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November 15, 2024

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VIA E-FILING

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

ENTERED
Office of Proceedings
November 15, 2024
Part of
Public Record

Re: Norfolk Southern Railway Company – Abandonment Exemption – In Mingo County, West Virginia AB-290 (Sub-No. 417X)

Dear Ms. Brown:

Enclosed for filing in the above-referenced matter is an errata containing a page, that corrects a discrepancy regarding the number of structures identified in the Verified Notice of Exemption filed on behalf of the Norfolk Southern Railway Company on October 31, 2024. If there are any questions about this matter, please contact me directly, either by telephone: at 202-663-7831 or by e-mail: at czorbaugh@mullinslawgroup.net. If I am unavailable, you may contact William A. Mullins, who can be reached at (202) 663-7823 or by e-mail at wmullins@mullinslawgroup.net.

Sincerely,

Crystal M. Zorbaugh

Counsel for Norfolk Southern Railway Company

Enclosures

cc: Parties of Record

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

AB-290 (Sub. No. 417X)

**NORFOLK SOUTHERN RAILWAY COMPANY
-ABANDONMENT EXEMPTION-
IN MINGO COUNTY, WEST VIRGINIA**

**ERRATA TO OCTOBER 31, 2024
VERIFIED NOTICE OF EXEMPT ABANDONMENT**

**Hanna M. Chouest
NORFOLK SOUTHERN CORPORATION
650 West Peachtree Street NW
Atlanta, GA 30308
Tel: (470) 571-5208**

November 15, 2024

**William A. Mullins
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**Attorneys for Norfolk Southern Railway
Company**

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

AB-290 (Sub. No. 417X)

**NORFOLK SOUTHERN RAILWAY COMPANY
–ABANDONMENT EXEMPTION–
IN MINGO COUNTY, WEST VIRGINIA**

**ERRATA TO OCTOBER 31, 2024
VERIFIED NOTICE OF EXEMPT ABANDONMENT**

Since submitting Norfolk Southern Railway Company’s (“NSR”) verified notice of exemption (“Notice”) on October 31, 2024, counsel for NSR was notified by the West Virginia Department of Arts, Culture and History (“WV SHPO”) by letter that “based on satellite imagery provided by Google dated 2024, there is an overpass over Cumberland Drive before it connects with State Route 49 that is within the abandoned line.” Upon reexamination, NSR has determined that the WV SHPO is correct and NSR inadvertently noted there were no bridges on the rail line proposed for abandonment when in fact there are **two** structures (bridges). NSR assures the Board that it did not omit the bridges intentionally. Unfortunately, NSR’s internal records were missing entries for the two bridges. Based on this omission, NSR in preparing the environmental and historical report (“E&HR”) made a good faith mistake in stating that there were no structures on the rail line proposed for abandonment. To address this good faith mistake, NSR has taken the following corrective actions.

- NSR notified the Board’s Office of Environmental Analysis (OEA) (Elizabeth Webster) yesterday, November 14, 2024, of the mistake and proposed to send a letter correcting the mistake. Ms. Webster advised NSR that a letter should be sufficient to correct the deficiency. Counsel for NSR contacted Ms. Webster again today to explain NSR’s corrective action plan: (1) a letter correcting the E&HR is being served on all consulting

agencies, including copies of bridge inventory forms and photos of the two structures; (2) earlier today, the WV SHPO was also provided bridge inventory forms and photos of the two structures to facilitate the WV SHPO completing its review of the proposed abandonment; and (3) and this errata is being filed with the Board.

Based on the Notice mistakenly containing incorrect information related to the number of structures, NSR is submitting this errata to correct the incorrect references to the number of structures. As noted above and after careful review NSR has concluded that the Line¹ contains two structures (bridges) at Milepost AL 1.66 and Milepost AL 2.81. More important, in rereviewing the abandonment, NSR has determined that all other information provided in the E&HR is correct.

For the reasons explained herein, NSR respectfully requests that the Board substitute the following pages in the Notice: pages 22, 30, 31, and 32.² NSR also corrects the references to Topographical Maps as Appendix B to Appendix D and adds Appendix E to Exhibit D – Certificate of Compliance with Environmental and Historic Report Requirements at pages 47 to 48, which includes bridge photos and inventory. Please feel free to contact me should you have any questions regarding this errata.

Sincerely,

/s/ ***Crystal M. Zorbaugh***

Crystal M. Zorbaugh
Attorney for Norfolk Southern Railway Company

¹ NSR filed its Notice to abandon rail service over an approximately 3.5-mile long rail line, extending from Milepost AL 0.0 +/- (at or near Sprigg, WV) to approximately Milepost AL 3.5 +/- (at or near Vimy, WV) in Mingo County, West Virginia. (the “Line”).

² Corrected references to structures and appendices are in red on the replacement pages.

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 is seeking to abandon an approximately 3.5-mile-long-rail line extending from approximately Milepost AL 0.0 +/- to approximately Milepost AL 3.5 +/- in Mingo County, West Virginia. There are **two** structures on the Line – **two (2) bridges**.

No customers have been served on the Line for more than four years. Following abandonment, NSR will not be salvaging the Line's rail and related track material. The contour of the existing roadbed will remain as is, and existing drainage systems will remain intact. No ballast will be removed, and no soil disturbance will occur. No digging or burying of any kind will be undertaken as a result of the abandonment. Accordingly, NSR believes that no storm water mitigation measures including, but not limited to, a National Pollutant Discharge Elimination System permit will be required.

The alternative to abandonment is to not abandon 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 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**. **Topographical Maps are included as Appendix D.** **Bridge photos and inventory are attached as Appendix E.**

HISTORIC REPORT

49 CFR 1105.8(d)

PROPOSED ACTION AND ALTERNATIVES

NSR proposes to abandon an approximately 3.5-mile rail line, extending from approximately Milepost AL 0.0 +/- to approximately Milepost AL 3.5 +/- (the “Line”) in the Mingo County, WV. No customers have been served on the Line for more than four years.

Following abandonment, no salvage activities will be performed. The contour of the existing roadbed will remain as is and existing drainage systems will remain intact. No ballast will be removed, and no soil disturbance will occur. No digging or burying of any kind will be undertaken. Accordingly, NSR believes that no storm water mitigation measures – including, but not limited to, a National Pollutant Discharge Elimination System permit – will be required.

The alternative to abandonment is to not abandon the Line and retain the track in place. 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 is attached in **Appendix A**.

ADDITIONAL INFORMATION

(1) **U.S.G.S. Topographic Map** –Topographic maps were furnished to the West Virginia State Historic Preservation Office as part of a complete copy of this report on September 23, 2024.

See Appendix D.

(2) **Written Description of Right of Way** – The right-of-way width ranges from 50 feet to 120 feet along the main track centerline. Pursuant to Surface Transportation Board policy, the railroad's right-of-way will constitute the Area of Potential Effect (“APE”) for this undertaking.

(3) **Photographs** - There are two structures on the line – two (2) bridges. Color photographs of the bridges are attached as **Appendix E**.

(4) **Date of Construction of Structures** – According to the limited information in NSR’s possession, there are two (bridges) structures on the Line. While these structures have been rehabilitated over time, NSR has not undertaken any major improvements to the two bridges, which NSR believes were constructed in 1914 and 1977 based on planning documents but cannot state with certainty that the bridges are not 50 years old or older.

(5) **History of Operations and Changes Contemplated** – According to NSR’s research, this line was originally obtained in a condemnation hearing in 1914 by Norfolk and Western Railway Company. Norfolk and Western Railway Company was merged into Norfolk Southern Railway Company in 1998. NSR currently contemplates no changes to the Line and NSR will not conduct salvage.

(6) **Summary of Documents In Carrier's Possession That Might Be Useful for Documenting a Structure That Is Found To Be Historic** – There are two structures on the line. See **Appendix E** for documentation that might be useful for documenting a structure that is found to be historic.

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

As indicated above, NSR’s records indicate that there are two structures on or adjacent to the Line (two bridges) that could be 50 years old or older. In NSR’s opinion, these structures would not meet the criteria for listing on the *National Register of Historic Places*. As the photographs supplied to NSR would suggest, none of the subject structures appear to have unique or otherwise significant design characteristics. Moreover, none of these structures is linked to events or historic significance. Thus, NSR has no reason to believe that there is any likelihood of finding archaeological resources or historic

properties on the Line proposed for abandonment as no salvage is to be undertaken. NSR has entered this project into the on-line portal for review by the West Virginia State Historic Preservation Office.

(8) Subsurface Ground Conditions That Might Affect Archaeological Recovery

Based on its records, NSR is not aware of any prior subsurface ground disturbances or environmental conditions that would affect archaeological recovery. Moreover, abandonment of the Line and will not affect any potential archaeological resources. The subsurface of the right-of-way was initially disturbed in the construction of the railroad line by grading and filling.

Abandonment of the Line will not result in activities below the surface, or below the level of initial disturbance, as no salvage is being performed.

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

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**Combined Environmental and Historic
Report**

APPENDIX E

Bridge Photographs and Inventory

Milepost	Crossing	Bridge Type	Deck Construction	Length in Feet	Date Constructed
AL 1.66	Spruce Creek	Deck Plate Girder	Open Deck	90	1914
AL 2.81	Ferrell Branch	Deck Plate Girder	Ballast Deck	60	1977



AL 1.66



AL 2.81