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July 31, 2014

BY HAND DELIVERY

Cynthia T. Brown, Chief
Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington DC 20423-0001

Re: *Norfolk Southern Railway Company – Abandonment – in the City of Hopewell, Virginia, STB Docket No. AB -290 (Sub -No. 364X)*

Dear Ms. Brown:

Enclosed please find an original and eleven copies of a petition for exemption by Norfolk Southern Railway Company (“NSR”) to abandon a line of railroad located in the City of Hopewell, Virginia. Please date stamp the extra copy and return to the courier. This submission also includes an electronic copy of the entire petition and a separate electronic file of the draft Federal Register notice pursuant to 49 C.F.R. § 1152.60(c). For the reasons set forth in the attached petition, NSR requests expedited consideration of its petition for exemption.

Finally, pursuant to 49 C.F.R. § 1002.2(f)(21)(iii), I have enclosed a filing fee check in the amount of \$6,700.00. If there are any questions about this matter, please contact me directly, either by telephone: 202-663-7823 or by e-mail: wmullins@bakerandmiller.com.

Respectfully submitted,



William A. Mullins

Enclosures

Cc: Maquiling Parkerson, Marc Kirchner, LaWada Poarch

FILED
July 31, 2014
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
July 31, 2014
SURFACE
TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB Docket No. AB-290 (Sub-No. 364X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF HOPEWELL, VIRGINIA**

PETITION FOR EXEMPTION

EXPEDITED CONSIDERATION REQUESTED

**Maquiling Parkerson, Esq.
NORFOLK SOUTHERN CORPORATION
Three Commercial Place
Norfolk, VA 23510
Tel: (757) 533-4939
Maqui.Parkerson@nscorp.com**

**William A. Mullins
BAKER & MILLER PLLC
2401 Pennsylvania Ave., NW
Suite 300
Washington, DC 20037
Tel: (202) 663-7823
wmullins@bakerandmiller.com**

**Attorneys for Norfolk Southern
Railway Company**

July 31, 2014

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB Docket No. AB-290 (Sub-No. 364X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF HOPEWELL, VIRGINIA**

PETITION FOR EXEMPTION

EXPEDITED CONSIDERATION REQUESTED

INTRODUCTION

Pursuant to 49 U.S.C. § 10502 and rules applicable thereto at 49 C.F.R. parts 1121 and 1152, Norfolk Southern Railway Company (“NSR”), a Class I railroad common carrier, files this petition (the “Petition”) seeking an exemption from the provisions of 49 U.S.C. § 10903 to abandon approximately 0.46 miles of rail line (the “Line”) extending from milepost CP 9.40 to Milepost CP 9.86, in the City of Hopewell, Virginia.

The Line traverses United States Postal Service ZIP Code 23860. Based on information in NSR’s possession, the Line does not contain federally granted rights-of-way. Any documentation in NSR’s possession will be made available to those requesting it. The Line for which the abandonment is filed includes the station of Hopewell, which is the only station on the Line.

Because there has been traffic on the Line in the past two years, NSR cannot file a notice of exemption under 49 C.F.R. §1152.50, although similar to a notice of exemption proceeding, the abandonment will not adversely impact any shipper. This is because there is only one

shipper on the Line, Regional Enterprises (“Regional”), and Regional fully supports the abandonment. Regional desires NSR to convert the Line to a private rail line not subject to the jurisdiction of the Surface Transportation Board (“STB”) because Regional wishes to purchase the Line to incorporate it as part of its transload operations. NS has agreed to accommodate Regional’s plants. Accordingly, Regional, the only active or potential shipper on the Line, fully supports the prompt abandonment of the Line.

The requested abandonment exemption should be granted because –

- in keeping with the standards of section 10502 – (a) application of the Board’s formal abandonment process is unnecessary to carry out the Rail Transportation Policy (“RTP”) of 49 U.S.C. § 10502; (b) the proposed action is of limited scope; and (c) regulation is not necessary to protect the sole customer located on the line from market power abuse; and
- the property underlying the Line is needed for incorporation into the transload operations of the sole customer on the Line, and abandonment will not deprive that shipper or any other of rail service.

NSR’s Petition should be granted in keeping with agency policy and precedent. In addition, and for reasons detailed below, NSR respectfully requests expedited consideration of its Petition in order to accommodate Regional’s intention to move forward with its transload facility's expansion plans as soon as possible following consummation of the proposed abandonment.

MAPS AND EXHIBITS

A map of the Line is attached as Exhibit A. A draft Federal Register notice is attached as Exhibit B, and the certifications of compliance with 49 C.F.R. §§ 1105.12 and 1152.60(d) are included as Exhibit C. Attached as part of Exhibit D is a certificate of compliance with the advance notice requirements for Environmental and Historic Reports as set forth at 49 C.F.R. § 1105.11. Also included as part of Exhibit D is a combined Environmental and Historic Report

(“E&HR”) prepared in anticipation of the proposed abandonment, which conforms to the requirements of 49 C.F.R. §§ 1105.7 and 1105.8.

FACTUAL BACKGROUND

The subject Line is part of a longer branch line known as the City Point Branch, which was formerly operated as the Norfolk and Western Railway Company (“NWRC”), an NSR predecessor. The City Point Branch is now and historically has been an important avenue for rail transportation for Regional. Historical background on the Line is included in the attached Environmental and Historic Report. Recently, Regional, the sole user of the Line, approached NSR concerning Regional’s plan to expand its transload facility. Regional’s current plans involve NSR relinquishing its interest in the Line, removing the line from STB jurisdiction, and conveying the Line to Regional. To accommodate Regional’s request, NSR has elected to seek an exemption permitting it to abandon the Line to facilitate the subject transload facility expansion. The Line is stub-ended and therefore not capable of handling overhead traffic.

As the attached May 15, 2014 letter from Mr. Daniel P. Matthews, Vice President and General Manager, Regional Enterprise, Inc., indicates, Regional fully supports the proposed abandonment (attached as part of Exhibit D, Appendix B). Of course, NSR will serve Regional with a copy of this Petition.

PETITIONER’S REPRESENTATIVE

NSR is represented by William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Avenue, NW, Suite 300, Washington, DC 20037; telephone: (202) 663-7823; facsimile: (202) 663-7849; email: wmullins@bakerandmiller.com.

THE EXEMPTION STANDARDS HAVE BEEN MET

Under 49 U.S.C. § 10903, a rail line cannot be abandoned without prior Board approval. However, under 49 U.S.C. § 10502, the Board must exempt a proposed rail line abandonment from section 10903's formal requirements when it finds that – (1) regulation of the transaction is not necessary to carry out the rail transportation policy of 49 U.S.C. § 10101; and (2) either (a) the transaction is of limited scope, or (b) regulation is not needed to protect shippers from market power abuse. This proposed abandonment meets all of the above statutory requirements of section 10502.

A. Regulation Is Not Necessary To Carry Out The Rail Transportation Policy

The RTP obviates the need for detailed Board scrutiny under 49 U.S.C. § 10903 in this instance. Granting NSR's Petition – rather than requiring it to incur the substantial costs and potential delays involved in submitting a full-blown application – promotes a fair and expeditious regulatory decision-making process; ensures the development and continuation of a sound rail transportation system with effective competition among rail carriers and other modes to meet the needs of the public; reduces regulatory barriers to exit from the industry; and provides for the expeditious handling and resolution of proceedings required or permitted to be brought under this part. See 49 U.S.C. §§ 10101(2), (4), (7), and (15). Moreover, granting NSR's Petition will foster sound economic conditions, and will encourage efficient management in accordance with the RTP by allowing NSR to rationalize underutilized assets and transfer them for use by others in further economic development for the community. See 49 U.S.C. §§ 10101(5) and (9).

For these reasons, the Board need not, and should not, require NSR to use the formal abandonment application procedures in order to carry out the RTP. Indeed, the proposed

abandonment and NSR's use of the Board's exemption procedures promote the customer's interest, and is consistent with the RTP.

B. The Proposed Abandonment Is of Limited Scope

The proposed abandonment is of limited scope, involving only 0.46 miles of branch line that, although used by a single customer (Regional), is needed by that customer to accommodate the customer's planned expansion of its transload facility.

C. Regulation of the Abandonment Is Not Necessary to Protect Shippers from Market Power Abuse

Because the proposed abandonment is of limited scope, NSR need not show that regulation is unnecessary to protect shippers from market power abuse. But it is nevertheless clear that the use of the Board's formal abandonment procedures is not necessary to protect shippers from any potential abuse of market power in this case. Regional, the only active and potential shipper on the Line, has urged NSR to abandon the Line in the furtherance of Regional's expansion plans. The abandonment will not deprive Regional of access to NSR rail service, which will remain available via the remaining portions of the City Point Branch of which the subject Line is a part. Further, the transaction will not affect rail-to-rail or multi-modal competition.

PUBLIC INTEREST FACTORS

NSR is unaware of any public interest factors that would militate against the Board granting the subject Petition. The subject abandonment will facilitate the lone customer's transload facility's expansion plans, and will not deprive it of access to NSR service via the remaining portions of the City Point Branch. In fact, the proposed abandonment is expected to promote efficient industrial output by facilitating Regional's transload expansion plans which might actually result in an increase in Regional's use of rail transportation. Accordingly, the

proposed abandonment could benefit the surrounding community by preserving, or potentially expanding, jobs at the Regional facility. As such, NSR submits that the proposed abandonment is wholly in keeping with the public interest.

LABOR PROTECTIVE CONDITIONS

The interests of NSR employees who may be adversely affected by the proposed abandonment will be adequately protected by the labor protective conditions in Oregon Short Line R. Co. – Abandonment – Goshen, 360 I.C.C. 91 (1979).

ENVIRONMENTAL AND HISTORIC IMPACTS REVIEW

NSR has prepared a combined Environmental and Historic Report (“E&HR”) in connection with the proposed abandonment. That E&HR is attached hereto as part of Exhibit D. Since the E&HR was last circulated, NSR has received two additional comments, via e-mail, one from the National Geodetic Survey and the other from the Virginia Department of Environmental Quality. A copy of those emails are included as part of Exhibit D, Appendix B.

PUBLIC USE AND INTERIM TRAILS USE CONDITIONS

As explained herein, NSR seeks to abandon the Line to accommodate the plans of the sole customer on the Line and has reached an agreement in principle to transfer the Line to that customer. As such, alternative, non-railroad public use of the Line’s right-of-way, including interim trails use/rail banking, is inconsistent with the purpose behind the Petition. As such, NSR would be unwilling to negotiate interim trails use, and it and Regional would object were anyone to come forward seeking the imposition of a public use condition pursuant to 49 C.F.R. § 1152.28, which would only serve either to block or delay Regional’s expansion plans.

REQUEST FOR EXPEDITED CONSIDERATION

The Board's abandonment petition for exemption process is typically governed by the need to – (1) comply with the offer of financial assistance dictates of 49 U.S.C. § 10904, and (2) complete the required environmental assessment processes in accordance with the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321-4347, the National Historic Preservation Act, 16 U.S.C. 470f, and the Board's corresponding regulations and practices.

Although mindful of such considerations, NSR respectfully requests expedited action on this Petition. Regional has made it clear that it desires to move forward with expansion of its transload facility as soon as possible, and the subject abandonment process, until completed, is an impediment to accomplishing its plans as they now exist. In the furtherance of Regional's plans, the sole customer on the Line, and given that that NSR has provided a full opportunity for parties to comment on the E&HR, NSR hereby respectfully requests expedited consideration of this Petition.

CONCLUSION

NSR seeks an exemption from the provisions of 49 U.S.C. § 10903 to abandon roughly 0.46 miles of its City Point Branch located in southeastern Virginia. The requested exemption is in keeping with, and will advance the interests of, the lone shipper that has made use of the Line over the past several years. No shipper will be harmed by the abandonment, and, in fact, the only affected shipper will benefit from the proposed abandonment. For the reasons supplied herein, application of the Board's formal abandonment procedures at section 10903 is not needed to carry out the RTP set forth at 49 U.S.C. § 10101, and, in fact, granting NSR's Petition would promote many of the elements of that policy. Likewise, the proposed abandonment is of limited scope, and no potential for abuse of market power would result from the requested exemption.

Accordingly, NSR urges expeditious Board action to grant an exemption for the proposed abandonment of service over the Line.

Respectfully submitted,

Maquiling Parkerson, Esq.
NORFOLK SOUTHERN CORPORATION
Three Commercial Place
Norfolk, VA 23510
Tel: (757) 533-4939
Maqui.Parkerson@nscorp.com



William A. Mullins
BAKER & MILLER PLLC
2401 Pennsylvania Ave., NW
Suite 300
Washington, DC 20037
Tel: (202) 663-7823
wmullins@bakerandmiller.com

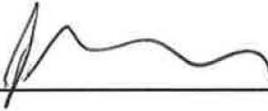
Attorneys for Norfolk Southern
Railway Company

July 31, 2014

Verification

I, John Friedmann, Vice President for Norfolk Southern Railway Company ("NSR"), hereby verify under penalty of perjury that to the best of my knowledge the foregoing abandonment notice of exemption is true and correct. Further, I certify that I am qualified and authorized to make such verification on behalf of NSR in connection with this proceeding before the Surface Transportation Board.

Executed this fifteenth day of July 2014



John H. Friedmann
Vice President

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB Docket No. AB-290 (Sub-No. 364X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF HOPEWELL, VIRGINIA**

PETITION FOR EXEMPTION

EXHIBIT A

MAP

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB Docket No. AB-290 (Sub-No. 364X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF HOPEWELL, VIRGINIA**

PETITION FOR EXEMPTION

EXHIBIT B

DRAFT FEDERAL REGISTER NOTICE

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 290 (Sub-No. 364X)]

Norfolk Southern Railway Company – Abandonment Exemption – In the City of Hopewell,
Virginia

On July 31, 2014, Norfolk Southern Railway Company (NSR) filed a petition under 49 U.S.C. § 10502 for an individual exemption from the provisions of 49 U.S. C. § 10903 to abandon an approximately 0.46 miles of rail line between Milepost CP 9.40 and Milepost CP 9.86 in the City of Hopewell, Virginia. The subject rail line traverses through United States Postal Service ZIP Code 23860. The line subject to abandonment includes the station of Hopewell, which is the only station on the Line.

The Line does not contain federally-granted rights-of-way. Any documentation in the railroad'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 Railroad – Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. § 10502(b). A final decision will be issued by _____, 2014.

Any offer of financial assistance (OFA) under 49 C.F.R. § 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 \$1,600 filing fee. See 49 C.F.R. § 1002.2(f)(25).

NSR seeks to abandon the Line to facilitate a customer's expansion of its transload facility. As such any request for a public use condition under 49 C.F.R. § 1152.28 or for trail use/rail banking under 49 C.F.R. § 1152.29, which would be due no later than _____, 2014, would be

contrary to the purpose behind NSR's abandonment efforts. Accordingly, NSR is unwilling to negotiate interim trails use/rail banking.

All filings in response to this notice must refer to Docket No. AB 290 (Sub-No. 364X) and must be sent to: (1) Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001; and (2) William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave., NW, Suite 300, Washington, DC 20037. Replies to the petition are due on or before _____, 2014.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs and Compliance at (202) 245-0238 or refer to the full abandonment or abandonment regulations at 49 C.F.R. pt. 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245-0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by OEA will be served upon all parties of record and upon any agencies or other persons who comment during its presentation. Other interested persons may contact OEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally are made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA generally will be within 30 days of its service.

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

Decided: _____.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB Docket No. AB-290 (Sub-No. 364X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF HOPEWELL, VIRGINIA**

PETITION FOR EXEMPTION

EXHIBIT C

**CERTIFICATIONS OF
SERVICE/PUBLICATION**

Certificate of Service

49 C.F.R. § 1152.60(d) – Notice

I certify that, in keeping with 49 C.F.R. § 1152.60(d), I caused the following parties to be served with a copy of Norfolk Southern Railway Company's foregoing abandonment petition for exemption:

Virginia Department of Transportation
1401 E. Broad St.
Richmond, VA 23219

Division of Utility and Railroad Safety
P.O. Box 1197
Richmond, Virginia 23218

David Dorfman
SDDC TEA
Railroads for National Defense
709 Ward Dr., Bldg. 1990
Scott AFB, IL 62225

Charlie Stockman
National Park Service
Rivers & Trails Conservation Program
1201 Eye Street, NW, 9th Floor (Org. Code 2220)
Washington, D.C. 20005

Thomas L. Tidwell, Chief
Forest Service
U.S. Department of Agriculture
Sidney R. Yates Federal Building
201 14th Street SW
Washington, DC 20024

In addition, I also hereby certify that I have served the following sole user of the subject rail line with a copy of the foregoing abandonment petition for exemption:

Daniel P. Matthews, Vice President
Regional Enterprises, Inc.
410 Water Street
Hopewell, Virginia 23860

July 31, 2014



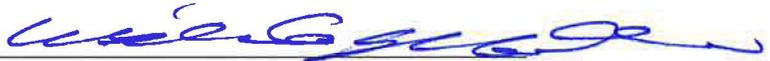
William A. Mullins
Attorney for Norfolk Southern
Railway Company

Certificate of Newspaper Publication

49 C.F.R. § 1105.12 – Newspaper Notice

I hereby certify that a “Notice of Intent to Abandon Rail Service” was published in the form prescribed by the Board for a Petition for Exemption (49 C.F.R. § 1105.12). The notice was published one time on July 22, 2014, in the Hopewell News, a newspaper of general circulation in the City of Hopewell, Virginia.

July 31, 2014



William A. Mullins
Attorney for Norfolk Southern
Railway Company

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB Docket No. AB-290 (Sub-No. 364X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF HOPEWELL, VIRGINIA**

PETITION FOR EXEMPTION

EXHIBIT D

**CERTIFICATE OF COMPLIANCE WITH
ENVIRONMENTAL AND HISTORIC
REPORT REQUIREMENTS AND
COMBINED ENVIRONMENTAL AND
HISTORIC REPORT**



Norfolk Southern Corporation
3 Commercial Place
Norfolk, VA 23510-9207

Strategic Planning Department
Three Commercial Place
Norfolk, VA 23510-9207
(757) 629-2679

July 1, 2014

RE: STB Docket No. AB-290 (Sub-No. 364X), Norfolk Southern Railway Company-
Abandonment- in Hopewell, Virginia

Dear Sir/Madam:

Norfolk Southern Railway Company (NSR) plans to request authority from the Surface Transportation Board (STB) to abandon a segment of rail line between Milepost CP 9.40 and Milepost CP 9.86 in Hopewell, Virginia.

Enclosed is a Combined Environmental and Historic Report (Report) which describes the proposed abandonment and other pertinent information. A map of the proposed track abandonment can be found in **Appendix A** of this report. **Appendix B** of this report lists the various agencies receiving it.

The railroad does not anticipate adverse environmental impacts; however, if you identify any adverse environmental effects please describe the actions that would assist in alleviating them. Please provide us with a written response indicating any concerns or lack thereof, which will be included in the Report and sent to the Surface Transportation Board (STB).

This Report is being provided so that you may submit information that will form the basis for the STB's independent environmental analysis of the proceeding. If you believe any of the information is incorrect, if you think pertinent information is missing, or if you have any questions about the Board's Environmental Review process, please contact the Section of Environmental Analysis (SEA) by telephone at (202) 245-0295 or by mail to:

Surface Transportation Board
395 E Street, S.W., Room 1106
Washington DC 20423-0001

Please refer to the above Docket when contacting the STB. Applicable statutes and regulations impose stringent deadlines for processing this action. For this reason your written comments (with a copy to us) would be appreciated within three weeks.

Your comments will be considered by the Board in evaluating the environmental impacts of the contemplated action. In order for us to consider your input prior to filing with the STB, we must receive your comments within three weeks. Please provide information to LaWada Poarch by email at LaWada.Poarch@nscorp.com, or by mail to:

LaWada Poarch
Abandonments Coordinator
Norfolk Southern Corporation
Strategic Planning Department
Three Commercial Place
Norfolk, VA 23510

Sincerely,

A handwritten signature in black ink, appearing to read 'Marcellus C. Kirchner', written in a cursive style.

Marcellus C. Kirchner
Director Strategic Planning
Norfolk Southern Railway Company

Attachment

Environmental and Historic Report
Certificate of Service

Pursuant to the requirements of 49 C.F.R. § 1105.7(b) and 49 C.F.R. § 1105.8(c), the undersigned hereby certifies that a copy of the Combined Environmental and Historic Report in Docket No. AB-290 (Sub-No. 364X) was mailed via first class mail on July 1, 2014 to the following parties:

STATE ENVIRONMENTAL PROTECTION AGENCY

Virginia Department of Environmental Quality
Central Office
629 East Main Street
P.O. Box 1105
Richmond, VA 23218

REGIONAL ENVIRONMENTAL PROTECTION AGENCY

Regional EPA – Region 3
1650 Arch Street
Philadelphia, PA 19103-2029

STATE COASTAL ZONE MANAGEMENT

Ms. Laura McKay
Program Manager
State Coastal Zone Management
629 East Main Street
P.O. Box 1105
Richmond, VA 23218

NATURAL RESOURCES CONSERVATION SERVICE

USDA NRCS
1606 Santa Rosa Road, Suite 209
Richmond, VA 23229-5014

FISH AND WILDLIFE SERVICES

U.S. Fish and Wildlife Service
Region 5
300 Westgate Center Drive
Hadley, MA 01035-9589

US ARMY CORPS OF ENGINEERS

U.S. Army Corps of Engineers
Norfolk District
Waterfield Building
803 Front Street
Norfolk, VA 23510

CITY

Mr. Mark A. Haley
City Manager
300 North Main Street, Room 218
Hopewell, VA 23860

STATE CLEARINGHOUSE (DOT)

Mr. Kevin Reichert
Virginia Department of Transportation
Central Office
1401 E. Broad Street
Richmond, VA 23219

STATE HISTORIC PRESERVATION OFFICE

Virginia Department of Historic Resources
Central Office
2801 Kensington Avenue
Richmond, VA 23221

NATIONAL PARK SERVICE

Charlie Stockman
National Park Service
Rivers and Trails Conservation Program
1201 Eye Street, NW 9th floor
Washington D.C. 20005

NATIONAL GEODETIC SURVEY

National Geodetic Survey
Geodetic Service Division
Room 9202 NGS/12
1315 East-West Hwy
Silver Spring, MD 20910-3282

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

USEPA
Ariel Rios Building
1200 Pennsylvania Ave., NW
Mail Code 1101-A
Washington, D.C. 20460-0002



Marcellus C. Kirchner
July 1, 2014

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**STB DOCKET NO. AB-290 (Sub-No. 364X)
NORFOLK SOUTHERN RAILWAY COMPANY
PROPOSED RAIL LINE ABANDONMENT
BETWEEN MILEPOST CP 9.40 AND MILEPOST CP 9.86
IN HOPEWELL, VIRGINIA**

Combined Environmental and Historic Report

Norfolk Southern Railway Company (NSR) submits this Combined Environmental and Historic Report (“EHR”) pursuant to 49 C.F.R. § 1105.7(e) and 49 C.F.R. § 1105.8(d), respectively, in connection with the proposed abandonment of 0.46 miles of rail line between Milepost CP 9.40 and Milepost CP 9.86 in Hopewell, Virginia.

July 1, 2014

ENVIRONMENTAL REPORT

49 CFR 1105.7(e)(1)

Proposed Action and Alternatives

Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

RESPONSE: NSR proposes to abandon 0.46 miles of rail line between Mileposts CP 9.40 and CP 9.86 in Hopewell, Virginia.

Following abandonment, the underlying right-of-way will be conveyed to Regional Enterprises, the sole customer at the end of the rail line which wishes to purchase the right-of-way in order to expand its transload facility. The rail line will be conveyed intact for operation and maintenance by the customer and no track will be removed prior to conveyance. No digging or burying of any kind will occur as a result of the abandonment.

The alternative to abandonment is to not abandon the line and retain the track in place. This alternative is not satisfactory as it would not permit the sale of the right-of-way to the customer.

A map depicting the line proposed for abandonment is attached as **Appendix A**. An example of the railroad's letter to federal, state and local government agencies along with a list of the consulting agencies NSR has contacted is attached as **Appendix B**. Comments received as a result of NSR's written requests for feedback can be found in **Appendix C**.

49 CFR 1105.7(e)(2) Transportation system.

Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

RESPONSE: Effects of the proposed action on regional or local transportation systems and patterns would be negligible. The abandonment and conveyance will have no traffic impact.

49 CFR 1105.7(e)(3) Land use.

(i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

RESPONSE: An outline of future land use plans has been requested from the City of Hopewell, which was asked to comment on the consistency of the proposed abandonment with existing land use plans. A copy of the letter received from the City of Hopewell respectively expressing support for the proposed abandonment is attached as part of **Appendix C**.

(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.

RESPONSE: Consultation was requested from The United States Department of Agriculture Natural Resources Conservation Service (USDA NRCS), which has indicated there is no prime farmland in area of project. A copy of the USDA NRCS response is attached as part of **Appendix C**.

(iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by Sec. 1105.9.

RESPONSE: Consultation was requested from the State Coastal Zone Management Program Manager, but NSR has not received a response to date. NSR

has no reason to believe that, the proposed abandonment would be inconsistent with the coastal zone management plan as the subject line is not within a coastal zone.

(iv) If the proposed action is an abandonment state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. 10906 and explain why.

RESPONSE: The railroad has fee title to the right-of-way underlying the line segment proposed for abandonment. Following abandonment, the underlying right-of-way will be conveyed to Regional Enterprises, the sole customer at the end of the rail line. Thus, the right-of-way will not be available for alternative public use.

49 CFR 1105.7(e)(4) Energy.

(i) Describe the effect of the proposed action on transportation of energy resources.

RESPONSE: Development and transportation of energy resources will not be affected by the abandonment.

(ii) Describe the effect of the proposed action on recyclable commodities.

RESPONSE: Movement or recovery of recyclable commodities will not be affected by the abandonment.

(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

RESPONSE: The proposed action will not result in any material impact in overall energy efficiency.

*(iv) If the proposed action will cause diversions from rail to motor carriage of more than:
(A) 1,000 rail carloads a year; or
(B) An average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given.*

RESPONSE: The diversion of traffic to motor carriers will not exceed the thresholds set forth at 49 CFR §1105.7(e)(4) as no diversions will occur. Accordingly,

there is no need to produce data on diverted traffic or to quantify the net change in energy consumption.

49 CFR 1105.7(e)(5) Air.

(i) If the proposed action will result in either:

(A) An increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or

(B) An increase in rail yard activity of at least 100 percent (measured by carload activity), or

(C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions.

RESPONSE: The above thresholds will not be exceeded.

(ii) If the proposed action affects a class I or nonattainment area under the Clean Air Act, and will result in either:

(A) An increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line,

(B) An increase in rail yard activity of at least 20 percent (measured by carload activity), or

(C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan.

RESPONSE: The above thresholds will not be exceeded. For the record,

however, Hopewell, Virginia is an attainment for all National Ambient Air Quality

Standard (NAAQS) pollutants according to the U.S. Environmental Protection Agency.

(iii) If transportation of ozone depleting materials (such as nitrogen oxide and Freon®) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

RESPONSE: Not applicable.

49 CFR 1105.7(e)(6) Noise.

If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause:

- (i) An incremental increase in noise levels of three decibels Ldn or more; or*
- (ii) An increase to a noise level of 65 decibels Ldn or greater.*

If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area, and quantify the noise increase for these receptors if the thresholds are surpassed.

RESPONSE: The above thresholds will not be exceeded.

49 CFR 1105.7(e)(7) Safety.

(i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).

RESPONSE: Abandonment of the subject rail line segment will have no adverse impact on public health and safety.

(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.

RESPONSE: Not applicable.

(iii) If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

RESPONSE: The railroad has no knowledge of hazardous waste sites or sites where there have been known hazardous material spills on the right-of-way or in adjacent areas.

49 CFR 1105.7(e)(8) Biological Resources.

(i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

RESPONSE: The railroad understands that no federally-listed endangered species or their habitats will be adversely affected. The railroad has requested input from the U.S. Fish and Wildlife Service (USFWS) to ascertain any impacts to surrounding habitats and species. USFWS' website lists the sensitive joint-vetch as an endangered species that may occur in the area of the proposed project and indicates there are no critical habitats within the project area. The railroad has no reason to believe, however, that any of this species is located within or adjacent to the subject rail line, or that any of these would be adversely affected by the proposed abandonment. A copy of the USFWS response is attached as part of **Appendix C**.

(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

RESPONSE: The line segment proposed for abandonment does not appear to pass through state parks or forests, national parks or forests, or wildlife sanctuaries. No adverse effects on wildlife sanctuaries, national parks or forests, or state parks or forests are anticipated.

49 CFR 1105.7(e)(9) Water.

(i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

RESPONSE: The railroad does not intend to remove or alter the contour of the roadbed underlying the rail line to be abandoned by way of excavation or other ground-disturbance activity. Accordingly, no soils will be disturbed as a result of the proposed abandonment, and no storm water mitigation measures – including, but not limited to, a National Pollutant Discharge Elimination System permit – will be required. There are no bridges on the line segment. There are no plans to undertake in-stream work, or dredge

and/or use any fill materials in connection with the proposed abandonment, so, for this reason also, the proposed abandonment will not result in water quality impacts.

Consultation has been requested from the Virginia Department of Environmental Quality and from the regional Environmental Protection Agency office. The United States Environmental Protection Agency ("EPA"), in response to NSR's initial consultation letter, indicated based on their review that they agree that no Section 402 National Pollutant Discharge Elimination System (NPDES) permits are required for this project. See

Appendix C.

(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

RESPONSE: The geometry of the roadbed will not be altered and no in-stream work is contemplated. No discernible effects on either 100-year flood plains or adjacent wetlands are expected in connection with the proposed abandonment. Consultation was requested from the U.S. Army Corps of Engineers and it has advised that no permit will be required. A copy of the USACE letter is attached as part of **Appendix C.**

(iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action.

RESPONSE: The railroad does not plan to remove or alter the roadbed underlying the line to be abandoned, to undertake in-stream work or to dredge or use any fill materials. There will be no excavation or other ground-disturbance activity, and, because no soils will be disturbed, no storm water mitigation measures – including, but not limited to, a National Pollutant Discharge Elimination System permit – will be required. The railroad anticipates that the abandonment will not affect water quality and that additional permitting under

Section 402 will not be required. Nevertheless, NSR has requested input from the Regional Environmental Protection Agency and the Virginia Department of Environmental Quality of Natural Resources.

49 CFR 1105.7(e)(10) Proposed Mitigation.

Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

RESPONSE: Abandonment of the involved rail line is not expected to produce adverse environmental impacts for the reasons set forth above. No track disturbance or removal will occur as a result of the abandonment.

HISTORIC REPORT

49 CFR 1105.8(d)

PROPOSED ACTION AND ALTERNATIVES

NSR proposes to abandon 0.46 miles of rail line between Mileposts CP 9.40 and CP 9.86 in Hopewell, Virginia.

Following abandonment, the underlying right-of-way will be conveyed to Regional Enterprises, the sole customer at the end of the rail line which wishes to purchase the right-of-way in order to expand its transload facility. The rail line will be conveyed intact for operation and maintenance by the customer and no track will be removed prior to conveyance.

The alternative to abandonment is to not abandon the line and retain the track in place. This alternative is not satisfactory as it would not permit the sale of the right-of-way to the customer.

A map depicting the line proposed for abandonment is attached as **Appendix A**.

ADDITIONAL INFORMATION

- (1) **U.S.G.S. Topographic Map** - Maps were furnished to the Virginia Department of Historic Resources.
- (2) **Written Description of Right of Way** - The right-of-way width ranges from 50 feet to 100 feet along the main track centerline. Pursuant to Surface Transportation Board (STB) policy, the railroad's right-of-way will constitute the Area of Potential Effect (APE) for this undertaking.
- (3) **Photographs** – There are no bridges or other structures on the subject line segment.

(4) **Date of Construction of Structures** – Not applicable.

(5) **History of Operations and Changes Contemplated** – The railroad property that is the subject of the proposed abandonment consists of 0.46 miles of rail line between Milepost CP 9.40 and Milepost CP 9.86 in Hopewell, Virginia.

The City Point Railroad Company completed construction of its line between Petersburg and City Point in 1839. In 1847, the City Point Railroad Company was reorganized as the Appomattox Railroad Company, and in 1854, the Appomattox Railroad Company was sold to the Southside Railroad Company.

In 1870, the Southside Railroad Company was consolidated into the Atlantic, Mississippi, and Ohio Railroad Company. In 1881, the Atlantic, Mississippi, and Ohio Railroad Company (AM&O) was sold to the Norfolk and Western Railroad Company.

In 1896, the Norfolk and Western Railroad Company went bankrupt and was sold at foreclosure to Norfolk and Western Railway Company (“NW”), an NSR predecessor.

In 1982, Norfolk and Western Railway Company and Southern Railway Company were placed under the common control of Norfolk Southern Corporation.

(6) **Summary of Documents In Carrier's Possession That Might Be Useful for Documenting a Structure That Is Found To Be Historic** – Not applicable.

(7) **Opinion Regarding Criteria For Listing In The National Register Of Historic Places** – There are no structures on the subject line or within the APE for this undertaking. The railroad has no reason to believe that there is any likelihood of finding archaeological resources or historic properties on the line proposed for abandonment as there will be no track removed or salvaged or other ground disturbing activity in connection with this action.

(8) Subsurface Ground Conditions That Might Affect Archaeological Recovery

The railroad is not aware of any prior subsurface ground disturbances or environmental conditions that would affect archaeological recovery. The subsurface of the right-of-way was initially disturbed in the construction of the railroad line by grading and filling.

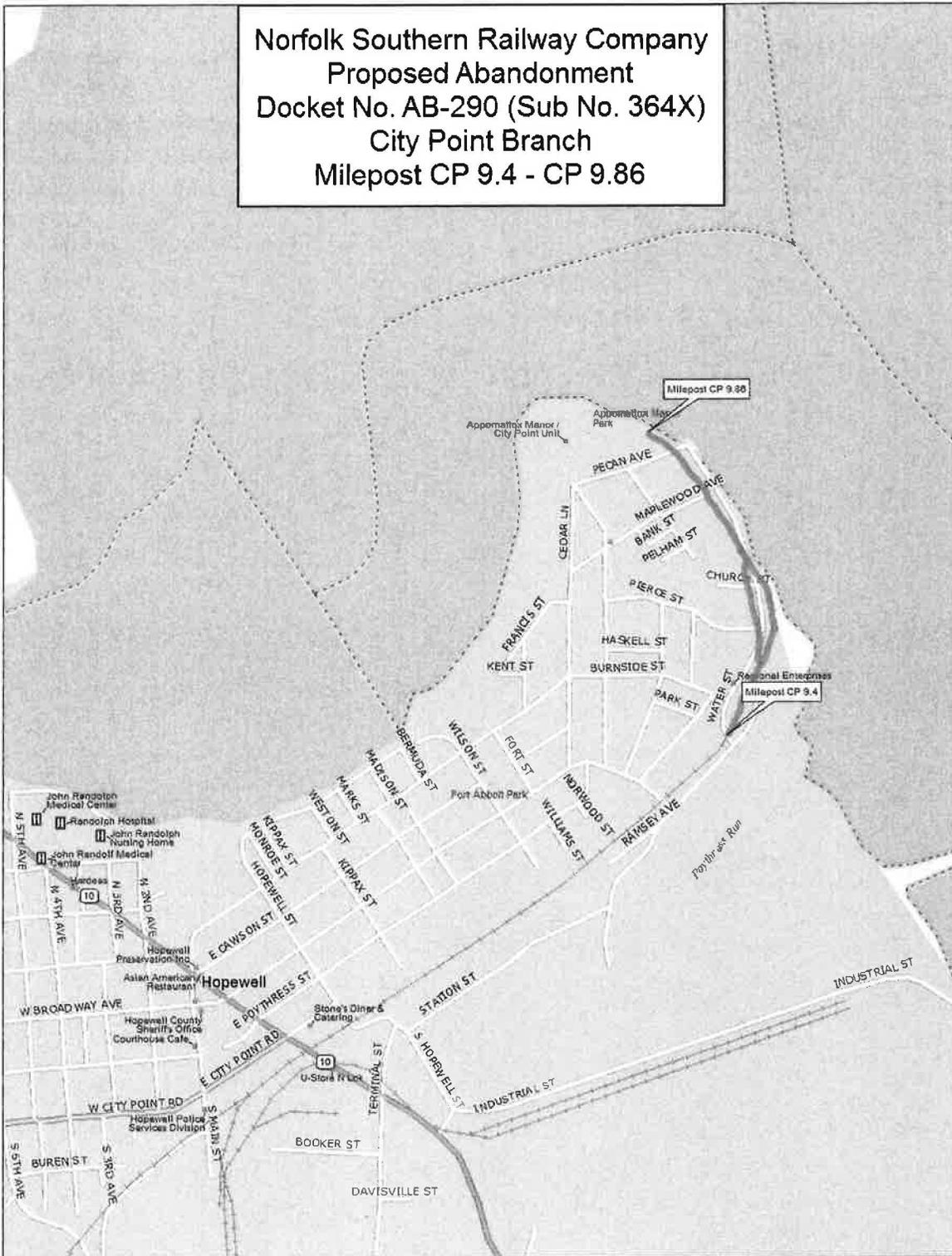
Abandonment of the line will not result in activities below the surface, or below the level of initial disturbance.

(9) Follow-Up Information - Additional information will be provided as appropriate.

APPENDIX A

Site Map

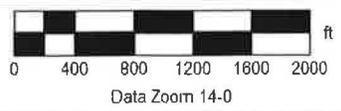
Norfolk Southern Railway Company
 Proposed Abandonment
 Docket No. AB-290 (Sub No. 364X)
 City Point Branch
 Milepost CP 9.4 - CP 9.86



DE LORME

Data use subject to license.
 © DeLorme, DeLorme Street Atlas USA® 2011.
 www.delorme.com

MN (10.3° W)



Data Zoom 14-0

Norfolk Southern Railway Company Proposed Abandonment
Docket No. AB-290 (Sub. No. 364)
City Point Branch
Milepost CP 9.4 – CP 9.86

APPENDIX B

VARIOUS LETTERS IN RESPONSE TO ENVIRONMENTAL AND HISTORIC REPORT



Norfolk Southern Corporation
3 Commercial Place
Norfolk, VA 23510-9207

Strategic Planning Department
Three Commercial Place
Norfolk, VA 23510-9207
(757) 629-2679

July 1, 2014

RE: STB Docket No. AB-290 (Sub-No. 364X), Norfolk Southern Railway Company-
Abandonment- in Hopewell, Virginia

Dear Sir/Madam:

Norfolk Southern Railway Company (NSR) plans to request authority from the Surface Transportation Board (STB) to abandon a segment of rail line between Milepost CP 9.40 and Milepost CP 9.86 in Hopewell, Virginia.

Enclosed is a Combined Environmental and Historic Report (Report) which describes the proposed abandonment and other pertinent information. A map of the proposed track abandonment can be found in **Appendix A** of this report. **Appendix B** of this report lists the various agencies receiving it.

The railroad does not anticipate adverse environmental impacts; however, if you identify any adverse environmental effects please describe the actions that would assist in alleviating them. Please provide us with a written response indicating any concerns or lack thereof, which will be included in the Report and sent to the Surface Transportation Board (STB).

This Report is being provided so that you may submit information that will form the basis for the STB's independent environmental analysis of the proceeding. If you believe any of the information is incorrect, if you think pertinent information is missing, or if you have any questions about the Board's Environmental Review process, please contact the Section of Environmental Analysis (SEA) by telephone at (202) 245-0295 or by mail to:

Surface Transportation Board
395 E Street, S.W., Room 1106
Washington DC 20423-0001

Please refer to the above Docket when contacting the STB. Applicable statutes and regulations impose stringent deadlines for processing this action. For this reason your written comments (with a copy to us) would be appreciated within three weeks.

Your comments will be considered by the Board in evaluating the environmental impacts of the contemplated action. In order for us to consider your input prior to filing with the STB, we must receive your comments within three weeks. Please provide information to LaWada Poarch by email at LaWada.Poarch@nscorp.com, or by mail to:

LaWada Poarch
Abandonments Coordinator
Norfolk Southern Corporation
Strategic Planning Department
Three Commercial Place
Norfolk, VA 23510

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Kirchner', with a long horizontal flourish extending to the right.

Marcellus C. Kirchner
Director Strategic Planning
Norfolk Southern Railway Company

Attachment

RECIPIENT LIST

Proposed Rail Line Abandonment on the segment of rail line between Milepost CP 9.40 and Milepost CP 9.86 in Hopewell, Virginia.

STATE ENVIRONMENTAL PROTECTION AGENCY

Virginia Department of Environmental Quality
Central Office
629 East Main Street
P.O. Box 1105
Richmond, VA 23218

REGIONAL ENVIRONMENTAL PROTECTION AGENCY

Regional EPA – Region 3
1650 Arch Street
Philadelphia, PA 19103-2029

STATE COASTAL ZONE MANAGEMENT

Ms. Laura McKay
Program Manager
State Coastal Zone Management
629 East Main Street
P.O. Box 1105
Richmond, VA 23218

NATURAL RESOURCES CONSERVATION SERVICE

USDA NRCS
1606 Santa Rosa Road, Suite 209
Richmond, VA 23229-5014

FISH AND WILDLIFE SERVICES

U.S. Fish and Wildlife Service
Region 5
300 Westgate Center Drive
Hadley, MA 01035-9589

US ARMY CORPS OF ENGINEERS

U.S. Army Corps of Engineers
Norfolk District
Waterfield Building
803 Front Street
Norfolk, VA 23510

CITY

Mr. Mark A. Haley
City Manager
300 North Main Street, Room 218
Hopewell, VA 23860

STATE CLEARINGHOUSE (DOT)

Mr. Kevin Reichert
Virginia Department of Transportation
Central Office
1401 E. Broad Street
Richmond, VA 23219

STATE HISTORIC PRESERVATION OFFICE

Virginia Department of Historic Resources
Central Office
2801 Kensington Avenue
Richmond, VA 23221

NATIONAL PARK SERVICE

Charlie Stockman
National Park Service
Rivers and Trails Conservation Program
1201 Eye Street, NW 9th floor
Washington D.C. 20005

NATIONAL GEODETIC SURVEY

National Geodetic Survey
Geodetic Service Division
Room 9202 NGS/12
1315 East-West Hwy
Silver Spring, MD 20910-3282

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

USEPA
Ariel Rios Building
1200 Pennsylvania Ave., NW
Mail Code 1101-A
Washington, D.C. 20460-0002

Norfolk Southern Railway Company Proposed Abandonment
Docket No. AB-290 (Sub No. 364)
City Point Branch
Milepost CP 9.4 –CP 9.86

APPENDIX C
COMMENTS RECEIVED



Regional Enterprises, Inc.

410 WATER STREET, HOPEWELL, VIRGINIA 23860 (804) 458-0926 FAX (804) 458-7921

May 15, 2014

Re: Support for Abandonment Process

To Whom It May Concern:

Regional Enterprises, Inc. fully supports the Norfolk Southern Corporation's intent to put the rail that we are in the process of buying through the abandonment process as it will allow us to expand our business operations without losing rail access. We understand that this process will transition our industry lead from regulated to non-regulated track.

Please do not hesitate to contact me at any of the numbers listed below should you have questions or require additional information.

Kindest Regards,

Daniel P. Matthews

VP/GM

Regional Enterprises, Inc.

Office: (804) 458-0926, ext. 13

Mobile: (804) 704-7257

E-mail : dmatthews@regionallogistics.com

Poarch, Lawada G.

From: Simon Monroe <simon.monroe@noaa.gov>
Sent: Thursday, July 17, 2014 10:32 AM
To: LaWada.Poarch@nscorp.com
Cc: Kirchner, Marc C.; Surface Transportation Board; Lucy Hall - NOAA Federal; John.Aaron@vdot.virginia; Simon Monroe
Subject: NGS Response, STB Docket AB-290 (SUB NO. 364X)

Thank you for sharing your railroad abandonment environmental report for
HOPEWELL, Hopewell County, VIRGINIA.

Approximately 02 geodetic survey marks may be located in the area described. These marks may or may not be disturbed.

If marks will be disturbed by the abandonment, [THE RAILROAD] shall
consult with the National Geodetic Survey (NGS) at least 90 days prior to
beginning salvage activities that will disturb, or destroy any geodetic station
marks are described on the attached file. Additional advice is provided at
<http://geodesy.noaa.gov/marks/railroads/>

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[....|GV5482|2 3|29/LEVELING|N371854.91612|W0771624.58633|....|G|PALMER ECC

[....|GV5483|2 .|29/SCALED..|N371855.21553|W0771623.34438|D...|G|PALMER
OLD STATION 1910



City of Hopewell

300 North Main Street
Hopewell, VA 23860

May 8, 2014

LaWada Poarch, Abandonments Coordinator
Norfolk Southern Corporation
Strategic Planning-12th Floor
3 Commercial Place
Norfolk, VA 23510

VIA US-MAIL

RE: Docket No. AB-290 (Sub-No.364X), Norfolk Southern Railway Company- Proposed Abandonment-in Hopewell, Virginia

Dear Ms. Poarch:

Thank you for the opportunity to provide input regarding the potential abandonment of the Norfolk Southern Railway Company line located in the City Point area of Hopewell as depicted on the map provided with your original correspondence dated February 25, 2014 (copy attached).

Hopewell is unique in that it is located at the confluence of the Appomattox and James Rivers; in fact, the two rivers convene at City Point. The City values these natural resources and recognizes them as an opportunity for commerce, recreation and leisure. The Hopewell Comprehensive Plan addresses the importance of the waterfront and encourages the development of public access points to the rivers. Most recently, the Hopewell Economic Development Authority recognized the significance of the rivers in their draft Hopewell Strategic Economic Development Plan which set a goal to redevelop the riverfront providing a variety of activities associated with the use and enjoyment of our rivers.

The City has no objections to the abandonment of .046 mile of the rail line between Milepost CP 9.40 and CP 9.86 in Hopewell, Virginia. Should the Surface Transportation Board authorize the abandonment, the City would be interested in acquiring the abandoned railroad property. Should the railroad abandon the property, and the City acquire the property, the City would realize great potential for public access to the rivers.

The City offers the following in regarding the abandonment. The rail lines are antiquated and some areas of the proposed track abandonment zone are embedded in old pavement that should be demolished. Other areas are below the hillside in swampy toe of slope areas. It is important for Norfolk Southern Corporation to consider that the removal of the lines include proper restoration, proper environmental abatement steps, and successful stabilization treatment.

The City awaits forward to the decision of the Norfolk Southern Corporation to abandon the rail line and your consideration of the City acquiring the abandoned property.

Sincerely,

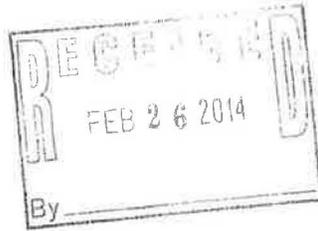


Mark A. Haley
City Manager
City of Hopewell, VA

C: David C. Fratarcangelo, City Attorney
Johnnie E. Butler, City Engineer
Tevya W. Griffin, Director of Neighborhood Assistance & Planning



Norfolk Southern Corporation
3 Commercial Place
Norfolk, VA 23510-9207



Marcellus C. Kirchner
Director Strategic Planning
(757) 629-2679
(757) 823-5807 FAX

February 25, 2014

USDA NRCS
1606 Santa Rosa Road, Suite 209
Richmond, VA 23229

RE: Docket No AB-290 (Sub-No. 364X), Norfolk Southern Railway Company -
Abandonment – in Hopewell, Virginia

Dear Sir or Madam:

Norfolk Southern Railway Company is considering the abandonment of 0.46 mile of rail line between Milepost CP 9.40 and Milepost CP 9.86 in Hopewell, Virginia. A map is included depicting the area under consideration.

Following abandonment, the line's rail and related track material will be salvaged. Salvage will consist of removing the rail and track material from the existing roadbed. The contours of the existing roadbed will remain as is, and existing drainage systems will remain intact. When the rail and track material are removed, the contractor will smooth the roadbed to a level surface. No ballast will be removed, no soil disturbance will occur (and, accordingly, no National Pollutant Discharge Elimination System permit will be required). No digging or burying of any kind will be permitted. All salvaged steel components will either be reused or sold as scrap. Crossties may be reused in other railroad operations or they will be disposed of in accordance with applicable federal and state laws and regulations. There are no bridges on the line segment.

During the removal of rail and track materials, if any, Norfolk Southern does not anticipate the use of any new access roads, the need to conduct dredging, or the use of fill. Only existing public and private access roads and the Norfolk Southern right of way should be needed to facilitate operations. In addition, the underlying roadbed will not be disturbed. Norfolk Southern will also take all measures to prevent and/or control the occurrence of spills or of any pollutants from entering surrounding waterways.

Should Norfolk Southern abandon the rail segment, the approval of the Surface Transportation Board is required. In addition, Federal Regulation 49 C.F.R. 1105.7 (3ii) requires Norfolk Southern to address the following statement:

- (ii) "Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land."



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Virginia Ecological Services Field Office
6669 SHORT LANE
GLOUCESTER, VA 23061
PHONE: (804)693-6694 FAX: (804)693-9032
URL: www.fws.gov/northeast/virginiafield/

Consultation Tracking Number: 05E2VA00-2014-SLI-1629

April 09, 2014

Project Name: Hopewell, VA

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project.

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having

similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2) (c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment



United States Department of Interior
Fish and Wildlife Service

Project name: Hopewell, VA

Official Species List

Provided by:

Virginia Ecological Services Field Office
6669 SHORT LANE
GLOUCESTER, VA 23061
(804) 693-6694
<http://www.fws.gov/northeast/virginiafield/>

Consultation Tracking Number: 05E2VA00-2014-SLI-1629

Project Type: Land - Easement / Right-Of-Way

Project Description: Proposed abandonment of 0.46 miles of rail line between Milepost CP 9.40 and CP 9.86 in Hopewell, VA



United States Department of Interior
Fish and Wildlife Service

Project name: Hopewell, VA

Project Counties: Hopewell, VA



United States Department of Interior
Fish and Wildlife Service

Project name: Hopewell, VA

Endangered Species Act Species List

There are a total of 1 threatened, endangered, or candidate species on your species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Critical habitats listed on the **Has Critical Habitat** lines may or may not lie within your project area. See the **Critical habitats within your project area** section further below for critical habitat that lies within your project. Please contact the designated FWS office if you have questions.

sensitive joint-vetch (*Aeschynomene virginica*)

Listing Status: Threatened



United States Department of Interior
Fish and Wildlife Service

Project name: Hopewell, VA

Critical habitats that lie within your project area

There are no critical habitats within your project area.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

APR 11 2014

Ms. LaWada Poarch
Norfolk Southern Corporation
Strategic Planning, 12th Floor
3 Commercial Place
Norfolk, Virginia 23510

Dear Ms. Poarch:

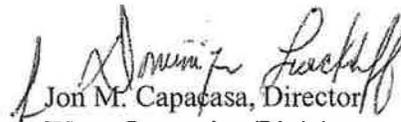
Thank you for your correspondence of February 25, 2014 to the U.S. Environmental Protection Agency, Region III (EPA), concerning the abandonment of half a mile of rail line in Hopewell, Virginia. The information below is intended to resolve whether your actions are consistent with applicable federal regulations.

In the correspondence that we received, you state that the track materials will be removed and salvaged once abandonment is completed and that the contours of the existing roadbed and associated drainage systems will remain unchanged. You further state that no soil disturbance will occur. In addition, the underlying roadbed should not be disturbed.

From the description of the work to be performed and in consultation with the Commonwealth of Virginia permitting agency, it does not appear that any Section 402 National Pollutant Discharge Elimination System (NPDES) permits are required for this project.

If you have any questions please do not hesitate to contact me or have your staff contact Mr. Mark Smith, at 215-814-3105.

Sincerely,


Jon M. Capacasa, Director
Water Protection Division



Reply to
Attention of

DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NORFOLK DISTRICT
FORT NORFOLK
803 FRONT STREET
NORFOLK VA 23510-1096

APRIL 8, 2014

Western Virginia Regulatory Section
NAO-2014-0442 (James River)

LaWada Poarch
Norfolk Southern Corporation
Strategic Planning – 12th Floor
3 Commerce Place
Norfolk, VA 23510

Dear Ms. Poarch:

This letter is in response to your February 25, 2014 letter seeking comments from our office regarding the abandonment of 0.46 miles of rail line between Milepost CP 9.40 and Milepost CP 9.86 in Hopewell, Virginia.

The project involves removing the rail and track material from the existing bed, smoothing the roadbed to a level surface. You do not propose any work in the waterway or wetlands. Therefore, the proposed work does not fall within the Corps of Engineers jurisdiction and no permit will be required from this office. However, please note that you should obtain all required State and local authorizations before you proceed with the project.

If you have any questions, please contact Ms. Sayward Meincke at 757-201-7580 or sayward.a.meincke@usace.army.mil.

Sincerely,

MEINCKE.SAYWARD.A.13675
86121

Digitally signed by MEINCKE.SAYWARD.A.1367586121
DN: c=US, o=U.S. Government, ou=DoD, ou=PKI,
ou=USA, cn=MEINCKE.SAYWARD.A.1367586121
Date: 2014.04.08 08:49:33 -04'00'

Sayward Meincke
Project Manager, Western Virginia Regulatory Section

Poarch, Lawada G.

From: Wellman, Julia (DEQ) <Julia.Wellman@deq.virginia.gov>
Sent: Tuesday, July 08, 2014 1:29 PM
To: Poarch, Lawada G.
Cc: RutsonV@stb.dot.gov
Subject: RE: STB Docket No. AB-290 (Sub-No. 364X), Norfolk Southern Railway Company-Abandonment-Hopewell, Va.

Ms. Poarch,

Thank you for the additional information. It appears that the DEQ regional office may have responded to the February letter.

In any case, the information in the letter does not contain sufficient information for a federal consistency certification. Please note that the City of Hopewell is the Coastal Zone Management Area.

We look forward to reviewing the federal consistency certification for the proposed project. If you have any questions, please feel free to contact me.

Julia

Julia Wellman
Environmental Impact Review Coordinator
Department of Environmental Quality
629 E Main Street
Richmond, VA 23219
(804) 698-4326
Julia.Wellman@deq.virginia.gov
www.deq.virginia.gov

From: Poarch, Lawada G. [mailto:Lawada.Poarch@nscorp.com]
Sent: Tuesday, July 08, 2014 11:28 AM
To: Wellman, Julia (DEQ)
Subject: RE: STB Docket No. AB-290 (Sub-No. 364X), Norfolk Southern Railway Company-Abandonment-Hopewell, Va.

Ms. Wellman,

Per our conversation, attached is the initial letter and map that were mailed to Virginia Department of Environment Quality on February 25, 2014, in which we received no response to as stated in the Combined Environment and Historic Report that was also mailed to your office on July 1, 2014.

Thank you,

LaWada Poarch
Abandonments Coordinator

Strategic Planning Department
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510
(757) 629-2803 (office)
(757) 533-4884 (facsimile)

From: Wellman, Julia (DEQ) [<mailto:Julia.Wellman@deq.virginia.gov>]

Sent: Tuesday, July 08, 2014 10:32 AM

To: RutsonV@stb.dot.gov; Lawada.poarch@nscorp.com

Subject: STB Docket No. AB-290 (Sub-No. 364X), Norfolk Southern Railway Company-Abandonment-Hopewell, Va.

Ms. Ruston and Ms. Poarch,

I am responding to the July 1, 2014, letter (received July 7, 2014) and environmental report submitted to the Department of Environmental Quality (DEQ) regarding STB Docket No. AB-290 (Sub-No. 364X).

Federal agencies, applicants for federal permits, licenses, or approvals, and recipients of federal assistance must comply with the federal consistency requirements of the Coastal Zone Management Act (CZMA) of 1972, as amended. Pursuant to the CZMA, in 1986, the National Oceanic and Atmospheric Administration (NOAA) approved the Virginia Coastal Zone Management Program (VCP). Federal activities which are reasonably likely to affect any land or water use or natural resources of Virginia's designated coastal resources management area must be consistent with the enforceable policies of the VCP. The VCP is a networked program with several agencies administering the enforceable policies. Virginia also has several advisory policies which were established to serve as a discretionary guide during project planning. As the lead agency for the VCP, DEQ is responsible for coordinating the Commonwealth's review of federal consistency determinations and certifications with cooperating agencies and responding to the appropriate federal agency or applicant.

Pursuant to 15 C.F.R. part 930, subpart D, activities performed by a non-federal entity requiring federal permits, licenses or other forms of federal authorization must be consistent with the enforceable policies of the VCP. Based on the information provided in the July 1, 2014, letter from Norfolk Southern Corporation, it appears that the rail line segment abandonment between Milepost CP 9.40 and Milepost CP 9.86 in Hopewell, Virginia, (STB Docket No. AB-290, Sub-No. 364X) requires the submittal of a federal consistency certification to the DEQ Office of Environmental Impact Review. Information on submitting documents for review is available on the DEQ website at <http://www.deq.virginia.gov/Programs/EnvironmentalImpactReview/DocumentSubmissions.aspx>.

Please note that section (iii) under 49 CFR 1105.7(e)(3) of Norfolk Southern Corporation's environmental report that was submitted with the above-referenced letter states that consultation was requested but a response has not been received. Please note that the DEQ Office of Environmental Impact Review has not received a federal consistency certification from Norfolk Southern for the proposed project. In addition, the information submitted in the environmental report is insufficient in meeting the requirements of a federal consistency certification.

The following information is an outline for non-federal applicants to use when making a consistency certification under the Coastal Zone Management Act, Sections 307(c)(3)(A) and 307(d). Although applicants are not required to make findings with respect to the coastal effects of the advisory

policies, applicants shall demonstrate adequate consideration of policies which are in the nature of recommendations (see 15 CFR 930.58(a)(3)).

Coastal Zone Management Act (CZMA) Consistency Certification

This document provides the Commonwealth of Virginia with the [name of applicant's] Consistency Certification and necessary data and information under CZMA Section 307(c)(3)(A) and 15 CFR Part 930, subpart D, for the [name of activity].

Certification:

[Name of applicant] certifies that the proposed activity complies with the enforceable policies of Virginia's Coastal Zone Management Program (VCP) and will be conducted in a manner consistent with the VCP.

Necessary Data and Information:

1. [Describe the federal license or permit activity or reference relevant pages of the federal application, any associated facilities, and coastal effects. Provide materials which will facilitate evaluation of coastal effects.]
2. [Provide additional information required by the State pursuant to 15 CFR Section 930.58(a)(2) and 930.58(a)(3). For example, the location of the project must be clearly identified on a U.S. Geological Survey topographic map or its equivalent and a site plan provided for development projects. The certification must fully describe the project and, in particular, aspects of the project that may cause direct or indirect environmental impacts. Description of the site must be thorough and include information on existing conditions. The purpose of this section is to make the reviewer aware of what is being proposed, important design features, how the facility will be operated, and the purpose of the facility.]
3. [Provide an evaluation that includes a set of findings relating to the probable coastal effects of the proposed project and its associated facilities to the relevant enforceable policies of the Virginia Coastal Zone Management Program.] A list of enforceable policies is available at <http://www.deq.virginia.gov/Programs/EnvironmentalImpactReview/FederalConsistencyReviews.aspx#enforce>.

[Contact appropriate agencies administering the enforceable policies of the VCP to help determine relevant enforceable policies.]

By this certification that the [project] is consistent with the Virginia Coastal Zone Management Program, Virginia is notified that it has six months from the receipt of this letter and accompanying information in which to concur with or object to [applicant's name] certification. Pursuant to 15 CFR Section 930.63(b), if Virginia has not issued a decision within three months following commencement of State agency review, it shall notify [name of applicant] and the federal agency of the status of the matter and the basis for further delay. The State's concurrence, objection, or notification of review status shall be sent to: [provide applicant and federal agency's contact information].

This information is also available online at the following address:

<http://www.deq.virginia.gov/Programs/EnvironmentalImpactReview/FederalConsistencyReviews.aspx#cert>

Please feel free to contact me if you have questions.

Regards, Julia

Julia Wellman
Environmental Impact Review Coordinator
Department of Environmental Quality
629 E Main Street
Richmond, VA 23219
(804) 698-4326
Julia.Wellman@deq.virginia.gov
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Poarch, Lawada G.

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Follow Up Flag: Follow up
Flag Status: Flagged

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Certification:

[Name of applicant] certifies that the proposed activity complies with the enforceable policies of Virginia's Coastal Zone Management Program (VCP) and will be conducted in a manner consistent with the VCP.

Necessary Data and Information:

1. [Describe the federal license or permit activity or reference relevant pages of the federal application, any associated facilities, and coastal effects. Provide materials which will facilitate evaluation of coastal effects.]
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Please feel free to contact me if you have questions.

Regards, Julia

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