



Norfolk Southern Railway Company  
 Law Department  
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 Norfolk, Virginia 23510-2191

DEC 17 2004  
 RECEIVED

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212794

December 10, 2004

via fax (202) 565-9004  
 and original and 10 copies by mail

Honorable Vernon A. Williams, Secretary  
 Surface Transportation Board  
 1925 K Street, N.W.  
 Washington, DC 20423-0001

Re: STB Docket No. AB-290 (Sub-No. 256X), Norfolk Southern Railway Company - Abandonment Exemption - Borough Of Downingtown, In Chester County, Pennsylvania - Notice of Exemption

Dear Mr. Williams:

Norfolk Southern Railway Company ("NSR") requests that the Board recognize as now moot and not impose in this case the condition recommended by the Section of Environmental Analysis (SEA) in its Environmental Assessment served November 23, 2004 that the Board condition any decision granting abandonment authority for the subject rail Line upon NSR retaining its interest in and taking no steps to alter the historic integrity of the Line or any sites and structures eligible or potentially eligible for the National Register of Historic Places until completion of the Section 106 process of the National Historic Preservation Act. Enclosed is a copy of a letter from the Pennsylvania State Historic Preservation Officer ("SHPO") dated December 2, 2004, received by me yesterday after being out on December 8, 2004. The SHPO advises that after review of additional photographs and information provided by NSR, the SHPO now concurs with NSR's conclusion that abandonment of the subject Line "will have no adverse effect on the remaining eligible railroad resource."

SEA also has recommended that NSR consult with the U.S. Fish and Wildlife Service (USFWS) regarding potential impacts from salvaging activities to threatened and endangered species, and shall report the outcome of these consultations to the Board's Section of Environmental Analysis. After SEA's EA was served, NSR Systems Engineer Richard P. Dietz discussed this project with Mr. Bob Anderson of the USFWS. Mr. Anderson told Mr. Dietz that while it is very unlikely that the bog turtle would be

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present in and around an active stone quarry such as the Hanson facility at Downingtown, PA where the 0.8-mile subject rail line is located, he would like further information about the site and the proposed salvage operation. By letter dated December 2, 2004, Mr. Dietz sent additional information and an explanation of NSR's salvage techniques to Mr. Anderson. While we do not expect the bog turtle to be found at the site nor do we expect that any extraordinary measures will be required by the USFWS after Mr. Anderson's consideration of the additional material and explanation sent by Mr. Dietz, NSR will abide by any precautions or conditions recommended by Mr. Anderson. We trust that these actions by NSR will satisfy the consultation requirement.

Finally, SEA noted that the rail Line proposed for abandonment crosses an unnamed waterway and passes through wetlands and recommended that NSR consult with the U.S. Army Corps of Engineers to determine if a permit is required under Section 404 of the Clean Water Act prior to conducting salvage operations on the Line. Mr. Dietz has consulted with Mr. Brian Bellicima and written to Mr. Richard Hassel of the Corps about the salvage of the track and material from the Line. Mr. Dietz has explained our salvage techniques, has advised that the salvage will occur within the existing right-of-way and will not take place in wetlands or the unnamed small stream in the area. Our examination of the property showed no wetlands in the immediate vicinity of the right-of-way. Nonetheless, NSR of course will abide by any decision of the Corps with respect to permitting after the Corps reviews our supplemental materials and we have any further discussions with the Corps that may be necessary or appropriate.

NSR suggests that the Board should have no reason to postpone the effective date of the exemption in this proceeding and requests that in view of the information provided in this letter, any further conditions that the Board may need to impose with respect to the disposition of the property, salvage operations or consummation of the abandonment authority take into account the SHPO's letter and the consultations already made by NSR and not be accompanied by a stay or postponement of the effective date of the abandonment exemption. If this letter reaches the Board too late for consideration in a decision imposing the recommended conditions, NSR requests that the Board remove or revise the conditions to the extent supported by this letter.

Very truly yours,

  
James R. Paschall

Enclosure - 1 page

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cc w/encl:  
John A. Gillan, Esq.  
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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

December 2, 2004

R.P. Dietz  
Norfolk Southern Corporation  
Design & Construction  
175 Spring Street S.W., Box 142  
Atlanta, GA 30303

**TO EXPEDITE REVIEW USE  
BHP REFERENCE NUMBER**

Re: ER 05-0071-029-C  
STB Docket AB-290 (Sub-No. 256X) Norfolk Southern Corporation  
Abandonment of .80 miles of track, of the former Chester Valley  
Railroad, East Caln and West Whiteland Township, Chester County

Dear Mr. Dietz:

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. These requirements include consideration of the project's potential effect upon both historic and archaeological resources.

Thank you for supplying additional photographs and mapping illustrating the integrity of this portion of the National Register eligible, Chester Valley Railroad through the Downingtown Quarry. We concur with your findings that this .80 (VR 19.72 to VR 18.92) has suffered a loss of integrity through its use by the quarry as a staging and storage area. Therefore, we concur that this portion of the eligible railroad is no longer contributing to the larger eligible resource and the proposed abandonment and disposition of the railroad right-of-way to the quarry will have no adverse effect on the remaining eligible railroad resource.

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

Sincerely,

Andrea MacDonald, Chief  
Division of Preservation Services

Cc: STB  
AM/smz