


Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191

James R. Paschall
Senior General Attorney

ENTERED
Office of Proceedings

DEC 06 2006

Part of
Public Record

December 5, 2006



(757) 629-2759

VIA DHL EXPRESS

Mr. Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D. C. 20006

218214

Re: STB Docket No. AB-290 (Sub. No. 272X), Norfolk Southern Railway
Company – Abandonment - In McDowell County, West Virginia – Notice of
Exemption

Dear Mr. Williams:

Enclosed for filing with the Board in the captioned proceeding are an original and
ten copies of the Notice of Exemption. Also enclosed is a check in the amount of
\$3,100.00 to cover the filing fee.

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

Yours very truly,

FILED

DEC 6 2006



James R. Paschall

JRP/kch
Enclosures

FILE RECEIVED

DEC 6 2006

**SURFACE
TRANSPORTATION BOARD**

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-290 (SUB-NO. 272X)

NORFOLK SOUTHERN RAILWAY COMPANY

-- ABANDONMENT--

IN MCDOWELL COUNTY, WEST VIRGINIA

VERIFIED NOTICE OF EXEMPTION

COMES NOW Norfolk Southern Railway Company ("NSR") and files this notice of exemption from regulation under 49 U.S.C. §§ 10903, pursuant to the provisions of 49 U.S.C. § 10502 and of the Board's regulations at 49 CFR § 1152.50, for abandonment of its line of railroad lying between milepost CB 0.0 and milepost CB 2.5 in Caretta, McDowell County, West Virginia. NSR states as follows:

Traffic Certification - §§ 1152.50(b) and (d)(2)

As the attached certificate of General Manager B. A. Burgess confirms, no traffic has originated, terminated or moved overhead on this line segment for at least two years (or any overhead traffic on the line can be rerouted over other lines), and no complaint is pending with the Board or a U. S. District Court or has been decided in favor of a complainant concerning cessation of service over this line within the two-year period.



Consummation Date - § 1152.50(d)(2)

The effective date of the abandonment between milepost CB 0.0 and milepost 2.5 in Caretta, McDowell County, West Virginia, will be January 25, 2007.

General Corporate Information - § 1152.22(a)(1-2) and (7)

The party filing this notice is Norfolk Southern Railway Company, a common carrier by railroad subject to STB jurisdiction under the Interstate Commerce Commission Termination Act (Interstate Transportation Act) (49 U.S.C. Subtitle IV, Chapter 105), whose representative to whom correspondence may be sent is:

James R. Paschall
Senior General Attorney
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510
(757) 629-2759

Description of the Line and the Relief Sought - § 1152.22(a)(3-4 and 7)

The relief sought is an exemption from the prior approval requirements of 49 U.S.C. §10903 in order for NSR to abandon the subject line. The line that will be subject to abandonment under the exemption consists of 2.5 miles of track between milepost CB 0.0 and milepost CB 2.5 in Caretta, McDowell County, West Virginia. A map showing the line to be abandoned, other rail lines in the area, highways, and population centers is attached as Exhibit 1 to this notice. The line traverses United States Postal Service ZIP Code 24892, in McDowell County, West Virginia. The line includes the former station of Juno.

Suitability of the Line for Other Public Purposes - § 1152.22(e)(4)

NSR has received no inquiries about public use of the right-of-way comprising the Line and is unaware of any potential public purposes to which the right-of-way may be suited.

NSR is not aware of any restriction on the title to the right-of-way that would affect the transfer of title or the use of property for other than rail purposes but will provide full title information promptly if it receives a proposal to acquire the property for public purposes.

Labor Protection - § 1152.50(d)(2)

Since the line to be abandoned has been out of service for over two years, NSR believes no employees will be adversely affected by exercise of abandonment authority for this line. However, as a condition to exercise of the authority permitted in this matter, NSR will accept the imposition of standard labor protective conditions as set forth in Oregon Short Line R. Co. - Abandonment - Goshen, 360 I.C.C. 91 (1979).

Environmental and Historic Reports; Certifications - § 1105.7 and § 1105.8

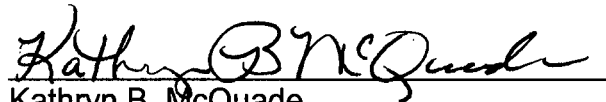
Attached are environmental and historical reports prepared and served in accordance with the Surface Transportation Board's regulations. NSR certifies that the notice and transmittal requirements of § 1105.7, § 1105.8 and § 1105.11 have been met.

Service and Newspaper Notice Requirements Certification - § 1152.50(d)(1-2)

As the attached certification indicates, NSR certifies that it has complied with the service and notice requirements of § 1152.50(d)(1)(certain government agencies) and § 1105.12 (newspaper notice).

For the foregoing reasons, NSR believes the proposed rail line abandonment is exempt from the prior approval requirements of 49 U.S.C. §§ 10903 pursuant to the Board's regulations at 49 C.F.R. § 1152.50 and requests that the Board serve the appropriate notice of exemption.

Respectfully submitted,

A handwritten signature in cursive script, reading "Kathryn B. McQuade", written over a horizontal line.

Kathryn B. McQuade
Vice President
Norfolk Southern Railway Company

Of Counsel:

James R. Paschall
Senior General Attorney
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191
(757) 629-2759

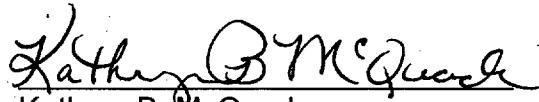
Attorney for Norfolk Southern Railway Company

Dated: December 5, 2006

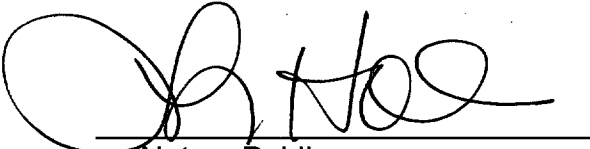
VERIFICATION

COMMONWEALTH OF VIRGINIA :
: SS:
CITY OF NORFOLK :

Kathryn B. McQuade, being duly sworn, deposes and says that she is Vice President of Norfolk Southern Railway Company; that she is authorized to sign, verify, and file with the Surface Transportation Board the foregoing Notice of Exemption in AB-290 (Sub-No. 272X) on behalf of Norfolk Southern Railway Company; that she has carefully examined all of the statements contained in said Notice of Exemption; that she has knowledge of the matters set forth therein; and that all such statements made and matters set forth are true and correct to the best of her knowledge, information, and belief.


Kathryn B. McQuade

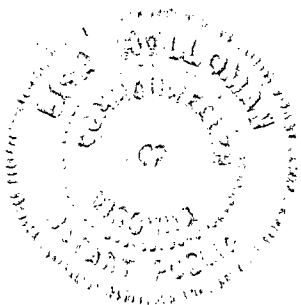
Subscribed and sworn to before me
this 21st day of November, 2006.


Notary Public

My commission expires:

November 30, 2009

[SEAL]



CERTIFICATION

STATE OF GEORGIA :

SS:

CITY OF ATLANTA :

B. A. Burgess makes oath and says that he is General Manager Eastern Region for Norfolk Southern Railway Company; that the line between mileposts CB 0.0 and CB 2.5 in Caretta, McDowell County, West Virginia, which is to be abandoned, is subject to his supervision and direction; that no local traffic has moved over the line for at least two years, that no overhead traffic has moved over the line for at least two years and that overhead traffic, if there were any, could be rerouted over other lines; and that no formal complaint filed by a user of rail service on the line or a state or local government entity acting on behalf of such user regarding cessation of service over the line either is pending before the Surface Transportation Board or any U. S. District Court or has been decided in favor of the complainant within the two-year period.



B. A. Burgess

Subscribed and sworn to before me
this 22nd day of November, 2006.



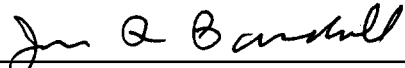
Notary Public

My commission expires:

Notary Public, Fulton County, Georgia
My Commission Expires June 9th 2008

CERTIFICATION

I hereby certify (1), pursuant to § 1105.11, that Environmental and Historic Reports were submitted to the agencies identified in § 1105.7(b) and to the appropriate State Historic Preservation Officer (see Exhibit 2); (2), pursuant to § 1105.12, that a notice of intent to abandon rail service was published in *The Welch Daily News*, Welch, West Virginia, on November 8, 2006 (see Exhibit 3); and (3) that the notice required by § 1152.50(d)(1) was given (see Exhibit 4).

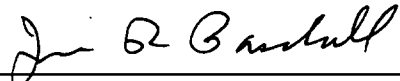


James R. Paschall

Dated: December 5, 2006

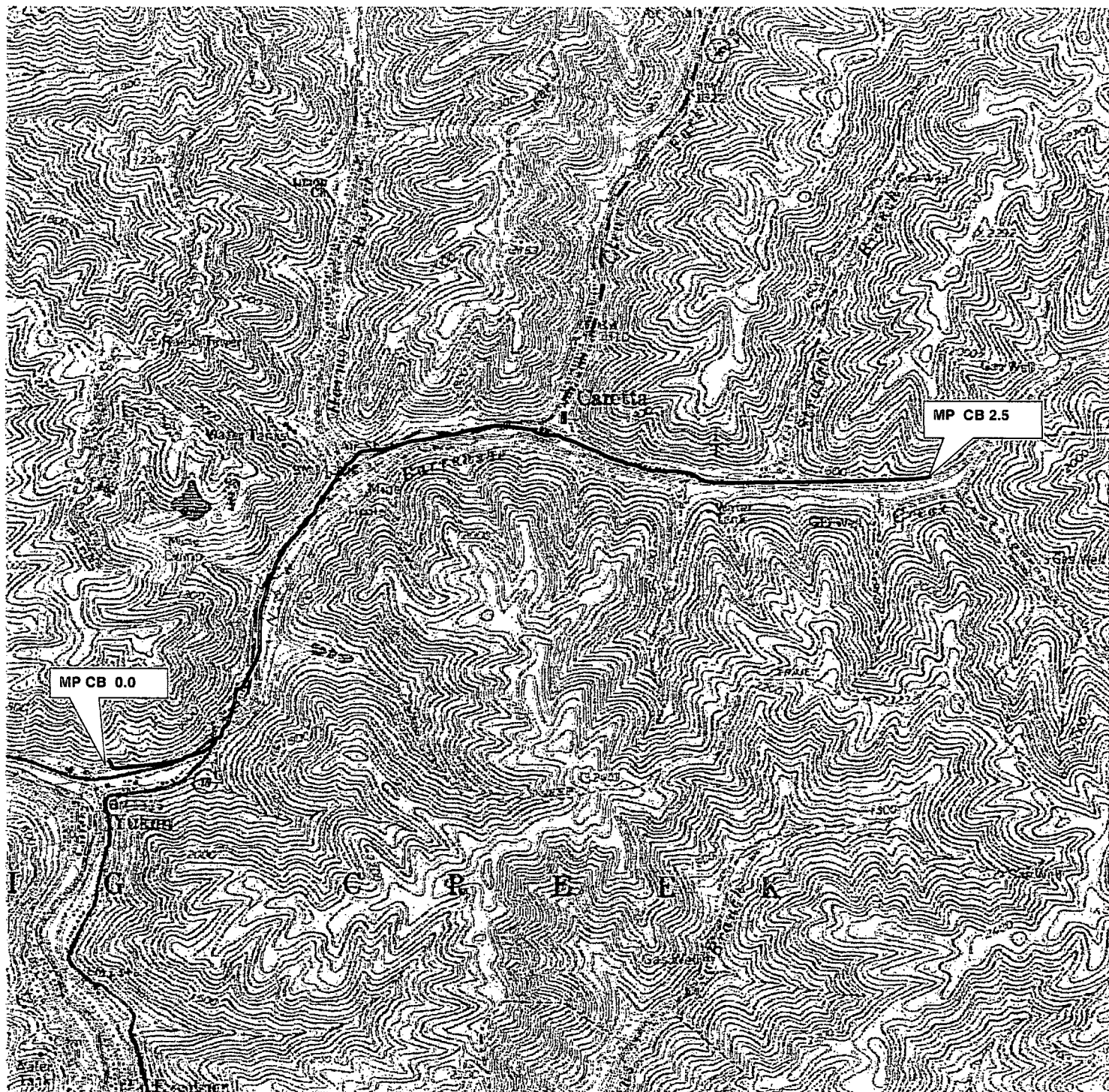
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Exemption was served upon Mr. John McKinney, Chairman, West Virginia Public Service Commission; Regional Director, National Park Service; the United States Department of Defense (MTMCTEA); National Park Service, Recreation Resources Assistance Division; National Park Service, Land Resources Division; and U. S. Department of Agriculture, Chief of the Forest Service; on December 5, 2006, by first class mail, postage prepaid.



James R. Paschall

Exhibit 1



NORFOLK SOUTHERN
Abandonment
MP CB 0.0 - MP CB 2.5
McDowell County, WV

EXHIBIT 2

ENVIRONMENTAL AND HISTORIC REPORTS

**ENVIRONMENTAL REPORT ON
PROPOSED RAIL LINE ABANDONMENT**

**NORFOLK SOUTHERN RAILWAY COMPANY
(BETWEEN MP CB 0.0 AND MP CB 2.5)
IN CARETTA, MCDOWELL COUNTY, WEST VIRGINIA
STB DOCKET NO. AB-290 (SUB-NO. 272X)**

**September 28, 2006
Revised November 27, 2006**

.....
**NORFOLK SOUTHERN RAILWAY COMPANY
THREE COMMERCIAL PLACE
NORFOLK, VIRGINIA 23510-9207**

ENVIRONMENTAL REPORT ON PROPOSED RAIL LINE ABANDONMENT

**Abandonment of: 2.5 miles of track between Mileposts CB 0.0 and
CB 2.5 in Caretta, McDowell County, West Virginia**

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: Norfolk Southern Railway Company (NSR) proposes to abandon 2.5 miles of rail line between railroad milepost CB 0.0 and railroad milepost CB 2.5 in Caretta, McDowell County, West Virginia. The line proposed for abandonment has been dormant for many years. A customer has proposed to acquire the line following abandonment for use as a private loading track.

The only alternatives would be not to abandon the line or to discontinue service on the line and retain the track in place. These alternatives are not satisfactory. Service over the line is not required to serve any shippers. NSR would incur opportunity and holding costs that would be absorbed by other customers were the line to be retained without being used for active rail freight service.

A map delineating the line proposed for abandonment is attached as **Appendix A**. The railroads' letter to federal, state and local government agencies is attached as **Appendix B**. Responses to the letter or other comments received as a result of consultations can be found in **Appendix C**.

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.

RESPONSE: Effects of the proposed action on regional or local transportation systems and patterns are expected to be negligible. There is no rail freight or passenger traffic on the line segment proposed for abandonment. Consequently, no rail traffic will be diverted to highway or other modes as a result of the abandonment.

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 was requested from the Regional Manager of McDowell County. The agency was also asked to comment on the consistency of the proposed abandonment with existing land use plans. To date, no response has been received.

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

RESPONSE: The United States Department of Agriculture Natural Resources Conservation Service (USDA-NRCS) determined that there are no prime agricultural lands located in the affected area. A copy of the response received from the USDA-NRCS is included in **Appendix C**.

(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: Not applicable, as the property is not located in a coastal zone.

(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: The line is not likely to be available for alternative public use as a customer has proposed to acquire it following abandonment for use as a private loading track.

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 as no freight or passenger traffic has moved over the line for many years.

(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 as no freight or passenger traffic has moved over the line for many years.

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

RESPONSE: The proposed action 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: No traffic will be diverted from rail to motor carriage as a result of the proposed action.

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. McDowell County, West Virginia is in attainment for all National Ambient Air Quality Standard (NAAQS) pollutants according to the U.S. Environmental Protection Agency.

(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 captioned rail line will have no significant effect upon public health or safety. There are one public and two private at-grade crossings on the segment to be abandoned.

(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 adjacent areas.

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: A consultation was requested from the U.S. Fish and Wildlife Service (USFWS) to ascertain any impacts to surrounding habitats and species.

The response of USFWS, attached in **Appendix C**, states that no federally listed endangered or threatened species are expected to be impacted by the

project, therefore, no biological assessment or further section 7 consultation under the Endangered Species Act is required.

(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

RESPONSE: Based on the site investigation, the line segment proposed for abandonment does not pass through state parks or forests, national parks or forests, or wildlife sanctuaries. No adverse effects on wildlife sanctuaries, National Parks or Forests, or State Parks or Forests are anticipated.

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: There are no plans to remove or alter the contour of the roadbed underlying any part of the rail line to be abandoned. Since there are no plans to undertake in-stream work, or dredge and/or fill any materials in connection with the proposed abandonment, water quality impacts are not expected in connection with the proposed action. Consultation was requested from the West Virginia Department of Environmental Protection and from the United States Environmental Protection Agency. The response of the West Virginia Department of Environmental Protection, Division of Water & Waste Management, attached in **Appendix C**, states that the proposed action will be consistent with applicable West Virginia water quality standards and a West

Virginia National Pollutant Discharge Elimination System Construction Storm Water Permit Registration is not required.

(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: A consultation was requested from the US Army Corps of Engineers. The responses of USACE, attached in **Appendix C**, state that it does not appear the rail line abandonment project would involve the placement of fill or dredged material in waters of the United State and therefore, no authorization is required from the Corps of Engineers. The USACE recommends consultation with the McDowell County Floodplain Manager. A copy of this report is being served on the McDowell County Floodplain Manager.

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

RESPONSE: There are no intentions to remove or alter the roadbed underlying the line to be abandoned, to undertake in-stream work or to dredge or to use any fill materials. There should be no significant effects to water quality. Thus, NSR does not believe that a permit under Section 402 of the Clean Water Act will be required.

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.

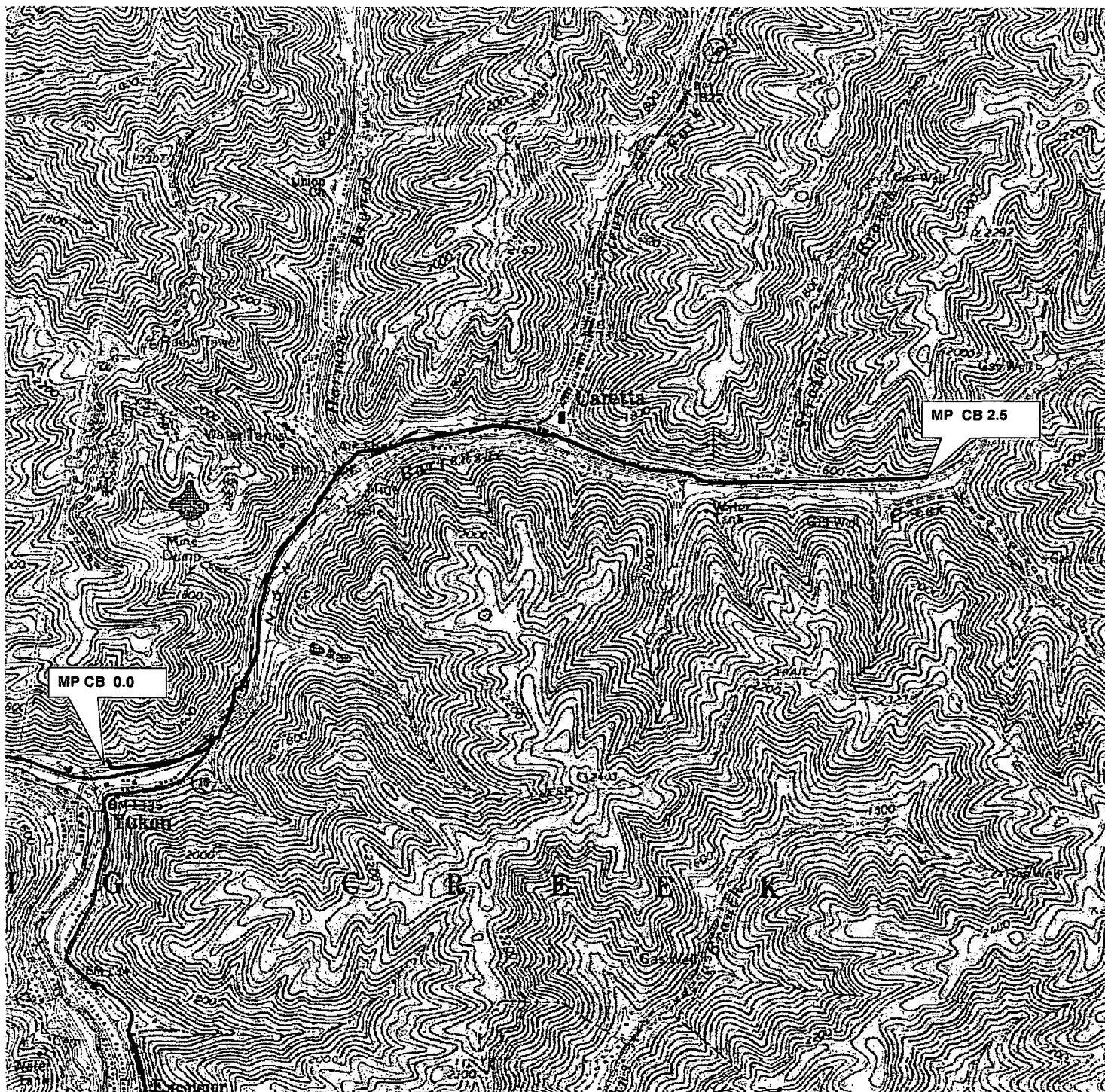
RESPONSE: Abandonment of the involved rail line is not expected to produce adverse environmental impacts. NSR will undertake all reasonable mitigation associated with any salvage activity to assure the abandonment does not produce adverse environmental impacts.

Additional Information - National Geodetic Survey Marker

Attached in **Appendix C** is a response from the National Geodetic Survey that states there are no National Geodetic Survey markers on or near the Line.

APPENDIX A

Site Map



NORFOLK SOUTHERN
Abandonment
MP CB 0.0 - MP CB 2.5
McDowell County, WV

APPENDIX B

Agency Letters

RECIPIENT LIST

Proposed Rail Line Abandonment of the segment of rail line between MP CB 0.0 and MP CB 2.5 in Caretta, McDowell County, West Virginia, a distance of 2.5 miles.

West Virginia Community
Development Division
West Virginia Development Office
Building #6, Room 553
Charleston, WV 25305

Mr. Lyle B. Bennett
West Virginia Department of
Environmental Protection
Division of Water Resources
601 57th Street, SE
Charleston, WV 25304

Mr. Jon M. Capacasa
Director Water Protection Division, Region 3
U. S. Environmental Protection Agency
1650 Arch Street (3PM52)
Philadelphia, PA 19103-2029

Ms. Karen McComas
Regional Manager, McDowell County
840 Virginia Avenue
Welch, WV 24801

Ms. Diane Lynch
Northeast Regional Office
U. S. Fish and Wildlife Service
300 Westgate Center Drive
Hadley, MA 01035-9589

Mr. Tom Chapman
United States Fish and Wildlife Service
West Virginia Field Office
694 Beverly Pike
Elkins, WV 26241

Mr. Mark Taylor
Section Chief – Huntington District
United States Army Corps of Engineers
502 Eighth Street
Huntington, WV 25701-2070

Ms. Suzanne Chubb
United States Army Corps of Engineers
Great Lakes and Ohio River Division
P. O. Box 1159
Cincinnati, OH 45201-1159

Ms. Violet Lester
McDowell County Floodplain Manager
P. O. Box 1508
Welch, WV 24878

National Park Service
Northeast Region
U. S. Custom House
200 Chestnut Street, Fifth Floor
Philadelphia, PA 19106

Mr. Ronald L. Hilliard
State Conservationist
United States Department of Agriculture
75 High Street, Room 301
Morgantown, WV 26505

Mr. Bill Harris
District Conservationist
United States Department of Agriculture
241 Mercer Springs Road #B
Princeton, WV 24740

National Geodetic Survey
1315 East West Highway
Silver Spring, MD 20910-3282



Strategic Planning Department
Three Commercial Place
Norfolk, VA 23510-9207

September 28, 2006

RE: Docket No. AB-290 (Sub-No. 272X), Norfolk Southern Railway Company
Abandonment – in McDowell County, West Virginia

Dear Sir/Madam:

Norfolk Southern Railway Company (NSR) plans to request authority from the Surface Transportation Board (STB) to abandon the segment of rail line between Milepost CB 0.0 and MP CB 2.5, a distance of 2.5 miles, located in McDowell County, West Virginia.

Enclosed is an Environmental Report which describes the proposed abandonment and other pertinent information. A map of the proposed track abandonment can be found in Appendix A of this report.

NSR 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 an Environmental Report and sent to the Surface Transportation Board (STB). Appendix B of this report lists the various agencies receiving it.

This report is also 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 Board's Environmental Review process, please contact the Section of Environmental Analysis (SEA) by telephone at (202) 565-1552 or by mail to:

Surface Transportation Board,
1925 K Street, N.W., Room 3219
Washington DC 20423-001

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 Board 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 Kathy Headrick by email at kathy.headrick@nscorp.com or by mail to:

Kathy Headrick
Coordinator-Abandonments
Norfolk Southern Corporation
Strategic Planning Department
Three Commercial Place
Norfolk, VA 23510

Sincerely,

Marcellus C. Kirchner
Director Strategic Planning
Norfolk Southern Railway Company

APPENDIX C

Agency Responses

Braun, Donna L.

From: Harris, Bill - Princeton, WV [Bill.Harris@wv.usda.gov]
Sent: Tuesday, March 07, 2006 2:44 PM
To: donna.braun@nscorp.com
Cc: Pate, Robert - Beckley, WV
Subject: NS rail line abandonment - in McDowell Co., WV

Ms. Braun,

This is a response to your letter dated March 3, 2006 concerning Docket No AB-290 (Sub-No. 272X), Norfolk Southern Railway Company Abandonment - in McDowell County, WV. Based on the location map provided by you delineating the proposed abandonment area (MP CB 0.0 - MP CB 2.5) near Caretta, McDowell Co., WV, and review of Soil Sheet No 13 found in the McDowell County Soil Survey, I have determined that there are no prime agricultural lands located in the affected area. If you have any further questions or need any additional information, please let me know.

F. William Harris, DC
USDA, NRCS, Princeton FO
241 Mercer Springs Rd. #B
Princeton, WV 24740
(304) 487-1404 X-101
bill.harris@wv.usda.gov



United States Department of the Interior

FISH AND WILDLIFE SERVICE



West Virginia Field Office

694 Beverly Pike
Elkins, West Virginia 26241

November 21, 2006

Mr. Marcellus C. Kirchner
Director Strategic Planning
Norfolk Southern Railway Company
Three Commercial Place
Norfolk, Virginia 23510-9207

Re: Docket No. AB-290 (Sub-No. 272X) – McDowell County Rail Track Abandonment

Dear Mr. Kirchner:

This responds to your information request of September 28, 2006 regarding the potential impacts of a proposed project on wetlands and federally listed endangered and threatened species and species of concern. Norfolk Southern Railway Company proposes abandonment of approximately 2.5 miles of rail track in McDowell County, West Virginia. These comments are provided pursuant to the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

No federally listed endangered and threatened species are expected to be impacted by the project. Therefore, no biological assessment or further section 7 consultation under the Endangered Species Act is required with the Fish and Wildlife Service. Should project plans change, or if additional information on listed and proposed species becomes available, this determination may be reconsidered.

Definitive determinations of the presence of waters of the United States, including wetlands, in the project area and the need for permits, if any, are made by the U.S. Army Corps of Engineers. They may be contacted at: Huntington District, Regulatory Branch, 502 Eighth Street, Huntington, West Virginia 25701, telephone (304)399-5710.

If you have any questions regarding this letter, please contact this office at (304) 636-6586, or at the letterhead address.

Sincerely,

Thomas R. Chapman
Field Supervisor



west virginia department of environmental protection

Division of Water & Waste Management
601 57th Street East
Charleston, West Virginia 25304
(304) 926-0495

Joe Manchin III, Governor
Stephanie R. Timmermeyer, Cabinet Secretary
www.wvdep.org

August 30, 2006

Mr. Marcellus C. Kirchner
Director Strategic Planning
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191

RE: Docket No. AB-290 (Sub-No.272X), Norfolk
Southern Railway Company, Abandonment – in
McDowell County, West Virginia.

Dear Mr. Kirchner:

Based on the information provided for the above referenced rail line abandonment, the proposed action will be consistent with applicable West Virginia water quality standards.

A West Virginia National Pollutant Discharge Elimination System (WV/NPDES), General Water Pollution Control Permit for Storm Water Associated with Construction Activities (WV0115924) is not required for the abandonment or the routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. This language is taken from West Virginia Legislative Rule 47-10-2.8.

Therefore, a WV/NPDES Construction Storm Water Permit Registration is not required for the Docket No. AB-290 (Sub-No. 272X) Norfolk Southern Railway Company Abandonment – in McDowell County, West Virginia.

If I can be of further assistance, please do hesitate to contact me.

Sincerely,

Lyle B. Bennett
Program Manager

LBB



DEPARTMENT OF THE ARMY
HUNTINGTON DISTRICT, CORPS OF ENGINEERS
502 EIGHTH STREET
HUNTINGTON, WEST VIRGINIA 25701-2070

April 7, 2006

REPLY TO
ATTENTION OF:

Operations and Readiness Division
Regulatory Branch
200600234-Barrenshe Creek (Section10: Tug Fork)

Ms. Donna Braun
Norfolk Southern
3 Commercial Place
12th Floor – Strategic Planning
Norfolk, VA 23510

Dear Ms. Braun:

I refer to the letter and drawings you submitted to this office dated March 3, 2006 regarding the abandonment of 2.5 miles of rail line running parallel to Barrenshe Creek near Caretta, McDowell County, West Virginia.

The U.S. Army Corps of Engineers (USACE) responsibility under Section 10 of the Rivers and Harbors Act of 1899 (Section 10) is to regulate any work in, under or over navigable waters of the United States (U.S.). Under Section 404 of the Clean Water Act (Section 404) the USACE regulates the placement of dredged or fill material into waters of the U.S., including wetlands. The USACE jurisdiction for waters of the U.S. is based on the definitions and limits of jurisdiction contained in 33 CFR 328. Navigable streams, their tributaries, and adjacent wetlands are, in part, waters of the United States subject to the provisions of Section 404. The determination of jurisdiction for a stream is based on the presence of an ordinary high water (OHW) mark and evidence indicating the stream exhibits a surface water connection to a tributary system of a navigable water of the U.S. The USACE regulates streams up to the OHW mark. The determination of jurisdiction for a wetland is based on the presence of wetland hydrologic conditions, hydric soils and hydrophytic plant communities and evidence indicating the wetland exhibits a surface water connection to a tributary system of a navigable water of the U.S.

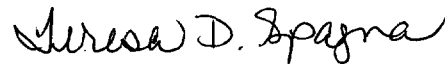
Based on the information provided to this office, it appears that no fills will be placed in waters of the United States, therefore the project does *not* require authorization pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344). However, no material should be placed in waters of the United States without a permit from the Corps. This letter does not obviate the need to obtain other Federal, state or local authorizations required by law.

If it becomes necessary to place fill material into waters of the U.S., including wetlands, authorization from the Corps of Engineers would be required. Delineations of wetlands must be conducted using the "Corps of Engineers Wetland Delineation Manual (1987 Manual)," Corps Waterways Experiment Station Wetlands Research Program Technical Report Y-87-1, dated January 1987. This manual may be downloaded from the USACE Huntington District's public website at www.lrh.usace.army.mil/permits/wetlands. The online version references several guidance documents regarding the 1987 Manual that may be provided to you upon your request. When the water of the U. S. consists only of wetlands the jurisdiction extends to the limit of the wetland. The limits of any identified jurisdictional wetlands on-site should be illustrated on a scaled engineering drawing or site plan. Upon completion of the delineation, you must submit the report to this office for verification prior to the commencement of any construction activities that may affect the wetland areas.

Also, it should be noted that the Corps of Engineers does not have regulatory authority for administering the 100-year floodplain regulation pursuant to the National Flood Insurance Program. This authority lies with the local government using floodplain ordinances approved by the Federal Emergency Management Agency. To obtain information concerning the floodplain elevations please contact Ms. Violet Lester, the McDowell County Floodplain Manager, at 304-436-3421.

If you have any questions concerning the above information, please contact Amy Ferguson at (304) 399-5710.

Sincerely,

A handwritten signature in black ink that reads "Teresa D. Spagna". The signature is written in a cursive, flowing style.

Teresa D. Spagna
Regulatory Project Manager
South Regulatory Section



DEPARTMENT OF THE ARMY
HUNTINGTON DISTRICT, CORPS OF ENGINEERS
502 EIGHTH STREET
HUNTINGTON, WEST VIRGINIA 25701-2070

MAY 09 2006

REPLY TO
ATTENTION OF:

Operations and Readiness Division
Regulatory Branch
Docket No. AB-290
Rail Line Abandonment - 200600227

Donna Braun
Norfolk Southern
3 Commercial Place
12th Floor – Strategic Planning
Norfolk, Virginia 23510

Dear Ms. Braun:

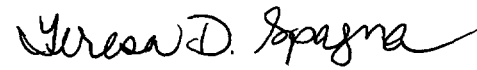
I refer to your letter, regarding the proposed abandonment of a section of rail line between Milepost CB 0.0 and Milepost CB 2.5 located near Caretta, in McDowell County, West Virginia. This project has been assigned Project Number 200600227. Please include this number in all future correspondence concerning this project.

Section 404 of the Clean Water Act requires a Department of the Army (DA) permit be obtained prior to any discharge of dredged or fill material in waters of the United States, including wetlands. The Corps of Engineers' authority to regulate waters of the United States is based on the definitions and limits of jurisdiction contained in 33 CFR 328. Navigable waters, their tributaries and adjacent wetlands are waters of the United States subject to the provisions of Section 404 of the CWA. **Section 10 of the Rivers and Harbors Act of 1899** requires that a DA permit be obtained prior to any work in, over or under navigable waters of the United States. The Corps of Engineers' authority to regulate navigable waters of the United States is based on the definitions and limits of jurisdiction contained in 33 CFR 329.

Based upon a review of the submitted information it does not appear the rail line abandonment project would involve the placement of fill or dredged material in waters of the United States and therefore, no authorization is required from the Corps of Engineers for this activity. However, if any work becomes necessary that would involve the placement of fill or dredged material into waters of the United States, a permit would be required from this office. This letter does not obviate the need to obtain other federal, state, or local authorizations required by law.

If you have any questions concerning the above, please contact Noah Kennedy of the South Regulatory Section at 304-399-5710.

Sincerely,

A handwritten signature in black ink, reading "Teresa D. Spagna". The signature is fluid and cursive, with the first name "Teresa" and last name "Spagna" clearly legible.

Teresa D. Spagna
Regulatory Project Manager
South Regulatory Section

Headrick, Kathy, C

From: Simon Monroe [Simon.Monroe@noaa.gov]
Sent: Friday, October 27, 2006 5:34 PM
To: Gilbert Mitchell
Cc: kathy.headrick@nscorp.com; Surface Transportation Board; National Society of Professional Surveyors; Simon Monroe
Subject: [Fwd: [Fwd: NGS Response, STB docket AB-290(SUB NO. 272X)]]

Thank you for sharing your railroad abandonment environmental report for Caretta, McDowell County, West Virginia.

Approximately 00 geodetic survey marks may be located in the area described. If marks will be disturbed by the abandonment, NGS requests 90-day advance notice to attempt their formal relocation. These marks are described on the attached file. Additional advice is provided at <http://geodesy.noaa.gov/marks/railroads/>

|Dist|PID...|H V|Vert_Source|Approx.|Approx..|Stab|Designation
(NO SURVEY MARKS FOUND).

**Environmental Report
Certificate of Service**

Pursuant to the requirements of 49 C.F.R. § 1105.8(c), the undersigned hereby certifies that a copy of the Environment Report in Docket No. AB-290 (Sub-No. 272X) was mailed via first class mail on September 28, 2006 to the following parties:

West Virginia Community
Development Division
West Virginia Development Office
Building #6, Room 553
Charleston, WV 25305

Mr. Lyle B. Bennett
West Virginia Department of
Environmental Protection
Division of Water Resources
601 57th Street, SE
Charleston, WV 25304

Mr. Jon M. Capacasa
Director Water Protection Division,
Region 3
U. S. Environmental Protection Agency
1650 Arch Street (3PM52)
Philadelphia, PA 19103-2029

Ms. Karen McComas
Regional Manager, McDowell County
840 Virginia Avenue
Welch, WV 24801

Ms. Diane Lynch
Northeast Regional Office
U. S. Fish and Wildlife Service
300 Westgate Center Drive
Hadley, MA 01035-9589

Mr. Tom Chapman
United States Fish and Wildlife Service
West Virginia Field Office
694 Beverly Pike
Elkins, WV 26241

Mr. Mark Taylor
Section Chief – Huntington District
United States Army Corps of Engineers
502 Eighth Street
Huntington, WV 25701-2070

Ms. Suzanne Chubb
United States Army Corps of Engineers
Great Lakes and Ohio River Division
P. O. Box 1159
Cincinnati, OH 45201-1159

Ms. Violet Lester
McDowell County Floodplain Manager
P. O. Box 1508
Welch, WV 24878

National Park Service
Northeast Region
U. S. Custom House
200 Chestnut Street, Fifth Floor
Philadelphia, PA 19106

Mr. Ronald L. Hilliard
State Conservationist
United States Department of Agriculture
75 High Street, Room 301
Morgantown, WV 26505

Mr. Bill Harris
District Conservationist
United States Department of Agriculture
241 Mercer Springs Road #B
Princeton, WV 24740

National Geodetic Survey
1315 East West Highway
Silver Spring, MD 20910-3282



Marcellus C. Kirchner

September 28, 2006

HISTORIC REPORT

PROPOSED RAIL LINE DISCONTINUANCE AND ABANDONMENT

PROPOSED ACTION AND ALTERNATIVES

Norfolk Southern Railway Company (NSR) proposes to abandon 2.5 miles of rail line between railroad milepost CB 0.0 and railroad milepost CB 2.5 in Caretta, McDowell County, West Virginia. The abandonment will end the railroad's common carrier obligations to provide service over this line of railroad.

The line proposed for abandonment has been dormant for many years. A customer has proposed to acquire the line following abandonment for use as a private loading track.

The only alternatives would be not to abandon the line or to discontinue service on the line and retain the track in place. These alternatives are not satisfactory. Service over the line is not required to serve any shippers. NSR would incur opportunity and holding costs that would be absorbed by other customers were the line to be retained without being used for active rail freight service.

A map delineating the line proposed for abandonment is attached.

ADDITIONAL INFORMATION

- (1) **U.S.G.S. Topographic Map** -- Maps were furnished to the West Virginia Division of Culture and History, Historic Preservation Office.
- (2) **Written Description of Right of Way** -- The right of way width ranges from 30 feet to 80 feet on each side of the main track centerline, but the majority of the right of way is 30 feet. The line passes through primarily commercial and undeveloped areas.

(3) **Photographs** – Photographs of the bridges were furnished to the West Virginia Division of Culture and History, Historic Preservation Office.

(4) **Date of Construction of Structures** – Construction dates are shown on the Bridges and Structures List attached to this report.

(5) **History of Operations and Changes Contemplated** - The Caretta Railway Company was chartered in West Virginia in 1906 for the purpose of building a railroad in McDowell County, West Virginia. The line extended three miles from Caretta Branch Junction to the Caretta mine of the Carter Coal Company. At Caretta Junction, the line connected with the Norfolk and Western Railway Dry Fork Branch which extends between Iaeger, West Virginia and Cedar Bluff, Virginia.

The stockholders of the Norfolk and Western Railway Company authorized the purchase of the Caretta Railway Company at their annual meeting on October 8, 1908, and the properties of the Caretta Railway were subsequently conveyed to Norfolk and Western for operation.

Norfolk and Western Railway Company was incorporated by special act of Virginia approved on January 15, 1896, and succeeded, under a plan of reorganization, to the properties of Norfolk and Western Railroad Company, the Lynchburg and Durham Railroad Company (that had been sold first to the Norfolk, Lynchburg and Durham Railroad Company) and the Roanoke and Southern Railway Company (that had been sold first to the Norfolk, Roanoke and Southern Railroad Company). The two companies shown in parentheses were organized on the dates of purchase for the sole purpose of acquiring and transferring the property of the named companies to Norfolk and Western Railway Company.

Norfolk and Western Railway Company's predecessor, Norfolk and Western Railroad Company, was sold at foreclosure September 15, 1896 and conveyed to Norfolk and Western Railway Company, October 1, 1896. Norfolk, Lynchburg and Durham Railroad Company conveyed the property of the Lynchburg and Durham Railroad Company that it had purchased at foreclosure September 16 or 24, 1896 to Norfolk and Western Railway Company on October 6, 1896. Norfolk, Roanoke and Southern Railroad Company conveyed the property of Roanoke and Southern Railway Company (124 miles of line between Roanoke, VA and Winston-Salem, NC) that it purchased at foreclosure November 24, 1896, together with its rights and franchises, to Norfolk and Western Railway Company on December 2, 1896.

Norfolk Southern Corporation, a non-carrier holding company, was incorporated in the Commonwealth of Virginia on July 23, 1980. Based on an Agreement of Merger and Reorganization, dated July 31, 1980, and eventual Interstate Commerce Commission approval, Norfolk Southern Corporation acquired control of Norfolk and Western Railway Company and Southern Railway Company and their subsidiaries.

On December 4, 1980, Norfolk Southern Corporation, Norfolk and Western Railway Company, and Southern Railway Company filed a joint application to the ICC in Finance Docket No. 29430 (Sub-No. 1), pursuant to which they sought authority under 49 U.S.C. 11343 for Norfolk Southern Corporation to acquire control through stock ownership of Norfolk and Western Railway Company and its subsidiary carrier companies, and of Southern Railway Company and its consolidated system companies.

Under approval granted by the ICC in Finance Docket No. 29430 (Sub-No. 1), *Norfolk Southern Corporation -- Control -- Norfolk and Western Railway Company and*

Southern Railway Company, 366 I.C.C. 173 (1982), dated March 19, 1982, Norfolk Southern Corporation acquired control of Norfolk and Western Railway Company and Southern Railway Company on June 1, 1982.

Two books on the Norfolk and Western Railway Company and Southern Railway Company systems provide detailed information on the companies' history and development to the time of the Norfolk Southern consolidation. They are: E. F. Pat Striplin, *The Norfolk And Western: A History* (Roanoke, VA: The Norfolk and Western Railway Co., 1981) and Burke Davis, *The Southern Railway: Road of the Innovators* (Chapel Hill, NC: University of North Carolina Press, 1985).

Effective December 31, 1990, Southern Railway Company changed its name to Norfolk Southern Railway Company. Norfolk and Western Railway Company became a wholly-owned subsidiary of Norfolk Southern Railway Company rather than a subsidiary of Norfolk Southern Corporation.

Pursuant to a notice of exemption filed in STB Finance Docket No. 33648, *Norfolk Southern Railway Company--Merger Exemption--Norfolk and Western Railway Company*, served August 31, 1998, Norfolk Southern Railway Company merged Norfolk and Western Railway Company into Norfolk Southern Railway Company, effective September 1, 1998.

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"); 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 Conrail Transaction Agreement was approved by the Surface Transportation Board ("STB") 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*, and the transaction was closed and became effective June 1, 1999.

Pursuant to the Conrail Transaction Agreement, certain Conrail assets were allocated to Pennsylvania Lines LLC ("PRR"), a wholly-owned subsidiary of Conrail. Furthermore, pursuant to the Conrail Transaction Agreement, PRR's assets, in turn, were leased to and are operated by NSR under the terms of an allocated assets operating agreement between PRR and NSR (the "NSR Operating Agreement") with an original term of twenty-five (25) years from the effective date of June 1, 1999, and two optional renewal terms of five (5) years each. The Conrail Transaction Agreement permitted NSR to operate and to enter into various transactions with regard to the assets allocated to PRR. As a result of the Conrail Transaction, Norfolk Southern Railway Company's rail operations grew to include some 7,200 miles of the Conrail system (predominately the former Pennsylvania Railroad), creating balanced rail transportation in the East to benefit customers and communities alike.

In STB Finance Docket No. 33788, *Norfolk Southern Railway Company--Trackage Rights Exemption--Over North Carolina Railroad Company*, served August 27, 1999, the Surface Transportation Board approved North Carolina Railroad Company's (NCRR) agreement to grant to NSR exclusive local and overhead freight

trackage rights over its entire line of railroad between Charlotte and Morehead City, NC. The line extends between mileposts EC-0.0+/- and EC-94.7+/-; mileposts H-0.0+/- and H-129.5+/-; and mileposts 284.0+/- and 376.5+/-, a distance of approximately 317.2 miles in Alamance, Cabarrus, Carteret, Craven, Davidson, Durham, Guilford, Johnston, Jones, Lenoir, Mecklenburg, Orange, Randolph, Rowan, Wake, and Wayne Counties, NC. Under the agreement, NSR is permitted to grant trackage rights to its subsidiaries. NSR or its predecessors had leased and operated the NCRR property since 1871 when the NCRR line between Goldsboro, NC and Charlotte, NC was leased to The Richmond and Danville Railroad Company. Pursuant to a notice of exemption in STB Finance Docket No. 34396, *Norfolk Southern Railway Company – Corporate Family Transaction Exemption – Atlantic and East Carolina Railway Company*, served October 28, 2003; Norfolk Southern Railway Company (NSR) merged Atlantic and East Carolina Railway Company (AEC) into NSR. NSR thus succeeded to the trackage rights over the portion of NCRR's line between Goldsboro, NC, and Morehead City, NC, which was once the property of the former Atlantic and North Carolina Railway Company subsidiary of the North Carolina Railroad Company.

On June 4, 2003, Norfolk Southern Corporation (NSC), CSX Corporation (CSX), and Consolidated Rail Corporation (Conrail) announced the joint filing of a petition with the STB for approval to establish direct ownership and control by CSX Transportation, Inc. (CSXT) and Norfolk Southern Railway Company (NSR), the railroad subsidiaries of CSX and NSC, respectively, of the two Conrail subsidiaries - New York Central Lines LLC (NYC) and Pennsylvania Lines LLC (PRR) that CSXT and NSR had been managing and operating, respectively, since June 1, 1999 under operating agreements

approved by the STB in the 1998 decision. The STB approved the petition, subject to certain conditions, in a decision served on November 7, 2003. The transaction was concluded on August 27, 2004 by the merger of NYC and PRR into CSXT and NSR, respectively. The transaction's effect was to replace the PRR and NYC operating agreements and allow NSR and CSXT to operate the NYC and PRR lines via direct ownership.

McDowell County, West Virginia was created in 1858 from Tazewell County (Virginia) and named in honor of James McDowell, Governor of Virginia from 1843 to 1846. The county seat was moved to the (then) village of Welch in the 1890's.

The change contemplated in the operation of the subject railroad line is for Norfolk Southern Railway Company to abandon the subject line of railroad and sell it to a customer for use as a private loading track. There is no feasible alternative to the abandonment action because there is no revenue or potential revenue from railroad traffic on the line or other income sufficient to cover the costs of ownership, maintenance and operation of the property.

(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 structures 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.

(7) Opinion Regarding Criteria For Listing In The National Register Of Historic Places – NSR's opinion is that none the structures on the line to be abandoned nor the line itself meet the criteria for listing in the *National Register of Historic Places*. The structures are bridges which are short in length and ordinary in design and construction.

There is nothing that distinguishes the bridges from others in the region. They have no reason to believe that there is any likelihood of finding archaeological resources or historic properties on the line proposed for abandonment.

(8) Subsurface Ground Conditions That Might Affect Archaeological Recovery

– NSR is not aware of any prior subsurface ground disturbances or environmental conditions that would affect archaeological recovery. Moreover, abandonment of the line and any salvage of material from its surface 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 and salvage of the line will not result in activities below the surface, or below the level of initial disturbance.

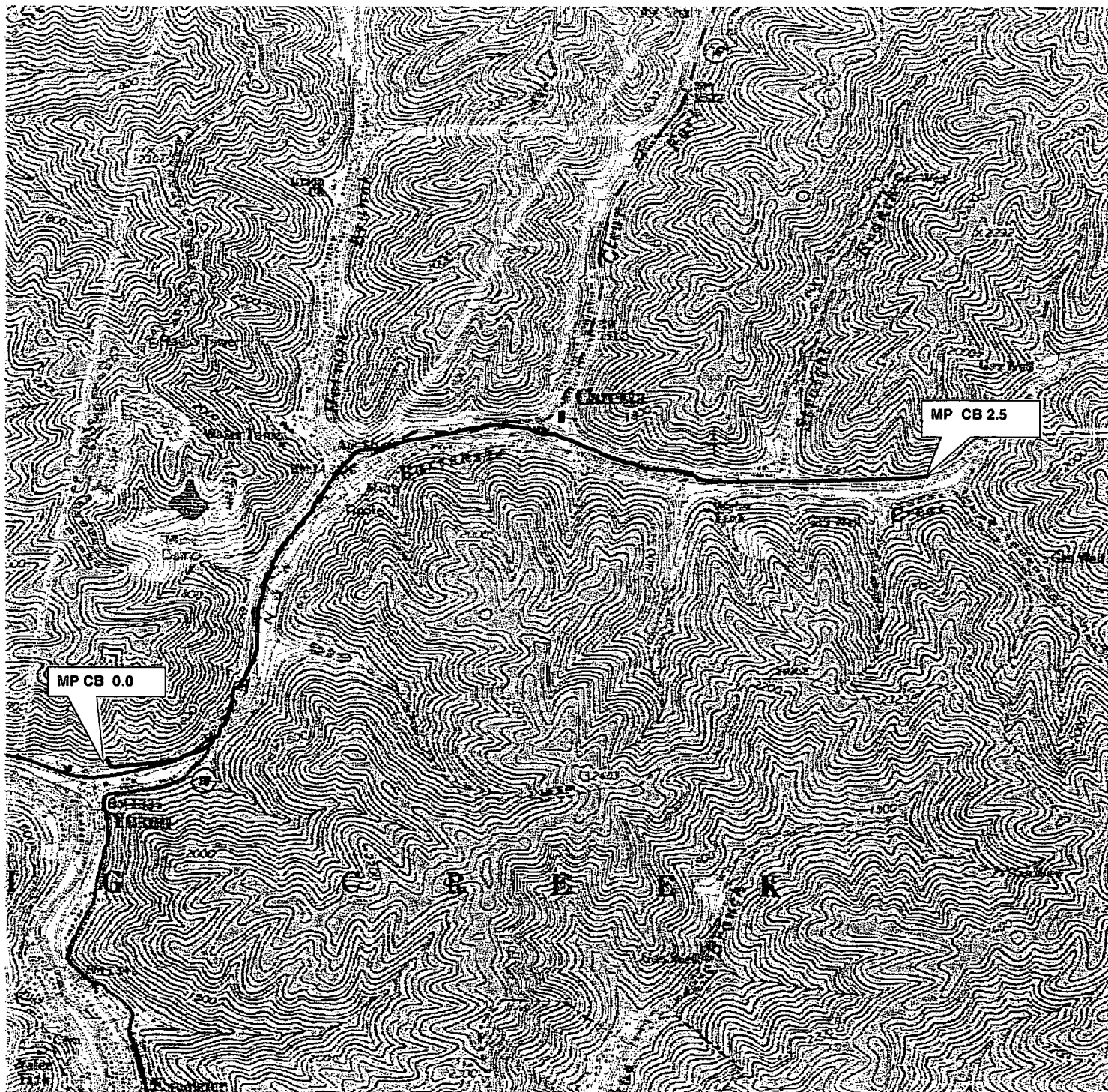
(9) Follow-Up Information - Additional information will be provided as appropriate.

Norfolk Southern Railway Company
Abandonment at Caretta, West Virginia

Bridge List

Milepost	Spans	Bridge Type	Deck Construction	Name of Crossing
CB 0.35	2	Frame Trestle	Open	Barrenshe Creek
CB 0.41	3	Frame Trestle	Open	Barrenshe Creek
CB 1.57	4	Frame Trestle	Open	Barrenshe Creek
CB 1.66	2	Frame Trestle	Open	Barrenshe Creek
CB 2.10	1	1-Beam Trestle	Open	Barrenshe Creek

All structures are of timber construction and were originally constructed during the period of 1907 to 1909 when the line was built. No changes have been made to the structures other than periodic normal maintenance to replace worn components.



**NORFOLK SOUTHERN
Abandonment
MP CB 0.0 - MP CB 2.5
McDowell County, WV**



Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191

Marcellus C. Kirchner
Director Strategic Planning
(757) 629-2679
(757) 823-5807 FAX

September 28, 2006

Ms. Susan Pierce
Deputy State Historic Preservation Officer
West Virginia Division of Culture & History
Historic Preservation Office
1900 Kanawha Boulevard East
Charleston, WV 25305-0300

RE: Docket No AB-290 (Sub-No. 272X), Norfolk Southern Railway Company –
Abandonment, McDowell County, West Virginia

Dear Ms. Pierce:

Norfolk Southern Railway Company soon expects to file with the Surface Transportation Board a Notice of Exemption seeking authority to abandon 2.5 miles of rail line between railroad mileposts CB 0.0 and CB 2.5 in Caretta, McDowell County, West Virginia. Enclosed is a Historic Report describing the proposed action and any expected historic effects. Also enclosed is a topographical map of the affected area, as well as photographs of the bridges located on the line.

We are providing this report so that you may review the information that will form the basis for the Board's independent environmental analysis of this proceeding. If you believe any of the information is misleading or incorrect, if you believe that 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), Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001, Telephone (202) 565-1545, and refer to the above Docket. Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments (with a copy to us) would be appreciated as soon as possible. Please refer your comments to me by mail at the above address or by email at marc.kirchner@nscorp.com.

Your comments will be considered by the Board in evaluating the historic impacts of the contemplated action. If there are any questions concerning this proposal, please do not hesitate to contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Marcellus C. Kirchner'.

Marcellus C. Kirchner

Enclosure

cc: James R. Paschall, Esq.



**WEST VIRGINIA
DIVISION OF
CULTURE & HISTORY**

The Cultural Center
1900 Kanawha Blvd., E.
Charleston, WV
25305-0300

Phone 304.558.0220
Fax 304.558.2779
TDD 304.558.3562
www.wvculture.org

EEO/AA Employer

October 27, 2006

Mr. Marcellus C. Kirchner
Norfolk Southern Corp.
Three Commercial Place
Norfolk, VA 23510

RE: Docket No: AB-290 (Sub-No. 272X)
Abandonment
FR#: 07-6-MD

Dear Mr. Kirchner:

We have reviewed the "Historic Report Proposed Rail Line Discontinuance and Abandonment" for the above referenced project to determine its effects to cultural resources. As required by Section 106 of the National Historic Preservation Act, as amended, and its implementing regulations, 36 CFR 800: "Protection of Historic Properties," we submit our comments.

The West Virginia State Historic Preservation Office has reviewed the historic report and proposed abandonment of the rail line. Thank you for the detailed history of the Norfolk Southern Railway Company and photographs. It is our understanding that Norfolk Southern Railway Company is seeking authority to abandon 2.5 miles of rail line between railroad mileposts CB 0.0 and CB 2.5 in Caretta, McDowell County, West Virginia and to sell the right of way to a private party. Also, it is our understanding that the Norfolk Southern Railway Company will not be removing any rail line or bridges and has confirmed that there are no other structures within the right of way.

The Norfolk Southern Railway is an important historic transportation resource in the development of the lumber and coal industry for southern West Virginia and McDowell County and therefore meets the 50-year Criteria for Evaluation for inclusion in the National Register of Historic Places. Please complete the enclosed Historic Property Inventory (HPI) form for each of the bridges, including a map showing the rail line, right of way and location of each bridge. You may also access our website for further instructions and forms at <http://www.wvculture.org/shpo/forms.html> or contact our office for further assistance. We will complete our review upon receipt of the materials requested.

We appreciate the opportunity to be of service. *If you have questions regarding our comments or the Section 106 process, please contact Ginger Williford, Structural Historian, in the Historic Preservation Office at (304) 558-0240.*

Sincerely,

Randall Reid-Smith
Commissioner

RRS/GW

cc: Susan M. Pierce, Deputy Historic Preservation Officer

Enclosure



Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191

Marcellus C. Kirchner
Director Strategic Planning
(757) 629-2679
(757) 823-5807 FAX

November 10, 2006

Randall Reid-Smith, Commissioner
West Virginia Division of Culture & History
The Cultural Center
1900 Kanawha Boulevard East
Charleston, WV 25305-0300

RE: Docket No AB-290 (Sub-No. 272X), Norfolk Southern Railway Company –
Abandonment, McDowell County, West Virginia
FR #: 07-6-MD

Dear Mr. Reid-Smith:

Pursuant to your letter of October 27, 2006, enclosed please find the West Virginia Historic Property Inventory Forms that we have completed with regard to the each of the bridges on the line. Also enclosed is a copy of a map showing the rail line, right of way and location of each bridge.

Sincerely,

A handwritten signature in black ink, appearing to read "Marcellus C. Kirchner", written in a cursive style.

Marcellus C. Kirchner

Enclosures

cc: Susan M. Pierce, Deputy Historic Preservation Officer

AFFIDAVIT OF PUBLICATION:

State of West Virginia

County of McDowell, to wit:

I, Irene Wooten, being first duly sworn upon my oath, do depose and say that I am the Legal Editor of the Welch News, Inc., a corporation, publisher of the newspaper entitled The Welch News, a Republican newspaper; that I have duly authorized by the board of directors of such corporation to execute this affidavit of publication; that such newspaper has been published 3 times a week except weekends and holidays, for at least fifty weeks during the calendar year, in the Municipality of Welch, McDowell County, West Virginia; that such newspaper is a newspaper of "general circulation", as that term is defined in article three, chapter fifty-nine of the Code of West Virginia, 1931, as amended, within the publication area or areas of the aforesaid municipality and McDowell County, West Virginia; that such newspaper averages in length four or more pages, exclusive of any cover per issue; that such newspaper is circulated to the general public at a definite price or consideration; that such newspaper is a newspaper to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matters, advertisements, and other notices; that the annexed notice of

Intent to Abandon - Norfolk Southern Corp.

Three Commercial Place, Norfolk, VA 25310

was duly published in said newspaper once a week for 1
successive weeks, (Class I), commencing with the
issue of the 8 day of Nov., 20 06, and
ending with the issue of the 8 day of Nov.,
20 06 (and was posted at the (if required)

_____ on the
day of _____, 20____ that said annexed
notice was published on the following dates: 11/08/06

and that the cost of publishing said annexed notice as
aforesaid was \$ 43.36

Irene Wooten
Irene Wooten, Legal Editor
The Welch News

Taken subscribed and sworn to before me in my said
county this 9 day of Nov., 20 06

Leshia A. Ratliff
Notary Public, State of West Virginia

Exhibit 3

LEGAL NOTICE

**NOTICE OF INTENT TO
ABANDON RAIL SERVICE**

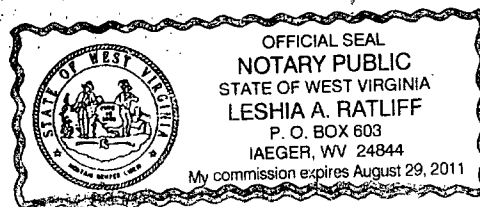
Norfolk Southern Railway Company (NSR) gives notice that on or about December 6, 2006, it intends to file with the Surface Transportation Board (STB), Washington, DC 20423, a notice of exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903, permitting NSR's abandonment of a 2.5-mile line of railroad between mileposts CB 0.0 and CB 2.5 in Caretta, which traverses through United States Postal Service ZIP Code 24892, in McDowell County, West Virginia. The line includes the former station of Juno. The proceeding will be docketed as No. AB-290 (Sub No. 272X).

The STB's Section of Environmental Analysis (SEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in an STB decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Section of Environmental Analysis, Surface Transportation Board, 1925 K Street, N.W., Washington DC 20423-0001 or by calling that office at 202-565-1545.

Appropriate offers of financial assistance to continue rail service can be filed with the STB. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the STB. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the STB's Office of the Secretary, 1925 K Street, N.W., Washington, DC 20423-0001 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicant's representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the STB's Office of Congressional and Public Services at 202-565-1592. Copies of any comments or requests for conditions should be served on the applicant's representative: James R. Paschall, Senior General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510-9241, (757) 629-2759.

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Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191

Exhibit 4

James R. Paschall
Senior General Attorney

(757) 629-2759

November 14, 2006

Mr. John McKinney, Chairman
West Virginia Public Service Commission
201 Brooks Avenue
P. O. Box 812
Charleston, WV 25323

Regional Director
National Park Service
U. S. Custom House
200 Chestnut Street, Fifth Floor
Philadelphia, PA 19106

MTMCTEA
Attn: Railroads for National Defense
720 Thimble Shoals Blvd., Suite 130
Newport News, VA 23606-2574

National Park Service
Recreation Resources Assistance Division
1849 C Street, N. W. (2310)
Washington, DC 20240-0001

U. S. Department of Agriculture
Chief of the Forest Service
Sidney R. Yates Federal Building
1400 Independence Ave., SW
Washington, DC 20250-0003

Mr. William Shaddox
National Park Service
Land Resources Division
1849 C Street, N. W. #MS3540
Washington, DC 20240

Re: STB Docket No. AB-290 (Sub-No. 272X), Norfolk Southern Railway Company –
Abandonment in McDowell County, West Virginia

Ladies and Gentlemen:

Pursuant to 49 CFR 1152.50(d)(1), Norfolk Southern Railway Company (NSR) hereby gives notice that on or about December 6, 2006, it will file with the Surface Transportation Board a notice of exemption from regulation in accordance with the exemption regulations set forth at 49 CFR Part 1152, Subpart F. That notice of exemption will permit NSR's abandonment of a 2.5-mile line of railroad lying between mileposts CB 0.0 and CB 2.5, in Caretta, McDowell County, West Virginia (see attached map). No revenue traffic has originated or terminated or moved overhead on the line to be abandoned for more than two years. Based on information in our possession, 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.

Very truly yours,

James R. Paschall

JRP:kch
Enclosure