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BAKER & MILLER PLLC

ENTERED
Office of Proceedings

ATTORNEYS and COUNSELLORS
2401 PENNSYLVANIA AVENUE, NW
SUITE 300
WASHINGTON, DC 20037
TELEPHONE: (202) 663-7820
FACSIMILE: (202) 663-7849

OCT 22 2013
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Public Record

ROBERT A. WIMBISH

(202) 663-7824 (Direct Dial)
E-Mail: rwimbish@bakerandmiller.com

October 22, 2013



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 Exemption – In Lake County, Indiana*, STB Docket No. AB-290 (Sub-No. 346X)

Dear Ms. Brown:

Pursuant to the Board's individual exemption procedures (49 C.F.R. part 1152, subpart G), enclosed are an original and 11 copies of a petition for exemption for the abandonment of a rail line owned by Norfolk Southern Railway Company. This submission also includes an electronic copy of the notice filing and a separate electronic file of the draft caption summary for the Board's use.

Check in the total amount of \$6,700.00 are enclosed to cover the applicable filing fee.

Please acknowledge receipt and filing of this abandonment petition for exemption by date stamping the enclosed eleventh copy and returning it to the courier to return to me.

Sincerely,

FILED
OCT 22 2013
SURFACE
TRANSPORTATION BOARD

R. A. Wimbish
Robert A. Wimbish
Attorney for Norfolk Southern
Railway Company

Enclosures
cc: Maquiling Parkerson, Marc Kirchner, LaWada Poarch

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**BEFORE THE
SURFACE TRANSPORTATION BOARD
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STB Docket No. AB-290 (Sub-No. 346X)

OCT 22 2013

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**NORFOLK SOUTHERN RAILWAY COMPANY
- ABANDONMENT EXEMPTION -
IN LAKE COUNTY, INDIANA**

PETITION FOR INDIVIDUAL EXEMPTION



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**Robert A. Wimbish
BAKER & MILLER PLLC
2401 Pennsylvania Ave., NW
Suite 300
Washington, DC 20037
Tel: (202) 663-7824
Fax: (202) 663-7849**

**Attorney for Norfolk Southern
Railway Company**

October 22, 2013

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

STB Docket No. AB-290 (Sub-No. 346X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN LAKE COUNTY, INDIANA**

PETITION FOR INDIVIDUAL EXEMPTION

INTRODUCTION

Pursuant to 49 U.S.C. § 10502 and the rules applicable thereto at 49 C.F.R. parts 1121 and 1152, subpart G, Norfolk Southern Railway Company (“NSR”) hereby submits a petition for exemption from the provisions of 49 U.S.C. § 10903 to abandon approximately 2.95 miles of rail line (hereinafter, the “Line”) located in Lake County, Indiana. The Line extends from milepost MQ 280.15 (near the intersection of Lincoln Highway and Junction Ave. in the City of Schererville, IN) to milepost MQ 283.10 (near the Line’s crossing of E 53rd Ave./Main Street proximate to the border of the Town of Munster, IN, and the City of Schererville, IN).

In keeping with the requirements of 49 C.F.R. § 1152.60 (b), a map depicting the Line is attached hereto as Exhibit A.

BACKGROUND

NSR, the owner of the subject Line, is a Class I common carrier by railroad subject to 49 U.S.C. Subtitle IV, chapter 105. NSR has elected to seek an exemption to permit the abandonment of the Line because – (1) the Line is no longer needed and is out of service; (2) the only shipper that NSR had served via the Line receives direct rail service from another railroad

(and has thereby retained access to NSR line-haul service); and (3) removal of the Line will reduce complexity in rail operations (by removing unnecessary and costly-to-maintain track infrastructure) in an already rail-dense area of Northwestern Indiana that is part of the greater Chicago/Gary, Indiana, metropolitan area.

Only one active shipper has, until recently, received service via the Line – Midwest Pipe Coating, Inc. (“Midwest”) at Schererville, Indiana. As of March of this year, NSR and Canadian National Railway subsidiary Wisconsin Central Limited (“WCL”) effectuated an arrangement pursuant to which NSR ended direct service to Midwest, and under which WCL (which operates a rail line that is adjacent to the subject NSR Line in the vicinity of Midwest’s plant) provides service to Midwest directly. The NSR-WCL agreement provides that Midwest will retain access to NSR line-haul service under the terms of an NSR-WCL switching agreement. Accordingly, no shipper will lose access to rail service – including access to NSR line-haul service – as a result of the proposed abandonment. In fact, by virtue of the NSR-WCL arrangement and the elimination of local traffic over the Line as a result of the agreement, NSR would be eligible in roughly another 18 months to invoke the two-year-out-of-service class abandonment class exemption procedures at 49 C.F.R. part 1152, subpart F, to abandon the Line.

Aside from the fact that no shipper will be harmed by the proposed abandonment, NSR has other reasons to seek removal of the Line. Specifically, the Line – which is sometimes referred to as the “Munster Industrial Track” due to the Line’s passage through its namesake municipality – crosses another NSR line (the east-west-oriented Hartsdale Industrial Track) at an at-grade diamond near the Line’s southeastern terminus. Just to the southeast of the diamond, the Line passes beneath NSR’s north-south-oriented Kankakee Line. As a result of the proposed abandonment, NSR plans to remove the diamond at the Hartsdale Industrial Track and to fill in

beneath the Kankakee Line overpass. Each of these infrastructure changes would relieve NSR of the burdens associated with the upkeep of costly infrastructure (i.e., the diamond and the Kankakee Line overpass) that would be rendered unnecessary by the Line's abandonment.

In short, the proposed abandonment is a step toward improving rail network efficiency in the Chicago/Northwestern Indiana region, and no shipper will lose access to direct rail service.

PETITIONER'S REPRESENTATIVE

NSR is represented in this matter by Robert A. Wimbish, Baker & Miller PLLC, 2401 Pennsylvania Avenue, NW, Suite 300, Washington, DC 20037; telephone: (202) 663-7824; facsimile: (202) 663-7849; email: rwimbish@bakerandmiller.com.

THE EXEMPTION STANDARDS HAVE BEEN MET

Under 49 U.S.C. § 10903, a rail line cannot be abandoned without the prior Board approval. However, under 49 U.S.C. § 10502, the Board must exempt a rail transaction from application of section 10903 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 the abuse of market power. The proposed abandonment clearly meets the statutory requirements of section 10502.

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

The National Rail Transportation Policy ("RTP") set forth at 49 U.S.C. § 10101 supports the proposition that detailed Board scrutiny under 49 U.S.C. § 10903 is unwarranted in this instance. Granting NSR's exemption petition – rather than requiring NSR to absorb the costs and delays involved in submitting a fully-developed abandonment application for under three miles of inactive track – would promote a fair and expeditious regulatory decision-making process, would reduce regulatory barriers to exit from the industry, and would provide for the

expeditious handling and resolution of proceedings required or permitted to be brought under this part. See 49 U.S.C. §§ 10101 (2), (7) and (15). Moreover, abandonment of the Line will promote a safe and efficient rail transportation system by allowing NSR to remove unneeded trackage and a costly-to-maintain diamond crossing, and by permitting NSR to backfill the Kankakee Line overpass over the subject Line. See 49 U.S.C. § 10102(3).

In addition, granting NSR's petition governing the removal of a line that is no longer required to meet shipper needs will foster sound economic conditions, and will encourage efficient management in accordance with the National Rail Transportation Policy. See 49 U.S.C. §§ 10101(4), (5), and (9). Accordingly, it is not necessary to apply the Board's abandonment application procedures to NSR's proposed abandonment to promote the RTP. Indeed, the proposed abandonment is fully consistent with the RTP.

B. The Proposed Abandonment Is Of Limited Scope

The proposed abandonment is of limited scope, involving approximately 2.95 miles of track that, as of March of this year, is no longer needed. There is no overhead traffic, and, in any event, any such traffic could be moved via readily-available alternative routes. As indicated above, but for the fact that the Line has been devoid of traffic for only roughly 6-7 months (as opposed to 24 months), NSR would be in a position to invoke the Board's abandonment class exemption procedures. For these reasons, the proposed abandonment is clearly of limited scope.

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

Because the transaction is of limited scope, NSR need not show that regulation of the abandonment is unnecessary to protect shippers from market abuse. Nevertheless, it is clear that the application of the Board's formal abandonment procedures is not necessary to protect shippers from a potential abuse of market power. No shipper uses the Line, and the only

industry that could receive service via the Line (Midwest) has been receiving, and will continue to receive, direct rail service from WCL, as explained above. Accordingly, abandonment of the Line would not subject Midwest to market abuse. In any event, NSR has served Midwest with a copy of this petition, and will commit to serving Midwest with any substantive Board decisions in this proceeding issued hereafter.

MAPS AND EXHIBITS

A combined Environmental and Historic Report (“E&HR”) required by 49 C.F.R. §§ 1105.7 and 1105.8 was served on the required parties. The E&HR and post-circulation feedback are attached hereto as part of Exhibit B. (The map required by 49 C.F.R. §§ 1152.60(b) and 1152.22(a)(4) was included as an attachment to the E&HR, but a separate copy is attached hereto as Exhibit A.) A certification of compliance with 49 C.F.R. §§ 1105.12 and 1152.60(d) are attached Exhibit C.¹ A copy of the draft Federal Register notice is attached as Exhibit D.

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).

OTHER ISSUES

As part of the aforementioned E&HR, NSR has offered information concerning the proposed abandonment’s possible environmental and historic impacts. The E&HR contains NSR’s assessment of the proposed transaction in light of consulting agency feedback, including a discussion of land use issues. NSR is aware that the Towns of Schererville and Munster,

¹ In that regard, NSR hereby certifies that, based on the information in NSR’s possession, the Line does not contain federally-granted right-of-way, and states that any information in NSR’s possession will be made available promptly to those requesting it.

Indiana, have each advised NSR of its interest in the Line's right-of-way for possible recreational trail use. Those expressions of interest in the Line's right-of-way are contained in the materials attached as parts of Exhibit B. NSR takes no position at this time on trails use issues, but will respond in accordance with the usual procedural schedule should either municipality submit a formal request to pursue trails use negotiations with NSR.

CONCLUSION

NSR seeks an exemption from the provisions of 49 U.S.C. § 10903 to abandon approximately 2.95 miles of rail line located in Lake County, Indiana. The exemption is warranted because, as is shown above, the transaction meets the criteria of 49 U.S.C. § 10502.

Application of the Board's formal abandonment procedures is not needed to advance or protect any interests enunciated in the RTP. Rather, eliminating delays in abandonment of the Line will facilitate the Board's efficient regulation of rail activity while avoiding unnecessary delay to exit. Likewise, the proposed abandonment is of limited scope, and no potential for abuse of railroad market power would result from the exemptions requested herein.

For the foregoing reasons, the Board should grant the subject petition.

Respectfully submitted,



Robert A. Wimbish
BAKER & MILLER PLLC
2401 Pennsylvania Ave., NW
Suite 300
Washington, DC 20037
Tel: (202) 663-7824
Fax: (202) 663-7849

Attorney for Norfolk Southern Railway Company

October 22, 2013

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

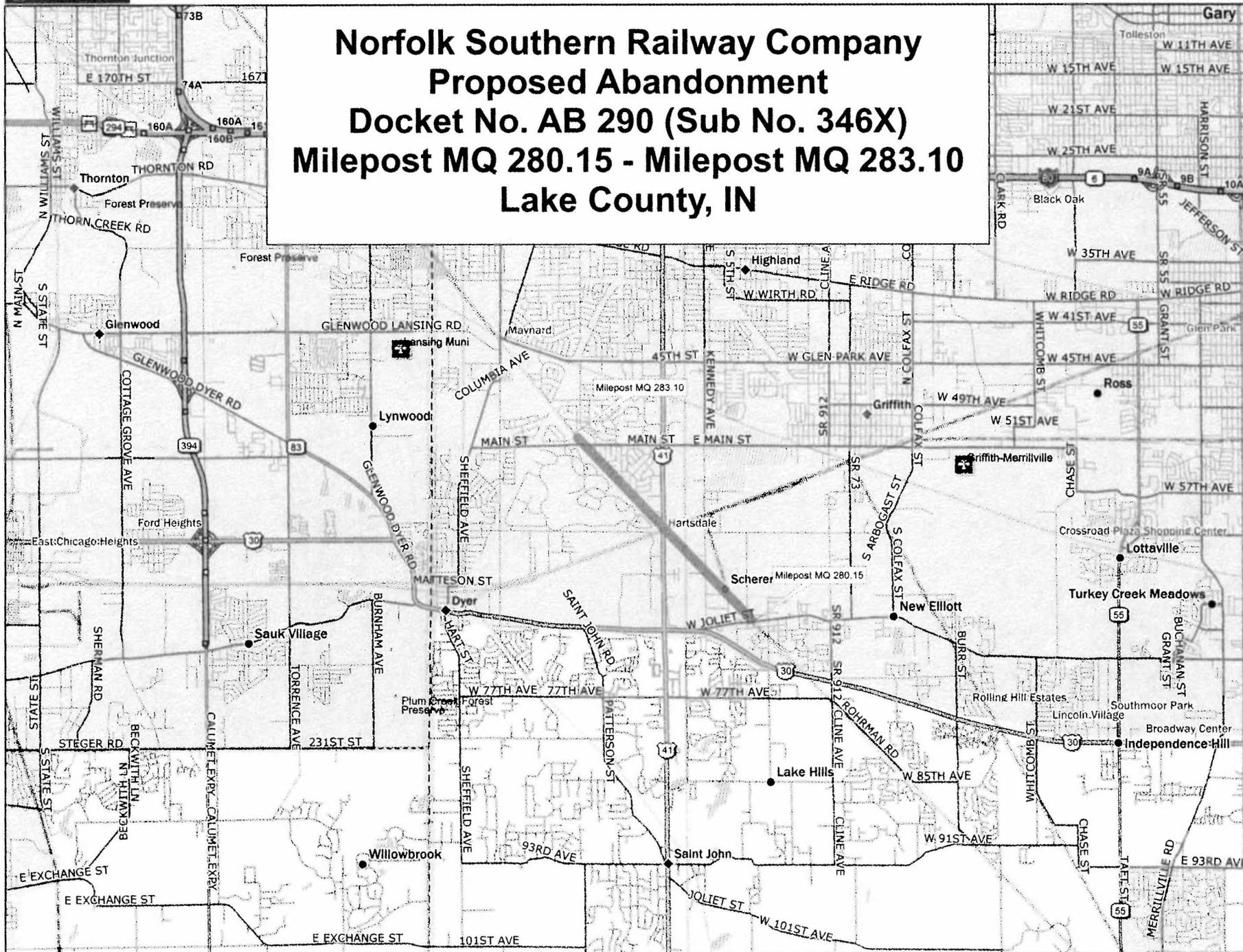
STB Docket No. AB-290 (Sub-No. 346X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN LAKE COUNTY, INDIANA**

EXHIBIT A

MAP

Norfolk Southern Railway Company Proposed Abandonment Docket No. AB 290 (Sub No. 346X) Milepost MQ 280.15 - Milepost MQ 283.10 Lake County, IN

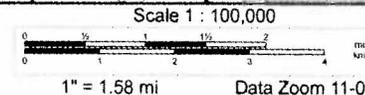


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**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB Docket No. AB-290 (Sub-No. 346X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN LAKE COUNTY, INDIANA**

EXHIBIT B

CERTIFICATION OF COMPLIANCE WITH ENVIRONMENTAL AND HISTORIC REPORT REQUIREMENTS

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. 346X) was mailed via first class mail on August 12, 2013 to the following parties:

Indiana Department of Environmental Management
100 N. Senate Avenue
Mail Code 50-01
Indianapolis, IN 46204-2251

Robert Volkmann, Town Manager
Town of Schererville
10 East Joliet Street
Schererville, IN 46375

US Environmental Protection Agency – Region 5
Ralph Metcalfe Federal Building
77 West Jackson Blvd
Chicago, IL 60604

USEPA
Ariel Rios Building
1200 Pennsylvania Ave., NW
Washington, DC 20004

John Bacone, Division Director
Indiana Department of Natural Resources
Division of Nature Preserves
Department of Natural Resources
402 W. Washington, Room W267
Indianapolis, IN 46204

Lake County Commissioners
2293 North Main Street
Crown Point, IN 46307

Robert Carter, Jr., Executive Director
USDA NRCS
402 West Washington Street
Indianapolis, IN 46204

Indiana Department of Transportation
Bob Alderman, Deputy Commissioner
315 East Boyd Blvd.
LaPorte, IN 46350

Elizabeth McCloskey
U.S. Fish and Wildlife Service
P.O. Box 2616
Chesterton, IN 46304

James Glass, Ph.D.
Indiana DHPA
402 West Washington Street, Rm. W274
Indianapolis, IN 46204

U.S. Army Corps of Engineers
Chicago District
Regulatory Division
111 North Canal Street, Suite 600
Chicago, IL 60606

Michael Reynolds, Regional Director
National Park Service
Midwest Region
601 Riverfront Drive
Omaha, NE 68102

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

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

Christie L. Stanifer
Indiana Department of Natural Resources
Division of Fish and Wildlife
402 W. Washington Street, Room W273
Indianapolis, IN 46204



Marcellus C. Kirchner
August 12, 2013

ATTACHMENT 1
ENVIRONMENTAL AND HISTORIC REPORT
INCLUDING SAMPLE TRANSMITTAL LETTER



Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-9202

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

August 12, 2013

RE: STB Docket No. AB-290 (Sub-No. 346X), Norfolk Southern Railway Company -
Abandonment – in Lake County, Indiana

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 MQ 280.15 and MQ 283.10 in Lake County, Indiana.

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

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**STB DOCKET NO. AB-290 (Sub-No. 346X)
NORFOLK SOUTHERN RAILWAY COMPANY
PROPOSED RAIL LINE ABANDONMENT
BETWEEN MILEPOST MQ 280.15 AND MILEPOST MQ 283.10
IN LAKE COUNTY, INDIANA**

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, for an exempt abandonment of approximately 2.95 miles of rail line between Mileposts MQ 280.15 and MQ 283.10 in Lake County, Indiana.

August 12, 2013

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 approximately 2.95 miles of rail line between Mileposts MQ 280.15 and MQ 283.10 in Lake County, Indiana. This line has been used recently to serve one shipper – Midwest Pipe. As of this past March, however, NSR reached an arrangement with Wisconsin Central Limited (WCL), a subsidiary of Canadian National Railway Company (“CN”), whereby WCL will assume the provision of direct switching service to Midwest Pipe. Under this arrangement, Midwest Pipe will retain access to NSR line-haul service under the terms of the NSR-WCL switching agreement.

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 contour 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, and 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.

The alternative to abandonment is to not abandon the line and retain the track in place. This alternative is not satisfactory. NSR would incur opportunity and other holding costs that would need to be covered by the now non-existent on-line shippers were this line segment to be retained.

A map depicting the line proposed for abandonment is attached as **Appendix A**. 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 positive. There is no rail freight or passenger traffic originating or terminating on the line segment proposed for abandonment, and the line segment has been rendered unnecessary because of a coordination of activities with WCL pursuant to which WCL will provide direct switching service to Midwest Pipe that will assure that the shipper retains access to NSR line-haul service.

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 Towns of Munster and Schererville. These municipalities were also asked to comment on the consistency of the proposed abandonment with existing land use plans, and both fully support the abandonment. Copies of their responses are 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 (NRCS). A copy of NRCS' response indicating the project area will not cause a conversion of prime farmland 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 Indiana Department of Natural Resources. A copy of their response is attached as part of **Appendix C.** Based on NSR's recent experience in another abandonment undertaking in Lake County, Indiana, involving a roughly adjacent rail line (see STB Docket No. AB-290 (Sub-No. 336X), NSR has no reason to believe that the proposed abandonment would be inconsistent with the coastal zone management plan.

(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 may not have fee title to the entire right-of-way underlying the line segment proposed for abandonment, and so NSR may not have a contiguous corridor available for re-deployment for possible alternative public use(s). NSR does not know if there are any state and/or local plans that may be facilitated by the proposed abandonment, and NSR has no opinion about whether the right-of-way would be suitable for alternative public purposes.

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. No freight or passenger traffic is moving over the line, and the line did not carry any energy resources when last operated.

(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. No freight or passenger traffic is moving over the line, and the line did not carry recyclable commodities when last operated.

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

RESPONSE: The proposed action involves the abandonment and salvage of rail line that no longer hosts any traffic by virtue of a recent switching arrangement with WCL that has diverted such traffic to an alternative route. As such, the proposed abandonment should not result in an increase or decrease 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: No traffic will be diverted from rail to motor carriage as a result of the proposed action, so the above thresholds will not be exceeded.

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, Lake County, Indiana is in attainment for all National Ambient Air Quality Standard (NAAQS) pollutants according to the U.S. Environmental Protection Agency, with the exception of 8-hr. ozone.

- (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 significant effect upon 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 has advised that they do not anticipate any impact on federally-listed endangered, threatened or candidate species or their habitats. The response of USFWS 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 or National Pollutant Discharge Elimination System permits will be required. The line proposed for abandonment cross no major watercourses. There are no plans to undertake in-stream work, or dredge and/or use any fill materials in connection with the proposed abandonment, and for this reason also, the proposed abandonment will not result in water quality impacts.

Consultation has been requested from the Indiana Department of Natural Resources (IDNR) and from the United States Environmental Protection Agency (USEPA). A copy of the IDNR response is attached as part of **Appendix C**. IDNR's response states that aerial images and topographic maps indicate a small stream that crosses the right-of-way, which, if present, would be conveyed through a culvert.

(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. Consequently, the railroad does not believe a Section 404 permit will be required in connection with the proposed abandonment. Consultation was requested from the U.S. Army Corps of Engineers (USACE) by letter dated April 25, 2013. Their response dated June 17, 2013 states no impacts are expected to occur. A copy of the USACE response is included 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 or National Pollutant Discharge Elimination System permit will be required. The railroad anticipates that the abandonment will not affect water quality or require the issuance of a Section 402 permit under the Federal Water Pollution Control Act. Nevertheless, NSR has requested input from the U.S. Environmental Protection Agency (USEPA) and the Indiana Department of Natural Resources (as indicated in a preceding section). A copy of their response is attached as part of **Appendix C**.

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. Only minimal physical activity may occur as a result of the proposed abandonment, such as removal of rail, ties, and other railroad appurtenances. The railroad will undertake all reasonable mitigation associated with these activities as directed by the Board to assure the abandonment does not produce adverse environmental impacts.

HISTORIC REPORT

49 CFR 1105.8(d)

PROPOSED ACTION AND ALTERNATIVES

NSR proposes to abandon approximately 2.95 miles of rail line between Mileposts MQ 280.15 and MQ 283.10 in Lake County, Indiana. This line has been used recently to serve one shipper – Midwest Pipe. As of this past March, however, NSR reached an arrangement with Wisconsin Central Limited (WCL), a subsidiary of Canadian National Railway Company (“CN”), whereby WCL will assume the provision of direct switching service to Midwest Pipe. Under this arrangement, Midwest Pipe will retain access to NSR line-haul service under the terms of the NSR-WCL switching agreement.

Following abandonment, the line segment's rail and related track material will be salvaged. Salvage will consist of removing the rail and track material from the existing roadbed. The contour 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, and 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.

The alternative to abandonment is to not abandon the line and retain the track in place. This alternative is not satisfactory. The railroad would incur opportunity and other holding costs that would need to be covered by the now non-existent on-line shippers were this line segment to be retained. A map depicting the line proposed for abandonment is attached in **Appendix A**.

ADDITIONAL INFORMATION

- (1) **U.S.G.S. Topographic Map** - Maps were furnished to the Indiana Division of Historic Preservation and Archaeology.
- (2) **Written Description of Right-of-Way** - The right-of-way width ranges from 40 feet to 100 feet along the main track centerline. The proposed segment is between Mileposts MQ 280.15 and MQ 283.10. 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 structures on the line.
- (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 roughly 2.95 miles of rail line between mileposts MQ 280.15 and MQ 283.10 in Lake County, Indiana. This line has been rendered unnecessary because of a coordination of activities with WCL pursuant to which WCL will switch for NSR's benefit the sole remaining customer (Midwest Pipe) that NSR previously accessed via this line.

The line was originally constructed by the Pittsburgh, Cincinnati, Chicago and St.

Louis Railroad (PCC&StL), commonly known as the Panhandle Route. The PCC&StL was leased by the Pennsylvania Railroad (PRR) in 1921 and merged into PRR subsidiary Philadelphia, Baltimore and Washington Railroad in 1956. PRR combined with the New York Central Railroad (NYC) to form Penn Central Transportation Company (Penn Central) in 1968. Consolidated Rail Corporation (Conrail), which commenced operations on April 1, 1976, assumed control of the line following the bankruptcy of Penn Central, and, in 1999, NSR assumed control of the subject line segment.

(6) Summary of Documents In Carrier's Possession That Might Be Useful for Documenting a Structure That Is Found To Be Historic – Not applicable, as there are no structures on the line or within the APE for this undertaking.

(7) Opinion Regarding Criteria For Listing In The National Register Of Historic Places – There are no structures on the 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.

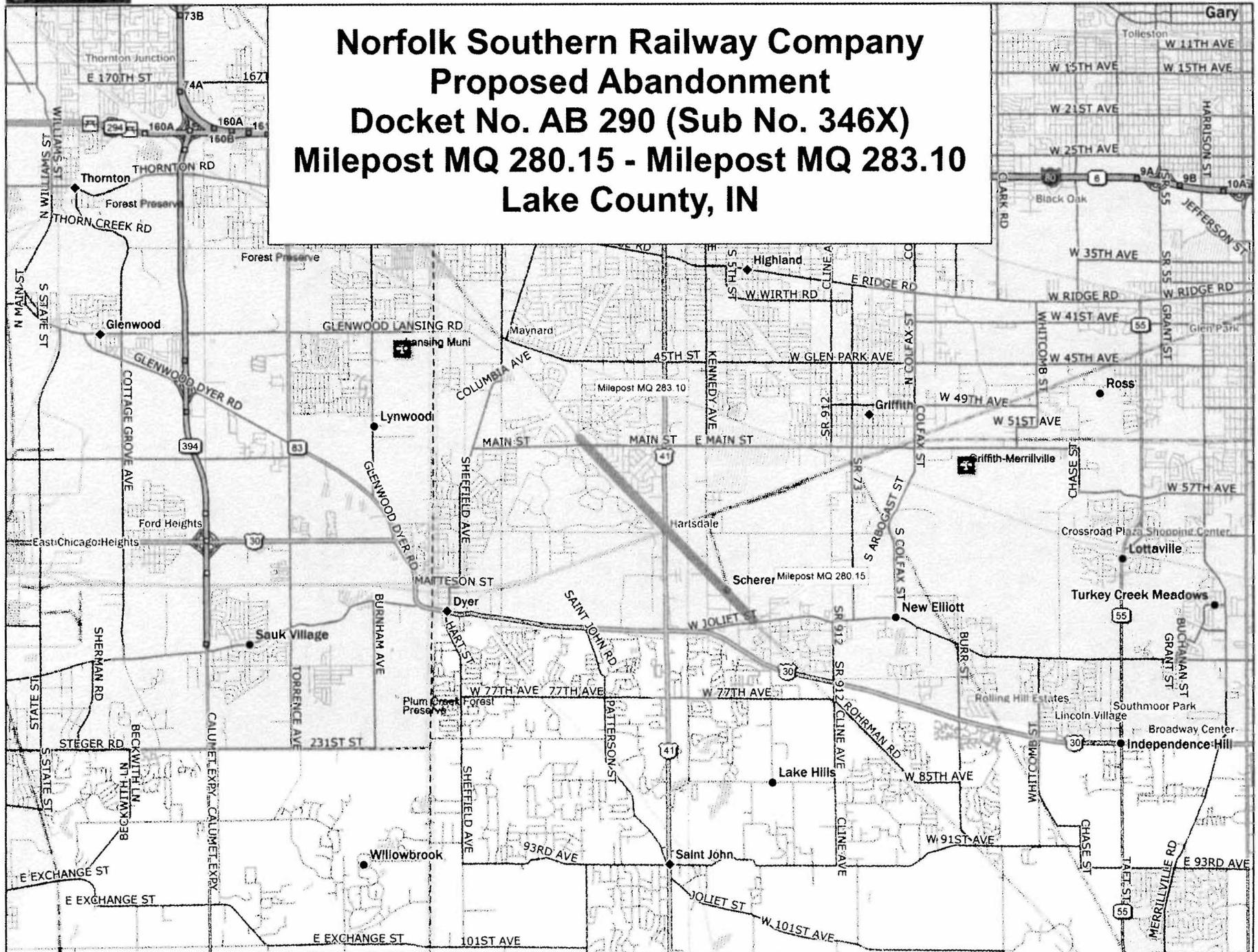
(8) Subsurface Ground Conditions That Might Affect Archaeological Recovery
The railroad is not aware of any prior subsurface ground disturbances or environmental conditions that would affect archaeological recovery. Moreover, abandonment of the line and salvage of material from its surface will not affect any potential archaeological resources. The subsurface of the right-of-way was initially disturbed in the construction of the railroad line by grading and filling. Abandonment and salvage 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. 346X) Milepost MQ 280.15 - Milepost MQ 283.10 Lake County, IN

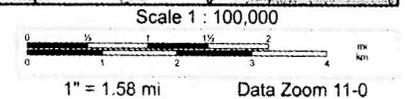
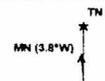


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APPENDIX B

Agency Letters

RECIPIENT LIST

Proposed Rail Line Abandonment of 2.95 miles of rail line between Mileposts MQ 280.15 and MQ 283.10 in Lake County, Indiana.

STATE ENVIRONMENTAL PROTECTION AGENCY

Indiana Department of Environmental Management
100 N. Senate Avenue
Mail Code 50-01
Indianapolis, IN 46204-2251

REGIONAL ENVIRONMENTAL PROTECTION AGENCY

US Environmental Protection Agency – Region 5
Ralph Metcalfe Federal Building
77 West Jackson Blvd
Chicago, IL 60604

STATE COASTAL ZONE MANAGEMENT

John Bacone, Division Director
Indiana Department of Natural Resources
Division of Nature Preserves
Department of Natural Resources
402 W. Washington, Room W267
Indianapolis, IN 46204

NATURAL RESOURCES CONSERVATION SERVICE

Robert Carter, Jr., Executive Director
USDA NRCS
402 West Washington Street
Indianapolis, IN 46204

FISH AND WILDLIFE SERVICES

Elizabeth McCloskey
U.S. Fish and Wildlife Service
P.O. Box 2616
Chesterton, IN 46304

STATE DEPARTMENT OF NATURAL RESOURCES

Christie L. Stanifer
Indiana Dept. of Natural Resources
Division of Fish and Wildlife
402 W. Washington Street, Room W273
Indianapolis, IN 46204

US ARMY CORPS OF ENGINEERS

U.S. Army Corps of Engineers
Chicago District
Regulatory Division
111 North Canal Street, Suite 600
Chicago, IL 60606

NATIONAL GEODETIC SURVEY

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

CITY

Robert Volkmann, Town Manager
Town of Schererville
10 East Joliet Street
Schererville, Indiana 46375

COUNTY

Lake County Commissioners
2293 North Main Street
Crown Point, IN 46307

STATE CLEARINGHOUSE (DOT)

Indiana Department of Transportation
Bob Alderman, Deputy Commissioner
315 East Boyd Blvd.
LaPorte, IN 46350

STATE HISTORIC PRESERVATION OFFICE

James Glass, Ph.D.
Indiana DHPA
402 West Washington Street, Rm. W274
Indianapolis, IN 46204

NATIONAL PARK SERVICE

Michael Reynolds, Regional Director
National Park Service
Midwest Region
601 Riverfront Drive
Omaha, NE 68102-4226

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

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

USEPA
Ariel Rios Building
1200 Pennsylvania Ave., NW
Washington, D.C. 20004

APPENDIX C

Agency Responses



At Your Service

May 13, 2013

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

RE: Docket No. AB-290 (Sub-No. 346X), Norfolk Southern Railway Company – Abandonment – in Lake County, Indiana

Dear Ms. Poarch:

In response to the letter dated April 25, 2013, the Town of Munster is fully supportive of the abandonment of the railway between W. Joliet Street and Main Street, Schererville, Indiana, or between mileposts MQ 280.15 and MQ 283.10. Prior to this abandonment, the Town of Munster has acquired the railroad right of way between Main Street and Calumet Avenue for usage as a bike path.

This right-of-way will connect to the greater Pennsy Greenway, cross into Illinois and the Burnham Greenway, and eventually run into the City of Chicago. The entirety of this trail would become part of the American Discovery Trail. Through abandonment of this railway, and the subsequent creation of a path, this bike path will connect the residents of northern and southern Lake County, Indiana. A copy of related pages on the Pennsy Greenway from Munster’s 2010 Comprehensive Plan are enclosed for your review. As you can see from these documents, the Town of Munster has long awaited to complete the connectivity of this trail.

Thank you for this information. You may call me at (219) 836-6900 if there are any problems, or if you have any questions.

Sincerely,

Thomas F. DeGiulio
Town Manager
Enclosures

cc: Joseph Simonetto, Town Council President
Munster Board of Parks and Recreation
File



Pennsy Greenway Bike Path

Pennsy Greenway is at the heart of Munster's existing and planned trail network.

When fully complete, this 15 mile trail (10 miles in Indiana, 5 in Illinois) will connect directly to the 450-mile Burnham Greenway/Grand Illinois trail system in Illinois, with the potential to serve a large regional population. This is envisioned to be the first off-road, bi-state link in the region, and would become part of the American Discovery Trail network. The trail is planned to go

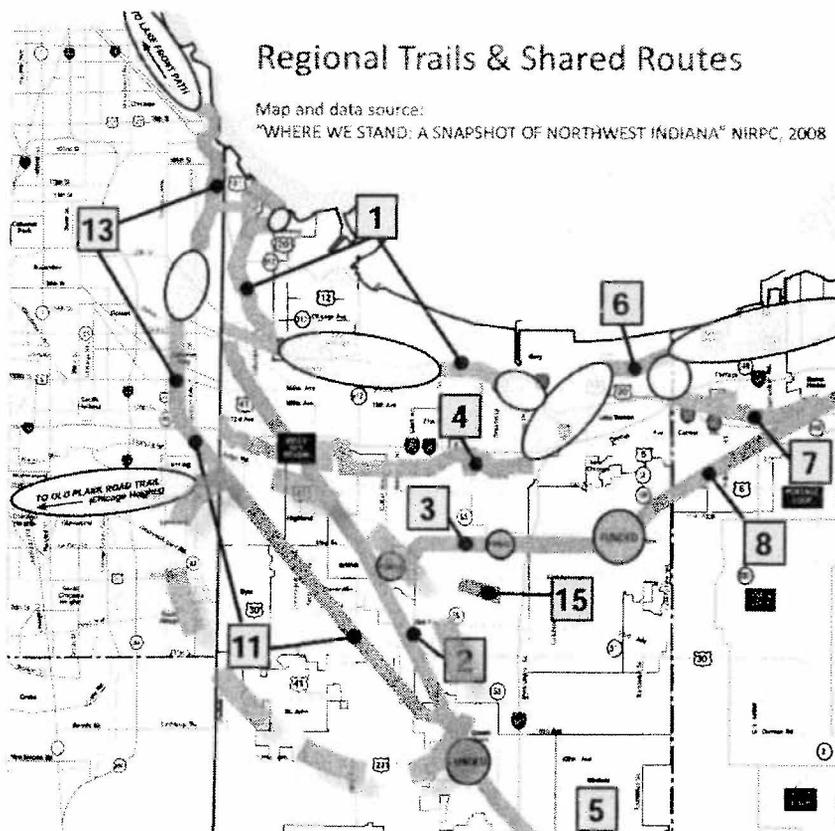
through Crown Point, Schererville, Munster, Dyer, Lansing, Calumet City and Burnham, and continue southeast of Crown Point to Hebron, where it is called the Veterans Memorial Trail.

The Plan aims for Munster to connect with Lansing's established bike path at the state line. That path will run to Manor Avenue and Fisher Street, cross onto the future Mixed Use District and potential train station at Lake Business Center and southward to Centennial Park. As it travels through Centennial Park, the path will leave the old rail right of way and wind around the edge of the



golf course providing bikers with an attractive view of the park.

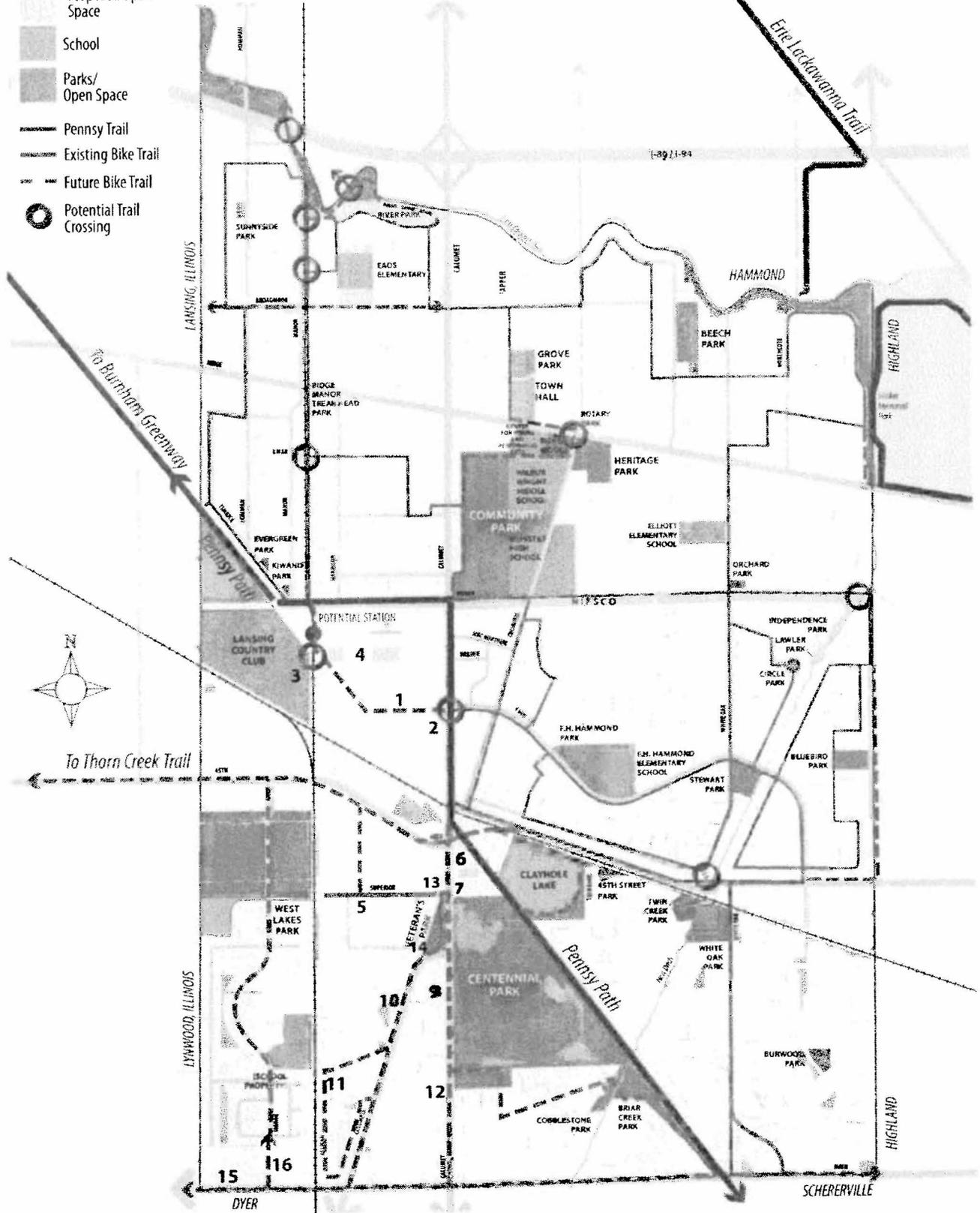
Construction began in Fall 2009 on the old Penn-Central (Conrail) right of way at Main Street as a major link in the Pennsy-Greenway. The extension of this path from Calumet Avenue to the state line is planned for construction in 2010.



- 1) Grand Calumet Trail (Partially Funded / Completed)
- 2) Erie Lackawanna Trail
- 3) Oak Savannah Trail
- 4) Little Calumet River Levee (Limestone)
- 5) Veterans Memorial Trail (Funded)
- 6) Marquette Trail (Limestone)
- 7) Iron Horse (Funded)
- 8) Prairie Duneland Trail
- 9) Calumet Trail (Limestone)
- 10) Singing Sands Trail (Funded)
- 11) Pennsy Greenway
- 12) NIPSCO Greenway (Funded)
- 13) Burnham Greenway (Funded)
- 14) Lincoln Memorial Trail (Funded)
- 15) C & O Trail (Funded)

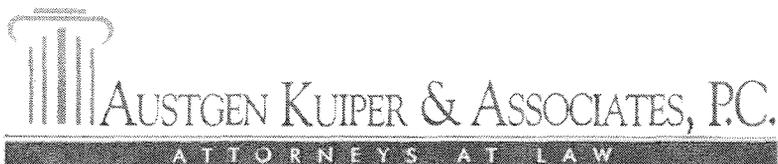
Comprehensive Bike Trail Framework Plan

- Proposed Open Space
- School
- Parks/Open Space
- Pennsy Trail
- Existing Bike Trail
- Future Bike Trail
- Potential Trail Crossing



DAVID M. AUSTGEN
TIMOTHY R. KUIPER*
MICHAEL J. JASAITIS*
JOSEPH C. SVETANOFF*
ADAM M. SWORDEN*

of Counsel
DONALD R. O'DELL*
DANETTE GARZA†
AMERICA L. MCALPIN+



REX A. SHERRARD
Professional Engineer

AMY S. BENJAMIN
SHANNON R. JONES
Paralegals

PAMELA A. WEBERG
Elder Law Administrator

**Licensed in IN & IL
† Licensed in IN, IL & FL
‡ Also Licensed CPA in IN & IL*

May 13, 2013

VIA FIRST CLASS & E-MAIL

Norfolk Southern Corporation
3 Commercial Place
Strategic Planning – 12th Floor
Norfolk, VA 23510-9202

Attn: Marcellus C. Kirchner, Director Strategic Planning

**Re: Schererville/Town – Pennsy Greenway Bike Trail Project
Docket No. AB-209 (Sub-No. 346X), Norfolk Southern Railway Company Abandonment –
in Lake County, Indiana**

Dear Mr. Kirchner:

Please be advised that this Law Firm represents the Town of Schererville, Indiana, as its Town Attorneys. This letter will serve as the formal response on behalf of the Town of Schererville to your correspondence to Town Manager, Robert Volkmann, dated April 25, 2013. The Town of Schererville is very interested in the abandonment proceeding and is attempting to acquire the same right-of-way for construction of the Pennsy Greenway Trail. A portion of the Pennsy Greenway Trail was completed by the Town of Schererville southeast of the portion proposed to be abandoned and the Town of Munster completed a portion northwest of the proposed abandonment. This abandonment will provide the opportunity to link these two (2) sections of very popular and frequently used trail. Enclosed please find a partial copy of the regional hiking and biking trails with the Pennsy Greenway Trail and the abandonment limits noted.

If you need further information, or have any questions, please contact the undersigned or Rex Sherrard of our Firm. Thank you.

Very truly yours,

AUSTGEN KUIPER & ASSOCIATES, P.C.

By: David M. Austgen

DMA/ras

Encl: As noted.

cc: Schererville Town Manager
Schererville Clerk-Treasurer
Schererville Parks Superintendent
File/R. Sherrard; S. Jones; L. Andrews

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Natural Resources Conservation Service
6013 Lakeside Blvd.
Indianapolis, IN 46278

May 3, 2013

Marcellus C. Kirchner
Director Strategic Planning
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-9202

Dear Mr. Kirchner:

The proposed project to abandon approximately 2.95 miles of rail lines in Lake County, Indiana, as referred to in your letter received May 1, 2013, will not cause a conversion of prime farmland.

If you need additional information, please contact Lisa Bolton at 317-295-5842.

Sincerely,

A handwritten signature in cursive script that reads "Roger Kult".

ROGER KULT
Acting State Conservationist



United States Department of the Interior Fish and Wildlife Service



Bloomington Field Office (ES)
620 South Walker Street
Bloomington, IN 47403-2121
Phone: (812) 334-4261 Fax: (812) 334-4273

May 6, 2013

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

Project No.: Docket No. AB-290 (Sub-No. 346X)
Project: Norfolk Southern Railway Company Line Abandonment
Location: Schererville, Lake County, Indiana

Dear Ms. Poarch:

This responds to Marcellus C. Kirchner's letter dated April 25, 2013, requesting our comments on the aforementioned project.

These comments have been prepared under the authority of the Fish and Wildlife Coordination Act (16 U.S.C. 661 et. seq.) and are consistent with the intent of the National Environmental Policy Act of 1969, the Endangered Species Act of 1973, and the U. S. Fish and Wildlife Service's Mitigation Policy.

The proposed project consists of the abandonment of 2.95 miles of track between Mileposts MQ 280.15 and MQ 283.10, basically between Joliet Street and Main Street in Schererville. This is a spur line that connects with another NS track at Hartsdale; the Canadian Northern/EJ&E double tracks are also crossed at Hartsdale.

The rail line is close to Hoosier Prairie State Nature Preserve, a protected area of approximately 750 acres in Schererville, Highland, and Griffith owned by the Indiana Division of Nature Preserves. A portion of Hoosier Prairie is shown on the map enclosed with your letter along Kennedy Avenue and East Main Street, but it also includes additional lands to the north and south of that core area. The area closest to the NS rail line is south of 61st Avenue/Division

Street, between Central Avenue/Mary Street and Junction Avenue. It borders a small section of Junction Avenue, which is parallel to the NS line between Joliet Street and Kennedy Avenue, so Junction Avenue is between the nature preserve and the railroad.

Hoosier Prairie is a complex of native habitats, including sedge meadow, wet prairie, and marsh wetlands and upland oak savannas. It supports numerous species of wildlife, including a diversity of amphibians, reptiles, mammals, and migratory birds, including some considered rare within the State of Indiana; a number of Indiana-listed rare plants are also present. The Federally endangered Karner blue butterfly (*Lycaeides melissa samuelis*) was formerly present at Hoosier Prairie but is no longer extant. Although Hoosier Prairie is close to the rail line proposed for abandonment, we do not anticipate any impacts to this resource from the abandonment actions.

The track that is proposed for abandonment is adjacent to a small local recreation area called Plum Creek Park, which is within a residential community south of Main Street and west of Indianapolis Boulevard. A narrow band of trees separates the park from the railroad tracks, and a walking path parallels these trees; as long as the trees are not removed during abandonment actions, the aesthetics and use of this community park should not be affected.

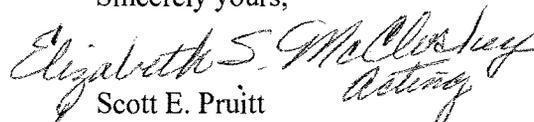
ENDANGERED SPECIES

The proposed project is within the range of the Federally endangered Indiana bat (*Myotis sodalis*) and Karner blue butterfly (*Lycaeides melissa samuelis*) and the threatened Pitcher's thistle (*Cirsium pitcheri*) and Mead's milkweed (*Asclepias meadii*). However, there is no habitat for any of these species within the proposed project area, so we agree that the proposed project is not likely to adversely affect these endangered and threatened species.

This precludes the need for further consultation on this project as required under Section 7 of the Endangered Species Act of 1973, as amended. However, should new information arise pertaining to project plans or a revised species list be published, it will be necessary for the Federal agency to reinitiate consultation.

We appreciate the opportunity to comment at this early stage of project planning. If project plans change such that fish and wildlife habitat may be affected, please re-coordinate with our office as soon as possible. If you have any questions, please contact Elizabeth McCloskey at (219) 983-9753 or elizabeth_mccloskey@fws.gov.

Sincerely yours,


 Elizabeth S. McCloskey
 for Scott E. Pruitt
 Supervisor

cc: Surface Transportation Board, Washington, D.C.
 Christië Stanifer, Environmental Coordinator, Division of Water, Indianapolis, IN

DAVID M. AUSTGEN
TIMOTHY R. KUIPER*
MICHAEL J. JASAITIS*
JOSEPH C. SVETANOFF*
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Paralegals

PAMELA A. WEBERG
Elder Law Administrator

*Licensed in IN & IL
+ Licensed in IN, IL & FL
†Also Licensed CPA in IN & IL

July 29, 2013

VIA FIRST CLASS & E-MAIL

Norfolk Southern Corporation
3 Commercial Place
Strategic Planning – 12th Floor
Norfolk, VA 23510-9202

Attn: Marcellus C. Kirchner, Director Strategic Planning

**Re: Schererville/Town – Pennsy Greenway Bike Trail Project
Docket No. AB-209 (Sub-No. 346X), Norfolk Southern Railway Company Abandonment –
in Lake County, Indiana**

Dear Mr. Kirchner:

This letter is in follow-up to the May 13th formal response on behalf of the Town of Schererville to your correspondence to Town Manager, Robert Volkmann, dated April 25, 2013. A copy of that request letter is enclosed for your use and ready reference. The Town of Schererville is very interested in the abandonment proceeding and is attempting to acquire the same right-of-way for construction of the Pennsy Greenway Trail. No information has been provided on the status of the Abandonment in the more than seventy (70) days that have elapsed. Please provide an update as to the status of Abandonment proceedings and a timetable to complete same, if available.

If you need further information, or have any questions, please contact the undersigned or Rex Sherrard of our Firm. Thank you consideration and cooperation in this matter.

Very truly yours,

AUSTGEN KUIPER & ASSOCIATES, P.C.

By: David M. Austgen

DMA/ras

Encl: As noted.

cc: Schererville Town Manager
Schererville Clerk-Treasurer
Schererville Parks Superintendent
DLZ, attn.: M. Jabo
File/R. Sherrard; S. Jones; L. Andrews

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Division of Historic Preservation & Archaeology • 402 W. Washington Street, W274 • Indianapolis, IN 46204-2739
Phone 317-232-1646 • Fax 317-232-0693 • dhpa@dnr.IN.gov



September 9, 2013

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

Federal Agency: Surface Transportation Board

Re: Project information concerning the abandonment of a segment of rail line between MQ 280.15 and MQ 283.10 (AB-290 [Sub-No. 346X]; DHPA #15257)

Dear Ms. Poarch:

Pursuant to Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f) and 36 C.F.R. Part 800, the staff of the Indiana State Historic Preservation Officer ("Indiana SHPO") has conducted an analysis of the materials dated August 12, 2013 and received on August 16, 2013, for the above indicated project in St. John Township, Lake County, Indiana.

In terms of archaeology, one archaeological site has been recorded within the proposed project area. However, it is our understanding that the ballast will remain and that there will be no ground disturbing activities below the ballast layer. No archaeological investigations appear necessary provided that all project activities remain within areas disturbed by previous construction.

If any archaeological artifacts or human remains are uncovered during construction, demolition, or earthmoving activities, state law (Indiana Code 14-21-1-27 and 29) requires that the discovery must be reported to the Department of Natural Resources within two (2) business days. In that event, please call (317) 232-1646. Be advised that adherence to Indiana Code 14-21-1-27 and 29 does not obviate the need to adhere to applicable federal statutes and regulations.

In regard to buildings and structures, we have identified the following structure within the probable area of potential effects, and we believe that it meets the criteria of eligibility for inclusion in the National Register of Historic Places due to its historical and architectural significance:

Railroad Bridge, off Junction Avenue (site #089-275-60002 per the *Lake County Interim Report*) is significant as a rare example of a Pennsylvania thru truss railroad bridge. At present, less than ten examples of this truss type remain in Indiana. Furthermore, it is one of only a handful of iron railroad bridges remaining in Lake County.

However, based on the information provided to our office, the Railroad Bridge off Junction Avenue (site #089-275-60002) is not within the project area and we do not believe that there will be any alterations to the characteristics of the identified historic structure qualifying it for inclusion in or eligibility for the National Register (*see* 36 C.F.R. § 800.16[i]).

Upon completing its own identification and evaluation efforts, it would be appropriate for the Surface Transportation Board to analyze the information that has been gathered from the Indiana SHPO, the general public, and any other consulting parties and make the necessary determinations and findings. Please refer to the following comments for guidance:

- 1) If the Surface Transportation Board believes that a determination of “no historic properties affected” accurately reflects its assessment, then it shall provide documentation of its finding as set forth in 36 C.F.R. § 800.11 to the Indiana SHPO, notify all consulting parties, and make the documentation available for public inspection (36 C.F.R. §§ 800.4[d][1] and 800.2[d][2]).
- 2) If, on the other hand, the Surface Transportation Board finds that an historic property may be affected, then it shall notify the Indiana SHPO, the public and all consulting parties of its finding and seek views on effects in accordance with 36 C.F.R. §§ 800.4(d)(2) and 800.2(d)(2). Thereafter, the Surface Transportation Board may proceed to apply the criteria of adverse effect and determine whether the project will result in a “no adverse effect” or an “adverse effect” in accordance with 36 C.F.R. 800.5.

A copy of the revised 36 C.F.R. Part 800 that went into effect on August 5, 2004, may be found on the Internet at www.achp.gov for your reference. If you have questions about archaeological issues please contact Cathy Draeger-Williams at (317) 234-3791 or cdraeger-williams@dnr.IN.gov. If you have questions about buildings or structures please contact Kim Marie Padgett at (317) 234-6705 or kpadgett@dnr.IN.gov. Additionally, in all future correspondence regarding the above indicated project, please refer to DHPA #15257.

Very truly yours,



Chris Smith
Deputy Director
Indiana Department of Natural Resources

CS:KMP:CDW:cdw

cc: David C. Navecky, Environmental Protection Specialist, Surface Transportation Board

Poarch, Lawada G.

From: Leffler, Paul M LRC <Paul.M.Leffler@usace.army.mil>
Sent: Monday, June 17, 2013 11:40 AM
To: lawada.poarch@nscorp.com
Subject: Docket No AB-290; Abandonment in Lake County, Indiana (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Ms. Poarch,

I have reviewed your April 25th, 2013 notification for abandonment. The proposed project involves the abandonment of a rail line that crosses several streams and wetlands. Any impacts to these stream and wetland areas will require a permit from our office. Potential project impacts to waterways that may require a permit include dumping or stockpiling of any materials and installation of access roads or equipment staging.

However based on your project description it sounds like no impacts are expected to occur. It is Norfolk's responsibility to ensure this is the case. If plans change and impacts to waterways are required please contact me for further permitting instruction.

Sincerely,

Paul M. Leffler
U.S. Army Corps, Chicago District Regulatory Senior Project Manager
312-846-5529

Classification: UNCLASSIFIED

Caveats: NONE

THIS IS NOT A PERMIT

State of Indiana
DEPARTMENT OF NATURAL RESOURCES
Division of Fish and Wildlife
Early Coordination/Environmental Assessment

DNR #: ER-16967

Request Received: April 29, 2013

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

Project: Norfolk Southern Railway Company, abandonment of 2.95 miles of rail line and removal of rail and track material between Mileposts MQ 280.15 and MQ 283.10; Docket No. AB-290 (Sub-No. 346X)

County/Site info: Lake

The Indiana Department of Natural Resources has reviewed the above referenced project per your request. Our agency offers the following comments for your information and in accordance with the National Environmental Policy Act of 1969.

If our agency has regulatory jurisdiction over the project, the recommendations contained in this letter may become requirements of any permit issued. If we do not have permitting authority, all recommendations are voluntary.

Regulatory Assessment: This proposal may require the formal approval of our agency pursuant to the Flood Control Act (IC 14-28-1) for any proposal to construct, excavate, or fill in or on the floodway of a stream or other flowing waterbody which has a drainage area greater than one square mile. Please submit more detailed plans to the Division of Water's Technical Services Section if you are unsure whether or not a permit will be required.

Natural Heritage Database: The Natural Heritage Program's data have been checked. The species and communities below have been recorded within ½ mile of the project area. The Division of Nature Preserves (DNP) does not anticipate any impacts to the plants species. The communities are within Hoosier Prairie managed lands adjacent to this project. DNP recommends that impacts to the communities be avoided while removing the rail and track. There should be no stock-piling or parking in these areas.

A) PLANTS:

- 1) Earleaf Foxglove (*Agalinis auriculata*); State Threatened
- 2) Narrow-leaved Cotton-grass (*Eriophorum angustifolium*); State Rare

B) COMMUNITIES:

- 1) Wet-mesic Sand Prairie
- 2) Sedge Meadow
- 3) Mesic Sand Prairie

Fish & Wildlife Comments: The information submitted states that the line crosses no watercourses; however, based on aerial images and topographic maps, there appears to be a small stream that the railroad crosses.

Avoid and minimize impacts to fish, wildlife, and botanical resources to the greatest extent possible, and compensate for impacts. The following are recommendations that address potential impacts identified in the proposed project area:

1) Wetland Habitat:

According to the National Wetlands Inventory data, various wetland types potentially occur within the project limits. We recommend a wetland delineation be conducted in order to identify, avoid, and minimize potential impacts. Due to the presence or potential presence of wetlands on site, we recommend contacting and coordinating with

THIS IS NOT A PERMIT

State of Indiana
DEPARTMENT OF NATURAL RESOURCES
Division of Fish and Wildlife
Early Coordination/Environmental Assessment

the Indiana Department of Environmental Management (IDEM) 401 program and also the US Army Corps of Engineers (USACE) 404 program. Impacts to wetlands should be mitigated at the appropriate ratio (see <http://www.in.gov/legislative/iac/20120801-IR-312120434NRA.xml.pdf>).

2) Exposed Soil:

Install a double row erosion control fabric or silt fencing along wetland areas near the project area. All exposed soil areas should be stabilized with temporary or permanent vegetation by November 1. Between November 1 and April 1, all exposed soils idle for longer than 7 days should be stabilized with erosion control blankets or with a bonded fiber matrix hydro-mulch. Sites should be protected from seasonal flooding by keeping traffic areas covered with stone and soil stockpiles seeded, stabilized, and contained with silt fencing.

The additional measures listed below should be implemented to avoid, minimize, or compensate for impacts to fish, wildlife, and botanical resources:

1. Revegetate all bare and disturbed areas with a mixture of grasses (excluding all varieties of tall fescue), legumes, and native shrub and hardwood tree species as soon as possible upon completion.
2. Do not cut any trees suitable for Indiana bat roosting (greater than 3 inches dbh, living or dead, with loose hanging bark) from April 1 through September 30.
3. Operate equipment used to deconstruct the rail line from the existing railway corridor. Do not allow any construction debris to enter nearby waterbodies.
4. Appropriately designed measures for controlling erosion and sediment must be implemented to prevent sediment from entering the stream or leaving the construction site; maintain these measures until construction is complete and all disturbed areas are stabilized.
5. Seed and protect all disturbed streambanks and slopes that are 3:1 or steeper with erosion control blankets (follow manufacturer's recommendations for selection and installation); seed and apply mulch on all other disturbed areas.
6. Inspect structural erosion and sediment control practices daily and repair as necessary until all construction is complete and disturbed areas are permanently stabilized.

Contact Staff:

Christie L. Stanifer, Environ. Coordinator, Fish & Wildlife
Our agency appreciates this opportunity to be of service. Please contact the above staff member at (317) 232-4080 if we can be of further assistance.



Date: May 29, 2013

Christie L. Stanifer
Environ. Coordinator
Division of Fish and Wildlife

THIS IS NOT A PERMIT

State of Indiana
DEPARTMENT OF NATURAL RESOURCES
Division of Fish and Wildlife
Early Coordination/Environmental Assessment

DNR #: ER-16967-1

Request Received: August 16, 2013

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

Project: Norfolk Southern Railway Company, abandonment of 2.95 miles of rail line and removal of rail and track material between Mileposts MQ 280.15 and MQ 283.10; Docket No. AB-290 (Sub-No. 346X)

County/Site info: Lake

The Indiana Department of Natural Resources has reviewed the above referenced project per your request. Our agency offers the following comments for your information and in accordance with the National Environmental Policy Act of 1969.

If our agency has regulatory jurisdiction over the project, the recommendations contained in this letter may become requirements of any permit issued. If we do not have permitting authority, all recommendations are voluntary.

Regulatory Assessment: This proposal may require the formal approval of our agency pursuant to the Flood Control Act (IC 14-28-1) for any proposal to construct, excavate, or fill in or on the floodway of a stream or other flowing waterbody which has a drainage area greater than one square mile. Please submit more detailed plans to the Division of Water's Technical Services Section if you are unsure whether or not a permit will be required.

Natural Heritage Database: The Natural Heritage Program's data have been checked. The species and communities below have been recorded within ½ mile of the project area. The Division of Nature Preserves (DNP) does not anticipate any impacts to the plant species. The communities are within Hoosier Prairie managed lands adjacent to this project. DNP recommends that impacts to the communities be avoided while removing the rail and track. There should be no stock-piling or parking in these areas.

A) PLANTS:

- 1) Earleaf Foxglove (*Agalinis auriculata*); State Threatened
- 2) Narrow-leaved Cotton-grass (*Eriophorum angustifolium*); State Rare

B) COMMUNITIES:

- 1) Wet-mesic Sand Prairie
- 2) Sedge Meadow
- 3) Mesic Sand Prairie

Fish & Wildlife Comments: Avoid and minimize impacts to fish, wildlife, and botanical resources to the greatest extent possible, and compensate for impacts. The following are recommendations that address potential impacts identified in the proposed project area:

1) Waterway and Wetland Impacts:

In our previous review letter, dated May 29, 2013, we indicated that the information submitted stated that no watercourses would be crossed, but that it appeared there was a small stream that the railroad crosses. This was addressed in the Combined Environmental and Historic Report received on August 16, 2013. The Environmental Report states that "there are no plans to undertake in-stream work, or dredge and/or use any fill materials in connection with the proposed abandonment".

THIS IS NOT A PERMIT

State of Indiana
DEPARTMENT OF NATURAL RESOURCES
Division of Fish and Wildlife
Early Coordination/Environmental Assessment

Also in our previous letter, we indicated that various wetlands may occur in the project limits, and that these should be determined and any impacts should be mitigated. The Environmental Report states that "no discernible effects on either 100-year flood plains or adjacent wetlands are expected" with this project, and that consultation with the USACE was conducted.

2) Exposed Soil:

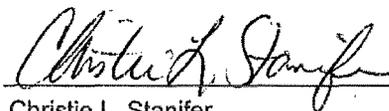
Install a double row erosion control fabric or silt fencing along wetland areas near the project area. All exposed soil areas should be stabilized with temporary or permanent vegetation by November 1. Between November 1 and April 1, all exposed soils idle for longer than 7 days should be stabilized with erosion control blankets or with a bonded fiber matrix hydro-mulch. Sites should be protected from seasonal flooding by keeping traffic areas covered with stone and soil stockpiles seeded, stabilized, and contained with silt fencing.

1. Revegetate all bare and disturbed areas with a mixture of grasses (excluding all varieties of tall fescue), legumes, and native shrub and hardwood tree species as soon as possible upon completion.
2. Minimize and contain within the project limits all tree and brush clearing.
3. Do not cut any trees suitable for Indiana bat roosting (greater than 3 inches dbh, living or dead, with loose hanging bark) from April 1 through September 30.
4. Operate equipment used to deconstruct the rail line from the existing railway corridor. Do not allow any construction debris to enter nearby waterbodies.
5. Appropriately designed measures for controlling erosion and sediment must be implemented to prevent sediment from entering the stream or leaving the construction site; maintain these measures until construction is complete and all disturbed areas are stabilized.
6. Seed and protect all disturbed streambanks and slopes that are 3:1 or steeper with erosion control blankets (follow manufacturer's recommendations for selection and installation); seed and apply mulch on all other disturbed areas.
7. Plant five trees, at least 2 inches in diameter-at-breast height, for each tree which is removed that is ten inches or greater in diameter-at-breast height.
8. Inspect structural erosion and sediment control practices daily and repair as necessary until all construction is complete and disturbed areas are permanently stabilized.
9. Do not excavate or place fill in any riparian wetland.

Contact Staff:

Christie L. Stanifer, Environ. Coordinator, Fish & Wildlife

Our agency appreciates this opportunity to be of service. Please contact the above staff member at (317) 232-4080 if we can be of further assistance.



Christie L. Stanifer
Environ. Coordinator
Division of Fish and Wildlife

Date: August 22, 2013

ATTACHMENT 2
CONSULTING AGENCY RESPONSES TO
ENVIRONMENTAL AND HISTORIC REPORT
(POST-CIRCULATION)

DAVID M. AUSTGEN
TIMOTHY R. KUIPER*
MICHAEL J. JASAITIS*
ADAM M. SWORDEN*
DANIEL F. FORD

of Counsel
DONALD R. O'DELL*
DANETTE GARZA†
AMERICA L. MCALPIN+



REX A. SHERRARD
Professional Engineer

AMY S. BENJAMIN
SHANNON R. JONES
Paralegals

PAMELA A. WEBERG
Elder Law Administrator

*Licensed in IN & IL
+ Licensed in IN, IL & FL
†Also Licensed CPA in IN & IL

September 17, 2013

**VIA FIRST CERTIFIED MAIL
RETURN RECEIPT REQUESTED**
Surface Transportation Board
395 E Street, S.W., Room 1106
Washington DC 20423-0001

VIA FIRST CLASS MAIL
Norfolk Southern Corporation
Strategic Planning Department
Three Commercial Place
Norfolk, VA 23510-9202

**Re: STB AB 290 (Sub-No. 346X) Norfolk Southern Railway Company
Railroad Abandonment – MQ 280.15 to MQ 283.10**

Dear Sir/Madam:

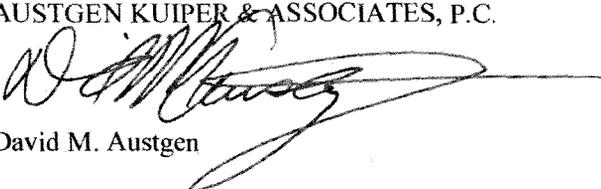
Please be advised that this Law Firm represents the Town of Schererville, Indiana, as its Town Attorneys. This letter will serve as the formal response of the Town to the August 12, 2013, Norfolk Southern cover letter and Combined Environmental and Historic Report.

We note that in its RESPONSE at the top of the fifth page of the Environmental report that the "NSR does not know if there are any state and/or local plans that may be facilitated by the proposed abandonment". However this Firm's letters dated May 13th and July 29th, both of 2013, which appear in Appendix C, state otherwise. We further note that the Environmental Report states that no impacts are anticipated with the proposed abandonment action. This statement is very broad and does not include any details or references (i.e. record search, EA, or EIS). Finally, we note that the Norfolk Southern has included its August 12th cover letter in Appendix B, not its initial April 25th letter soliciting the comments that follow in Appendix C.

We appreciate the opportunity to comment on this abandonment action and request to be copied on all further communications. Thank you.

Very truly yours,

AUSTGEN KUIPER & ASSOCIATES, P.C.

By: 
David M. Austgen

DMA/ras

cc: Schererville Town Manager
Schererville Clerk-Treasurer
Schererville Parks Superintendent
DLZ, attn.: M. Jabo
File/R. Sherrard; S. Jones; L. Andrews

Ref: Norfolk Southern Railway Company
Abandonment Docket No. AB-290 (Sub-No. 346X)



Get to Know Your Trails

Please refer to the map for segments open, funded or proposed

Regional Trails



Calumet Trail
9-miles; limestone; Porter to Michigan City



Calumet Sag Trail
30 miles; asphalt; Lemont to Burnham (IL)



C&O Greenway
11 miles; asphalt; Griffith to Winfield



Dunes-Kankakee Trail
30 miles; asphalt; Dunes State Park to Kankakee River



Erie-Lackawanna Trail
17 miles; asphalt; Hammond to Crown Point



Lincoln Memorial Trail
10 miles; asphalt; Michigan City to Westville



Little Calumet River Levee Trail
11 miles; limestone; Munster to Gary



Oak-Savannah Trail
9 miles; asphalt; Griffith to Hobart



Pennsy Greenway
15 miles; asphalt; Lansing, IL to Crown Point



Prairie-Duneland Trail
11 miles; asphalt; Portage to Chesterton



Veterans Memorial Trail
9 miles; asphalt & equestrian; Crown Point to Hebron

Visionary Trails



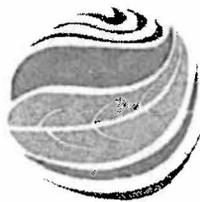
American Discovery Trail
Coast-to-Coast; road & trail; discoverytrail.org



Grand Illinois Trail
450 miles; road & trail; Northern Illinois



Marquette Greenway
50 miles; asphalt; Chicago, IL to New Buffalo, MI



GREENWAYS & BLUEWAYS NORTHWEST INDIANA REGIONAL MAP

REGIONAL HIKING, BIKING & WATER TRAILS

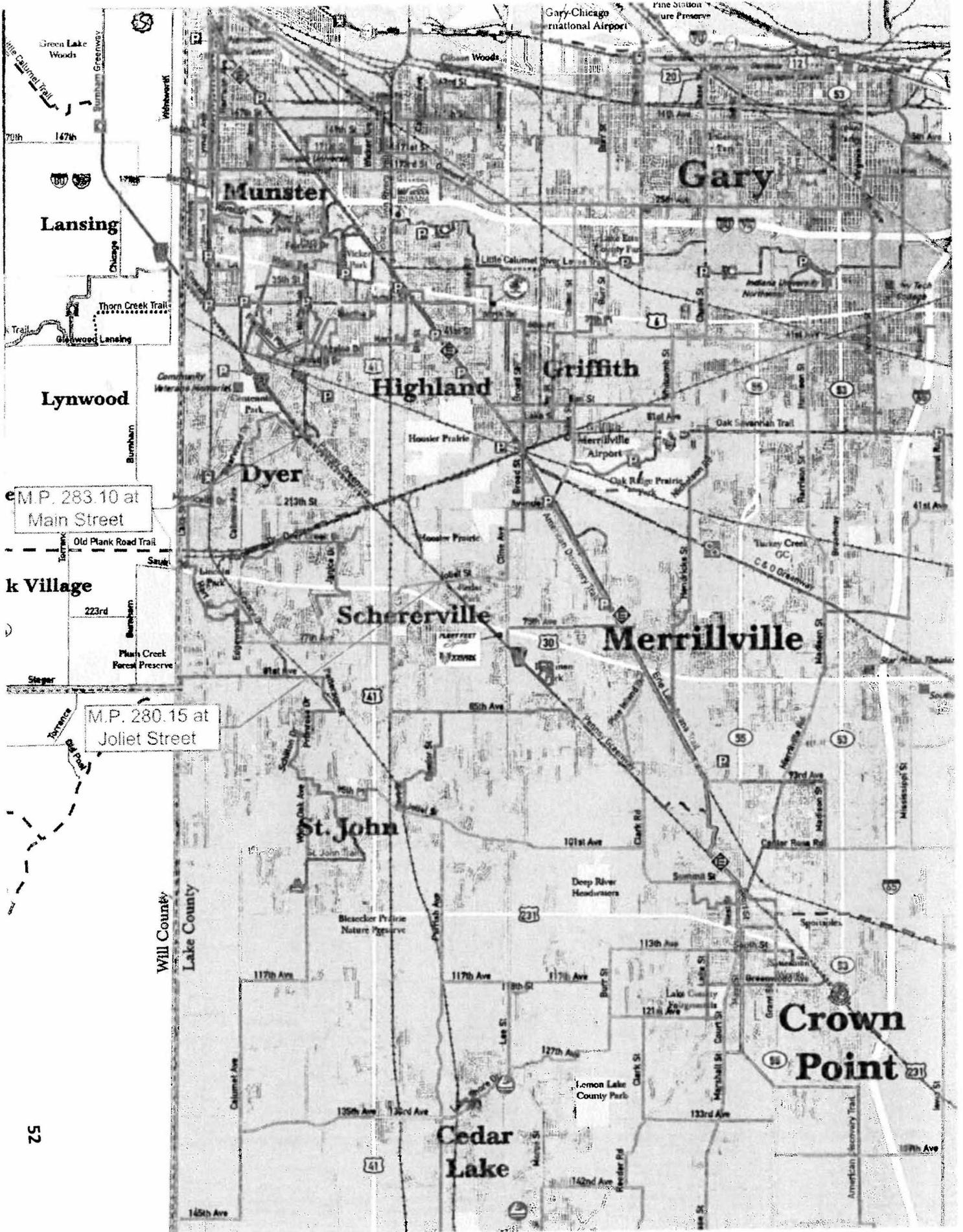


Prepared by
NORTHWESTERN INDIANA REGIONAL
PLANNING COMMISSION
Portage, IN

www.nirpc.org

2012 EDITION

PROPOSED PROJECT FOR
ABANDONED NS R/W



Poarch, Lawada G.

From: McCloskey, Elizabeth <elizabeth_mccloskey@fws.gov>
Sent: Wednesday, September 04, 2013 8:57 AM
To: Lawada.Poarch@nscorp.com
Subject: STB Docket No. AB-290 (Sub-No. 346X) Line Abandonment Lake County, Indiana between MQ 280.15 and MQ 283.10

Ms. Poarch, The U.S. Fish and Wildlife Service has reviewed the Combined Environmental and Historic Report provided by you under letter of August 12, 2013. We have no additional comments.

Elizabeth McCloskey

U.S. Fish and Wildlife Service

Northern Indiana Suboffice

Ecological Service

P.O. Box 2616

Chesterton, Indiana 46304

Phone 219-983-9753

Fax 219-983-9816

elizabeth_mccloskey@fws.gov

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

STB Docket No. AB-290 (Sub-No. 346X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN LAKE COUNTY, INDIANA**

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 advance notice of Norfolk Southern Railway Company's intention to use the Board's petition of exemption procedures to abandon approximately 2.95 miles of rail line located in Lake County, Indiana, and with a copy of the foregoing exemption petition:

Brenda A. Howe
Secretary of the Commission
Indiana Utility Regulatory Commission
101 West Washington St., Suite 1500 E
Indianapolis, IN 46204

David Dorfman
SDDC TEA
Railroads for National Defense
709 Ward Dr., Bldg. 1990
Scott AFB, IL 62225
(618) 220-5741

Charlie Stockman
National Park Service
Rivers & Trails Conservation Program
1201 Eye Street, NW, 9th Floor (Org. Code 2220)
Washington, D.C. 20005
(202) 354-6900

Thomas L. Tidwell, Chief
Forest Service
U.S. Department of Agriculture
Sidney R. Yates Federal Building
201 14th Street SW
Washington, DC 20024
(202) 205-8439
S/W Sandy Berg, Office Manager

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

Midwest Pipe Coating, Inc.
925 Kennedy Ave.
Scherville, IN 46375

October 22, 2013



Robert A. Wimbish
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 in *The Times of Northwest Indiana* (September 27, 2013), a newspaper of general circulation in Lake County, Indiana.

October 22, 2013



Robert A. Wimbish
Attorney for Norfolk Southern
Railway Company

AT
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Prescribed by State Board of Accounts

General Form No. 99P (Rev. 2009A)

Baker & Miller PLLC
(Governmental Unit)

To: The Times Media Company

Lake County, Indiana

601-45th Avenue, Munster, IN 46321

PUBLISHER'S CLAIM

LINE COUNT

Display Master (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) -- number of equivalent lines -----

Head -- number of lines -----

Body -- number of lines -----

Tail -- number of lines -----

Total number of lines in notice -----

COMPUTATION OF CHARGES

79 lines, 1 column wide equals 79 equivalent lines at 400 cents per line ----- \$ 316.00

Additional charges for notices containing rule or tabular work (50 per cent of above amount) ----- Online Charge \$10.00

Charge for extra proofs of publication (\$1.00 for each proof in excess of two) -----

TOTAL AMOUNT OF CLAIM ----- \$ 326.00

DATA FOR COMPUTING COST

Width of single column in picas 9p4 ----- Size of type 7.0 point. 20585005

Number of insertions: 1 -----

Pursuant to the provisions and penalties of IC 5-11-10-1, I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

I also certify that the printed matter attached hereto is a true copy, of the same column width and type size, which was duly published in said paper time(s). The dates of publication being as follows:

September 27, 2013

Additionally, the statement checked below is true and correct:

- Newspaper does not have a Web site.
- ..X.. Newspaper has a Web site and this public notice was posted on the same day as it was published in the newspaper.
- Newspaper has a Web site, but due to technical problem or error, public notice was posted on
- Newspaper has a Web site but refuses to post the public notice.

Date 9/27/2013

Title: Legal Clerk



AT
TA

Prescribed by State Board of Accounts

General Form No. 99P (Rev. 2009A)

NOTICE OF INTENT TO ABANDON RAIL SERVICE
STB Docket No. AB-290
(Sub-No. 346X)

Norfolk Southern Railway Company ("NSR") gives notice that on or about October 7, 2013, it intends to file with the Surface Transportation Board, Washington, DC 20423, an individual petition for exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903, et seq., permitting NSR to abandon approximately 2.95 miles of rail line (hereinafter, the "Line") located in Lake County, Indiana. The Line extends from milepost MQ 280.15 (near the intersection of Lincoln Highway and Junction Ave. in the City of Schererville, IN) to milepost MQ 283.10 (near the Line's crossing of E 53rd Ave./Main Street proximate to the border of the Town of Munster, IN, and the City of Schererville, IN). The Line appears to traverse portions of United States Postal Zip Code territories 46321 and 46375. The proceeding will be docketed as STB Docket No. AB-290 (Sub-No. 346X).

The proposed action entails the abandonment of, and discontinuance of rail service over, the Line. The Board's Office of Environmental Analysis (OEA) generally will prepare an Environmental Assessment (EA), which normally will be available 60 days after the filing of the abandonment petition for exemption. Comments on environmental and energy matters should be filed no later than 30 days after the EA becomes available to the public and will be addressed in a Board decision. Such comments will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to OEA, Surface Transportation Board, 395 E Street, SW, Washington, D.C. 20423, or by calling that office at (202) 245-0295.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails public use, and offers of financial assistance) must be filed directly with the Board's Section of Administration, Office of Proceedings, 395 E Street, S.W., Washington, DC 20423 [See 49 C.F.R. §§ 1104.1(a) and 1104.3(a)], and one copy must be served on applicant's representative [See 49 CFR § 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at 202-245-0230. Copies of any comments or requests for specific Board action should be served on the applicant's representative: Robert A. Wimbish, BAKER & MILLER PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037; phone: 202-663-7824; fax 202-663-7849. 9/27 - 20585005

r. & miller PLLC
(Governmental Unit)

To: The Times Media Company

601-45th Avenue, Munster, IN 46321

PUBLISHER'S CLAIM

(Must not exceed two actual lines, neither of which shall be more than four solid lines of the type in which the body of the advertisement is set) -- number of equivalent lines -----

Number of lines -----

Number of lines -----

Number of lines -----

Number of lines in notice -----

PRINTING CHARGES

..... columns wide equals *79* equivalent lines at 400 line ----- \$ *316.00*

Charges for notices containing rule or tabular work (50 per cent amount) ----- Online Charge \$10.00

Extra proofs of publication (\$1.00 for each proof in excess) ----- \$10.00

AMOUNT OF CLAIM ----- \$ *326.00*

PRINTING COST

..... column in picas 9p4 Size of type 7.0 point. *20585005*

Portions:*1*.....

I hereby certify that the foregoing account is the amount claimed is legally due, after allowing all just credits, and that no part of the same

that the printed matter attached hereto is a true copy, of the same column width and type size, as published in said paper*1*..... time(s). The dates of publication being as follows:

September 27, 2013

statement checked below is true and correct:

..... does not have a Web site.

..... has a Web site and this public notice was posted on the same day as it was published in said paper.

..... has a Web site, but due to technical problem or error, public notice was posted on

..... has a Web site but refuses to post the public notice.

Robert A. Wimbish

Date *9/27/2013*

Title: Legal Clerk

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

STB Docket No. AB-290 (Sub-No. 346X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN LAKE COUNTY, INDIANA**

EXHIBIT D

DRAFT NOTICE OF EXEMPTION

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 290 (Sub-No. 346X)]

Norfolk Southern Railway Company – Abandonment Exemption – In Lake County, Indiana

Norfolk Southern Railway Company (NSR) has filed on October 22, 2013, an individual exemption for the abandonment of a line of railroad known as the “Munster Industrial Track” extending from milepost MQ 280.15 (near the intersection of Lincoln Highway and Junction Ave. in the City of Schererville, IN) to milepost MQ 283.10 (near the Line’s crossing of E 53rd Ave./Main Street proximate to the border of the Town of Munster, IN, and the City of Schererville, IN). The subject rail line traverses through United States Postal Service ZIP Codes 46321 and 46375, a total distance of 2.95 miles in Lake County, Indiana. The line for which abandonment exemption request was filed includes the station of Schererville, (which will not be closed due to other NSR lines that will remain in place that also serve this station).

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 R. Co. – Abandonment – Goshen, 360 I.C.C. 91 (1979).

Any offer of financial assistance will be due no later than 10 days after service of a decision granting the petition for exemption.

All interested persons should be aware that if an exemption from public use provisions is not granted, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, as well as interim trail use.

Any request for a public use condition and any request for trail use/rail banking will be due no later than 20 days after notice of the joint filing of the petitions for exemption is published in the Federal Register.

Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment regulations at 49 CFR Part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245-0295.

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 commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact OEA. EAs in abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

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

Decided: _____.

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