

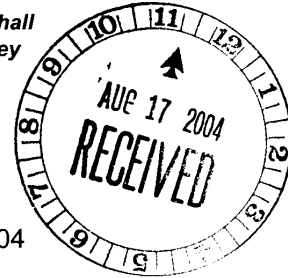
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Norfolk Southern Corporation
Law Department
Three Commercial Place
Norfolk, Virginia 23510-9242

Writer's Direct Dial Number
(757) 629-2759
fax (757) 533-4872

James R. Paschall
General Attorney



August 6, 2004

via fax 202-565-9002
and original and 10 copies via mail

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

ENTERED
Office of Proceedings

AUG 17 2004

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Re: Docket No. AB-290 (Sub-No. 251X), Norfolk Southern Railway Company -
Abandonment Exemption - At Edenton, North Carolina, In Chowan County,
North Carolina - Notice of Exemption
Docket No. AB-866X, North Carolina & Virginia Railroad Company, Inc.,
The Chesapeake and Albemarle Division - Discontinuance of Service
Exemption - At Edenton, North Carolina, In Chowan County, North Carolina
Notice of Exemption

Dear Mr. Williams:

Norfolk Southern Railway Company and North Carolina & Virginia Railroad Company, Inc., The Chesapeake and Albemarle Division filed combined Notices of Exemption in the captioned dockets to permit NSR's abandonment of, and NCVA's discontinuance of service under a lease from NSR over, a line of railroad between approximately Milepost NS-73.67 and Milepost NS-74.00 in Edenton, Chowan County, North Carolina, a distance of approximately 0.33 mile (the "Line"). NSR submits and requests the Board to accept this correction to and update of the environmental report accompanying the notices in these dockets. I also wish to apologize for any inconvenience to the Board that my inadvertent omission or inability to have submitted a completely current environmental report, or to submit this correction more quickly, may have caused.

In summary, the rail and track material (but not the ballast), on the Line has been removed by a contractor of Dominion Virginia Power (sometimes known as Virginia Electric and Power Company)("Dominion"). NSR previously sold the property to Dominion. Dominion has advised that the track removal work was done with minimal

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disturbance to the ballast or contour of the property and minimal, if any, excavation or similar activity and without fill, dredging or other in-stream or bridge removal work. Significantly, the trestle over Princess Anne Creek has not been removed. Thus, the conditions recommended by the Board's Section of Environmental Analysis (SEA) will still be appropriate and will serve their primary purposes, but can no longer be applied with respect to removal of the rail, cross ties, tie plates and spikes. Dominion has advised us that this minimally intrusive removal work has been done carefully.

The Board served the notices of exemption in these dockets on July 16, 2004. The effective date for the notices is scheduled for August 17, 2004. On July 23, 2004, SEA served an Environmental Assessment, recommending three consultation conditions with respect to salvage of the Line and a condition requiring completion of the Section 106 historic preservation before any structures more than 50 years old are removed from the Line. Two of the conditions relate to consultation with state and federal agencies with respect to salvage because of the possibility of endangered or threatened species near the Line. The other relates to consultation with the U. S. Army Corps of Engineers, whose primary jurisdiction and concern is with navigable waterways and activities that might take place in or affect those waterways, especially with respect to bridges over such waterways.

NSR, either directly or through Dominion, can still comply with the recommended conditions with respect to the important structure on the Line and the most significant area the Line traverses, the trestle over Princess Anne Creek and the creek itself. We realize that the recommended conditions have become partially moot due to Dominion's removal of the rail, cross ties, tie plates and spikes from the Line in order to facilitate work on repairing and upgrading its electric power transmission system along the right-of-way in this area. As noted above, however, the primary purposes of the conditions can still be achieved because the trestle remains in place. Thus, work with respect to the recommended conditions has not been wasted and we are aware of no reason the Board should not still impose them as conditions in this docket.

The small, out-of-service Line that is the subject of the notices of exemption was one of two line segments on either side of Albemarle Sound in Chowan and Washington Counties, North Carolina that NSR sold to Dominion prior to the filing of the notices of exemption in the subject dockets and the petition for exemption in STB Docket No. AB-290, Sub-No. 248X, Norfolk Southern Railway Company - Abandonment Exemption - In Washington County, NC. As further detailed below, Dominion had the rail, cross ties, tie plates and spikes removed from these segments in order to facilitate its work on repairing and upgrading its electric power transmission system, which sustained heavy damage in this area from Hurricane Isabel in September 2003. The system required some improvement in any event. The subject 0.33-mile line segment lies between King Street

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and Hayes Farm Road in Edenton, NC. A 232-foot trestle on the Line traverses Princess Anne Creek. It is the only structure on NSR's bridge and structure list for the Line.

Nonetheless, we erred in not notifying the Board of the actual or pending track removal in the environmental report that accompanied the notices or through an earlier update or correction to the notices. This was an inadvertent omission, and we believe, a relatively harmless error in this case. We nonetheless regret any extra work or problem this may have caused SEA or the Board. As already noted, since the recommended conditions appear to be largely applicable to the possible salvage or removal of the Princess Anne Creek trestle and the historic preservation process with respect to that trestle, and that structure remains intact, the environmental work on this matter has not resulted in moot recommendations. The primary purpose of all the conditions can still be achieved and the Board can impose the conditions so that they may be applied to work with respect to the trestle and its surrounding area. I am told that while there was no immediate plan to remove the trestle when the environmental report was being prepared, we now know the trestle will almost certainly be removed in the near future. The recommended conditions with respect to the trestle can be satisfied before this occurs.

NSR disclosed the sale of the two line segments to Dominion in the notices of exemption and the petition for exemption. NSR also asked for exemptions from the Offer of Financial Assistance and Public Use provisions of 49 U.S.C. 10904-10905 in No. AB-290, Sub-No. 248X. NSR stated that the Plymouth-Mackeys line would not be suitable for other public purposes because it was being sold to Dominion for public purposes. No further exemptions were requested in the subject dockets because the length, out-of-service status and location of this Line, and its disclosed sale to Dominion, make any public use requests or offers of financial assistance extremely unlikely and effectively moot.

No shipper could have been harmed by the track removal, since the Line has been out of service for several years and no potential shippers are located on the Line. Moreover, in the sales agreement and the deed conveying the property to Dominion, NSR retained an easement to permit the continued location and operation of the rail line until consummation of an abandonment pursuant to STB exemption or authority. These documents also require Dominion to restore the track promptly if Dominion removed any of it and NSR thereafter received a reasonable demand for rail service over the Line or an order of the STB or a court to restore it before consummation of the Line's abandonment.

After Hurricane Isabel's widespread damage in Chowan County, Washington County and other locations in the area last September, Dominion was anxious to repair the hurricane's damage to their adjacent power line, upgrade that line prior to this hurricane

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season and keep convenient access to the property by maintaining the rights-of-way as service roads, using any existing ballast or structures. After Dominion made temporary repairs to its power lines, the continuous supply of electric power to the area over the old system was still tenuous. Relatively frequent power outages in the whole area around Edenton as well as the Mackeys-Plymouth area continued. Dominion needed full access to the rights-of-way as quickly as possible to remedy this situation and to prepare for future storms. The short, dead-end Edenton segment had not served any shippers for many years, and there was no prospect for movement of future traffic over it. NSR and NCVA had no real use for the short segment or any reason to spend any money to maintain it.

NSR's desire to abandon the 0.33-mile out-of-service Line at Edenton, and NCVA's ability to discontinue its use under a lease, coincided with Dominion's desire to obtain complete access to the property for its extensive power line work and to maintain the right-of-way for future use for work on the power line, a public purpose. Therefore, NSR and Dominion co-operated to convey the Line, including the track and materials, promptly. NSR planned to file the notices of exemption and petition for exemption promptly but was delayed, in part due to the need for our contractor to complete environmental reports.

As noted, the sales agreement provided for, and the deed to Dominion itself contains, an easement and reservations designed to protect the STB's jurisdiction over the Line and NSR's ability to meet any common carrier obligation to provide service over it in the extremely unlikely event that NSR received a reasonable request for rail service or an order to restore the Line. This easement and the further conditions remain effective until NSR consummates abandonment of the Line, pursuant to STB exemption or order. The agreement and the deed itself require Dominion to restore any track Dominion might remove before NSR consummates the abandonment, at their expense, if restoration is required to meet NSR's common carrier obligation or comply with an STB or court order.

As circumstances developed, Dominion's program to complete its work in remedying current problems with their power transmission system in this area and in putting an upgraded system in place before this hurricane season had to progress to meet its timetable while NSR was still preparing the environmental reports and the abandonment filings. We did not monitor Dominion's actions sufficiently and to take them into account in our environmental report or otherwise in our filings during their delayed preparation.

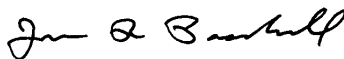
While we regret the oversight in not taking into account or more timely reporting Dominion's removal of rail, ties, tie plates and spikes on the Line to the Board in these two related cases, we wish to point out that the situation is somewhat unusual and in the usual case, NSR would directly control the timing of salvage work. Nonetheless, if the situation should arise again, we will make every effort to handle it more carefully and precisely.

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We will appreciate the Board's and SEA's understanding of the somewhat unusual circumstances that made the situation more difficult than usual to monitor and contributed to the oversight. We again note the agreement and deed conditions NSR did require to preserve the Board's jurisdiction and our ability to restore the track, if required. We believe that the public purpose served by Dominion's work, the care with which Dominion performed the rail and material removal and the fact that the recommended conditions can still serve their primary purpose should mitigate the effects of our reporting oversight.

Please acknowledge receipt of the mailed copies of this letter and return it to me in the self-addressed, stamped envelope.

Very truly yours,


James R. Paschall

cc via e-mail: Ms. Victoria Rutson, SEA
Ms. Rhini Ghosh, SEA

cc: Louis E. Gitomer
Ball Janik LLP
1455 F Street, N.W., Suite 225
Washington, D.C. 20005

Gary A. Laakso,
VP-Regulatory Counsel
RailAmerica, Inc.
5300 Broken Sound Blvd., NW
Boca Raton, FL 33487

NC Department of Environment
and Natural Resources
Mr. Bill Ross
1601 Mail Service Center
Raleigh, NC 27699-1302

Mr. Patrick B. Simmons, Director
NC Department of Transportation
Rail Division
1553 Mail Service Center
Raleigh, NC 27699-1533

Tracy Wheeler
Washington Regulatory Field Office
U.S. Army Corps of Engineers
P. O. Box 1000
Washington, NC 27889-1000

Mr. David L. S. Brook, Director
North Carolina Department of Cultural Resources
State Historic Preservation Office
507 N. Blount Street
Raleigh, NC 27699-4617

U. S. Fish and Wildlife Service
Richard B. Russell Building
Room 1200
1875 Century Boulevard, Suite 200
Atlanta, GA 30345