

Before the
Surface Transportation Board

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STB DOCKET NO. AB-290 (Sub-No. 420X)

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Office of Chief Counsel
May 15, 2026
Part of
Public Record

NORFOLK SOUTHERN RAILWAY COMPANY –
ABANDONMENT EXEMPTION --
IN THE CITY OF BALTIMORE, MARYLAND

JAMES RIFFIN'S RESPONSE TO
NORFOLK SOUTHERN'S RESPONSE TO
THE STB'S APRIL 20, 2026 DECISION DIRECTING NORFOLK SOUTHERN
TO RESPOND TO RIFFIN'S JANUARY 2, 2026 COMMENTS

1. James Riffin ("Riffin"), herewith Responds to Norfolk Southern Railway Company's ("NSR") April 30, 2026 filed Response ("Response") to the Surface Transportation Board's ("STB") April 20, 2026 Served Decision Directing NSR to Respond to Riffin's January 2, 2026 Comments in the above entitled proceeding.

PROLOGUE

2. Riffin first thanks NSR for giving its Counsel, the Mullins Law Group, authority to address the issues Riffin first raised in NSR's 412X Abandonment Exemption.¹

3. NSR sought, and received, authority from the STB, to withdraw its 412X Abandonment Exemption, for the stated purpose of addressing the issues raised by Riffin in the 412X Proceeding.

4. For reasons not disclosed, NSR chose NOT to address, in its 420X Abandonment Exemption, the issues Riffin raised in the 412X Proceeding, the issues that it indicated in its Withdrawal Request, it needed additional time to address.

¹ In the 412X Proceeding, Riffin initially raised three issues, one of which counsel for NSR addressed, and corrected. [NSR acquired the Line from Conrail, not the MTA.] The remaining issues, NSR refused to permit counsel for NSR to address.

5. Instead, in its 420X Abandonment Exemption, NSR repeated, nearly verbatim, the same false allegations it made in its 412X Abandonment Exemption, to wit:

A. The “MTA **currently operates light rail transit service over the Line.** MTA’s light rail transit system now carries over 24,000 passengers per day **over the Line.**” P. 5², NOE. Bold added.

B. The “detailed map showing the location of the Line” “Exhibit B,” depicts Line where Line is **NOT** actually located. P. 7, 15, 91 NOE.

6. In multiple prior decisions, involving Riffin, the STB has repeatedly held that when a commuter transit entity uses tracks used for freight purposes, or if the commuter transit entity’s tracks merely ‘cross’ the right-of-way used for freight purposes, an abandonment proceeding for the freight line of railroad will be exempted from the Offer of Financial Assistance (“OFA”) procedures, even if NO entity (freight entity or commuter transit entity), asks to exempt the abandonment proceeding from the OFA procedures.

7. Neither NSR nor the Maryland Transit Administration, in either the 412X, or 420X, proceeding, asked the STB to exempt the proceeding from the OFA procedures.

8. Riffin argues NSR **deliberately, knowingly**, inserted the verbiage in ¶5 A above; depicted in the Map appended to its Abandonment Exemption, Line where Line did not exist; depicted Line where the MTA does conduct commuter transit operations; for the **express purpose of misleading** the STB into believing the MTA was using portions of the freight track NSR sought abandonment authority for, knowing that the STB would summarily exempt this Proceeding, and the 412X Proceeding, from the OFA procedures.

1. The pages in NSR’s NOE are NOT paginated, as required by 49 CFR 1104.2 (b), nor are the paragraphs numbered. Which makes it more difficult to cite where statements are made. Riffin paginated each page. The Mullins Law Group Cover page Riffin paginated page one. The “Introduction,” two lines, where footnote 1 [**Note**] begins, Riffin paginated page three. Riffin’s pagination system corresponds with the pdf pagination.

9. Riffin argues that NSR's Response demonstrates that NSR's counsel, **when permitted to do so**, has the ability to accurately, succinctly, **precisely** describe:

- A. WHAT NSR seeks to obtain abandonment authority for;
- B. WHERE the freight Line of railroad is physically located on the ground;
- C. WHO does, and who **does not**, operate on the freight Line of railroad;
- D. WHERE the **MTA** operates its commuter transit services.

10. Riffin also argues that the STB's April 20, 2026 Decision, and NSR's Response, also demonstrates, in graphic detail, that **ALL** of the issues raised by Riffin, are of significance.

RIFFIN'S RESPONSE TO EACH OF THE ISSUES NSR ADDRESSED

1. MTA OPERATES ON THE LINE

11. NSR attempts to minimize the significance of its false statement [that the MTA operates on the freight Line of railroad tracks], by saying this verbiage was "descriptive of the corridor as a whole," and that "NSR could have made it clearer that MTA did not operate over, and would not operate over, the freight track."

12. Riffin agrees that NSR "could have made it clearer." And did so, when so directed.

13. Riffin argues that NSR **should have** made it clearer, **when it filed** its 420X Abandonment Exemption, since it had a year since it withdrew its 412X Abandonment Exemption, to determine the MTA 'operated' in a 'corridor' that was separate and apart from the 'corridor' that contained NSR's freight Line of railroad tracks.

14. NSR correctly noted the ‘error’ it made, was ‘technical,’ was ‘grammatical.’

15. Legal documents are **supposed to be** ‘technically,’ and ‘grammatically’ correct. That is why they are prepared by **lawyers**, who have been trained to prepare ‘technically’ and ‘grammatically’ correct legal documents.

16. Every comma, every word, in a legal document, is there for a reason. Misplacing, or omitting, a comma, using an incorrect word, omitting a word, typically results in litigation that goes against the drafter of the document. Legal documents, capable of more than one meaning, are construed **against** the person who drafted the legal document.

17. Old adage: When one is in a hole, and cannot get out, one should STOP digging the hole deeper.

18. In its ‘explanation,’ NSR rightly indicated that it ‘could have made it clearer.’

19. Riffin argues, NSR’s concluding statement, noted below, is absurd, and effectively ‘dug the hole NSR was in, deeper:’

“The statement [MTA operates on the Line] accurately conveys the transportation reality of the corridor and is **not reasonably susceptible to misinterpretation as claiming MTA operates on all tracks** within the corridor and this **was fully disclosed to the STB.**” Bold added.

20. Riffin argues a better approach when one makes a mistake, is to acknowledge the error, apologize, then accept the consequences. And pray that disbarment, a contempt citation, or other sanction, is not one of the consequences.

2. Contractual Obligation to Abandon Freight Rights

21. Riffin agrees, the difference between 'seeking' abandonment authority, and 'being obligated to abandon,' is 'semantics.'

22. But, 'semantics' are very important. Particularly when it comes to abandoning a regulated line of railroad. Especially, since abandonment can legally occur only AFTER the STB has GRANTED abandonment authority, and not before.

23. If NSR was a newly formed Class III rail carrier, and had been represented by an attorney that has never filed a pleading with the STB, MAYBE it would be 'believable' that "NSR's statement **reflects its understanding of its contractual obligations** regarding the freight easement **and rights** over the corridor." Bold added.

24. Totally unbelievable, when uttered by NSR.

25. Was the statement "misleading?" It was.

26. Did NSR 'intend' to mislead the STB? Totally irrelevant. "Intent" is NOT a necessary element of 49 CFR 1152.50 (d)(3).

27. While the **STB** would not have been 'misled' by the misrepresentation, ALL (or nearly all) of the individuals to whom 'Notice' was sent, may well have been 'misled' into believing **objecting** to the request for abandonment authority, **was futile**, since NSR represented that abandonment was **mandated**.

28. The question before the STB: Was it a '**material**' misrepresentation, **at the time the Abandonment Exemption was filed**? Perhaps not, if that was the only 'misrepresentation.' But it was not the only 'misrepresentation.' It was one, of many. A **pattern** of misrepresentation.

3. Line Remaining Intact and in Operation for Light Rail

29. NSR argues that since NSR was not the entity that actually disturbed the integrity of the Line, the statement is NOT misleading // false.

30. Whether the Line remains 'intact,' relates to the potential **environmental** impact abandonment of the Line may have. Will Soil, or wetlands be disturbed? Will a NPDES permit be required?

31. As it turns out, extensive soil disturbance did in fact occur, **prior to**, NSR filing its Abandonment Exemption, which soil disturbance was NOT disclosed to the STB, nor to the various State and Federal agencies that regulate soil disturbances.

32. It is NOT NSR's prerogative to determine whether soil-disturbance-permits are required.

33. NSR is **REQUIRED to inform** the STB, and other State and Federal soil-disturbance regulating agencies, as to whether soil disturbance is **likely** to occur, so that the STB, and the other regulating agencies can determine whether additional permits will be needed **prior** to consummation of abandonment authority.

34. Whether the removal of the 'diamonds' affected the operation of the MTA's light rail tracks, is NOT the issue before the STB.

35. What was removed, were **NSR's freight tracks**, which most definitely DID affect **NSR's** ability to provide freight rail service over those removed freight tracks.

Were any 10901 tracks removed?

36. NSR argues in its Response at p. 6, that the Line of railroad, at MP UU 0.85, did **NOT bifurcate**, into TWO tracks, the **Eastern** track being the Line of railroad track, which continued north from MP UU 0.85, merged onto the Light Rail Track at or near MP 0.9, then continued **on the Light Rail Track**, to MP UU 1.0.

37. As Riffin noted in his January 2, 2026 Comments, the 'diamond crossing' track, the Tail Track, and some 500 feet or so of track that connected the south end of the Tail Track to the first yard-related turn-out, were all a **single track**.

38. **The northern end of the Tail Track, is at or near MP UU 1.0.**

39. Riffin and NSR both refer to this **single track**, as the **Western track**.

40. At the northern end of the Flexi-flow facility, a series of turn-outs created a 12-track yard.

41. NSR argues that the Diamond crossing track, the **Western Tail Track**, and the track connecting the Tail Track to the Yard Tracks, are all 49 U.S.C. 10906 Excepted track.

42. To Riffin's knowledge, neither the STB nor the ICC has ever determined precisely where the demarcation is, between 10906 Yard tracks, and the 10901 Line track, that leads to the Yard tracks. Nor is Riffin aware of any decision that says there is, or is not, at least one 'line' track that goes to the farthest extent of a stub-end yard.

43. Generally, if a track is used to convey rail cars to **more than one shipper**, that track is considered to be a 10901 'line' or 'line-haul' track.

44. Another way to conceptualize the difference between 'line' and 'excepted' track, is to ask the question: If a rail car was stopped, then unloaded / loaded, on a particular track segment, would the presence of that rail car on the track segment at issue, obstruct a line-haul movement of cars?

45. If Yes, [the rail car being loaded // unloaded, would obstruct movement of a line-haul train,] then the track segment the stopped rail car is on, is 10901 'line.'

46. Line track can also consist of more than one track, running parallel. E.G. , a 'passing' or 'run-around' track.

47. Under either of Riffin's definition of 'line,' a track leading to the FIRST turnout that begins the maze of tracks in a yard, is 'line,' at least to the first turn-out.

48. If there is 'line' at both ends of a yard, then there must be a least one track **thru the yard** that is 'line,' in order to connect the two 'lines.'

49. A stub-end yard, on the other hand, only connects to one 'line,' and thus conceivably, does not have to have a 'line' track that goes to the farthest reach of the yard.

50. This presents a 'controversy.' Which the STB needs to resolve.

51. Precisely where is the demarcation line between the 10901 'line' track, and the 10906 'excepted' track, in this Proceeding?

4. Exhibit B Depicting Track Location

52. NSR acknowledged it submitted an inaccurate Map with its Abandonment Exemption.

53. NSR asserts:

A. That the Map it filed on January 9, 2026, is a correct Map.

B. That the "earlier error has been cured by the submission of the accurate replacement map."

C. That the "submission of a corrected map in the record eliminates any prejudice from the earlier error," and that "submission of an accurate replacement is a standard and appropriate remedy that does not warrant voiding the Notice of Exemption."

54. The issues before the STB:

A. Is an accurate Map **material**, at the time an abandonment exemption is filed?

Response: Riffin argues it is material, and thus is sufficient grounds, by itself, to warrant rejecting NSR's Abandonment Exemption.

B. Is the submission of a corrected Map, an 'Amendment' of an Abandonment Exemption?

Response: Riffin argues it is an 'amendment,' since an accurate Map is a **critical** component of an abandonment exemption.

55. In a previous filing, Riffin has made clear his position: NSR needs to either Withdraw its Abandonment Exemption, or seek authority to Amend its Abandonment Exemption. If NSR does neither, then the STB needs to Reject the Abandonment Exemption.

56. Riffin argues that while the submission of an inaccurate Map is grounds, by itself, to warrant rejecting an abandonment exemption, Riffin would not find it objectionable, if the STB grants NSR authority to Amend its Abandonment Exemption, PROVIDING that the effective date for FILING the Abandonment Exemption, is the date the STB grants authority to amend NSR's Abandonment Exemption.

57. However, while RIFFIN would not object to an Amendment, the OTHER issues presented, may PRECLUDE Amendment, and the immediate restart of the effective date of NSR's Abandonment Exemption, until additional supplementary steps are taken, such as giving appropriate NOTICE to individuals who did not receive appropriate notice.

5. NSR's Knowledge of Changes by Amtrak / MTA

58. NSR alleges that it "has no direct control over ... changes made by third parties such as ... MTA."

59. It appears to Riffin that NSR failed to comprehend the significance of its statement.

60. Some years ago, the MTA went to great length to argue that it DID NOT have 'control' over what happened to the Line conveyed to Conrail. Conrail had sufficient 'control,' to warrant the STB finding that the MTA DID NOT assume Common Carrier obligations with regards to the Line at issue.

61. IF NSR did NOT have ANY 'Control,' over, any 'say in the matter,' regarding the removal of NSR's freight tracks, by the MTA, then the MTA, necessarily must have sufficient 'control' of the Line, to assume Common Carrier obligations associated with the Line.

62. The above, is subject to the caveat: If the freight track and diamonds the MTA removed, are 10906 excepted track, then the issue becomes moot. Sort of.

63. Riffin says, 'sort of,' since:

- A. An OFA offeror has the right to acquire whatever a rail carrier seeks to abandon;
- B. Riffin, being the only person who has expressed an OFA interest, has indicated he does NOT desire to acquire the track, and diamonds, that were removed, which 'sort of' moots the issue. UNLESS, IF this proceeding begins again with new deadlines, some presently unknown entity may timely file an OFA, seeking what was removed. [Which, Riffin would argue, if he was asked, would not be a provident thing to ask for, since the STB always denies OFAs that 'cross' commuter rail tracks.]

6. Identification of Dr. John A. Olszewski, Jr. As Baltimore County Executive

64. NSR argues sending Notice to Dr. Olszewski, was a "clerical matter," a "Curable defect that does not affect ... NSR's obligation to provide proper notice." "NSR will ensure that correct service is provided to the appropriate Baltimore County official **if needed.**" Bold added.

65. NSR argues "Service on the Baltimore County Executive ... satisfies the notice requirements." "There is no prejudice to Riffin ... and the error is readily curable through corrected service **if necessary.**" Bold added.

66. **Riffin's Response:** Riffin argues that NSR has the burden of providing evidence that all parties required to receive Notice, have in fact been properly served with Notice. Since there is a high probability that Notice to the PRESENT Baltimore County Executive, was never given, Riffin

would argue NSR should be ordered to provide proper service to the PRESENT Baltimore County Executive.

67. Prejudice to Riffin, is irrelevant. It was Baltimore County that was prejudiced.

68. This lack of proper service, raises the issue: May the STB permit an Abandonment Exemption to proceed, when ALL parties that are required to receive Notice BEFORE an Abandonment Exemption is filed, have NOT been properly served?

69. Riffin argues, it was improper to permit NSR's Abandonment Exemption **to commence**, to **be accepted** for filing, since proper Notice to all parties required to be served Notice, did not occur.

7. 2019 Sale and Alleged Unauthorized Removal of Rail Infrastructure

70. NSR argued the inclusion of the February 8, 2023 MTA letter in the Record, constitutes sufficient notice to the STB, that NSR had sold its interest in the Flexi-flow facility in 2019, and that the MTA had removed the freight track and diamonds.

71. NSR argues the diamonds, and diamond-freight track, the Tail Track, the single track connecting the Tail Track to the first Yard Turnout, collectively, the **Western** Track, are all 10906 excepted track, and as such, NSR had the right to dispose of all of that track, without STB authority.

72. **Riffin's Response:** NSR's argument depends on ALL of that track being 10906 Excepted track. If ANY of that track is 10901 line track, removal of the track would be permissible [subject to being put back in place if a reasonable demand for service was made]. HOWEVER, what is NOT permissible, is relinquishing ALL of NSR's **real property interests** in the real property underlying the track, if the track is 10901 line track. Which is what NSR did.

8. Historic Report and Section 106 Compliance

73. Riffin argues the Abandonment Exemption does NOT comply with 49 CFR 1105.8(d), to wit:

- A. The Map is insufficiently detailed. **Riffin Response:** While the corrected Map is a little more detailed, Riffin argues the detail is still insufficient.
- B. No Right-of-way widths are noted. **Riffin Response:** NSR's April 30, 2026 **did not address, nor did it correct, this deficiency.**
- C. Two Historic Railroad Structures Riffin identified (four brick culverts, built circa 1832, underlying the Line right-of-way; a 20-foot high, several hundred feet long, stone retaining wall, built circa 1832), were NOT identified // noted, in the Historic Report that was served on the State Historic Preservation Officer.

74. **NSR's Response:**

- A. The two structures are not OWNED by, nor CONTROLLED by, NSR. Only NSR-owned, or controlled, historic structures need be identified.
- B. "OEA and the Maryland state agency responsible for historic review were fully satisfied with the EA and the Historic Report." "The SHPO did not question the scope or adequacy of the Historic Report. Nor did OEA.. Furthermore, Riffin failed to file any comments regarding OEA's findings as set forth in the draft EA or the FES."

75. **Riffin's Response:**

- A. The SHPO did not object to the adequacy of the Historic Report, since NO historic structure was brought to the attention of the SHPO.

- B. Why the OEA failed to object to the adequacy of NSR's Historic Report, is more perplexing. Granted, Riffin did not file the Response he wrote regarding the OEA's Draft Environment / Historic Assessment. However, Riffin's Comments were in the Record. It would appear that OEA ONLY looks at comments expressly addressed to OEA. However, the ultimate responsibility, lies with the carrier seeking abandonment authority.
- C. 49 CFR 1105.8(d)(1) states in relevant part:
- “A U.S.G.S. topographic map ... showing ... the location and approximate dimensions **of railroad structures** that are 50 years old or older” Bold added.
- D. 1105.8(d)(1) **does not limit** the “railroad structures that are 50 years old or older” to **abandoning carrier-owned, or controlled** railroad structures.
- E. The plain language used, states “railroad structures.” The culvert under the Line's right-of-way, and the stone retaining wall, are obviously “railroad structures,” for they are integral to the Line of railroad NSR seeks abandonment authority for.
- F. The purpose of 1105.8(d)(1), is to apprise OEA, and the SHPO of historic railroad structures associated with the Line a carrier is seeking to abandon, so that the historic structures can, at a minimum, be ‘documented’ by photographs.
- G. If an abandoning carrier FAILS to give notice of historic structures, it is highly unlikely anyone will object to that failure, unless the person objecting happens to have personal knowledge of the existence of those structures.
- H. The appropriate thing to do, is to acknowledge the existence of the structures. OEA and the SHPO THEN can decide whether the existence of the historic structures should be documented.

76. The lack of proper service, raises the issue: May the STB permit an Abandonment Exemption to proceed, when ALL parties that are required to receive Notice BEFORE an Abandonment Exemption is filed, have NOT be properly served?

77. Riffin argues, it was improper to permit NSR's Abandonment Exemption to commence, to be accepted for filing, since proper Notice to all parties required to be served Notice, did not occur.

CONCLUSION

78. The Abandonment Exemption contains multiple instances of false or misleading information. Any one of which, by itself, is sufficient to warrant rejecting NSR's Abandonment Exemption.

79. The 'problems' could be 'cured,' by Amending the Abandonment Exemption, coupled with providing proper notice to, at a minimum, the Baltimore County Executive, and the SHPO. However, Riffin would strongly object to any amendment that did NOT cause the effective date for filing the Abandonment Exemption, to be changed to some date in the future.

80. The problem with Abandonment Exemptions, is that if they contain false or misleading information, that can be rejected **at any time in the future, by anyone so requesting**. One was set aside 10 years after it became effective. That is a substantial 'cloud' on a proceeding.

81. Given that the Map was incorrect, and was an integral part of the Notice sent to multiple entities, it appears to Riffin, a new Notice to all entities should be ordered, just for that defect.

82. Riffin reiterates his position: NSR needs to either Withdraw its Abandonment Exemption, or seek authority to Amend its Abandonment Exemption. If NSR does neither, then the STB needs to Reject the Abandonment Exemption.

Respectfully,

/s/ James Riffin



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CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of May, 2026, a copy of the foregoing James Riffin's Response to NSR's Response, was served on the parties noted below, by E-mail.

/s/ James Riffin



James Riffin

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