

226051



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

**James R. Paschall**  
**Senior General Attorney**

(757) 629-2759

November 23, 2009

**VIA UPS NEXT DAY AIR**

Ms. Cynthia T. Brown, Chief  
Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D. C. 20024

ENTERED  
Office of Proceedings

NOV 24 2009

Part of  
Public Record

Re: STB Docket No. AB-290 (Sub. No. 315X), Norfolk Southern Railway  
Company – Abandonment - In Elmira, Chemung County, New York  
– Notice of Exemption

Dear Ms. Brown:

Enclosed for filing with the Board in the captioned proceeding are an original and ten copies of the Notice of Exemption. Also enclosed is a check in the amount of \$3,700.00 to cover the filing fee.

Thank you for your assistance.

Yours very truly,

James R. Paschall

JRP/kch  
Enclosures

**FEE RECEIVED**

NOV 24 2009

**SURFACE  
TRANSPORTATION BOARD**

BEFORE THE  
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-290 (SUB-NO. 315X)

**FEE RECEIVED**

NOV 24 2009

NORFOLK SOUTHERN RAILWAY COMPANY

**SURFACE  
TRANSPORTATION BOARD**

-- ABANDONMENT--

IN ELMIRA, CHEMUNG COUNTY, NEW YORK

**FILED**

NOV 24 2009

**VERIFIED NOTICE OF EXEMPTION**

**SURFACE  
TRANSPORTATION BOARD**

ENTERED  
Office of Proceedings

NOV 24 2009

Part of  
Public Record

COMES NOW Norfolk Southern Railway Company ("NSR") and files this notice of exemption from regulation under 49 U.S.C. §§ 10903, pursuant to the provisions of 49 U.S.C. § 10502 and 49 CFR § 1152.50, for abandonment of its line of railroad lying between mileposts KV 249.55 and KV 251.40 in Elmira, Chemung County, New York (the "Line").

Pursuant to the Board's regulations codified at 49 CFR § 1152.50, NSR states as follows:

Traffic Certification - §§ 1152.50(b) and (d)(2)

As the attached certificate of General Manager J. W. Hall confirms, no traffic has originated, terminated or moved overhead on this line segment for at least two years (or any overhead traffic on the line can be rerouted over other lines), and no complaint is

pending with the Board or a U. S. District Court or has been decided in favor of a complainant concerning cessation of service over this line within the two-year period.

**Consummation Date - § 1152.50(d)(2)**

The effective date of the abandonment between mileposts KV 249.55 and KV 251.40 in Elmira, Chemung County, New York, will be January 13, 2010.

**General Corporate Information - § 1152.22(a)(1-2) and (7)**

The party filing this notice is Norfolk Southern Railway Company, a common carrier by railroad subject to STB jurisdiction under the Interstate Commerce Commission Termination Act (Interstate Transportation Act) (49 U.S.C. Subtitle IV, Chapter 105), whose representative to whom correspondence may be sent is:

James R. Paschall  
Senior General Attorney  
Norfolk Southern Corporation  
Three Commercial Place  
Norfolk, Virginia 23510  
(757) 629-2759

**Description of the Line and the Relief Sought - § 1152.22(a)(3-4 and 7)**

The relief sought is an exemption from the prior approval requirements of 49 U.S.C. §10903 in order for NSR to abandon the subject line. The line that will be subject to abandonment under the exemption consists of 1.85 miles of track between mileposts KV 249.55 and KV 251.40 in Elmira, Chemung County, New York. A map showing the line to be abandoned, other rail lines in the area, highways, and population centers is attached as Exhibit 1 to this notice. The line traverses United States Postal Service ZIP Codes 14901 and 14903.

**Suitability of the Line for Other Public Purposes - § 1152.22(e)(4)**

NSR is not aware of any restriction on the title to the right-of-way that would affect the transfer of title or the use of property for other than rail purposes but will provide full title information promptly if it receives a proposal to acquire the property for public purposes.

**Labor Protection - § 1152.50(d)(2)**

Since the line to be abandoned has been out of service for over two years, NSR believes no employees will be adversely affected by exercise of abandonment authority for this line. However, as a condition to exercise of the authority permitted in this matter, NSR will accept the imposition of standard labor protective conditions as set forth in Oregon Short Line R. Co. - Abandonment - Goshen, 360 I.C.C. 91 (1979).

**Environmental and Historic Reports; Certifications - § 1105.7 and § 1105.8**

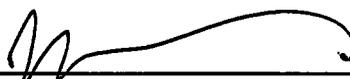
Attached is a Combined Environmental and Historical report prepared and served in accordance with the Surface Transportation Board's regulations. NSR certifies that the notice and transmittal requirements of § 1105.7, § 1105.8 and § 1105.11 have been met.

**Service and Newspaper Notice Requirements Certification - § 1152.50(d)(1-2)**

As the attached certification indicates, NSR certifies that it has complied with the service and notice requirements of § 1152.50(d)(1)(certain government agencies) and § 1105.12 (newspaper notice).

For the foregoing reasons, NSR believes the proposed rail line abandonment is exempt from the prior approval requirements of 49 U.S.C. §§ 10903 pursuant to 49 C.F.R. § 1152.50 and requests that the Board serve the appropriate notice of exemption.

Respectfully submitted,



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John H. Friedmann  
Vice President  
Norfolk Southern Railway Company

Of Counsel:

James R. Paschall  
Senior General Attorney  
Norfolk Southern Corporation  
Three Commercial Place  
Norfolk, Virginia 23510-2191  
(757) 629-2759

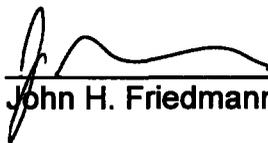
Attorney for Norfolk Southern Railway Company

Dated: November 23, 2009

VERIFICATION

COMMONWEALTH OF VIRGINIA :  
: SS:  
CITY OF NORFOLK :

John H. Friedmann, being duly sworn, deposes and says that he is Vice President of Norfolk Southern Railway Company; that he is authorized to sign, verify, and file with the Surface Transportation Board the foregoing Notice of Exemption in AB-290 (Sub-No. 315X) on behalf of Norfolk Southern Railway Company; that he has carefully examined all of the statements contained in said Notice of Exemption; that he has knowledge of the matters set forth therein; and that all such statements made and matters set forth are true and correct to the best of his knowledge, information, and belief.

  
\_\_\_\_\_  
John H. Friedmann

Subscribed and sworn to before me  
this 18<sup>th</sup> day of November, 2009.

  
\_\_\_\_\_  
Notary Public

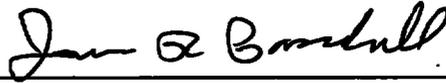
My commission expires:

November 30, 2009



**CERTIFICATION**

I hereby certify (1), pursuant to § 1105.11, that a Combined Environmental and Historic Report was submitted to the agencies identified in § 1105.7(b) and to the appropriate State Historic Preservation Officer (see Exhibit 2); (2), pursuant to § 1105.12, that a notice of intent to abandon rail service was published in *The Elmira Star Gazette*, Elmira, New York, on November 2, 2009 (see Exhibit 3); and (3) that the notice required by § 1152.50(d)(1) was given (see Exhibit 4).



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James R. Paschall

Dated: November 23, 2009

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Notice of Exemption was served upon the following parties, by first class mail, postage prepaid, on November 23, 2009:

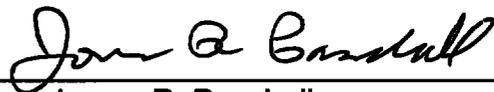
**Mr. Stanley Gee, Acting Commissioner  
New York Department of Transportation  
50 Wolf Road  
Albany, NY 12232**

**U. S. Department of Agriculture  
Chief of the Forest Service  
Sidney R. Yates Federal Building  
1400 Independence Ave., SW  
Washington, DC 20250-0003**

**Regional Director  
National Park Service-Northeast Region  
U. S. Customhouse, Fifth Floor  
200 Chestnut Street  
Philadelphia, PA 19106**

**Ms. Jan Matthews, Associate Director  
U. S. Department of the Interior  
National Park Service  
Cultural Resources, Room 3126  
1849 C Street, N.W.  
Washington, DC 20240**

**U. S. Dept. of Defense (SDDCTEA)  
Railroads for National Defense Program  
709 Ward Drive  
Bldg. 1990, Room 2E264  
Scott AFB, IL 62225**



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**James R. Paschall**

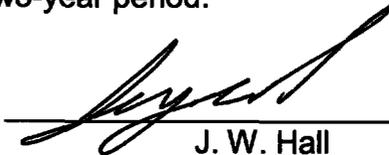
**CERTIFICATION**

STATE OF GEORGIA:

SS:

CITY OF ATLANTA:

J. W. Hall makes oath and says that he is General Manager Northern Region for Norfolk Southern Railway Company; that the line between milepost KV 249.55 and milepost KV 251.40 in Elmira, Chemung County, New York, which is to be abandoned, is subject to his supervision and direction; that no local traffic has moved over the line for at least two years, that no overhead traffic has moved over the line for at least two years and that overhead traffic, if there were any, could be rerouted over other lines; and that no formal complaint filed by a user of rail service on the line or a state or local government entity acting on behalf of such user regarding cessation of service over the line either is pending before the Surface Transportation Board or any U. S. District Court or has been decided in favor of the complainant within the two-year period.

  
\_\_\_\_\_  
J. W. Hall

Subscribed and sworn to before me  
this 25<sup>th</sup> day of September, 2009.

  
\_\_\_\_\_  
Notary Public

My commission expires:

COMMONWEALTH OF PENNSYLVANIA  
**NOTARIAL SEAL**  
Joseph M. Bova - Notary Public  
City of Mechanicsburg, Cumberland County  
MY COMMISSION EXPIRES SEP-20, 2010



**EXHIBIT 2**

**ENVIRONMENTAL AND HISTORIC REPORT**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB DOCKET NO. AB-290 (Sub-No. 315X)**

**NORFOLK SOUTHERN RAILWAY COMPANY  
PROPOSED RAIL LINE ABANDONMENT**

**BETWEEN MP KV-249.55 and MP KV-251.40,  
IN ELMIRA, CHEMUNG COUNTY,  
NEW YORK**

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**Combined Environmental and Historic Report**

**September 15, 2009  
Revised October 28, 2009**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB DOCKET NO. AB-290 (Sub-No. 315X)**

**NORFOLK SOUTHERN RAILWAY COMPANY  
PROPOSED RAIL LINE ABANDONMENT**

**BETWEEN MP KV-249.55 and MP KV-251.50,  
IN ELMIRA, CHEMUNG COUNTY,  
NEW YORK**

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**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 from Milepost KV-249.55 to Milepost KV-251.40, a total distance of 1.85 miles, in Elmira, Chemung County, New York.

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**.

## **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:** Norfolk Southern Railway Company (NSR) proposes to abandon 1.85 miles of rail line between railroad milepost KV-249.55 and railroad milepost KV-251.40 in Elmira, Chemung County, New York. The line proposed for abandonment has been out of service for many years.

Following abandonment, the line segment will be salvaged. The alternatives to abandonment of the entire line are to not abandon the line or to discontinue service over 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.

### **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. There is no 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 1.85 miles of rail line located in Elmira, Chemung County, New York. The land along this line is in an urban area. 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 Chemung County Executive and from the Mayor of Elmira. 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**, the City of Elmira states that they support the proposed abandonment.

*(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.

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

**RESPONSE:** Consultation was requested from the New York Department of State, Division of Coastal Resources.

*(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 may not have fee title to the entire right of way underlying the line proposed for abandonment; therefore, NSR may not have a contiguous corridor available for public use.

**49 CFR 1105.7(e)(4) Energy.**

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

RESPONSE: Development and transportation of energy resources will not be affected by the abandonment as no freight or passenger traffic is moving over the line, and the line did not carry any energy resources when it was last in operation.

*(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 freight or passenger traffic is moving over the line, and the line did not carry such commodities when it was last in operation.

*(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 freight or passenger traffic has moved over the line in over two years.

*(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. Chemung County, New York is in attainment for all National Ambient Air Quality Standard (NAAQS) pollutants according to the U.S. Environmental Protection Agency.

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

**RESPONSE:** Not applicable.

**49 CFR 1105.7(e)(6) Noise.**

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

*(i) An incremental increase in noise levels of three decibels Ldn or more; or*

*(ii) An increase to a noise level of 65 decibels Ldn or greater.*

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

RESPONSE: The above thresholds will not be exceeded.

**49 CFR 1105.7(e)(7) Safety.**

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

RESPONSE: Abandonment of the captioned rail line will have no significant effect upon public health or safety. There are six (6) at grade crossings located on the line. A list of the at-grade crossings is attached in **Appendix D**.

*(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.

*(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. The line is crossed by one small stream which runs through a culvert underneath the line. The culvert will remain in place. 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 New York State Department of Environmental Conservation and from the United States Environmental Protection Agency.

A copy of the response from the New York State Department of Environmental Conservation is 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:** The line is crossed by one small stream which runs through a culvert underneath the line. The culvert will remain in place. 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 US Army Corps of Engineers. A copy of their response is attached in **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 line is crossed by one small stream which runs through a culvert underneath the line. The culvert will remain in place. 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 Environmental Protection Agency and from the New York State Department of Environmental Conservation.

A copy of the response from the New York State Department of Environmental Conservation is attached in **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. Only minimal physical activity may occur, such as removal of rail, ties, and other railroad appurtenances. NSR will undertake all reasonable mitigation associated with these activities to assure the abandonment does not produce adverse environmental impacts.

**Additional Information:**

**National Geodetic Survey Marker**

Attached in **Appendix C** is a response from the National Geodetic Survey that states that there are 00 geodetic survey marks located in the area described.

**Section 106 of the National Historic Preservation Act**

Attached in **Appendix C** is a response from the New York State Office of Parks, Recreation and Historic Preservation which states the State Historic Preservation Office's opinion that the project will have no effect upon cultural resources in or eligible for inclusion in the National Register of Historic Places.

## **HISTORIC REPORT**

### **PROPOSED ACTION AND ALTERNATIVES**

Norfolk Southern Railway Company (NSR) proposes to abandon 1.85 miles of rail line between railroad milepost KV-249.55 and railroad milepost KV-251.40 in Elmira, Chemung County, New York. The line proposed for abandonment has been out of service for many years.

Following abandonment, the line segment will be salvaged. The alternatives to abandonment of the entire line are to not abandon the line or to discontinue service over 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.

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

### **ADDITIONAL INFORMATION**

- (1) **U.S.G.S. Topographic Map** -- Maps were furnished to the New York State Historic Preservation Office.
- (2) **Written Description of Right of Way** -- The right-of-way width varies from 50-99 feet on each side of the main track centerline. The line passes through urban areas.

Pursuant to Surface Transportation Board (STB) policy, the railroad right-of-way will constitute the Area of Potential Effect (APE) for this undertaking.

(3) **Photographs** – As there are no bridges or other structures on the segment to be abandoned, no photographs are provided.

(4) **Date of Construction of Structures** – There are no bridges or other structures associated with this abandonment.

(5) **History of Operations and Changes Contemplated** - The line of railroad that is the subject of the related notice to the STB is a 1.85-mile segment of rail line between Mileposts KV-249.55 and KV-251.40 in Elmira, Chemung County, New York, and was originally part of the Delaware, Lackawanna and Western Railroad.

The Delaware, Lackawanna and Western Railroad company was formed on March 11, 1853, under authority of an act of the Pennsylvania legislature, by merging the Lackawanna and Western Railroad Company (formerly the Liggett's Gap Railroad Company, which was chartered on April 7, 1832) with the Delaware and Cobbs Gap Railroad Company (chartered December 4, 1850).

In 1960, the Delaware, Lackawanna and Western Railroad Company merged with the Erie Railroad Company, becoming the Erie-Lackawanna Railway Company. The hyphen was dropped three years later.

In the mid-1960s, the Erie Lackawanna Railway and Delaware and Hudson Railway Company (along with the New York, New Haven and Hartford Railroad Company) petitioned the STB's predecessor agency, the Interstate Commerce Commission (ICC) for inclusion in either the Penn Central Transportation Company system that would be formed from the pending merger of the Pennsylvania Railroad Company and the New York Central Railroad Company or in the expanding Norfolk and

Western Railway Company system to be formed by the consolidation of the Wabash Railroad Company (already leased by the Norfolk and Western Railway), the Sandusky line of the Pennsylvania Railroad Company and the New York, Chicago and St. Louis Railroad Company (Nickel Plate) with the Norfolk and Western Railway Company. To help protect the soon to be much smaller Erie Lackawanna Railway and Delaware and Hudson Railway from the competitive harm foreseen by the ICC as likely to result from the formation of the larger northeastern systems, but especially Penn Central, the ICC required the Norfolk and Western Railway Company to acquire them. The Norfolk and Western Railway complied with this ICC decision by acquiring the two companies through a subsidiary, Dereco, Inc.

The relationship of the Erie Lackawanna Railway and the Delaware and Hudson Railway with the Norfolk and Western Railway was tenuous because they had few connections and lacked synergy in routes and traffic flows. Thus, the Erie Lackawanna's acquisition by Dereco, Inc. did not prevent it from being hurt by the changes in traffic patterns caused by the Penn Central consolidation and from falling into bankruptcy in 1972 along with the Penn Central and several other northeastern and midwestern railroads. As a result of the Erie Lackawanna Railway bankruptcy, Dereco lost its interest in the Erie Lackawanna Railway, which was then included in the Final System Plan of the United States Railway Association (USRA) that resulted in the consolidation of much of the bankrupt railroads' property into one remaining carrier, Consolidated Rail Corporation (Conrail).

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.

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.

Thus, this line segment that was controlled by Dereco before the bankruptcy of the Erie Lackawanna and its inclusion as part of the Conrail system, became part of the

Norfolk Southern system not because it had been part of the Erie Lackawanna system while it was controlled by Dereco for a brief period in the 1960s and early 1970s, but because it was acquired from Conrail in 1999 as part of the Conrail acquisition.

Chemung County was formed from a partition of 520 square miles of Tioga County on March 29, 1836. In April, 1854, the county was partitioned so that 110 square miles of land could be used to create Schuyler County. Chemung County's name was derived from the name of a Delaware Indian village meaning "big horn." The 2000 Census showed a population of 91,070.

The City of Elmira was incorporated in 1864. It is said that the town was named after tavern owner Nathan Teal's daughter, or after Major General Matthew Carpenter's daughter. As of the 2000 Census, Elmira had a population of 30,940.

The change contemplated in the operation of the subject railroad line is for Norfolk Southern Railway Company to abandon and salvage the track and material and to the extent of its title to the real estate to deal with the right-of-way as ordinary real estate no longer subject to a common carrier obligation. 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** - Not applicable.

**(7) Opinion Regarding Criteria For Listing In The National Register Of Historic Places** – There are no structures on the line to be abandoned or within the APE for this

undertaking. NSR has no reason to believe that there is any likelihood of finding archaeological resources or historic properties on the line proposed for abandonment.

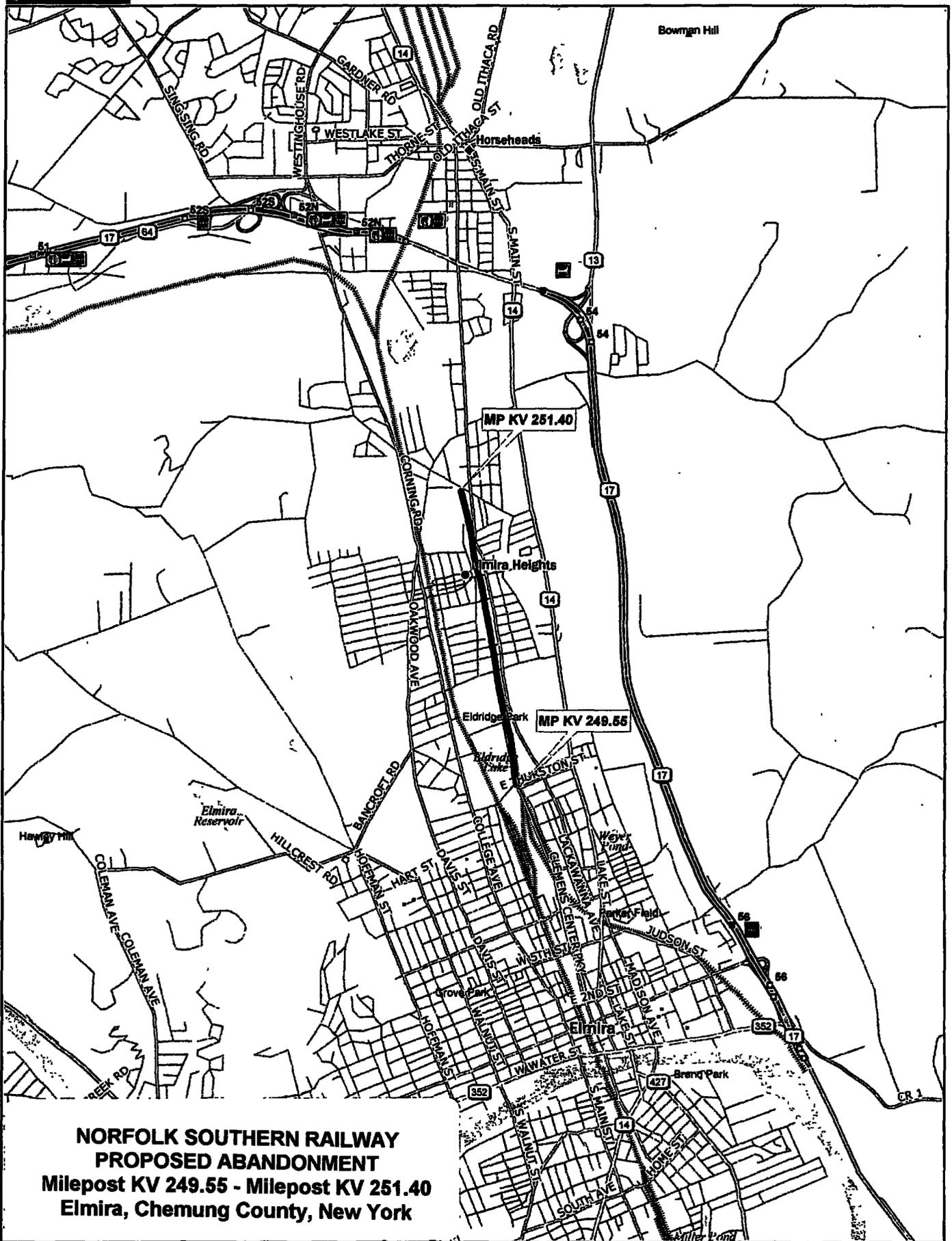
**(8) Subsurface Ground Conditions That Might Affect Archaeological Recovery**

– NSR 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**

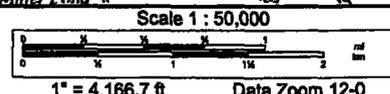


**NORFOLK SOUTHERN RAILWAY  
PROPOSED ABANDONMENT  
Milepost KV 249.55 - Milepost KV 251.40  
Elmira, Chemung County, New York**

Data use subject to license.

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# **APPENDIX B**

## **Agency Letters**

## RECIPIENT LIST

**Proposed Rail Line Abandonment of the segment of rail line between MP KV 249.55 and MP KV 251.40, a distance of 1.85-miles, located in Elmira, Chemung County, New York.**

Mr. Thomas J. Santulli  
Chemung County Executive  
P. O. Box 588  
Elmira, NY 14902

US EPA – Region 2  
Jacob K. Javits Federal Bldg.  
290 Broadway  
New York, NY 10007

Mayor John S. Tonello  
City Hall – 3<sup>rd</sup> Floor  
317 East Church Street  
Elmira, NY 14901

NYS Dept. of Environmental Conservation  
Region 8  
6274 East Avon-Lima Road  
Avon, NY 14414

Mr. Stanley Gee, Acting Commissioner  
New York Department of Transportation  
50 Wolf Road  
Albany, NY 12232

New York Dept. of State  
Division of Coastal Resources  
41 State Street  
Albany, NY 12231

United States Army Corps of Engineers  
Buffalo District  
1776 Niagara Street  
Buffalo, NY 14207

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

US Fish and Wildlife Service-Region 5  
300 West Gate Center Drive  
Hadley, MA 01035

NOAA -National Geodetic Survey  
Geodetic Services Division  
Room 9292, NGS/12  
1315 East-West Hwy  
Silver Spring, MD 20910-3282

USDA-NRCS  
441 Salina Street  
The Galleries of Syracuse, Suite 354  
Syracuse, NY 13202

NY State Historical Preservation Office  
Pebbles Island Resource Center  
P. O. Box 189  
Waterford, NY 12188



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

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

September 15, 2009

RE: Docket No. AB-290 (Sub-No. 315X), Norfolk Southern Railway Company  
Abandonment – in Elmira, Chemung County, New York

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 KV 249.55 and Milepost KV 251.40, a distance of 1.85 miles, located in Elmira, Chemung County, New York.

Enclosed is a Combined Environmental and Historic 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.

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, NSR must receive your comments within three weeks. Please provide information to Kathy Headrick by email at [kathy.headrick@nscorp.com](mailto: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**

**Headrick, Kathy, C**

---

**From:** Ryan, John [jryan@cityofelmira.net]  
**Sent:** Friday, October 09, 2009 8:31 AM  
**To:** Headrick, Kathy, C  
**Cc:** Burin, John  
**Subject:** Docket No. AB-290 (Sub-No 315X), Norfolk Southern Railway Co Abandonment - Elmira, NY

Dear Ms. Headrick: I am responding to your letter dated Sept.15th regarding the above referenced matter.

City representatives have reviewed the Combined Environmental and Historic Report. The city has no comments regarding the report. Please be informed that the city supports the proposed abandonment.

\*\*\*\*\*  
John J. Ryan Jr.  
Corporation Counsel  
City of Elmira  
jryan@cityofelmira.net  
[www.cityofelmira.net](http://www.cityofelmira.net)  
\*\*\*\*\*

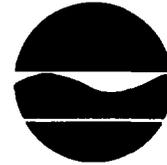
**NYS Department of Environmental Conservation**

8/10/2009

Region 8 - Division of Environmental Permits  
6274 East Avon-Lima Road  
Avon, New York 14414-9519

Phone: (585) 226-5400 Fax: (585) 226-2830

Website: [www.dec.ny.gov](http://www.dec.ny.gov)



**Alexander B. Grannis**  
Commissioner

4021

*Kathy Headrick*  
**NORFOLK SOUTHER CORP**  
**MARCELLUS KIRCHNER, DIRECTOR STRATEGIC PLANNING**  
**THREE COMMERCIAL PLACE**  
**NORFOLK, VA 23510-2191**

**Re: PERMIT JURISDICTION/RESOURCE SCREENING**

Dear MARCELLUS KIRCHNE

The following comments are based upon the location information provided in your inquiry of:  
**NORFOLK SOUTHERN RAILWAY ABANDONMENT - THROUGH HORSEHEADS, ELMIRA HEIGHTS & ELMIRA**

**State Wetlands**

Your project/site is near or in mapped NYS Freshwater Wetland EL-1. The actual wetland boundary must be field verified by a qualified wetland professional. A NYS Freshwater Wetlands permit is required for any physical disturbance within the designated wetland or within the 100 foot adjacent area of the wetland. The application form is available on the NYS DEC web page: <http://www.dec.ny.gov/permits/6267.html> and additional information on submitting a freshwater wetland permit application is found on webpage <http://www.dec.ny.gov/permits/6058.html>.

**401 Water Certification**

Work in certain waters and wetlands of the United States may require a permit from the U. S. Army Corps of Engineers (Corps). If a Corp permit is required, the Corps may request that the DEC make a determination (Water Quality Certification, pursuant to Section 401 of the Federal Clean Water Act) that discharges from the proposed activities, for which an applicant is seeking a Corps permit approval, will comply with the applicable effluent limitations, water quality standards, and any other applicable conditions of the State Law. The Buffalo Office of the Corps should be contacted regarding permit jurisdictions. Their address is Chief Regulatory Branch, U. S. Army Corps of Engineers, Buffalo District, 1776 Niagara Street, Buffalo NY 14207. Their phone number is (716) 879-4330. Documentation in support of a 401 Water Quality Certification would include demonstration of compliance with either the Department's State Pollutant Discharge Elimination System (SPDES) General Permit for Storm Water Discharges from Construction Activities (GP-0-08-001) or the MS4 (Municipal Separate Storm Sewer Systems). This documentation would include Stormwater Management Plans for the project and a completed Self Assessment Stormwater Management Checklist, submitted and signed by a licensed professional engineer. The checklist can be obtained from the Division of Environmental Permits, NYSDEC-Region 8 Headquarters, 6274 East Avon - Lima Road, Avon NY 14414 or by phone at (585) 226-5400.

**Stormwater General Permit - Construction**

This project may need to be in compliance with either the State Pollutant Discharge Elimination System (SPDES) General Permit for Storm Water Discharges from Construction Activities (GP-0-08-001) or the MS4 (Municipal Separate Storm Sewer Systems) General SPDES Permit (GP-0-08-002) (if located within an MS4's jurisdiction). Operators of construction activities that involve one acre or more of land disturbance (or may be less in an MS4's area) must obtain SPDES permit coverage through either an individual permit or either GP-0-08-001 or GP-0-08-

002. To obtain coverage under a General Permit, all conditions of the permit must be met, including preparation and implementation of an appropriate Storm Water Pollution Prevention Plan (SWPPP) and the filing of a completed Notice of Intent (NOI) form with the NYSDEC. For further information and required forms, see the NYSDEC website at: <http://www.dec.ny.gov/chemical/8468.html> . If you believe your project would be covered under one or more of the General Permits and would NOT require any other DEC permits, you may apply for coverage by filing a Notice of Intent with NYSDEC Division of Water, 625 Broadway, Albany NY 12233-3505. If your project involves other DEC permits, please contact this office.

#### Federal Wetlands

While the Department asserts jurisdiction over NYS regulated freshwater wetlands, the U. S. Army Corps of Engineers regulates federally protected wetlands. For questions regarding federal wetlands, and the federal permitting process, contact the U. S. Army Corps of Engineers at: Chief, Regulatory Branch, U. S. Army Corps of Engineers, Buffalo District, 1776 Niagara Street, Buffalo, NY 14207 or (716) 879-4330.

#### Historic, Architectural, Archeological, and Cultural Resources

A review of the NYS Archaeological Site Map (circles & squares map) indicates that the project site is located within an archaeologically sensitive area. It is suggested that recommendations be sought from NYS OPRHP regarding the potential impacts on historic and archeological resources from the development of this area. Additional information can be found on NYS OPRHP's website (use Internet Explorer rather than Netscape) at <http://www.oprhp.state.ny.us/nr/> or by calling them at (518) 237-8643. Potential impacts to these resources must be considered in the State Environmental Quality Review (SEQR) documentation. For example, previous disturbance should be described to indicate whether future project components will have the potential to further affect archeological resources.

#### Biotic Communities/Endangered and Threatened Species of Flora and Fauna

We have reviewed the available information in the New York State Natural Heritage Program databases for known occurrences of federally-listed or proposed endangered or threatened species; state-listed endangered, threatened or rare animal and plant species; significant natural communities; and other significant habitats. Some occurrences were found in the vicinity of the project site. The attached table provides the common name, scientific name, status, last observation, and location information for these plant species. It is recommended that a professional (botanist or landscape architect) familiar with the identification of these species undertake a survey of the literature and determine if the proposed project contains habitats which would favor these species. If favorable habitats exist, a field survey would be needed to determine if the species is actually present. If populations of the endangered or threatened species are found to be in the project area, project modifications should be considered to avoid or minimize impact.

For most sites, comprehensive field surveys have not been conducted; the enclosed information only includes records from our databases. We cannot provide a definitive statement on the presence or absence of all rare or state-listed species or significant natural communities. This information should not be substituted for on-site surveys that may be required for environmental impact assessment.

#### Flood Plain and Levee Protection Area

The project/site is located within a 100 year floodplain boundary and likely will be located within the floodway boundaries. Structural designs should take this criteria into account and allow passage of the flood waters flowing through the floodway. This project must be completed in compliance with Town flood control ordinances. As required by Floodplain Management Regulations, if any state monies are used, this project must also be in compliance with 6 NYCRR Part 502 Floodplain Management Criteria for State Projects.

#### Additional Comments:

Please be aware that there is a flood protection levee associated with this stretch of railroad. Enclosed is a map highlighting its location.

Thank you for the opportunity to review this project. Forms may be obtained on the DEC Website at: [www.dec.ny.gov](http://www.dec.ny.gov). If you have questions regarding the information provided in this letter, please don't hesitate to contact me at (585) 226-5399.

Sincerely,

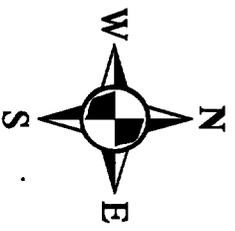
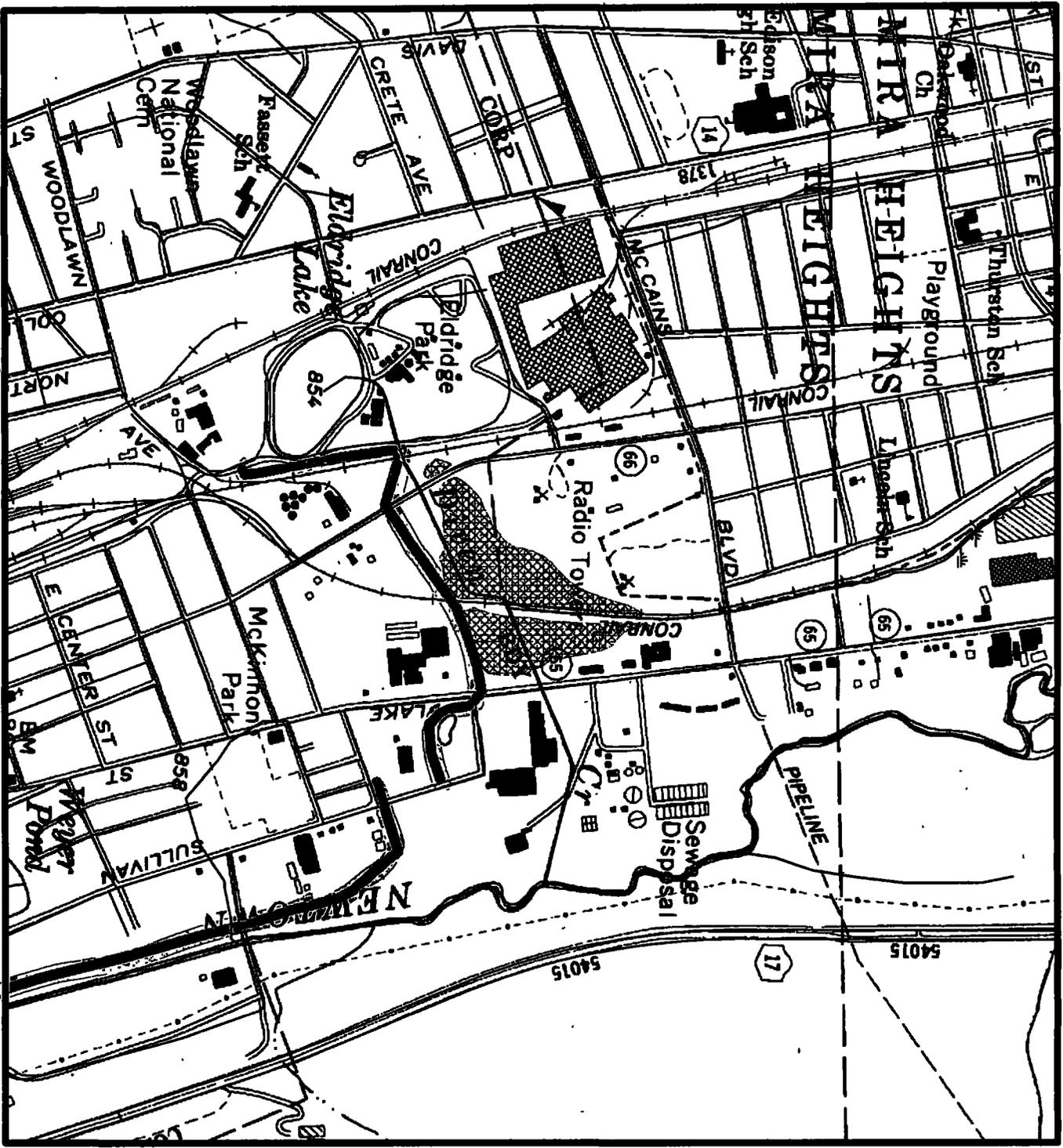
*Peggy Norry*

Peggy Norry  
Division Of Environmental Permits

Enclosures

SCIEN_NAME	COMMONNAME	LAST_DATE	LOCATION	NY_LIST
<i>Botrychium oneidense</i>	Blunt-lobe Grape Fern	1945-07-21	Elmira	Endangerer
<i>Stuckenia filiformis</i> ssp. <i>alpina</i>	Slender Pondweed	1943-08	Horseheads	Endangerer

# FLORIDA WETLANDS - LINDA, VIRGINIA COUNTY



### Legend

- Significant Coastal Fish & Wildlife Habi
  - West\_Henrietta\_FWW\_AMD
- Type**
- Addition
  - Deletion
  - Unprotected
  - Protected
  - 1
  - 2
  - 3
  - 4
  - 5
  - 6
  - 7
  - 8
  - 9
- Dike/levee
- Freshwater Wetland Separation Line
- Freshwater Wetland**
- CLASS**
- Class 1
  - Class 2
  - Class 3
  - Class 4
  - Uncoded
- Freshwater Wetland (linear)
- Local Streets



**DEPARTMENT OF THE ARMY**  
**BUFFALO DISTRICT, CORPS OF ENGINEERS**  
**1776 NIAGARA STREET**  
**BUFFALO, NEW YORK 14207-3199**

REPLY TO

September 9, 2009

Regulatory Branch

**SUBJECT: Determination of No Jurisdiction for Application No. 2009-00968 – Norfolk Southern Railway Co.**

Ms. Kathy Headrick  
Coordinator Abandonments  
Strategic Planning – 12<sup>th</sup> Floor  
Norfolk Southern Corporation  
3 Commercial Place  
Norfolk, Virginia 23510

Dear Ms. Headrick:

This pertains to your proposal to remove tracks and materials as part of the abandonment of 1.85 miles of rail line between Milepost KV 249.55 and Milepost KV 251.40 in Elmira, Chemung County, New York.

Under Section 10 of the Rivers and Harbors Act of 1899, and Section 404 of the Clean Water Act, the U.S. Army Corps of Engineers has regulatory authority over construction, excavation, or deposition of materials in, over, or under navigable waters of the United States. Under Section 404 of the Clean Water Act, the U.S. Army Corps of Engineers regulates the discharge of dredged or fill material into waters of the United States, including freshwater wetlands. Certain types of activities, such as landclearing using mechanized equipment and/or sidecasting, in a jurisdictional water would likely be regulated under Section 404 of the Clean Water Act.

The information contained in your letter and subsequent emails indicates that the proposed work will not involve a discharge of dredged or fill material into "Waters of the United States". Therefore, I have determined that we have no jurisdiction over the proposal and a Department of the Army permit is not required. Should you modify your proposal to entail a discharge of dredged or fill material into a "Water of the United States" you must contact this office regarding Department of the Army permit requirements.

Although a permit is not required, we request that proper measures be taken to prevent unintentional discharges from entering the waterway.

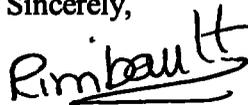
You are encouraged to contact the appropriate state and local governmental officials to insure that the proposed work complies with their requirements.

Regulatory Branch

SUBJECT: Determination of No Jurisdiction for Application No. 2009-00968 – Norfolk Southern Railway Co.

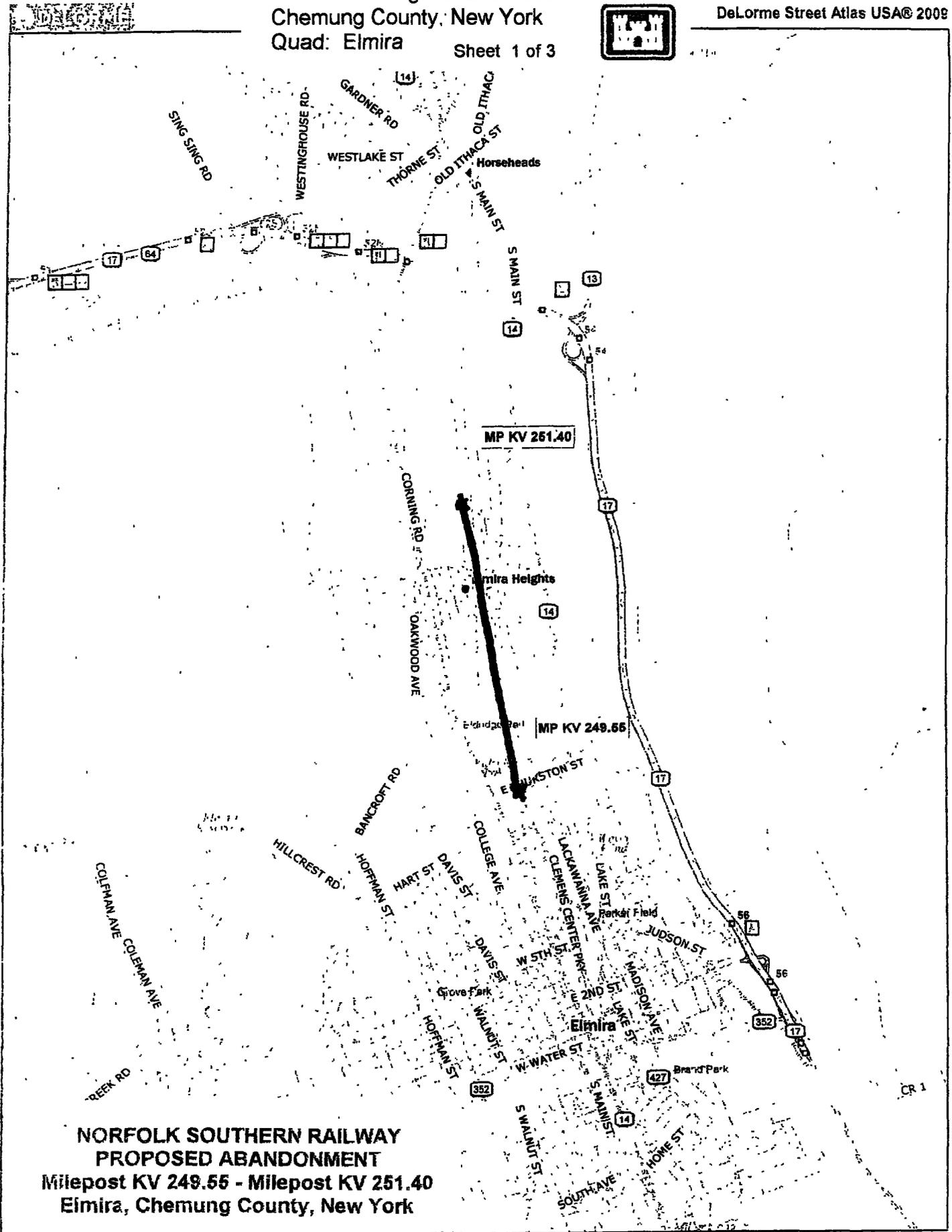
If you need any additional assistance or have questions pertaining to this matter, please do not hesitate to contact me at (315) 255-1384, by writing to the following address: U.S. Army Corps of Engineers, Auburn Field Office, 7413 County House Road, Auburn, New York 13021, or by sending an email at [julie.c.rimbault@usace.army.mil](mailto:julie.c.rimbault@usace.army.mil).

Sincerely,

A handwritten signature in black ink that reads "Rimbault" with a stylized flourish at the end.

Julie Rimbault  
Biologist

Enclosures



**NORFOLK SOUTHERN RAILWAY  
PROPOSED ABANDONMENT**  
Milepost KV 249.55 - Milepost KV 251.40  
Elmira, Chemung County, New York



**Rimbault, Julie C LRB**

From: Dietz, Richard P. [richard.dietz@nscorp.com]  
Sent: Wednesday, September 09, 2009 9:05 AM  
To: Rimbault, Julie C LRB  
Subject: RE: Track Abandonment/ Elmira, New York

Julie  
Somehow the description disappeared.

The majority of track salvage operations are conducted in the following manner.  
The first operation is the removal of the track spikes by either hand tools or mechanical means. The removal of the spikes allows the rail to be removed and placed to the outside of the ties. Then a gang with a rubber tired backhoe or front ender loader will gather the spikes, tieplates and anchors and pile this material at location to be loaded in trucks or rail cars. While this material is being picked up, the rail is being cut into smaller lengths to be also loaded. This is typically at road crossings or former siding locations, or other locations on active track. When all the steel is removed, the tie removal is accomplished by a backhoe rooting the ties from the ballast section and piling the ties. A timber truck with a grapple hook will follow along on the right of way cleaning up the tie piles.

When the entire track structure has been removed from the right of way, a small dozer will back blade track bed to a level surface. The stone ballast will not be removed as this process has always resulted in damage to the drainage systems on the right of way. Our specifications require that any drainage system within the project limits must be maintained and if damage occurs to a drainage system it must be repaired to its former condition.

Regarding structures within the project limits, small culverts are left in place. Bridges are removed completely, any bents or piers are removed from the stream bed to the mudline, backwalls are removed and the ground graded to a 2:1 slope and seeded if required.

On this project there is only one culvert which will remain in place. This area was once a double track mainline, allowing sufficient room to accomplish all work within the right of way area. All access will be through existing road crossings.

An additional note is that no railroad material is to be buried on railroad property. All material being disposed is the responsibility of the contractor and must be handled as required by law.

Crossties are classified as:

- Relay- to be reinstalled in other active tracks
- Landscape - used for landscaping purposes or retaining walls
- Scrap - disposed of in licensed landfills accepting crossties or sent to co-generation plants

I hope this answers your questions and concerns regarding this project. If you require any additional information do not hesitate to contact me.

Rick Dietz

-----Original Message-----

From: Rimbault, Julie C LRB [mailto:Julie.C.Rimbault@usace.army.mil]  
Sent: Tuesday, September 08, 2009 3:59 PM  
To: Dietz, Richard P.  
Subject: RE: Track Abandonment/ Elmira, New York

Thank you for your email. For some reason, the attachment comes up as a blank sheet. Could you please check it and resend it to me? Thank you.

Best regards,  
Julie Rimbault



-----Original Message-----

From: Dietz, Richard P. [mailto:richard.dietz@nscorp.  
Sent: Tuesday, September 08, 2009 3:27 PM  
To: Rimbault, Julie C LRB  
Subject: Track Abandonment/ Elmira, New York

Dear Ms. Rimbault

Per our phone conversation of September 8, 2009 concerning your questions pertaining to the above track abandonment located in Elmira, NY. I have attached a description of a typical track salvage operation conducted by either Norfolk Southern forces or by contractors. On this project there is one culvert over a stream near Eldrige Park. We do not intend to remove this culvert. I do not foresee any work during this salvage operation that would entail any stream disturbance. All the work would be completed from the present right of way and the current roadbed profile will not be altered. If this information is sufficient, please respond to Ms. Headrick in our Norfolk office. Any further questions concerning the track removal process please contact me at 404-529-1434

Thank you

Rick Dietz

**Headrick, Kathy, C**

---

**From:** Simon Monroe [Simon.Monroe@noaa.gov]  
**Sent:** Friday, September 25, 2009 11:52 AM  
**To:** Headrick, Kathy, C  
**Cc:** Surface Transportation Board; Surveyorlady@yahoo.com; Gilbert Mitchell; Simon Monroe  
**Subject:** [NGS Response, STB Docket AB-290 (SUB NO. 315X)]

Thank you for sharing your railroad abandonment environmental report for Elmira, Chemung County, NEW YORK.

Approximately 00 geodetic survey marks may be located in the area described.

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

Dist	PID...	H	Dist	V	Vert_Source	Latitude.....	Longitude.....	Stab	Designation
----	-----	-	-----	-----	-----	-----	-----	-----	-----

No Stations Found.



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

Historic Preservation Field Services Bureau • Peebles Island, PO Box 189, Waterford, New York 12188-0189

518-237-8643

www.nysparks.com

**David A. Paterson**  
Governor

**Carol Ash**  
Commissioner

September 22, 2009

Marcellus C. Kirchner  
Norfolk Southern Company  
Three Commercial Place  
Norfolk, Virginia 23510-2191

Re: STB  
Southern Railway Abandonment Docket AB-  
290 (sub-no 315X)  
MP 249.55 to MP 251.40/ELMIRA, Chemung  
County  
09PR04935

Dear Mr. Kirchner:

Thank you for requesting the comments of the State Historic Preservation Office (SHPO). We have reviewed the project in accordance with Section 106 of the National Historic Preservation Act of 1966. These comments are those of the SHPO and relate only to Historic/Cultural resources. They do not include potential environmental impacts to New York State Parkland that may be involved in or near your project. Such impacts must be considered as part of the environmental review of the project pursuant to the National Environmental Policy Act and/or the State Environmental Quality Review Act (New York Environmental Conservation Law Article 8).

Based upon this review, it is the SHPO's opinion that your project will have No Effect upon cultural resources in or eligible for inclusion in the National Registers of Historic Places.

If further correspondence is required regarding this project, please be sure to refer to the OPRHP Project Review (PR) number noted above.

Sincerely,

Ruth L. Pierpont  
Director

# APPENDIX D

## Norfolk Southern Railway Company Abandonment in Chemung County, NY

### At-Grade Crossings

MILEPOST	STREET
KV 249.57	Woodlawn Avenue
KV 249.99	Westside Avenue
KV 250.30	McCanns Boulevard
KV 250.70	11 <sup>th</sup> Street
KV 250.86	14 <sup>th</sup> Street
KV 251.40	Lenox Avenue

**Combined 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. 315X) was mailed via first class mail on September 15, 2009, to the following parties:

Mr. Thomas J. Santulli  
Chemung County Executive  
P. O. Box 588  
Elmira, NY 14902

US EPA – Region 2  
Jacob K. Javits Federal Bldg.  
290 Broadway  
New York, NY 10007

Mayor John S. Tonello  
City Hall – 3<sup>rd</sup> Floor  
317 East Church Street  
Elmira, NY 14901

NYS Dept. of Environmental Conservation  
Region 8  
6274 East Avon-Lima Road  
Avon, NY 14414

Mr. Stanley Gee, Acting Commissioner  
New York Department of Transportation  
50 Wolf Road  
Albany, NY 12232

New York Dept. of State  
Division of Coastal Resources  
41 State Street  
Albany, NY 12231

United States Army Corps of Engineers  
Buffalo District  
1776 Niagara Street  
Buffalo, NY 14207

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

US Fish and Wildlife Service-Region 5  
300 West Gate Center Drive  
Hadley, MA 01035

NOAA -National Geodetic Survey  
Geodetic Services Division  
Room 9292, NGS/12  
1315 East-West Hwy  
Silver Spring, MD 20910-3282

USDA-NRCS  
441 Salina Street  
The Galleries of Syracuse, Suite 354  
Syracuse, NY 13202

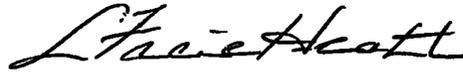
NY State Historical Preservation Office  
Peebles Island Resource Center  
P. O. Box 189  
Waterford, NY 12188



Marcellus C. Kirchner

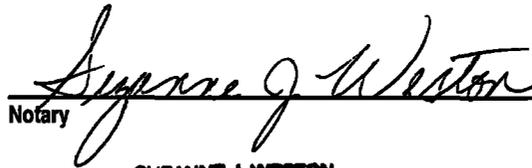
September 15, 2009

Stacie Heath, being duly sworn, deposes and says she is the Principal Clerk of the Elmira Star-Gazette, Division of Gannett Newspaper Subsidiary, publishers of the Star-Gazette newspaper printed and published daily in Elmira, and of general circulation in said county, and that a NOTICE, of which the annexed is a printed copy, out from said newspaper, has been published in said newspaper on  
11/02/2009



Stacie Heath

Sworn to before me, the 2nd  
Day of November, 2009

  
Notary

SUZANNE J. WESTON  
Notary Public, State of New York  
No. 01WE4900512  
Residing in Broome County  
My Commission Expires 4-22-2011

**NOTICE OF INTENT  
TO ABANDON  
RAIL SERVICE**

Norfolk Southern Railway Company (NSR) gives notice that on or about November 24, 2009, it intends to file with the Surface Transportation Board (STB), Washington DC 20423, a notice of exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903, permitting NSR's abandonment of a 1.85 mile line of railroad between milepost KV 249.55 and milepost KV 251.40, which traverses through United States Postal Service ZIP Codes 14901 and 14903, in Elmira, Chemung County, New York. The proceeding will be docketed as STB Docket No. AB-290 (Sub No. 315X).

The STB's Section of Environmental Analysis (SEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 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 Trans-

portation Board, 395 E Street, S.W. Washington, DC 20423-0001. Appropriate offers of financial assistance to continue rail service can be filed with the STB. 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)). Questions regarding offers of financial assistance, public use or trails use may be directed to the STB's Office of Congressional and Public Services at 202-245-0230. Copies of any comments or requests for conditions should be served on the applicant's representative James R. Paschall, Senior General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510-9241, (757) 629-2759  
11/2/2009



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

**James R. Paschall**  
**Senior General Attorney**

(757) 629-2759

November 5, 2009

**Mr. Stanley Gee, Acting Commissioner**  
**New York Department of Transportation**  
**50 Wolf Road**  
**Albany, NY 12232**

**Regional Director**  
**National Park Service-Northeast Region**  
**U. S. Customhouse, Fifth Floor**  
**200 Chestnut Street**  
**Philadelphia, PA 19106**

**U. S. Dept. of Defense (SDDCTEA)**  
**Railroads for National Defense Program**  
**709 Ward Drive**  
**Bldg. 1990, Room 2E264**  
**Scott AFB, IL 62225**

**Ms. Jan Matthews, Associate Director**  
**U. S. Department of the Interior**  
**National Park Service**  
**Cultural Resources, Room 3126**  
**1849 C Street, N.W.**  
**Washington, DC 20240**

**U. S. Department of Agriculture**  
**Chief of the Forest Service**  
**Sidney R. Yates Federal Building**  
**1400 Independence Ave., SW**  
**Washington, DC 20250**

**Re: STB Docket No. AB-290 (Sub-No. 315X), Norfolk Southern Railway Company –  
Abandonment, in Elmira, Chemung County, New York**

Ladies and Gentlemen:

Pursuant to 49 CFR 1152.50(d)(1), Norfolk Southern Railway Company (NSR) hereby gives notice that on or about November 24, 2009, it will file with the Surface Transportation Board a notice of exemption from regulation in accordance with the exemption regulations set forth at 49 CFR Part 1152, Subpart F. That notice of exemption will permit NSR's abandonment of a 1.85-mile line of railroad lying between milepost KV 249.55 and milepost KV 251.40 in Elmira, Chemung County, New York (see attached map). No revenue traffic has originated or terminated or moved overhead on the line to be abandoned for more than two years. Based on information in our possession, the line does not contain federally granted rights-of-way. Any documentation in the railroads' possession will be made available promptly to those requesting it.

Very truly yours,

James R. Paschall

JRP:kch  
Enclosure