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via fax 202-565-9002 and mail

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Public Record

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

Re: STB Docket No. AB-859 (Sub-No. 1X), Pennsylvania Lines LLC – Abandonment Exemption – in Northampton County, PA; STB Docket No. AB-290 (Sub-No. 245X), Norfolk Southern Railway Company – Discontinuance of Service Exemption – in Northampton County, PA (between Hellertown and Bethlehem, PA)

Dear Mr. Williams:

This responds to the letter of James R. Evans, Jr. that was filed in the above dockets on March 8, 2004.

The switch to the track that is the subject of these dockets was removed long ago, by Conrail, according to our engineer familiar with the line. Therefore, the cars in the photo submitted by Mr. Evans must be on the adjacent Philadelphia, Bethlehem and New England track, not on the subject Bethlehem Secondary. In fact, we also have a recent photo of this area showing hopper cars on the PB&NE track. Even if cars had been stored on the subject track within the past two years, that would not mean that traffic originated, terminated or even moved overhead on the line, which is a dead-end for freight traffic.

Since no customer has made a reasonable demand for rail service over the line for many years, the condition of the track is not only irrelevant to a notice of exemption for abandonment, it is a strong indication that there is no current demand for service over the line and that no traffic has moved over the line for a considerable period of time.

We stated in the narrative portion of the notice that we were unaware of any potential public purposes to which the right of way may be suited. We noted the potential transfer of the property to the City of Bethlehem, which has discussed interim trail use of

part or all of the right-of-way, in the historic report. We have considered public use and trail use to be different categories of use. One might argue that almost any abandoned railroad right-of-way could be suitable for trail use. However, negotiations for trail use, which can be with either a private or public entity, are completely within the discretion of the railroad. On the other hand, upon request of a public entity, the Board may impose a public use condition requiring retention of the property for 180 days unless it is transferred for non-railroad, public use. A line to be abandoned can be acquired for further railroad use through timely use of the Offer of Financial Assistance procedures, although it is difficult to see how an offeror could meet the OFA requirements with respect to the subject line.

No one should have been misled by the public use paragraph in the notices since we disclosed the negotiations with the City in the historic report. These negotiations also have been given wide attention by the local press, as Mr. Evans's attachment shows. We also noted that SEPTA had declined to exercise its right of first refusal to purchase the line. Since SEPTA is the only apparent possible provider of passenger service over the line, it is not misleading to exclude possible passenger service from public uses for the line. Statements in a notice refer to public uses proposed for the time immediately after an abandonment, not possible uses decades in the future. All required governmental entities were notified of the filing of the subject notices. None requested a public use condition.

PRR and NSR will make a final decision on whether to consummate the abandonment or only to formally discontinue service on the line (for the near future) within one year of the effective date of the exemption or within sixty days of the satisfaction of the conditions that prevent current exercise of the abandonment exemption, if later, or will ask for an extension of the consummation date, if warranted. We then will consider whether the terms of any agreement with the City should affect the decision as to whether to abandon the line or just to formally discontinue service on the line for the foreseeable future.

Mr. Evans has not shown that the subject line does not meet the criteria for a notice exemption of abandonment or that the PRR/NSR notices were false or misleading.

Very truly yours,

James R. Paschall

cc: Mr. James R. Evans, Jr.
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