



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

May 7, 2019

Reid Nelson
Director
Advisory Council on Historic Preservation
Office of Federal Agency Programs
1100 Pennsylvania Avenue, NW, Suite 803
Washington, DC 20004

Re: Docket No. AB 290 (Sub-No. 394X), Norfolk Southern Railway Company –
Abandonment Exemption – in Aurora, Portage County, Ohio

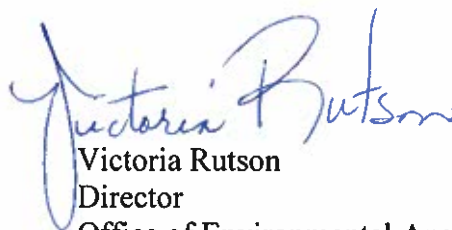
Dear Director Nelson:

On November 13, 2017, Norfolk Southern Railway Company (NSR) filed a petition for exemption with the Surface Transportation Board (Board) seeking approval authority to abandon an approximately 5.5-mile rail line in the City of Aurora, Portage County, Ohio. The Board's approval of the abandonment is considered an undertaking under Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108) (NHPA) and is thus covered under its provisions. The Office of Environmental Analysis (OEA) is the office within the Board responsible for conducting the environmental review process pursuant to the National Environmental Policy Act, including the NHPA.

I am writing to notify you that OEA has executed a Memorandum of Agreement (MOA) with the Ohio Historic Preservation Office (State Historic Preservation Office or SHPO) and NSR to resolve any adverse effects to historic properties for the proposed undertaking pursuant to 36 C.F.R. § 800.6(b)(1)(iv). The executed MOA is included for your files, and the filing of this document with the Advisory Council on Historic Preservation completes our compliance responsibilities under Section 106 of NHPA.

If you have any questions or require any additional information, please do not hesitate to contact me or Danielle Gosselin at (202) 245-0300.

Sincerely,



Victoria Rutson
Director
Office of Environmental Analysis

Enclosures (1)

cc: Sarah Stokely, Advisory Council
Diana Welling, Ohio SHPO
Crystal Zorbaugh, Norfolk Southern

MEMORANDUM OF AGREEMENT

AMONG

**THE SURFACE TRANSPORTATION BOARD,
THE OHIO STATE HISTORIC PRESERVATION OFFICE, AND
NORFOLK SOUTHERN RAILWAY COMPANY**

**REGARDING THE RAIL LINE ABANDONMENT PROJECT
LOCATED IN AURORA, PORTAGE COUNTY, OHIO**

WHEREAS, on November 13, 2017, Norfolk Southern Railway Company (NSR) filed a verified notice of exemption with the United States Surface Transportation Board (Board) under 49 C.F.R. pt. 1152 subpart F --- Exempt Abandonments and Discontinuances of Service, in AB-290 (Sub-No. 394X) invoking the class exemption from the prior approval requirements of 49 U.S.C. §10903 for NSR to abandon approximately 5.5 miles of rail line located between milepost RH 22.0 and milepost RH 27.5 in the City of Aurora, County of Portage, State of Ohio (Rail Line) and for Cleveland Commercial Railroad Company, LLC to discontinue its lease and operation over the Rail Line; and

WHEREAS, on December 28, 2017, the Board imposed a condition for the proposed abandonment and discontinuance that requires NSR, as a prerequisite to the commencement of salvage activities, to retain its interest in and take no steps to alter the integrity of all historic properties [sites, buildings, structures, and objects (including track and track material)] within the proposed abandonment's right-of-way that are eligible for or listed in the National Register of Historic Places (NRHP) until completion of the Section 106 process of the National Historic Preservation Act of 1966 [(54 U.S.C. § 306108 (NHPA))] and its associated regulations at 36 C.F.R. § 800; and

WHEREAS, the definitions listed in 36 C.F.R. §800.16 are applicable throughout this MOA; and

WHEREAS, as defined in 36 C.F.R. §800.3(a), the Board has determined that the Rail Line abandonment constitutes an undertaking; and

WHEREAS, the Board has determined that for abandonments, the railroad right-of-way and properties immediately adjacent to it constitute the Area of Potential Effects (APE) (as shown in the map in Exhibit A), defined at 36 C.F.R. §800.16(d). In this case, the right-of-way ranges from 30 to 100 feet on either side of the center line of track; and

WHEREAS, pursuant to 36 C.F.R. § 800.6, the Board, through its Office of Environmental Analysis (OEA) has consulted with the Ohio State Historic Preservation Office (SHPO) and NSR regarding ways to avoid, minimize, or mitigate potential effects to the historic resources as a result of abandonment; and

WHEREAS, the Rail Line is owned by NSR and pursuant to 36 C.F.R. §800.6(c)(2)(iii), OEA has invited NSR to be an Invited Signatory in this MOA; and

WHEREAS, pursuant to 36 C.F.R. § 800.5(a), OEA has determined that the undertaking would have an adverse effect on the Aurora Train Station (also known as the Erie Railroad Station) which is listed in the National Register of Historic Places (NRHP # 86001131); and could have an adverse effect on the Aurora Station Historic District (Historic District), which is a locally-designated district (per the Aurora Landmark Commission) that overlaps the APE and may also be eligible for listing in the NRHP; and

WHEREAS, numerous properties contributing to the Historic District have been identified within approximately 500 feet of the rail right-of-way (See Exhibit A), and the portion of Rail Line located within the Historic District is considered a contributing feature to the setting and association of the Aurora Train Station and the Historic District; and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), OEA has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with specified documentation, and the ACHP has chosen not to participate in the consultation pursuant to 36 C.F.R. § 800.6(a)(1)(iii); and

WHEREAS, OEA took reasonable measures to identify Section 106 Consulting Parties; including the Aurora Landmark Commission and other regional historic preservation organizations to create a Proposed Section 106 Consultation Service List; and

WHEREAS, on June 4, 2018, OEA sent a letter inviting the organizations and individuals identified to participate in the Section 106 process and asked for comments on proposed mitigation (See Exhibit B); and

WHEREAS, OEA has considered the comments offered by various interested organizations and individuals in developing this MOA; and

WHEREAS, this MOA is limited in scope to the Rail Line abandonment, and, more particularly, to the mitigation measures detailed below under “Stipulations” and is entered into solely for purposes of mitigating potential historic impacts associated with the undertaking; and

WHEREAS, the Board, SHPO, and NSR agree that the execution of this MOA by the parties hereto and its subsequent submission to the Advisory Council in accordance with 36 C.F.R. §800.6(b)(1)(iv), shall, pursuant to 36 C.F.R. §800.6(c), be considered to be an agreement with the Advisory Council for purposes of the NHPA. Execution and submission of the MOA, and implementation of its terms, are evidence that the Board has taken into account the effects of the abandonment on historic properties and is satisfying the requirements of Section 106 of the NHPA.

NOW, THEREFORE, the Board, SHPO, and NSR agree that this undertaking shall be implemented in accordance with the following stipulations to take into account the effects of the undertaking on historic properties.

STIPULATIONS

The Board shall ensure that the following stipulations are carried out:

I. MITIGATION MEASURES

- A. During the time it owns the property, NSR shall keep in place the 506 feet of Rail Line shown in Exhibit C and shall not remove it.
- B. NSR shall file an application with the Ohio Historical Markers Program to produce interpretive signage documenting the history of the rail line and associated historic properties. Signage may include, but not be limited to, the following:
 1. Historic images of the Aurora Train Station and rail line, including captions detailing each image.
 2. A narrative detailing the historic significance of the rail line and associated historic properties and how the rail line fits into the historic context of Aurora's development as a transportation hub.
 3. Images of significant archeological artifacts, if any are found, that provide a historical link to the rail line identified during abandonment and salvage process.
 4. Relevant information from Ohio Historic Inventory (OHI) forms and/or the Aurora Train Station National Register nomination.
 5. NSR will consult with SHPO and the Aurora Historical Society, which will assist with development of language for the signage, prior to NSR submitting a completed application in accordance with the Ohio Historic Markers Application guidelines in advance of the July 1, 2019/2020 deadline and cooperate with the Ohio Historic Markers Coordinator and SHPO in processing of the application. The actual sign will be placed within one year of the Ohio Historic Markers Program's approval of the signage.
 - a. SHPO and the Aurora Historical Society shall have thirty (30) days to review NSR's Ohio Historic Markers Application to provide input on the design and content of the signage.
 - b. Subsequent reviews shall also be completed by SHPO and the Aurora Historical Society within thirty (30) days of receipt of requested revisions.

- C. NSR shall ensure that in any purchase and sale agreement executed, NSR reserves the right to fabricate and install Ohio Historic Markers interpretive signage within a year of the Ohio Historic Markers Program's approval of the signage.
- D. NSR agrees that any agreement of sale between NSR and any subsequent purchaser of the right-of-way underlying the Rail Line shall contain a provision requiring that such purchaser agree to retain the aforesaid 506 feet of the Rail Line track, cross-ties and ballast.
- E. NSR agrees that any agreement of sale between NSR and any subsequent purchaser of the right-of-way underlying the Rail Line shall contain a provision requiring that such purchaser agree that in the circumstance where any construction, demolition, or grading work is proposed within the APE on either side of the 506 feet of Rail Line shown in Exhibit C, that such purchaser shall consult with the SHPO regarding alternatives to minimize and/or mitigate such potential effects; and, NSR agrees that any agreement of sale between NSR and any subsequent purchaser of the right-of-way underlying the Rail Line shall contain a provision requiring that such purchaser agree to leave the signage NSR erects within the APE.
- F. NSR's responsibilities with respect to agreements with any immediately subsequent purchaser of the right-of-way from NSR are limited to the responsibilities set forth in D and E above.

II. POST-REVIEW DISCOVERIES

If, after authorizing the Rail Line abandonment, the Board determines that the undertaking will affect a previously unidentified property that may be eligible for inclusion in the NRHP, the Board will address the discovery in accordance with 36 C.F.R. § 800.13(b)(3). The Board may assume the discovered property to be eligible for the National Register in accordance with 36 C.F.R. §800.13(c).

III. UNANTICIPATED DISCOVERY OF HUMAN REMAINS

If a post-review discovery includes human remains, NSR shall immediately stop work and shall not disturb or remove the human remains or any associated artifacts until appropriate consultation has taken place and a plan of action has been developed. NSR shall immediately notify the Board, SHPO and the Portage County Coroner who will determine if the nature of the human remains is a recent forensic case or pre-contact/historic human remains. The Board, SHPO and NSR will consult to determine the appropriate course of action in accordance with federal, tribal, state and local laws. NSR shall not resume work until the requirements of 36 C.F.R. § 800.13(b)(3) have been met.

IV. ADMINISTRATIVE PROVISIONS

- A. **Dispute Resolution:** Should any signatory party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are

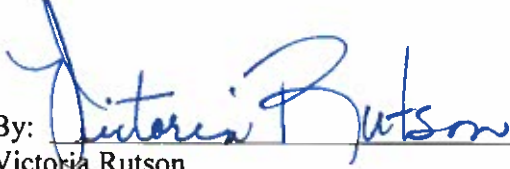
implemented, the Board shall consult with such party to resolve the objection. If the Board determines that such objection cannot be resolved, the Board will:

1. Forward all documentation relevant to the dispute, including the Board's proposed resolution, to the Advisory Council. The Advisory Council shall provide the Board with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the Board shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the Advisory Council, signatories and concurring parties, and provide them with a copy of this written response. The Board will then proceed according to its final decision.
 2. If the Advisory Council does not provide its advice regarding the dispute within the thirty (30) day time period, the Board may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Board shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA and provide them and the Advisory Council with a copy of such written response.
 3. The Board's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.
- B. Amendments: This MOA may be amended if such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the Advisory Council.
- C. Termination: If any signatory to this MOA determines that its terms cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation II-B, above. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the MOA only upon written notification to the other signatories and with the consent of the Board.
- If the MOA is terminated, the Board must either (a) execute a MOA pursuant to 36 C.F.R. § 800.6, or (b) request, take into account, and respond to the comments of the Advisory Council under 36 C.F.R. § 800.7. The Board shall notify the signatories as to the course of action it will pursue.
- D. Duration of the MOA: This MOA will expire if the stipulations are not carried out within 24 months from the date of its execution. At such time, and prior to work continuing on the undertaking, the Board shall either (a) execute a MOA pursuant to 36 C.F.R. § 800.6, or (b) request, take into account, and respond to the comments of the Advisory Council under 36 C.F.R. § 800.7. Prior to such time, the Board may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation II-B above. The Board shall notify the signatories as to the course of action it will pursue.

- E. Effective Date: This MOA will take effect on the date that it has been executed by the Board, SHPO and NSR.

SIGNATORIES:

SURFACE TRANSPORTATION BOARD

By: 
Victoria Rutson
Director, Office of Environmental Analysis

Date: April 30, 2019

OHIO HISTORIC PRESERVATION OFFICE

By:  _____
Diana Welling
Department Head & Deputy State Historic Preservation Officer
for Resource Protection and Review

Date: 4/30/2019

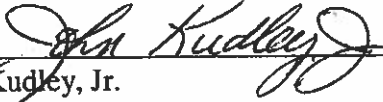
INVITED SIGNATORIES:

NORFOLK SOUTHERN RAILWAY COMPANY

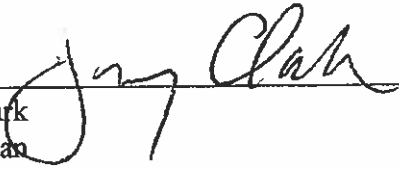
By: Laura Hoag Date: May 3, 2019
Laura Hoag
Director, Strategic Planning

CONCURRING PARTIES:

AURORA HISTORICAL SOCIETY

By:  Date: 5/5/19
John Kudley, Jr.
President/Director

AURORA LANDMARK COMMISSION

By:  Date: 5/5/19
Jeff Clark
Chairman

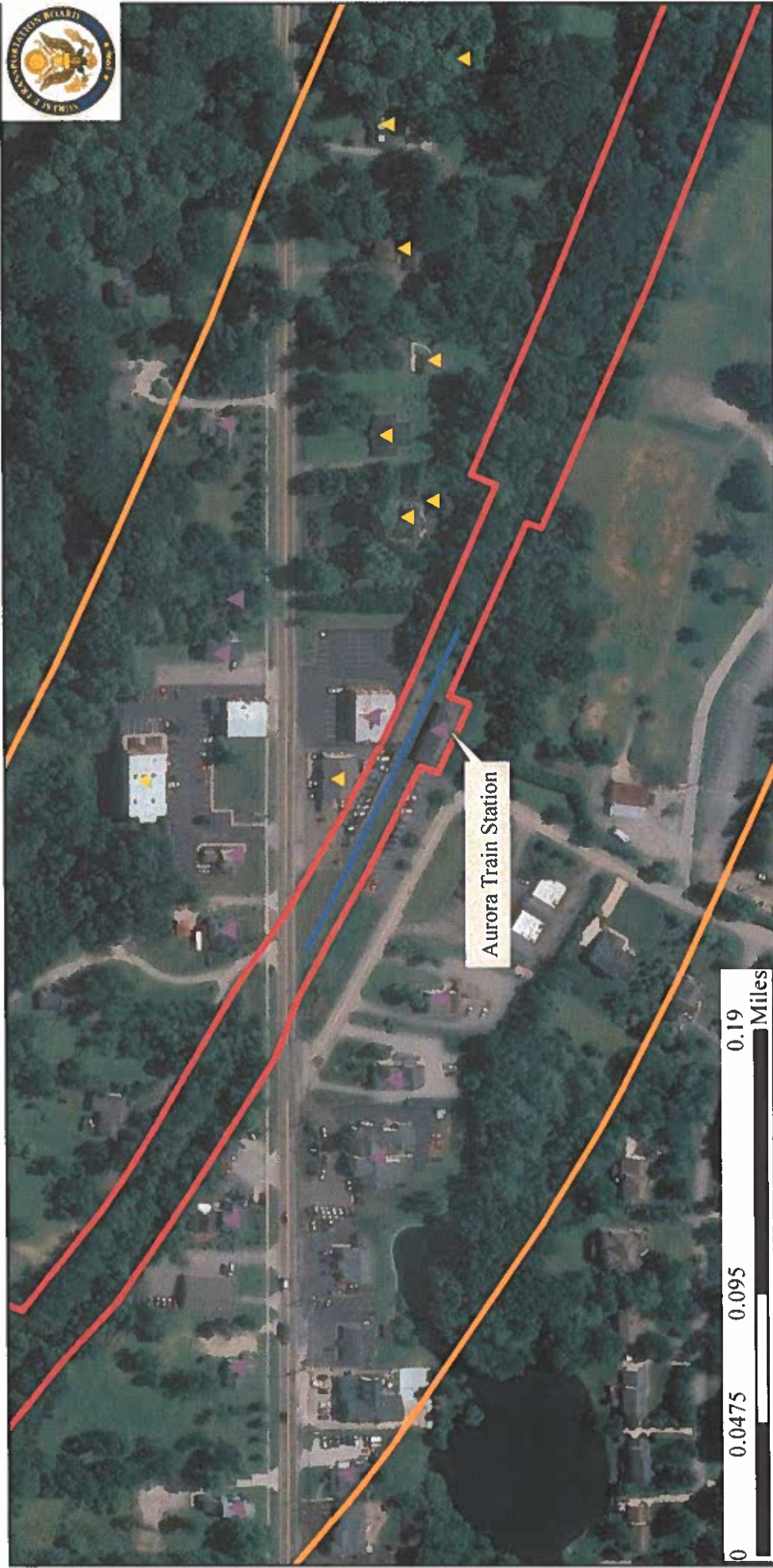


Exhibit A

Docket No. AB 290 (Sub-No. 394X)

Norfolk Southern Railway Company

Abandonment Exemption in Aurora, Ohio

Area of Potential Effect (APE)

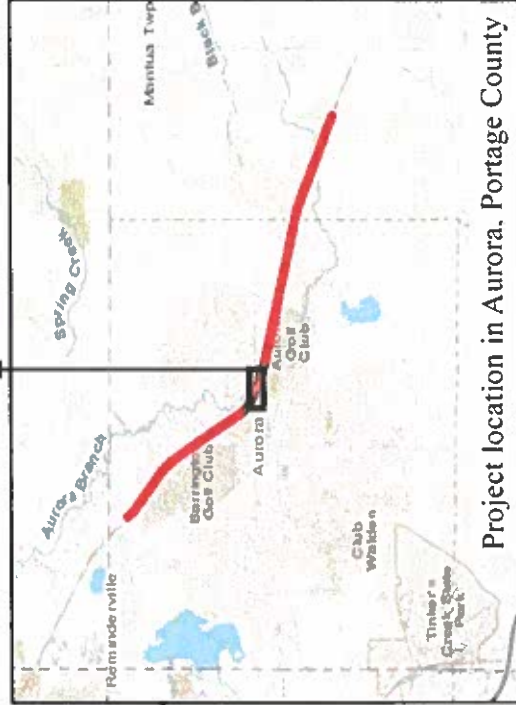
500-foot buffer

506 feet of track and ties to be kept in place

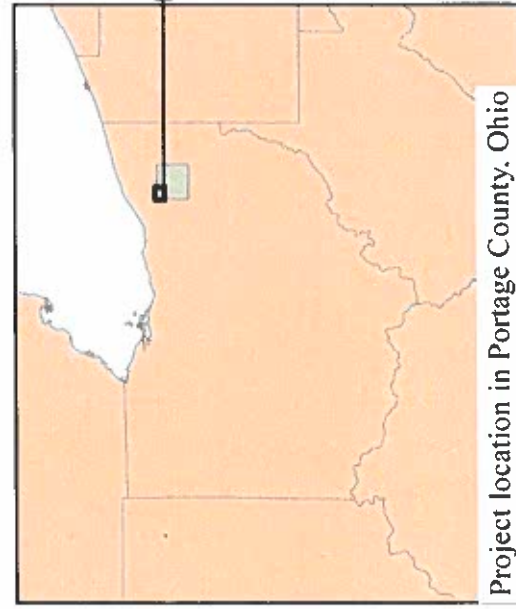
Historic district contributing resources

Other historic-age properties

Note: This map was prepared by the Surface Transportation Board's Office of Environmental Analysis and is intended for reference only



Project location in Aurora, Portage County



Project location in Portage County, Ohio

EXHIBIT B



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

June 4, 2018

Interested Party
(See attached distribution list)

Re: Docket No. AB 290 (Sub-No. 394X), Norfolk Southern Railway Company—
Abandonment Exemption—in Aurora, Portage County, Ohio

Dear Interested Party:

The Surface Transportation Board's (Board) Office of Environmental Analysis (OEA) conducted an environmental review of Norfolk Southern Railway Company's (NSR) proposed abandonment of approximately 5.5 miles of rail line in Aurora, Portage County, Ohio, pursuant to the National Environmental Policy Act and related environmental regulations, including the National Historic Preservation Act (NHPA), and issued the enclosed Environmental Assessment (EA) on December 8, 2017. In consultation with the Ohio State Historic Preservation Officer (SHPO), OEA has determined that the proposed abandonment will have an adverse effect on the Aurora Train Station (or Erie Railroad Station) located within the Area of Potential Effects (APE) for this project and that several additional properties located along the rail right-of-way may also be affected.¹ To mitigate this adverse effect, NSR is willing to leave a section of track in place (approximately 455 feet) connected to the train station.

OEA has identified you as a potential consulting party to the Section 106 process of NHPA and is writing to invite you to participate in the Section 106 process for this proceeding. Pursuant to the Advisory Council on Historic Preservation's regulations for implementing the Section 106 process at 36 C.F.R. Part 800, consulting parties participate throughout the Section 106 process and work with all involved parties to try to resolve any issues. However, the concurrence of consulting parties in the final outcome of the Section 106 process is not required. If you would like to be included as a consulting party, we request that you provide us with your

¹ In a decision served on December 28, 2017, the Board imposed a condition, consistent with OEA's recommendation in the EA, requiring NSR to take no steps to alter the historic integrity of all historic properties including sites, buildings, structures and objects (including track and track material) within the project right-of-way or APE eligible for listing or listed in the National Register of Historic Places until completion of the Section 106 process. NSR may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed, and the Board has removed the condition.

name and contact information. We also ask that you provide any comments you may have on the potential mitigation offered by NSR to leave a section of track in place connected to the train station.

We request your response by July 3, 2018, so that we may proceed with the Section 106 process.

Please send your comments to:

Ms. Danielle Gosselin
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001
Attention: Docket No. AB 290 (Sub-No. 394X)

If you have any questions about this proceeding, please visit the Board's website at www.stb.gov or contact Danielle Gosselin of my staff by phone at (202) 245-0300 or by email at danielle.gosselin@stb.gov. We appreciate your assistance and look forward to your participation in the Section 106 process.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria Rutson". The signature is fluid and cursive, with a large initial "V" and a stylized "R".

Victoria Rutson
Director
Office of Environmental Analysis

Enclosure: Environmental Assessment, Map
CC: Jenny Bellville-Marrion, Ohio History Connection

AB 290 (Sub-No. 394X) – Section 106 Consultation Service List

1. Gail Demming
Aurora Train Station
13 Hudson Road,
Aurora, OH 44202
2. Bowen Block
330 E. Garfield Road
Aurora, OH 44202
3. Bowen Block Barn
334 E. Garfield Road
Aurora, OH 44202
4. Carr House/Current Occupant
356 E. Garfield Road
Aurora, OH 44202
5. Hilary & Lisa Hart/Sarah Fodor
364 E. Garfield Road
Aurora, OH 44202
6. Dinardo House/Current Occupant
386 E. Garfield Road
Aurora, OH 44202
7. Miller House/Current Occupant
414 E. Garfield Road
Aurora, OH 44202
8. Rita Williams and Gary Lockmiller
528 E. Garfield Road
Aurora, OH 44202
9. Bernadette Grossnickle
451 E. Garfield Road
Aurora, OH 44202
10. Kenneth Kessler
411 E. Garfield Road
Aurora, OH 44202
11. Sandstorm House/Current Occupant
343 E. Garfield Road
Aurora, OH 44202
12. F. Betzhold & D. McCracken
House/Current Occupant
317 E. Garfield Road
Aurora, OH 44202
13. IR Martin Realtor
311 E. Garfield Road
Aurora, OH 44202
14. Garfield Sq-Bernhard Gallery
264 E. Garfield Road
Aurora, OH 44202
15. Century Park Centre
221 E. Garfield Road
Aurora, OH 44202
16. Hanson House/Current Occupant
239 E. Garfield Road
Aurora, OH 44202
17. Betsy's Country Coverings
271 E. Garfield Road
Aurora, OH 44202
18. Brown House/Current Occupant
278 E. Garfield Road
Aurora, OH 44202
19. Designer Delights
303 E. Garfield Road
Aurora, OH 44202
20. Suburban Window & Door
322 E. Garfield Road
Aurora, OH 44202
21. William Miller Building
337 E. Garfield Road
Aurora, OH 44202
22. Bradley House/Current Occupant
363 E. Garfield Road
Aurora, OH 44202

23. Fodor House/Current Occupant
370 E. Garfield Road
Aurora, OH 44202
24. Happ House/Current Occupant
424 E. Garfield Road
Aurora, OH 44202
25. JW McDonald House/Current Occupant
224 E. Garfield Road
Aurora, OH 44202
26. Wendy F Brooks House/Current Occupant
4 New Hudson Road
Aurora, OH 44202
27. Aurora Landmark Commission
130 S. Chillicothe Road
Aurora, OH 44202-7845
28. Jenny Bellville-Marrion
Ohio History Connection
800 E. 17th Ave.
Columbus, Ohio 43211
29. Aurora Historical Society
115 E. Pioneer Trail,
Aurora, OH 44202
30. Portage County Historical Society
6549 N Chestnut St.
Ravenna, OH 44266
31. Kent Historical Society
237 E Main Street,
Kent, OH 44240
32. Century Village Museum (Geauga County)
14653 E. Park Street,
P.O. Box 153
Burton, OH 44021
33. Midwest Railway Preservation Society
2800 W. 3rd St,
Cleveland, OH 44113
34. National Railway Historical Society
Conneaut Chapter
PO Box 643
Conneaut, OH 44030
35. National Railway Historical Society
Midwest Chapter
PO Box 41332
Brecksville, OH 44141
36. National Railway Historical Society
Cincinnati Chapter
PO Box 62023
Cincinnati, OH 45262
37. Ann Womer Benjamin
Mayor, City of Aurora
130 S. Chillicothe Road
Aurora, OH 44202-6802
38. Christine Craycroft
Executive Director
Portage Park District
705 Oakwood St., Suite G-4
Ravenna, OH 44266
39. Dr. Brice Obermeyer
Historic Preservation
Delaware Tribe of Indians
1 Kellogg Circle
Emporia, KS 66801
40. Robin Dushane
THPO
Eastern Shawnee Tribe of Oklahoma
PO Box 350
Seneca, MO 64865
41. Diane Hunter
THPO
Miami Tribe of Oklahoma

PO Box 1326
Miami, OK 74355

42. Paul Barton
THPO
Seneca-Cayuga Nation
PO Box 453220
Grove, OK 74345-3220

EXHIBIT C

Begin Track Retention Area
MP: RH 24.21 +/-

End Track Retention Area
MP: RH 24.30 +/-

NORFOLK SOUTHERN RAILWAY COMPANY

Real Estate	
Owner:	Norfolk Southern Railway Company
GPS:	41.317112 N; -81.333863 W
Location:	Aurora, Portage County, Ohio
Track Length:	505.57' +/-
Val Map:	V9 (OH) Map 51
Mile Post:	RH 24.21-24.30
Activity #:	1226012
Date:	4/9/2019