

EI-18014



December 24, 2009

Richard Dietz
Engineer Systems
Norfolk Southern Corporation
Design and Construction
Engineering Department
1200 Peachtree Street NE
Atlanta, Georgia 30309-3579

Dear Mr. Dietz:

Re: Abandonment of 2.82 miles of rail line in Toledo, Ohio
STB Docket No. AB-290 (Sub-No. 290X) Norfolk Southern Railway

This is in response to correspondence dated October 14, 2009 (received on October 19, 2009). My comments are made pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended, and the associated regulations at 36 CFR Part 800.

Norfolk Southern Corporation (NSC) is applying to the Surface Transportation Board (STB) for a Notice of Exemption seeking authority to abandon 2.82 miles of rail line between mileposts TW 0.00 and TW 2.82 in Toledo, Ohio. On behalf of STB, NSC requested the comments of the Ohio Historic Preservation Office (OHPO) regarding the effects of this project on historic properties in correspondence dated March 27, 2008. In a response dated June 26, 2008, OHPO reaffirmed recommendations that we made in 1989 during a previous discontinuance preceding that the bridges located at milepost TW 0.54, TW 0.62, and TW 0.99 are eligible for listing in the National Register of Historic Places. Our June 26, 2008, correspondence recommended that demolition/removal of these bridges in association with the proposed abandonment would adversely affect historic properties pursuant to 36 CFR Section 800.5(a)(2)(i). We also noted that removal and salvage of track along the 2.82 miles of line to be abandoned may affect properties outside of the railroad right-of-way by changing their setting and association and requested that the STB and NSC delineate an APE in accordance with 36 CFR Section 800.4(a)(1) and apply the criteria of adverse effects to historic properties within it.

Your October 14, 2009, correspondence conveyed photographic documentation, mapping, and analysis evaluating the effects of the proposed rail line abandonment on properties outside of the railroad right-of-way between mileposts TW 0.00 and TW 2.82. It is clear from your most recent submission that the majority of the track within the project area has already been removed. Some track remains in street crossings at Lafayette and the Anthony Wayne Trail and in wooded sections of the right-of-way, but track adjacent to buildings has largely been removed. Your correspondence attributes previous removal to "adjacent property owners and/or the City of Toledo" and notes that these parties "removed the track and altered the property to suit their needs without any consideration to obtaining approval from Norfolk Southern."

OHIO HISTORICAL SOCIETY

Ohio Historic Preservation Office

1982 Velma Avenue, Columbus, Ohio 43211-2497 ph: 614.298.2000 fx: 614.298.2037
www.ohiohistory.org

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The previous removal of track within the project area limits the effect of the proposed abandonment on adjacent buildings and structures. Because the rail line mostly ran at grade next to them, track removal eliminated the primary vestige of their association with the railroad. While we are troubled that this removal occurred without consideration of its effects on historic properties, your October 14, 2009, correspondence clearly states that track removal was not completed by NSC or with its knowledge or approval. Accordingly, we offer the opinion that indirect effects that the proposed abandonment will have on adjacent historic properties will meet the criteria of adverse effect [36 CFR Section 800.5(a)(1)].

Nonetheless, the adverse effects resulting from the proposed demolition/removal of the bridges as mileposts TW 0.54, TW 0.62, and TW 0.99 must be resolved. 36 CFR Section 800.6(a)(1) requires that STB compel NSC to consider alternatives that would avoid or minimize the adverse effect. An August 28, 2008, STB decision regarding a request by the Toledo Metropolitan Area Council of Governments (TMACOG) for an issuance of a notice of interim trail use for the rail line in question revealed to OHPO the desire of a local organization to take control of the abandoned line and use it as a recreational trail. This use would require crossings of Swan Creek at TW 0.54 and Newton Street at TW 0.62. Obviously, continued use of the existing bridges at these locations would be most cost effective. Having transferred ownership of the structures to the TMACOG or its agent, NSC would not be responsible for continued maintenance of the structures. The bridge over the high tonnage mainline to Chicago at TW 0.99 is more problematic because it does not allow for the level of clearance that NSC would prefer.

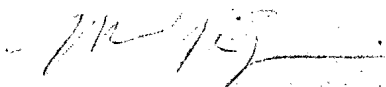
We encourage NSC to consult with interested parties regarding the feasibility of transferring ownership of the railroad right-of-way from TW 0.00 to TW 2.82 to TMACOG or its agent and elevating the bridge at TW 0.99 to achieve the desired clearance. Should transferring the right-of-way to TMACOG or another entity for use as a recreational trail prove to be infeasible, NSC must demonstrate that it has considered other alternatives to demolition. Perhaps other rails-to-trails projects in the area or elsewhere in Ohio are in need of bridges. NSC could donate the bridges in question and provide financial support for their move. Your letter states that NSC is "willing to donate the bridges...but cannot underwrite their removal or transportation to a new location". However, unless the adverse effect resulting from the removal of the bridges can be avoided by keeping them in place, STB must mitigate the adverse effect pursuant to 36 CFR Section 800.6(a)(1). Mitigation comes at a cost, and STB is likely to require that its applicant assume it. This should only further encourage NSC to pursue transfer of the abandoned line and its associated bridges to another entity to ensure their continued use.

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It is my opinion that transfer of ownership leading to continued use of the bridges would have no adverse effect on historic properties. Any scenario that results in removal of a bridge will result in an adverse effect that must be resolved through the execution of a Memorandum of Agreement that includes mitigation. Should NSC choose to pursue removal of any of the bridges, STB must notify the Advisory Council on Historic Preservation of the adverse effect by providing the documentation required by 36 CFR Section 800.11(e). A discussion of NSC efforts to consider alternatives should be included in this notification, a copy of which should be sent to OHPO.

We look forward to working with you as consultation regarding the effects of this project on historic properties continues. If you have any questions, please contact Justin Cook, History Reviews Manager, by phone at (614) 298-2000 or by email at jcook@ohiohistory.org. Thank you for your cooperation.

Sincerely,



Mark J. Epstein, Department Head
Resource Protection and Review

MJE:jc

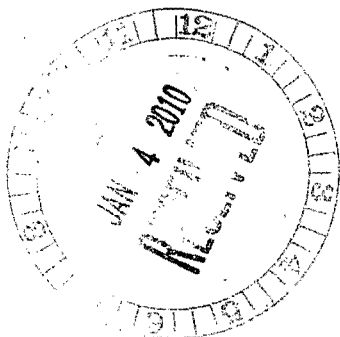
Copy: Najah Duvall-Gabriel, Advisory Council on Historic Preservation,
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Washington, District of Columbia 20005
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395 E Street SW, Washington, District of Columbia 20423-0001

OHPO Serial # 1028868



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