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BAKER & MILLER PLLC

ATTORNEYS and COUNSELLORS
2401 PENNSYLVANIA AVENUE, NW
SUITE 300
WASHINGTON, DC 20037

TELEPHONE: (202) 663-7820
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Crystal M. Zorbaugh

ENTERED
Office of Proceedings
August 31, 2020
Part of
Public Record

(202) 663-7831 (Direct Dial)
E-Mail: czorbaugh@bakerandmiller.com

August 31, 2020

VIA E-FILING

Cynthia T. Brown, Chief
Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington DC 20423-0001

Re: Norfolk Southern Railway Company – Abandonment Exemption – In the City of Clifton in Passaic County, New Jersey, AB-290 (Sub-No. 409X)

Dear Ms. Brown:

Pursuant to 49 C.F.R. Part 1152, Subpart F – Exempt Abandonments and Discontinuances Norfolk Southern Railway Company ("NSR") is filing a verified notice of exemption to abandon rail service over an approximately 0.4-mile long rail line, extending from Milepost IA 12.5 to Milepost IA 12.9 in the City of Clifton in Passaic County, New Jersey (the "Line"). A \$4,400.00 filing fee has been paid via Pay.gov. If there are any questions about this matter, please contact me directly, either by telephone: 202-663-7831 or by e-mail: czorbaugh@bakerandmiller.com. If I am unavailable you may contact William A. Mullins, who can be reached at (202) 663-7823 or by e-mail at wmullins@bakerandmiller.com.

Respectfully submitted,

/s/ **Crystal M. Zorbaugh**

Crystal M. Zorbaugh
Attorney for Norfolk Southern Railway Company

Enclosures

cc: Hanna Chouest, Laura Hoag

FEE RECEIVED
August 31, 2020
SURFACE
TRANSPORTATION BOARD

FILED
August 31, 2020
SURFACE
TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-290 (Sub-No. 409X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF CLIFTON IN PASSAIC COUNTY, NEW JERSEY**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

**Hanna Chouest
Deputy General Counsel
NORFOLK SOUTHERN CORPORATION
Three Commercial Place
Norfolk, Virginia 23510
Tel: (470) 571-5208**

**William A. Mullins
Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., NW
Suite 300
Washington, DC 20037
Tel: (202) 663-7820
Fax: (202) 663-7849**

August 31, 2020

**Attorneys for Norfolk Southern Railway
Company**

***This filing contains color.**

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-290 (Sub-No. 409X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF CLIFTON IN PASSAIC COUNTY, NEW JERSEY**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

INTRODUCTION

Norfolk Southern Railway Company (“NSR”) hereby submits a verified notice of exemption pursuant to 49 C.F.R. part 1152, subpart F (Exempt Abandonments and Discontinuances) for NSR to abandon rail service over an approximately 0.4-mile long rail line, extending from Milepost IA 12.5 to Milepost IA 12.9 in the City of Clifton in Passaic County, New Jersey (the “Line”). NSR has served no customers on the Line since it acquired the property from Conrail in 1999. By the time NSR took ownership of the Line from Conrail, the majority of the Line, which was inactive, had already been salvaged.¹ Following abandonment, NSR will convey the right-of-way to a business owner adjacent to the Line (“Purchaser”) with the Line’s remaining rail and related track material intact. The Purchaser has no immediate plans to salvage the Line’s remaining rail and related track material, but will be responsible for such salvaging should it occur in the future.²

¹ Approximately 1,300 feet of track remain on the northern end near Piaget Avenue (Milepost IA 12.9).

² Should the Board direct any salvage conditions in granting abandonment authority, NSR will execute an agreement with the Purchaser, prior to conveying the property, to ensure that purchaser complies with such requirements should the Purchaser later decide to perform salvage activities. See Consummation of Rail Line Abandonments that are Subject to Historic Preservation and Other Environmental Conditions, EP 678 FN 1 (STB served April 23, 2008).

The Line traverses United States Postal Zip Code territory 07011. The entirety of the Line is located in the City of Clifton in Passaic County, New Jersey. The Line remains out of service and no traffic has traversed the Line in over two decades.

Per the requirements of 49 C.F.R. §§ 1152.50(b) and (d), NSR provides the following information in support of this notice of abandonment:

Certification: 49 C.F.R. § 1152.50(b)

NSR certifies that the Line satisfies the criteria for abandonment under the exemption provisions at 49 C.F.R. part 1152, subpart F. See Certification of Floyd Hudson (Exhibit A). During the past two years, NSR has provided no local or overhead traffic over the Line; overhead traffic, if there were any, could be rerouted over other lines; and no formal complaint has been 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 is either 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.

Proposed Consummation Date: 49 C.F.R. § 1152.50(d)(2)

The proposed abandonment will be consummated on or after October 20, 2020 (50 days after filing the notice of exemption).

Additional Information Required: 49 C.F.R. §§ 1152.22(a)(1)-(4), (7)-(8) and (e)(4)

Exact name of applicant (49 C.F.R. § 1152.22(a)(1)):

Norfolk Southern Railway Company

Whether applicant is a common carrier by railroad (49 C.F.R. § 1152.22(a)(2)):

Norfolk Southern Railway Company is a common carrier by railroad subject to the Board's jurisdiction under 49 U.S.C. Subtitle IV.

Relief sought (49 C.F.R. § 1152.22(a)(3)):

NSR hereby invokes the Board's two-year-out-of-service class exemption procedures to abandon rail service over an approximately 0.4-mile long rail line, extending from Milepost IA 12.5 to Milepost IA 12.9 in the City of Clifton in Passaic County, New Jersey. All of the track is located in the City of Clifton in Passaic County, New Jersey. The Line traverses United States Postal Zip Code territory 07011.

Map (49 C.F.R. § 1152.22(a)(4)):

A detailed map showing the location of the Line is attached hereto as Exhibit B.

Applicant's representatives (49 C.F.R. § 1152.22(a)(7)):

NSR's representatives to whom correspondence should be sent is as follows:

William A. Mullins
Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., NW, Suite 300
Washington, DC 20037
Tel: (202) 663-7820
Fax: (202) 663-7849

USPS ZIP codes (49 C.F.R. § 1152.22(a)(8)):

The Line is located in the following United States Postal Zip Code territory: 07011.

Suitability of the Line for Other Public Purposes (49 C.F.R. § 1152.22(e)(4)):

For the right-of-way underlying the Line proposed for abandonment, NSR has a mix of fee simple and easement interests; thus, NSR may have a corridor available for redeployment for alternative public use(s). The Line does not contain any federally granted right-of-way. As appropriate, NSR is willing promptly to make available any information in its possession to anyone so requesting it.

As stated previously, upon receipt of abandonment authority NSR currently plans to convey the right-of-way to a business owner adjacent to the Line.

Labor Protection

Because the Line has been inactive for over two decades, no railroad employees will be adversely affected by exercise of abandonment authority. Nevertheless, the interests of NSR's employees who may be adversely affected by the proposed abandonment will be adequately protected by the labor protective conditions set forth in Oregon Short Line R. Co – Abandonment – Goshen, 360 I.C.C. 91 (1979).

Certifications

Attached hereto as Exhibit C are Certificates of Service and Publication certifying compliance with the advance notice and newspaper publication requirements set forth at 49 C.F.R. § 1152.50(d)(1) and 49 C.F.R. § 1105.12, respectively. Attached as part of Exhibit D is a certificate of compliance with the advance notice requirements for Environmental and Historic Reports as set forth at 49 C.F.R. § 1105.11.

Environmental and Historic Report

As is reflected in the certificate of compliance with the provisions of 49 C.F.R. § 1105.11 (see Exhibit D), NSR has prepared a combined Environmental and Historic Report ("E&HR") in anticipation of the proposed abandonment portion of the proceeding, which conforms to the requirements of 49 C.F.R. §§ 1105.7 and 1105.8. A copy of the E&HR is attached hereto as Attachment 1 to Exhibit D (§ 1105.11 certification).

Respectfully submitted,

/s/ Crystal M. Zorbaugh

Hanna Chouest
Deputy General Counsel
NORFOLK SOUTHERN CORPORATION
Three Commercial Place
Norfolk, Virginia 23510
Tel: (470) 571-5208

William A. Mullins
Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., NW
Suite 300
Washington, DC 20037
Tel: (202) 663-7820
Fax: (202) 663-7849

August 31, 2020

Attorneys for Norfolk Southern Railway Company

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-290 (Sub-No. 409X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF CLIFTON IN PASSAIC COUNTY, NEW JERSEY**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

VERIFICATION

Verification

I, Michael McClellan, Vice President for Norfolk Southern Railway Company ("NSR") hereby verify under penalty of perjury that to the best of my knowledge, the foregoing abandonment notice of exemption is true and correct. Further, I certify that I am qualified and authorized to make such verification on behalf of NSR in connection with this proceeding before the Surface Transportation Board.

Executed this 26th Day of August 2020



Michael McClellan
Vice President
Norfolk Southern Railway Company

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-290 (Sub-No. 409X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF CLIFTON IN PASSAIC COUNTY, NEW JERSEY**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

EXHIBIT A

CERTIFICATION

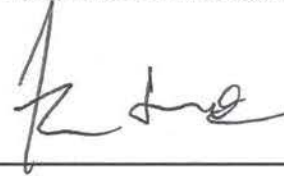
CERTIFICATION

STATE OF PENNSYLVANIA:

SS:

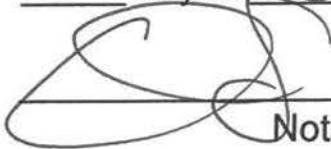
CITY OF HARRISBURG:

Floyd E. Hudson III makes oath and says that he is General Manager Operations – Northern Region for Norfolk Southern Railway Company (NSR); that the rail line between Milepost IA 12.5 and Milepost IA 12.9, over which service is to be discontinued, 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.



Floyd E. Hudson

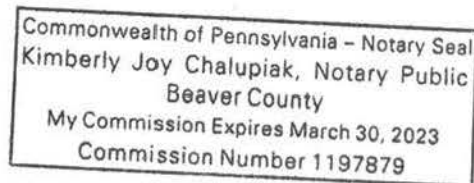
Subscribed and sworn to before me this
2 day of June, 2020.



Notary Public

My commission expires:

3/30/23



**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

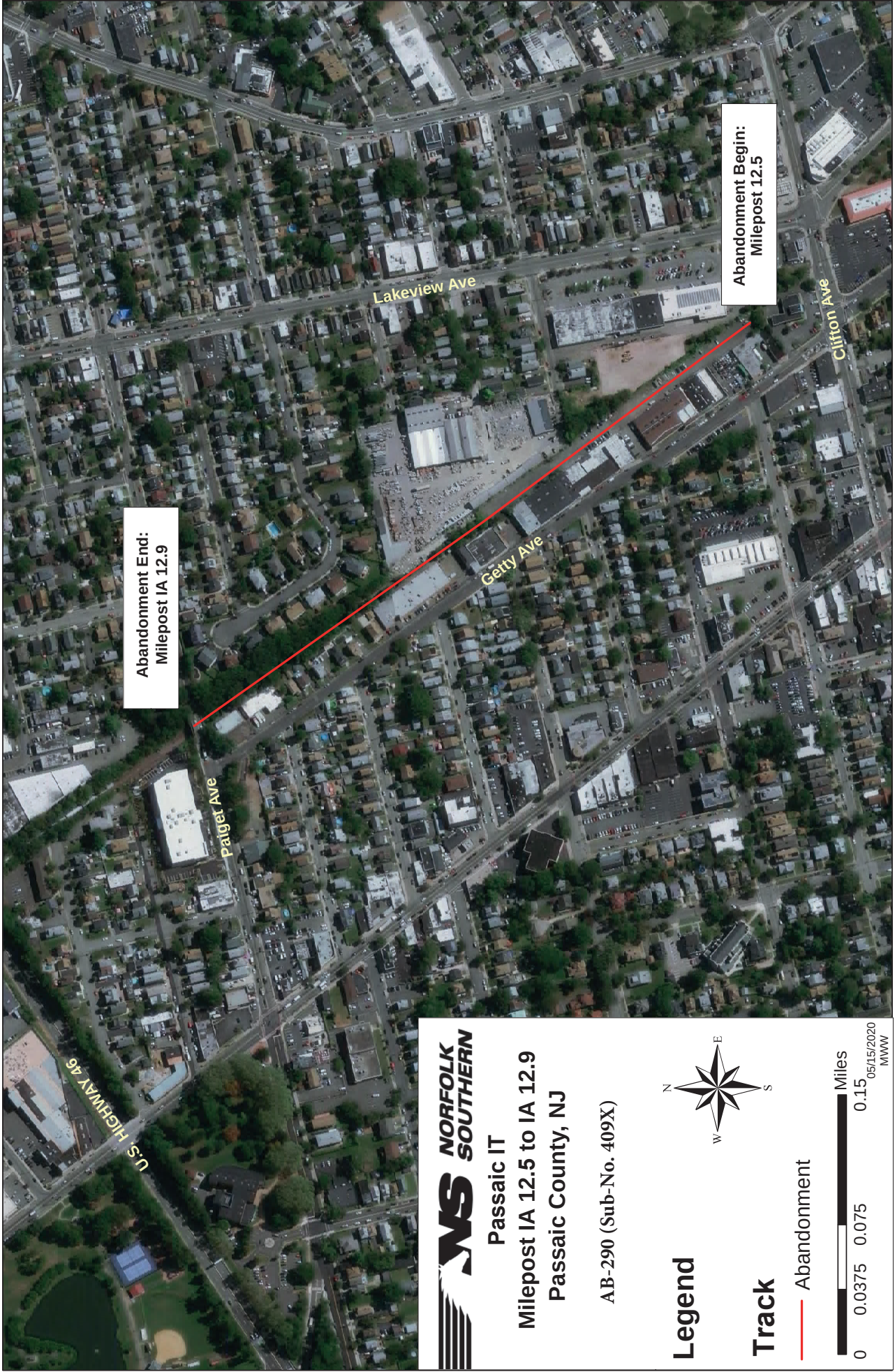
AB-290 (Sub-No. 409X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF CLIFTON IN PASSAIC COUNTY, NEW JERSEY**

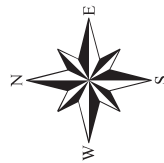
VERIFIED NOTICE OF EXEMPT ABANDONMENT

EXHIBIT B

MAP



Passaic IT
Milepost 12.5 to 12.9
Passaic County, NJ
AB-290 (Sub-No. 409X)



Legend

Track

— Abandonment



**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-290 (Sub-No. 409X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF CLIFTON IN PASSAIC COUNTY, NEW JERSEY**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

EXHIBIT C

CERTIFICATES OF SERVICE/PUBLICATION

Certificate of Service of Advance Notice

49 C.F.R. § 1152.50(d)(1) – Notice

I certify that, on August 20, 2020, in keeping with 49 C.F.R. § 1152.50(d)(1), I caused the following parties to be served with the written notice of intent of Norfolk Southern Railway Company to invoke the Board's notice of exemption procedures to abandon rail service over an approximately 0.4-mile long rail line, extending from Milepost IA 12.5 to Milepost IA 12.9 in the City of Clifton in Passaic County, New Jersey (the "Line"). I further certify that the Line does not contain any federally granted right of way.

Public Service Commission, et al.

New Jersey Board of Public Utilities
44 S. Clinton Avenue
Trenton, NJ 08625

Ms. Nicole Minutoli
Director
NJ Department of Transportation
Multimodal Services
1035 Parkway Avenue, P.O. Box 0600
Trenton, NJ 08625-0600

Department of Defense (Military Traffic Management Command, Transportation Engineering Agency, Railroads for National Defense Program)

David Dorfman
Headquarters Military Surface Deployment and Distribution Command
Transportation Engineering Agency
ATTN: SDTE-SA
Railroads for National Defense Program
1 Soldier Way, Building 1900W
Scott AFB, IL 62225

The National Park Service, Recreation Resources Assistance Division

Mr. Stephan Nofield
National Park Service
Rivers, Trails and Conservation Assistance Program
1849 C Street NW, Room 1344
Washington DC 20240

Mr. Bill Lane
National Park Service
Rivers, Trails and Conservation Assistance Program
Atlanta Federal Center, 1924 Building
100 Alabama Street SW
Atlanta, GA 30303

U.S. Department of Agriculture, Chief of the Forest Service

Vicki Christiansen, Chief
Forest Service
U.S. Department of Agriculture
Sidney R. Yates Federal Building
201 14th Street SW
Washington, DC 20024

August 31, 2020

/s/ **Crystal M. Zorbaugh**

Crystal M. Zorbaugh
Attorney for Norfolk Southern Railway Company

Certificate of Newspaper Publication

49 C.F.R. § 1105.12 – Newspaper Notice

I certify that a “Notice of Intent to Abandon Rail Service” was published in the form prescribed by the Board for abandonment notices of exemption (49 C.F.R. § 1105.12). The notice was published one time on August 27, 2020, in the Herald News, and one time on August 24, 2020, in the Star Ledger, newspapers of general circulation in the City of Clifton in Passaic County, New Jersey.

August 31, 2020

/s/ **Crystal M. Zorbaugh**

Crystal M. Zorbaugh

Attorney for Norfolk Southern Railway Company



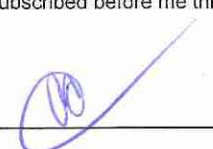
State of New Jersey,) ss
County of Middlesex)

Lisa Arrington being duly sworn, deposes that he/she is principal clerk of NJ Advance Media; that Star Ledger is a public newspaper, with general circulation in Atlantic, Burlington, Cape May, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, Union, and Warren Counties, and this notice is an accurate and true copy of this notice as printed in said newspaper, was printed and published in the regular edition and issue of said newspaper on the following date(s):

Star Ledger 08/24/2020


Principal Clerk of the Publisher

Sworn to and subscribed before me this 26th day of August 2020


Notary Public

CHERYLYN ALSTON
Notary Public, State of New Jersey
My Commission Expires
October 18, 2024

NOTICE OF INTENT TO ABANDON
RAIL SERVICE
AB-290 (Sub-No. 409X)

Norfolk Southern Railway Company ("NSR") gives notice that on or about August 31, 2020, it intends to file with the Surface Transportation Board ("Board"), Washington, DC 20423, a Notice of Exemption pursuant to 49 C.F.R Part 1152 Subpart F – Exempt Abandonments and Discontinuances, permitting NSR to abandon rail service over an approximately 0.4-mile long rail line, extending from Milepost IA 12.5 to Milepost IA 12.9 in the City of Clifton in Passaic County, New Jersey (the "Line"). The Line traverses United States Postal Zip Code territory 07011. There are no customers served on the Line, which has been out of service for well over two years. The proceeding has been docketed as AB-290 (Sub-No. 409X). The proposed action entails the abandonment of rail service over the Line. For abandonments, the Board's Office of Environmental Analysis ("OEA") generally will prepare an Environmental Assessment ("EA"), which normally will be available 25 days after the filing of the abandonment 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. Such comments will be addressed in a Board decision. Interested persons

may obtain a copy of the EA or make inquiries regarding environmental matters by writing to OEA, Surface Transportation Board, 395 E Street, SW, Washington, D.C. 20423, or by calling that office at (202) 245-0295.

Appropriate offers of financial assistance ("OFA") to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails public use, and OFA) must be filed directly with the Board's Section of Administration, Office of Proceedings, 395 E Street, S.W., Washington, DC 20423 [See 49 C.F.R. §§ 1104.1(a) and 1104.3(a)], and one copy must be served on applicants' representative [See 49 CFR § 1104.12(a)]. Questions regarding OFAs, public use or trails use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at 202-245-0230. Copies of any comments or requests for specific Board action should be served on the applicant's representative: Crystal M. Zorbaugh, BAKER & MILLER PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037; phone: 202-663-7820; fax 202-663-7849.
8/24/2020 \$120.90

Ad Number: 0004345701

HERALDNEWS

Ad Order Number
0004345701

STATE OF NEW JERSEY
COUNTY OF PASSAIC

Pang Pappathopoulos

Of full age, being duly sworn according to law, on his/her oath says that he/she is employed at North Jersey Media Group publisher of the Herald News. Included herewith is a true copy of the notice that was published on the following date(s):

08/27/2020

in Herald News, a newspaper of general circulation and published in Woodland Park, in the County of Passaic and circulated in Bergen, Passaic and Essex Counties. Said newspaper is published seven days a week.

Subscribed and sworn before me this 27 day of August, 2020

Vicky Felty

A Notary Public, State of Wisconsin, County of Brown

9-19-21
My Commission Expires



**NOTICE OF INTENT TO
ABANDON RAIL SERVICE
AB-290 (Sub-No. 409X)**

Norfolk Southern Railway Company ("NSR") gives notice that on or about August 31, 2020, it intends to file with the Surface Transportation Board ("Board"), Washington, DC 20423, a Notice of Exemption pursuant to 49 C.F.R. Part 1152 Subpart F - Exempt Abandonments and Discontinuances, permitting NSR to abandon rail service over an approximately 0.4-mile long rail line, extending from Milepost 1A 12.5 to Milepost 1A 12.9 in the City of Clifton in Passaic County, New Jersey (the "Line"). The Line traverses United States Postal Zip Code territory 07011. There are no customers served on the Line, which has been out of service for well over two years. The proceeding has been docketed as AB-290 (Sub-No. 409X).

The proposed action entails the abandonment of rail service over the Line. For abandonments, the Board's Office of Environmental Analysis ("OEA") generally will prepare an Environmental Assessment ("EA"), which normally will be available 25 days after the filing of the abandonment 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. Such comments will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to OEA, Surface Transportation Board, 395 E Street, SW, Washington, D.C. 20423, or by calling that office at (202) 245-0295.

Appropriate offers of financial assistance ("OFA") to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails public use, and OFA) must be filed directly with the Board's Section of Administration, Office of Proceedings, 395 E Street, S.W., Washington, DC 20423 [See 49 C.F.R. §§ 1104.1(a) and 1104.3(a)], and one copy must be served on applicants' representative [See 49 C.F.R. § 1104.12(a)]. Questions regarding OFAs, public use or trails use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at 202-245-0230. Copies of any comments or requests for specific Board action should be served on the applicant's representative: Crystal M. Zorbaugh, BAKER & MILLER PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037; phone: 202-663-7820; fax 202-663-7849.

August 27, 2020

Fee: \$36.12 (84) 0004345701

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-290 (Sub-No. 409X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF CLIFTON IN PASSAIC COUNTY, NEW JERSEY**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

EXHIBIT D

CERTIFICATE OF COMPLIANCE WITH ENVIRONMENTAL AND HISTORIC REPORT REQUIREMENTS

**Environmental and Historic Report
Certificate of Service**

Pursuant to the requirements of 49 C.F.R. § 1105.7(b) and 49 C.F.R. § 1105.8(c), the undersigned hereby certifies that a copy of the Combined Environmental and Historic Report in Docket No. AB-290 (Sub-No. 409X) was mailed via first class mail on July 27, 2020 to the following parties:

STATE HISTORIC PRESERVATION OFFICE

Ms. Katherine Marcopul
Administrator & Deputy State Historic Preservation Officer
Mail Code 501-04B
State of New Jersey
Department of Environmental Protection
Historic Preservation Office
P. O. Box 420
Trenton, NJ 08625-0420

STATE DOT

Ms. Nicole Minutoli
Director
NJ Department of Transportation
Multimodal Services
1035 Parkway Avenue, P.O. Box 600
Trenton, NJ 08625-0600

US ENVIRONMENTAL PROTECTION AGENCY

US EPA
William Jefferson Clinton (WJC) Building
1200 Pennsylvania Ave., NW
Mail Code 1101-A
Washington, DC 20460

REGIONAL/STATE EPA

Mr. Dave Kluesner
US EPA Region 2, Director
290 Broadway
New York, New York 10007-1866

Ms. Catherine R. McCabe
NJ Department of Environmental Protection
Commissioner
401 E. State St. - 7th Floor, East Wing
P.O. Box 402
Trenton, NJ 08625-0402

CITY

Mayor James Anzaldi
Clifton City Hall
900 Clifton Avenue
Clifton, NJ 07013

COUNTY

Mr. Anthony J. DeNova III
Passaic County Administrator
401 Grand Street, Room 205
Paterson, NJ 07505

US ARMY CORPS OF ENGINEERS

Mr. Stephan A. Ryba
Chief, Regulatory Branch
NY District US Army Corps of Engineers
26 Federal Plaza, Room 16-406
New York, New York 10278-0090

STATE COASTAL ZONE MANAGEMENT

Ms. Kimberly Springer, Manager
NJDEB Coastal Management Office
Mail Code 401-07D, P.O. Box 420
401 East State Street
Trenton, NJ 08625-0420

FISH AND WILDLIFE SERVICE

Ms. Wendi Weber
Regional Director – Region 5
U.S. Fish & Wildlife Service
Northeast Region
300 Westgate Center Dr.
Hadley, MA 01035

Mr. Dave Golden
Director
N.J. Division of Fish and Wildlife
Mail Code 501-03
P.O. Box 420
Trenton, NJ 08625-0420

NATIONAL PARK SERVICE

Mr. Stephan Nofield
National Park Service
Rivers, Trails, and Conservation Assistance Program
1849 C. Street NW, Room 1344
Washington, DC 20240

Ms. Julie Bell
National Park Service, Northeast Regional Office
Rivers, Trails, and Conservation Assistance Program
200 Chestnut St., Third Floor Philadelphia, PA 19106

NATIONAL GEODETIC SURVEY

Communications and Outreach Branch, NOAA, N/NGS12
National Geodetic Survey, SSMC3 #9340
1315 East West Highway
Silver Spring, MD 20910-3282

NATURAL RESOURCES CONSERVATION SERVICE

Mr. Terrell Erickson
Regional Conservationist – Northeast Region
USDA Natural Resources Conservation Service
1400 Independence Ave SW, #5204-S
Washington, DC 20250

Ms. Carrie Lindig
State Conservationist
USDA-NRCS State Office
220 Davidson Ave 4th Floor
Somerset, New Jersey 08873


Laura E. Hoag

ATTACHMENT 1

**ENVIRONMENTAL AND HISTORIC REPORT
INCLUDING SAMPLE TRANSMITTAL LETTER**

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

AB-290 (Sub. No. 409X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– PROPOSED ABANDONMENT EXEMPTION –
IN PASSAIC COUNTY, NEW JERSEY**

Combined Environmental and Historic Report

Norfolk Southern Railway Company (“NSR”) submits this Combined Environmental and Historic Report (“E&HR”) pursuant to 49 C.F.R. § 1105.7(e) and 49 C.F.R. § 1105.8(d), respectively, in connection with NSR’s proposed abandonment of an approximately 0.4-mile long rail line, extending from Milepost IA 12.5 to Milepost IA 12.9 (the “Line”), in the City of Clifton in Passaic County, New Jersey.

July 27, 2020

ENVIRONMENTAL REPORT

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: NSR proposes to abandon its common carrier obligation over an approximately 0.4-mile long rail line extending from Milepost IA 12.5 to Milepost IA 12.9 in the City of Clifton in Passaic County, New Jersey. There are no structures (bridges) on the Line.

NSR has served no customers on the Line since it acquired the property from Conrail in 1999. By the time NSR took ownership of the Line from Conrail, the majority of the Line which was inactive had already been salvaged.¹ Following abandonment, NSR will convey the right-of-way to a business owner adjacent to the Line (“Purchaser”) with the Line’s remaining rail and related track material intact. The Purchaser has no immediate plans to salvage the Line’s remaining rail and related track material, but will be responsible for such salvaging should it occur in the future.²

The alternative to abandonment is to not abandon the Line and NSR retain the Line. This alternative is not satisfactory. NSR would incur opportunity and other holding costs that would need to be covered by non-existent shippers were the Line to be retained.

¹ Approximately 1,300 feet of track remain on the northern end near Piaget Avenue (Milepost IA 12.9).

² Should the Board direct any salvage conditions in granting abandonment authority, NSR will execute an agreement with the Purchaser, prior to conveying the property, to ensure that purchaser complies with such requirements should the Purchaser later decide to perform salvage activities. See Consummation of Rail Line Abandonments that are Subject to Historic Preservation and Other Environmental Conditions, EP 678 FN 1 (April 23, 2008).

A map depicting the Line is attached as **Appendix A**. An example of NSR's letter to federal, state and local government agencies along with a list of the consulting agencies that NSR has contacted is attached as **Appendix B**. Comments received as a result of NSR's written requests for feedback can be found in **Appendix C**. A list of Railroad-related Historic Resources is attached as **Appendix D**. A bibliography related to historical sources is attached as **Appendix E**.

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 would be negligible. There has been no NSR freight or passenger traffic on the Line since prior to NSR acquisition from Conrail in 1999.

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 has been requested from the City of Clifton and the County of Passaic, which were asked to comment on the consistency of the proposed abandonment of the Line with existing land use plans.

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

RESPONSE: NSR does not believe the abandonment will have any adverse impact on prime agricultural land as the Line to be abandoned is located in municipalities. However, a copy of this E&HR has been mailed to The United States Department of Agriculture Natural

Resources Conservation Service (“USDA NRCS”) for its information and to provide USDA NRCS an opportunity to comment.

(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: NSR does not believe the abandonment will have any adverse impact on land or water uses within designated coastal zones. However, a copy of the E&HR was mailed to the New Jersey Department of Environmental Protection (“NJDEP”) Coastal Management Program (“NJCMP”) for its information and to provide NJCMP an opportunity to comment.

(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: NSR has a mix of fee simple ownership and easements to the right of way underlying the Line proposed for abandonment; thus, NSR may have a corridor available for redeployment for alternative public use(s). The Line does not contain any federally granted right of way.

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. There has been no rail freight or passenger traffic originating or terminating on the Line in over two decades.

(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. There has been no rail freight or passenger traffic originating or terminating on the Line in over two decades.

(iii) State whether the proposed action will result in an increase or decrease in overall energy

efficiency and explain why.

RESPONSE: The proposed action involves the abandonment of a rail line that has been inactive for over two decades, and as such, 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: The diversion of traffic to motor carriers will not exceed the thresholds set forth in 49 CFR §1105.7(e)(4) as no diversions will occur. There has not been traffic over the Line in over two decades. Accordingly, there is no need to produce data on diverted traffic or to quantify the net change in energy consumption.

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.

(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 Line will have no adverse impact on public health and safety.

(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 areas adjacent to the Line.

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: No construction or removal activities will occur in or around the right of way to achieve this abandonment, and as such NSR does not believe the abandonment will have any adverse impact on surrounding habitats and species. However, a copy of this E&HR has been mailed to the U.S. Fish and Wildlife Service (“USFWS”) to ascertain any impacts to surrounding habitats and species.

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

RESPONSE: The Line does not pass through state parks or forests, national parks or forests, or wildlife sanctuaries. As such, no adverse effects on wildlife sanctuaries, national parks or forests, or state parks or forests are anticipated. Regardless, NSR requested input from the National Park Service.

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: NSR does not intend to remove or alter the contour of the roadbed underlying the Line to be abandoned by way of excavation or other ground-disturbance activity. Accordingly, no soils will be disturbed as a result of the proposed abandonment, and no storm water permitting or mitigation measures, including but not limited to a National Pollutant

Discharge Elimination System permit, will be required. There are no plans to undertake in-stream work or dredge and/or use any fill materials in connection with the proposed abandonment, so the proposed abandonment will not result in water quality impacts. NSR currently provides no rail service over the Line and has not done so for more than two decades.

Consultation has been requested from the NJDEP and the United States Environmental Protection Agency (“EPA”) Region 2.

(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: NSR does not plan to remove or alter the roadbed underlying the Line, or to undertake in-stream work or dredging or use of any fill materials. The geometry of the roadbed will not be altered and no in-stream work is contemplated. No discernible effects on either 100-year flood plains or adjacent wetlands are expected in connection with the proposed abandonment. Consequently, NSR does not believe a Section 404 permit will be required in connection with the proposed abandonment. Consultation was requested from the U.S. Army Corps of Engineers, New York District (“USACE”).

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

RESPONSE: No salvage of the Line and related track material is proposed in connection with the proposed abandonment. There will be no excavation or other ground-disturbance activity, and, because no soils will be disturbed, no storm water permitting, including a National Pollutant Discharge Elimination System permit, will be required. NSR anticipates that the abandonment will not affect water quality and that additional permitting under Section 402 will not be required. Nevertheless, NSR has requested input from the EPA Region 2 and the NJDEP.

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 Line is not expected to produce adverse environmental impacts for the reasons set forth above. NSR will convey the right of way to the Purchaser with the Line's minimal remaining rail and related track material intact.

HISTORIC REPORT

49 CFR 1105.8(d)

PROPOSED ACTION AND ALTERNATIVES

NSR proposes to abandon its common carrier obligation over an approximately 0.4-mile rail line extending from Milepost IA 12.5 to Milepost IA 12.9 in the City of Clifton in Passaic County, New Jersey in order to sell the property to the purchaser. NSR has served no customers on the Line since it acquired the property from Conrail in 1999. The Line remains out of service and no traffic has traversed the Line in over two decades.

Following abandonment, NSR will convey the right-of-way to a business owner adjacent to the Line (“Purchaser”) with the Line’s minimal remaining rail and related track material intact. NSR understands that the Purchaser has no immediate plans to salvage the Line’s minimal remaining rail and related track material, but the Purchaser will be responsible for such salvaging should it occur in the future.

The alternative to abandonment is to not abandon the Line and for NSR to retain the Line. This alternative is not satisfactory. NSR would continue to incur opportunity and other holding costs that would need to be covered by non-existent shippers were the Line to be retained. A map depicting the Line is attached in **Appendix A**.

ADDITIONAL INFORMATION

- (1) **U.S.G.S. Topographic Map** – A topographic map was furnished to the New Jersey Historic Preservation Office.
- (2) **Written Description Of Right Of Way** – The right of way width ranges from 59 feet to 68 feet along the main track centerline. The Line has a relatively flat topography and the Line and surrounding area are urban in nature. Pursuant to Board policy, the railroad’s right of way being abandoned will constitute the Area of Potential Effect (“APE”) for this undertaking.
- (3) **Photographs** – As there are no bridges or structures on the segment to be abandoned, no photographs were provided.
- (4) **Date Of Construction Of Structures** – There are no bridges or other structures associated with this abandonment.
- (5) **History Of Operations And Changes Contemplated**³ – The Line that is the subject of this proposed abandonment consists of approximately 0.4 miles of rail line extending from Milepost IA 12.5 to Milepost IA 12.9 in the City of Clifton in Passaic County, New Jersey.

Based on research,⁴ the Line was originally part of the Paterson and Hudson River Rail Road (“P&HR”), which was incorporated with an initial capital stock of two hundred and fifty thousand dollars by the State of New Jersey on January 21, 1831. It was New Jersey’s second-oldest incorporated railroad company and one of the nation’s earliest operating rail lines. The P&HR also facilitated the first direct rail connection to Jersey City, opposite New York City, and

³ A bibliography for the historical information set forth in §5 is provided as Appendix E.

⁴ NSR commissioned Richard Grubb & Associates, Inc. (“RGA”) to assist with and augment its review of the Line’s history and preparation of the E&HR. This section was drafted from NSR and RGA’s combined research.

formed the oldest segment of the Erie Railroad system (New Jersey State Legislature 1831: 24; Clayton 1882: 88; Cunningham 1997:49).

Conceived beginning in the late 1820s by promoters of the manufacturing city of Paterson on the Great Falls of the Passaic River, the railroad's initial purpose was to provide a year-round means of moving materials and products to market (Lucas 1944: 11-31). The authorized route for the railroad began within 50 feet of the city's lower raceway at the intersection of Congress and Mill Streets and extended southeast across the Passaic River, down into the Jersey Meadows, across Berry's Creek and the Hackensack River to Weehawken, and thence to any convenient point on the Hudson River opposite the City of New York (New Jersey State Legislature 1831: 26-27).

Construction began in Paterson on July 4, 1831, and initially reached as far as the community of Aquackanonk (present-day Passaic), a busy landing point located at the head of navigation on the Passaic River (Clayton 1882: 377; Lucas 1944: iii). Work on this segment required a deep rock cut in present-day Clifton, just south of present-day Piaget Avenue (Lucas 1944: 9). The first horse-drawn train traversed the completed segment, including the subject Line, on May 31, 1832, and formal operations began on June 22, 1832 (Cunningham 1997: 51; Clayton 1882: 88). This allowed commerce to operate via boats and stagecoaches while construction continued on the more challenging segment between the Passaic and Hudson Rivers.

Overcoming the Passaic River, Berry's Hill (present-day Carlton Hill), and the Meadows required a substantial timber pile and truss drawbridge across the Passaic, reportedly the first railroad drawbridge in the nation, and extensive cutting and filling with large-scale pile driving

within the five-mile-long route across the Meadows quagmire (Cunningham 1997: 51-52; Lucas 1944: 93, 100). A similar drawbridge was needed to overcome the Hackensack River.

Tracks finally reached the western side of the Bergen Hill in 1833. This rise of dense volcanic rock standing between the Meadows and the Hudson River presented the most difficult engineering challenge. Jointly with the New Jersey Railroad and Transportation Company (“NJR”), chartered on March 7, 1832, the P&HR constructed the Bergen Cut, a 40-foot deep open channel excavated through the ridge (Cunningham 1997: 53; Messer and Roberts 2002: 117; Lucas 1944: 99). When the Bergen Cut opened in 1838, it was a significant engineering accomplishment in its own right, and it provided the first and only practical rail route through the Bergen Hill to the Hudson River for over 20 years (Messer and Roberts 2002:91; Burgess and Kennedy 1949: 256-257; Cunningham 1997: 60). The P&HR connected with the NJR at what became known as Bergen Junction (present-day Merion Junction). From there, P&HR trains ran across NJR tracks to a terminal adjacent to the NJR’s in Jersey City. Traffic from Jersey City to Paterson began operating through Clifton on November 29, 1833, with connecting stagecoach serve to carry passengers across Bergen Hill until the Cut was completed five years later (Lucas 1944: 123).

Meanwhile, the New York and Erie Railroad (“NY&E”), chartered on April 24, 1832, was building a line from the Great Lakes to the Hudson River in competition with the Erie Canal (Hungerford 1946: 19). Its eastern target was New York City, but state legislators forced the line to remain entirely within New York’s boundaries. The general route was first published under date of January 20, 1835, bringing the projected line close to the New Jersey border in the Ramapo Valley near present-day Suffern, New York (Hungerford 1946: 7, 30). As early as November 1831, promoters of the P&HR, recognizing the advantages of a connection with the

contemplated NY&E, planned to extend their railroad from Paterson to the New York state boundary (Lucas 1944: 193). The P&HR interests eventually obtained a charter for the Paterson & Ramapo Railroad (“P&R”) on March 10, 1841 (New Jersey State Legislature 1841: 97). A lack of capital, however, delayed work, requiring several extensions to the charter’s time limits (New Jersey State Legislature 1843: 76; 1847: 32). Construction finally commenced in August 1847, and the line opened on October 19, 1848 (Lucas 1944: 210, 213). Because the P&R was a New Jersey corporation and unable to own property in New York State, the one-mile segment between the New Jersey state line and the NY&E station at Suffern, New York was built across lands owned privately by P&R promoters (Lucas 1944: 228-229).

Passengers recognized the advantages of the shortened journey by traveling the P&HR/P&R route to and from the NY&E at Suffern, where they were able to walk a short distance between the two lines (Lucas 1944: 225). New York’s General Railroad Bill of 1850 finally permitted New York railroads to connect directly with railroads in other states, and through this act, the interests of the P&R chartered the Union Rail Road Company (“UR”) in New York state on January 20, 1851, to receive and operate the one-mile link of track from Suffern to the state line (Mott 1899: 110; Lucas 1944: 229-230). The following day, newspapers reported planned arrangements among the NY&E, the UR, the P&R, and the P&HR to affect a direct rail link to Jersey City (Mott 1899: 110; Lucas 1944: 231). Between 1852 and 1853 the track gauge of the UR, P&R, and P&HR was changed to match the Erie’s six-foot standard, requiring widening of the right-of-way in some cuts (Mott 1899: 113). Meanwhile, on September 9, 1852, the UR formally leased both the P&HR and P&R, and the next day the NY&E leased the UR (Lucas 1944: 243). A final act of the New Jersey State Legislature on March 14, 1853,

legitimized these leases (New Jersey State Legislature 1853b: 480). The line through Clifton thus became part of the NY&E Main Line.

The initial impact of the P&HR through Clifton was limited. Sandwiched between the more densely developed areas of Passaic and Paterson, Clifton remained largely agricultural. An 1877 map of the township, long after the NY&E take-over, documented a sparsely settled area around the railroad right-of-way (E. B. Hyde & Co. 1877). Industrial development appeared only in the 1920s and 1930s, and a photograph of the subject line taken from the Piaget Avenue bridge in 1944 depicts only the two-track Main Line, some industries, and a handful of dwellings (USGS 1938; Lucas 1944: 9). The through-girder overgrade bridge at Piaget Avenue, adjacent to but outside the APE for the undertaking, was built in 1926 during this period of increased development (A.G. Lichtenstein & Associates, Inc. 1994: (Structure No. 1640161). Other than the rock cut in Clifton, there are no other known non-extant railroad-related resources within the APE (RBA Group, Inc. 2009).

After several bankruptcies and name changes, the successor to the NY&E re-emerged as the New York, Lake Erie and Western Railway (“NYLE&W”) on April 27, 1875 (Hungerford 1946; 203). By then, a vast increase in traffic and growing congestion through the centers of Paterson and Passaic convinced the NYLE&W management to build a cut-of around these populated areas to speed through freight traffic. The Bergen County Railroad was first chartered by interests of the NY&E back on February 25, 1853, as a potential bypass of the UR/P&R/P&HR combine, but construction was not actually completed until 1880 (New Jersey State Legislature 1853a: 179; Lucas 1944: 277). Called the “Bergen Short-Cut,” this line carried long-haul freight and passenger service around Passaic and Paterson, diverging the traffic from the P&HR section at Rutherford Junction and reconnecting it with the P&R section of the Main

Line at Ridgewood Junction (Anderson 1876: DeLeuw Cather & Company, Inc. 1991: 48). The “short-cut” effectively changed the segment of railroad between Carlton Hill and Paterson into a local freight and commuter branch line. The NYLE&W went into foreclosure in 1895. By charter of the State of New York, it was combined with the New York, Pennsylvania, and Ohio Railroad and other lines to form the Erie Railroad (“Erie”), which was organized on November 13, 1895.

In 1956, the Erie began to discuss potential consolidation with the Delaware, Lackawanna and Western Railway (“Lackawanna”), which served many of the same markets as the Erie, including Paterson, Clifton, and Passaic. A merger agreement was reached in 1959, and Interstate Commerce Commission (“ICC”) authorization of the combination became effective October 17, 1960. The new company, comprising 3,031 route miles, would be known as the Erie-Lackawanna Railroad (the hyphen was retained until 1963) (“EL”). Because of the intervening labor litigation, the merger was not actually placed into effect until June 1961 (Taber and Taber 1980: 145).

Track consolidation between the two railroads included linking the P&HR section of the former Erie’s Main Line to the former Lackawanna’s Boonton Branch, a low-grade freight cut-off running between Dover and Jersey City, near South Paterson. The lower portion of the Lackawanna’s former Boonton Branch then became the eastern end of the EL’s Main Line, while the former Erie’s “Bergen Short-Cut” became the EL Bergen County Line (Yanosey 2006:32). The section of the old P&HR between Passaic and Carlton Hill was abandoned⁵ and the bridge across the Passaic River removed. Tracks were pulled up between the river and Clifton and the right-of-way taken over by roadways and adjoining property owners. The

⁵ Because two parallel tracks were being consolidated into track as part of an ICC authorized consolidation, P&HR did not seek abandonment authority.

remaining segment of track between South Paterson and Passaic (including the subject Line) became a dead-end, passenger service was switched to the Lackawanna's old Boonton Branch, and the Subject Line was relegated to a freight service track called the Passaic Industrial Track.

Like many railroads in the northeast, the EL struggled for most of the 16 years it existed in part due to market forces. The EL's financial vulnerabilities led it to seek inclusion in the merger between the Norfolk and Western and Chesapeake and Ohio systems which was announced and filed but never consummated. As a result, the EL was required to be placed under a new holding company of the Norfolk and Western called Dereco, Inc. (Taber and Taber 1980: 147). The financial condition of the EL continued to decline, however, and the extensive destruction of its physical plant from the impact of Hurricane Agnes in 1972 finally resulted in a filing for Chapter 77 bankruptcy on June 26, 1972.

The EL initially sought to reorganize independently and thus resisted joining other bankrupt eastern and midwestern railroads in reorganization under the aegis of the United States Railway Association pursuant to the Regional Railroad Reorganization Act of 1973 ("3-R Act"). The financial condition of the EL continued to deteriorate, exacerbated by rapidly escalating materials prices, and on January 9, 1975, it advised the Federal government that it wished to become a "railroad in reorganization" under the 3-R Act. Although this request came too late for inclusion in the *Preliminary System Plan* which was issued on February 26, 1975, the EL was included in the *Final System Plan* issued by the U.S. Railway Association in July of that year. The Railroad Revitalization and Regulatory Reform Act of 1976 ("4-R Act") placed the *Final System Plan* into law. EL lines designated for retention, including the subject Line, thus came under the operation of the newly-formed Consolidated Rail Corporation ("Conrail") effective April 1, 1976.

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”); Consolidated Rail Corporation (“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 *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*, FD 33388. The transaction was closed and became effective June 1, 1999, and with the closure, the Line was transferred to NSR.

The change contemplated in the operation of the subject railroad Line is for NSR to abandon the segment. The Line has been out of service since prior to 1999. Passenger service ceased on the Line in 1966. The Passaic Industrial Track has not seen freight service since prior to 1999. Given the absence of traffic on the Line, no major changes are contemplated from the proposed abandonment.

(6) Summary of Documents In Carrier's Possession That Might Be Useful For Documenting A Structure That Is Found To Be Historic – There are no structures (bridges) on the Line. As there has been no rail service on the Line since prior to its acquisition, documents are not available. Moreover, no salvage of the Line is proposed in connection with the proposed abandonment.

(7) **Opinion Regarding Criteria For Listing In The National Register Of Historic Places**

There are no bridge structures located within the APE for this project. Information on the railroad-related historic resources is included in Appendix D: Railroad-related Historic Resources.

On July 27, 2020, NSR provided the NJDEP Historic Preservation Office with a copy of the E&HR associated with Notice of Exemption filing AB-290 Sub-No. 409X for the Line for comments.

(8) **Subsurface Ground Conditions That Might Affect Archaeological Recovery**

The railroad is not aware of any prior subsurface ground disturbances or environmental conditions that would affect archaeological recovery. Moreover, abandonment of the Line 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. No salvage of material from the surface is contemplated at this time.

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

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

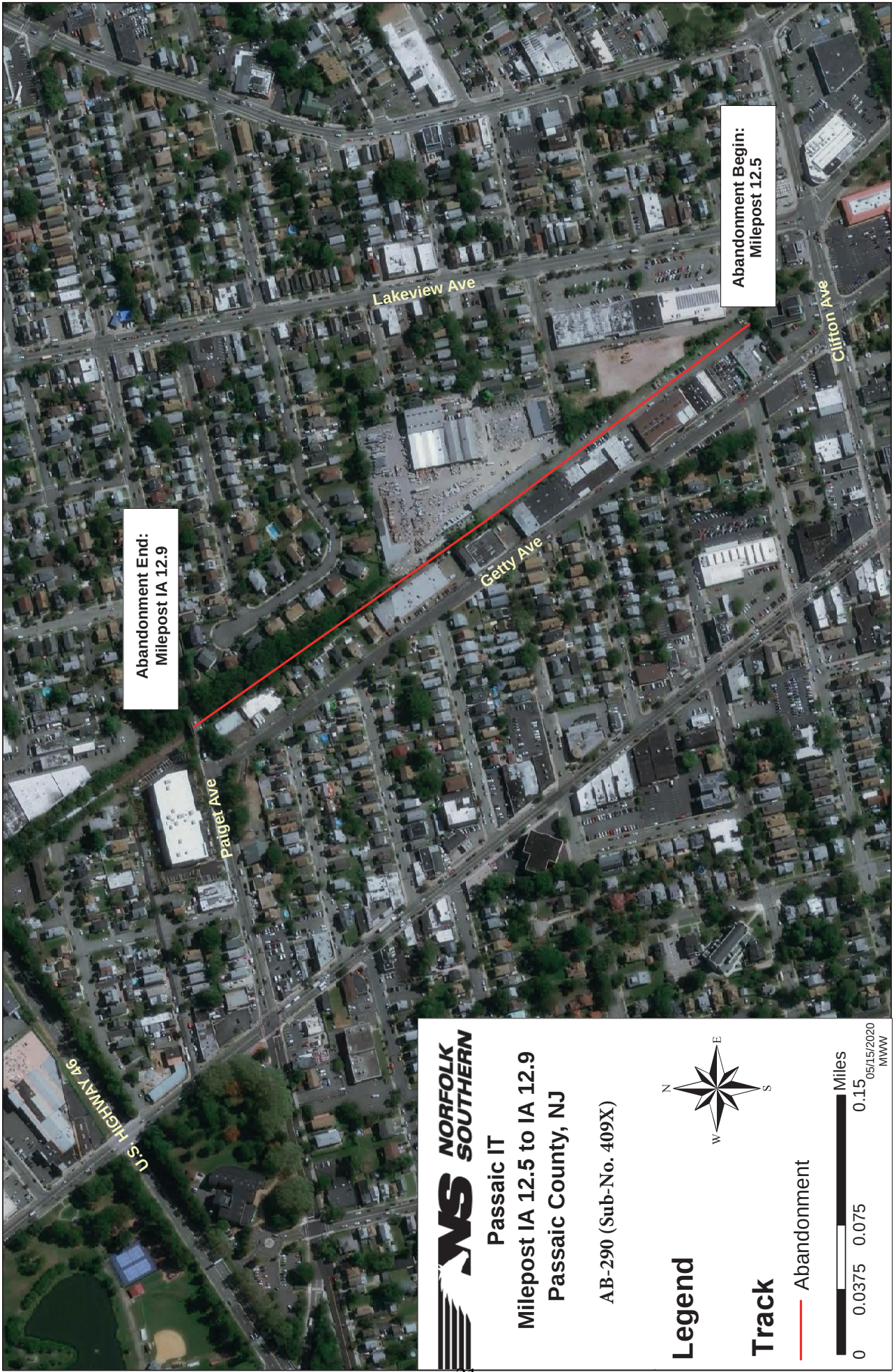
AB-290 (Sub. No. 409X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– PROPOSED ABANDONMENT EXEMPTION –
IN THE CITY OF CLIFTON IN PASSAIC COUNTY, NEW JERSEY**

Combined Environmental and Historic Report

APPENDIX A

Map



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

AB-290 (Sub. No. 409X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– PROPOSED ABANDONMENT EXEMPTION –
IN THE CITY OF CLIFTON IN PASSAIC COUNTY, NEW JERSEY**

Combined Environmental and Historic Report

APPENDIX B

Sample Consultation Letter & Recipient List

July 27, 2020

[ENTITY}

RE: Norfolk Southern Railway Company Abandonment – in Passaic County, AB-290
(Sub-No. 409X)

[GREETING]

Norfolk Southern Railway Company (“NSR”) is proposing the abandonment of approximately 0.4 miles of rail line between Milepost IA 12.5 and Milepost IA 12.9 in the City of Clifton in Passaic County, New Jersey (“Line”).

Enclosed is a Combined Environmental and Historic Report (“Report”) which describes the proposed abandonment and other pertinent information. A map of the proposed abandonment can be found in **Appendix A** of this report. **Appendix B** of this report lists the various agencies receiving it. **Appendix C** of this report lists the various agency responses. **Appendix D** of this report provides information regarding Railroad-related Historic Resources on the Line. **Appendix E** of this report provides a bibliography of historical references.

The railroad 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 the Report and sent to the Surface Transportation Board (“STB”).

This Report is 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 STB's Environmental Review process, please contact the Office of Environmental Analysis (OEA) by telephone at (202) 245-0245 or by mail to:

Surface Transportation Board
395 E Street, S.W., Room 1106
Washington DC 20423-0001

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 STB 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 Laura Hoag by email or by mail at:

Laura Hoag
Strategic Planning – 12th Floor
Norfolk Southern Corporation
3 Commercial Place
Norfolk, VA 23510
(757) 823-5267
Laura.Hoag@nscorp.com

Best regards,

Laura E. Hoag

Attachment

RECIPIENT LIST
AB-290 (Sub-No 409X)

Proposed Abandonment of Norfolk Southern Railway Company's approximately 0.4 mile rail line segment between Milepost IA 12.5 and Milepost IA 12.9 in the City of Clifton, in Passaic County, New Jersey (the "Line").

STATE HISTORIC PRESERVATION OFFICE

Ms. Katherine Marcopul
Administrator & Deputy State Historic Preservation Officer
Mail Code 501-04B
State of New Jersey
Department of Environmental Protection
Historic Preservation Office
P. O. Box 420
Trenton, NJ 08625-0420

STATE DOT

Ms. Nicole Minutoli
Director
NJ Department of Transportation
Multimodal Services
1035 Parkway Avenue, P.O. Box 600
Trenton, NJ 08625-0600

US ENVIRONMENTAL PROTECTION AGENCY

US EPA
William Jefferson Clinton (WJC) Building
1200 Pennsylvania Ave., NW
Mail Code 1101-A
Washington, DC 20460

REGIONAL/STATE EPA

Mr. Dave Kluesner
US EPA Region 2, Director
290 Broadway
New York, New York 10007-1866

Ms. Catherine R. McCabe
NJ Department of Environmental Protection
Commissioner
401 E. State St. - 7th Floor, East Wing
P.O. Box 402
Trenton, NJ 08625-0402

CITY

Mayor James Anzaldi
Clifton City Hall
900 Clifton Avenue
Clifton, NJ 07013

COUNTY

Mr. Anthony J. DeNova III
Passaic County Administrator
401 Grand Street, Room 205
Paterson, NJ 07505

US ARMY CORPS OF ENGINEERS

Mr. Stephan A. Ryba
Chief, Regulatory Branch
NY District US Army Corps of Engineers
26 Federal Plaza, Room 16-406
New York, New York 10278-0090

STATE COASTAL ZONE MANAGEMENT

Ms. Kimberly Springer, Manager
NJDEB Coastal Management Office
Mail Code 401-07D, P.O. Box 420
401 East State Street
Trenton, NJ 08625-0420

FISH AND WILDLIFE SERVICE

Ms. Wendi Weber
Regional Director – Region 5
U.S. Fish & Wildlife Service
Northeast Region
300 Westgate Center Dr.
Hadley, MA 01035

Mr. Dave Golden
Director
N.J. Division of Fish and Wildlife
Mail Code 501-03
P.O. Box 420
Trenton, NJ 08625-0420

NATIONAL PARK SERVICE

Mr. Stephan Nofield
National Park Service
Rivers, Trails, and Conservation Assistance Program
1849 C. Street NW, Room 1344
Washington, DC 20240

Ms. Julie Bell
National Park Service, Northeast Regional Office
Rivers, Trails, and Conservation Assistance Program
200 Chestnut St., Third Floor Philadelphia, PA 19106

NATIONAL GEODETIC SURVEY

Communications and Outreach Branch, NOAA, N/NGS12
National Geodetic Survey, SSMC3 #9340
1315 East West Highway
Silver Spring, MD 20910-3282

NATURAL RESOURCES CONSERVATION SERVICE

Mr. Terrell Erickson
Regional Conservationist – Northeast Region
USDA Natural Resources Conservation Service
1400 Independence Ave SW, #5204-S
Washington, DC 20250

Ms. Carrie Lindig
State Conservationist
USDA-NRCS State Office
220 Davidson Ave 4th Floor
Somerset, New Jersey 08873

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

AB-290 (Sub. No. 409X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– PROPOSED ABANDONMENT EXEMPTION–
IN THE CITY OF CLIFTON IN PASSAIC COUNTY, NEW JERSEY**

Combined Environmental and Historic Report

APPENDIX C

Agency Comments/Responses



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

NATURAL AND HISTORIC RESOURCES

DIVISION OF FISH AND WILDLIFE

P.O. BOX 420; MAIL CODE: 501-03

TRENTON, NJ 08625-0420

TEL: (609) 292-2965; FAX: (609) 984-1414

VISIT OUR WEBSITE: WWW.NJFISHANDWILDLIFE.COM

David M. Golden, Director

PHILIP D. MURPHY
Governor

CATHERINE R. McCABE
Commissioner

SHEILA Y. OLIVER
Lt. Governor

August 6, 2020

Ms. Laura E. Hoag
Director
Norfolk Southern Corporation
Strategic Planning Department
Three Commercial Place
Norfolk, VA 23510

RE: **Norfolk Southern Railway Company Abandonment
AB-290 (Sub-No 409X)
Passaic County
Comments on Rail Line Abandonment**

Dear Ms. Hoag:

The NJ Division of Fish & Wildlife (DFW) agrees with NSR's assessment that the abandonment will not have any greater adverse impact on surrounding habitats and species than it already does. Railroad tracks, whether abandoned or active, are frequently a barrier to turtle movement or permanently entrap turtles resulting in mortality. Our records indicate there have been no confirmed turtle siting's within four miles of this highly urbanized location.

If there are any questions concerning these comments, please feel free to contact Kelly Davis of my staff (609-960-4502). We hope this information is of service to you.

Sincerely,

David Golden, Director
NJ Division of Fish & Wildlife

Cc: Judeth Yeany, Bureau of Legal and Stewardship Services, Green Acres



United States Department of the Interior



FISH AND WILDLIFE SERVICE
New Jersey Ecological Services Field Office
4 E. Jimmie Leeds Road, Suite 4
Galloway, NJ 08205
Phone: (609) 646-9310 Fax: (609) 646-0352

<http://www.fws.gov/northeast/njfieldoffice/Endangered/consultation.html>

In Reply Refer To:

August 11, 2020

Consultation Code: 05E2NJ00-2020-SLI-1453

Event Code: 05E2NJ00-2020-E-03110

Project Name: Norfolk Southern Abandonment of Common Carrier Obligation

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed, and candidate species that may occur in your proposed action area and/or may be affected by your proposed project. This species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under Section 7(c) of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*)

If the enclosed list indicates that any listed species may be present in your action area, please visit the New Jersey Field Office consultation web page as the next step in evaluating potential project impacts: <http://www.fws.gov/northeast/njfieldoffice/Endangered/consultation.html>

On the New Jersey Field Office consultation web page you will find:

- habitat descriptions, survey protocols, and recommended best management practices for listed species;
- recommended procedures for submitting information to this office; and
- links to other Federal and State agencies, the Section 7 Consultation Handbook, the Service's wind energy guidelines, communication tower recommendations, the National Bald Eagle Management Guidelines, and other resources and recommendations for protecting wildlife resources.

The enclosed list may change as new information about listed species becomes available. As per Federal regulations at 50 CFR 402.12(e), the enclosed list is only valid for 90 days. Please return to the ECOS-IPaC website at regular intervals during project planning and implementation to obtain an updated species list. When using ECOS-IPaC, be careful about drawing the boundary of your Project Location. Remember that your action area under the ESA is not limited to just the footprint of the project. The action area also includes all areas that may be indirectly affected

through impacts such as noise, visual disturbance, erosion, sedimentation, hydrologic change, chemical exposure, reduced availability or access to food resources, barriers to movement, increased human intrusions or access, and all areas affected by reasonably foreseeable future that would not occur without ("but for") the project that is currently being proposed.

We appreciate your concern for threatened and endangered species. The Service encourages Federal and non-Federal project proponents to consider listed, proposed, and candidate species early in the planning process. Feel free to contact this office if you would like more information or assistance evaluating potential project impacts to federally listed species or other wildlife resources. Please include the Consultation Tracking Number in the header of this letter with any correspondence about your project.

Attachment(s):

- Official Species List
- USFWS National Wildlife Refuges and Fish Hatcheries
- Migratory Birds
- Wetlands

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

New Jersey Ecological Services Field Office

4 E. Jimmie Leeds Road, Suite 4

Galloway, NJ 08205

(609) 646-9310

Project Summary

Consultation Code: 05E2NJ00-2020-SLI-1453

Event Code: 05E2NJ00-2020-E-03110

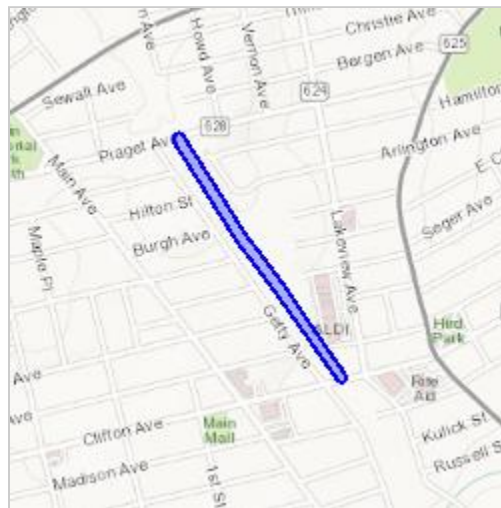
Project Name: Norfolk Southern Abandonment of Common Carrier Obligation

Project Type: ** OTHER **

Project Description: Norfolk Southern seeks to abandon its common carrier obligation on a rail line. Norfolk Southern will not be performing any salvage activities in relation to the abandonment.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/40.87848560577187N74.13917441253245W>



Counties: Passaic, NJ

Endangered Species Act Species

There is a total of 0 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

USFWS National Wildlife Refuge Lands And Fish Hatcheries

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.

Migratory Birds

Certain birds are protected under the Migratory Bird Treaty Act¹ and the Bald and Golden Eagle Protection Act².

Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats should follow appropriate regulations and consider implementing appropriate conservation measures, as described [below](#).

-
1. The [Migratory Birds Treaty Act](#) of 1918.
 2. The [Bald and Golden Eagle Protection Act](#) of 1940.
 3. 50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)

The birds listed below are birds of particular concern either because they occur on the [USFWS Birds of Conservation Concern](#) (BCC) list or warrant special attention in your project location. To learn more about the levels of concern for birds on your list and how this list is generated, see the FAQ [below](#). This is not a list of every bird you may find in this location, nor a guarantee that every bird on this list will be found in your project area. To see exact locations of where birders and the general public have sighted birds in and around your project area, visit the [E-bird data mapping tool](#) (Tip: enter your location, desired date range and a species on your list). For projects that occur off the Atlantic Coast, additional maps and models detailing the relative occurrence and abundance of bird species on your list are available. Links to additional information about Atlantic Coast birds, and other important information about your migratory bird list, including how to properly interpret and use your migratory bird report, can be found [below](#).

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, click on the PROBABILITY OF PRESENCE SUMMARY at the top of your list to see when these birds are most likely to be present and breeding in your project area.

NAME	BREEDING SEASON
Bald Eagle <i>Haliaeetus leucocephalus</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. https://ecos.fws.gov/ecp/species/1626	Breeds Sep 1 to Jul 31
Blue-winged Warbler <i>Vermivora pinus</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA	Breeds May 1 to Jun 30

NAME	BREEDING SEASON
Prairie Warbler <i>Dendroica discolor</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 1 to Jul 31
Red-headed Woodpecker <i>Melanerpes erythrocephalus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 10 to Sep 10
Rusty Blackbird <i>Euphagus carolinus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds elsewhere
Wood Thrush <i>Hylocichla mustelina</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 10 to Aug 31

Probability Of Presence Summary

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read and understand the FAQ “Proper Interpretation and Use of Your Migratory Bird Report” before using or attempting to interpret this report.

Probability of Presence (■)

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.
2. To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is $0.25/0.25 = 1$; at week 20 it is $0.05/0.25 = 0.2$.

- The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

Breeding Season (■)

Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

Survey Effort (|)

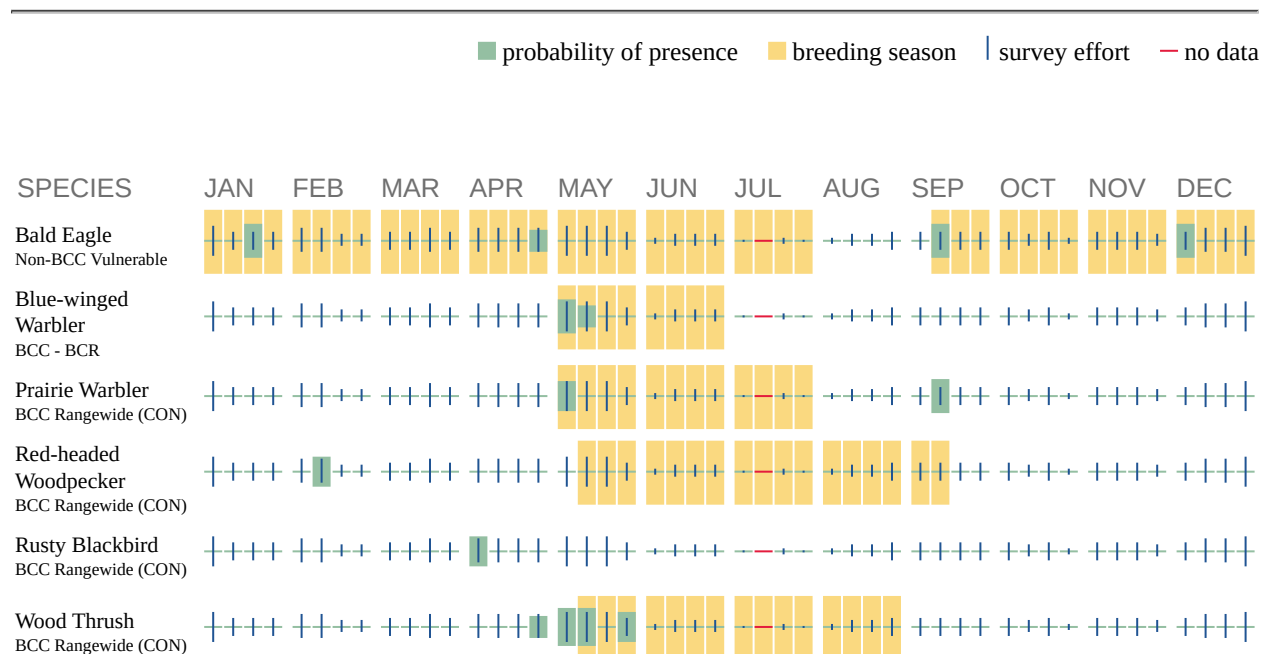
Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

No Data (—)

A week is marked as having no data if there were no survey events for that week.

Survey Timeframe

Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.



Additional information can be found using the following links:

- Birds of Conservation Concern <http://www.fws.gov/birds/management/managed-species/birds-of-conservation-concern.php>

- Measures for avoiding and minimizing impacts to birds <http://www.fws.gov/birds/management/project-assessment-tools-and-guidance/conservation-measures.php>
- Nationwide conservation measures for birds <http://www.fws.gov/migratorybirds/pdf/management/nationwidestandardconservationmeasures.pdf>

Migratory Birds FAQ

Tell me more about conservation measures I can implement to avoid or minimize impacts to migratory birds.

[Nationwide Conservation Measures](#) describes measures that can help avoid and minimize impacts to all birds at any location year round. Implementation of these measures is particularly important when birds are most likely to occur in the project area. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is a very helpful impact minimization measure. To see when birds are most likely to occur and be breeding in your project area, view the Probability of Presence Summary. [Additional measures](#) and/or [permits](#) may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

What does IPaC use to generate the migratory birds potentially occurring in my specified location?

The Migratory Bird Resource List is comprised of USFWS [Birds of Conservation Concern \(BCC\)](#) and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle ([Eagle Act](#) requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the [AKN Phenology Tool](#).

What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?

The probability of presence graphs associated with your migratory bird list are based on data provided by the [Avian Knowledge Network \(AKN\)](#). This data is derived from a growing collection of [survey, banding, and citizen science datasets](#).

Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and

how to interpret them, go the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

How do I know if a bird is breeding, wintering, migrating or present year-round in my project area?

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating or year-round), you may refer to the following resources: [The Cornell Lab of Ornithology All About Birds Bird Guide](#), or (if you are unsuccessful in locating the bird of interest there), the [Cornell Lab of Ornithology Neotropical Birds guide](#). If a bird on your migratory bird species list has a breeding season associated with it, if that bird does occur in your project area, there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

What are the levels of concern for migratory birds?

Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are [Birds of Conservation Concern](#) (BCC) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the [Eagle Act](#) requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).

Although it is important to try to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially eagles and BCC species of rangewide concern. For more information on conservation measures you can implement to help avoid and minimize migratory bird impacts and requirements for eagles, please see the FAQs for these topics.

Details about birds that are potentially affected by offshore projects

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the [NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf](#) project webpage.

Bird tracking data can also provide additional details about occurrence and habitat use throughout the year, including migration. Models relying on survey data may not include this information. For additional information on marine bird tracking data, see the [Diving Bird Study](#) and the [nanotag studies](#) or contact [Caleb Spiegel](#) or [Pam Loring](#).

What if I have eagles on my list?

If your project has the potential to disturb or kill eagles, you may need to [obtain a permit](#) to avoid violating the Eagle Act should such impacts occur.

Proper Interpretation and Use of Your Migratory Bird Report

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated, and see options for identifying what other birds may be in your project area, please see the FAQ “What does IPaC use to generate the migratory birds potentially occurring in my specified location”. Please be aware this report provides the “probability of presence” of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please also look carefully at the survey effort (indicated by the black vertical bar) and for the existence of the “no data” indicator (a red horizontal bar). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list helps you know what to look for to confirm presence, and helps guide you in knowing when to implement conservation measures to avoid or minimize potential impacts from your project activities, should presence be confirmed. To learn more about conservation measures, visit the FAQ “Tell me about conservation measures I can implement to avoid or minimize impacts to migratory birds” at the bottom of your migratory bird trust resources page.

Wetlands

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

THERE ARE NO WETLANDS WITHIN YOUR PROJECT AREA.



United States Department of the Interior

FISH AND WILDLIFE SERVICE

New Jersey Field Office
4 E. Jimmie Leeds Road, Suite 4
Galloway, New Jersey 08205

Tel: 609-646-9310

<http://www.fws.gov/northeast/njfieldoffice>

To Whom It May Concern:

Section 7(a)(2) of the Endangered Species Act (ESA) requires Federal agencies to consult with the U.S. Fish and Wildlife Service (Service) to ensure that actions they fund, authorize, permit or otherwise carry out will not jeopardize the continued existence of any listed species or adversely modify designated critical habitats. Federal agencies (or their designated representatives) must initiate consultation with the Service if a proposed action *may affect* one or more listed species. In addition, the Service provides review of non-Federal actions that *may affect* federally listed species or their habitats as technical assistance to help non-Federal project proponents ensure compliance with the ESA and with New Jersey land use regulations. Staffing constraints limit the Service's New Jersey Field Office to reviewing only those projects that *may affect* federally listed species. The *may affect* determination is made by the Federal action agency or non-Federal project proponent using the information and instructions on our web site.

<http://www.fws.gov/northeast/njfieldoffice/Endangered/consultation.html>

Federal agencies are not required to contact the Service if a proposed action will have *no effect* on listed species, or if no listed species are present in the action area. No further ESA consultation or coordination is necessary for projects where the Federal action agency or non-Federal project proponent has followed the procedures on our web site and determined that proposed project activities will have *no effect* on federally listed species. Service concurrence with a *no effect* determination is not required under the ESA and will not be provided by the New Jersey Field Office due to limited staffing. In addition to this letter, the Federal action agency or non-Federal project proponent should retain in their files documentation from our web site at the time of their review, including a dated copy of the report generated by our Information, Planning, and Conservation System (IPaC). **Both Federal and non-Federal project proponents are responsible for generating and maintaining in their files adequate documentation to support a *no effect* determination, by following the instruction on our web site.** Note that under the ESA, a species list is valid for only 90 days; thus, the Service recommends consulting our web site regularly during project planning and implementation for updated species lists and information.

Thank you for your cooperation. Please contact Ron_Popowski@fws.gov, if you have any questions or require further assistance regarding federally listed threatened or endangered species.

Sincerely,



Eric Schradling
Field Supervisor

**A NO EFFECT DETERMINATION IS VALID ONLY WITH AN ATTACHED IPaC REPORT
AND SUPPORTING DOCUMENTATION AS DETAILED AT THE ABOVE WEB SITE**

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

AB-290 (Sub. No. 409X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– PROPOSED ABANDONMENT EXEMPTION-
IN THE CITY OF CLIFTON IN PASSAIC COUNTY, NEW JERSEY**

Combined Environmental and Historic Report

APPENDIX D

Railroad-related Historic Resources

Table: Railroad-related Historic Resources

Item No.	MP No.	Resource Name	Resource Type	Date(s)	Proximity to APE	Municipality	County	NRHP Criteria	Current NRHP Status	Current SR Status	Current Local Status
01	Multiple	Erie Railroad Main Line Historic District	Historic District	1831-1960	Inside	Multiple	Multiple	Criteria A and C: Transportation, Engineering POS: 1831-1960	Individually Eligible SHPO Opinions: 3/10/1999; 2/20/2003; 3/7/2006) ¹	Individually Eligible SHPO Opinions: 3/10/1999; 2/20/2003; 3/7/2006)	N/A

Compiled by Richard Grubb & Associates, Inc., July 6, 2020 from available records; New Jersey Historic Preservation Office files not accessible due to Covid-19 pandemic.

1. The study by the RBA Group, Inc. concluded that the entire length of the former Erie Railroad Main Line to the New York State Line, including the abandoned portions, eligible for listing in the NRHP (RBA Group 2009: 9-12).

APE – Area of Potential Effects

NRHP – National Register of Historic Places

POS – Period of Significance

SHPO – New Jersey State Historic Preservation Officer

SR – New Jersey State Register of Historic Places

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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– PROPOSED ABANDONMENT EXEMPTION-
IN THE CITY OF CLIFTON IN PASSAIC COUNTY, NEW JERSEY**

Combined Environmental and Historic Report

APPENDIX E

§5 Bibliography Historical Sources

BIBLIOGRAPHY

A.G. Lichtenstein & Associates, Inc.

1994 *New Jersey Historic Bridge Survey*. Prepared for the New Jersey Department of Transportation (NJDOT), Bureau of Environmental Analysis, Trenton, New Jersey. Updated March 1, 2001 by NJDOT

Anderson, J. A.

1876 *Map of the Railroads of New Jersey and Parts of Adjoining States*. J. L. Smith, Philadelphia, Pennsylvania.

Bergen County Office of Historic and Cultural Affairs

1980 *Historic Sites Survey of the Borough of East Rutherford*. Bergen County Office of Historic and Cultural Affairs and Bergen County Historic Sites Advisory Board. August 29, 1980. On file, New Jersey Historic Preservation Office, Trenton, New Jersey.

Burgess, George H. and Miles C. Kennedy

1949 *Centennial History of the Pennsylvania Railroad Company*. The Pennsylvania Railroad Company, Philadelphia, Pennsylvania.

Clayton, W. Woodford

1882 *History of Bergen and Passaic Counties, New Jersey*. Everts & Peck, Philadelphia, Pennsylvania.

Cunningham, John T.

1997 *Railroads of New Jersey: The Formative Years*. Afton Publishing Company, Andover, New Jersey.

DeLeuw Cather & Company, Inc.

1991 *NJ Transit Historic Railroad Bridge Survey*. On file, New Jersey Historic Preservation Office, Trenton, New Jersey.

E. B Hyde and Co.

1877 *Atlas of Passaic County, New Jersey*. E. B. Hyde and Co. New York, New York.

Hopkins, G.M.

1861 *Map of the Counties of Bergen and Passaic*. G.H. Corey, Philadelphia, Pennsylvania.

Hughes, T. J.

1904 *Rutherford, New Jersey* [Birdseye View]. T. J. Hughes, New York, New York.

Hungerford, Edward

1946 *Men of Erie: A Story of Human Effort*. Random House, New York, New York.

Lucas, Walter Arndt

1944 *From the Hills to the Hudson: The History of the Paterson and Hudson River Rail Road and its Associates the Paterson and Ramapo and the Union Railroads*. Railroadians of America and Mullins-Tutrone Co., New York, New York.

Messer, David W. and Charles S. Roberts

2002 *Triumph V: Philadelphia to New York, 1830-2002*. Barnard Roberts, and Co., Inc. Baltimore, Maryland.

Mott, Edward Harold

1899 *Between the Ocean and the Lakes: The Story of Erie*. J. S. Collins, New York, New York.

National Environmental Title Research

1987 Aerial Photograph, Carlton Hill Vicinity. Electronic document, www.historicaerials.com, accessed July 9, 2020.

1995 Aerial Photograph, Carlton Hill Vicinity. Electronic document, www.historicaerials.com, accessed July 9, 2020.

New Jersey State Legislature

1831 "An Act to Incorporate the Paterson and Hudson River Rail Road." *Acts of the Fifty-fifth General Assembly of the State of New Jersey*. Joseph Justice, Trenton, New Jersey.

1841 "An Act to Incorporate the Paterson and Ramapo Railroad Company." *Acts of the Sixty-fifth General Assembly of the State of New Jersey*. Phillips and Boswell, Trenton, New Jersey.

1843 "An Act Respecting the Paterson and Ramapo Railroad Company." *Acts of the Sixty-seventh General Assembly of the State of New Jersey*. David F. Randolph, New Brunswick, New Jersey.

1847 "An Act to Extend the Time Limited for Completing the Paterson and Ramapo Railroad." *Acts of the Seventy-first General Assembly of the State of New Jersey*. Phillips and Boswell, Trenton, New Jersey.

1853a "An Act to Incorporate the Bergen County Railroad Company." *Acts of the Seventy-seventh General Assembly of the State of New Jersey*. Donaldson & Brokaw, Somerville, New Jersey.

1853b "An Act to allow parties having claims against the New York and Erie Railroad Company, and others, using the Paterson and Hudson river railroad, and the Paterson and Ramapo railroad, to prosecute for such claims or damages, in the courts of this state, and to legitimize the leases or contracts made by the Paterson and Ramapo Railroad Company and the Paterson and Hudson River Railroad Company to the Union Railroad Company." *Acts of the Seventy-seventh General Assembly of the State of New Jersey*. Donaldson & Brokaw, Somerville, New Jersey.

RBA Group, Inc. The

2009 Historic Transportation in the Hackensack Meadows. Volume 2: A Survey of the Erie Railroad Main Line. Prepared for the New Jersey Turnpike Authority. RBA Group, Inc., Cultural Resources Unit, December 2009. On file, New Jersey Historic Preservation Office, Trenton, New Jersey.

Taber, Thomas Townsend and Thomas Townsend III

1980 *The Delaware, Lackawanna & Western Railroad in the Twentieth Century, 1899-1960*. Vol. I. Steamtown Volunteer Association, Scranton, Pennsylvania.

United States Geological Survey
1938 Paterson, NJ Quadrangle.

Yanosey, Robert J.

2006 *Trackside Around New Jersey 1968-1983*. Morning Sun Books, Inc. Scotch Plains, New Jersey.

ATTACHMENT 2

**CONSULTING AGENCY RESPONSES TO
ENVIRONMENTAL AND HISTORIC REPORT
(POST-CIRCULATION)**



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

NATURAL AND HISTORIC RESOURCES

DIVISION OF FISH AND WILDLIFE

P.O. BOX 420; MAIL CODE: 501-03

TRENTON, NJ 08625-0420

TEL: (609) 292-2965; FAX: (609) 984-1414

VISIT OUR WEBSITE: WWW.NJFISHANDWILDLIFE.COM

David M. Golden, Director

PHILIP D. MURPHY
Governor

CATHERINE R. McCABE
Commissioner

SHEILA Y. OLIVER
Lt. Governor

August 6, 2020

Ms. Laura E. Hoag
Director
Norfolk Southern Corporation
Strategic Planning Department
Three Commercial Place
Norfolk, VA 23510

RE: **Norfolk Southern Railway Company Abandonment
AB-290 (Sub-No 409X)
Passaic County
Comments on Rail Line Abandonment**

Dear Ms. Hoag:

The NJ Division of Fish & Wildlife (DFW) agrees with NSR's assessment that the abandonment will not have any greater adverse impact on surrounding habitats and species than it already does. Railroad tracks, whether abandoned or active, are frequently a barrier to turtle movement or permanently entrap turtles resulting in mortality. Our records indicate there have been no confirmed turtle siting's within four miles of this highly urbanized location.

If there are any questions concerning these comments, please feel free to contact Kelly Davis of my staff (609-960-4502). We hope this information is of service to you.

Sincerely,

David Golden, Director
NJ Division of Fish & Wildlife

Cc: Judeth Yeany, Bureau of Legal and Stewardship Services, Green Acres



United States Department of the Interior

FISH AND WILDLIFE SERVICE
New Jersey Ecological Services Field Office
4 E. Jimmie Leeds Road, Suite 4

Galloway, NJ 08205

Phone: (609) 646-9310 Fax: (609) 646-0352

<http://www.fws.gov/northeast/njfieldoffice/Endangered/consultation.html>



In Reply Refer To:

August 11, 2020

Consultation Code: 05E2NJ00-2020-SLI-1453

Event Code: 05E2NJ00-2020-E-03110

Project Name: Norfolk Southern Abandonment of Common Carrier Obligation

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed, and candidate species that may occur in your proposed action area and/or may be affected by your proposed project. This species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under Section 7(c) of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*)

If the enclosed list indicates that any listed species may be present in your action area, please visit the New Jersey Field Office consultation web page as the next step in evaluating potential project impacts: <http://www.fws.gov/northeast/njfieldoffice/Endangered/consultation.html>

On the New Jersey Field Office consultation web page you will find:

- habitat descriptions, survey protocols, and recommended best management practices for listed species;
- recommended procedures for submitting information to this office; and
- links to other Federal and State agencies, the Section 7 Consultation Handbook, the Service's wind energy guidelines, communication tower recommendations, the National Bald Eagle Management Guidelines, and other resources and recommendations for protecting wildlife resources.

The enclosed list may change as new information about listed species becomes available. As per Federal regulations at 50 CFR 402.12(e), the enclosed list is only valid for 90 days. Please return to the ECOS-IPaC website at regular intervals during project planning and implementation to obtain an updated species list. When using ECOS-IPaC, be careful about drawing the boundary of your Project Location. Remember that your action area under the ESA is not limited to just the footprint of the project. The action area also includes all areas that may be indirectly affected

through impacts such as noise, visual disturbance, erosion, sedimentation, hydrologic change, chemical exposure, reduced availability or access to food resources, barriers to movement, increased human intrusions or access, and all areas affected by reasonably foreseeable future that would not occur without ("but for") the project that is currently being proposed.

We appreciate your concern for threatened and endangered species. The Service encourages Federal and non-Federal project proponents to consider listed, proposed, and candidate species early in the planning process. Feel free to contact this office if you would like more information or assistance evaluating potential project impacts to federally listed species or other wildlife resources. Please include the Consultation Tracking Number in the header of this letter with any correspondence about your project.

Attachment(s):

- Official Species List
- USFWS National Wildlife Refuges and Fish Hatcheries
- Migratory Birds
- Wetlands

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

New Jersey Ecological Services Field Office

4 E. Jimmie Leeds Road, Suite 4

Galloway, NJ 08205

(609) 646-9310

Project Summary

Consultation Code: 05E2NJ00-2020-SLI-1453

Event Code: 05E2NJ00-2020-E-03110

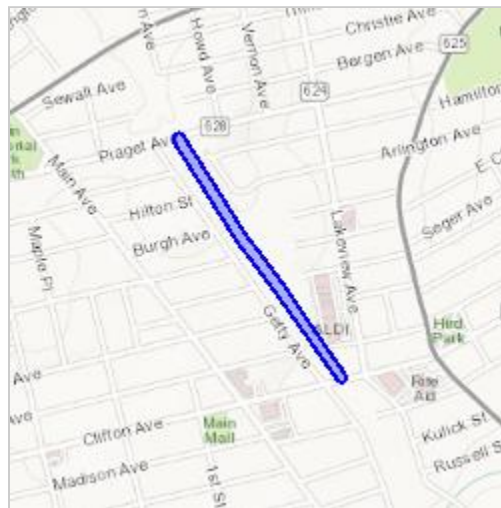
Project Name: Norfolk Southern Abandonment of Common Carrier Obligation

Project Type: ** OTHER **

Project Description: Norfolk Southern seeks to abandon its common carrier obligation on a rail line. Norfolk Southern will not be performing any salvage activities in relation to the abandonment.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/40.87848560577187N74.13917441253245W>



Counties: Passaic, NJ

Endangered Species Act Species

There is a total of 0 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

USFWS National Wildlife Refuge Lands And Fish Hatcheries

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.

Migratory Birds

Certain birds are protected under the Migratory Bird Treaty Act¹ and the Bald and Golden Eagle Protection Act².

Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats should follow appropriate regulations and consider implementing appropriate conservation measures, as described [below](#).

-
1. The [Migratory Birds Treaty Act](#) of 1918.
 2. The [Bald and Golden Eagle Protection Act](#) of 1940.
 3. 50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)

The birds listed below are birds of particular concern either because they occur on the [USFWS Birds of Conservation Concern](#) (BCC) list or warrant special attention in your project location. To learn more about the levels of concern for birds on your list and how this list is generated, see the FAQ [below](#). This is not a list of every bird you may find in this location, nor a guarantee that every bird on this list will be found in your project area. To see exact locations of where birders and the general public have sighted birds in and around your project area, visit the [E-bird data mapping tool](#) (Tip: enter your location, desired date range and a species on your list). For projects that occur off the Atlantic Coast, additional maps and models detailing the relative occurrence and abundance of bird species on your list are available. Links to additional information about Atlantic Coast birds, and other important information about your migratory bird list, including how to properly interpret and use your migratory bird report, can be found [below](#).

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, click on the PROBABILITY OF PRESENCE SUMMARY at the top of your list to see when these birds are most likely to be present and breeding in your project area.

NAME	BREEDING SEASON
Bald Eagle <i>Haliaeetus leucocephalus</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. https://ecos.fws.gov/ecp/species/1626	Breeds Sep 1 to Jul 31
Blue-winged Warbler <i>Vermivora pinus</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA	Breeds May 1 to Jun 30

NAME	BREEDING SEASON
Prairie Warbler <i>Dendroica discolor</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 1 to Jul 31
Red-headed Woodpecker <i>Melanerpes erythrocephalus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 10 to Sep 10
Rusty Blackbird <i>Euphagus carolinus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds elsewhere
Wood Thrush <i>Hylocichla mustelina</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 10 to Aug 31

Probability Of Presence Summary

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read and understand the FAQ “Proper Interpretation and Use of Your Migratory Bird Report” before using or attempting to interpret this report.

Probability of Presence (■)

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.
2. To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is $0.25/0.25 = 1$; at week 20 it is $0.05/0.25 = 0.2$.

- The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

Breeding Season (■)

Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

Survey Effort (|)

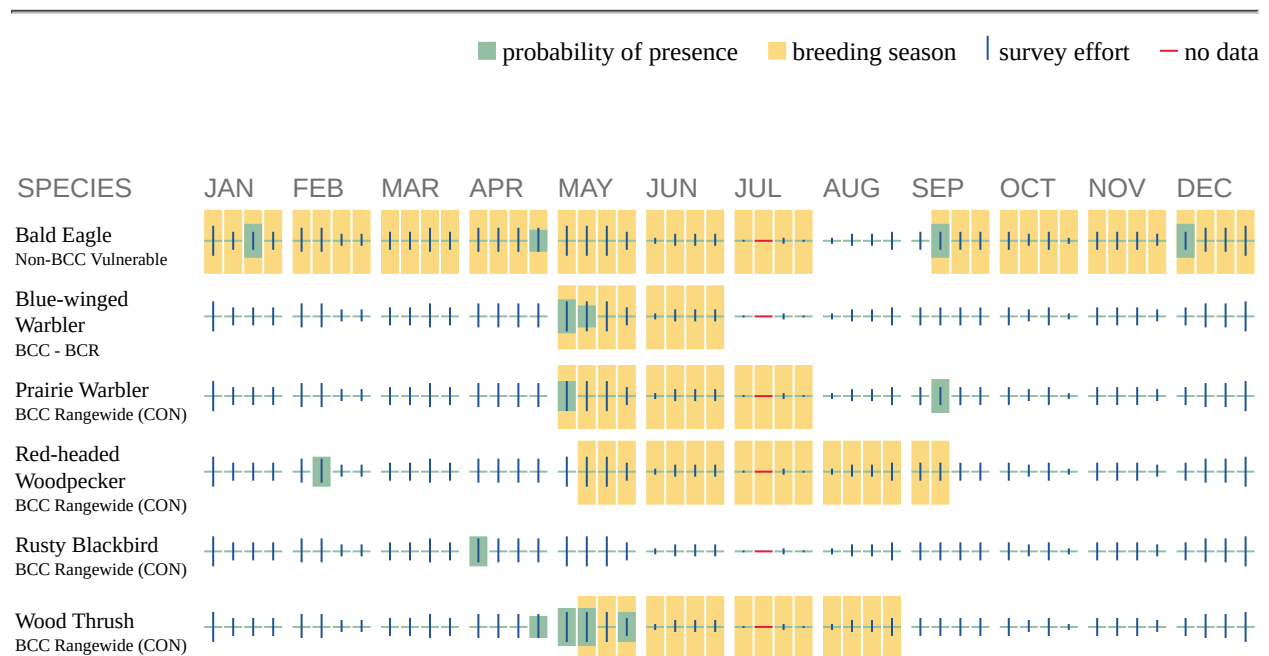
Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

No Data (—)

A week is marked as having no data if there were no survey events for that week.

Survey Timeframe

Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.



Additional information can be found using the following links:

- Birds of Conservation Concern <http://www.fws.gov/birds/management/managed-species/birds-of-conservation-concern.php>

- Measures for avoiding and minimizing impacts to birds <http://www.fws.gov/birds/management/project-assessment-tools-and-guidance/conservation-measures.php>
- Nationwide conservation measures for birds <http://www.fws.gov/migratorybirds/pdf/management/nationwidestandardconservationmeasures.pdf>

Migratory Birds FAQ

Tell me more about conservation measures I can implement to avoid or minimize impacts to migratory birds.

[Nationwide Conservation Measures](#) describes measures that can help avoid and minimize impacts to all birds at any location year round. Implementation of these measures is particularly important when birds are most likely to occur in the project area. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is a very helpful impact minimization measure. To see when birds are most likely to occur and be breeding in your project area, view the Probability of Presence Summary. [Additional measures](#) and/or [permits](#) may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

What does IPaC use to generate the migratory birds potentially occurring in my specified location?

The Migratory Bird Resource List is comprised of USFWS [Birds of Conservation Concern \(BCC\)](#) and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle ([Eagle Act](#) requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the [AKN Phenology Tool](#).

What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?

The probability of presence graphs associated with your migratory bird list are based on data provided by the [Avian Knowledge Network \(AKN\)](#). This data is derived from a growing collection of [survey, banding, and citizen science datasets](#).

Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and

how to interpret them, go the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

How do I know if a bird is breeding, wintering, migrating or present year-round in my project area?

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating or year-round), you may refer to the following resources: [The Cornell Lab of Ornithology All About Birds Bird Guide](#), or (if you are unsuccessful in locating the bird of interest there), the [Cornell Lab of Ornithology Neotropical Birds guide](#). If a bird on your migratory bird species list has a breeding season associated with it, if that bird does occur in your project area, there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

What are the levels of concern for migratory birds?

Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are [Birds of Conservation Concern](#) (BCC) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the [Eagle Act](#) requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).

Although it is important to try to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially eagles and BCC species of rangewide concern. For more information on conservation measures you can implement to help avoid and minimize migratory bird impacts and requirements for eagles, please see the FAQs for these topics.

Details about birds that are potentially affected by offshore projects

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the [NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf](#) project webpage.

Bird tracking data can also provide additional details about occurrence and habitat use throughout the year, including migration. Models relying on survey data may not include this information. For additional information on marine bird tracking data, see the [Diving Bird Study](#) and the [nanotag studies](#) or contact [Caleb Spiegel](#) or [Pam Loring](#).

What if I have eagles on my list?

If your project has the potential to disturb or kill eagles, you may need to [obtain a permit](#) to avoid violating the Eagle Act should such impacts occur.

Proper Interpretation and Use of Your Migratory Bird Report

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated, and see options for identifying what other birds may be in your project area, please see the FAQ “What does IPaC use to generate the migratory birds potentially occurring in my specified location”. Please be aware this report provides the “probability of presence” of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please also look carefully at the survey effort (indicated by the black vertical bar) and for the existence of the “no data” indicator (a red horizontal bar). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list helps you know what to look for to confirm presence, and helps guide you in knowing when to implement conservation measures to avoid or minimize potential impacts from your project activities, should presence be confirmed. To learn more about conservation measures, visit the FAQ “Tell me about conservation measures I can implement to avoid or minimize impacts to migratory birds” at the bottom of your migratory bird trust resources page.

Wetlands

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

THERE ARE NO WETLANDS WITHIN YOUR PROJECT AREA.



United States Department of the Interior

FISH AND WILDLIFE SERVICE

New Jersey Field Office
4 E. Jimmie Leeds Road, Suite 4
Galloway, New Jersey 08205

Tel: 609-646-9310

<http://www.fws.gov/northeast/njfieldoffice>

To Whom It May Concern:

Section 7(a)(2) of the Endangered Species Act (ESA) requires Federal agencies to consult with the U.S. Fish and Wildlife Service (Service) to ensure that actions they fund, authorize, permit or otherwise carry out will not jeopardize the continued existence of any listed species or adversely modify designated critical habitats. Federal agencies (or their designated representatives) must initiate consultation with the Service if a proposed action *may affect* one or more listed species. In addition, the Service provides review of non-Federal actions that *may affect* federally listed species or their habitats as technical assistance to help non-Federal project proponents ensure compliance with the ESA and with New Jersey land use regulations. Staffing constraints limit the Service's New Jersey Field Office to reviewing only those projects that *may affect* federally listed species. The *may affect* determination is made by the Federal action agency or non-Federal project proponent using the information and instructions on our web site.

<http://www.fws.gov/northeast/njfieldoffice/Endangered/consultation.html>

Federal agencies are not required to contact the Service if a proposed action will have *no effect* on listed species, or if no listed species are present in the action area. No further ESA consultation or coordination is necessary for projects where the Federal action agency or non-Federal project proponent has followed the procedures on our web site and determined that proposed project activities will have *no effect* on federally listed species. Service concurrence with a *no effect* determination is not required under the ESA and will not be provided by the New Jersey Field Office due to limited staffing. In addition to this letter, the Federal action agency or non-Federal project proponent should retain in their files documentation from our web site at the time of their review, including a dated copy of the report generated by our Information, Planning, and Conservation System (IPaC). **Both Federal and non-Federal project proponents are responsible for generating and maintaining in their files adequate documentation to support a *no effect* determination, by following the instruction on our web site.** Note that under the ESA, a species list is valid for only 90 days; thus, the Service recommends consulting our web site regularly during project planning and implementation for updated species lists and information.

Thank you for your cooperation. Please contact Ron_Popowski@fws.gov, if you have any questions or require further assistance regarding federally listed threatened or endangered species.

Sincerely,



Eric Schradung
Field Supervisor

**A NO EFFECT DETERMINATION IS VALID ONLY WITH AN ATTACHED IPaC REPORT
AND SUPPORTING DOCUMENTATION AS DETAILED AT THE ABOVE WEB SITE**

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

AB-290 (Sub. No. 409X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– PROPOSED ABANDONMENT EXEMPTION-
IN THE CITY OF CLIFTON IN PASSAIC COUNTY, NEW JERSEY**

Combined Environmental and Historic Report

APPENDIX D

Railroad-related Historic Resources

Table: Railroad-related Historic Resources

Item No.	MP No.	Resource Name	Resource Type	Date(s)	Proximity to APE	Municipality	County	NRHP Criteria	Current NRHP Status	Current SR Status	Current Local Status
01	Multiple	Erie Railroad Main Line Historic District	Historic District	1831-1960	Inside	Multiple	Multiple	Criteria A and C: Transportation, Engineering POS: 1831-1960	Individually Eligible SHPO Opinions: 3/10/1999; 2/20/2003; 3/7/2006) ¹	Individually Eligible SHPO Opinions: 3/10/1999; 2/20/2003; 3/7/2006)	N/A

Compiled by Richard Grubb & Associates, Inc., July 6, 2020 from available records; New Jersey Historic Preservation Office files not accessible due to Covid-19 pandemic.

1. The study by the RBA Group, Inc. concluded that the entire length of the former Erie Railroad Main Line to the New York State Line, including the abandoned portions, eligible for listing in the NRHP (RBA Group 2009: 9-12).

APE – Area of Potential Effects

NRHP – National Register of Historic Places

POS – Period of Significance

SHPO – New Jersey State Historic Preservation Officer

SR – New Jersey State Register of Historic Places

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

AB-290 (Sub. No. 409X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– PROPOSED ABANDONMENT EXEMPTION-
IN THE CITY OF CLIFTON IN PASSAIC COUNTY, NEW JERSEY**

Combined Environmental and Historic Report

APPENDIX E

§5 Bibliography Historical Sources

BIBLIOGRAPHY

A.G. Lichtenstein & Associates, Inc.

1994 *New Jersey Historic Bridge Survey*. Prepared for the New Jersey Department of Transportation (NJDOT), Bureau of Environmental Analysis, Trenton, New Jersey. Updated March 1, 2001 by NJDOT

Anderson, J. A.

1876 *Map of the Railroads of New Jersey and Parts of Adjoining States*. J. L. Smith, Philadelphia, Pennsylvania.

Bergen County Office of Historic and Cultural Affairs

1980 *Historic Sites Survey of the Borough of East Rutherford*. Bergen County Office of Historic and Cultural Affairs and Bergen County Historic Sites Advisory Board. August 29, 1980. On file, New Jersey Historic Preservation Office, Trenton, New Jersey.

Burgess, George H. and Miles C. Kennedy

1949 *Centennial History of the Pennsylvania Railroad Company*. The Pennsylvania Railroad Company, Philadelphia, Pennsylvania.

Clayton, W. Woodford

1882 *History of Bergen and Passaic Counties, New Jersey*. Everts & Peck, Philadelphia, Pennsylvania.

Cunningham, John T.

1997 *Railroads of New Jersey: The Formative Years*. Afton Publishing Company, Andover, New Jersey.

DeLeuw Cather & Company, Inc.

1991 *NJ Transit Historic Railroad Bridge Survey*. On file, New Jersey Historic Preservation Office, Trenton, New Jersey.

E. B Hyde and Co.

1877 *Atlas of Passaic County, New Jersey*. E. B. Hyde and Co. New York, New York.

Hopkins, G.M.

1861 *Map of the Counties of Bergen and Passaic*. G.H. Corey, Philadelphia, Pennsylvania.

Hughes, T. J.

1904 *Rutherford, New Jersey* [Birdseye View]. T. J. Hughes, New York, New York.

Hungerford, Edward

1946 *Men of Erie: A Story of Human Effort*. Random House, New York, New York.

Lucas, Walter Arndt

1944 *From the Hills to the Hudson: The History of the Paterson and Hudson River Rail Road and its Associates the Paterson and Ramapo and the Union Railroads*. Railroadians of America and Mullins-Tutrone Co., New York, New York.

Messer, David W. and Charles S. Roberts

2002 *Triumph V: Philadelphia to New York, 1830-2002*. Barnard Roberts, and Co., Inc. Baltimore, Maryland.

Mott, Edward Harold

1899 *Between the Ocean and the Lakes: The Story of Erie*. J. S. Collins, New York, New York.

National Environmental Title Research

1987 Aerial Photograph, Carlton Hill Vicinity. Electronic document, www.historicaerials.com, accessed July 9, 2020.

1995 Aerial Photograph, Carlton Hill Vicinity. Electronic document, www.historicaerials.com, accessed July 9, 2020.

New Jersey State Legislature

1831 "An Act to Incorporate the Paterson and Hudson River Rail Road." *Acts of the Fifty-fifth General Assembly of the State of New Jersey*. Joseph Justice, Trenton, New Jersey.

1841 "An Act to Incorporate the Paterson and Ramapo Railroad Company." *Acts of the Sixty-fifth General Assembly of the State of New Jersey*. Phillips and Boswell, Trenton, New Jersey.

1843 "An Act Respecting the Paterson and Ramapo Railroad Company." *Acts of the Sixty-seventh General Assembly of the State of New Jersey*. David F. Randolph, New Brunswick, New Jersey.

1847 "An Act to Extend the Time Limited for Completing the Paterson and Ramapo Railroad." *Acts of the Seventy-first General Assembly of the State of New Jersey*. Phillips and Boswell, Trenton, New Jersey.

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United States Geological Survey
1938 Paterson, NJ Quadrangle.

Yanosey, Robert J.

2006 *Trackside Around New Jersey 1968-1983*. Morning Sun Books, Inc. Scotch Plains, New Jersey.

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

AB-290 (Sub-No. 409X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF CLIFTON IN PASSAIC COUNTY, NEW JERSEY**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

**DRAFT NOTICE OF EXEMPTION
[CAPTION SUMMARY]**

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[AB 290 (Sub-No. 409X)]

Norfolk Southern Railway Company – Abandonment Exemption – In the City of Clifton in Passaic County, New Jersey

Norfolk Southern Railway Company has filed on August 31, 2020, a verified notice of exemption under 49 C.F.R. part 1152 subpart F–Exempt Abandonments to abandon rail service over an approximately 0.4-mile long rail line, extending from Milepost IA 12.5 to Milepost IA 12.9 in the City of Clifton in Passaic County, New Jersey (the “Line”). The entirety of the Line is located in the City of Clifton in Passaic County, New Jersey. The Line traverses United States Postal Zip Code territory 07011. There are no customers served on the Line, which has been out of service and has not provided service to any shippers in over two decades.

NSR has certified that: (1) no local NSR traffic has moved over the Line for at least two years; (2) that no overhead NSR 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 (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year-period; and (4) the requirements at 49 C.F.R. § 1105.7(c) (environmental report), 49 C.F.R. § 1105.11 (transmittal letter), 49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line Railroad – Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (“OFA”) has been received, this exemption will be effective on October 20, 2020, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,³ formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),⁴ and trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by _____, 2020. Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by _____, 2020, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to NSR’s representative: Crystal M. Zorbaugh, Baker & Miller PLLC, 2401 Pennsylvania Ave., NW, Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void ab initio.

NSR has filed a combined environmental and historic report which addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an

³ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board’s Office of Environmental Analysis (“OEA”) in its independent investigation) cannot be made before the exemption’s effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption’s effective date.

⁴ Each OFA must be accompanied by the filing fee, which is currently set at \$1,900.00. See 49 C.F.R. § 1002.2(f)(25).

environmental assessment (EA) by _____, 2020. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 C.F.R. § 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by NSR's filing of a notice of consummation by _____, 2021, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: _____, 2020.

By the Board, _____, Director, Office of Proceedings