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June 19, 2020

## E-Filing

Cynthia T. Brown, Chief  
Section of Administration, Office of Proceedings  
Surface Transportation Board  
395 E Street, SW  
Washington DC 20423-0001

Re: Norfolk Southern Railway Company – Abandonment Exemption – In  
Hudson and Essex Counties, New Jersey, AB-290 (Sub-No. 408X)

Dear Ms. Brown:

Pursuant to 49 C.F.R. Part 1152, Subpart G –Special Rules Applicable to Petitions for Abandonments Filed Under the 49 U.S.C. 10502 Exemption Procedure, enclosed is a petition for exemption by Norfolk Southern Railway Company (“NSR”) to abandon rail service over an approximately 8.6-mile rail line segment extending from Milepost WD 2.9 in the City of Jersey City to Milepost WD 11.5 in the Township of Montclair, in Hudson and Essex Counties, New Jersey (the "Line").

Pursuant to 49 C.F.R. § 1152.60(c), this submission also includes an electronic copy of the entire petition and a separate electronic file of the draft Federal Register notice. Finally, pursuant to 49 C.F.R. § 1002.2(f)(21)(iii), the filing fee in the amount of \$7,800.00 has been paid via pay.gov.

If there are any questions about this matter, please contact me directly, either by telephone: 202-663-7831 or by e-mail: czorbaugh@bakerandmiller.com or William A. Mullins, who can be reached at (202) 663-7823 or by e-mail at wmullins@bakerandmiller.com.

FEE RECEIVED

June 19, 2020

SURFACE TRANSPORTATION BOARD /s/ Crystal M. Zorbaugh

Sincerely,

Crystal M. Zorbaugh  
Attorney for Norfolk Southern Railway Company

FILED

June 19, 2020

SURFACE TRANSPORTATION BOARD

Enclosures

cc: Tom Zoeller, Hanna Chouest, Garrett Urban, Laura Hoag

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

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**AB-290 (Sub-No. 408X)**

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**NORFOLK SOUTHERN RAILWAY COMPANY  
– ABANDONMENT EXEMPTION –  
IN HUDSON AND ESSEX COUNTIES, NEW JERSEY**

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**PETITION FOR EXEMPTION**

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**June 19, 2020**

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

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**AB-290 (Sub-No. 408X)**

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**NORFOLK SOUTHERN RAILWAY COMPANY  
– ABANDONMENT EXEMPTION –  
IN HUDSON AND ESSEX COUNTIES, NEW JERSEY**

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**PETITION FOR EXEMPTION**

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**INTRODUCTION**

Pursuant to 49 U.S.C. § 10502 and rules applicable thereto at 49 C.F.R. parts 1121 and 1152, Norfolk Southern Railway Company (“NSR”), a Class I railroad common carrier, files this petition (“Petition”) seeking an exemption from the provisions of 49 U.S.C. § 10903, et seq. to abandon an approximately 8.6-mile rail line segment extending from Milepost WD 2.9 in the City of Jersey City to Milepost WD 11.5 in the Township of Montclair, in Hudson and Essex Counties, New Jersey (the “Line”). Through the Petition, NSR is also seeking an exemption from Section 10904 to facilitate the sale of the real estate underlying the Line to Open Space Institute Land Trust, Inc. (“OSI”) for public use.<sup>1</sup> Pursuant to a trails agreement to be filed in this proceeding, NSR will convey the right of way to OSI with the Line’s rail, track materials, and bridges intact. In the future, OSI in partnership with Hudson and Essex Counties, New Jersey plans to redevelop the Line, create greenways, and provide for alternative modal access to points located along the Line. OSI or Hudson and Essex Counties, New Jersey, or its contractor will be responsible for salvaging

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<sup>1</sup> OSI is pursuing trails on behalf of Hudson and Essex Counties, New Jersey, who will eventually assume legal and financial responsibility for the trail to be developed over the Line.

should it occur in the future. No traffic has moved over the Line in over a decade.<sup>2</sup> Given that the Line is needed for a valid public purpose and there is no current traffic on the Line or even the potential for new traffic, an exemption from the Section 10904 Offer of Financial Assistance (“OFA”) statute is appropriate.<sup>3</sup>

NSR has served no customers on the Line since it acquired the property from Conrail in 1999. A portion of the Line between Milepost WD 2.2 in Jersey City, New Jersey, and Milepost WD 8.4 in Newark, NJ (6.2 miles referred to herein as “Discontinued Segment”), was discontinued at the STB in 2005.<sup>4</sup> Commuter passenger traffic was operated over the Discontinued Segment until 2002 when New Jersey Transit canceled commuter rail passenger service over that segment. No freight traffic has traversed the remaining segment of the Line from Milepost WD 8.4 to Milepost WD 11.5 (“Regulatorily Active Segment”), since 2009, before which the Regulatorily Active Segment served as an overhead route to access one customer located on the Orange Industrial Track (“Orange IT”).<sup>5</sup> Prior to the 2005 Discontinuance, the Discontinued Segment of

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<sup>2</sup> The Line, which is dormant and has not had any traffic for over a decade, qualifies for abandonment under the verified notice of exemption process set forth in 49 C.F.R. part 1152, subpart F (Exempt Abandonments and Discontinuances of Service and Trackage Rights). However, NSR is also requesting an exemption from Section 10904 as part of this filing. Therefore, to avoid any procedural questions, NSR is utilizing the petition for exemption process for both its request for abandonment authorization and its request to be exempted from 49 U.S.C. § 10904.

<sup>3</sup> See Norfolk Southern Railway Company – Abandonment Exemption – In Hamilton County, OH, AB-290 (Sub-No. 381X) (STB served Aug. 8, 2006) (granting NSR’s request for an OFA exemption because NSR demonstrated that the rail line was needed for a public purpose and there was no overriding public need for continued freight rail service). See also Union Pacific Railroad Company-Abandonment Exemption – In Pima County, AZ (“Pima County”), AB 33 (Sub-No. 141X), slip op. at 3 (STB served Feb. 16, 2020) (granting an exemption from 10904 because applicant established that the right-of-way was needed for a valid public purpose and there was no overriding public need for continued rail service). See also Central Kansas Railway, L.L.C. – Abandonment Exemption – In Sedgwick County, KS (“Central Kansas”), AB 406 (Sub-No. 14X) (STB served April 10, 2001). Here, there is clearly no public need for continued rail service, and similar to the aforementioned proceedings the rail line is needed for a valid public purpose.

<sup>4</sup> Norfolk Southern Railway Company – Discontinuance of Service Exemption – Between Newark and Kearny, NJ, in Essex and Hudson Counties, NJ, STB Docket No. AB-290 (Sub-No. 242X) (STB served Jan. 18, 2005) (“2005 Discontinuance”).

<sup>5</sup> Abandonment of the Orange IT was approved in 2014, and NSR’s abandonment was consummated on August 27, 2018. See Norfolk Southern Railway Company – Abandonment and Discontinuance of Service

the Line also served as an overhead route to serve one customer located on the Newark Industrial Track.<sup>6</sup>

## **I. INFORMATION IN SUPPORT OF PETITION**

The Line traverses the United States Postal Zip Code territories 07306, 07094, 07032, 07104, 07109, 07003, 07028, and 07042. Based on information in NSR's possession, the Line does not contain federally granted rights-of-way. Any documentation in NSR's possession will be made available to those requesting it.

NSR is seeking an exemption to abandon the Line because the Line has been dormant for more than a decade and OSI, Hudson, and Essex Counties have asked that NSR sell the Line to OSI and ultimately to Hudson and Essex Counties, so that the Line may be used for a public redevelopment project. As explained herein, the Petition satisfies the statutory criteria for abandonment and for an exemption from Section 10904 and should be granted for numerous reasons.

- Abandonment is consistent with the provisions of 49 U.S.C. § 10502 because (a) application of the Board's formal abandonment process is not necessary to carry out the Rail Transportation Policy ("RTP") of 49 U.S.C. § 10101; (b) the proposed action is of limited scope; and (c) given that there has been no traffic over the Line for more than a decade, regulation is not necessary to protect shippers from an abuse of market power;
- The real estate underlying the Line is needed for public use and abandonment would facilitate the Counties' urban development plans, by creating greenways and providing for alternative modal access to various sites located along the Line, which would promote economic growth in the region;
- Abandonment will not deprive any shipper of rail service; and

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Exemption – In Essex County, NJ, AB-290 (Sub-No. 350X) (STB served Dec. 23, 2014).

Note - The Environmental & Historic Report ("E&HR") originally sent to the consulting parties stated that the Regulatorily Active Segment of the Line proposed for abandonment was once used as an overhead route to serve the Newark Industrial Track. In preparing this Petition, NSR noticed the mistake and sent the consulting parties a letter clarifying that the Regulatorily Active Segment once served as an overhead route to the Orange IT.

<sup>6</sup> See 2005 Discontinuance.

- Abandonment allows NSR to avoid continuing to incur opportunity and other holding costs associated with ownership of an active rail line with no traffic.

## **MAPS AND EXHIBITS**

Maps of the Line are attached as Exhibit A. A draft Federal Register notice is attached as Exhibit B, and the certifications of compliance with 49 C.F.R. §§ 1105.12 and 1152.60(d) are attached as Exhibit C. Exhibit D includes a combined E&HR prepared in anticipation of the proposed abandonment, which conforms to the requirements of 49 C.F.R. §§ 1105.7 and 1105.8 and the certificate of compliance with the advance notice requirements for an E&HR as set forth at 49 C.F.R. § 1105.11.

## **INFORMATION CONCERNING LINE'S HISTORY & USAGE**

As explained fully in the E&HR (Exhibit D), the Line was chartered in 1867 as the Montclair Railway Company (“MR”) to construct a short commuter railroad between the Village of Montclair and the Hudson River, with authorization to build branch lines and extensions into the townships of Caldwell and Wayne (New Jersey State Legislature 1867:301). Montclair resident and incorporator Julius H. Pratt conceived of the new route in 1866 as an alternative to the unpopular Morris and Essex Railroad, the village’s only other operating carrier (Whittemore 1894: 46-47). Pratt’s venture quickly attracted the attention of the New York and Oswego Midland Railroad (“NY&OM”) and its ally, the New Jersey Midland Railway (“NJM”), which together sought to build a new route from the Great Lakes to the Port of New York (Whittemore 1894:47; Helmer 1959:8, 13). The proposed MR route offered the NY&OM a more direct—albeit expensive—shortcut compared to the NJM’s circuitous right-of-way. Under agreement with the NY&OM and the NJM, MR would build its line west from Jersey City to the State Line at Greenwood Lake, and the NY&OM would connect by extending its line east via a tunnel from Middletown, New York. The NY&OM would then lease MR through its control of the NJM (Cunningham 1997:236;

Whittemore 1894:47-48; Helmer 1959:27).

Construction was funded in part with bonds secured by the communities through which the railroad passed. Disagreement within Bloomfield led to the formation of the independent Township of Montclair, which supported MR (Whittemore 1894:46). With additional bonds endorsed and guaranteed by the NY&OM, work on MR commenced, and by September 1872 MR was able to run its first passenger excursion train between Bloomfield and the railroad's branch at Ringwood near Greenwood Lake (*Saturday Gazette* 1872:2). During construction, an additional branch was added from a connection in northern Newark to East Orange (the Watchung Railway) (New Jersey State Board of Assessors 1890:92). Significant expenditures included roadbed building across the Jersey Meadows, construction of two moveable bridges over the Hackensack and Passaic Rivers, and digging of the "Kearny Cut," a deep excavation through solid rock at the eastern approach to the Passaic River bridge (Whittemore 1894:48).

MR opened in January 1873, and on January 7, the NY&OM assumed operations (Whittemore 1894:47; Helmer 1959:27-28). The first through train between Oswego and Jersey City ran across MR on July 10, 1873, via a temporary connection between MR and NJM at Pompton Junction (Anderson 1873; Helmer 1959:28). Meanwhile, an omission in the original MR charter failed to provide for a lease of the road to another company. As the NY&OM and the NJM scrambled to secure legislation and legitimize their leases, the Panic of 1873 and subsequent depression resulted in the financial bankruptcy of many railroads, including the NY&OM-NJM-MR combine (*Saturday Gazette*, 1873:2; New Jersey State Legislature 1873:1017). New Jersey iron magnate and NY&OM debtholder Abram S. Hewitt was appointed receiver (McKinstry 2004:360; Helmer 1959:31). Mr. Hewitt's mining interests in northern New Jersey were served by MR. Ultimately, the through-route from Oswego to the Hudson River was attained by the NY&OM's successors without building the expensive tunnel, and MR extended north only as far as Hewitt's

mines in Ringwood and the ice producing and travel destination of Greenwood Lake (Anderson 1876).

MR underwent multiple foreclosures and reorganizations under its name and that of the Montclair and Greenwood Lake Railway Company in October 1875 and later as the New York and Greenwood Lake Railway Company (“NY&GL”) in November 1878 with stock controlled by the New York, Lake Erie, and Western Railroad (*New York Times* 1878:2; New Jersey State Board of Assessors 1888:76). At that time, the railroad improved the Orange Branch and chartered a branch to Caldwell in 1890 and an extension to Roseland with a connection to the Morristown and Erie in 1891 (*New York Times* 1880:8; New State Board of Assessors 1890: 59; 1891:56).

The New York, Lake Erie, and Western Railroad went into foreclosure in 1895. By a charter of the State of New York, it was combined with the New York, Pennsylvania, and Ohio Railroad to form the Erie Railroad (“Erie”), which was organized on November 13, 1895. In 1896, the NY&GL was leased by the Erie Railroad for 999 years. After multiple steps towards a merger, Hewitt finally sold the NY&GL to the Erie in 1898, when it became known as the NY&GL Branch. The Line served mainly as a feeder for the Erie’s substantial New Jersey commuter business, but other custom included holiday excursionists, local and express freight, iron and zinc ore shipments, and ice cut from Greenwood Lake (Hungerford 1946:207-208; Westing 1970:333-334; Heritage Studies Inc. 1981:65-66; Cunningham 1997: 237-238). Under Erie management, the line was upgraded during the first decade of the twentieth century with partial double-tracking and construction of a number of new bridges, but the effects of the Great Depression eroded traffic (Sanborn and Parris Map Company 1892:212; Sanborn Map Company 1904:90; DeLeuw Cather & Company, Inc. 1991; Yanosey 2006:18). Passenger service to Greenwood Lake and Ringwood ended in 1939 (Heritage Studies Inc. 1981:66).

Beginning in 1956, the Erie discussed potential consolidation with the Delaware,

Lackawanna, and Western Railway (“Lackawanna”), which served many of the same markets as the Erie, including Montclair. A merger agreement was reached in 1959, and the Interstate Commerce Commission authorized the combination in the fall of 1960.<sup>7</sup> The new company would be known as the Erie-Lackawanna Railroad (“EL”), (the hyphen was retained until 1963). Due to intervening labor litigation, the merger was not effective until June 1961 (Taber and Taber 1980:145).

Track consolidation between the merged railroads included linking the former Lackawanna’s Boonton Branch, a low-grade freight cut-off running between Dover and Jersey City, to the former Erie’s NY&GL Branch at a point where the two railroads crossed at Mountain View. The eastern end of the former Lackawanna’s Boonton Branch was then connected to the former Erie’s Main Line near South Paterson. The piece of the severed Boonton Branch between the two new connections was abandoned to make way for the construction of Interstate 80 through the Paterson area. The former Erie’s NY&GL tracks (the Line) assumed the role of the eastern or “lower” end of the former Lackawanna’s Boonton Branch. Thus, under the EL merger, the newly combined route became known as the EL Boonton Line (Yanosey 2006:32).

Like many railroads in the northeast, the EL struggled for most of the 16 years it existed in part due to market forces. EL’s financial vulnerabilities led it to seek inclusion in the merger between the Norfolk and Western and Chesapeake and Ohio systems which was announced and filed at the Interstate Commerce Commission but never consummated. As a result, EL was required to be placed under a new holding company of the Norfolk and Western called Dereco, Inc. (Taber and Taber 1980: 147). Service on the branch lines to East Orange and Caldwell was gradually cut back and finally discontinued. The financial condition of the EL continued to decline, however, and the extensive destruction of its physical plant resulting from Hurricane Agnes in 1972 finally

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<sup>7</sup> Erie Railroad Company Merger, Etc. Delaware, Lackawanna, and Western Railroad Company, 312 I.C.C. 185 (ICC served Sept. 13, 1960).

resulted in a filing for Chapter 7 bankruptcy on June 26, 1972.

The EL initially sought to reorganize independently and thus resisted joining other bankrupt eastern and Midwestern railroads in reorganization under the aegis of the United States Railway Association pursuant to the Regional Railroad Reorganization Act of 1973 ("3-R Act"). The financial condition of the EL continued to deteriorate, exacerbated by rapidly escalating materials prices, and on January 9, 1975, it advised the Federal government that it wished to become a "railroad in reorganization" under the 3-R Act. Although this request came too late for inclusion in the Preliminary System Plan which was issued on February 26, 1975, the EL was included in the Final System Plan issued by the U.S. Railway Association in July of that year. The Railroad Revitalization and Regulatory Reform Act of 1976 ("4-R Act") placed the Final System Plan into law. EL lines designated for retention, including the Line, thus came under the operation of the newly formed Consolidated Rail Corporation (Conrail) effective April 1, 1976.

Norfolk Southern Corporation ("NSC"), the 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"); Consolidated Rail Corporation ("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 Board approved the Conrail Transaction Agreement 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. The transaction was closed and became effective June 1, 1999, and with the closure, the Line was transferred to Norfolk Southern.

Passenger service, operated by New Jersey Transit ("NJT"), continued over the Line until

2002 when NJT completed the Montclair Connection. This linked the western portion of the EL Boonton Line with the former Lackawanna's Montclair Branch in Montclair. The existing electrified traction system on the Montclair Branch was upgraded and extended west to Boonton, providing passengers on the EL Boonton Line direct access to New York's Penn Station and eliminating its route through Hoboken Terminal (Smothers 2002:B7). Following the completion of the Montclair Connection, NJT discontinued the service and canceled its lease over the lower 11 miles of the EL Boonton Line between Montclair and Jersey City. Maintenance of the Line, which had been the responsibility of NJT under the lease, also ceased.

In 2004, NJT decided not to reactivate commuter rail service on the discontinued portion of the Line. NJT Executive Director George Warrington concluded that reopening the lower section of the EL Boonton Line, which served 800 riders a day, would be too expensive, requiring \$26 million in immediate track, signal, bridge, and other repair work, plus another \$46 million in capital spending over 10 years. Warrington added the line would cost \$3 million a year to operate while taking in just \$108,000 in fares. Despite support for reopening expressed at a hearing on the matter, Warrington issued his decision stating that, "the economics just don't work" (Strunsky 2004:2).

As stated previously, NSR has served no customers on the Line since it acquired the property from Conrail in 1999. As such, following termination of commuter services, NS filed to discontinue a portion (6.2 miles) of the Boonton Line between Milepost WD 2.2 in Jersey City, NJ, and Milepost WD 8.4 in Newark, NJ in 2005.<sup>8</sup> The Regulatorily Active Segment from Milepost WD 8.4 to Milepost WD 11.5 remained active as an overhead route to customers located on an industrial branch line, the Orange IT, which has not seen freight traffic since 2009. As noted in FN 5, abandonment of the Orange IT was consummated in 2018. The last customer located on the

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<sup>8</sup> See 2005 Discontinuance.

Orange IT went out of business in 2012. The majority of the Orange IT was sold to New Jersey Transit and is part of NJT Light Rail operations.

Along the Discontinued Segment, the Line formerly served as an overhead route to service one customer located on the Newark Industrial Track.<sup>9</sup> The connection to the Newark Industrial Track is located on the Discontinued Segment. The Newark Industrial Track was discontinued in 2005 and the one customer formerly located there has shut down operations at the facility and sold the property. There are plans for local redevelopment of that property for residential use.

Today, the Regulatorily Active Segment is located in a largely residential area for which rail service is not required. No shippers directly on the Line have sought rail service from NSR in over two decades nor are there any prospects for new shippers. There is simply no traffic, or the potential for new traffic, on the Line. Following abandonment, NSR will convey the right of way to OSI with the Line's rail and related track material intact. NSR does not intend to remove, modify, or dismantle the 16 structures (bridges) on the Line. See Draft Bridge List included in E&HR Exhibit D.

As explained in Section II (*supra*), in the future, OSI in partnership with Hudson and Essex Counties, New Jersey plans to redevelop the Line, create greenways, and provide for alternative modal access to points located along the Line. The redevelopment plans will develop the surrounding area to improve safety and mobility for the approximately 1.5 million people living in the immediate region. The Line is located near parks, medical facilities, shopping centers, and public schools. As such, redevelopment will provide a safer walking route for school children, and residents seeking access to other nearby public facilities.

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<sup>9</sup> See 2005 Discontinuance.

## **EXACT NAME OF PETITIONER**

The petitioner is Norfolk Southern Railway Company, a common carrier by railroad subject to 49 U.S.C Subtitle IV, Chapter 105.

## **PETITIONER'S REPRESENTATIVES**

NSR is represented by William A. Mullins and Crystal M. Zorbaugh, Baker & Miller PLLC, 2401 Pennsylvania Avenue, NW, Suite 300, Washington, DC 20037; telephone: (202) 663-7823 and (202) 663-7831; facsimile: (202) 663-7849; email: [wmullins@bakerandmiller.com](mailto:wmullins@bakerandmiller.com) and [czorbaugh@bakerandmiller.com](mailto:czorbaugh@bakerandmiller.com).

## **THE EXEMPTION STANDARDS HAVE BEEN MET**

Under 49 U.S.C. § 10903, a rail line cannot be abandoned without prior Board approval. However, under 49 U.S.C. § 10502, the Board must exempt a proposed rail line abandonment from section 10903's formal requirements when it finds that – (1) regulation of the transaction is not necessary to carry out the RTP of 49 U.S.C. § 10101; and (2) either (a) the transaction is of limited scope, or (b) regulation is not needed to protect shippers from market power abuse. This proposed abandonment meets all of the above statutory requirements of section 10502.

### **A. Regulation Is Not Necessary To Carry Out The Rail Transportation Policy**

The RTP obviates the need for detailed Board scrutiny under 49 U.S.C. § 10903 in this instance. Granting NSR's Petition—rather than requiring it to incur the substantial costs and potential delays involved in submitting a full-blown application—promotes a fair and expeditious regulatory decision-making process; ensures the development and continuation of a sound rail transportation system with effective competition among rail carriers and other modes to meet the needs of the public; reduces regulatory barriers to exit from the industry; and provides for the expeditious handling and resolution of proceedings required or permitted to be brought under this part. See 49 U.S.C. §§ 10101(2), (4), (7), and (15). Moreover, granting NSR's Petition will foster

sound economic conditions, and will encourage efficient management in accordance with the RTP by allowing NSR to rationalize underutilized assets and transfer such assets for use by others in further economic development to benefit the community. See 49 U.S.C. §§ 10101(5) and (9).<sup>10</sup> Additionally, granting the Petition promotes the public interest and is fully consistent with the RTP.

For these reasons, the Board need not, and should not, require NSR to use the formal abandonment application procedures to carry out the RTP. Indeed, absent the need to seek an exemption from 49 U.S.C. § 10904, the proposed abandonment would have qualified for processing under the verified notice of exemption procedures pursuant to 49 C.F.R. part 1152, subpart F (Exempt Abandonments and Discontinuances of Service and Trackage Rights). As such, granting the Petition promotes the public interest and is fully consistent with the RTP.

**B. The Proposed Abandonment Is of Limited Scope**

The proposed abandonment is of limited scope, involving approximately 8.6-miles of rail line that has been dormant for more than a decade. No shippers will be affected and no traffic will be rerouted upon consummation of the abandonment.<sup>11</sup>

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

Because the proposed abandonment is of limited scope, NSR need not show that regulation is unnecessary to protect shippers from market power abuse. But it is nevertheless clear that the use of the Board's formal abandonment procedures is not necessary to protect shippers from potential

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<sup>10</sup> See, e.g., Minnesota Northern Railroad, Inc. Abandonment Exemption - In Red Lake and Polk Counties, MN, AB-497 (Sub-No. 1X) 1997 STB LEXIS 291, at \*7, (STB served Nov. 14, 1997); see also Louisiana & Delta Railroad, Inc. – Abandonment Exemption In Lafourche and Assumption Parishes, LA, AB-318 (Sub-No 4X) 1997 STB LEXIS 205, at \*3 (STB served Aug. 26, 1997).

<sup>11</sup> The Board has stated that the proposed abandonment and discontinuance of service over short line railroads where traffic is marginal or nonexistent is of limited scope. Tulare Valley Railroad Company - Abandonment and Discontinuance Exemption – In Tulare And Fresno Counties, CA, AB-397 (Sub-No 3X) 1995 ICC LEXIS 12, at \*10-11 (ICC served Feb 9, 1995). Similarly abandonments of short segments of rail line has traditionally been found to be of limited scope.

abuse of market power in this case because the Line has not had any active shippers in more than a decade. Additionally, given that there is no traffic on the Line, the transaction will not affect rail-to-rail or multi-modal competition.

### **PUBLIC INTEREST FACTORS**

NSR is unaware of any public interest factors that would militate against the Board granting the subject Petition. Moreover, consummation of the subject abandonment will help facilitate the completion of OSI and Hudson and Essex Counties' public project to redevelop the Line, create greenways, and provide for alternative modal access to points located along the Line, all of which would promote economic growth in the region. As such, NSR submits that the proposed abandonment is wholly in keeping with the public interest.

### **LABOR PROTECTIVE CONDITIONS**

The interests of NSR employees who may be adversely affected by the proposed abandonment will be adequately protected by the labor protective conditions in Oregon Short Line R. Co. – Abandonment – Goshen, 360 I.C.C. 91 (1979).

### **ENVIRONMENTAL AND HISTORIC IMPACTS REVIEW**

NSR has prepared a combined E&HR in connection with the proposed abandonment. As stated previously, NSR will convey the right of way to OSI with the Line's rail, track materials, and bridges intact. In the future, OSI in partnership with Hudson and Essex Counties, New Jersey plans to redevelop the Line, create greenways, and provide for alternative modal access to points located along the Line. OSI or Hudson and Essex Counties, New Jersey, or its contractor will be responsible for salvaging should it occur in the future. As such, no impacts are anticipated in connection with NSR's abandonment (cessation of rail service). The E&HR is attached hereto as part of Exhibit D. Since the E&HR was last circulated, NSR has received a couple of comments. A

copy of the comments received from the consulting parties is included as part of Exhibit D, Appendix C.

## **PUBLIC USE AND INTERIM TRAILS USE CONDITIONS**

As explained herein, NSR is actually undertaking this abandonment to sell the Line to the OSI (and ultimately Hudson and Essex County, NJ) to be dedicated to the broadest range of public uses. OSI (and ultimately Hudson and Essex County, NJ) will be acquiring the Line from NSR through interim trails use/rail banking pursuant to the Trails Act. As such, NSR is unwilling to negotiate interim trails use with any parties other than OSI (and ultimately Hudson and Essex County, NJ).

## **II. EXEMPTION FROM SECTION 10904 IS ALSO WARRANTED**

In instances where the applicant has established that a rail line proposed for abandonment was needed for a public purpose and there was no overriding public need for continued freight rail service, the Board and its predecessor have time and again found an exemption from the OFA process warranted. See FN 9. In this proceeding, OSI, on behalf of Hudson and Essex County, has approached NSR with an offer to purchase the Line to redevelop the underlying real estate as part of a public project to improve safety and mobility in adjacent New Jersey cities, townships and boroughs (including Jersey City, the Town of Secaucus, the Town of Kearny, the City of Newark, the Town of Belleville, the Town of Bloomfield, the Borough of Glen Ridge, and the Town of Montclair). The proposed redevelopment and revitalization project will reduce/reroute vehicular traffic, create greenways, and provide alternative modal access including biking routes to public facilities and schools. As part of the purchase agreement, OSI and ultimately Hudson and Essex County will take ownership and assume responsibility for both the control and maintenance of the 16 bridges on the Line. County ownership, control, and management will greatly improve safety for motorists traveling along the region's roads.

Given the multi-purpose redevelopment and revitalization plans and the complete lack of rail traffic, or even the potential for rail traffic, an exemption from the OFA process will promote the public interest. The Board has routinely granted an exemption from 10904 on similar grounds.<sup>12</sup> As previously explained, there has been no traffic or requests for service on the Line in over a decade. Currently, the reinstitution of rail freight service under Section 10904 would be incompatible with the OSI and Hudson and Essex Counties' intended use of the Line.

There is no present or reasonably foreseeable future need for freight rail service on the Line; as such, there is no overriding public need for continued freight rail service. Indeed, any potential OFA offer would be based upon pure speculation and conjecture. In such cases, the Board has rejected opposition to requests for exemption from Section 10904 when the OFA offeror cannot conclusively show that it has sufficient traffic to warrant the continued operation of the Line.<sup>13</sup> Likewise, the Board has even exempted abandonments from the OFA provisions on its own initiative when a proposed project serves a public purpose and there has been no traffic over a subject line for a considerable period of time.<sup>14</sup>

In this instance, the Board should grant the requested relief. The Line is needed for a

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<sup>12</sup> See Norfolk Southern Railway Company – Abandonment Exemption – In Hamilton County, OH, AB-290 (Sub-No. 381X) (STB served Aug. 8, 2006) (granting NSR's request for an OFA exemption because NSR demonstrated that the rail line was needed for a public purpose and there was no overriding public need for continued freight rail service). See also Union Pacific Railroad Company-Abandonment Exemption – In Pima County, AZ (“Pima County”), AB 33 (Sub-No. 141X), slip op. at 3 (STB served Feb. 16, 2020) (granting an exemption from 10904 because applicant established that the right-of-way was needed for a valid public purpose and there was no overriding public need for continued rail service). See also Central Kansas Railway, L.L.C. – Abandonment Exemption – In Sedgwick County, KS (“Central Kansas”), AB 406 (Sub-No. 14X) (STB served April 10, 2001). Here, there is clearly no public need for continued rail service, and similar to the aforementioned proceedings, the rail line is needed for a valid public purpose.

<sup>13</sup> See Norfolk and Western Railway Company – Abandonment Exemption – In Cincinnati, Hamilton County, OH (“N&WR”), AB-290 (Sub-No. 184X) slip op. at 9 (STB served May 13, 1998).

<sup>14</sup> BNSF Railway Company - Abandonment Exemption - In Oklahoma County, OK, AB-6 (Sub-No. 430X), slip op. at 11 (STB served May 20, 2009). See also Central Michigan Railway Company-Abandonment Exemption-In Saginaw County, MI, AB-308 (Sub-No. 3X) (STB served October 31, 2003).

valid public purpose, i.e. the revitalization and redevelopment of the corridor and the surrounding area to provide alternative modal access to nearby cities, townships, and boroughs, and, there is no overriding public need for continued rail freight service along the Line.<sup>15</sup> Such an exemption from the statutory provisions of 49 U.S.C. § 10904 is fully consistent with the statutory exemption standards of 49 U.S.C. § 10502. Regulation is not necessary to carry out the rail transportation policy of 49 U.S.C § 10101. Likewise, regulation is not needed to protect shippers from an abuse of market power because the Line has been dormant for over a decade and there are no existing or even potential shippers on the Line. In fact, the Line offers no known freight rail growth opportunities.

Even if there were potential future shippers who would locate in the area, the use of rail is not needed to protect such shippers from the abuse of market power. The area has access to several major highways and roadways, including I-95 and the New Jersey Turnpike on the eastern portion of the Line and the Garden State Parkway on the western portion of the Line. Interstate 95 (to the east) serves over approximately 205,000 cars a day near the location of the proposed abandonment. Likewise, the Garden State Parkway serves over 165,000 cars a day near the location of the proposed abandonment. I-95 has no truck size and limitations, and trucks weighing less than 10,000 pounds are allowed on the Garden State Parkway. Shippers looking to relocate in the region will have access to several nearby interstates and highways. Applying the OFA requirements, in this instance, is not necessary to carry out the RTP or protect shippers.

Selling the line to the OSI and ultimately Hudson and Essex Counties will allow the rail corridor to become publicly owned. It will allow the Counties to utilize the right-of-way in a manner that best accounts for the broadest range of possible public use. Moreover, the

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<sup>15</sup> In Pima County, the Board granted an exemption from the OFA process for a similar project, which involved expansion of an interstate and creation of bike and pedestrian paths.

conversion of the underlying real estate will improve safety and mobility in the region, support the creation of additional economic activity, and facilitate economic redevelopment and revitalization.

## **CONCLUSION**

NSR respectfully requests exemption from the provisions of 49 U.S.C. § 10903-10904 to abandon rail service over an approximately 8.6-mile rail line segment extending from Milepost WD 2.9 in the City of Jersey City to Milepost WD 11.5 in the Township of Montclair, in Hudson and Essex Counties, New Jersey. Application of the regulatory requirements and procedures of 49 U.S.C. §§ 10903-10904 is not required to carry out the RTP outlined in 49 U.S.C. § 10101, as previously described in this Petition, nor is STB regulation required to protect shippers from an abuse of market power. Moreover, this abandonment is of limited scope. Accordingly, NSR asks the Board to grant NSR an exemption for its proposed abandonment of service over the Line and an exemption from the OFA provisions of 49 U.S.C. § 10904 to facilitate the sale of the real estate underlying the Line to OSI and ultimately Hudson and Essex Counties consistent with the Counties' redevelopment plans.

Respectfully submitted,

Hanna M. Chouest  
Deputy General Counsel  
NORFOLK SOUTHERN CORPORATION  
Three Commercial Place  
Norfolk, VA 23510  
Tel: (757) 629-2761

June 19, 2020

/s/ Crystal M. Zorbaugh  
William A. Mullins  
Crystal M. Zorbaugh  
BAKER & MILLER PLLC  
2401 Pennsylvania Ave., NW  
Suite 300  
Washington, DC 20037  
Tel: (202) 663-7823  
wmullins@bakerandmiller.com

Attorneys for Norfolk Southern  
Railway Company

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

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**AB-290 (Sub-No. 408X)**

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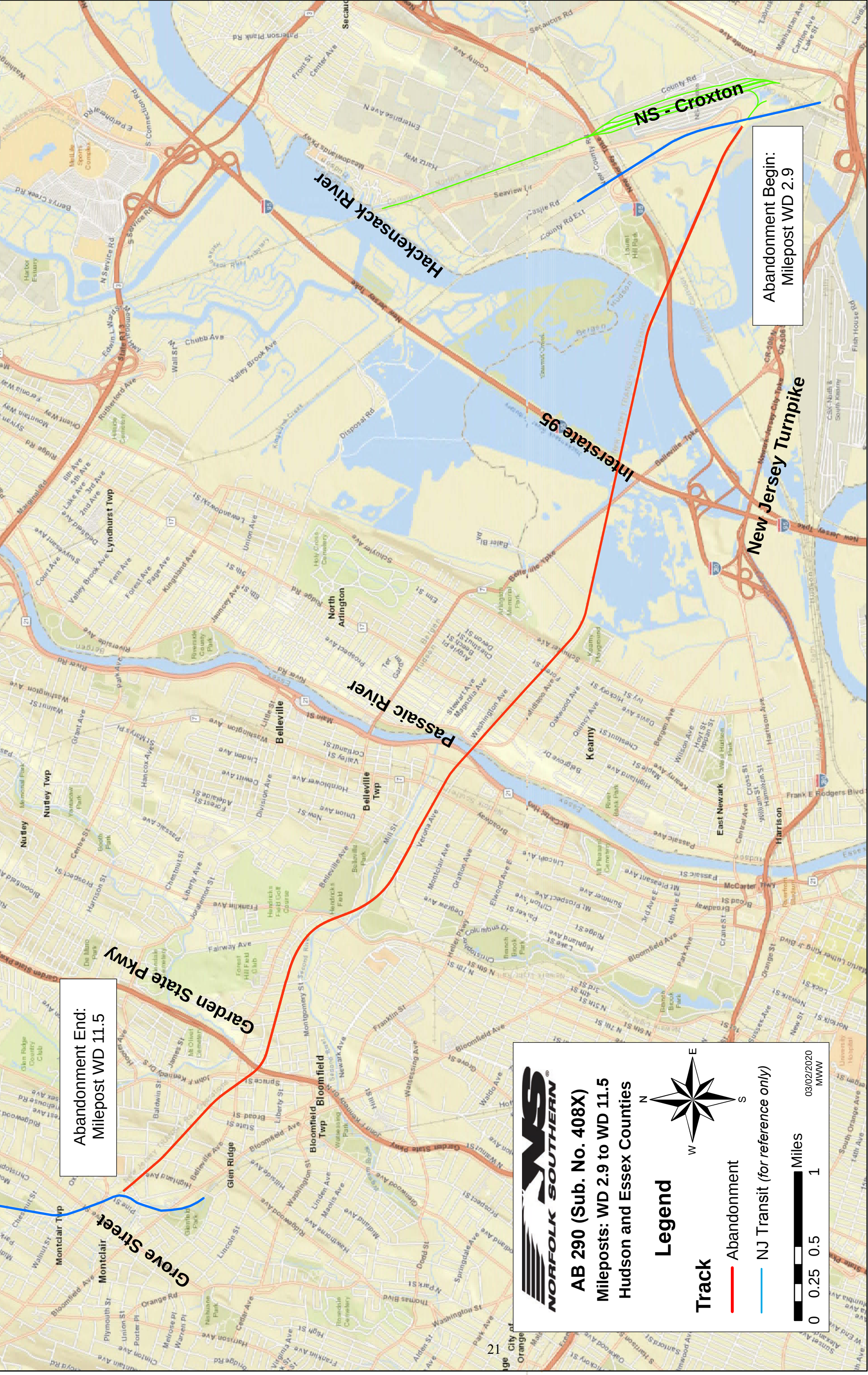
**NORFOLK SOUTHERN RAILWAY COMPANY  
– ABANDONMENT EXEMPTION –  
IN HUDSON AND ESSEX COUNTIES, NEW JERSEY**

**PETITION FOR EXEMPTION**

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**EXHIBIT A**

**Maps**



Abandonment End:  
Milepost WD 11.5

Abandonment Begin:  
Milepost WD 2.9

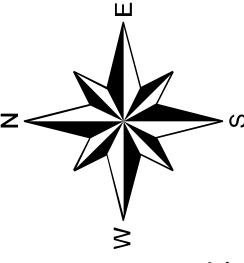


**AB 290 (Sub. No. 408X)**  
**Mileposts: WD 2.9 to WD 11.5**  
**Hudson and Essex Counties**

**Legend**

**Track**

- Abandonment
- NJ Transit (for reference only)



0 0.25 0.5 1 Miles

03/02/2020  
MWW



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

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**AB-290 (Sub-No. 408X)**

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**NORFOLK SOUTHERN RAILWAY COMPANY  
– ABANDONMENT EXEMPTION –  
IN HUDSON AND ESSEX COUNTIES, NEW JERSEY**

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**PETITION FOR EXEMPTION**

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**EXHIBIT B**

**Draft Federal Register Notice**

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[AB 290 (Sub-No. 408X)]

Norfolk Southern Railway Company – Abandonment Exemption – In Hudson and Essex Counties, New Jersey

On June 19, 2020, Norfolk Southern Railway Company (“NSR”) filed a petition under 49 U.S.C. § 10502 for an individual exemption from the provisions of 49 U.S.C. § 10903 to abandon rail service over an approximately 8.6-mile-rail line, extending from Milepost WD 2.9 in the City of Jersey City to Milepost WD 11.5 in the Township of Montclair (the "Line"), in Hudson and Essex Counties, New Jersey. The Line traverses United States Postal Zip Code territories 07306, 07094, 07032, 07104, 07109, 07003, 07028, and 07042. The Line proposed for abandonment has been dormant for more than a decade.

The Line does not contain federally-granted rights-of-way. Any documentation in the railroad’s possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions outlined in Oregon Short Line Railroad – Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

NSR has requested an exemption from the offer of financial assistance ("OFA") provisions of 49 U.S.C. 10904 to sell the property Open Space Institute Land Trust, Inc. (“OSI”) and ultimately Hudson and Essex Counties, NJ for public use. If this request is denied, any 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 OFA must be accompanied by a \$1,900 filing fee. See 49 C.F.R. § 1002.2(f)(25).

All interested persons should be aware that following abandonment of rail service, the Line may be suitable for other public use, including interim trail use. Because NSR is actually undertaking this abandonment to sell the Line through interim trails use/rail banking pursuant to the Trails Act to the OSI (and ultimately Hudson and Essex County, NJ) to allow the Line to be dedicated to the broadest range of public uses, NSR is unwilling to negotiate interim trails use with any parties other than OSI (and ultimately Hudson and Essex County, NJ). Regardless, any request for a public use condition and any request for trail use/rail banking will be due no later than 20 days after notice of the filing of the petition for exemption is published in the Federal Register.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs and Compliance at (202) 245-0238 or refer to the full abandonment or abandonment regulations at 49 C.F.R. pt. 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis at (202) 245-0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

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

Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Section of Environmental Analysis. 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.

All filings in response to this notice must refer to Docket No. AB 290 (Sub-No. 408X) and must be sent to (1) Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001; and (2) William A. Mullins and Crystal M. Zorbaugh, Baker & Miller PLLC, 2401 Pennsylvania

Ave., NW, Suite 300, Washington, DC 20037. Replies to the petition are due on or before \_\_\_\_\_, 2020.

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

Decided: \_\_\_\_\_.

By the Board, Allison C. Davis, Director, Office of Proceedings.

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

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**AB-290 (Sub-No. 408X)**

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**NORFOLK SOUTHERN RAILWAY COMPANY  
– ABANDONMENT EXEMPTION –  
IN HUDSON AND ESSEX COUNTIES, NEW JERSEY**

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**PETITION FOR EXEMPTION**

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**EXHIBIT C**

**Certifications of Service/ Publication**

## Certificate of Service

### 49 C.F.R. § 1152.60(d) – Notice

I certify that, in keeping with 49 C.F.R. § 1152.60(d), I caused the following parties to be served with a copy of Norfolk Southern Railway Company's foregoing abandonment petition for exemption:

New Jersey Board of Public Utilities  
44 S. Clinton Avenue  
Trenton, NJ 08625

Ms. Nicole Minutoli  
Director  
NJ Department of Transportation  
Multimodal Services  
1035 Parkway Avenue, P.O. Box 0600  
Trenton, NJ 08625-0600

David Dorfman  
Headquarters Military Surface Deployment  
and Distribution Command  
Transportation Engineering Agency  
ATTN: SDTE-SA  
Railroads for National Defense Program  
1 Soldier Way, Building 1900W  
Scott AFB, IL 62225

Mr. Stephan Nofield  
National Park Service  
Rivers, Trails and Conservation Assistance  
Program  
1849 C Street NW, Room 1344  
Washington DC 20240

Vicki Christiansen, Chief  
Forest Service  
U.S. Department of Agriculture  
Sidney R. Yates Federal Building  
201 14th Street SW  
Washington, DC 20024

Based on information in NSR's possession, the Line does not contain federally granted rights-of-way.

June 19, 2020

/s/ Crystal M. Zorbaugh  
Crystal M. Zorbaugh  
Attorney for Norfolk Southern  
Railway Company

## **Certificate of Newspaper Publication**

### **49 C.F.R. § 1105.12 – Newspaper Notice**

I hereby certify that a “Notice of Intent to Abandon Rail Service” was published in the form prescribed by the Board for a Petition for Exemption (49 C.F.R. § 1105.12). The notice was published one-time on June 19, 2020, in the Star Ledger, a newspaper of general circulation in the Essex and Hudson Counties, New Jersey. Norfolk Southern Railway Company (“NSR”) has confirmed that the newspaper ran today. NSR will e-file a copy of the Affidavit of Publication and Tear Sheet from the Star Ledger once received.

June 19, 2020

/s/ Crystal M. Zorbaugh  
Crystal M. Zorbaugh  
Attorney for Norfolk Southern  
Railway Company

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

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**AB-290 (Sub-No. 408X)**

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**NORFOLK SOUTHERN RAILWAY COMPANY  
– ABANDONMENT EXEMPTION –  
IN HUDSON AND ESSEX COUNTIES, NEW JERSEY**

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**PETITION FOR EXEMPTION**

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**EXHIBIT D**

**CERTIFICATE OF COMPLIANCE WITH  
ENVIRONMENTAL AND HISTORIC REPORT  
REQUIREMENTS AND COMBINED  
ENVIRONMENTAL AND HISTORIC REPORT**

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. 408X) was mailed via first class mail on May 26, 2020 to the following parties:

STATE HISTORIC PRESERVATION OFFICE

Ms. Katherine Marcopul  
Administrator & Deputy State Historic Preservation Officer  
Mail Code 501-04B  
State of New Jersey  
Department of Environmental Protection  
Historic Preservation Office  
P. O. Box 420  
Trenton, NJ 08625-0420

STATE DOT

Ms. Nicole Minutoli  
Director  
NJ Department of Transportation  
Multimodal Services  
1035 Parkway Avenue, P.O. Box 600  
Trenton, NJ 08625-0600

US ENVIRONMENTAL PROTECTION AGENCY

US EPA  
William Jefferson Clinton (WJC) Building  
1200 Pennsylvania Ave., NW  
Mail Code 1101-A  
Washington, DC 20460

REGIONAL/STATE EPA

Mr. Dave Kluesner  
US EPA Region 2, Director  
290 Broadway  
New York, New York 10007-1866

Ms. Catherine R. McCabe  
NJ Department of Environmental Protection  
Commissioner  
401 E. State St. - 7th Floor, East Wing  
P.O. Box 402  
Trenton, NJ 08625-0402

CITY/TOWNSHIP

Mayor Robert Jackson  
Montclair Township Municipal Building  
205 Claremont Avenue  
Second Floor  
Montclair, NJ 07042

Mayor Stuart K. Patrick  
Glen Ridge Borough  
825 Bloomfield Avenue  
Glen Ridge, New Jersey 07028

CITY/TOWNSHIP continued

Mayor Michael Venezia  
Bloomfield Township  
1 Municipal Plaza  
2nd Floor Room 209  
Bloomfield, NJ 07003

Mayor Michael Melham  
Township of Belleville  
152 Washington Avenue  
Belleville, NJ, 07109

Mayor Ras J. Baraka  
City of Newark  
City Hall  
920 Broad Street  
Newark, NJ 07102

Mayor Alberto G. Santos  
Town of Kearny, NJ  
Kearny Town Hall  
402 Kearny Ave  
Kearny, NJ 07032

Mayor Michael Gonnelli  
Town of Secaucus  
1203 Paterson Plank Road  
Secaucus, NJ 07094

Mayor Steven M. Fulop  
Jersey City  
280 Grove Street  
Second Floor  
Jersey City, NJ 07302

COUNTY

Mr. Abraham Antun  
Hudson County Administrator  
567 Pavonia Avenue  
Jersey City, NJ 07306

Mr. Robert D. Jackson  
Essex County Administrator  
465 Dr. Martin Luther King, Jr. Boulevard  
Newark, NJ 07102

US ARMY CORPS OF ENGINEERS

Mr. Stephan A. Ryba  
Chief, Regulatory Branch  
NY District US Army Corps of Engineers  
26 Federal Plaza, Room 16-406  
New York, New York 10278-0090

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. 408X) was mailed via first class mail on May 26, 2020 to the following parties:

STATE COASTAL ZONE MANAGEMENT

Ms. Kimberly Springer, Manager  
NJDEP Coastal Management Office  
Mail Code 401-07D, P.O. Box 420  
401 East State Street  
Trenton, NJ 08625-0420

FISH AND WILDLIFE SERVICE

Ms. Wendi Weber  
Regional Director – Region 5  
U.S. Fish & Wildlife Service  
Northeast Region  
300 Westgate Center Dr.  
Hadley, MA 01035

Mr. Dave Golden  
Director  
N.J. Division of Fish and Wildlife  
Mail Code 501-03  
P.O. Box 420  
Trenton, NJ 08625-0420

NATIONAL PARK SERVICE

Mr. Stephan Nofield  
National Park Service  
Rivers, Trails, and Conservation Assistance Program  
1849 C. Street NW, Room 1344  
Washington, DC 20240

Ms. Julie Bell  
National Park Service, Northeast Regional Office  
Rivers, Trails, and Conservation Assistance Program  
200 Chestnut St., Third Floor Philadelphia, PA 19106

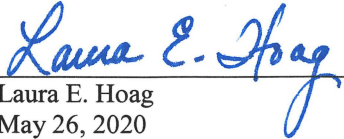
NATIONAL GEODETIC SURVEY

Communications and Outreach Branch, NOAA, N/NGS12  
National Geodetic Survey, SSMC3 #9340  
1315 East West Highway  
Silver Spring, MD 20910-3282

NATURAL RESOURCES CONSERVATION SERVICE

Mr. Terrell Erickson  
Regional Conservationist – Northeast Region  
USDA Natural Resources Conservation Service  
1400 Independence Ave SW, #5204-S  
Washington, DC 20250

Ms. Carrie Lindig  
State Conservationist  
USDA-NRCS State Office  
220 Davidson Ave 4th Floor  
Somerset, New Jersey 08873

  
\_\_\_\_\_  
Laura E. Hoag  
May 26, 2020

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**AB-290 (Sub. No. 408X)**

**NORFOLK SOUTHERN RAILWAY COMPANY  
– PROPOSED ABANDONMENT EXEMPTION –  
IN HUDSON AND ESSEX COUNTIES, NEW JERSEY**

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**Combined Environmental and Historic Report**

Norfolk Southern Railway Company (“NSR”) submits this Combined Environmental and Historic Report (“E&HR”) pursuant to 49 C.F.R. § 1105.7(e) and 49 C.F.R. § 1105.8(d), respectively, in connection with NSR’s proposed abandonment of an approximately 8.6-mile long rail line, extending from Milepost WD 2.9 in the City of Jersey City to Milepost WD 11.5 in the Township of Montclair (the “Line”), in Hudson and Essex Counties, New Jersey.

**May 26, 2020**

## **ENVIRONMENTAL REPORT**

### **49 CFR 1105.7(e)(1)**

#### **Proposed Action and Alternatives**

*Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.*

RESPONSE: NSR proposes to abandon its common carrier obligation over an approximately 8.6-mile-long rail line extending from Milepost WD 2.9 in Jersey City, New Jersey to Milepost WD 11.5 in the Township of Montclair, in Hudson and Essex Counties, New Jersey in order to sell the property to Open Space Institute Land Trust, Inc. (“OSI”) for public use.<sup>1</sup> There are sixteen (16) structures (bridges) on the Line.

NSR has served no customers on the Line since it acquired the property from Conrail in 1999. A portion of the Line between Milepost WD 2.2 in Jersey City, New Jersey, and Milepost WD 8.4 in Newark, NJ (6.2 miles referred to herein as “Discontinued Segment”), was discontinued at the STB in 2005.<sup>2</sup> No traffic has traversed the Discontinued Segment, since 2002, when New Jersey Transit canceled commuter rail passenger service over the Discontinued Segment. No traffic has traversed the remaining segment of the Line from Milepost WD 8.4 to Milepost WD 11.5 (“Regulatorily Active Segment”), since 2009, when the Regulatorily Active Segment served as an overhead route to access one customer located on the Orange Industrial

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<sup>1</sup> OSI is pursuing trails on behalf of Hudson and Essex Counties, New Jersey, who will eventually assume legal and financial responsibility for the trail to be developed over the Line.

<sup>2</sup> Norfolk Southern Railway Company – Discontinuance of Service Exemption – Between Newark and Kearny, NJ, in Essex and Hudson Counties, NJ, STB Docket No. AB-290 (Sub-No. 242X) (STB served Jan. 18, 2005).

Track.<sup>3</sup> Prior to the 2005 Discontinuance, the Discontinued Segment of the Line also served as an overhead route to serve one customer located on the Newark Industrial Track, which was discontinued at the STB in 2005.<sup>4</sup>

Following abandonment, NSR will convey the right of way to OSI with the Line's rail, track materials, and bridges intact. In the future, OSI in partnership with Hudson and Essex Counties, New Jersey plans to redevelop the Line, create greenways, and provide for alternative modal access to points located along the Line. OSI or Hudson and Essex Counties, New Jersey, or its contractor will be responsible for salvaging should it occur in the future.

The alternative to abandonment is to not abandon the Line and NSR retain the Line. This alternative is not satisfactory. NSR would incur opportunity and other holding costs that would need to be covered by non-existent shippers were the Line to be retained.

A map depicting the Line is attached as **Appendix A**. An example of NSR's letter to federal, state and local government agencies along with a list of the consulting agencies that NSR has contacted is attached as **Appendix B**. Comments received as a result of NSR's written requests for feedback can be found in **Appendix C**. A bridge list is attached as **Appendix D**. A bibliography of historical references is attached as **Appendix E**.

#### **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.*

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<sup>3</sup> Abandonment of the Orange IT was approved in 2014, and NSR's abandonment was consummated on August 27, 2018. See Norfolk Southern Railway Company – Abandonment and Discontinuance of Service Exemption – In Essex County, NJ, AB-290 (Sub-No. 350X) (STB served Dec. 23, 2014) (“Orange IT”).

<sup>4</sup> See 2005 Discontinuance.

RESPONSE: Effects of the proposed action on regional or local transportation systems and patterns would be negligible. There has been no NSR rail freight or passenger traffic originating or terminating on either the Regulatorily Active or Discontinued Segment of the Line for over a decade.

**49 CFR 1105.7(e)(3) Land use.**

*(i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.*

RESPONSE: An outline of future land use plans has been requested from the City of Jersey City, the Town of Secaucus, the Town of Kearny, the City of Newark, the Town of Belleville, the Town of Bloomfield, the Borough of Glen Ridge, and the Town of Montclair, all of which were asked to comment on the consistency of the proposed abandonment of the Line with existing land use plans.

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

RESPONSE: NSR does not believe the abandonment will have any adverse impact on prime agricultural land as the Line to be abandoned is located in municipalities. However, a copy of this E&HR has been mailed to The United States Department of Agriculture Natural Resources Conservation Service (“USDA NRCS”) for its information and to provide USDA NRCS an opportunity to comment.

*(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: NSR does not believe the abandonment will have any adverse impact on land or water uses within designated coastal zones. However, a copy of the E&HR was mailed

to the New Jersey Department of Environmental Protection (“NJDEP”), Coastal Management Program (“NJCMP”) for its information, and to provide NJCMP an opportunity to comment.

*(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 has a mix of fee simple ownership and easements to the right of way underlying the Line proposed for abandonment; thus, NSR may have a corridor available for redeployment for alternative public use(s). In fact, NSR has undertaken this abandonment because it intends to convey the property to OSI, which in partnership with Hudson and Essex Counties, New Jersey will redevelop the Line, create greenways, and provide for alternative modal access to points located along the Line. The Line does not contain any federally granted right of way.

#### **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. There has been no rail freight or passenger traffic originating or terminating on the Line in over a decade.

*(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. There has been no rail freight or passenger traffic originating or terminating on the Line in over a decade.

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

RESPONSE: The proposed action involves the abandonment of a rail line that has been inactive for over a decade, and as such, will not result in an increase or decrease in overall energy efficiency.

*(iv) If the proposed action will cause diversions from rail to motor carriage of more than:*

*(A) 1,000 rail carloads a year; or*

*(B) An average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given.*

RESPONSE: The diversion of traffic to motor carriers will not exceed the thresholds set forth in 49 CFR §1105.7(e)(4) as no diversions will occur as there has not been traffic over the Line in over a decade. Accordingly, there is no need to produce data on diverted traffic or to quantify the net change in energy consumption.

**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.

*(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 Line will have no adverse impact on public health and safety.

*(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.*

RESPONSE: Not applicable.

*(iii) If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right of way, identify the location of those sites and the types of hazardous materials involved.*

RESPONSE: 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 areas adjacent to the Line.

**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: No construction or removal activities will occur in or around the right of way to achieve this abandonment, and as such NSR does not believe the abandonment will have any adverse impact on surrounding habitats and species. However, a copy of this E&HR has been mailed to 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: The Line does not pass through state parks or forests, national parks or forests, or wildlife sanctuaries. As such, no adverse effects on wildlife sanctuaries, national parks or forests, or state parks or forests are anticipated. Regardless, NSR requested input from the National Park Service.

#### **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: NSR does not intend to remove or alter the contour of the roadbed underlying the Line to be abandoned by way of excavation or other ground-disturbance activity. Accordingly, no soils will be disturbed as a result of the proposed abandonment, and no storm water mitigation measures including but not limited to a National Pollutant Discharge Elimination System permit, will be required. There are no plans to undertake in-stream work or dredge and/or use any fill materials in connection with the proposed abandonment, so the proposed abandonment will not result in water quality impacts. NSR currently provides no rail

service over the Line and has not done so for more than a decade.

Consultation has been requested from the NJDEP and the United States Environmental Protection Agency (“EPA”) Region 2.

*(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: NSR does not plan to remove or alter the roadbed underlying the Line, or undertaking in-stream work or dredging or using any fill materials. 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, NSR does not believe a Section 404 permit will be required in connection with the proposed abandonment. Consultation was requested from the U.S. Army Corps of Engineers, New York District (“USACE”).

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

RESPONSE: No salvage of the Line, bridges, and related track material is proposed in connection with the proposed abandonment. There will be no excavation or other ground-disturbance activity, and, because no soils will be disturbed, no storm water permitting including a National Pollutant Discharge Elimination System permit, will be required. NSR anticipates that the abandonment will not affect water quality and that additional permitting under Section 402 will not be required. Nevertheless, NSR has requested input from the EPA Region 2 and the NJDEP.

#### **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 Line is not expected to produce adverse environmental impacts for the reasons set forth above. NSR will convey the right of way to OSI with the Line's rail and related track material intact.

## **HISTORIC REPORT**

### **49 CFR 1105.8(d)**

#### **PROPOSED ACTION AND ALTERNATIVES**

NSR proposes to abandon its common carrier obligation over an approximately 8.6-mile rail line extending from Milepost WD 2.9 in the City of Jersey City to Milepost WD 11.5 in Montclair, in Hudson and Essex counties, New Jersey in order to sell the property to OSI for public use. NSR serves no customers on the Line. No traffic has traversed the Discontinued Segment of the Line from Milepost WD 2.2 to Milepost WD 8.4 since 2002. No traffic has traversed the Regulatorily Active Segment of the Line Milepost WD 8.4 to Milepost 11.5 in over a decade.

Following abandonment, NSR will convey the right of way to OSI with the Line's rail and related track material intact. NSR does not intend to remove, modify, or dismantle the 16 structures (bridges) on the Line. In the future, OSI in partnership with Hudson and Essex Counties, New Jersey plans to redevelop the Line, create greenways, and provide for alternative modal access to points located along the Line. OSI or Hudson and Essex Counties, New Jersey, or its contractor will be responsible for salvaging should it occur in the future.

The alternative to abandonment is to not abandon the Line and for NSR to retain the Line. This alternative is not satisfactory. NSR would continue to incur opportunity and other holding costs that would need to be covered by non-existent shippers were the Line to be retained. A map depicting the Line are attached in **Appendix A**.

### **ADDITIONAL INFORMATION**

- (1) **U.S.G.S. Topographic Map** – A map was furnished to the New Jersey Historic Preservation Office.
- (2) **Written Description Of Right Of Way** – The right of way width ranges from 25 feet to 200 feet along the main track centerline. Pursuant to Board policy, the railroad's right of way being abandoned will constitute the Area of Potential Effect (“APE”) for this undertaking.
- (3) **Photographs** – Photographs of the sixteen (16) structures (bridges) on the Line were furnished to the New Jersey Historic Preservation Office.
- (4) **Date Of Construction Of Structures** – A bridge list is attached as Appendix D.
- (5) **History Of Operations And Changes Contemplated**<sup>5</sup> – The Line that is the subject of this proposed abandonment consists of approximately 8.6 miles of rail line extending from Milepost WD 2.9 in Jersey City to Milepost WD 11.5 in Montclair, in Hudson and Essex Counties, New Jersey.

Based on research,<sup>6</sup> the Line was chartered in 1867 as the Montclair Railway Company (“MR”) to construct a short commuter railroad between the Village of Montclair and the Hudson River, with authorization to build branch lines and extensions into the townships of Caldwell and Wayne (New Jersey State Legislature 1867:301). Montclair resident and incorporator Julius H. Pratt conceived of the new route in 1866 as an alternative to the unpopular Morris and Essex Railroad, the village’s only other operating carrier (Whittemore 1894: 46-47). Pratt’s venture quickly attracted the attention of the New York and Oswego Midland Railroad (“NY&OM”) and

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<sup>5</sup> A bibliography for the historical information set forth in §5 is provided as Appendix E.

<sup>6</sup> NSR commissioned Richard Grubb & Associates, Inc (“RGA”) to assist with and augment its review of the Line’s history and preparation of the E&HR. This section was drafted from NSR and RGA’s combined research.

its ally, the New Jersey Midland Railway (“NJM”), which together sought to build a new route from the Great Lakes to the Port of New York (Whittemore 1894:47; Helmer 1959:8, 13). The proposed MR route offered the NY&OM a more direct—albeit expensive—shortcut compared to the NJM’s circuitous right-of-way. Under agreement with the NY&OM and the NJM, MR would build its line west from Jersey City to the State Line at Greenwood Lake, and the NY&OM would connect by extending its line east via a tunnel from Middletown, New York. The NY&OM would then lease MR through its control of the NJM (Cunningham 1997:236; Whittemore 1894:47-48; Helmer 1959:27).

Construction was funded in part with bonds secured by the communities through which the railroad passed. Disagreement within Bloomfield led to the formation of the independent Township of Montclair, which supported MR (Whittemore 1894:46). With additional bonds endorsed and guaranteed by the NY&OM, work on MR commenced, and by September 1872 MR was able to run its first passenger excursion train between Bloomfield and the railroad’s branch at Ringwood near Greenwood Lake (*Saturday Gazette* 1872:2). During construction, an additional branch was added from a connection in northern Newark to East Orange (the Watchung Railway) (New Jersey State Board of Assessors 1890:92). Significant expenditures included roadbed building across the Jersey Meadows, construction of two moveable bridges over the Hackensack and Passaic Rivers, and digging of the “Kearny Cut,” a deep excavation through solid rock at the eastern approach to the Passaic River bridge (Whittemore 1894:48).

MR opened in January 1873, and on January 7, the NY&OM assumed operations (Whittemore 1894:47; Helmer 1959:27-28). The first through train between Oswego and Jersey City ran across MR on July 10, 1873 via a temporary connection between MR and NJM at Pompton Junction (Anderson 1873; Helmer 1959:28). Meanwhile, an omission in the original

MR charter failed to provide for a lease of the road to another company. As the NY&OM and the NJM scrambled to secure legislation and legitimize their leases, the Panic of 1873 and subsequent depression resulted in the financial bankruptcy of many railroads, including the NY&OM-NJM-MR combine (*Saturday Gazette*, 1873:2; New Jersey State Legislature 1873:1017). New Jersey iron magnate and NY&OM debtholder Abram S. Hewitt was appointed receiver (McKinstry 2004:360; Helmer 1959:31). His own mining interests in northern New Jersey were served by MR. Ultimately, the through-route from Oswego to the Hudson River was attained by the NY&OM's successors without building the expensive tunnel, and MR extended north only as far as Hewitt's mines in Ringwood and the ice producing and travel destination of Greenwood Lake (Anderson 1876).

MR underwent multiple foreclosures and reorganizations under its own name and that of the Montclair and Greenwood Lake Railway Company in October 1875 and later as the New York and Greenwood Lake Railway Company ("NY&GL") in November 1878 with stock controlled by the New York, Lake Erie, and Western Railroad (*New York Times* 1878:2; New Jersey State Board of Assessors 1888:76). At that time, the railroad improved the Orange Branch and chartered a branch to Caldwell in 1890 and an extension to Roseland with a connection to the Morristown and Erie in 1891 (*New York Times* 1880:8; New State Board of Assessors 1890: 59; 1891:56).

The New York, Lake Erie, and Western Railroad went into foreclosure in 1895. By charter of the State of New York, it was combined with the New York, Pennsylvania, and Ohio Railroad to form the Erie Railroad ("Erie"), which was organized on November 13, 1895. In 1896, the NY&GL was leased by the Erie Railroad for 999 years. After multiple steps towards merger, Hewitt finally sold the NY&GL to the Erie in 1898, when it became known as the

NY&GL Branch. The Line served mainly as a feeder for the Erie's substantial New Jersey commuter business, but other custom included holiday excursionists, local and express freight, iron and zinc ore shipments, and ice cut from Greenwood Lake (Hungerford 1946:207-208; Westing 1970:333-334; Heritage Studies Inc. 1981:65-66; Cunningham 1997: 237-238). Under Erie management, the line was upgraded during the first decade of the twentieth century with partial double-tracking and construction of a number of new bridges, but the effects of the Great Depression eroded traffic (Sanborn and Parris Map Company 1892:212; Sanborn Map Company 1904:90; DeLeuw Cather & Company, Inc. 1991; Yanosey 2006:18). Passenger service to Greenwood Lake and Ringwood ended in 1939 (Heritage Studies Inc. 1981:66).

Beginning in 1956, the Erie discussed potential consolidation with the Delaware, Lackawanna, and Western Railway ("Lackawanna"), which served many of the same markets as the Erie, including Montclair. A merger agreement was reached in 1959, and the Interstate Commerce Commission authorized the combination in the fall of 1960.<sup>7</sup> The new company would be known as the Erie-Lackawanna Railroad ("EL"), (the hyphen was retained until 1963). Due to intervening labor litigation, the merger was not actually effective until June 1961 (Taber and Taber 1980:145).

Track consolidation between the merged railroads included linking the former Lackawanna's Boonton Branch, a low-grade freight cut-off running between Dover and Jersey City, to the former Erie's NY&GL Branch at a point where the two railroads crossed at Mountain View. The eastern end of the former Lackawanna's Boonton Branch was then connected to the former Erie's Main Line near South Paterson. The piece of the severed Boonton Branch between the two new connections was abandoned to make way for the

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<sup>7</sup> Erie Railroad Company Merger, Etc. Delaware, Lackawanna, and Western Railroad Company, 312 I.C.C. 185 (ICC served Sept. 13, 1960).

construction of Interstate 80 through the Paterson area. The former Erie's NY&GL tracks (the Line) assumed the role of the eastern or "lower" end of the former Lackawanna's Boonton Branch. Thus, under the EL merger, the newly combined route became known as the EL Boonton Line (Yanosey 2006:32).

Like many railroads in the northeast, the EL struggled for most of the 16 years it existed in part due to market forces. EL's financial vulnerabilities led it to seek inclusion in the merger between the Norfolk and Western and Chesapeake and Ohio systems which was announced and filed at the Interstate Commerce Commission but never consummated. As a result, EL was required to be placed under a new holding company of the Norfolk and Western called Dereco, Inc. (Taber and Taber 1980: 147). Service on the branch lines to East Orange and Caldwell was gradually cut back and finally discontinued. The financial condition of the EL continued to decline, however, and the extensive destruction of its physical plant resulting from Hurricane Agnes in 1972 finally resulted in a filing for Chapter 7 bankruptcy on June 26, 1972.

The EL initially sought to reorganize independently and thus resisted joining other bankrupt eastern and Midwestern railroads in reorganization under the aegis of the United States Railway Association pursuant to the Regional Railroad Reorganization Act of 1973 ("3-R Act"). The financial condition of the EL continued to deteriorate, exacerbated by rapidly escalating materials prices, and on January 9, 1975, it advised the Federal government that it wished to become a "railroad in reorganization" under the 3-R Act. Although this request came too late for inclusion in the Preliminary System Plan which was issued on February 26, 1975, the EL was included in the Final System Plan issued by the U.S. Railway Association in July of that year. The Railroad Revitalization and Regulatory Reform Act of 1976 ("4-R Act") placed the Final System Plan into law. EL lines designated for retention, including the Line, thus came under the

operation of the newly formed Consolidated Rail Corporation (Conrail) effective April 1, 1976.

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"); Consolidated Rail Corporation ("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 Board approved the Conrail Transaction Agreement 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. The transaction was closed and became effective June 1, 1999, and with the closure, the Line was transferred to Norfolk Southern.

Passenger service, operated by New Jersey Transit ("NJT"), continued over the Line until 2002 when NJT completed the Montclair Connection. This linked the western portion of the EL Boonton Line with the former Lackawanna's Montclair Branch in Montclair. The existing electrified traction system on the Montclair Branch was upgraded and extended west to Boonton, providing passengers on the EL Boonton Line direct access to New York's Penn Station and eliminating its route through Hoboken Terminal (Smothers 2002:B7). Following the completion of the Montclair Connection, NJT discontinued the service and canceled its lease over the lower 11 miles of the EL Boonton Line between Montclair and Jersey City. Maintenance of the Line, which had been the responsibility of NJT under the lease, also ceased.

In 2004, NJT decided not to reactivate commuter rail service on the discontinued portion of the Line. NJT Executive Director George Warrington concluded that reopening the lower

section of the EL Boonton Line, which served 800 riders a day, would be too expensive, requiring \$26 million in immediate track, signal, bridge, and other repair work, plus another \$46 million in capital spending over 10 years. Warrington added the line would cost \$3 million a year to operate while taking in just \$108,000 in fares. Despite support for reopening expressed at a hearing on the matter, Warrington issued his decision with a statement that, “the economics just don’t work” (Strunsky 2004:2).

Following termination of commuter services, NS filed to discontinue a portion (6.2 miles) of the Boonton Line between Milepost WD 2.2 in Jersey City, NJ, and Milepost WD 8.4 in Newark, NJ in 2005.<sup>8</sup> The Regulatorily Active Segment from Milepost WD 8.4 to Milepost WD 11.5 was used only as an overhead route to customers located on an industrial branch line which has not seen freight traffic since 2009.

Given the absence of traffic on the Line, no major changes are contemplated from the proposed abandonment.

**(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 16 structures (bridges) 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. Regardless, no salvage of the Line, including the bridges is proposed in connection with the proposed abandonment.

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<sup>8</sup> Norfolk Southern Railway Company – Discontinuance of Service Exemption – Between Newark and Kearny, NJ, in Essex and Hudson Counties, NJ, STB Docket No. AB-290 (Sub-No. 242X) (STB served Jan. 18, 2005).

(7) **Opinion Regarding Criteria For Listing In The National Register Of Historic Places**

There are 16 structures located within the APE for this project. Information on the railroad-related historic resources is included in Appendix D - Appendix D: Draft Bridge List (Railroad-related Historic Resources).

On May 26, 2020, NSR provided the NJDEP Historic Preservation Office with photos of the structures and a copy of the E&HR associated with Notice of Exemption filing AB-290 Sub-No. 408X for the Line for comments.

(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. No salvage of material from the surface is contemplated at this time.

(9) **Follow-Up Information** – Additional information will be provided as appropriate.

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**AB-290 (Sub. No. 408X)**

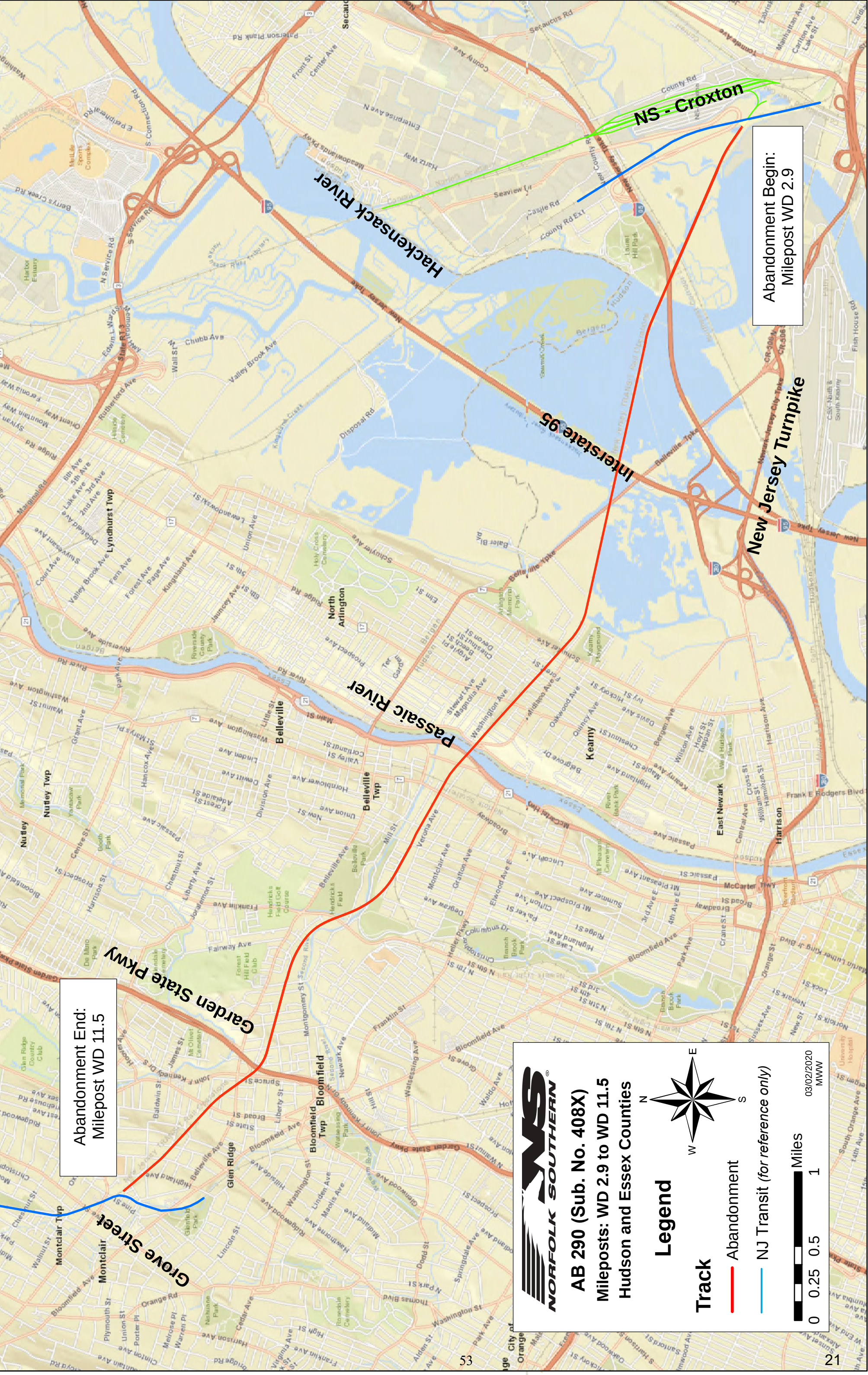
**NORFOLK SOUTHERN RAILWAY COMPANY  
– PROPOSED ABANDONMENT EXEMPTION –  
IN HUDSON AND ESSEX COUNTIES, NEW JERSEY**

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**Combined Environmental and Historic Report**

**APPENDIX A**

**Map**



**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**AB-290 (Sub. No. 408X)**

**NORFOLK SOUTHERN RAILWAY COMPANY  
– PROPOSED ABANDONMENT EXEMPTION –**

**IN HUDSON AND ESSEX COUNTIES, NEW JERSEY**

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**Combined Environmental and Historic Report**

**APPENDIX B**

**Sample Consultation Letter & Recipient List**

May 26, 2020

[ENTITY}

RE: Norfolk Southern Railway Company Abandonment – in Hudson and Essex Counties,  
AB-290 (Sub-No. 408X)

[GREETING]

Norfolk Southern Railway Company (“NSR”) is proposing the abandonment of approximately 8.6 miles of rail line between Milepost WD 2.9 in Jersey City, New Jersey, and Milepost WD 11.5 in Montclair, New Jersey (“Line”).

Enclosed is a Combined Environmental and Historic Report (“Report”) which describes the proposed abandonment and other pertinent information. A map of the proposed abandonment can be found in **Appendix A** of this report. **Appendix B** of this report lists the various agencies receiving it. **Appendix C** of this report lists the various agency responses. **Appendix D** of this report provides information regarding the bridges on the Line.

The railroad does not anticipate adverse environmental impacts; however, if you identify any adverse environmental effects, please describe the actions that would assist in alleviating them. Please provide us with a written response indicating any concerns or lack thereof, which will be included in the Report and sent to the Surface Transportation Board (“STB”).

This Report is being provided so that you may submit information that will form the basis for the STB's independent environmental analysis of the proceeding. If you believe any of the information is incorrect, if you think pertinent information is missing, or if you have any questions about the STB's Environmental Review process, please contact the Office of Environmental Analysis (OEA) by telephone at (202) 245-0245 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 STB 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 Laura Hoag by email or by mail at:

Laura Hoag  
Strategic Planning – 12<sup>th</sup> Floor

Norfolk Southern Corporation  
3 Commercial Place  
Norfolk, VA 23510  
(757) 823-5267  
[Laura.Hoag@nscorp.com](mailto:Laura.Hoag@nscorp.com)

Best regards,

Laura E. Hoag

Attachment

**RECIPIENT LIST  
AB-290 (Sub-No 408X)**

**Proposed Abandonment of Norfolk Southern Railway Company's approximately 8.6 mile rail line segment between Milepost WD 2.9 in Jersey City, NJ and Milepost WD 11.5 in the Township of Montclair (the "Line"), in Hudson and Essex Counties, New Jersey.**

STATE HISTORIC PRESERVATION OFFICE

Ms. Katherine Marcopul  
Administrator & Deputy State Historic Preservation Officer  
Mail Code 501-04B  
State of New Jersey  
Department of Environmental Protection  
Historic Preservation Office  
P. O. Box 420  
Trenton, NJ 08625-0420

STATE DOT

Ms. Nicole Minutoli  
Director  
NJ Department of Transportation  
Multimodal Services  
1035 Parkway Avenue, P.O. Box 600  
Trenton, NJ 08625-0600

US ENVIRONMENTAL PROTECTION AGENCY

US EPA  
William Jefferson Clinton (WJC) Building  
1200 Pennsylvania Ave., NW  
Mail Code 1101-A  
Washington, DC 20460

REGIONAL/STATE EPA

Mr. Dave Kluesner  
US EPA Region 2, Director  
290 Broadway  
New York, New York 10007-1866

Ms. Catherine R. McCabe  
NJ Department of Environmental Protection  
Commissioner  
401 E. State St. - 7th Floor, East Wing  
P.O. Box 402  
Trenton, NJ 08625-0402

CITY/TOWNSHIP

Mayor Robert Jackson  
Montclair Township Municipal Building  
205 Claremont Avenue  
Second Floor  
Montclair, NJ 07042

Mayor Stuart K. Patrick  
Glen Ridge Borough  
825 Bloomfield Avenue  
Glen Ridge, New Jersey 07028

CITY/TOWNSHIP continued

Mayor Michael Venezia  
Bloomfield Township  
1 Municipal Plaza  
2nd Floor Room 209  
Bloomfield, NJ 07003

Mayor Michael Melham  
Township of Belleville  
152 Washington Avenue  
Belleville, NJ, 07109

Mayor Ras J. Baraka  
City of Newark  
City Hall  
920 Broad Street  
Newark, NJ 07102

Mayor Alberto G. Santos  
Town of Kearny, NJ  
Kearny Town Hall  
402 Kearny Ave  
Kearny, NJ 07032

Mayor Michael Gonnelli  
Town of Secaucus  
1203 Paterson Plank Road  
Secaucus, NJ 07094

Mayor Steven M. Fulop  
Jersey City  
280 Grove Street  
Second Floor  
Jersey City, NJ 07302

COUNTY

Mr. Abraham Antun  
Hudson County Administrator  
567 Pavonia Avenue  
Jersey City, NJ 07306

Mr. Robert D. Jackson  
Essex County Administrator  
465 Dr. Martin Luther King, Jr. Boulevard  
Newark, NJ 07102

US ARMY CORPS OF ENGINEERS

Mr. Stephan A. Ryba  
Chief, Regulatory Branch  
NY District US Army Corps of Engineers  
26 Federal Plaza, Room 16-406  
New York, New York 10278-0090

**RECIPIENT LIST continued**  
**AB-290 (Sub-No 408X)**

**Proposed Abandonment of Norfolk Southern Railway Company’s approximately 8.6 mile rail line segment between Milepost WD 2.9 in Jersey City, NJ and Milepost WD 11.5 in the Township of Montclair (the “Line”), in Hudson and Essex Counties, New Jersey.**

STATE COASTAL ZONE MANAGEMENT

Ms. Kimberly Springer  
NJDEP Coastal Management Office  
Mail Code 401-07D, P.O. Box 420  
401 East State Street  
Trenton, NJ 08625-0420

FISH AND WILDLIFE SERVICE

Ms. Wendi Weber  
Regional Director – Region 5  
U.S. Fish & Wildlife Service  
Northeast Region  
300 Westgate Center Dr.  
Hadley, MA 01035

Mr. Dave Golden  
Director  
N.J. Division of Fish and Wildlife  
Mail Code 501-03  
P.O. Box 420  
Trenton, NJ 08625-0420

NATIONAL PARK SERVICE

Mr. Stephan Nofield  
National Park Service  
Rivers, Trails, and Conservation Assistance Program  
1849 C. Street NW, Room 1344  
Washington, DC 20240

NATIONAL PARK SERVICE

Ms. Julie Bell  
National Park Service, Northeast Regional Office  
Rivers, Trails, and Conservation Assistance Program  
200 Chestnut St., Third Floor Philadelphia, PA 19106

NATIONAL GEODETIC SURVEY

Communications and Outreach Branch, NOAA, N/NGS12  
National Geodetic Survey, SSMC3 #9340  
1315 East West Highway  
Silver Spring, MD 20910-3282

NATURAL RESOURCES CONSERVATION SERVICE

Mr. Terrell Erickson  
Regional Conservationist – Northeast Region  
USDA Natural Resources Conservation Service  
1400 Independence Ave SW, #5204-S  
Washington, DC 20250

Ms. Carrie Lindig  
State Conservationist  
USDA-NRCS State Office  
220 Davidson Ave 4th Floor  
Somerset, New Jersey 08873

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**AB-290 (Sub. No. 408X)**

**NORFOLK SOUTHERN RAILWAY COMPANY  
– PROPOSED ABANDONMENT EXEMPTION–**

**IN HUDSON AND ESSEX COUNTIES, NEW JERSEY**

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**Combined Environmental and Historic Report**

**APPENDIX C**

**Agency Comments/Responses**



## State of New Jersey

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

Office of Permit Coordination and Environmental Review  
401 East State Street, Mail Code 401-07J, P.O. Box 420  
Trenton, New Jersey 08625-0420  
Phone: (609) 292-3600 Fax: (609) 292-1921  
[www.nj.gov/dep/pcer](http://www.nj.gov/dep/pcer)

PHILIP D. MURPHY  
*Governor*

SHEILA Y. OLIVER  
*Lt. Gov*

CATHERINE R. McCABE  
*Commissioner*

Ms. Laura E. Hoag, Director Strategic Planning  
Norfolk Southern Corporation  
3 Commercial Place  
Norfolk, Virginia, 23510

May 26, 2020

**RE: Norfolk Southern Railway Company Abandonment  
AB-209 (Sub-No 408X)  
Hudson and Essex Counties  
Comments on Rail Line Abandonment**

Dear Ms. Linda E. Hoag:

The New Jersey Department of Environmental Protection's (NJDEP) Office of Permit Coordination and Environmental Review (PCER) distributed, for review and comment, the Norfolk Southern Railway Company rail line abandonment (NSR) proposal dated May 7, 2020.

NSR is proposing to abandon 8.6 miles of rail line and conveyance of the right of way to Open Space Institute (OSI) on behalf of Hudson and Essex Counties. As part of the federal process, NSR is to seek authorization for abandonment of the line from the Surface Transportation Board which requires confirmation of environmental conditions.

The Department concurs that the proposed abandonment will not have any adverse impacts to water quality, and that no permits under Section 402 of the Clean Water Act will be required. However, any future development of the rail line may result in impacts to regulated lands, historical or cultural resources, threatened and endangered species and migratory birds, or Green Acres-encumbered parkland held by the State, local government units and/or nonprofit organizations, therefore the Department offers the following comments for your consideration:

#### **Land Use Regulation Program**

The Division of Land Use Regulation does not have any comments. The activity involves the abandonment of an existing rail line without salvaging or removing the tracks or bridges. Because there are no proposed construction activities or land disturbances, no approvals would be required from the Division of Land Use Regulation.

Norfolk Southern Railway Company will then convey the right-of-way to the Open Space Institute who will be pursuing the development of a trail in the future.

Approvals from the Division of Land Use Regulation would be required for any future activities that would result in disturbances to flood hazard areas, riparian zones, freshwater wetlands and/or transition areas, tidal waterways or upland waterfront development areas.

If you have any questions, please contact Christopher Jones, Manager, Bureau of Urban Growth & Redevelopment at (609) 984-6216 or [Christopher.Jones@dep.nj.gov](mailto:Christopher.Jones@dep.nj.gov).

**Bureau of Water Allocation**

If dewatering may be necessary, the following link is to our standard construction dewatering guidance document.  
<https://www.state.nj.us/dep/watersupply/pdf/dewater-crg.pdf>

If you have any questions, please contact Ken Komar of the Bureau of Water Allocation at (609) 292-8803 or [Ken.komar@dep.nj.gov](mailto:Ken.komar@dep.nj.gov).

**Bureau of Surface Water Permitting**

Based on a review, a NJPDES Discharge to Surface Water permit will be needed for any surface water discharge during construction (i.e., dewatering; pipe integrity testing, etc.).

If the discharge is shown to not contain pollutants at levels exceeding applicable standards, Transco may be eligible for a t B7 - Short Term De Minimis NJPDES discharge to surface water permit (see <http://www.nj.gov/dep/dwq/gp-b7.htm>). This is determined by running a pollutant scan as described in the application checklist where the data can be collected up to a year in advance of the discharge. However, if the discharge does contain pollutants at levels exceeding applicable standards, (see <http://www.state.nj.us/dep/dwq/pdf/b7-deminimis-final-permit-5-20-15.pdf>), Transco must obtain a BGR – General Remediation Cleanup permit (see [http://www.nj.gov/dep/dwq/gp\\_bgr.htm](http://www.nj.gov/dep/dwq/gp_bgr.htm)).

If you have any questions, please contact Dwayne Kobesky, of the Division of Water Quality, Bureau of Surface Water Permitting at (609) 292-4860 or [Dwayne.Kobesky@dep.nj.gov](mailto:Dwayne.Kobesky@dep.nj.gov)

**Site Remediation Program**

Please review the SRPs linear construction guidance [https://www.nj.gov/dep/srp/guidance/srra/lc\\_guidance.pdf](https://www.nj.gov/dep/srp/guidance/srra/lc_guidance.pdf)

If you have any questions, please contact Stephen Maybury at (609) 633-1412 or [Steve.maybury@dep.nj.gov](mailto:Steve.maybury@dep.nj.gov).

**Bureau of Non-Point Pollution Control**

If more than one acre will be disturbed, a general permit for Construction Activities, (5G3) may be required. The permit application process is online <http://www.state.nj.us/dep/DWQ/5G3.htm>.

If you have any questions, please contact Eleanor Krukowski at (609) 633-9286 or [Eleanor.krukowski@dep.nj.gov](mailto:Eleanor.krukowski@dep.nj.gov).

Thank you for giving the New Jersey Department of Environmental Protection the opportunity to comment on the information provided in the Norfolk Southern Railway Company Line Abandonment. If you have any additional questions, please do not hesitate to call me at (609) 292-3600.

Sincerely,



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Megan Brunatti, Director  
Office of Permit Coordination and Environmental Review



Township of Montclair • 205 Claremont Avenue • Montclair, NJ 07042 • telephone: 973-509-4927

Timothy F. Stafford  
Township Manager  
tstafford@montclairnjusa.org

May 26, 2020

Scott Plum, Manager  
Strategic Planning – 12<sup>th</sup> Floor  
Norfolk Southern Corporation  
Three Commercial Place  
Norfolk, VA 23510

**RE: Norfolk Southern Railway Company – Abandonment in Hudson and Essex Counties, New Jersey, AB-290 (Sub-No. 408X)**

Dear Mr. Plum:

The Township is in receipt of Norfolk Southern Railway Company Strategic Planning Director Laura E. Hoag's letter dated May 7, 2020 concerning the proposed abandonment of 8.6 miles of rail line between milepost 11.5 in Montclair Township and milepost 2.9 in Jersey City. As requested, this letter details how the proposed abandonment affects the Township's long-range plans.

Montclair Township's Master Plan fully supports the creation of a greenway on the abandoned Norfolk Southern Railway Company line. The proposed greenway will provide an important open space amenity and additional mode of mobility to the many people who live and work in the area. As shown on the attached map, the proposed greenway is located in close proximity to the Bay Street train station, which is the focal point of a state-designated Transit Village where over 1000 dwelling units have been created over the past several decades. It is also near the Pine Street Historic District where many historic structures are being renovated and the new medical office campus for the Hackensack Meridian Health – Mountainside hospital.

The Township's Conservation Element of the Master Plan, adopted in 2007, identifies greenways as a technique to create an essential recreational amenity that links the Township's historic core along Bloomfield Avenue and outlying areas, public recreation areas, and environmentally sensitive areas. The Plan specifically recommends creating a rails-with-trails project adjacent to the existing Montclair-Boonton NJ Transit line.

One of the key goals of the Montclair Township Unified Land Use and Circulation Element of the Master Plan, amended in 2017, is to establish a complete pedestrian and bicycle network of safe and attractive streetscapes, sidewalks, crosswalks,

Letter to Scott Plum, Manager, Strategic Planning, Norfolk Southern Corporation  
May 26, 2020  
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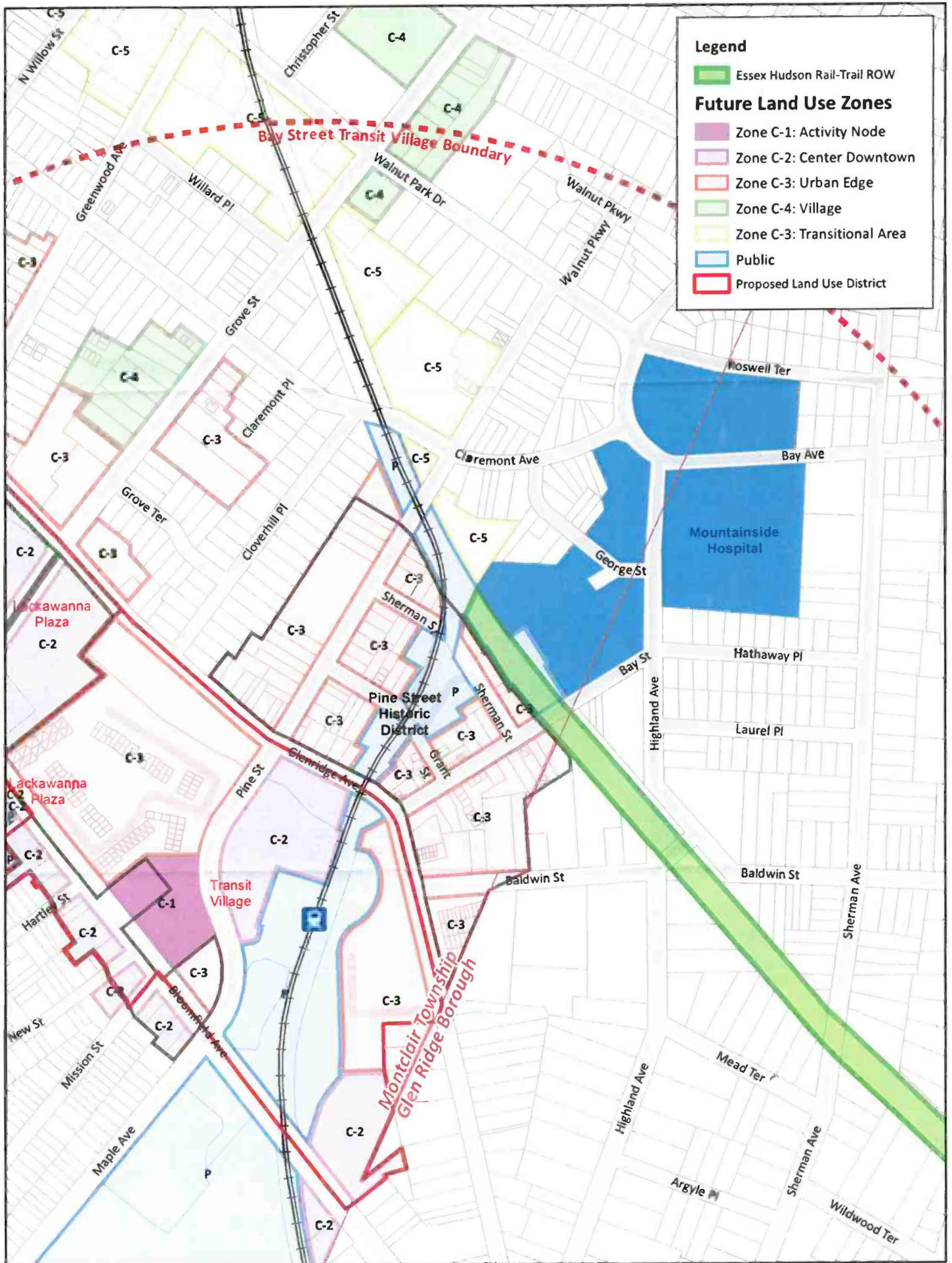
bikeways, and passageways that provide access through the Township and to other communities in the region. The Bay Street Station area, which is identified as a development node, is only a ½ mile, or 10-minute walk, from the heart of Montclair Center, and less than ¼ mile to the proposed Essex Hudson Greenway. The Unified Plan indicates that the Bay Street Station Area does not provide adequate pedestrian and bicycle connections both internally to the corridor and to adjacent neighborhoods. The lack of mobility options in this area contributes to increased use of automobiles, along with traffic congestion and parking problems. The proposed Essex Hudson Greenway presents a realistic opportunity to improve accessibility and mobility to the Bay Street Station area.

Montclair Township welcomes the opportunity to be the western trailhead of the Essex Hudson Greenway. If you have any questions or require any information further to the within, please contact the undersigned at the above listed number. Thank you.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Timothy F. Stafford", followed by a long horizontal flourish.

Timothy F. Stafford, Esq.  
Acting Township Manager



**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**AB-290 (Sub. No. 408X)**

**NORFOLK SOUTHERN RAILWAY COMPANY  
– PROPOSED ABANDONMENT EXEMPTION-  
IN HUDSON AND ESSEX COUNTIES, NEW JERSEY**

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**Combined Environmental and Historic Report**

**APPENDIX D**

# Appendix D: Draft Bridge List (Railroad-related Historic Resources)

| Item No. | MP No.  | Resource Name                                                                                                                              | Resource Type       | Date | Length in feet | Proximity to APE | Municipality                 | County        | NRHP Criteria | Current NRHP Status                   |
|----------|---------|--------------------------------------------------------------------------------------------------------------------------------------------|---------------------|------|----------------|------------------|------------------------------|---------------|---------------|---------------------------------------|
| 01       | WD 3.21 | NY&GL Branch Timber Trestle Over Penhorn Creek                                                                                             | Bridge (Undergrade) | 1931 | 42             | Inside           | Jersey City; Secaucus Town   | Hudson        | N/A           | Unevaluated                           |
| 02       | WD 4.17 | NY&GL Branch Through Truss Swing Span Bridge (DB Draw) over Hackensack River                                                               | Bridge (Undergrade) | 1889 | 688            | Inside           | Secaucus Town; Kearny Town   | Hudson        | N/A           | Identified / Unevaluated <sup>1</sup> |
| 03       | WD 5.63 | NY&GL Branch Through Plate Girder Bridge Over Sawmill Creek                                                                                | Bridge (Undergrade) | 1897 | 26             | Inside           | Kearny Town                  | Hudson        | N/A           | Unevaluated                           |
| 04       | WD 6.41 | NY&GL Branch Concrete Span Over Harrison Industrial Track                                                                                  | Bridge (Undergrade) | 1926 | 33             | Inside           | Kearny Town                  | Hudson        | N/A           | Unevaluated                           |
| 05       | WD 7.57 | Erie Lackawanna-Greenwood Lake Branch Railroad Deck Plate Girder Swing Span Bridge (WR Draw; Bridge 7.57) over Route 699 and Passaic River | Bridge (Undergrade) | 1896 | 530            | Inside           | Kearny Town; Newark City     | Hudson; Essex | N/A           | Identified / Unevaluated <sup>2</sup> |
| 06       | WD 7.74 | NY&GL Branch Deck Plate Girder Bridge Over McCarter Highway                                                                                | Bridge (Undergrade) | 1897 | 66             | Inside           | Newark City                  | Essex         | N/A           | Unevaluated                           |
| 07       | WD 7.88 | NY&GL Branch Deck Plate Girder Bridge Over Newark Industrial Track (a.k.a. Erie RR Paterson & Newark Branch)                               | Bridge (Undergrade) | 1897 | 85             | Inside           | Newark City                  | Essex         | N/A           | Unevaluated                           |
| 08       | WD 7.96 | NY&GL Branch Through Plate Girder Over Broadway (Rte. 667)                                                                                 | Bridge (Undergrade) | 1897 | 107            | Inside           | Newark City                  | Essex         | N/A           | Unevaluated                           |
| 09       | WD 8.85 | NY&GL Branch Concrete Span Bridge Over Branch Brook Park Dr. & Second River                                                                | Bridge (Undergrade) | 1932 | 200            | Inside           | Newark City; Belleville Twp. | Essex         | N/A           | Identified / Unevaluated <sup>3</sup> |
| 10       | WD 9.10 | NY&GL Branch Concrete Span Bridge Over Franklin Ave. (Rte. 645)                                                                            | Bridge (Undergrade) | 1941 | 86             | Inside           | Belleville Twp.              | Essex         | N/A           | Unevaluated                           |

## Appendix D: Draft Bridge List (Railroad-related Historic Resources)

|    |             |                                                                                          |                        |      |     |        |                 |       |     |                          |
|----|-------------|------------------------------------------------------------------------------------------|------------------------|------|-----|--------|-----------------|-------|-----|--------------------------|
| 11 | WD<br>10.29 | NY&GL Branch<br>Through Plate Girder<br>Bridge Over Garden State<br>Parkway              | Bridge<br>(Undergrade) | 1954 | 118 | Inside | Bloomfield Twp. | Essex | N/A | Unevaluated              |
| 12 | WD<br>10.36 | NY&GL Branch<br>Through Plate Girder<br>Bridge Over John F.<br>Kennedy Dr. S. (Rte. 652) | Bridge<br>(Undergrade) | 1897 | 109 | Inside | Bloomfield Twp. | Essex | N/A | Unevaluated              |
| 13 | WD<br>10.42 | NY&GL Branch Deck<br>and Through Plate Girder<br>Bridge Over Spruce St.                  | Bridge<br>(Undergrade) | 1897 | 89  | Inside | Bloomfield Twp. | Essex | N/A | Unevaluated              |
| 14 | WD<br>10.47 | NY&GL Branch Deck<br>and Through Plate Girder<br>Bridge Over Belleville<br>Ave.          | Bridge<br>(Undergrade) | 1897 | 73  | Inside | Bloomfield Twp. | Essex | N/A | Unevaluated              |
| 15 | WD<br>10.58 | NY&GL Branch Deck<br>Plate Girder Bridge Over<br>New St.                                 | Bridge<br>(Undergrade) | 1897 | 80  | Inside | Bloomfield Twp. | Essex | N/A | Unevaluated              |
| 16 | WD<br>10.69 | NY&GL Branch Deck<br>Plate Girder Bridge Over<br>Broad St. (Rte. 509)                    | Bridge<br>(Undergrade) | 1972 | 87  | Inside | Bloomfield Twp. | Essex | N/A | Unevaluated <sup>4</sup> |

### Preliminary Bridge List Provided By NSR

Research Compiled by Richard Grubb & Associates, Inc., May 14, 2020 from available records; New Jersey Historic Preservation Office files not accessible due to Covid-19 pandemic.

1. See *Saunders 2008*.

2. *Recommended eligible under Criterion A for Transportation. No SHPO comment to date. See Tetra Tech 2018.*

3. *Referenced in the Branch Brook Park [Historic District] National Register Nomination (NR: 1/12/1981; (SR: 6/5/1980) but not specifically listed as a contributing element.*

4. *Resource less than 50 years of age and ordinarily not considered for NRHP evaluation.*

*APE – Area of Potential Effects*

*NRHP – National Register of Historic Places*

*NY&GL – New York and Greenwood Lake Railroad*

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**AB-290 (Sub. No. 408X)**

**NORFOLK SOUTHERN RAILWAY COMPANY  
– PROPOSED ABANDONMENT EXEMPTION-  
IN HUDSON AND ESSEX COUNTIES, NEW JERSEY**

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**Combined Environmental and Historic Report**

**APPENDIX E**

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

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**AB-290 (Sub-No. 408X)**

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**NORFOLK SOUTHERN RAILWAY COMPANY  
– ABANDONMENT EXEMPTION –  
IN HUDSON AND ESSEX COUNTIES, NEW JERSEY**

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**PETITION FOR EXEMPTION**

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**Verification**

## Verification

I, Michael McClellan, Vice President for Norfolk Southern Railway Company ("NSR") hereby verify under penalty of perjury that to the best of my knowledge, the foregoing abandonment and discontinuance notice of exemption is true and correct. Further, I certify that I am qualified and authorized to make such verification on behalf of NSR in connection with this proceeding before the Surface Transportation Board.

Executed this 18<sup>th</sup> day of June, 2020



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Michael McClellan  
Vice President  
Norfolk Southern Railway Company