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February 2, 2005

VIA HAND DELIVERY - RETURN COPY

Hon. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW (7th fl.)
Washington, DC 20423-0001

ENTERED
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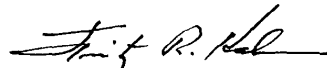
Dear Secretary Williams:

Enclosed for filing in STB Finance Docket No. 34649, New York & Greenwood Lake Railway – Feeder Line Application – A Line of Norfolk Southern Railway Company, are the original and ten copies of the Reply of New York & Greenwood Lake Railway.

Additional copies of this letter and of the Application are enclosed for you to stamp to acknowledge your receipt of them and to return to me via the messenger.

By copy of this letter, service is being effected upon counsel for Norfolk Southern Railway Company.

Sincerely yours,


Fritz R. Kahn

enc.

cc: Richard A. Allen, Esq.
Mr. James R. Wilson

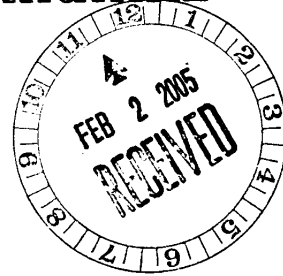
BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

Finance Docket No. 34649

NEW YORK & GREENWOOD LAKE RAILWAY
– FEEDER LINE ACQUISITION –
A LINE OF NORFOLK SOUTHERN RAILWAY COMPANY

REPLY
OF
NEW YORK & GREENWOOD LAKE RAILWAY

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ORIGINAL



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Washington, DC 20036-1601
Tel.: (202) 263-4152

Attorney for

NEW YORK & GREENWOOD LAKE RAILWAY

Dated: February 2, 2005

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

Finance Docket No. 34649

NEW YORK & GREENWOOD LAKE RAILWAY
– FEEDER LINE ACQUISITION –
A LINE OF NORFOLK SOUTHERN RAILWAY COMPANY

REPLY
OF
NEW YORK & GREENWOOD LAKE RAILWAY

Applicant, New York & Greenwood Lake Railway of Glen Ridge, New Jersey ("NYGL"), pursuant to 49 C.F.R. 1104.13(a), replies to the Motion of Norfolk Southern Railway Company ("NSR") to Reject Feeder Line Application and Deny Discovery Request, filed January 21, 2005 ("NSR's Motion"), as follows:

I.

The line appears on NSR's revised SDM.

NYGL has filed an Application to acquire a segment of NSR's Boonton Line in New Jersey pursuant to the feeder line provisions of 49 U.S.C. 10907 and 49 C.F.R. 1151.1, et seq. As the Board noted in its Decision in Finance Docket No. 32479, Caddo Antoine and Little Missouri Railroad Company–Feeder Line Acquisition–Arkansas Midland Railroad Company Line Between Gurdon and Birds Mill, AR, served August 12, 1999, "Under section 10907(b) and 49 CFR 1151.1, a line is eligible for forced sale if: (1) the PC&N require or permit sale of the

line, section 10907(b)(1)(A)(I), or (2) it appears in category 1 or 2 of the owning carrier's SDM, but the owning carrier has not filed for abandonment, section 10907(b)(1)(A)(ii)."

Accord, Finance Docket No. 32337, Sunshine Mills, Inc.—Feeder Line Acquisition—Norfolk Southern Railway Company Line Between Corinth, MS, and Haleyville, AL, served August 23, 1993 ("Under 49 U.S.C. 10910, a line is available for forced sale if either: (1) the owning carrier has identified the line in category 1 or 2 of its SDM as a candidate for abandonment but has not yet applied for abandonment authority ('SDM standard') or (2) the operating carrier is not providing adequate service ('PC&N standard')[footnotes omitted]."); Ex Parte No. 395 (Sub-No. 2), Revision of Feeder Railroad Development Rules, 7 I.C.C.2d 902, 912 (1991)("Under §10910, a line is available for forced sale if *either*: (1) the owning carrier has identified the line in category 1 or 2 of its SDM as a candidate for abandonment but has not yet applied for abandonment authority ('SDM standard'); or (2) the operating carrier is not providing adequate service ('PC&N standard')[footnotes omitted]").¹

As was evident from its Application, NYGL seeks to acquire the Boonton Line segment pursuant to the SDM standard of section 10907(b)(b)(A)(ii). NYGL has no reason to question NSR's representation, at page 4 of its Verified Notice of Exemption in STB Docket No. AB-290 (Sub-No. 242X), Norfolk Southern Railway Company—Discontinuance of Service Exemption—Between Newark, New Jersey and Kearny, New Jersey, in Essex and Hudson Counties, New Jersey, filed December 29, 2004 ("NSR's Notice of Exemption"), that "no traffic has originated, terminated or moved overhead on the Line for at least two years." NYGL,

¹ Former §10910 was carried forward virtually unchanged by the ICC Termination Act of 1995 and now is §10907.

accordingly, could not make the showing it would need to make if it were seeking to acquire the Boonton Line segment pursuant to the PC&N standard that “the rail carrier operating such line refuses within a reasonable time to make the necessary efforts to provide adequate service to shippers who transport traffic over such line” or that “the transportation over such line is inadequate for the majority of shippers who transport traffic over such line.” See, PSI Energy, Inc.–Feeder Line–Norfolk Southern Corp., 7 I.C.C.2d 227, 232-33 (1991).² NSR’s discussion of the PC&N standard and its citation to Revision of Feeder Line Development Rules, supra, 7 I.C.C.2d at 911-14, and Sunshine Mills, Inc.–Feeder Line Acquisition–Norfolk Southern Railway Company Line Between Corinth, MS, and Haleyville, AL, supra, in which the PC&N standard was central to the decisions’ holdings, at pages 14-15 of NSR’s Motion, thus, are mere strawmen arguments totally irrelevant to the issues in the instant proceeding.

Section 10907(b)(1)(A)(ii), pursuant to which NYGL seeks to acquire the Boonton Line segment, permits its forced sale if “a railroad line is on a system diagram map as required under section 10903 of this title, but the railroad carrier owning such line has not filed an application to abandon such line under section 10903 of this title before an application to purchase such line . . . is filed under this section.” That is the situation which obtains. NSR has identified the Boonton Line segment as a candidate for discontinuance in its revised system diagram map, but it has not filed an application for its abandonment. At page 5 of NSR’s Motion, NSR acknowledges that “[o]n September 20, 2003, NSR caused a legal notice to be published in the Newark Star Ledger

² The ICC in that case deemed the feeder line application to have been filed prematurely because the shipper had made no effort to have the discontinuance of service authorized by the Regional Rail Reorganization Act of 1973 vacated and to have the ICC reimpose a service obligation for the line in question.

stating that NSR had amended its SDM ‘to show that NSR and Pennsylvania Lines LLC (PRR) anticipate filing with the Surface Transportation Board within three years an application for authority to discontinue operations over the Boonton, New Jersey rail line between Milepost WD-2.2 and Milepost WD-8.4.’” A copy of the revised system diagram map is attached as Exhibit A.

In obviously self-serving declarations, NSR, at pages 5 and 8 of NSR’s Motion, and Ms. Jani Marie Lipps, at page 1 of her attached Verified Statement, maintain that the revised system diagram map was “incorrect.” NYGL respectfully submits that there is nothing of record to suggest that the revised system diagram was incorrect. To the contrary, issued after NSR began tearing up track on the line and the public outrage its action occasioned (Exhibit B), the revised system diagram map correctly anticipated that the Boonton Line segment would be the subject of a discontinuance application to be filed within three year’s time. In fact, it took only about fourteen months after the revised system diagram was published in the Newark Star Ledger for NSR, on December 29, 2004, to file NSR’s Notice of Exemption seeking the Board’s authorization to discontinue rendering service on the Boonton Line segment.

NSR and Ms. Lipps contend that the correct system diagram map for NSR was the color-coded one, a copy of which was an attachment to NSR’s Motion. That map, however, was dated August 26, 2003, nearly a month before NSR caused the revised system diagram map to be published in the Newark Star Ledger on September 20, 2003. Moreover, the August 26, 2003, color-coded map, eventually filed with the Board more than half a year later, on March 26, 2004, could not have been the correct system diagram map, because, not having shown the Boonton Line segment in red, the map failed to identify “[a]ll lines or portions of lines which the carrier

anticipates will be the subject of an abandonment or discontinuance application to be filed within the 3-year period following the date upon which the diagram or narrative, is filed with the Board,” as required by 49 C.F.R. 1152.10(b)(1). The color-coded map neglected to identify the Boonton Line segment which, by NSR’s Petition for Exemption, filed only eight months later, on December 29, 2004, NSR sought Board authorization to discontinue serving. The August 26, 2003, color-coded map was not NSR’s latest system diagram map as it related to the Boonton Line segment, and it gains no validity by NSR’s having sent a copy of it to Mr. J. R. Wilson, President of NYGL, as NSR infers, at pages 5-6 and 8 of NSR’s Motion and pages 1-2 of Ms. Lipps’ Verified Statement.

At page 9 of NSR’s Motion, NSR maintains, “Moreover, even if the Legal Notice cited in Paragraph 16 [of NYGL’s Application] had been correct, the Application would be plainly incomplete, because the Legal Notice only referred to the Boonton Line Segment and made no reference to the other part of the line that NYGL seeks to acquire, the Newark Industrial Track.” It well may have been that the legend accompanying the revised system diagram map may be been incomplete. On August 1, 3003, NSR advised the Mayor of Kearney that it planned to ask the Board for authority to discontinue rendering service on the Newark Industrial Track, as well as the Boonton Line segment. Exhibit C.

Only about a month ago, on December 29, 2004, NSR’s Notice of Exemption, NSR had represented the Newark Industrial Track and the Boonton Line segment as comprising a single 10-mile line of railroad. At page 3 of NSR’s Notice of Exemption, NSR described the line over which it sought the Board’s authorization to discontinue rendering service, as follows:

[I]ts 10.0-mile line of railroad lying between Milepost WD-2.2 in Newark, New

Jersey and Milepost WD-8.4 in Kearny, New Jersey (which is a segment of a branch Line called the “Boonton” Line), and between Milepost NK-4.3 and Milepost NK-8.1 on the adjacent Newark Industrial Track, in Essex and Hudson Counties, New Jersey (the “Line”). Despite the two line designations, the Line had last been operated as a single contiguous track over which a local freight train served the last remaining shipper on the Line, which was located on the Newark Industrial Track.

Indeed, the map of the revised system diagram map as published in The Star Ledger of September 20, 2003, is the identical map attached as Exhibit 1 to NSR’s Notice of Exemption (Exhibit C), with both of the maps showing the milepost designations of the proposed service discontinuance. It is that 10-mile line of railroad as depicted on the revised system diagram map which NYGL seeks to acquire by its feeder line Application.

NYGL, therefore, has shown, as required by 49 U.S.C.10907(b)(1)(A)(ii) and 49 C.F.R. 1151.1, that the railroad line which it seeks to acquire by its feeder line Application “appears in category 1 or 2 of the owning carrier’s SDM, but the owning carrier has not filed for abandonment.” Finance Docket No. 32479, Caddo Antoine and Little Missouri Railroad Company–Feeder Line Acquisition–Arkansas Midland Railroad Company Line Between Gurdon and Birds Mill, AR, *supra*. At page 13 of NSR’s Motion, NSR alleges that “the term ‘abandonment’ for these purposes appears to include discontinuances [footnotes omitted].” That, however, is not how either the statute or the Board’s regulation reads. Neither the statute nor the Board’s regulation provides that a line is eligible for forced sale if it appears in category 1 or 2 of the owning carrier’s SDM, but the owning carrier has not filed for abandonment or discontinuance. The statute and the Board’s regulation call for rejection of a feeder line application filed under the SDM standard only if the railroad owning the line in question has filed for abandonment before the feeder line application was filed. The statute and the Board’s

regulation are perfectly clear; nothing about their phrasing is ambiguous. In the circumstances, the Board must give effect to the plain meaning of the terms as set forth in the statute and the Board's regulation. Kraus & Bros. v. United States, 327 U.S. 614, 621 (1946)("[T]o these [regulatory] provisions must be applied the same strict rule of construction that is applied to statutes. . ."); Lane v. Principi, 339 F.3d 1331, 1340 (Fed. Cir. 2003)("To interpret a regulation, we . . . look at its plain language and consider the terms in accordance with their common meaning.' [citation omitted]."); Lara v. Cinemark USA, Inc., 207 F.3d 783, 787 (5th Cir. 2000)("In interpreting a statute or regulation, we first look to the statute or regulation's plain language."). NSR has filed an application to discontinue serving the Boonton Line segment and not to abandon it.

At pages 1-2 and 10-12 of NSR's Motion, NSR argues that "the offer of financial assistance ("OFA") procedures under 49 U.S.C. §10904 provide a fully adequate means for NYGL or any other interested party to preserve rail service if they wish to." NS took a diametrically opposite position less than a month earlier in NSR's Notice of Exemption. At page 8 of NSR's Notice of Exemption, NSR said, "Because this is a discontinuance of service proceeding and does not involve a rail line abandonment, and because there has been no service over the Line for at least two years, the Board need not consider offers of financial assistance (OFAs) to acquire the line for continued rail service [footnote omitted]." NSR cited to STB Docket No. AB-55 (Sub-No. 641X), CSX Transportation Inc. - Discontinuance Exemption - In Knox County TN, served January 2, 2004, in which the Board said, "Because this is a discontinuance proceeding and not an abandonment, the Board need not consider offers of financial assistance (OFAs) to acquire the line for continued rail service (the OFA provisions for

a subsidy to provide continued rail service do apply to discontinuances.)” Accord, STB Docket No. AB 565 (Sub-No. 15X), New York Central Lines, LLC–Discontinuance Exemption–In Henry County, IN, served December 5, 2003. In other words, a timely offer by NYGL, pursuant to 49 U.S.C. 10904 and 49 C.F.R. 1152.27, to purchase the Boonton Line segment over which NSR proposed to discontinue rendering service would have been rejected by the Board, and a subsidy by NYGL to continue rail service on the line would have been nonsensical since, as NSR pointed out at page 4 of NSR’s Notice of Exemption, “no traffic has originated, terminated or moved overhead on the Line for at least two years.”

The only way that NYGL is able acquire the Boonton Line segment is through the feeder line provisions of 49 U.S.C. 10907 and 49 C.F.R. 1151.1, et seq., and, having established that the line appears on NSR’s revised system diagram map, as published in The Star Ledger on September 20, 2003, NYGL is entitled to have its Application entertained and considered by the Board and not rejected, as NSR urges.

II.

The Application is incomplete only for want of NSR data.

As a further ground for asking the Board to reject NYGL’s Application, NS, beginning at page 7 of NSR’s Motion, contends that the Application is incomplete in material respects. NYGL does not dispute that its Application is incomplete. The Application is incomplete, however, only insofar as NYGL is dependent upon information primarily or exclusively within the knowledge of NSR. NYGL it seeks to secure that information by NYGL’s First Set of Interrogatories and Document Production Requests which in its Application NYGL asked leave to serve upon NSR.

Indeed, notwithstanding its reference to the section, NSR seems not to understand that the Board's regulations specifically permit the filing of incomplete feeder line applications. 49 C.F.R. 1152.2(d), in part, provides

(1) If an applicant seeking to file an initial or competing application is unable to obtain required information that is primarily or exclusively within the personal knowledge of the owning carrier, the applicant may file an incomplete application if it files at the same time a request for discovery under 49 CFR part 1114 to obtain the needed information from the owning carrier.

(2) The Board, through the Director of the Office of Proceedings, will by decision conditionally accept incomplete initial or competing applications, if the Director determines that the discovery sought is necessary for the application and primarily or exclusively within the knowledge of the owning carrier.

NSR goes on at great length, at pages 7-9 of NRS's Motion, to point out that NYGL's Application was wholly without evidence relating to the PC&N standard of section 10907(b)(1)(A)(I). That should not have come as a surprise to NSR, since, as was evident from NYGL's Application, NYGL rests its request to be allowed to acquire the Boonton Line segment on the SDM standard of section 10907(b)(1)(A)(ii).

At page 9 of NSR's Motion, NSR next contends that NYGL failed to offer any information that it is a financially responsible person capable of paying the greater of the going concern value of the Boonton Line segment or its net liquidation value and to operate the property for at least three years' time. NYGL may be found to be a financially responsible person if its acquisition and operation of the Boonton Line segment were within its means to finance or, conversely, it may be found not to be a financially responsible person if the property's price and its potential traffic were to dissuade a bank or other financial institution from advancing the funds that NYGL would need to acquire and operate the Boonton Line segment.

NYGL's discovery request is intended to provide it with the information which only NSR has pertaining to the value of the property and the traffic heretofore handled on the line, and, once NYGL has been provided with that data, it will supplement its Application and document whether, under the circumstances, it is a financially responsible person.

Finally, at pages 9-10 of NSR's Motion, NSR alleges that NYGL failed to satisfy the requirement of 49 C.F.R. 1115.3(a)(7) that an operating plan be included in a feeder line application. NYGL disagrees.. NYGL, at page 3 of its Application, stated:

NYGL, which itself will be the operator, anticipates that initially it will be rendering on-demand service on the railroad line sought to be acquired, the frequency of service to be increased as freight volumes become greater. Understandably, NYGL currently has no rate agreements or contracts with shippers which it would serve via the railroad line to be acquired; however, it has had expressions of interest from potential shippers and anticipates being able to negotiate rate agreements or contracts with them once it acquires the property.

NYGL anticipates that it will interchange traffic with NS, but obviously the two railroads as yet have not arrived at an interchange agreement or settled upon joint rates to apply on the traffic originating or terminating on the line sought to be acquired.

NYGL respectfully submits that the foregoing fully satisfies the requirement that an operating plan be included in a feeder line application, bearing in mind that the Boonton Line segment, the railroad line sought to be acquired by NYGL's Application, NSR acknowledges has been out of service for at least two years' time.

In its so-called background discussion, at pages 2-6 of NSR's Motion, NSR goes on at great length about NYGL aspiration to revive commuter passenger service between Glen Ridge and Hoboken, a portion of which would be conducted over the Boonton Line segment which is the subject of NYGL's Application. The matter is completely extraneous to the instant

proceeding, however, since NYGL's ability to render the commuter passenger service is dependent upon the approval of NYGL's proposal pending before the New Jersey Department of Transportation. Nevertheless, NSR, at page 4 of NSR's Motion, faults NYGL for allegedly having failed to provide it with a viable business plan for such service. To the contrary, NYGL heretofore has told NSR of potential shippers seeking to locate on the Boonton Line segment, only to find to its dismay that NSR was back soliciting the potential shippers, urging them to locate on NSR lines over which it did not intend to discontinue providing service. Exhibit E.

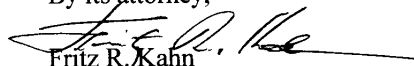
NYGL has submitted a feeder line application providing all of the information called for by the Board's regulation, except for that to be derived from data within the primary or exclusive knowledge of NSR which NYGL's discovery request addresses.

WHEREFORE, New York & Greenwood Lake Railway asks that the Motion of Norfolk Southern Railway Company to Reject Feeder Line Application and Deny Discovery Request be denied and that the Board, through the Director of the Office of Proceedings, conditionally accept New York & Greenwood Lake Railway's Application.

Respectfully submitted,

NEW YORK & GREENWOOD LAKE RAILWAY

By its attorney,



Fritz R. Kahn

Fritz R. Kahn, P.C.

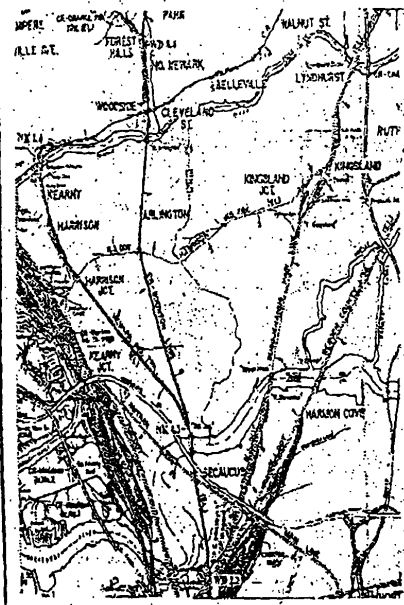
1920 N Street, NW (8th fl.)

Washington, DC 20036-1601

Tel.: (202) 263-4152

Dated: February 2, 2005.

EXHIBIT A



LEGAL NOTICE

Pursuant to federal regulations published at 49 Code of Federal Regulations § 1152.12(c), Norfolk Southern Railway Company (NSR) hereby gives notice that it has amended its system diagram map to show that NSR and Pennsylvania Lines LLC (PRR) anticipate filing with the Surface Transportation Board within three years an application for authority to discontinue rail operations over the Boonton, New Jersey rail line between Milepost WD-2.2 and Milepost WD-8.4. The involved line lies in Hudson and Essex Counties, New Jersey, and is shown on the accompanying map segment. Agency service for point on the line is handled through the Arlington, New Jersey, agency.

NSR has prepared a color-coded system diagram map showing all of the lines of its rail subsidiaries and leased lines. Copies of the map are available upon request from Strategic Planning, Norfolk Southern Corporation, Three Commercial Place, Norfolk, Virginia 23510-2191.

\$126.00

THE STAR LEDGER
SEPT 20 2003

THE JERSEY JOURNAL

JERSEY CITY - HUDSON DISPATCH

Home Delivery: \$3.30 weekly

Won't be derailed by removal of tracks

■ Critics of NJ Transit vow to prevail in court

By Martin Espinoza
Journal staff writer

For about a week, Glen Ridge railroad man James Wilson says he looked on with sadness through his office window as Norfolk Southern workers pulled up tracks from the Boonton Rail Line — a line that once serviced Kearny's North Arlington station.



WILSON

Wilson, the owner of the New York and Greenwood Lake Railway, is one of several people currently battling New Jersey Transit in court to restore commuter service on that line.

They are charging that NJ Transit failed to hold public hearings before shutting down the line on Sept. 20 of last year.

Wilson and others say the removal of tracks all along the line, which started a few weeks ago, is like a second slap in the face to commuters.

"They're doing it right in front of my station (Benson Street Station)," Wilson said. "The two tracks have been serving Hudson and Essex counties for more than 100 years. The sad

□ A9



Journal photo by Bill Bayer

SECTIONS OF THE TRACKS in Kearny at the former Arlington station stop have been removed by Norfolk Southern workers.

See TRACKS — Page A9

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PAGE. 03

Tracks are disappearing, but rail operator vows to continue court fight

Continued from Page A1

point is, if commuter service ever comes back, the track is not going to be there."

According to Rudy Husband, a spokesman for Norfolk Southern, which owns the tracks but is not a party in the legal dispute, one set of tracks in the two-set line is being removed "because we don't need it."

Husband said Norfolk Southern, after conducting an analysis of the line, determined that riders wouldn't be affected by the removal of tracks even if commuter service is restored.

"We can replace it if there's a need to restore that second track in the future," he said. But for now, "that track represents a maintenance cost."

But Wilson, who has offered to provide commuter service along the Boonton line, said replacing the track could cost the state a fortune. NJ Transit has rejected his offer to run a new commuter line.

On June 17, Wilson and the Lower Boonton Line Coalition, which represents commuters, will square off against NJ Transit in Superior Court Judge Thomas Olivieri's Jersey City chambers.

Michael D'Isa, a Kearny resident and plaintiff in the lawsuit, said Norfolk Southern should stop removing the tracks until the court case is settled.

"It doesn't make sense," said D'Isa. "It's upsetting for me because I'm hoping that service is restored into Hoboken."

With the Boonton Line gone, D'Isa said he must now take an NJ Transit shuttle bus from Arlington Station to Lyndhurst, where he gets on a mainline train to Hoboken. After that, D'Isa takes a PATH train to Manhattan, where he works as head of royalties for the Virgin Group's V2 Records.

Because of the elimination of the Boonton line, D'Isa said 20 to 25 minutes have been added to his commute.

Don Dzikowski, a Kearny resident who works in Hoboken as a journalist for a trade publication, called Norfolk's actions "an outrage."

"They should keep those tracks there, because there's an ongoing effort on the part of the folks at Greenwood to reinstate service," he said. "It's just another slap in the face. NJ Transit eliminates our service without any public hearings, and now this. (Norfolk Southern) should wait to see the outcome of the court case."

NJ Transit has rejected the charge that it eliminated service without public input. In January, NJ Transit's attorney, Alvin R. Little, said hearings were held in 1989. NJ Transit officials would not comment yesterday about the case or Norfolk Southern's removal of tracks.

"We don't comment on pending litigation," said Penny Bassett Hackett, spokeswoman for NJ Transit.

Greg Castano Jr., an attorney who represents Kearny in the case against NJ Transit, said Norfolk's actions do not render mute the outcome of the court battle.

"We are still challenging (NJ Transit's) action in court. Removal of a portion of the tracks does not resolve the legal matter," Castano said. "If (the suit) is successful, Norfolk Southern would have to replace the track."

John Fiorilla, a New Brunswick attorney representing Wilson's railway company, was equally as confident.

"What people take up they can always replace," he said. "If they have to put (the tracks) back, they'll have to put them back."

Jan 31 05 01:19p

NY & Greenwood Lake Rwy
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EXHIBIT C



**NORFOLK
SOUTHERN**

Norfolk Southern Corporation
Environmental Protection
110 Franklin Road, S.E.
Roanoke, Virginia 24042-0013

August 1, 2003
1-9-5-4

Mr. Alberto Santos
Mayor of Kearney
402 Kearney Avenue
Kearney, New Jersey 07032

Subject: Norfolk Southern Railway Company Proposed Rail Line Discontinuance of 6.2 miles of rail line located between Milepost WD-2.2 and Milepost WD 8.4 Boonton Line and 4.0 miles of the adjacent Newark Industrial Track (between Milepost NK 4.4 and Milepost NK 8.4) Boonton, New Jersey.

Dear Mr. Santos:

Norfolk Southern plans to file an application with the Surface Transportation Board (STB) seeking authority to discontinue use of 6.2 miles of rail service from MP WD 2.2 to WD 8.4 Boonton Line and 4.0 miles of rail service from Newark Industrial Track (NK 4.4 to NK 8.4 in the City of Boonton, New Jersey. Attached is an Environmental Report describing the proposed action and any expected environmental effects, as well as a map of the affected area.

We are providing this report so that you may review the 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, or if you think pertinent information is missing, or if you have any questions about the Board's Environmental Review process, please contact the Section of Environmental Analysis (SEA), Room 3219 Surface Transportation Board, 1925 K Street, N.W., Washington DC 20423-001, Telephone (202) 565-1552 and refer to the above Docket. Because applicable statutes and regulations impose stringent deadlines for processing this action, your written comments (with a copy to us) would be appreciated within three weeks.

Your comments will be considered by the Board in evaluating the environmental impacts of the contemplated action. In order for us to consider your input prior to filing our application with the STB, we must receive your comments within three weeks. Please either provide a copy of your comments by mail at the address shown on this letterhead or provide information by telephone to Mr. Larry Western at (540) 981-4239.

Sincerely

K. R. Miller
Director Environmental Operations

BOON.lrd

Attachment

CC: L.G. Western

J.R. Paschall

J.M. Lipps

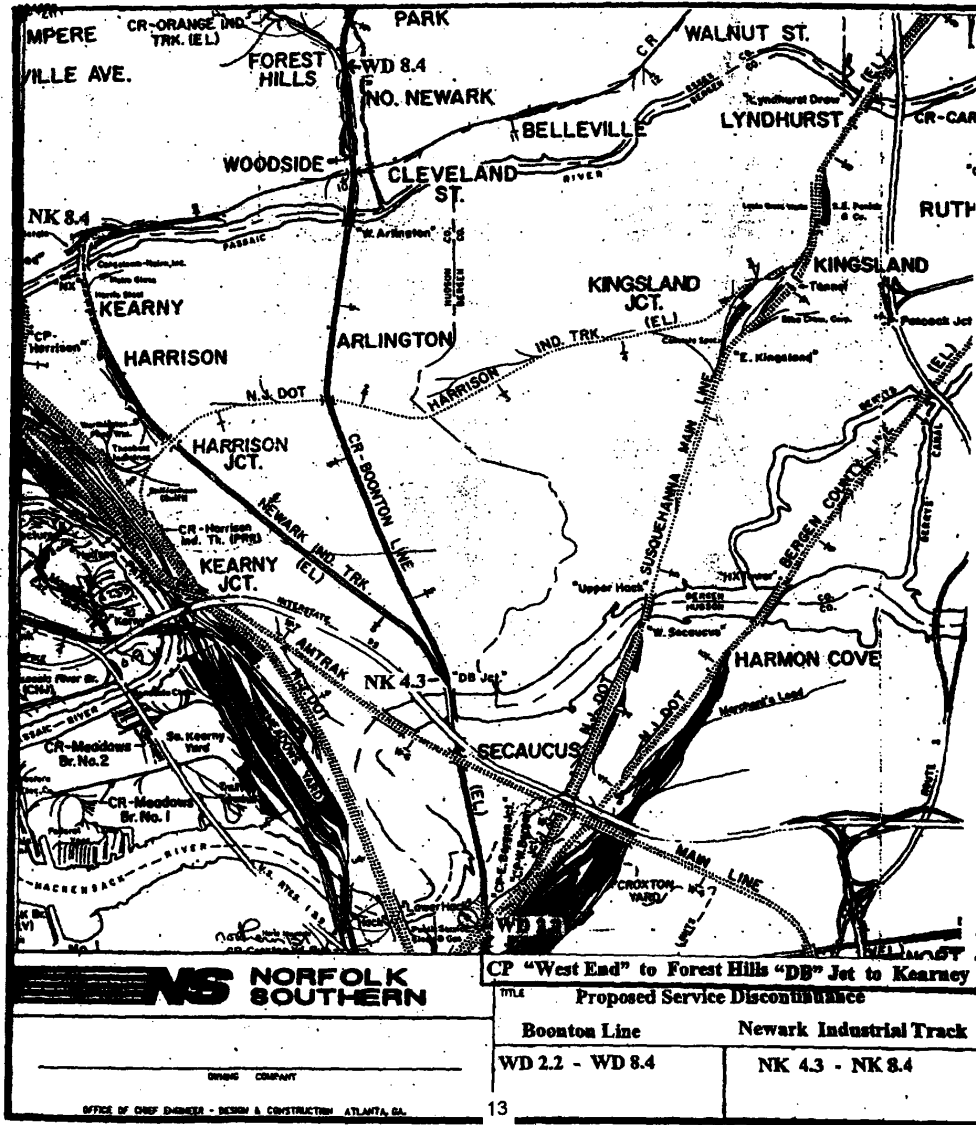
Operating Subsidiary: Norfolk Southern Railway Company

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JAN 31 2005 13:08

Exhibit 1



Jan 31 05 01:19p

NY & Greenwood Lake Rwy

973743458

EXHIBIT E

New York & Greenwood Lake Railway

April 3, 2003

Mr. Donald W. Seale
Senior Vice President Merchandise Marketing
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510-2191

VIA FAX

Re: Boonton Line Milepost 2.2 Croxton Yard, Jersey City, NJ
To Milepost 11.0 Glen Ridge, NJ

Dear Mr. Seale:

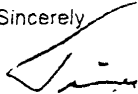
Attached please find letter from one of four customers we are in discussion with to transload at North Newark. It is understood that tomorrow, April 4, NS will award a contract to pull up track on this piece of railroad.

I made a request to Steve Eisenach last Friday to stay the removal of this track. Storage space is in short supply and the customers I am dealing with do require railcar storage. The track scheduled to be removed would serve this need.

The customers I bring to the table are real and would give NS a presence (outside Shared Assets) in Newark, the largest city in New Jersey.

We are working closely with NS Account Managers to acquire this new business and we urge you to persuade the factions at NS that wish to remove this track to refrain from doing so.

Sincerely,



J.R. Wilson, CEO NYGL

Cc: NJ DOT Commissioner Jack Lettiere
NJ DOT Ted Mathews
John Kraemer
NJ SLA Robert Bailey
Larry DeYoung

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JAN 31 2005 13:07

RAIL-TECH, LLC

1034 HUDSON AVENUE
RIDGEFIELD, NJ 07657
TEL. 201. 402.9230
FAX 201. 840.7799

April 2, 2003

James R. Wilson, CEO
New York & Greenwood Lake Railway
P.O. Box 106
Glen Ridge, NJ 07028

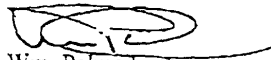
Sent Via Fax: 973-743-4580

Dear Mr. Wilson:

In reference to the North Newark Station, we wish to express our interest in opening and operating a construction debris transfer rail facility. Such facilities are both safety and ecologically sound approaches to the removal of this type of debris. By utilizing rail cars instead of trucks and trailers to transport this debris Rail-Tech, LLC in effect will reduce traffic congestion, as well as, vehicular accidents caused by the use of these over the road vehicles. Also, because each rail car transports the same amount of material as six 100 yd. trailers, the emission of harmful pollutants to our environment is drastically reduced in comparison to the emissions of tractor diesel combustion engines.

In our estimation, Rail-Tech, LLC has the potential of moving between 1,800 to 2,500 rail cars of debris annually through this North Newark Station facility. At that level of volume this facility will spur not only the local economy by creating new jobs, but also in the Midwest region at the eventual end point of this debris. Please consider these points in determining your decision and we hope that you will agree that this is a positive situation for all concerned.

Very truly yours,



Wm. Palmadessa
President



Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-9206
757 629-2730
757 533-4824 FAX

Donald W. Seale
Senior Vice President
Merchandise Marketing

April 17, 2003

Mr. James Wilson, President
New York & Greenwood Lake Railway
P. O. Box 106
Glen Ridge, NJ 07028

Dear Jim:

This is a follow-up letter to the phone call made to your office by Norfolk Southern Short Line Marketing on Monday, April 7, 2003 in response to your letter dated April 3, 2003 on an industrial development opportunity in Newark, NJ.

In regard to your interest in using part of the recently retired Boonton line's North Newark Yard at milepost 7.9 as a team track for loading of construction debris, this track is now out of service and that proceedings have begun to officially discontinue service on it. We have forwarded the customer's letter to our Industrial Development Department so they can help the customer find a suitable location on an actively-served rail line.

We appreciate your interest in developing new business opportunities. If you have any further leads, please don't hesitate to contact our Short Line Marketing team.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Don Seale', written in a cursive style.

cc: Mr. Mel Clemens
U.S. Department of Transportation
Surface Transportation Board
1925 K Street, NW, Suite 500
Washington DC 20423

Mr. John Kraemer

Operating Subsidiary: Norfolk Southern Railway Company

*** TOTAL PAGE. 22 ***

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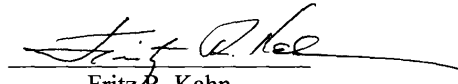
9737434580

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CERTIFICATE OF SERVICE

I certify that I this day have served a copy of the foregoing Reply upon Norfolk Southern Railway Company by facsimile transmitting and mailing copies thereof by prepaid first-class mail to its attorney, Richard A. Allen, Esq.

Dated at Washington, DC, this 2nd day of February, 2005.


Fritz R. Kahn