



Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191



John M. Scheib
General Attorney

Direct Dial Number.
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FILED

OCT - 2 2008

October 1, 2008

via DHL Express

**SURFACE
TRANSPORTATION BOARD**

Anne K. Quinlan, Acting Secretary
Surface Transportation Board
395 E Street, S W.
Washington, DC 20024

ENTERED
Office of Proceedings

OCT - 2 2008

Part of
Public Record

Re. STB Docket No. AB-290 (Sub-No. 305X), Norfolk Southern
Railway Company - Abandonment - Petition for Exemption
In Somerset County, Pennsylvania

Dear Ms. Quinlan:

Enclosed for filing with the Board in the subject docket is an original and ten copies of Norfolk Southern Railway Company's (NSR) Petition for Exemption to abandon a railroad line in the subject proceeding. Also, enclosed is a check in the amount of \$6,300.00 for the filing fee and three diskettes in a format that is compatible with the Board's word processing programs.

FEE RECEIVED

OCT - 2 2008

**SURFACE
TRANSPORTATION BOARD**

Yours very truly,

John M. Scheib

Enclosures

BEFORE THE
SURFACE TRANSPORTATION BOARD

223715

DOCKET NO. AB-290 (SUB-NO. 305X)
NORFOLK SOUTHERN RAILWAY COMPANY
- ABANDONMENT EXEMPTION -
IN SOMERSET COUNTY, PENNSYLVANIA
PETITION FOR EXEMPTION

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Attorney for
Norfolk Southern Railway Company

Dated: October 1, 2008

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SURFACE
TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket No. AB-290 (Sub-No. 305X)

Norfolk Southern Railway Company

- Abandonment Exemption -

In Somerset County, Pennsylvania

Petition for Exemption

Norfolk Southern Railway Company ("NSR") hereby petitions the Surface Transportation Board (the "Board" or "STB"), pursuant to the provisions of 49 U.S.C. 10502, as amended, for exemption from the prior approval requirements of 49 U.S.C. 10903 to abandon 1.80 miles of railroad line between Mileposts QS 14.40 and QS 16.20 in Somerset County, Pennsylvania (the "Line").

Section 10502 of Title 49, as amended, directs the Board to exempt a transaction when the Board finds that the transaction satisfies certain statutory criteria. This petition demonstrates that the abandonment for which NSR seeks exemption satisfies the statutory criteria.

Background

Norfolk Southern Railway Company proposes to abandon a 1.80-mile segment of rail line between Mileposts QS 14.40 and QS 16.20 in Somerset County, Pennsylvania, now known as the South Fork Industrial Track and previously known as the South Fork Branch.

The line proposed for abandonment has been returned to service recently after a period of dormancy of over six years. Only traffic from Rosebud Mining moves across the line; the line serves no other customer. Following abandonment, the line will be conveyed to Rosebud Mining for use in its operations as a private track. A letter of support from Rosebud Mining Company is attached to this Petition as Exhibit 1. This line crosses no waterways. Norfolk Southern does not plan to perform any salvage activities following abandonment as the line will be conveyed intact to Rosebud. The only alternatives would be not to abandon the line or to discontinue service on the line and retain the track in place. These alternatives are not satisfactory. The Line must be formally abandoned as a Line of railroad before it can be conveyed to Rosebud Mining for private railroad operation. Incorporation of the Line into Rosebud Mining's operation should lead to more efficient and economical operation of the track, which are benefits the shipper could not enjoy if the abandonment did not take place.

Further Information

Further information supporting an exemption for the proposed abandonment is as follows:

- (1) The exact name of petitioner is Norfolk Southern Railway Company (NSR). NSR operates a railroad system in 22 States throughout the Eastern United States, including Pennsylvania, and in Ontario, Canada. NSR is a wholly-owned subsidiary of Norfolk Southern Corporation, a non-carrier.
- (2) Petitioner is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.
- (3) Pursuant to 49 U.S.C. 10502, the relief sought by petitioner is an exemption from the prior approval requirements of 49 U.S.C. 10903 so that NSR may abandon the Line without being required to list the Line on its system diagram map or to submit a full long-form abandonment application.
- (4) A map of the Somerset County, Pennsylvania line proposed to be abandoned is attached as Exhibit 2.
- (5) This Line has not been included as a rail line to be abandoned or over which service is to be discontinued on the carrier's system diagram map because it was not expected to be the subject of an abandonment application.
- (6) This petition is being filed because the Line must be formally abandoned as a Line of railroad before it can be conveyed to Rosebud Mining for private railroad operation. Incorporation of the Line into Rosebud Mining's operation should lead to more efficient and economical operation of the track. The abandonment also is

necessary so that the shipper will not assume a common carrier obligation with respect to their private rail operations over the track.

(7) Counsel for Petitioner to whom correspondence may be sent is:

John M. Scheib
General Attorney
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191

Counsel's Phone Number is: (757) 629-2831

(8) The Line proposed for abandonment traverses United States Postal Service Zip Code 15963 and includes the stations of Scalp Level, Shade Creek and Windber Jct.

Reasons for Abandonment

Norfolk Southern Railway Company proposes to abandon the line and convey it to Rosebud Mining for use in its private railroad operation.

Efforts to Continue Service

The abandonment of the subject Line will not result in the loss of rail service to any current shippers or receivers of rail service. There are no other potential railroad customers located along this short line of railroad.

Communities on the Line

The only communities on the Line are Paint Borough, Pennsylvania (population 1,103 according to the 2000 census) and Windber Borough, Pennsylvania (population 4,395 according to the 2000 census).

Public Use, Trail Use, Offers of Financial Assistance

NSR does not have fee title to the entire right of way underlying the line proposed for abandonment; therefore, NSR does not have a contiguous corridor available for public use. NSR proposes to convey the subject Line to Rosebud Mining for continued use in its operations as a private track supporting its coal mining operation, therefore interim trail use of the right-of-way is not feasible.

Since the line segment between milepost QS 14.40 and milepost QS 16.20 will be conveyed to Rosebud Mining for use in its operations as a private track, it is not suitable for public use and should not be subject to Offers of Financial Assistance or Public Use conditions. Therefore, NSR also requests exemption of the abandonment of this Line from the provisions of 49 U.S.C. 10904 (offer of financial assistance procedures) and 49 U.S.C. 10905 (public use conditions). See *The Cincinnati, New Orleans and Texas Pacific Railway Company – Abandonment Exemption – In Roane County, TN* (served February 23, 2007) (granting waiver from offer of financial assistance and public use conditions where rail service will be preserved on private track).

Statement Concerning Federally Granted Right of Way

Based on information in NSR's possession, the line does not contain federally granted right-of-way. Any documentation later found in NSR's possession concerning this matter will be made available promptly to those requesting it.

Title Search

NSR does not have fee title to the entire right of way underlying the line proposed for abandonment.

Employee Protection

Since under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a carrier of its statutory obligation to protect the interests of its employees, NSR is willing, as a condition to the Board granting this exemption, for the Board to order that the employee protective conditions set forth in *Oregon Short Line R. Co. – Abandonment – Goshen*, 360 I.C.C. 91 (1979), apply to this abandonment transaction.

Environmental and Energy Impact; Historical Report

Attached (Exhibit 3) are Environmental and Historic Reports prepared and distributed to the appropriate Federal, State and Local agencies in accordance with the Board's regulations. NSR requests that the Board find that the proposed abandonment and planned salvage of the Line will not result in any adverse effect on the environment or on historic places, properties or resources.

Passenger Service

There is no passenger service on the Line.

Draft Federal Register Notice

NSR attaches a draft notice of its petition to be published by the Board in the Federal Register within 20 days of the petition's filing and three computer discs compatible with the Board's current word processing capabilities with copies of this petition and the draft notice.

Notice

NSR is giving notice to the public agencies required to be served with petitions for exemption to abandon railroad lines by mailing copies of this petition for exemption to those agencies. Several additional governmental agencies have received notice of the petition for exemption through the distribution of the Environmental and Historic Reports and subsequent letter of clarification. NSR has arranged for the publication of a newspaper notice concerning the filing of the petition for exemption in Somerset County, Pennsylvania, the only county through which the Line runs. See Exhibit 4.

Discussion and Authorities

Under 49 U.S.C. 10903, a rail line may not be abandoned without the Board's prior approval. Under 49 U.S.C. 10502, however, the Board must exempt a transaction or service from regulation when they find that: (1) continued regulation is not necessary

to carry out the rail transportation policy of 49 U.S.C. 10101; and (2) either (a) the transaction or service is of limited scope, or (b) regulation is not necessary to protect shippers from the abuse of market power.

Detailed scrutiny of this transaction under 49 U.S.C. 10903 is not necessary to carry out the rail transportation policy. No current railroad customer will lose service as a result of the abandonment of the subject Line. In fact, the rail customer on the line supports this position as it seeks to acquire the line to use as private track to support its operations.

By minimizing the administrative expense of the application process, an exemption will reduce regulatory barriers to exit [49 U.S.C. 10101(7)]. An exemption will also foster sound economic conditions and encourage efficient management by relieving NSR from the cost of owning and maintaining a line. Other aspects of the rail transportation policy will not be affected adversely by the grant of the exemption.

Regulation of the proposed transaction is not necessary to protect shippers from the abuse of market power. Given that shippers will not be subject to an abuse of market power, the Board need not determine whether the proposed abandonment is limited in scope.

Conclusion

Norfolk Southern Railway Company, respectfully petitions the Board under 49 U.S.C. 10502, to exempt the abandonment of approximately 1.80 miles of NSR railroad

line between Mileposts QS 14.40 and QS 16.20 in Somerset County, Pennsylvania,
from the prior approval requirements of 49 U.S.C. 10903.

Respectfully submitted

NORFOLK SOUTHERN
RAILWAY COMPANY

By  _____
John H. Friedmann
Vice President

Dated: October 1, 2008

Of Counsel:
John M. Scheib, General Attorney
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510
(757) 629-2831
fax (757) 629-2607

Attorney for
Norfolk Southern Railway Company

CERTIFICATE OF SERVICE

I certify that the foregoing petition in STB Docket No. AB-290 (Sub-No. 305X) has been served on the following parties, by first class mail, postage prepaid, this 1st day of October, 2008:

**Pennsylvania Department of Transportation
Bureau of Rail Freight, Port & Waterways
Keystone Building, 400 North Street
Harrisburg, PA 17129**

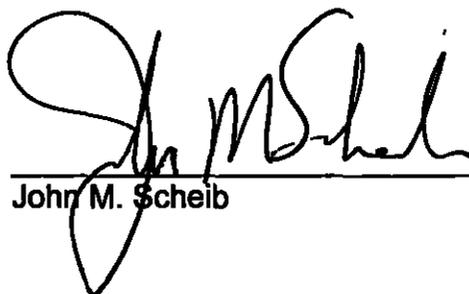
**Pennsylvania Public Utility Commission
400 North Street, Keystone Building
P. O. Box 3265
Harrisburg, PA 17105**

**Military Surface Deployment & Distribution
Command Transportation Engineering Agency
ATTN: SDTE-SA (Railroads for National Defense)
709 Ward Drive, Building 1990
Scott AFB, IL 62225-5357**

**National Park Service – Northeast Region
U.S. Custom House
200 Chestnut Street, Fifth Floor
Philadelphia, PA 19106**

**U. S. Department of Agriculture
Chief of the Forest Service
1400 Independence Avenue, S.W.
Washington, D.C. 20250**

**Mr. James R. Barker
Rosebud Mining Company
301 Market Street
Kittanning, PA 16201**



John M. Scheib

Dated: October 1, 2008

Federal Register: _____, 200__ (Volume _____, Number ____)]
[Notices]
[Page _____]

DEPARTMENT OF TRANSPORTATION

**Surface Transportation Board
[STB Docket No. AB-290 (Sub-No. 305X)]**

**Norfolk Southern Railway Company - Abandonment - Petition for Exemption - in
Somerset County, Pennsylvania**

On _____, 2008, Norfolk Southern Railway Company (NSR), filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903, to abandon an approximately 1.80-mile line of railroad, extending between Milepost QS 14.40 and Milepost QS 16.20 in Somerset County, Pennsylvania (the Line). NSR also requested exemption of the abandonment of this Line from the provisions of 49 U.S.C. 10904 (offer of financial assistance procedures) and 49 U.S.C. 10905 (public use conditions). The Line traverses United States Postal Service Zip code 15963 and includes the stations of Scalp Level, Shade Creek and Windber Jct.

The Line does not contain federally granted rights-of-way. Any documentation in NSR'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).

By issuance of this notice, the Board is instituting an exemption proceeding

pursuant to 49 U.S.C. 10502(b). A final decision will be issued by _____, 200__.

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 offer must be accompanied by a \$_____ filing fee. See 49 C.F.R. 1002.2(f)(25).

Any request for a public use condition under 49 C.F.R. 1152.28 or any request for trail use/rail banking under 49 C.F.R. 1152.29 will be due no later than _____, 2008. Each trail use request must be accompanied by a \$_____ filing fee. See 49 C.F.R. 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB-290 (Sub-No. 305X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, 395 E Street, S.W., Washington, DC 20423-0001, and (2) John M. Scheib, Norfolk Southern Railway Company, Three Commercial Place, Norfolk, VA 23510.

Replies to the NSR petition are due on or before _____, 200__.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 245-0230 or refer to the full abandonment or discontinuance regulations at 49 C.F.R. part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 245-0295. [TDD for the hearing impaired is available at 1-800-877-8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested

persons may contact SEA to obtain a copy of the EA (or EIS) EAs in these 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: _____, 200__.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan,
Acting Secretary.

[FR Doc. _____ Filed _____]

BILLING CODE _____

CERTIFICATION

I hereby certify (1), pursuant to 49 C.F.R. §1105.11, that Environmental and Historic Reports related to the Petition for Exemption in Docket No. AB-290 (Sub-No. 305X), Norfolk Southern Railway Company - Abandonment - Petition for Exemption - in Somerset County, Pennsylvania, were submitted to the agencies identified in 49 C.F.R. §1105.7(b) and to the Pennsylvania State Historic Preservation Officer (see Exhibit 3); and (2) that the newspaper notice required by 49 C.F.R. §1152.50(d)(1) was given through publication on September 18, 2008 , in *The Daily American*, which is a newspaper of general circulation in Somerset County, Pennsylvania, the county through which the Line runs (see Exhibit 4).



John M. Scheib

Dated: October 1, 2008



ROSEBUD MINING COMPANY

301 Market Street Kittanning, PA 16201
Phone. (724) 545-6222 FAX. (724) 543-6375
Web Site www.rosebudmining.com

August 15, 2008

Anne K. Quinlan, Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D C. 20423

Re: AB-290 (Sub-No. 305X) Norfolk Southern Railway Company – Abandonment
Somerset County, Pennsylvania

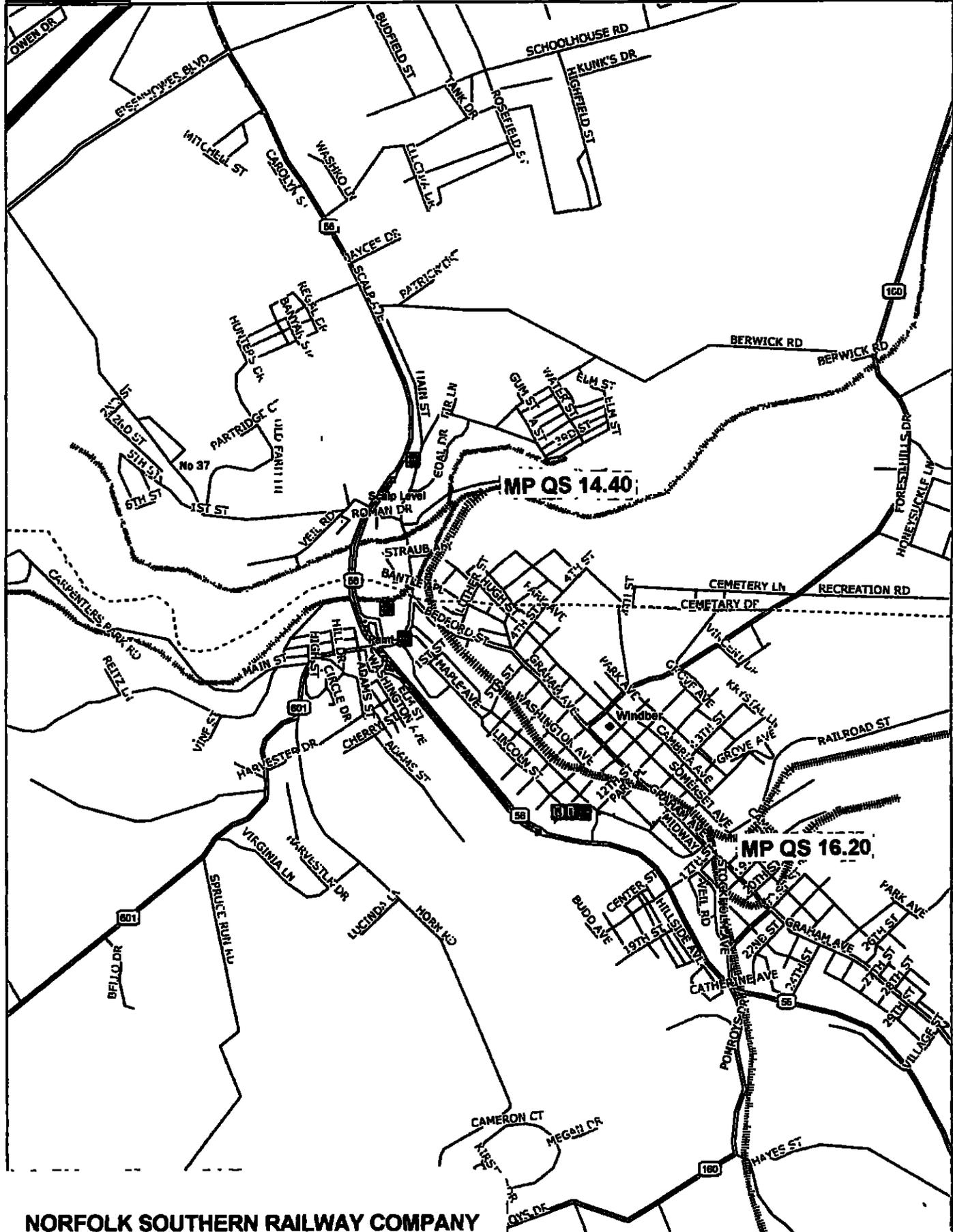
Dear Ms. Quinlan:

On behalf of Rosebud Mining, I submit this letter in support of Norfolk Southern Railway Company's Petition for Exemption to abandon 1.80 miles of track (Milepost QS 14.40 – Milepost 16.20) in Windber, Somerset County Pennsylvania. Rosebud Mining owns the mine that was formerly known as Bethlehem Mine #78, and accordingly is the only potential rail shipper on the line.

The abandonment of this line will advance Rosebud's efforts to increase employment in the local area with jobs paying excellent family-raising wages and benefits. I encourage you to approve the abandonment as expeditiously as possible.

Sincerely,

James R. Barker
Executive Vice President



NORFOLK SOUTHERN RAILWAY COMPANY
Proposed Abandonment
Milepost QS 14.40 - Milepost QS 16.20
Windber, Somerset County, Pennsylvania

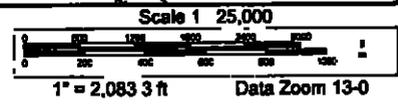


EXHIBIT 3

ENVIRONMENTAL AND HISTORIC REPORTS

**NORFOLK SOUTHERN RAILWAY COMPANY
STB DOCKET NO. AB-290 (Sub-No. 305X)
PROPOSED RAIL LINE ABANDONMENT**

**BETWEEN MP QS 14.40 and MP QS 16.20
IN SOMERSET COUNTY, PENNSYLVANIA**

ENVIRONMENTAL REPORT

**July 31, 2008
Revised August 29, 2008**



**NORFOLK SOUTHERN RAILWAY COMPANY
THREE COMMERCIAL PLACE
NORFOLK, VIRGINIA 23510-9207**

NORFOLK SOUTHERN RAILWAY COMPANY

STB DOCKET NO. AB-290 (Sub-No. 305X)

**ENVIRONMENTAL REPORT ON
PROPOSED RAIL LINE ABANDONMENT**

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: Norfolk Southern Railway Company (NSR) proposes to abandon 1.80-miles of rail line between railroad milepost QS 14.40 and railroad milepost QS 16.20 in Somerset County, Ohio. The abandonment will end the railroad's common carrier obligations to provide service over this line of railroad, which is known as the South Fork Industrial Track.

The line proposed for abandonment has been returned to service recently after a period of dormancy of over six years. Only traffic from Rosebud Mining moves across the line; the line serves no other customer. Following abandonment, the line will be conveyed to Rosebud Mining for use in its operations as a private track. This line crosses no waterways. Norfolk Southern does not plan to perform any salvage activities following abandonment as the line will be conveyed intact to Rosebud.

The alternative to abandonment of the entire line is to not abandon the line and retain the track in place. These alternatives are not satisfactory. Norfolk Southern

would incur opportunity and other holding costs that would need to be covered by other customers were this line segment to be retained, and Rosebud Mining would be deprived of the use of the line as a private track supporting its operation.

A map delineating the line proposed for abandonment is attached as **Appendix A**. NSR's letter to federal, state and local government agencies is attached as **Appendix B**. Responses to the letter or other comments received as a result of consultations 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 are expected to be negligible. Rosebud Mining traffic will continue to move across the line following abandonment. There is no other rail freight or passenger traffic remaining on the line segment proposed for abandonment.

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: The proposed abandonment involves 1.80 miles of rail line located in Somerset County, PA. NSR believes impacts to land use by the proposed rail line abandonment will be negligible. An outline of future land use plans has been requested

from the Somerset County Board of Commissioners, Paint Borough Council and from the Windber Borough Council. These agencies were also asked to comment on the consistency of the proposed abandonment with existing land use plans.

In their response, a copy of which is attached in **Appendix C**, Paint Borough advises that they have no comments regarding the abandonment other than the trestle located in Paint Borough is, in their opinion, in need of maintenance/repair.

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

RESPONSE: The United States Department of Agriculture, Natural Resources Conservation Service advises that no federally-designated farmlands exist in the project area. A copy of their response is attached in **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: Not Applicable, as the property is not located in a coastal zone.

See response received from the Pennsylvania Department of Environmental Protection attached in **Appendix C**.

(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: NSR does not have fee title to the entire right of way underlying the line proposed for abandonment; therefore, NSR will not have a contiguous corridor available for public use. Moreover, public use would be inconsistent with the continued

use of the line by Rosebud Mining as a private track to support its coal mining operation.

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 adversely 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 as no such commodity currently moves over the line.

(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 an increase or decrease in overall energy efficiency as no change in freight traffic moving across the line will occur.

*(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.

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. Somerset County, Pennsylvania is in attainment for all National Ambient Air Quality Standard (NAAQS) pollutants, except 1-hr. ozone, 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 captioned rail line will have no significant effect upon public health or 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: NSR 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: NSR does not believe that any federally listed endangered species or their habitats will be adversely affected by the abandonment. A consultation was requested from the U.S. Fish and Wildlife Service (USFWS) to ascertain any impacts to surrounding habitats and species. In their response, a copy of which is attached in **Exhibit C**, the USFWS states that no federally listed threatened or endangered species are known to occur within the project impact area and no biological assessment or further consultation under the Endangered Species Act is required.

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

RESPONSE: Based on the site investigation, the line segment proposed for abandonment does not 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: Norfolk Southern does not intend to either appreciably remove or alter the contour of the roadbed underlying the rail line to be abandoned as the line will be

conveyed intact to the customer following abandonment. Since there are no plans to undertake in-stream work, or dredge and/or use any fill materials in connection with the proposed abandonment, water quality impacts are not expected in connection with the proposed action. Consultation has been requested from the U. S. Environmental Protection Agency and the Pennsylvania Department of Environmental Protection.

The comments of the Pennsylvania Department of Environmental Protection are attached in **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: This line crosses no waterways and Norfolk Southern does not plan to perform any salvage activities following abandonment. 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 US Army Corps of Engineers.

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

RESPONSE: There are no intentions 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 should be no significant effects to water quality or the need to acquire a Section 402

permit under the Federal Water Pollution Control Act; however, consultation was requested from the U. S. Environmental Protection Agency and from the Pennsylvania Department of Environmental Protection.

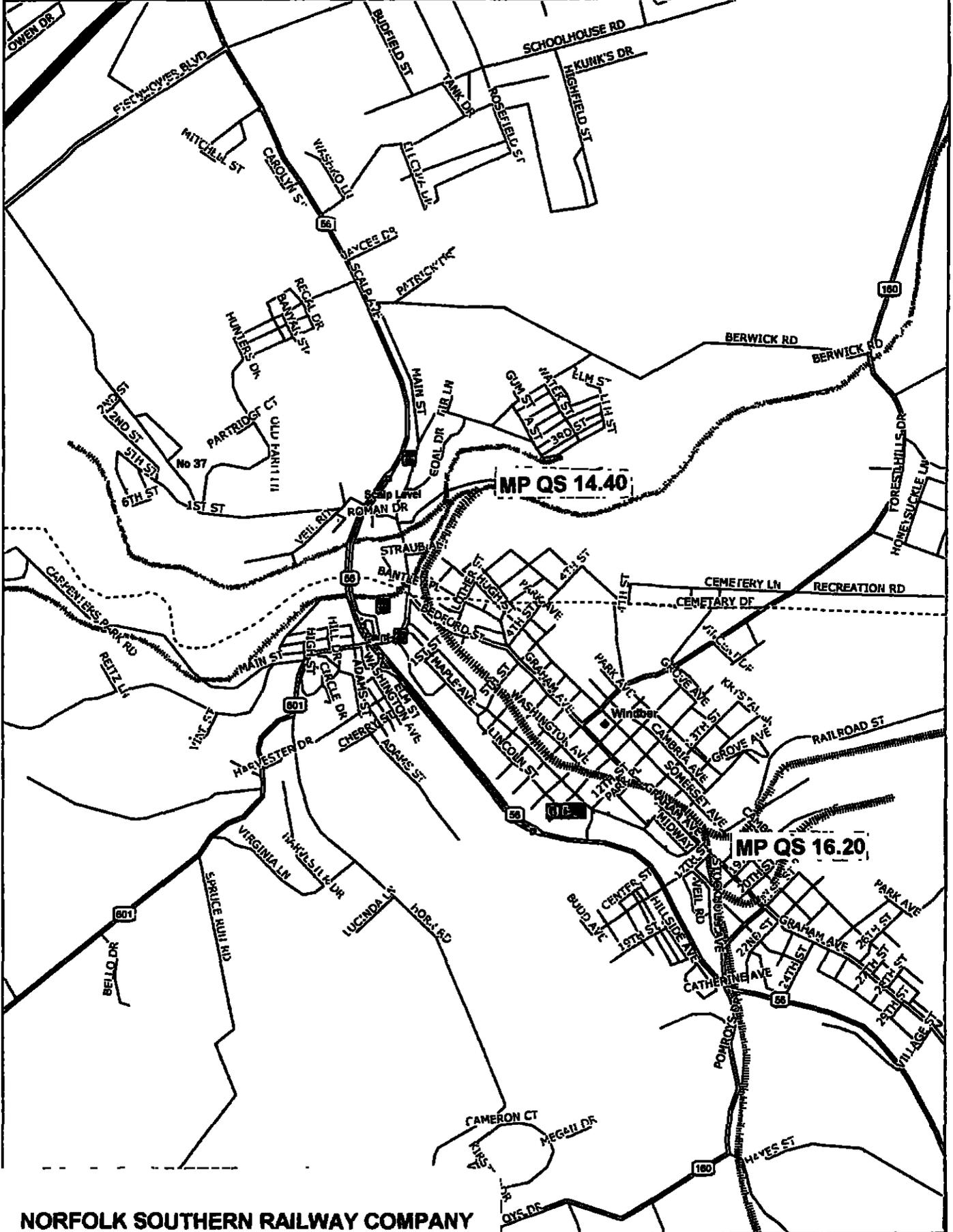
49 CFR 1105.7(e)(10) Proposed Mitigation.

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. Following abandonment, the line will be conveyed to a local mining company for use in their private railroad operations. This line crosses no waterways and Norfolk Southern does not plan to perform any salvage activities following abandonment.

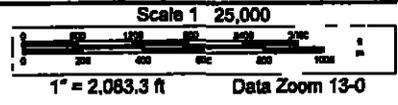
APPENDIX A

Site Map



NORFOLK SOUTHERN RAILWAY COMPANY
Proposed Abandonment
Milepost QS 14.40 - Milepost QS 16.20
Windber, Somerset County, Pennsylvania

32



APPENDIX B

Agency Letters

RECIPIENT LIST

Proposed Rail Line Abandonment of the segment of rail line between MP QS 14.40 and MP QS 16.20, a distance of 1.80 miles, located in Somerset County, Pennsylvania.

Mr. James Marker, Chairman
Somerset County Board of Commissioners
300 N. Center Avenue, Suite 500
Somerset, PA 15501

Pennsylvania Department of Environmental
Protection, Water Planning Office
400 Market Street, 15th Floor
P. O. Box 2063
Harrisburg, PA 17105

Mr. Dennis Berkey, President:
Paint Borough Counsel
300 Hoffman Avenue
Windber, PA 15963

U.S. Fish and Wildlife Service – Region 5
300 West Gate Center Drive
Hadley, MA 01035

Mr. Raymond DiBattista, President:
Windber Borough Council
1409 Somerset Avenue
Windber, PA 15963

U.S. Army Corps of Engineers
Pittsburgh District
William S. Moorhead Federal Building
1000 Liberty Avenue, Room 1828
Pittsburgh, PA 15222

Pennsylvania Department of Transportation
Bureau of Rail Freight, Ports & Waterways
P. O. Box 2777
Harrisburg, PA 17105

USDA-NRCS
1 Credit Union Place, Suite 340
Wildwood Center
Harrisburg, PA 17110

Pennsylvania Dept. of
Environmental Protection
400 Market Street, P. O. Box 2063
Harrisburg, PA 17105

National Park Service
Northeast Region
200 Chestnut Street, Fifth Floor
Philadelphia, PA 19106

U. S. Environmental Protection Agency
Region 3
1650 Arch Street
Philadelphia, PA 19103

National Geodetic Survey
1315 East West Highway
Silver Spring, MD 10910



Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191

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

July 31, 2008

RE: Docket No. AB-290 (Sub-No. 305X), Norfolk Southern Railway Company
Abandonment – in Somerset County, Pennsylvania

Dear Sir/Madam:

Norfolk Southern Railway Company (NSR) plans to request authority from the Surface Transportation Board (STB) to abandon the segment of rail line between Milepost QS 14.40 and Milepost QS 16.20, a distance of 1.80 miles, located in Somerset County, Pennsylvania.

Enclosed is an Environmental 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.

NSR 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 an Environmental Report and sent to the Surface Transportation Board (STB) Appendix B of this report lists the various agencies receiving it.

This report is also 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.
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, NSR must receive your comments within three weeks. Please provide information to Kathy Headrick by email at kathy.headrick@nscorp.com, or by mail to

**Kathy Headrick
Coordinator-Abandonments
Norfolk Southern Corporation
Strategic Planning Department
Three Commercial Place
Norfolk, VA 23510**

Sincerely,



**Marcellus C. Kirchner
Director Strategic Planning
Norfolk Southern Railway Company**

APPENDIX C

Agency Responses

Phone (814) 467-6904
Fax (814) 467-0193

Borough of Paint, Somerset County



119 HOFFMAN AVENUE, WINDBER, PA 15963

June 13, 2008

Ms. Kathy Headrick, Coordinator-Abandonments
Strategic Planning – 12th Floor
Norfolk Southern Corporation
3 Commercial Place
Norfolk, VA 23510

RE: Docket No. AB-290 (Sub-No. 305X), Norfolk Southern Railway Company –
Abandonment – Somerset County, Pennsylvania

Dear Ms Headrck:

Please be advised that Paint Borough Council at their regular meeting of June 12, 2008, has reviewed Norfolk Southern Corporation's letter of May 9th regarding the abandonment of 1.80 miles of rail line between Milepost QS 14.40 and Milepost QS 16.20 in Somerset County, Pennsylvania.

Please be advised that Paint Borough has no comments to report on the above referenced abandonment other than maintenance/repairs need to continue on the trestle located in Paint Borough.

Thank you for your attention in this matter.

Sincerely yours,

PAINT BOROUGH

Dennis L. Berkey

beb

United States Department of Agriculture



Natural Resources Conservation Service
One Credit Union Place, Suite 340
Harrisburg, PA 1700-2993

May 16, 2008

Kathy Headrick
Strategic Planning-12th Floor
Norfolk Southern Corporation
3 Commercial Place
Norfolk, VA 23510

Re: Docket No AB-290 (Sub-No. 305X) Norfolk Southern Railway Company-Abandonment-
Somerset County, Pennsylvania
Somerset County, PA

As requested in a letter dated May 9, 2008, we have reviewed the project location for possible areas of concern to the USDA Natural Resources Conservation Service

The project is entirely within the urban boundaries of Somerset County, and no federally-designated farmlands exist in the proposed project area

Contact me at (717) 237-2218; FAX (717) 237-2238, email:timothy.emenheiser@pa.usda.gov if you need more information.

A handwritten signature in black ink, appearing to read "Tim Emenheiser".

Tim Emenheiser
Resource Conservationist

cc: Joel Elder, District Conservationist, Somerset, PA

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50





Pennsylvania Department of Environmental Protection

Rachel Carson State Office Building
P.O. Box 2063
Harrisburg, PA 17105-2063
May 27, 2008

Water Planning Office

717-772-5622

Kathy Headrick, Coordinator-Abandonments
Strategic Planning
Norfolk Southern Corporation
3 Commercial Place
Norfolk, VA 23510

Re: DEP File No. CZ7:FPL

Dear Ms. Headrick:

On May 12, 2008, the Pennsylvania Coastal Resources Management (CRM) Program received information concerning the following proposed railroad abandonment:

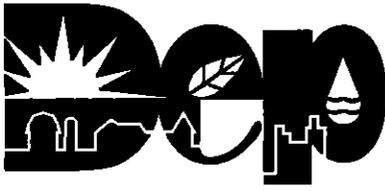
Docket No. AB-290 (Sub-No. 305X), Norfolk Southern Railway Company – Abandonment – Somerset County, Pennsylvania.

This action was sent for our federal consistency review as required under 15 CFR Part 930 Subpart D - Consistency for Federally Licensed and Permit Activities. We have determined that the above action is located outside of Pennsylvania's Coastal Zones, and will not impact upon them. Therefore, this rail abandonment is consistent with Pennsylvania's CRM Program.

In conclusion, please note that this determination pertains only to the federal consistency review requirements under the Federal Coastal Zone Management Act of 1972, as amended, and does not constitute a waiver from further Department of Environmental Protection's review or other Departmental permits.

Sincerely,

Lawrence J. Toth
Environmental Planner
Coastal Resources Management Program



Pennsylvania Department of Environmental Protection

400 Waterfront Drive
Pittsburgh, PA 15222-4745
June 24, 2008

Southwest Regional Office

412-442-4189
Fax 412-442-4194

Kathy Headrick
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510-2191

Re: Environmental Assessment Project
Norfolk Southern Railway Company Abandonment
Windber
Somerset County

Dear Ms. Headrick:

DEP's regional program staff have reviewed the above project for environmental regulatory and policy requirements, and submit the following comments for your attention. These comments are only based on project information you provided, and may not be comprehensive. The applicant has the responsibility of complying with all relevant environmental laws and regulations for the project.

General

1. The applicant should contact the Pennsylvania Historical and Museum Commission, Bureau for Historic Preservation, Box 1026, Harrisburg, PA 17108-1026, telephone number 717-783-8946, to determine if the project will pass through or otherwise impact historic or archaeological sites. Any review comments by the commission should be included with the appropriate DEP permit applications.
2. The Pennsylvania Natural Diversity Inventory List (PNDI) should be cross-checked against the site location to determine if any resources of special concern are located within the project area.
3. Any utility company with transmission lines within the project area should be contacted at least 30 days prior to work start by the contractor. The applicant or contractor should call 1-800-242-1776 before beginning any excavation.

Environmental Cleanup

4. If you encounter contaminated soil during excavation contact the Southwest Region's Waste Management representative at 412-442-4125, and Environmental Cleanup Program representative at 412-442-5217, for proper management.
5. If above or below-ground storage tanks are to be removed, contact the Department's Storage Tank Program representative at 412-442-4091 to ensure that the requirements of 25 Pa Code Chapter 245 are met.



Oil and Gas

6. A review of DEP records indicates no permitted oil or gas well on-site, should an oil or gas well be uncovered during construction, please call DEP's Oil and Gas Program representative at 412-442-4000.

Waste Management

7. For construction/demolition and deconstruction projects, you should evaluate the materials generated to determine what can be recycled, salvaged or processed for reuse. Please visit DEP's website: [www.dep.state pa us](http://www.dep.state.pa.us) and enter DEP Key word: "Construction and Demolition Waste" to find further information on handling construction/demolition material.

Any remaining solid waste including non-useable construction and demolition waste, asbestos, and other materials must be properly stored and disposed promptly at an approved facility. For further information, call 412-442-4156.

For your convenience, we have enclosed our e-Map information from our website, ([http://www dep pa.us/external_gis/gis_home.htm](http://www.dep.pa.us/external_gis/gis_home.htm)) of known environmental features within the area you identified which may be of interest or concern to you with your project.

Should you have any questions or if the project is significantly modified in the future, please contact this office at the telephone number listed above.

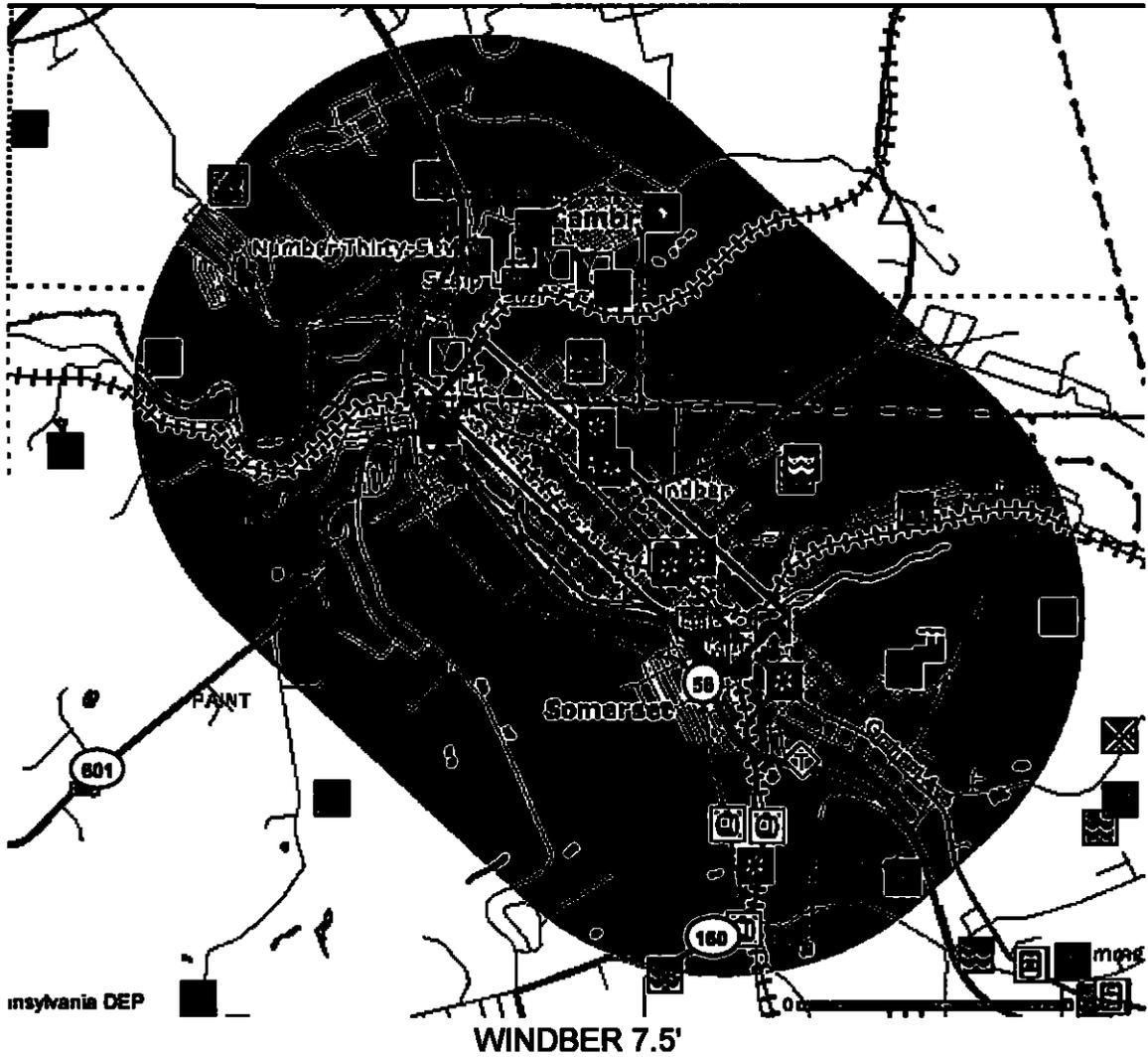
Sincerely,



Ronald A. Schwartz, P.E.
Assistant Regional Director
Southwest Regional Office

Enclosure

DEP eMapPA



**APPLICANT:
NORFOLK SOUTHERN CORPORATION**

**RAILWAY ABANDONMENT
1 Mile Radius**

**LEGEND
SEE ATTACHED**

**PA DEP
SOUTHWEST REGIONAL OFFICE**

**BY: MARK POREMBKA
DATE: 5/21/08**

FACILITIES

Air Emission Plant

-  Air Pollution Control Device
-  Combustion Unit
-  Fuel Material Location

-  General Administrative Location
-  Incinerator - AEP

-  Point of Air Emission Process

Beneficial Land Use

-  Parcel

Brownfields

-  Brownfields

Captive Hazardous Waste Operation

- | | | |
|---|--|--|
|  Boiler Industrial Furnace |  Incinerator - CAHWO |  Treatment Facility - CAHWO |
|  Disposal Facility - CAHWO |  Recycling Facility - CAHWO | |
|  Hazardous Generator Captive |  Storage Facility - CAHWO | |

Coal Mining Operation

- | | | |
|---|--|--|
|  Discharge Point - CMO |  Refuse Disposal Facility |  Underground Mine |
|  Mineral Preparation Plant - CMO |  Refuse Reprocessing | |
|  Post Mining Treatment |  Surface Mine - CMO | |

Coal Pillar Location

- | | |
|--|---|
|  Coal Pillar - Mining |  Coal Pillar - Oil & Gas |
|--|---|

Commercial Hazardous Waste Operation

- | | |
|--|--|
|  Disposal Facility - COHWO |  Storage Facility - COHWO |
|  Hazardous Generator Commercial |  Treatment Facility - COHWO |
|  Recycling Facility - COHWO | |

Encroachment Location

- | | |
|--|---|
|  Boat Launch Ramp |  Gravel Bar Removal |
|  Bridge - ENCL |  Intake Structure |
|  Bulkhead or Groyne |  Non-Jurisdictional Dam - ENCL |
|  Ch 106 Floodplain Permit |  Other Activities |
|  Channel Work |  Outfall Structure - ENCL |
|  Culvert - ENCL |  PA Wetland Replacement Project |
|  Dock |  Pipeline or Conduit |
|  Dredging |  Stream Bank Protection |
|  Fill Stream Channel |  Stream Enclosure |
|  Flood Levee or Walls |  Stream Relocation |
|  Floodway Activity |  Stream Restoration |
|  Ford Crossing |  Stream Restoration w/ Dam Removal |

-  Submerged Lands License Agreement
-  Temporary Wetland Impact
-  Treatment Wetland System

-  Wetland Impact
-  Wetland Mitigation Bank
-  Wetland Restoration

Encroachment Location for O&G

-  Bridge - OGEL
-  Culvert - OGEL

EPA Toxic Release Inventory

-  EPA Toxic Release Inventory

Erosion & Sediment Control Facility

- | | | |
|---|--|--|
|  Agricultural Activities |  Public Road Construction |  Sewerage or Water Systems |
|  Commercial or Ind Dev |  Recreational Facilities |  Silviculture |
|  Government Facilities |  Remediation/Restoration |  Utility Fac and/or Trans Lines |
|  Oil And Gas Development |  Residential Subdivision | |
|  Private Road or Residence | | |

Industrial Mineral Mining Operation

-  Discharge Point - IMMO
-  Surface Mine - IMMO
-  Mineral Preparation Plant - IMMO
-  Underground Mine - IMMO

Land Recycling Cleanup Location

- | | | |
|--|---|---|
|  Air Media |  Groundwater Media |  Surface Water Media |
|  Contained Release or Abandoned Container |  Sediment Media |  Waste Media |
| |  Soil Media | |

Mine Drainage Trmt/Land Recl Proj Loc

- | | |
|--|--|
|  Coal Refuse Pile Reclamation |  Mine Drainage Treatment |
|  Deep Mine Reclamation |  Oil & Gas Well Reclamation |
|  Internal Monitoring Point |  Surface Mine Reclamation |

Municipal Waste Operation

- | | | |
|--|---|--|
|  Composting |  Landfill - MWO |  Transfer Station - MWO |
|  Land Application - MWO |  Processing Facility - MWO | |
|  Landfill - Abandoned |  Resource Recovery | |

Oil & Gas Location

-  Land Application - OGL
-  Oil and Gas Well
-  Pit

Oil and Gas Water Pollution Control Facility

 Discharge Point -
OGWPC

 Internal Monitoring Point
- OGWPC

 Treatment I
OGWPC

Radiation Facility

 Accelerator

 Mammography Quality Stds Act Tube

 XRy Machine

Residual Waste Operation

 Generator

 Impoundment

 Incinerator - RWO

 Land Application - RWO

 Landfill - RWO

 Processing Facility - RWO

 Transfer Station - RWO

Storage Tank Location

 Storage Tank

Water Pollution Control Facility

 Compost/Processing

 Conveyance System

 Discharge Point - WPCF

 Groundwater Monitoring
Point

 Internal Monitoring Point -
WPCF

 Land Discharge

 Outfall Structure - WPCF

 Pump Station - WPCF

 Storage Unit

 Treatment Plant - WPCF

Water Resource

 Discharge

 Ground Water Withdrawal

 Interconnection

 Storage

 Surface Water Withdrawal

 Water Allocation

PNDI # N/A USFWS Project # 2008-1398

U.S. FISH AND WILDLIFE SERVICE
315 South Allen Street, Suite 322, State College, PA 16801

This responds to your inquiry about a PNDI Internet Database search that resulted in a potential conflict with a federally listed, proposed or candidate species.

PROJECT LOCATION INFORMATION

MISC INFORMATION

County: Somerset

Date received by FWS: 05/30/2008

Township: _____

USFWS COMMENTS FAXED MAILED

Fax #: 757-823-5807

To: Marcellus Kirchner

Affiliation: Norfolk Southern Corp

SPECIFIC PROJECT: RR Abandonment

FISH AND WILDLIFE SERVICE COMMENT(s):

NO EFFECT

Except for occasional transient species, no federally listed threatened or endangered species under our jurisdiction are known to occur within the project impact area. Therefore, based on currently available information, no biological assessment or further consultation under the Endangered Species Act is required with the Fish and Wildlife Service. Should project plans change, or if additional information on listed species becomes available, this determination may be reconsidered.

Please be aware that a field survey may reveal previously undocumented populations of one or more species of concern within a project area. If surveys or further information reveals that a federally listed species exists in your project area, contact the Service immediately to discuss measures to avoid or minimize potential impacts to the species prior to initiating your project.

This determination is valid for one year from the date of this letter.

This review was conducted by the biologist listed below. He/she can be contacted at 814-234-4090.

- Pamela Shellenberger (x 241) Bonnie Dershem (x 234) Robert Anderson (x 228)
- Kathy Gipe (x 242)

SIGNATURE: *Cindy J. Holt*
for Supervisor, Pennsylvania Field Office

DATE: 6-25-08



www.dot.state.pa.us
P.O. Box 2777
Harrisburg, PA 17105-2777

August 27, 2008

Surface Transportation Board
Section of Environmental Analysis
395 E Street, S.W.
Washington, DC 20423-0001

Re: Norfolk Southern Railway Company Abandonment in Somerset
County, Pennsylvania (STB Docket No. AB-290 (Sub-No. 305X))

Dear Sir or Madam:

The PennDOT Bureau of Rail Freight, Ports and Waterways is in receipt of a July 31, 2008 letter from Ms. Kathy Headrick, Coordinator-Abandonments, Norfolk Southern Corporation (NS), Strategic Planning Department, requesting that the Pennsylvania Department of Transportation (PennDOT) review the Environmental Report enclosed with their letter and forward any comments to the Surface Transportation Board's (STB) Section of Environmental Analysis (SEA). The Environmental Report was prepared in connection with NS's proposed abandonment (see above referenced STB docket) of its 1.80 mile rail line located between milepost QS 14.40 and milepost QS 16 20 in Somerset County, PA.

Ms. Headrick's letter and the Environmental Report were forwarded to PennDOT Engineering District 9-0, which has jurisdiction for the area in which the line of railroad being proposed for abandonment is situated. In addition, the Environmental Report was also reviewed by PennDOT Bureau of Design, Environmental Quality Assurance Division (EQAD).

PennDOT recommends that, if it has not already done so, the STB should consult with the State Historical Preservation Officer-PA Historical Museum Commission (SHPO) regarding Sec 106. PennDOT does have concerns regarding the public highway-rail crossings on this line and trusts that the crossings will be abolished in an appropriate manner and with the approval of the PA Public Utility Commission. Also, PennDOT District Engineering District 9-0 provided the following additional comment: Referencing Section 49 CFR 1105.7(e)(3) Land use: The location is incorrectly referred to as being in "Somerset County, Ohio"; this needs to be changed to read "Somerset County, Pennsylvania".

Should you have any questions or if we may be of any further assistance to you regarding this matter, please contact Tom Stettler of my staff at (717) 772-2637 or e-mail tstettler@state.pa.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Denise L. Pyers". The signature is fluid and cursive.

Denise L. Pyers
Director
Bureau of Rail Freight, Ports & Waterways

8200/DLP/THS

cc. Kathy Headrick, Norfolk Southern Corporation
Gary Fawver, P.E., Bureau of Design, 7th Flr., CKB
Gina M D'Alfonso, Office of Chief Counsel, 9th Flr., CKB
Thomas A. Prestash, P E., District Executive 9-0
BRFPW File

S:\Bureau of Rail Freight\Planning\Staff Folders\Tom\STB Abandonment&Sale Notices\Comments for
Environmental Reports\NSabandonment Somerset County AB290(305X) PennDOT Comments on ER to
STB doc

APPENDIX D

AT-GRADE CROSSINGS Somerset County, PA

Location	Milepost
7 th Street (private crossing)	QS 15.58
11 th Street (private crossing)	QS 15.69
8 th Street (private crossing)	QS 15.79
Graham Street	QS 15.89
15 th Street (private crossing)	QS 16 11

**Environmental Report
Certificate of Service**

Pursuant to the requirements of 49 C.F.R. § 1105.8(c), the undersigned hereby certifies that a copy of the Environmental Report in Docket No. AB-290 (Sub-No. 305X) was mailed via first class mail on July 31, 2008, to the following parties:

Mr James Marker, Chairman
Somerset County Board of Commissioners
300 N Center Avenue, Suite 500
Somerset, PA 15501

Pennsylvania Department of Environmental
Protection, Water Planning Office
400 Market Street 15th Floor
P O Box 2063
Harrisburg, PA 17105

Mr Dennis Berkey, President
Paint Borough Council
300 Hoffman Avenue
Windber, PA 15963

U S Fish and Wildlife Service – Region 5
300 West Gate Center Drive
Hadley, MA 01035

Mr. Raymond DiBattista President
Windber Borough Council
1409 Somerset Avenue
Windber, PA 15963

U S Army Corps of Engineers
Pittsburgh District
William S. Moorhead Federal Building
1000 Liberty Avenue, Room 1828
Pittsburgh, PA 15222

Pennsylvania Department of Transportation
Bureau of Rail Freight, Ports & Waterways
P O Box 2777
Harrisburg, PA 17105

USDA-NRCS
1 Credit Union Place, Suite 340
Wildwood Center
Harrisburg, PA 17110

Pennsylvania Dept of
Environmental Protection
400 Market Street, P O Box 2063
Harrisburg, PA 17105

National Park Service
Northeast Region
200 Chestnut Street, Fifth Floor
Philadelphia, PA 19106

U S Environmental Protection Agency
Region 3
1650 Arch Street
Philadelphia, PA 19103

National Geodetic Survey
1315 East West Highway
Silver Spring, MD 10910



Marcellus C Kirchner

July 31, 2008

HISTORIC REPORT
PROPOSED RAIL LINE ABANDONMENT

PROPOSED ACTION AND ALTERNATIVES

Norfolk Southern Railway Company (NSR) proposes to abandon 1.80 miles of rail line between railroad milepost QS 14.40 and railroad milepost QS 16.20 in Somerset County, Pennsylvania. The abandonment will end the railroad's common carrier obligations to provide service over this line of railroad, which is known as the South Fork Industrial Track:

The line proposed for abandonment has been returned to service recently after a period of dormancy of over six years. Only traffic from Rosebud Mining moves across the line; the line serves no other customer. Following abandonment, the line will be conveyed to Rosebud Mining for use in its operations as a private track. This line crosses no waterways. Norfolk Southern does not plan to perform any salvage activities following abandonment as the line will be conveyed intact to Rosebud. The only alternatives would be not to abandon the line or to discontinue service on the line and retain the track in place. These alternatives are not satisfactory. Service over the line is not required to serve any shippers. Norfolk Southern would incur opportunity and holding costs that would be absorbed by other customers were the line to be retained without being used for active rail freight service.

A map delineating the line proposed for abandonment is attached.

ADDITIONAL INFORMATION

- (1) **U.S.G.S. Topographic Map** – Maps were furnished to the Pennsylvania Historical and Museum Commission, Bureau for Historic Preservation.
- (2) **Written Description of Right of Way** – The right of way is 50 feet wide. The line passes through urban areas.
- (3) **Photographs** – Photographs of the sole structure on the line segment were furnished to the Pennsylvania Historical and Museum Commission, Bureau for Historic Preservation.
- (4) **Date of Construction of Structures** – The sole structure on the line segment proposed for abandonment is a 41 foot open deck thru plate girder bridge constructed in 1903 over Johnstown Parkway at milepost QS 15.07.
- (5) **History of Operations and Changes Contemplated** - The line of railroad that is the subject of the related notice to the Surface Transportation Board (STB) is a 1.80-mile segment of rail line between Mileposts QS 14.40 and QS 16.20 in Somerset County, Pennsylvania, now known as the South Fork Industrial Track and previously known as the *South Fork Branch*.

The South Fork Branch is one of the many branches constructed by the Pennsylvania Railroad Company to serve the coal mines in Southwestern Pennsylvania.

The Pennsylvania Railroad Company was incorporated April 13, 1846, by a special act of the Legislature of Pennsylvania, and was granted Letters Patent dated February 25, 1847 by the Commonwealth of Pennsylvania. It promoted itself, and became known as, "The Standard Railroad of the World."

The Pennsylvania Railroad Company charter authorized the construction of a railroad from Harrisburg, Pennsylvania to Pittsburgh, Pennsylvania, with branches to various points in the State. The Pennsylvania Railroad Company began construction of its rail lines at Harrisburg, Pennsylvania on July, 1847. The Pennsylvania Railroad opened its line from Harrisburg to Hollidaysburg, Pennsylvania, where it connected with the Portage Railroad, on September 16, 1850 and from Altoona, PA to Pittsburgh, PA in 1852, a total distance of 249.29 miles. Construction was completed on the original Western Division of the Pennsylvania Railroad, from Johnstown, Pennsylvania to Pittsburgh, Pennsylvania, on December 10, 1852.

The portion of the Pennsylvania Railroad line from Altoona, Pennsylvania to the Portage viaduct was built and opened February 15, 1854, which permitted The Pennsylvania Railroad Company to make connections with the Portage Railroad, then owned by the State of Pennsylvania, and the Philadelphia and Columbia Railroad Company lines. This completed the initial main line of the Pennsylvania Railroad Company between Philadelphia and Pittsburgh. The famous Horseshoe Curve near Altoona, Pennsylvania was built during this final phase of construction of the railroad line between Philadelphia and Pittsburgh and opened in 1854.

On July 31, 1857, The Pennsylvania Railroad Company purchased from the Commonwealth of Pennsylvania the property designated as the Main Line of Public Works, together with the privileges and rights provided in a special act of the Legislature of Pennsylvania approved May 16, 1857. The railroad lines purchased from the Main Line of Public Works were 117.86 miles in length, consisting of 76.59 miles of line

between Philadelphia, Pennsylvania and Columbia, Pennsylvania, 4.27 miles of line between Woodbine Avenue in Philadelphia and West Philadelphia, Pennsylvania, and 37.00 miles of line between Hollidaysburg, Pennsylvania and Johnstown, Pennsylvania. Also in 1857, The Pennsylvania Railroad Company purchased the Philadelphia and Columbia Railroad Company and leased the Harrisburg, Portsmouth, Mt. Joy and Lancaster Railroad Company

The New York Central Railroad Company and the Pennsylvania Railroad Company signed an agreement of merger in 1962. In ICC Finance Docket No. 21989, filed March 9, 1962, the Pennsylvania Railroad Company and the New York Central Railroad Company made a joint application to the Interstate Commerce Commission for approval of the transaction set forth in their merger agreement. That merger agreement was signed by the parties on January 12, 1962 and subsequently approved by the Pennsylvania Railroad Company shareholders on May 8, 1962.

In *Pennsylvania R. Co. – Merger – New York Central R. Co.*, 327 I.C.C. 475 (1966), the Interstate Commerce Commission (ICC) approved and authorized the merger of the New York Central Railroad Company into the Pennsylvania Railroad Company, together with sole or joint control of the New York Central's subsidiaries and affiliates and acquisition of NYC's leases of, and contracts to operate, the properties of other carriers and NYC's trackage rights, held jointly or otherwise by NYC, over lines of other carriers or terminals. The purpose of the merger was to provide the drastic relief needed to arrest a trend which, as the Commission then saw it, would certainly have reduced the individual applicants to perilous straits. See 327 I.C.C. at 493-502. In order to render the transaction consistent with the public interest as interpreted by the

Commission at the time, the ICC required, among other things, that the New York, New Haven and Hartford Railroad Company (New Haven) and its affiliates and subsidiaries be included upon fair and equitable terms later to be determined by the ICC with the approval of the courts. Though consummation of the merger was permitted prior to the New Haven inclusion, it was made clear that consummation would constitute full and complete assent by merging parties as to the New Haven inclusion.

In *The Baltimore & Ohio Railroad Co. et al. V. United States et al.*, 386 U.S. 372; 87 S. Ct. 1100; 18 L. Ed. 2d 159 (1967), the United States Supreme Court found that the ICC should not have approved consummation of the merger before the Commission decided upon whether to include not just the New Haven but the three other railroads to be protected because of the Pennsylvania Railroad Company-New York Central Railroad Company merger and the Norfolk and Western Railway Company, the Wabash Railroad Company and the New York, Chicago and St. Louis Railroad Company (the "Nickel Plate" Railroad) merger, the Erie Lackawanna Railroad Company, the Boston and Maine Railroad Company, and the Delaware and Hudson Railroad Company into either the Pennsylvania-New York Central or Norfolk and Western merged systems. This delayed consummation of the transaction even longer, to the financial detriment of all the parties.

The Pennsylvania Railroad Company was the largest railroad and the New York Central Railroad Company was the third largest railroad in the Northeastern Region of the United States at the time of the merger.

What the Supreme Court described as the largest railroad merger in the history of the Nation was consummated February 1, 1968, bringing together the companies that then dominated rail transportation in the Northeastern Region of the United States.

Subsequently, in the Fourth Supplement to the merger report, *Pennsylvania R. Co. – Merger – New York Central R. Co.*, 334 I.C.C. 25 (1968), the Commission fixed the terms for inclusion of the New York, New Haven and Hartford Railroad Company and ordered that the inclusion be effected. Inclusion of the New Haven into the Penn Central was consummated pursuant to the ICC's order of January 1, 1969. The Penn Central Transportation Company, a 20,000 route-mile transportation giant straddling the Northeast and extending into the Midwest and the South emerged from these transactions. Annual savings from the merger were originally predicted to exceed \$80 million after 8 years. It was thought that this system could take over and provide the necessary services of the New Haven, which was then enmeshed in deficit operations. Some 18 months after inclusion, however, Penn Central was at the reorganization court, alleging that it was virtually without cash, was unable to meet its debts as they matured, had no means of borrowing or otherwise procuring funds to pay and discharge its debts and obligations, and was desirous of effecting a reorganization pursuant to section 77. Inclusion of the New Haven, which was weighed down by being the fourth largest private carrier of passengers in the world, in the Penn Central system produced some of the financial and operating problems that bankrupted the Penn Central Transportation Company less than two years after its creation through the merger of the Pennsylvania Railroad and the New York Central Railroad

The Penn Central Transportation Company filed a petition for reorganization under section 77 of the Bankruptcy Act, 11 U.S.C. §§ 205 et seq., on July 21, 1970. Subsequently, the United States District Court for the Eastern District of Pennsylvania appointed W. Willard Wirtz, George P. Baker, Jervis Langdon, Jr., and Richard C. Bond as trustees.

The trustees of Penn Central proposed a plan of reorganization of the debtor, which, absent Federal or other external financial assistance by October 1, 1973, would have permitted continued rail service for not more than another year over the Penn Central lines. Cessation of the debtor's service would be phased in over a 10-week period beginning October 31, 1973. Upon the cessation of any or all rail services, fixed rail assets, and freight, passenger, and work equipment which may be required if provision is made to later resume such services would be preserved for 9 months after October 31, 1973, for sale or lease to others, preferably for continued rail operations. Respecting this latter feature, a trustee testified that while additional expense may be entailed by this "mothballing," he believed that there was a distinct possibility of improving the position of the debtor's creditors through continued availability of rail operations for acquisition by interested parties. Informal discussions with officials of the Norfolk and Western Railway Company and the Chessie System (the Chesapeake and Ohio Railway Company and the Baltimore and Ohio Railroad system) in this respect were unproductive, according to Langdon, because of the possibility of Congressional action to restructure the northeastern railroad system. In his view, however, the continued existence of rail freight service in the territory served by Penn Central was in fact required.

* In 1973, Congress enacted the Regional Rail Reorganization Act (the 3R Act) in an effort to reorganize the bankrupt Northeastern and Midwestern railroads. The statute created three new entities. First, the United States Railway Association, a new government corporation, was formed to "engage in the preparation and implementation of the final system plan." 3R Act, §§ 201, 202(a)(1), later codified at 45 U.S.C. §§ 711, 712(a)(1) (1976). The Final System Plan was envisioned as a "basic document which will identify the necessary rail services in the Midwest and Northeast region and propose needed restructuring, rehabilitation, and modernization " S.Rep.No. 601, 93d Cong., 1st Sess. 25, reprinted in (1973) U.S.Code Cong. & Ad.News 3242, 3265 Although the 3R Act established eight goals which the Final System Plan was to effectuate, Congress identified the "two basic goals," id., as "(1) the creation, through a process of reorganization, of a financially self-sustaining rail service system in the region; (and) (2) the establishment and maintenance of a rail service system adequate to meet the rail transportation needs and service requirements of the region." 3R Act, § 206(a)(1), (2), later codified at 45 U.S.C. § 716(a) (1), (2). The Final System Plan was also required to designate, inter alia, which rail properties of the bankrupt railroads were to be transferred to the Consolidated Rail Corporation (Conrail); which properties were to be offered for sale to profitable railroads in the Midwest and Northeast region; and which properties were to be available for purchase or lease from Conrail by a state or a local or regional transportation authority to meet the needs of commuter rail passenger service. 3R Act, § 206(c)(1)(A), (B), (D), later codified at 45 U.S.C. § 716(c)(1)(A), (B),(D) (1976). The USRA was obliged to submit the Final System Plan to Congress.

3R Act § 208(a), later codified at 45 U.S.C. § 718(a) (1976) When the Final System Plan was submitted to Congress on July 26, 1975, neither house exercised its statutory opportunity to disapprove it, and it was therefore deemed approved.

The Final System Plan, became effective under the Regional Railroad Reorganization Act since neither House of Congress disapproved it within 60 days. The United States Railway Association then was required to transmit the Plan to the Special Court, Regional Railroad Reorganization Act, which had exclusive jurisdiction of all proceedings concerning the Plan. §§ 209. Under the Act, within 10 days after deposit with the Court of Conrail securities and USRA obligations, the Special Court ordered the railroad trustee to convey forthwith to Conrail the railroad's properties designated in the Plan. §§ 303 (b) The Special Court then was required to determine under §§ 303 (c), with appeals extending to the United States Supreme Court, whether the conveyance was fair and equitable to the railroad's estate under §§ 77 standards, or whether the transfer was more fair and equitable than a constitutional minimum required (in which case necessary adjustments were to be made). If the Special Court found the conveyance not fair and equitable, the court was required to reallocate, or order issuance of additional Conrail securities and USRA obligations, enter a judgment against Conrail, or combine such remedies. The railroads that comprised Conrail were permitted to discontinue service and abandon properties not designated for transfer under the Final System Plan, but until the Final System Plan became effective, they were permitted only to discontinue service or abandon any line with USRA consent and absent reasonable state opposition. §§ 304 (f). FSP and the December 1, 1975, Official Errata Supplement.

Consolidated Rail Corporation was incorporated in Pennsylvania on October 25, 1974, as a result of the Regional Rail Reorganization Act of 1973 (3R Act), 45 U.S.C. § 741. Pursuant to that Act, and under the Final System Plan described above, Conrail received the transfer of the property of the bankrupt northeastern railroads and took over and continued their rail operations, beginning its operations as a common carrier by railroad on April 1, 1976. Substantially all of the rail properties of the bankrupt railroads (Penn Central Transportation Co., Reading Co., Erie Lackawanna R. Co., Central R. Co. of New Jersey, Lehigh Valley R. Co., and Lehigh and Hudson River R. Co.) were conveyed to Conrail on that date.

Conrail succeeded to ownership of about 366 miles of rail line comprising a substantial part of the Northeast Corridor from the bankrupt Penn Central Transportation Company on the date that Conrail took possession of its properties, April 1, 1976. Consistent with the governing statutes, the Final System Plan provided that Conrail would immediately convey that part of the NEC that it succeeded to under the Final System Plan to Amtrak, while retaining a freight service easement that permitted it to perform the freight railroad service operations over the Northeast Corridor lines.

From April 1, 1976, when Conrail acquired and took possession of its properties, until June 1, 1999, Consolidated Rail Corporation held title to and operated the property which it had acquired under the now defunct United States Railway Association's (USRA) "Final System Plan" for reorganization of the bankrupt northeastern and Midwestern railroads (Penn Central Transportation Company, its secondary debtors, the Lehigh Valley Railroad Company, the Central Railroad of New Jersey, the Lehigh &

Hudson River Railway, the Reading Company, Erie Lackawanna Railway Company, and a small portion of the Ann Arbor Railroad Company). The Final System Plan had been submitted to Congress on July 26, 1975 and automatically approved after 60 days without further action by Congress under the Regional Rail Reorganization Act of 1973 (3R Act)

Norfolk Southern Corporation, a non-carrier holding company, was incorporated in the Commonwealth of Virginia on July 23, 1980. An Agreement of Merger and Reorganization, dated July 31, 1980, was the basis for Norfolk Southern Corporation control of Norfolk and Western Railway Company, headquartered in Roanoke, Virginia, and Southern Railway Company, headquartered in Washington, DC with a substantial number of its offices also in Atlanta, Georgia, and their subsidiaries. Under approval granted by the Interstate Commerce Commission in ICC Finance Docket No. 29430 (Sub-No. 1), *Norfolk Southern Corporation – Control – Norfolk and Western Railway Company and Southern Railway Company*, 366 I.C.C. 173 (1982), dated March 19, 1982, Norfolk Southern Corporation acquired control of Norfolk and Western Railway Company and Southern Railway Company on June 1, 1982. In October 1982, Norfolk Southern Corporation established its corporate headquarters at Norfolk, Virginia.

Two studies of the Norfolk and Western Railway Company and Southern Railway Company systems provide detailed information on their history. They are: E. F. Pat Striplin, *The Norfolk And Western: A History* (Roanoke, Va.: The Norfolk and Western Railway Co., 1981) and *Burke Davis, The Southern Railway: Road Of The Innovators* (Chapel Hill, N.C.: University of North Carolina Press, 1985). Numerous books have been published to chronicle the history of the Pennsylvania Railroad. Two

examples are: Burgess and Kennedy, *Centennial History of the Pennsylvania Railroad Company 1846-1946* (published by The Pennsylvania Railroad Company, 1949) and Timothy Jacobs, *The History of the Pennsylvania Railroad* (Smithmark Publishers, Inc., 1995).

Effective December 31, 1990, Southern Railway Company changed its name to Norfolk Southern Railway Company. Norfolk and Western Railway Company became a wholly owned subsidiary of Norfolk Southern Railway Company rather than a subsidiary of Norfolk Southern Corporation.

Pursuant to a notice of exemption filed in STB Finance Docket No. 33648, *Norfolk Southern Railway Company—Merger Exemption—Norfolk and Western Railway Company*, served August 31, 1998, Norfolk Southern Railway Company (NSR) merged Norfolk and Western Railway Company (NW) into NSR, effective September 1, 1998

Norfolk Southern Corporation ("NSC"), parent to Norfolk Southern Railway Company ("NSR"), entered into a Transaction Agreement (the "Conrail Transaction Agreement") among NSC; NSR; CSX Corporation ("CSX"); CSX Transportation, Inc. ("CSXT"), a wholly-owned subsidiary of CSX; Conrail Inc. ("CRR"); Conrail, a wholly-owned subsidiary of CRR; and CRR Holdings LLC, dated June 10, 1997, pursuant to which CSX and NSC indirectly acquired all the outstanding capital stock of CRR. The Conrail Transaction Agreement was approved by the Surface Transportation Board ("STB") in a decision served July 23, 1998 in STB Finance Docket No. 33388, *CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company - Control and Operating Leases/Agreements - Conrail Inc.*

and Consolidated Rail Corporation, and the transaction was closed and became effective June 1, 1999

Pursuant to the Conrail Transaction Agreement, certain Conrail assets, including Conrail's remaining interest in the Line, were allocated to Pennsylvania Lines LLC ("PRR"), a wholly-owned subsidiary of Conrail. Furthermore, pursuant to the Conrail Transaction Agreement, PRR's assets, in turn, were leased to and were operated by NSR under an operating agreement. As a result of the transaction, Norfolk Southern's rail operations grew to include some 7,200 miles of the former Conrail system (predominately the former Pennsylvania Railroad), creating balanced rail transportation in the East to benefit customers and communities alike.

On June 4, 2003, Norfolk Southern Corporation (NSC), CSX Corporation (CSX), and Consolidated Rail Corporation (Conrail) announced the joint filing of a petition with the Surface Transportation Board (STB) to establish direct ownership and control by CSX Transportation, Inc. (CSXT) and Norfolk Southern Railway Company (NSR), the railroad subsidiaries of CSX and NSC, respectively, of the two Conrail subsidiaries - New York Central Lines LLC (NYC) and Pennsylvania Lines LLC (PRR) that CSXT and NSR had been managing and operating, respectively, since June 1, 1999 under operating agreements approved by the STB in the 1998 decision. The transaction was authorized by the STB in STB Finance Docket No. 33388 (Sub-No. 94), *CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company — Control and Operating Leases/Agreements — Conrail Inc. and Consolidated Rail Corporation (Petition for Supplemental Order)*, Decision No. 2, served November 7, 2003, noted above, was concluded on August 27, 2004 (the

"Spin Date") by the merger of NYC and PRR into CSX Transportation Inc. and Norfolk Southern Railway Company, respectively. The transaction resulted in the replacement of the operating agreements and allowed NSR and CSXT to operate the NYC and PRR lines via direct ownership.

Somerset County was created April 17, 1795 from the western part of Bedford County lying between the Allegheny Mountain range to the Laurel Hill range. The county was named for Somersetshire, England. The county seat of Somerset, was laid out in 1795, and incorporated as a borough on March 5, 1804.

Several books have been written about the history of Somerset County, Pennsylvania: *Early Somerset County*, by Frederick Doyle, published in 1945; and, *History of Bedford and Somerset County*, by Blackburn and Welfley, published in 1906.

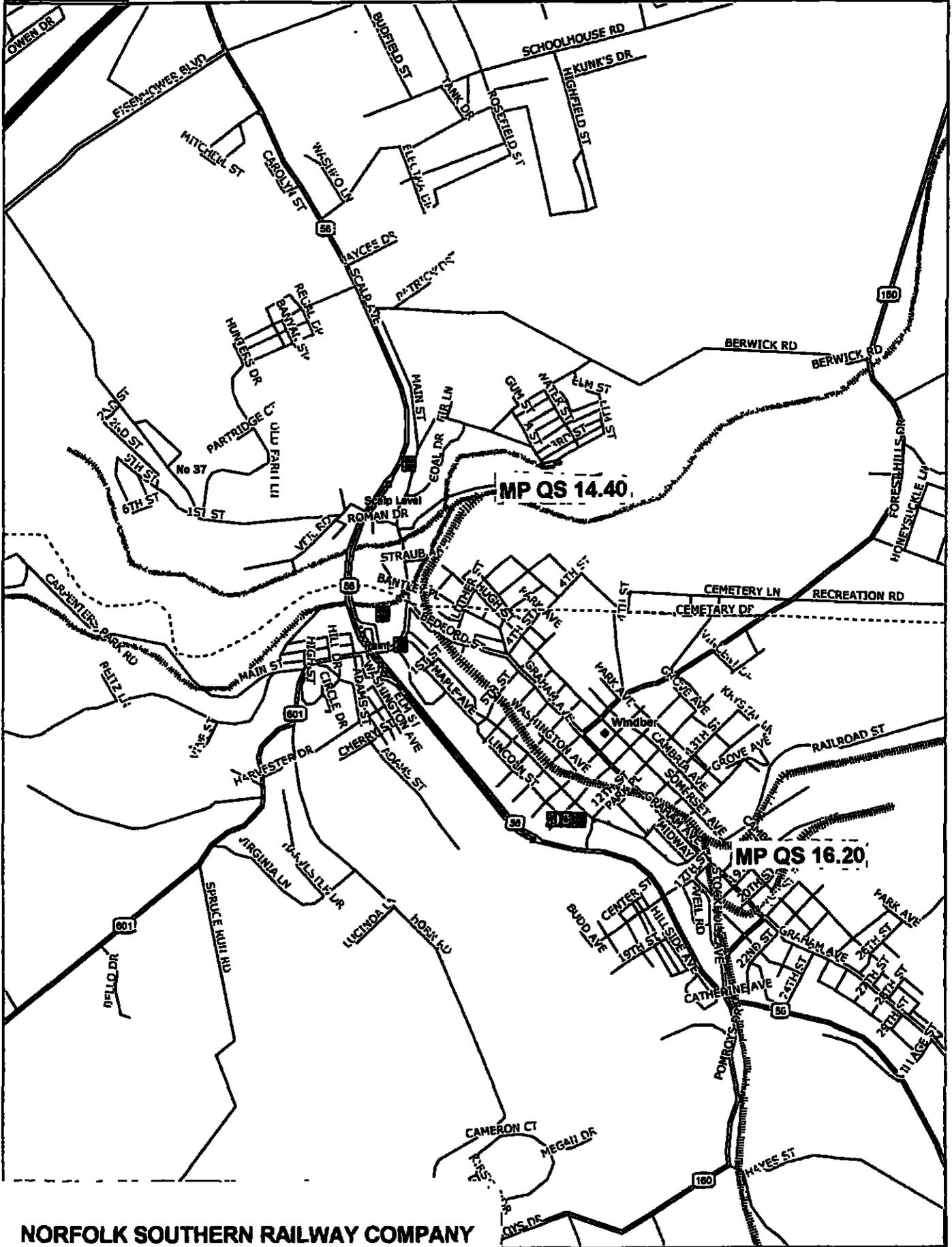
The change contemplated in the operation of the subject railroad line is for Norfolk Southern Railway Company to abandon the line and convey it to Rosebud Mining for use in its operations as a private track. There is no feasible alternative to the abandonment action because there is no revenue or potential revenue from railroad traffic on the line or other income sufficient to cover the costs of ownership, maintenance and operation of the property.

(6) Summary of Documents In Carrier's Possession That Might Be Useful for Documenting a Structure That Is Found To Be Historic - While plans may be available for the sole structure on the line, it is most likely that any such plans are standard plans used for the construction of similar structures on the dates of construction.

(7) Opinion Regarding Criteria For Listing In The National Register Of Historic Places – NSR's opinion is that neither the sole structure on the line to be abandoned nor the line itself meets the criteria for listing in the National Register of Historic Places.

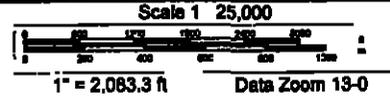
(8) Subsurface Ground Conditions That Might Affect Archaeological Recovery – The railroad is not aware of any prior subsurface ground disturbances or environmental conditions that would affect archaeological recovery. Moreover, abandonment of the line will not affect any potential archaeological resources. The subsurface of the right-of-way was initially disturbed in the construction of the railroad line by grading and filling. Abandonment 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.



NORFOLK SOUTHERN RAILWAY COMPANY
Proposed Abandonment
Milepost QS 14.40 - Milepost QS 16.20
Windber, Somerset County, Pennsylvania

67





Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191

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

July 31, 2008

Mr. Wayne Spilove, Chairman
Pennsylvania Historical and Museum Commission
Bureau for Historic Preservation
300 North Street
Harrisburg, PA 17120

RE: STB Docket No. AB-290 (Sub-No. 305X), Norfolk Southern Railway
Company - Abandonment – in Somerset County, PA.

Dear Mr. Spilove:

Norfolk Southern Railway Company soon expects to file with the Surface Transportation Board a Notice of Exemption seeking authority to abandon 1.80 miles of rail line between railroad mileposts QS 14.40 and QS 16.20 in Somerset County, Pennsylvania. Enclosed is a Historic Report describing the proposed action and any expected historic effects, photographs, topographical map and a map of the affected area.

We are providing this report so that you may review the information that will form the basis for the Board's independent environmental analysis of this proceeding. If you believe any of the information is misleading or incorrect, if you believe that 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), Surface Transportation Board, 395 E Street, S.W., Washington, D. C. 20423-0001, Telephone (202) 245-0295, and refer to the above Docket. Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments (with a copy to us) would be appreciated as soon as possible. Please refer your comments to me by mail at the above address or by email at marc.kirchner@nscorp.com

Your comments will be considered by the Board in evaluating the historic impacts of the contemplated action. If there are any questions concerning this proposal, please do not hesitate to contact me

Sincerely,

Marcellus C. Kirchner

Enclosures
cc: John M. Scheib, Esq

**Historic Report
Certificate of Service**

Pursuant to the requirements of 49 C.F.R. § 1105.8(c), the undersigned hereby certifies that a copy of the Historic Report in Docket No. AB-290 (Sub-No. 305X) was mailed via first class mail on July 31, 2008 to:

Mr. Wayne Spilove, Chairman
Pennsylvania Historical and Museum Commission
Bureau for Historic Preservation
300 North Street
Harrisburg, PA 17120



Marcellus C. Kirchner

July 31, 2008



Commonwealth of Pennsylvania
Pennsylvania Historical and Museum Commission
Bureau for Historic Preservation
Commonwealth Keystone Building, 2nd Floor
400 North Street
Harrisburg, PA 17120-0093
www.phmc.state.pa.us

August 18, 2008

Marcellus C. Kirchner
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 12510-2191

TO EXPEDITE REVIEW USE
RHP REFERENCE NUMBER

Re: ER 08-2296-111-A
STB Docket No. AB-290 (Sub-No. 305X) Norfolk Southern Railway
Abandonment, Windber, Somerset County

Dear Mr. Kirchner:

The Bureau for Historic Preservation (the State Historic Preservation Office) has reviewed the above named project in accordance with Section 106 of the National Historic Preservation Act of 1966, as amended in 1980 and 1992, and the regulations (36 CFR Part 800) of the Advisory Council on Historic Preservation as revised in 1999 and 2004. These regulations require consideration of the project's potential effect upon both historic and archaeological resources.

It is the opinion of the State Historic Preservation Officer that the following properties are not eligible for listing in the National Register of Historic Places:

South Fork Industrial Track, Windber, Somerset County

Therefore, based on the available information, there are no National Register eligible or listed historic buildings/structures/districts/objects in the area of this proposed project.

If you need further information in this matter please consult Susan Zacher at (717) 783-9920.

Sincerely,

Andrea MacDonald, Chief
Division of Preservation Services

AM/smz

Proof of Publication of Notice in Daily American

Commonwealth of Pennsylvania)
County of Somerset) ss
Warren T. Koppenhofer, Jr

... being duly sworn, says That he is editor, general manager, advertising director of the Daily American, a newspaper of general circulation, published at 334 West Main Street, in the Borough of Somerset, County of Somerset and State of Pennsylvania.

That said newspaper was established as a daily newspaper of general circulation on the First day of July, 1929, since which date said newspaper has been published daily in the Borough of Somerset, except Sundays, that a copy of the printed notice, hereto attached, is exactly as the same was printed and published in the regular edition of the Daily American, published on the following dates, viz:

September 18, 2008

That affiant further deposes and declares that he is not interested in the subject matter of the aforesaid notice of publication and that all allegations in the foregoing statement as to time, place and character of publication are true

Sworn to and subscribed before me this 18th day of September 20 08

Barbara Magee
Notary Public
My Commission Expires October 25, 2009

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Barbara Magee, Notary Public
Somerset Boro, Somerset County
My Commission Expires Oct 25, 2009

Copy of Notice of Publication

NOTICE OF INTENT TO ABANDON RAIL SERVICE
Norfolk Southern Railway Company, gives notice that on or about October 12, 2008, it intends to file with the Surface Transportation Board (STB), Washington, DC 20423, a petition for exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903, permitting the abandonment of a 1.80-mile line of railroad between milepost @S 14 40 and milepost @S 16 20 in Windber, Somerset County, Pennsylvania, which traverses through United States Postal Service ZIP Code 15863, and includes the stations of Scalp, Level, Shade Creek, and Windber

STATEMENT OF ADVERTISING COSTS

Notice of Intent to Abandon Rail Service

.....
.....
9-8-1.-18-1
.....

To Daily American, Somerset

For publishing the notice or advertisement attached heretofore the	234 92	
above stated dates	\$
Probating same	\$ 5 00
Total	\$ 239 92

Publisher's Receipt for Advertising Costs

The publisher of the Daily American, a daily newspaper, hereby acknowledges receipt of aforesaid advertising and publication costs, and certifies that the same have been fully paid.

by *Barbara Whiskey*

I hereby certify that the foregoing is the original Proof of Publication and Receipt for the advertising costs in the subject matter of said notice

Attorney for

The proceeding will be docketed as No. AB-290 (Sub-No. 305X). The STB's Section of Environmental Analysis (SEA) will generally prepare an Environmental Assessment (EA), which will normally be available 60 days after the filing of the 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 an STB decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Section of Environmental Analysis, Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001 or by calling that office at 202-245-0295. Appropriate offers of financial assistance to continue rail service can be filed with the STB. However, Norfolk Southern Railway Company also seeks exemption from 49 U.S.C. 10904 (offer of financial assistance procedures). Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed

with the STB. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the STB's Office of the Secretary, 395 E Street, S.W., Washington, DC 20423-0001. [See 49 CFR 1104.1(a) and 1104.3(a)] and one copy must be served on applicant's representative [See 49 CFR 1104.12(a)]. Persons seeking further information concerning abandonment procedures, offers of financial assistance, public use or trails use may contact the Board's Office of Congressional and Public Services at (202) 245-0230 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339. Copies of any comments or requests for conditions should be served on the applicant's representative, John M. Scheib, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510-9241, (757) 629-2831.