?**

The property is in use by the railroad at present.

**Please attach a copy of the section of the USGS quadrangle map which clearly marks the project location.**

This Project Notification Form has been submitted to the MHC in compliance with 950 CMR 71.00.

Signature of Person submitting this form:



Date: September 10, 2008

Name: Richard Starzak, Senior Architectural Historian, Principal

Address: ICF, 811 W. 7<sup>th</sup> Street, Suite 800

City/Town/Zip: Los Angeles, California 90017

Telephone: 213.627.5376

REGULATORY AUTHORITY 950 CMR 71.00: M.G.L. c. 9, §§ 26-27C as amended by St. 1988, c. 254.

7/1/93 950

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**Does the project include demolition? If so, specify nature of demolition and describe the building(s) which are proposed for demolition.**

There would be no proposed demolition of buildings as part of the undertaking.

**Does the project include rehabilitation of any existing buildings? If so, specify nature of rehabilitation and describe the building(s) which are proposed for rehabilitation.**

The only existing building at the San Vel site would be moved to a different location on the site. The structure is a metal-sided industrial building on a concrete pad, constructed in the late 1980s/early 1990s, and would not meet National Register criteria consideration G for buildings less than 50 years old. Photos are included as Appendix A/Figures 1 & 2.

**Does the project include new construction? If so, describe (attach plans and elevations if necessary).**

The proposed facility at San Vel includes new construction, but it would be confined to previously disturbed areas.

**To the best of your knowledge, are any historic or archaeological properties known to exist within the project's area of potential impact? If so, specify.**

There are no known archaeological properties that exist within the proposed San Vel Automotive Facility site. This area was heavily disturbed by a gravel pit and excavation operation, which formerly occupied the site.

**What is the total acreage of the project area?**

Woodland _____ acres	Productive Resources:
Wetland _____ acres	Agriculture _____ acres
Floodplain _____ acres	Forestry _____ acres
Open space: _____ acres	Mining/Extraction _____ acres
Developed _____ acres	Total Project Acreage <u>36</u>

The footprint of construction for the proposed San Vel facility encompasses 36 acres of previously disturbed land directly abutting the existing railroad mainline. The site of the facility is located on a 126.1 acre-tract that was formerly a gravel pit excavation operation. Approximately 30 acres of the 126.1-acre tract is wetland area. The wetland area is entirely outside the footprint of construction for the proposed facility.

**What is the acreage of the proposed new construction?**

36 acres. The proposed new construction would be confined to previously disturbed areas at the San Vel site.

*Appendix A - Agency Correspondence*

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**What is the present land use of the project area?**

The current land is operated by Springfield Terminal, a subsidiary of Pan Am Railways Inc., and is used by the company for rail lines and railroad facilities.

**Please attach a copy of the section of the USGS quadrangle map which clearly marks the project location.**

This Project Notification Form has been submitted to the MHC in compliance with 950 CMR 71.00.

Signature of Person submitting this form:  Date: September 10, 2008

Name: Richard Starzak, Senior Architectural Historian, Principal

Address: ICF, 811 W. 7<sup>th</sup> Street, Suite 800

City/Town/Zip: Los Angeles, California 90017

Telephone: 213.627.5376

REGULATORY AUTHORITY 950 CMR 71.00: M.G.L. c. 9, §§ 26-27C as amended by St. 1988, c. 254.

7/1/93 950

CMR - 276