



**NORFOLK
SOUTHERN**

Norfolk Southern Corporation
Law Department
Three Commercial Place
Norfolk, Virginia 23510-9241

206904

Writer's Direct Dial Number

(757) 629-2759



James R. Paschall
General Attorney

December 18, 2002

Mr. Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D. C. 20423-0001

ENTERED
Office of Proceedings

DEC 20 2002

Part of
Public Record

Re: Docket No. AB-290 (Sub-No. 215X), Norfolk Southern Railway Company -
Abandonment - Between Williamson and Cinderella, Mingo County, West
Virginia -- Notice of Exemption

Dear Mr. Williams:

Enclosed for filing with the Board in the captioned proceeding are an original and
ten copies of the Notice of Exemption. Also, enclosed is a check in the amount of
\$2700 to cover the filing fee.

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

FEE RECEIVED

DEC 20 2002

SURFACE

JRP/sg TRANSPORTATION BOARD
Enclosures

Yours very truly,

James R. Paschall

FILED

DEC 20 2002

SURFACE 1
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD



DOCKET NO. AB-290 (SUB-NO. 215X)

NORFOLK SOUTHERN RAILWAY COMPANY
-- ABANDONMENT --
BETWEEN WILLIAMSON AND CINDERELLA,
IN MINGO COUNTY, WEST VIRGINIA

NOTICE OF EXEMPTION

COMES NOW Norfolk Southern Railway Company ("NSR") and files this notice of exemption from regulation under 49 U.S.C. §§ 10903-10905, pursuant to the provisions of 49 U.S.C. § 10502 and 49 CFR § 1152.50, for abandonment of its line of railroad lying between Milepost FG-0.0 at Williamson and Milepost FG-2.5 at Cinderella, West Virginia.

Pursuant to regulations adopted by the Interstate Commerce Commission in Ex Parte No. 274 (Sub-Nos. 8 and 8A), Exemption of Out of Service Rail Lines, 366 I.C.C. 885 (1983) and 1 I.C.C.2d 55 (1984), and by the Surface Transportation Board ("Board" or "STB") in STB Ex Parte No. 537, Abandonment and Discontinuance of Rail Lines and Rail Transportation Under 49 U.S.C. 10903, served December 24, 1996, and codified at 49 CFR § 1152.50, NSR states as follows:

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

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

Consummation Date - § 1152.50(d)(2)

The effective date of the abandonment between Milepost FG-0.0 at Williamson and Milepost FG-2.5 at Cinderella, West Virginia, will be February 6, 2003.

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

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

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

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

The relief sought is authority for abandonment of the line. The line for which the abandonment authority is sought consists of 2.5 miles of track between Milepost

FG-0.0 at Williamson and Milepost FG-2.5 at Cinderella, in Mingo County, West Virginia. Authority for discontinuance of operations between Mileposts FG-0.5 and FG-2.5 was granted in ICC Docket No. AB-290 (Sub-No. 94X), served April 18, 1990. A map showing the line to be abandoned, other rail lines in the area, highways, and population centers is attached as Exhibit 1 to this notice. The line traverses United States Postal Service ZIP Code 25661.

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

NSR has received no inquiries about public use of the right of way underlying the line segment to be abandoned and is unaware of any potential public purposes to which the right of way may be suited. NSR is not aware of any restriction on the title to the property which would affect the transfer of title or the use of property for other than rail purposes, however, NSR has not yet fully researched the matter.

Labor Protection - § 1152.50(d)(2)

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

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

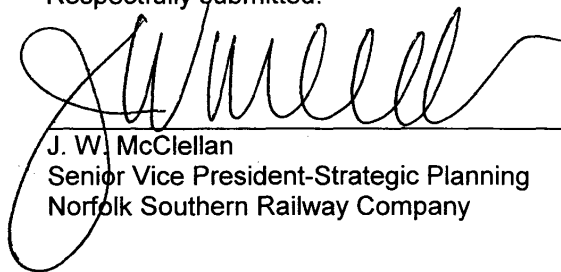
Attached are environmental and historical reports prepared and served in accordance with the Surface Transportation Board's regulations. NSR certifies that the notice and transmittal requirements of § 1105.7, § 1105.8 and § 1105.11 have been met.

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

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

For the foregoing reasons, NSR believes the proposed rail line abandonment is exempt from under 49 U.S.C. §§ 10903-10905 pursuant to 49 C.F.R. § 1152.50 and requests that the Board serve the appropriate notice.

Respectfully submitted.



J. W. McClellan
Senior Vice President-Strategic Planning
Norfolk Southern Railway Company

Of Counsel:

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

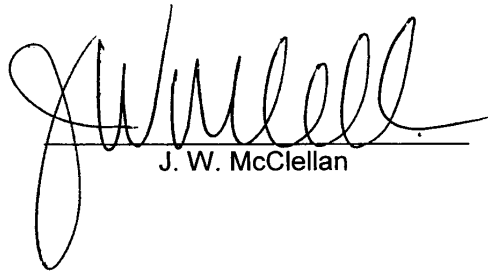
Attorney for Norfolk Southern
Railway Company

Dated: December 18, 2002

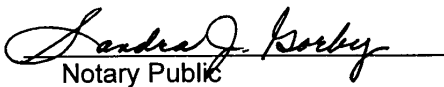
VERIFICATION

COMMONWEALTH OF VIRGINIA :
: SS:
CITY OF NORFOLK :

J. W. McClellan, being duly sworn, deposes and says that he is Senior Vice President Strategic Planning of Norfolk Southern Railway Company; that he is authorized to sign, verify, and file with the Surface Transportation Board the foregoing Notice of Exemption in AB-290 (Sub-No. 215X) on behalf of Norfolk Southern Railway Company; that he has carefully examined all of the statements contained in said Notice of Exemption; that he has knowledge of the matters set forth therein; and that all such statements made and matters set forth are true and correct to the best of his knowledge, information, and belief.


J. W. McClellan

Subscribed and sworn to before me
this 18 day of December, 2002.


Notary Public

My commission expires:

3-31-06

[SEAL]

CERTIFICATION

STATE OF GEORGIA :

SS:

CITY OF ATLANTA :

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

D. N. Evans

T. N. Evans

Subscribed and sworn to before me
this 26th day of June, 2001.

Mary R Kibben

Notary Public

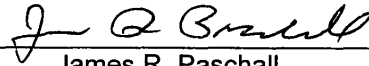
My commission expires:

NOTARY PUBLIC, FULTON COUNTY, GEORGIA

My Commission Expires June 13, 2004

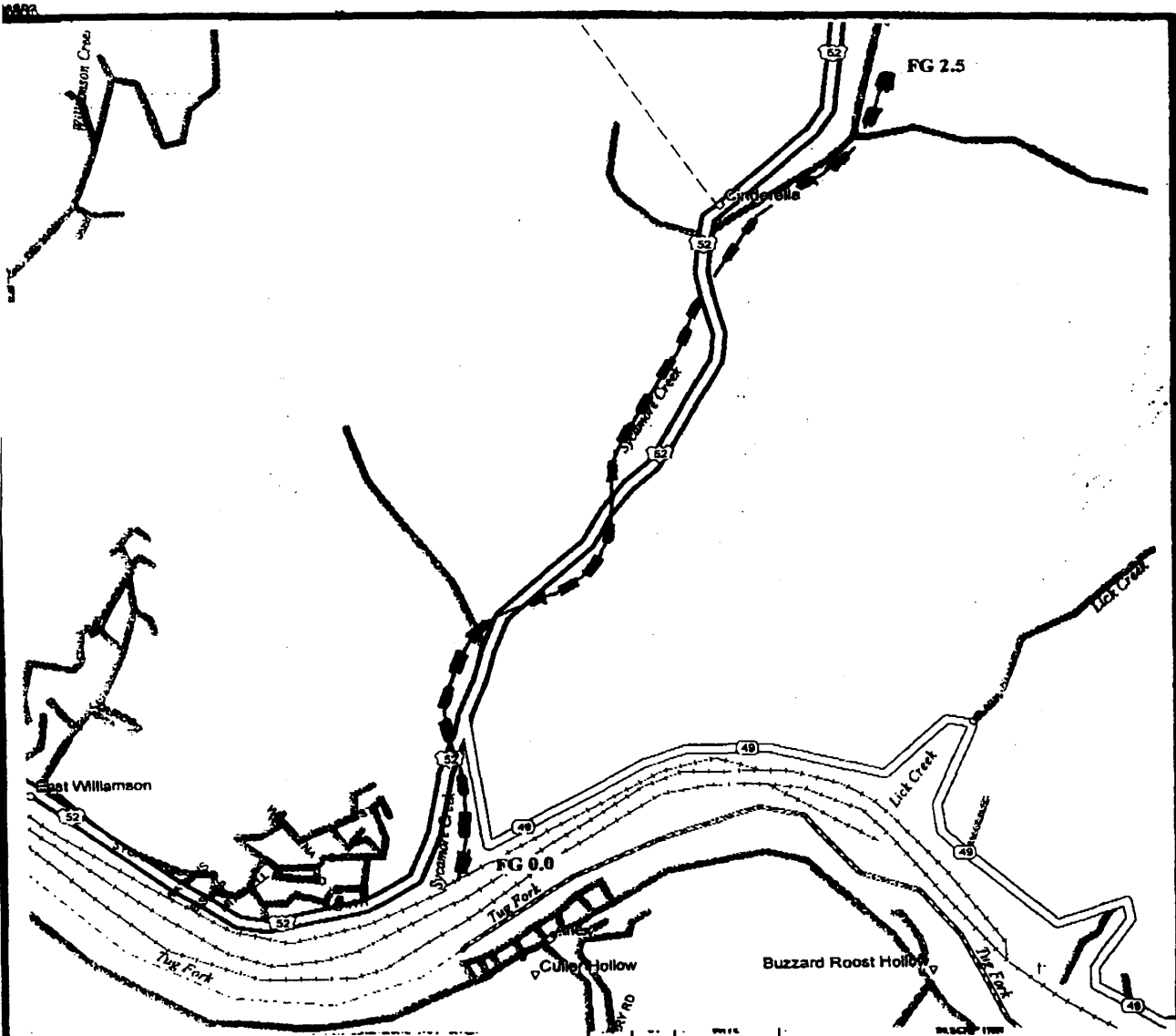
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Exemption was served upon Mr. Boyce Griffith, Chairman, West Virginia Public Service Commission; the United States Department of Defense (MTMCTEA); National Park Service, Recreation Resources Assistance Division; National Park Service, Land Resources Division; and U. S. Department of Agriculture, Chief of the Forest Service; on December 18, 2002, by first class mail, postage prepaid.



James R. Paschall

EXHIBIT 1



DIVISION COMPANY OFFICE OF CHIEF ENGINEER - DESIGN & CONSTRUCTION ATLANTA, GA.			
LOCATION Williamson and Cinderella West Virginia			
TITLE Proposed Line Abandonment Between MP FG 0.0 and FG 2.5			
DESIGNED BY RPD	VAL SEC FILE 188-24	MAP DATE August 18, 2000	MILE POST DRAWING NUMBER TA 00-0116

Map 16.01 16:43 No.012 P.02

TEL: 540-981-4651

NS ENVIR. PROTECTION SHEET OF

CERTIFICATION

I hereby certify (1), pursuant to § 1105.11, that Environmental and Historic Reports were submitted to the agencies identified in § 1105.7(b) and to the appropriate State Historic Preservation Officer (see Exhibit 2); (2), pursuant to § 1105.12, that a notice of intent to abandon rail service was published in Williamson Daily News on November 26, 2002 (see Exhibit 3); and (3) that the notice required by § 1152.50(d)(1) was given (see Exhibit 4).


James R. Paschall

Dated: December 18, 2002

EXHIBIT 2

**ENVIRONMENTAL AND
HISTORIC REPORTS**

**ENVIRONMENTAL REPORT ON
PROPOSED RAIL LINE ABANDONMENT**

**NORFOLK SOUTHERN RAILWAY COMPANY
(BETWEEN MP FG-0.0 AND MP FG-2.5
WILLIAMSON TO CINDERELLA,
WEST VIRGINIA)**

.....
**NORFOLK SOUTHERN RAILWAY COMPANY
ENVIRONMENTAL PROTECTION DEPARTMENT
110 FRANKLIN ROAD, SE
ROANOKE, VIRGINIA 24042-0013**

**1-9-15-04
05-21-01**

(WIWCER.doc)

ENVIRONMENTAL REPORT ON PROPOSED RAIL LINE ABANDONMENT

Abandonment of: 2.5 miles of track between MP FG-0.0 and MP FG-2.5 from
Williamson to Cinderella, West Virginia

1. PROPOSED ACTION AND ALTERNATIVES

Norfolk Southern Railway Company (hereinafter called NS) proposes to abandon use of 2.5 miles of rail line from Williamson to Cinderella, in West Virginia. A Map delineating the line proposed for abandonment is attached as **Appendix A**.

The alternatives to abandonment of this line are not to abandon or to discontinue service on the line and retain the trackage in place. Not abandoning the line would avoid the temporary impacts from salvage and recycling of the rails and cross-ties, but eliminate the long-term environmental and social benefits.

2. TRANSPORTATION SYSTEM

Effects of the proposed action on regional or local transportation systems and patterns are expected to be negligible. Within the last two years, no rail freight or passenger traffic has moved on the line segment proposed for abandonment. Consequently, no rail traffic will be diverted to highway mode as a result of the abandonment.

3. LAND USE

- (i) The proposed abandonment involves 2.5 miles of rail line from Williamson to Cinderella, in West Virginia. The land use along the rail line proposed for abandonment of service is 60% commercial, 35% undeveloped wooded and 5% residential. Where NS owns the right-of-way (ROW) it will be allowed to naturally revegetate. Where NS does not

own the ROW, future land use will be controlled by the owner and local zoning and development ordinances.

With respect to effects of the proposed rail line abandonment on land use, NS believes any impact will be negligible. The absence of traffic on the rail line proposed for abandonment indicates a substantial lack of rail dependent land uses in the service area. Since no rail traffic moves on the line over which service is to be abandoned, the abandonment is not expected to have any effect on existing land use, future land use, land use plans or the land use planning process. Therefore the proposed abandonment is expected to be consistent with any land use plans for the service area.

(ii) Prime Agricultural Lands

No effects on any prime agricultural land are anticipated as a result of the abandonment.

(iii) Coastal Zone

Not Applicable

(iv) Alternative Public Use

NS does not have fee title to all of the ROW underlying the line proposed for abandonment; therefore, NS does not have a contiguous corridor available for future public use. This factor, together with considerations related to location, physical condition, and adjacent conditions, leads NS to believe the ROW of the line proposed for abandonment would not be suitable for highways, other forms of mass transit, energy production

related transportation facilities, conservation or recreation corridors, or other public use.

4. ENERGY

(i) Development and Transportation of Energy Resources

Development and transportation of energy resources will not be affected by the abandonment. No freight or passenger traffic has moved on the line proposed for abandonment for two years, and therefore, compared with the past two years, the abandonment would have no effect on development and transportation of energy resources.

(ii) Movement/Recovery of Recyclable Commodities

Movement/recovery of recyclable commodities will not be affected by the abandonment. No freight or passenger traffic has moved on the line proposed for abandonment for two years, and therefore, compared with the past two years, the abandonment would have no effect on movement or recovery of recyclable commodities .

(iii) Impact on Energy Efficiency

Energy efficiency will not be impacted by the proposed abandonment. No freight or passenger traffic has moved on the line proposed for abandonment for two years, and therefore, compared with the past two years, the abandonment would have no effect on energy efficiency.

(iv) Diversion of Traffic to Motor Carriers

No traffic is expected to be diverted to motor carriers in connection with the proposed abandonment.

5. AIR

The proposed action is abandonment and does not exceed Surface Transportation Board thresholds at 49 CFR 1105.7 (e)(5) and therefore does not require a quantified analysis of emissions.

(i) Effects on Air Emissions

Neither the State of West Virginia, nor the County of Mingo has established analysis thresholds for air emissions, except for fugitive dusts from fugitive emission sources which could be applicable for Mingo County as stated by the WVDEP office of Air Quality and Title 45 CSR 17 (see **Appendix B**). The United States Environmental Protection Agency (USEPA) has National Ambient Air Quality Standards for Pollutants (including ozone) as found in 40 CFR Part 50. NS does not anticipate any adverse effect on West Virginia's Air Quality as a result of the proposed abandonment.

(ii) Class I or Non-Attainment Area

Mingo County, WV, is in attainment for all National Ambient Air Quality Standard (NAAQS) pollutants according to the USEPA. Mingo County is in attainment for ozone. NS does not believe any Class I or Non-Attainment areas would be affected by the proposed abandonment.

(iii) Ozone Depleting Materials

Not applicable. Transportation of ozone depleting materials (such as nitrogen oxide and freon) is not contemplated, since the proposed action is abandonment.

6. NOISE

The proposed action does not exceed Surface Transportation Board thresholds at 49 CFR 1105.7 (e)(6) and therefore does not require a quantified analysis of noise levels. Noise levels associated with rail removal or salvage operations will be temporary and will not have a significant impact on the area surrounding the proposed abandonment.

There is no federal noise regulation according to the USEPA. Neither Mingo County, nor the State of West Virginia has established analysis thresholds for noise.

7. SAFETY

(i) Public Health and Safety

Abandonment of the captioned rail line will have no significant effect upon public health or safety. At the existing grade crossings on the line to be abandoned, the potential for accidents and delays will be eliminated.

(ii) Hazardous Materials Transport

Not applicable. Action proposed is abandonment.

(iii) Hazardous Waste or Hazmat Spill Sites

NS has no knowledge of any hazardous waste sites or sites where there have been known hazardous material spills on the ROW of the line proposed for abandonment or which will be affected by this abandonment. A search of company records was conducted and comments were requested from federal, state and local agencies.

8. BIOLOGICAL RESOURCES

(i) Endangered Species/Critical Habitat

The West Virginia Department of Natural Resources have indicated no endangered species are known to occur in this portion of Mingo County. However, the US Fish and Wildlife Service lists several threatened and endangered species which are known to exist in the State of West Virginia. A list of these species is provided in **Appendix C** and this list is summarized in Table I below.

TABLE I
ENDANGERED AND/OR THREATENED SPECIES
ENTIRE STATE OF WEST VIRGINIA

	Scientific Name	Common Name	Federal Status	State Status
Birds	<i>Haliaeetus leucocephalus</i>	Bald Eagle	LT	--
Mammals	<i>Felis concolor cougar</i>	Eastern cougar	LE	--

LE - Listed Endangered
LT- Listed Threatened
-- - Not Applicable

NS is not aware of any critical habitat that would be destroyed or modified as a result of the proposed abandonment. Since salvage operations will be handled generally within the ROW, NS does not believe that any endangered species that might be present would be adversely affected. NS is willing to undertake reasonable mitigating actions to protect any endangered species that might be encountered in connection with abandonment activities.

(ii) Sanctuaries, Refuges and Parks

Based on the site investigation and comments received from government agencies, the line segment proposed for abandonment does not pass through any parks, national forests, or wildlife sanctuaries. No adverse effects on any wildlife sanctuary, National Park, or State Park are anticipated.

9. WATER

(i) Water Quality Standards

NS does not intend to either appreciably remove or alter the contour of the roadbed underlying the rail line to be abandoned. The areal extent of disturbed areas will be kept to a minimum and limited to the ROW wherever possible. Since there are no plans to undertake in-stream work, or dredge and/or fill any materials in connection with the proposed abandonment, no water quality impacts are expected in connection with the proposed action. Therefore, NS considers the abandonment to be consistent with any applicable Federal, State and/or local water quality standards.

(ii) Wetlands/100-Year Flood Plains

The rail line proposed for abandonment crosses Sycamore Branch numerous times and an unnamed tributary to Sycamore Creek which passes through 100-year flood plains associated with these waterways. Since the geometry of the roadbed will not be significantly altered, no discernible effects on 100-year flood plains are expected in connection with the proposed abandonment. Consequently, NS does not believe a Section 404 Permit will be required in connection with the proposed abandonment.

(iii) Section 402 Permit

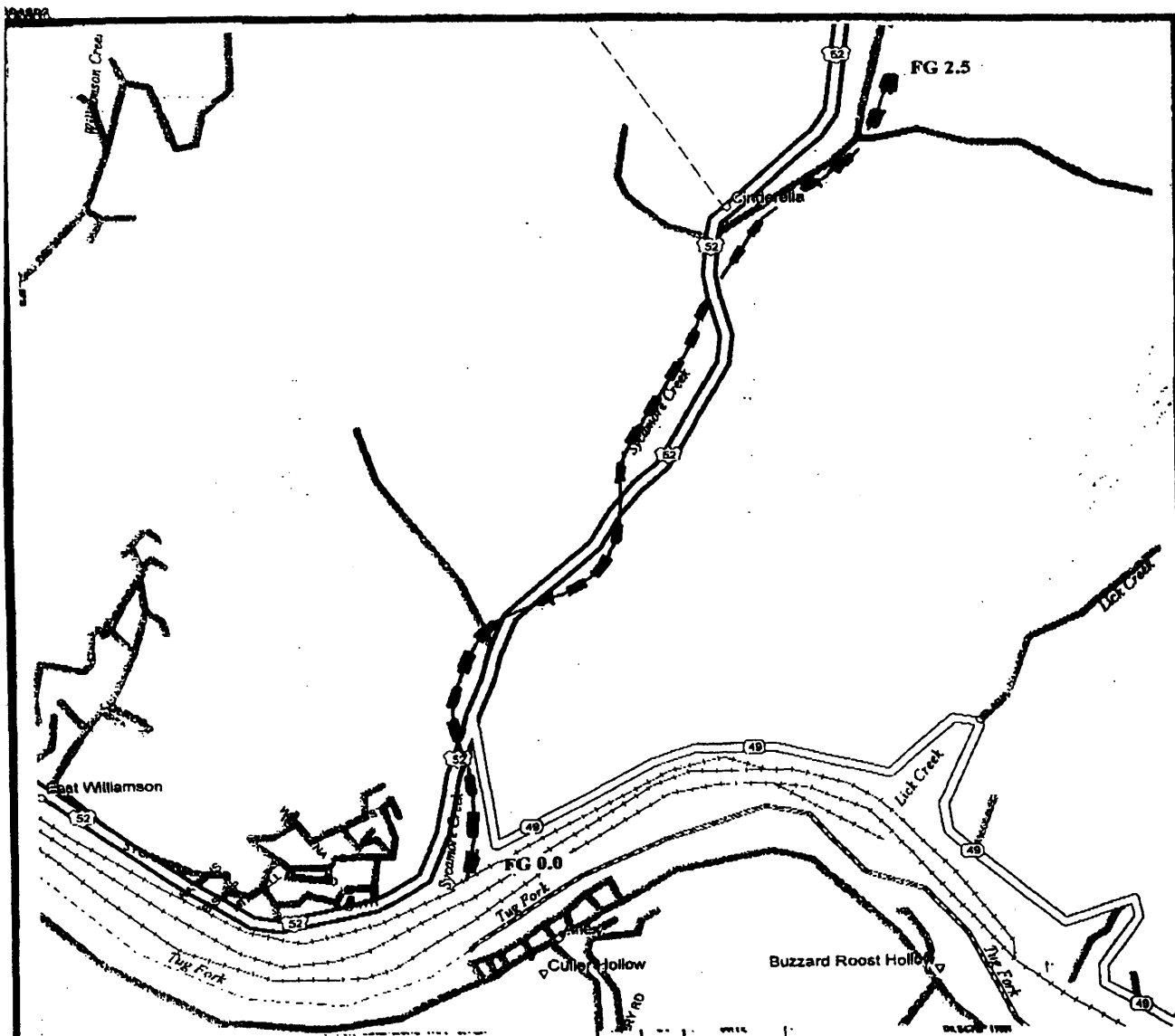
Inasmuch as NS does not intend to either appreciably remove or alter the contour of the roadbed underlying the rail line to be abandoned, undertake significant in-stream work, or dredge and/or fill any materials in connection with the proposed abandonment, water quality effects should be negligible. NS does not believe that a permit under Section 402 of the Federal Water Pollution Control Act will be required.

10. PROPOSED MITIGATION

Abandonment of the involved rail line is not expected to produce adverse environmental impacts. Only minimal physical activity associated with removal of rail, ties, and other railroad appurtenances will be produced by the proposed action. NS will undertake all reasonable mitigation associated with these activities to assure that physical activities associated with the abandonment does not produce adverse environmental effects.

APPENDIX A

Site Map



NORFOLK SOUTHERN

OWNING COMPANY

OFFICE OF CHIEF ENGINEER - DESIGN & CONSTRUCTION ATLANTA, GA.

LOCATION Williamson and Cinderella West Virginia

TITLE *Proposed Line Abandonment Between
MP FG 0.0 and FG 2.5*

DESIGN	VAL SEC	MAP	MILE POST
OWN RPD	FILE 188-24		DRAWING NUMBER
DATE	August 18, 2000		TA 00-0116

22
CARD FILE
FIELD BOOK

SHEET OF

Mar 16 '01 16:43 No. 012 P. 02

TEL: 540-981-4651

NS ENVIR. PROTECTION

APPENDIX B

Fugitive Dust Regulation



Office of Air Quality
7012 MacCorkle Avenue, SE
Charleston, WV 25304-2943
Telephone Number: (304) 926-3730
Fax Number: (304) 926-3739

West Virginia Division of Environmental Protection

Bob Wise
Governor

Michael O. Callaghan
Director

March 16, 2001

Marshall Miller & Associates
c/o Mr. David L. Wilson, Program Manager
P.O. Box 848
Bluefield, VA 24605

Dear Mr. Wilson:

The following is in response to the fax received by this Office on March 15, 2001.

West Virginia is regulated by the National Ambient Air Quality Standards and these standards are contained in regulations 45 CSR 8, 45 CSR 9, and 45 CSR 12. These regulations have been attached for your convenience. Based on the background information that you have provided, I do not feel that these regulations will be applicable to the activities that will be occurring on the eleven railway sites listed. However, 45 CSR 17 (attached) does deal with the minimization of fugitive dusts from fugitive emission sources and could be applicable to those sites. The five counties in which the eleven railways are located are not Class I or Non-Attainment for NAAQS.

I hope that I have answered your questions. If you have any other inquiries or need clarification on any of the state regulations that have been enclosed, I can be reached at (304) 926-3624.

attachments

Sincerely,

W. Earl Billingsley Jr.
Supervisor
Enforcement & Compliance

24

"To use all available resources to protect and restore West Virginia's
environment in concert with the needs of present and future generations."



West Virginia
Division of
Environmental Protection

TITLE 45
LEGISLATIVE RULE
DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY

SERIES 17
TO PREVENT AND CONTROL PARTICULATE MATTER
AIR POLLUTION FROM MATERIALS HANDLING, PREPARATION, STORAGE
AND OTHER SOURCES OF FUGITIVE PARTICULATE MATTER

§45-17-1. General.

1.1. Scope. -- The purpose of this rule is to prevent and control particulate matter air pollution from materials handling, preparation, storage and other sources of fugitive particulate matter.

1.2. The Director particularly urges the cooperation of municipalities in utilizing street sweepers equipped with dust capturing equipment, on a regular basis, to minimize particulate matter reentrainment into the air from heavily trafficked streets. In addition, municipalities should take such action as necessary to control fugitive particulate matter emissions arising from unpaved streets, access roads, private parking lots and any other such sources of uncontrolled particulate matter.

1.3. Authority. -- W. Va. Code §§22-5-1 et seq.

1.4. Filing Date. -- June 2, 2000.

1.5. Effective Date. -- August 31, 2000.

1.6. Former Rules. -- This legislative rule amends 45CSR17 "To Prevent and Control Particulate Air Pollution from Materials Handling, Preparation, Storage and Sources of Fugitive Particulate Matter" which was filed on March 30, 1979, and which became effective May 1, 1979.

§45-17-2. Definitions.

2.1. "Air Pollution", 'statutory air pollution', shall have the meaning ascribed to it in W. Va. Code §22-5-2.

2.2. "Director" means the director of the division of environmental protection or such other person to whom the director has delegated authority or duties pursuant to W. Va. Code §§22-1-6 or 22-1-8.

2.3. "Fugitive Particulate Matter", for the purpose of this rule, means particulate matter which becomes airborne from activities including, but not limited to: handling, transporting or storage of materials; storage structure(s); the use, repair, construction, alteration, renovation or demolition of building(s), road(s) or other activities; disposal areas; haul roads; plant grounds; public, private and industrial parking areas or lots; public and private streets and highways; mobile drills; and any other activity which generates airborne particulate matter.

2.4. "Materials" includes, but is not limited to, limestone, dolomite, iron ore, slag, coke, coal, sandstone, magnetite, sinter, sand, coal refuse, soda ash, ash, cement or earth.

2.5. "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

2.6. "Particulate Matter" means any material except uncombined water that exists in a finely divided form as a liquid or solid.

2.7. "Person" means any and all persons, natural or artificial, including the state of West Virginia or any other state, the United States of America, any municipal, statutory, public or private corporation organized or existing under

the laws of this or any other state or country, and any firm, partnership or association of whatever nature.

2.8. "Statutory Air Pollution" means and is limited to the discharge into the air by the act of man of substances (liquid, solid, gaseous, organic or inorganic) in a locality, manner and amount as to be injurious to human health or welfare, animal or plant life, or property, or which would interfere with the enjoyment of life or property.

2.9. Other words and phrases used in this rule, unless otherwise indicated, shall have the meaning ascribed to them in W. Va. Code §22-5-1 et seq.

§45-17-3. Control and Prohibition of Fugitive Particulate Emissions.

3.1. No person shall cause, suffer, allow or permit fugitive particulate matter to be discharged beyond the boundary lines of the property on which the discharge originates or at any public or residential location, which causes or contributes to statutory air pollution.

3.2. When a person is found in violation of this rule, the Director may require the person to utilize a system to minimize fugitive particulate matter. This system to minimize fugitive particulate matter may include, but is not limited to, the following:

3.2.a. Use, where practicable, of water or chemicals for control of particulate matter in demolition of existing buildings or structures, construction operations, grading of roads or the clearing of land;

3.2.b. Application of asphalt, water or suitable chemicals on unpaved roads, material stockpiles and other surfaces which can create airborne particulate matter;

3.2.c. Covering of material transport vehicles, or treatment of cargo, to prevent contents from dripping, sifting, leaking or otherwise escaping and becoming airborne, and prompt removal of tracked material from roads or

streets; or

3.2.d. Installation and use of hoods, fans and fabric filters to enclose and vent the handling of materials, including adequate containment methods during sandblasting, abrasive cleaning or other similar operations.

§45-17-4. Control Programs and Schedules.

4.1. Any person operating a source of fugitive particulate matter in violation of the provisions of this rule shall submit a control program upon the request of the Director. The control program shall be embodied in a consent order as provided in W. Va. Code §22-5-4.

§45-17-5. Variance

5.1. A variance may be granted for up to ten (10) days from the requirements of this rule by the Director for conditions beyond the control of any person. Any request for a variance shall contain evidence satisfactory to the Director. Variances of over ten (10) days may be granted by the Director, provided an acceptable control program has been submitted by the person requesting said variance.

§45-17-6. Exemptions.

6.1. Sources that are subject to the fugitive particulate matter emission requirements of 45CSR2, 45CSR3, 45CSR5 and 45CSR7 shall be exempt from the provisions of this rule, provided that such sources shall not be exempt from the provisions of W. Va. Code §§22-5-1 et seq., including the provisions of §22-5-3 relating to statutory air pollution.

6.2. Normal agricultural activities shall be exempt from the provisions of this rule, to the extent that such activities do not cause, suffer, permit or allow statutory air pollution as defined in this rule.

§45-17-7. Enforcement.

7.1. Notwithstanding any other provisions in this rule, the Director may take any and all enforcement actions authorized under the Code for a violation of this rule, including, but not limited to, requiring the immediate cessation or abatement of the discharge causing or contributing to statutory air pollution.

§45-17-8. Inconsistency Between Rules.

8.1. In the event of any inconsistency between this rule and any other existing rule of the Division of Environmental Protection, such inconsistency shall be resolved by the determination of the Director and such determination shall be based upon the application of the more stringent provision, term, condition, method or rule.

8.2. Fugitive particulate matter emission requirements of any other applicable rule issued by the Director may be taken into consideration by the Director in determining compliance with this rule.

APPENDIX C
Federal and State Threatened and
Endangered Species Listings



United States Department of the Interior

FISH AND WILDLIFE SERVICE

West Virginia Field Office
694 Beverly Pike
Elkins, West Virginia 26241



APR 17 2001

Mr. David L. Wilson
Marshall Miller & Associates
Bluefield Virginia Industrial Park
P.O. Box 848
Bluefield, VA 24605

Dear Mr. Wilson:

This responds to your information request of March 20, 2001 regarding the potential impacts of a proposed project on wetlands and federally listed endangered and threatened species and species of concern. Norfolk Southern Railway Company proposes abandonment of eleven line segments of railway line in Mercer, McDowell, Mingo, Raleigh, and Fayette counties, West Virginia. All work would occur in existing right of ways of existing roads or railroads. Therefore, no forest clearing would result from this project.

No federally listed endangered and threatened species or species of concern are expected to be impacted by the project. Therefore, no Biological Assessment or further Section 7 consultation under the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) is required with the Fish and Wildlife Service. Should the project plan change, or if additional information on listed and proposed species or species of concern becomes available, this determination may be reconsidered. A compilation of federally listed endangered and threatened species in West Virginia is enclosed for your information.

Our review of the National Wetlands Inventory 7½-minute topographic maps indicates wetlands occur in the vicinity of the project area. However, definitive determinations of the presence of waters of the United States, including wetlands, and the need for permits, if any, are made by the U.S. Army Corps of Engineers. They may be contacted at: Huntington District, Regulatory Branch, 502 Eighth Street, Huntington, West Virginia 25701, telephone (304)529-5710.

If you have further questions regarding this letter, please contact Mr. Shane Jones of my staff at (304) 636-6586.

Sincerely,

Jeffrey K. Towner
Jeffrey K. Towner 29
Field Supervisor

FEDERALLY LISTED ENDANGERED AND THREATENED SPECIES IN WEST VIRGINIA

COMMON NAME	SCIENTIFIC NAME	STATUS	DISTRIBUTION
FISHES			
None			
BIRDS			
Eagle, bald	<u>Haliaeetus leucocephalus</u>	T*	Entire state Nest sites: (1) Mineral, (2) Hampshire, (1) Hancock, (1) Pendleton, (1) Grant, (3) Hardy, and (1) Wood Counties
MAMMALS			
Bat, Indiana	<u>Myotis sodalis</u>	E	Known hibernacula in Tucker, Pocahontas, Greenbrier, Randolph, Preston, Pendleton, Monroe and Mercer Counties. Critical habitat: Hellhole Cave, Pendleton County - Bats may occupy summer habitat throughout the entire state
Bat, Virginia big-eared	<u>Corvinophilus (=Plecotus) townsendii virginianus</u>	E	Primarily northeastern counties, especially Pendleton, Tucker and Grant Counties. Critical habitat: Hellhole Cave, Cave Mountain Cave, Hoffman School Cave, and Sinit Cave in Pendleton Co.; Cave Hollow Cave in Tucker Co.
Bat, gray	<u>Myotis grisescens</u>	E	Hellhole Cave, Pendleton Co.
Cougar, eastern	<u>Felis concolor cougar</u>	E	Entire state, may be extinct
Squirrel, West Virginia northern flying	<u>Glaucomys sabrinus fuscus</u>	E	Pocahontas, Tucker, Pendleton, Greenbrier, Webster, and Randolph Counties, within proclamation boundary of Monongahela National Forest
MOLLUSKS			
Snail, flat-spined three-toothed land	<u>Triodopsis platysavioidea</u>	T	Monongalia and Preston Counties, mainly in Cooper's Rock State Forest area, both sides of Cheat River Gorge
Mussel, tubercled-blossom pearly	<u>Epioblasma (=Dysnomia) torulosa</u>	E	Kanawha River, Fayette Co., may be extinct
Mussel, pink mucket pearly	<u>Lamprolitis abrupta (=orbiculata)</u>	E	Kanawha River, Fayette Co., Ohio River, Cabell, Mason and Wood Counties; Elk River, Kanawha Co.
Mussel, James spiny	<u>Pleurobema (=Canthyria) collina</u>	E	Monroe Co., South Fork of Potts Creek
Mussel, fanshell	<u>Cyprogenia stegaria (=irrorata)</u>	E	Kanawha River, Fayette Co.; Ohio River, Wood Co.
Mussel, clubshell	<u>Pleurobema clava</u>	E	Elk River, Braxton, Kanawha, and Clay Counties; Hackers Creek, Lewis Co.; Meathouse Fork, Doddridge, Co.; South Fork Hughes River, Ritchie County
Mussel, northern riffleshell	<u>Epioblasma torulosa ranciana</u>	E	Elk River, Kanawha Co.

COMMON NAME	SCIENTIFIC NAME	STATUS	DISTRIBUTION
PLANTS			
Harperella	<u>Ptilimnium nodosum</u>	E	Morgan and Berkeley Counties
Shale barren rock cress	<u>Arabis serotina</u>	E	Greenbrier, Hardy, and Pendleton Counties
Running buffalo clover	<u>Trifolium stoloniferum</u>	E	Fayette, Webster, Tucker, Pocahontas, Barbour and Randolph Counties
Virginia spiraea	<u>Spiraea virginiana</u>	T	Nicholas, Fayette, Mercer, Raleigh, Summers, and Greenbrier Counties
Northeastern bulrush	<u>Scirpus angustirochaetus</u>	E	Berkeley and Hardy Counties
Small whorled pogonia	<u>Isotria Medeoloides</u>	T	Greenbrier County
AMPHIBIANS			
Cheat Mountain salamander	<u>Plethodon nettiei</u>	T	Pendleton, Pocahontas, Randolph, Grant and Tucker Counties

* Threatened

** Endangered

ATTACHMENT 1

CONSULTATIONS

Sycamore Branch:

No Comments:

Mr. Steven A. Boone, District Conservationist, NRCS, Hamlin, WV-6/20

Mr. Bill Hartman, WV Department of Transportation-6/18

Mr. John Porterfield, Supervisor, WV DEP-6/13

Mr. Earl Billingsley, WV DEP, Office of Air Quality-6/13

Comments:

Mr. Estil Blevins, Mayor, Town of Williamson, WV, says he has no real comments, but hopes that NSRC will leave the rail for a museum and rail car that the Town would like to initiate.-6/18

Mr. Shane Jones, US Fish and Wildlife Service, Elkins, WV, said that their office had already responded concerning our reports.-6/26

Ms. Barbara Sargeant, WV Department of Natural Resources, sent her response via mail on June 14, 2001.-6/28

Mr. Mark Holma, WV Division of Culture and History, says that he feels more information should be researched and included concerning the history of the track and associated buildings. He said his response was sent June 27 or 28.-6/29

Mr. Bob Runowski, US EPA, Philadelphia, PA, received the reports and said we would have a response by June 15, 2001.-6/13

Mr. Edward J. McKay, National Geodetic Survey, said that he responded to the proposals in the group sent on May 25 about which he had concerns, and will do the same with the group of proposals sent on June 2.-6/20

Mr. Greg Smith, Attorney for Jim Hatfield, Mingo County Commissioner, says that he has not finished reviewing the reports, but that in those he has reviewed, he has not seen anything of particular interest.-6/25

Ms. Cindy Szymanski, National Park Service, said that she will respond to the Surface Transportation Board and NSRC during the week of July 2, 2001.-6/29

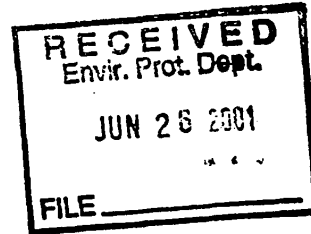
Mr. Curtis Taylor, WV Department of Natural Resources, is handling our reports, he returned MM&A's call, but has been unavailable since.-6/22



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

June 19, 2001

REPLY TO
ATTENTION OF:
Operations and Readiness Division
Regulatory Branch
Tug Fork-No Permit Required-200100565



Norfolk Southern Corporation
Director Environmental Operations
Attn: K.R. Miller
110 Franklin Road, S.E.
Roanoke, Virginia 24042-0013

Dear Mr. Miller:

I refer to information received in this office on June 6, 2001 concerning the proposed abandonment of 28.4 miles of rail line located in Mingo County, West Virginia and Pike County, Kentucky. You have indicated that portions of these lines cross the Tug Fork River, unnamed tributaries (U/T) of Poplar Creek, Laurel Fork, Blackberry Creek, Sycamore Branch, U/T of Sycamore Creek, Grapevine Creek, Lick Fork, Conley Fork, Spice Creek, U/T of Spice Creek Shabby Room Branch, Little Day Camp Branch, Honey Camp Branch and Stonecoal Branch. In addition, wetlands are present in the vicinity of portions of the rail line.

You have requested that we determine whether a permit should be obtained for the work associated with the abandonment of 11 portions of rail lines.

	Section of Rail Line to be Abandoned	Miles
1	*Cedar, WV to Majestic KY	2.28
2	**Bluestone, WV to Pocahontas, VA	1.9
3	Oak Hill, WV to Carlisle, WV	2.8
4	*McCarr, WV to Nampa, KY	.95
5	Williamson, WV to Cinderella, WV	2.5
6	Licks Fork Spur Jct., WV to Elda, WV	3.09
7	Roderfield, WV to Premier, WV	4.58
8	Amigo, WV to Devils Fork, WV	1.5
9	McVey, WV to Whitby, WV	4.0
10	Oak Hill, WV to Oak Hill, WV	2.5
11	Thacker, WV to Colonel, WV	2.3
TOTAL		28.4

*These two sections of abandonment cross the Tug Fork River and reside in both KY and WV.

**This portion of abandonment is partially located in the Norfolk District of the U.S. Army Corps of Engineers. All rail line abandonment in the state of Virginia should be coordinated through the Norfolk District. The Clinch Valley regulatory field office may be reached by dialing 540-623-5259.

Section 404 of the Clean Water Act requires that a Department of the Army permit be obtained prior to placing dredged or fill material into waters of the United States, including wetlands. Based on the information provided, it appears that no fill material would be placed into jurisdictional waters; therefore, authorization under Section 404 of the Clean Water Act for the proposed work would not be required. However, if any work becomes necessary that would require the placement of fill material into waters of the United States at any site of proposed rail line abandonment, you should contact this office.

Section 10 of the Rivers and Harbors Act of 1899 requires that a permit be obtained prior to any work in, over, or under navigable waters. You have indicated that bridge trestles crossing the Tug Fork River would not be removed during abandonment activities. Provided that these crossings would be used at some time in the future, trestles may remain in place.

Please be aware that the Corps of Engineers does not have regulatory authority for administering the 100-year floodplain regulation pursuant to the National Flood Insurance Program. This authority lies with the local government using floodplain ordinances approved by the Federal Emergency Management Agency.

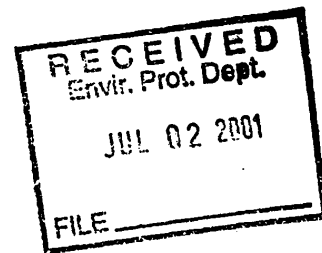
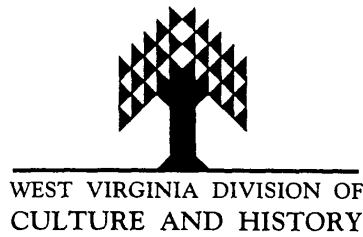
If you have any questions concerning the above, please contact Michael Hatten at 304-529-5710.

Sincerely,



Richard P. Buckley
Chief, South Permit Section

June 27, 2001



Mr. K. R. Miller
Norfolk Southern
110 Franklin Road, Southeast
Roanoke, Virginia 24042

RE: Proposed Main Line Abandonment
Milepost FG-0.0 and Milepost FG-2.5
FR#: 01-1056-MO

Dear Mr. Miller:

We have received the information for the above mentioned project. As required by Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulations, 36 CFR 800: "Protection of Historic Properties," we submit our comments.

The "Environmental Report on Proposed Rail Line Abandonment" for the 2.5 miles of railroad line from Williamson to Cinderella located in Mingo County, West Virginia, does not specifically address potential impacts to historic resources such as the rail line itself or associated buildings and structures. Nor is there any information provided regarding the railroad's history in order for us to make an assessment of the resource's National Register eligibility.

Please submit additional information addressing our above inquiries. We cannot continue with our review without these relevant facts. Also, please note that the subject material did not reach our office until June 7, 2001, and, therefore, we were unable to meet the requested three week comment period. However, under 36 CFR 800 our office is allowed thirty days upon receipt of a project to comment on its impact to cultural resources listed in or eligible for the National Register of Historic Places or to request additional information to assist in our analysis. As such, we have met our statutory obligation with this response.

We appreciate the opportunity to be of service. If you have questions regarding our comments or the Section 106 process, please call me at (304) 558-0220, Ext. 723.

Sincerely,

Marc Holma
Senior Structural Historian for Review and Compliance



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

June 20, 2001

Mr. Rory Mullenex
Marshall Miller and Associates
P.O. Box 848
Bluefield, VA 24605-0848

SUBJECT: EPA Region 4 Approach to Railroad Abandonment Proposals

Dear Mr. Mullenex:

As discussed today with Chris Hoberg of my staff, the U.S. Environmental Protection Agency (EPA) is providing for your reference copies of recent letters concerning proposed railroad abandonments. These letters to Mr. Larry Western and Mr. James Paschall of Norfolk Southern (NS) and their letter attachments indicate the approach EPA Region 4 is currently taking regarding routine, environmentally benign railroad abandonment proposals made by NS and other rail line companies. However, should a future proposal have an environmental concern, please feel free to contact Chris Hoberg at 404/562-9619.

EPA appreciates your concern and coordination with us.

Sincerely,

A handwritten signature in cursive script, appearing to read "H. Mueller".

Heinz J. Mueller, Chief
Office of Environmental Assessment
Environmental Accountability Division

Enclosure

June 13, 2000

4EAD-OEA

Mr. Larry G. Western
Norfolk Southern Corporation
110 Franklin Road, SE
Roanoke, VA 24042-0013

**SUBJ: EPA Generic Comments on Norfolk Southern Corporation (NS) Railroad
Abandonment Proposals**

Dear Mr. Western:

As you have discussed with Chris Hoberg of my staff, NS has provided the U.S. Environmental Protection Agency (EPA) with numerous railroad abandonment proposals over the years for our comment. NS apparently seeks EPA comment to satisfy Surface Transportation Board (STB) requirements.

EPA has provided many response letters to these proposals. Most of them were generic and quite similar. Although not without impacts, the proposed abandonments would terminate the use of a line section and are generally benign environmentally. They can in fact benefit the environment if a sponsor offers to implement the rails-to-trails program along the abandoned railroad ROW. Conversely, they could also be detrimental to the environment if existing train traffic would be rerouted to a congested line and therefore result in an air quality or noise impact on that line. NS and STB should ensure that this be avoided and should promote the rails-to-trails program by proper advertisement to potential private sponsors or federal sponsors such as the U.S. Fish and Wildlife Service.

EPA does not expect to continue individually commenting on NS (or other railroad company) abandonment proposals. Instead, this generic response can be used for STB purposes *unless* NS determines there is reason to believe that the abandonment proposal is unique and substantive environmental impact would result with abandonment. In such instance, NS should provide EPA with project-specific documentation for potential review and comment. In addition, all normal coordination with federal, state and local agencies should continue (e.g., endangered species, wetlands and hazardous material/waste areas within the ROW). We also expect that future abandonment proposals be responsive to past EPA comments (for reference, see enclosed *Example of A Typical Former EPA Response*).

It should be emphasized that this letter does *not* mean that EPA has no comment on all future abandonment proposals or that there are no environmental impacts. However, EPA at this time does not elect to comment on most abandonment proposals if they are similar to those received over the years. Although we reserve the right to comment on any or all proposals pursuant to Section 309 of the Clean Air. This letter also only pertains to EPA comments and not those of any other resource agency.

We appreciate your coordination with us. Should you have questions regarding this letter, you may wish to contact Chris Hoberg at 404/562-9619.

Sincerely,

Heinz J. Mueller, Chief
Office of Environmental Assessment
Environmental Accountability Division

Enclosure - Example of A Typical Former EPA Response

cc: Ms. Elaine Kaiser - STB: Washington, DC

EXAMPLE OF A TYPICAL FORMER EPA RESPONSE

November 25, 1996

4EAD/OEA-cmh

Ms. Elaine K. Kaiser, Chief
Section of Environmental Analysis
Surface Transportation Board
12th and Constitution Avenue, NW
Room 3219
Washington, DC 20423

**SUBJ: Environmental Report; Norfolk Southern Railway Company;
Proposed Discontinuance/Abandonment of 22.1 Miles of Rail
Line From MP 862.8 to MP 884.9; Berry to Belk, Alabama in
Fayette County**

Dear Ms. Kaiser:

The U.S. Environmental Protection Agency (EPA) has reviewed the Environmental Report (ER) for the above-referenced railroad discontinuance/abandonment project in Alabama, proposed by your Norfolk Southern Railway Company (NS) applicant. Given the preliminary nature of the ER dated May 2, 1996 (and cover letter to EPA dated October 16, 1996), we offer the preliminary comments presented below for consideration by the Surface Transportation Board (STB).

EPA offers the following preliminary comments on the ER:

► **ALTERNATIVES** - EPA recommends that the environmental impacts, if any, of non-abandonment alternatives be identified and briefly compared to the impacts of the proposed action. Specifically, any environmental impacts of not abandoning the line or discontinuing line service and retaining the trackage should be discussed and compared to the proposed line abandonment (future ERs should include such information).

► **IMPACTS** - Based on the report provided, it appears that the environmental impacts of the proposed 22.1-mile railway abandonment need not be substantive. However, the line crosses several waterways a total of 24 times and in-stream salvaging work is possible. In addition, there are some conclusional statements that we believe should be substantiated before any action is taken by the STB. We note, however, that this ER is

more responsive to EPA comments than in the past.

2

We offer the following comments:

■ Land Use (3.i) - We appreciate that the ER briefly characterized the land use of the project area (forests (85%), commercial businesses (5%), residential (10%)). Also relative to land use, will bisected forests, if any, be reunited due to the proposed abandonment? Will the rail line right-of-way (ROW) be maintained or allowed to naturally revegetate? Will any existing at-grade crossings be eliminated (if the proposed abandonment is implemented) which would improve transportation in terms of delays and accident potential?

■ Alternative Public Use (3.iv) - The ER indicates that NS does not have fee title to all of the rail line ROW proposed for abandonment and therefore does not have a contiguous corridor for potential future public use. For this reason and others, NS does not believe the line segment would be suitable for other public use.

Although NS does not own fee title to the ROW, we would nevertheless suggest that NS determine the fate of the ROW from its owner and include such information in the ER. Would the ROW simply revert to the surrounding land use, or would the corridor be sold to the private or public sector and for what land use?

■ Energy (4.i) - Although it basically follows from previous sections of the abandonment proposal, we suggest that the statement "[d]evelopment and transportation of energy resources will not be affected by the abandonment" be briefly substantiated in this section and in any future ERs. For example, the fact that rail line abandonment as opposed to construction is proposed could again be referenced here for clarity.

EPA appreciates the calculation of net change in energy consumption due to the modal change from diesel train to diesel trucks. The conclusion reached by the applicant was that a net decrease in diesel fuel gallons (3,985 vs. 5,896) would be used for a change to truck traffic. Intuitively, this seems incorrect. Considering that truck cargos (15 tons) would be considerably less than train cargos so that numerous truck trips would be needed to replace one train load. As such, it would seem that more fuel would be used for the truck option than for the train option.

This apparent inconsistency is presumably true, as the ER further indicates, to the current train configuration not

being efficient, so that train cargos are apparently undersized. We note that the ER states that "...if the railroad configured trains and trips for maximum efficiency,

3

pulpwood could be moving using approximately 43% of the estimated fuel used trucking pulpwood and using approximately 29% of the estimated current fuel usage."

■ Air (5.i, 5.ii) - We note that several air quality criteria would not be reached or exceeded by the proposed abandonment. We assume that these criteria are the STB air quality analysis thresholds frequently referred to but not generally provided in previous abandonment proposals reviewed by EPA (if so, we suggest that future ERs indicate that the listed criteria indeed are the STB air quality thresholds). We appreciate their inclusion in this ER.

If truck traffic is to replace the remaining rail traffic on the line to be abandoned, air quality could be locally impacted. Specifically, trucks could slow traffic which would involve traffic queuing (idling) or slow moving traffic, which would reduce local air quality. In addition, the additional vehicles would use diesel fuel rather than less polluting gasoline or alternate fuels (e.g., natural gas or electric). The local conditions of the preferred route(s) should be briefly characterized (ADT, traffic mix, intersections, etc.). Although we note that the ADT of the area would increase only less than 0.02%, we suggest that actual numbers be provided since percentages can be misleading. Overall air quality for the region, however, should improve if the ER analysis is accurate that less fuel would be used with trucks rather than rail in this case.

The ER states that: "Based on the foregoing discussion, increases in air emissions do not need to be quantified." This statement should be substantiated, i.e., what guidance is being employed here by the applicant?

It is also stated that "NS does not believe any Class I or non-attainment areas would be affected by the proposed abandonment." While we agree that abandonment projects would generally not affect non-attainment areas even if they existed in the project area (assuming the line no longer has rail traffic or does have inefficient rail traffic), the attainment status of the area of concern should preferably be verified in ERs (see annual 40 CFR Part 81, subject to updates, or contact the Air Division of EPA Region 4 at 404/562-9026). Any potential air quality effects should also be reasonably predicted in future ERs. As such, the ERs would be better stand-alone environmental documents prior to agency reviews.

EPA has verified that Fayette County in Alabama is in

attainment for all National Ambient Air Quality Standard (NAAQS) pollutants (including ozone), i.e., this county is not a non-attainment area for any NAAQS pollutants.

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Therefore, it can be assumed that the salvaging process should not affect any non-attainment areas. The U.S. Department of the Interior (DOI) should be consulted for potential Class I area concerns.

■ **Noise (6)** - The ER does not list the referenced "established analysis thresholds" for noise. Their listing and a reference should be included in prospective future ERs for abandonment proposals (Note: This comment has also been made in previous EPA reviews of ERs, without inclusion or citation reference to the noise thresholds in subsequent ERs). How was it determined that these thresholds would not be exceeded?

While noise generated by the proposed action may not be substantive (especially when compared to noise from former and existing train usage of the track) or exceed the STB's noise thresholds, EPA does not agree that noise impacts from the proposed action (e.g., rail salvage) are "not applicable." Nevertheless, while the thresholds and other noise "guidelines" (such as city ordinances) may or may not be exceeded (or even exist) due to the proposed action, and sensitive residential receptors may or may not be far removed from the site (this should be determined in ERs), generation of temporary, above-ambient noise levels can be expected during rail salvage operations. What maximum/average noise levels would be expected from such an operation and how do these levels compare to the noise thresholds, other guidance or ordinances and existing railway noise?

■ **Hazardous Waste or Hazmat Spill Sites (7.iii)** - We note that "NS has no knowledge" of any hazardous waste spills or known spill sites along the ROW. What research and/or review was conducted to determine if any hazardous waste spills have occurred or sites exist along the ROW? Such substantiation should also be provided in any future applicant ERs on abandonment proposals. What procedures will be followed by NS if hazardous materials would be discovered during salvaging activities? Future ERs should already include such requested information.

■ **Biological Resources (8)**

Endangered Species/Critical Habitat (8.i) - The ER should provide a reasonable list of the federally-listed endangered species that range in the area, and if any are known to actually exist along or near the ROW. Also, what is the basis for the statement that "NS is not aware of any critical habitat which would be destroyed or modified as a

result of the proposed abandonment," i.e., what research or consultation was conducted to determine this? Future abandonment ERs should already provide substantiated

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information on "critical habitat" (confirmation from the FWS is advised). EPA notes and supports the commitment that "NS is willing to undertake reasonable mitigating actions to protect any endangered species which might be encountered in connection with abandonment activities."

Sanctuaries, Refuges and Parks (8.ii) - It should be determined (with a documented source such as a USGS or recent aerial map, ground survey, or agency) if the line does or does not pass through any parks, forests, or wildlife sanctuaries (Note: Future ERs should already include such a determination and cite the information source). The appropriate resource agency (such as FWS) should then be consulted/copied for verification.

▪ **Water (9.i, 9.ii, 9.iii)** - The rail line crosses the North River, Kerrs Branch, Sipsey River and Bobo Creek at 24 locations. The ER indicates that the line roadbed is not proposed for appreciable removal or alteration, "no discernible effects on either wetlands or 100-year flood plains are expected," and "NS does not believe a 404 wetland permit will be required in connection with the proposed abandonment." However, because the report does indicate that some in-stream work is being contemplated (i.e., "at most, some bridge piles, posts, and piers may be removed down to stream bottom level..."), the U.S. Army Corps of Engineers (COE) should be consulted regarding any impacts to jurisdictional wetlands and potential 404 permitting requirements. Also, if jurisdictional wetlands exist along or near the ROW, placement of all construction staging areas should avoid such wetlands. The U.S. Coast Guard should be contacted relative to navigational obstructions during bridge removal (if waterway crossed are navigable).

Regarding permitting requirements under Section 402 of the Clean Water Act involving point source discharges to waters of the United States, EPA has authorized the State of Alabama to administer the storm water National Pollutant Discharge Elimination System (NPDES) Permit Program (with EPA program oversight being retained). Storm water NPDES permitting could apply if the abandonment activities involve soil disturbances (grading, movement, filling, etc.) of five or more acres of land, and if there are point source discharges from these areas into waters of the U.S. (creeks, lakes, rivers, jurisdictional wetlands, etc.). EPA encourages the applicant's further coordination with the State of Alabama or EPA/Region 4 (Mr. Roosevelt Childress: 404/562-9279) regarding water quality management and any

NPDES permitting requirements. Such coordination should precede completion of future ERs and be documented therein.

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Regardless of wetland or NPDES permitting requirements, the potential for soil erosion exists during proposed salvaging of rails and ties and bridge structures. Soil erosion should be minimized through use of state construction Best Management Practices (BMPs). Will the areal extent of disturbed areas be kept to a minimum and limited to the ROW? Will access and staging areas be involved? Is mulching and grass re-seeding proposed for disturbed construction areas along the railbed? Will state construction BMPs be followed? Prospective ERs should already include such discussion.

■ **Proposed Mitigation (10)** - We note the commitment that "NS will undertake all reasonable mitigation associated with these activities [removal of rail, ties, and other railroad appurtenances] will be produced by the proposed action." EPA encourages mitigation of impacts in general, and specifically any compensation recommended by the various review/permitting agencies.

► **FUTURE ERs** - We have noted some modifications in this ER commensurate with typical EPA comments on previous ERs for NS abandonment proposals. We appreciate the responsiveness. However, modifications for several other EPA comments were not noticed. Future ERs should be further modified in response to EPA comments.

► **EPA MOVE** - As noted on our new letterhead, EPA Region 4 has moved to 100 Alabama Street in Atlanta, Georgia. The former Environmental Policy Section has been reorganized to the Office of Environmental Assessment in the Environmental Accountability Division.

EPA appreciates the opportunity to review the ER at this time. Per applicant cover letter request, we have provided a copy of these comments to NS. Should you have questions, feel free to contact Chris Hoberg of my staff at 404/562-9619, who will serve as the initial Agency point of contact.

Sincerely,

Heinz J. Mueller, Chief
Office of Environmental Assessment
Environmental Accountability Division

cc: Mr. Larry G. Western
Norfolk Southern Corporation

110 Franklin Road, SE
Roanoke, VA 24042-0013



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

May 23, 2001
1-9-5-4

Mr. Bob Runowski
USEPA Region 3
EPAS (3ES43)
841 Chestnut Street
Philadelphia, PA 19107

SUBJECT: Norfolk Southern Railway Company Proposed Main Line Abandonment of 2.5
Miles of Rail Line Located between Milepost FG-0.0 and Milepost FG-2.5
From Williamson to Cinderella, West Virginia

Dear Mr. Runowski:

Norfolk Southern plans to file an application with the Surface Transportation Board (STB) seeking authority to abandon rail service from MP FG-0.0 to MP FG-2.5 (Williamson to Cinderella) in Mingo County, West Virginia. Attached is an Environmental Report describing the proposed action and any expected environmental effects, as well as a map of the affected area.

We are providing this report so that you may review the information that will form the basis for the STB's independent environmental analysis of the proceeding. If you believe any of the information is misleading or incorrect, if you think pertinent information is missing, or if you have any questions about the Board's Environmental Review process, please contact the Section of Environmental Analysis (SEA), Room 3219, Surface Transportation Board, 1925 K Street, N.W., Washington DC 20423, Telephone (202) 565-1538 and refer to the above Docket. Because applicable statutes and regulations impose stringent deadlines for processing this action, your written comments (with a copy to us) would be appreciated within three weeks.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'K. R. Miller'.

K. R. Miller
Director Environmental Operations

WIClet
Attachment
CC: J.R. Paschall



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

May 23, 2001
1-9-5-4

Mr. Samuel Stokes,
National Parks Service
P.O. Box 37127
Washington, DC 20013-7127

SUBJECT: Norfolk Southern Railway Company Proposed Main Line Abandonment of 2.5
Miles of Rail Line Located between Milepost FG-0.0 and Milepost FG-2.5
From Williamson to Cinderella, West Virginia

Dear Mr. Stokes:

Norfolk Southern plans to file an application with the Surface Transportation Board (STB) seeking authority to abandon rail service from MP FG-0.0 to MP FG-2.5 (Williamson to Cinderella) in Mingo County, West Virginia. Attached is an Environmental Report describing the proposed action and any expected environmental effects, as well as a map of the affected area.

We are providing this report so that you may review the information that will form the basis for the STB's independent environmental analysis of the proceeding. If you believe any of the information is misleading or incorrect, if you think pertinent information is missing, or if you have any questions about the Board's Environmental Review process, please contact the Section of Environmental Analysis (SEA), Room 3219, Surface Transportation Board, 1925 K Street, N.W., Washington DC 20423, Telephone (202) 565-1538 and refer to the above Docket. Because applicable statutes and regulations impose stringent deadlines for processing this action, your written comments (with a copy to us) would be appreciated within three weeks.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'K. R. Miller', written over a horizontal line.

K. R. Miller
Director Environmental Operations

WIC11et
Attachment
CC: J.R. Paschall



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

May 23, 2001
1-9-5-4

Mr. Edward J. McKay, Chief
NOAA
Spatial Reference, National Geodetic Survey
1315 East-West Highway
Silverspring, Maryland 20910

SUBJECT: Norfolk Southern Railway Company Proposed Main Line Abandonment of 2.5
Miles of Rail Line Located between Milepost FG-0.0 and Milepost FG-2.5
From Williamson to Cinderella, West Virginia

Dear Mr. McKay:

Norfolk Southern plans to file an application with the Surface Transportation Board (STB) seeking authority to abandon rail service from MP FG-0.0 to MP FG-2.5 (Williamson to Cinderella) in Mingo County, West Virginia. Attached is an Environmental Report describing the proposed action and any expected environmental effects, as well as a map of the affected area.

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K. R. Miller
Director Environmental Operations

WIC11et
Attachment
CC: J.R. Paschall



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

May 23, 2001
1-9-5-4

Mr. Jim Hatfield, Commissioner
Mingo County Commission
P.O. Box 1179
Williamson, West Virginia 25676

SUBJECT: Norfolk Southern Railway Company Proposed Main Line Abandonment of 2.5
Miles of Rail Line Located between Milepost FG-0.0 and Milepost FG-2.5
From Williamson to Cinderella, West Virginia

Dear Mr. Hatfield:

Norfolk Southern plans to file an application with the Surface Transportation Board (STB) seeking authority to abandon rail service from MP FG-0.0 to MP FG-2.5 (Williamson to Cinderella) in Mingo County, West Virginia. Attached is an Environmental Report describing the proposed action and any expected environmental effects, as well as a map of the affected area.

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K. R. Miller
Director Environmental Operations

WIC:let
Attachment
CC: J.R. Paschall



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

May 23, 2001
1-9-5-4

Mr. Rick Buckley, Chief
South Permit Section
US Army Corps of Engineers, Huntington District
502 8th Street
Huntington, WV 25701

SUBJECT: Norfolk Southern Railway Company Proposed Main Line Abandonment of 2.5
Miles of Rail Line Located between Milepost FG-0.0 and Milepost FG-2.5
From Williamson to Cinderella, West Virginia

Dear Mr. Buckley:

Norfolk Southern plans to file an application with the Surface Transportation Board (STB) seeking authority to abandon rail service from MP FG-0.0 to MP FG-2.5 (Williamson to Cinderella) in Mingo County, West Virginia. Attached is an Environmental Report describing the proposed action and any expected environmental effects, as well as a map of the affected area.

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K. R. Miller
Director Environmental Operations

WIC1let
Attachment
CC: J.R. Paschall



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

May 23, 2001
1-9-5-4

Mr. John Porterfield, Supervisor
West Virginia Department of Environmental Protection
331 Court Street, Suite 204
Welch, West Virginia 24801

SUBJECT: Norfolk Southern Railway Company Proposed Main Line Abandonment of 2.5
Miles of Rail Line Located between Milepost FG-0.0 and Milepost FG-2.5
From Williamson to Cinderella, West Virginia

Dear Mr. Porterfield:

Norfolk Southern plans to file an application with the Surface Transportation Board (STB) seeking authority to abandon rail service from MP FG-0.0 to MP FG-2.5 (Williamson to Cinderella) in Mingo County, West Virginia. Attached is an Environmental Report describing the proposed action and any expected environmental effects, as well as a map of the affected area.

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K. R. Miller
Director Environmental Operations

WIC11et
Attachment
CC: J.R. Paschall



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

May 23, 2001
1-9-5-4

Mr. Ed Hamrock, Director
West Virginia Department of Natural Resources
1900 Kanawha Blvd., East
Building 3 Room 669
Charleston, West Virginia 25305-0660

SUBJECT: Norfolk Southern Railway Company Proposed Main Line Abandonment of 2.5
Miles of Rail Line Located between Milepost FG-0.0 and Milepost FG-2.5
From Williamson to Cinderella, West Virginia

Dear Mr. Hamrock:

Norfolk Southern plans to file an application with the Surface Transportation Board (STB) seeking authority to abandon rail service from MP FG-0.0 to MP FG-2.5 (Williamson to Cinderella) in Mingo County, West Virginia. Attached is an Environmental Report describing the proposed action and any expected environmental effects, as well as a map of the affected area.

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K. R. Miller
Director Environmental Operations

WIC1let
Attachment
CC: J.R. Paschall



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

May 23, 2001
1-9-5-4

Mr. Craig Stihler
West Virginia Department of Natural Resources
Natural Heritage Program
P.O. Box 67
Elkins, West Virginia 26241

SUBJECT: Norfolk Southern Railway Company Proposed Main Line Abandonment of 2.5
Miles of Rail Line Located between Milepost FG-0.0 and Milepost FG-2.5
From Williamson to Cinderella, West Virginia

Dear Mr. Stihler:

Norfolk Southern plans to file an application with the Surface Transportation Board (STB) seeking authority to abandon rail service from MP FG-0.0 to MP FG-2.5 (Williamson to Cinderella) in Mingo County, West Virginia. Attached is an Environmental Report describing the proposed action and any expected environmental effects, as well as a map of the affected area.

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

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K. R. Miller
Director Environmental Operations

WIClet
Attachment
CC: J.R. Paschall



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

May 23, 2001
1-9-5-4

Mr. Earl Billingsly
West Virginia Department of Environmental Protection
Office of Air Quality
7012 MacCorkle Ave.
Charleston, West Virginia 25304

SUBJECT: Norfolk Southern Railway Company Proposed Main Line Abandonment of 2.5
Miles of Rail Line Located between Milepost FG-0.0 and Milepost FG-2.5
From Williamson to Cinderella, West Virginia

Dear Mr. Billingsly:

Norfolk Southern plans to file an application with the Surface Transportation Board (STB) seeking authority to abandon rail service from MP FG-0.0 to MP FG-2.5 (Williamson to Cinderella) in Mingo County, West Virginia. Attached is an Environmental Report describing the proposed action and any expected environmental effects, as well as a map of the affected area.

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

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K. R. Miller
Director Environmental Operations

WIC:let
Attachment
CC: J.R. Paschall



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

May 23, 2001
1-9-5-4

Mr. Fred VanKirk, Secretary
West Virginia Department of Transportation
1900 Kanawha Blvd., East
Building 5 Room 109
Charleston, West Virginia 25305-0660

SUBJECT: Norfolk Southern Railway Company Proposed Main Line Abandonment of 2.5
Miles of Rail Line Located between Milepost FG-0.0 and Milepost FG-2.5
From Williamson to Cinderella, West Virginia

Dear Mr. VanKirk:

Norfolk Southern plans to file an application with the Surface Transportation Board (STB) seeking authority to abandon rail service from MP FG-0.0 to MP FG-2.5 (Williamson to Cinderella) in Mingo County, West Virginia. Attached is an Environmental Report describing the proposed action and any expected environmental effects, as well as a map of the affected area.

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

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K. R. Miller
Director Environmental Operations

WIClet
Attachment
CC: J.R. Paschall



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

May 23, 2001
1-9-5-4

Mr. Steven A. Boone, District Conservationist
USDA Natural Resources Conservation Service
8150B Court Ave.
Hamlin, West Virginia 25523

SUBJECT: Norfolk Southern Railway Company Proposed Main Line Abandonment of 2.5
Miles of Rail Line Located between Milepost FG-0.0 and Milepost FG-2.5
From Williamson to Cinderella, West Virginia

Dear Mr. Boone:

Norfolk Southern plans to file an application with the Surface Transportation Board (STB) seeking authority to abandon rail service from MP FG-0.0 to MP FG-2.5 (Williamson to Cinderella) in Mingo County, West Virginia. Attached is an Environmental Report describing the proposed action and any expected environmental effects, as well as a map of the affected area.

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

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K. R. Miller
Director Environmental Operations

WIClet
Attachment
CC: J.R. Paschall



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

May 23, 2001
1-9-5-4

Mr. Jeffery K. Towner, Supervisor
USFWS Ecological Services Field Office
694 Beverly Pike
Elkins, West Virginia 26241

SUBJECT: Norfolk Southern Railway Company Proposed Main Line Abandonment of 2.5
Miles of Rail Line Located between Milepost FG-0.0 and Milepost FG-2.5
From Williamson to Cinderella, West Virginia

Dear Mr. Towner:

Norfolk Southern plans to file an application with the Surface Transportation Board (STB) seeking authority to abandon rail service from MP FG-0.0 to MP FG-2.5 (Williamson to Cinderella) in Mingo County, West Virginia. Attached is an Environmental Report describing the proposed action and any expected environmental effects, as well as a map of the affected area.

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K. R. Miller
Director Environmental Operations

WIC:let
Attachment
CC: J.R. Paschall



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

May 23, 2001
1-9-5-4

Ms. Nancy Herholdt, Commissioner
WV Division of Culture and History
Cultural Center
1900 Kanawha Blvd.
Charleston, West Virginia 25304

SUBJECT: Norfolk Southern Railway Company Proposed Main Line Abandonment of 2.5
Miles of Rail Line Located between Milepost FG-0.0 and Milepost FG-2.5
From Williamson to Cinderella, West Virginia

Dear Ms. Herholdt:

Norfolk Southern plans to file an application with the Surface Transportation Board (STB) seeking authority to abandon rail service from MP FG-0.0 to MP FG-2.5 (Williamson to Cinderella) in Mingo County, West Virginia. Attached is an Environmental Report describing the proposed action and any expected environmental effects, as well as a map of the affected area.

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Director Environmental Operations

WIClet
Attachment
CC: J.R. Paschall



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

May 23, 2001
1-9-5-4

Mr. Estil Bevins, Mayor
Town of Williamson
P.O. Box 1517
Williamson, West Virginia 25661

SUBJECT: Norfolk Southern Railway Company Proposed Main Line Abandonment of 2.5
Miles of Rail Line Located between Milepost FG-0.0 and Milepost FG-2.5
From Williamson to Cinderella, West Virginia

Dear Mr. Bevins:

Norfolk Southern plans to file an application with the Surface Transportation Board (STB) seeking authority to abandon rail service from MP FG-0.0 to MP FG-2.5 (Williamson to Cinderella) in Mingo County, West Virginia. Attached is an Environmental Report describing the proposed action and any expected environmental effects, as well as a map of the affected area.

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K. R. Miller
Director Environmental Operations

WIClet
Attachment
CC: J.R. Paschall

ATTACHMENT #2

HISTORIC REPORT



**NORFOLK
SOUTHERN**

Norfolk Southern Corporation
Law Department
Three Commercial Place
Norfolk, Virginia 23510-9241

James R. Paschall
General Attorney

Writer's Direct Dial Number

(804) 629-2752

November 19, 2002

Mr. Norman Fagan, Commissioner
Department of Culture and History
Capitol Complex
Charleston, WV 25305

Re: Docket No. AB-290 (Sub-No. 215X), Norfolk Southern Railway Company --
Abandonment -- between Williamson and Cinderella, West Virginia

Dear Mr. Fagan:

On or about December 18, 2002, we expect to be filing with the Surface Transportation Board a notice of exemption seeking authority to abandon 2.5 miles of rail line located between railroad milepost FG-0.0 at Williamson and railroad milepost FG-2.5 at Cinderella, West Virginia. Attached is a Historic Report describing the proposed action and any expected historic effects, as well as a map of the affected area.

We are providing this report so that you may review the information that will form the basis for the Board's independent environmental analysis of this proceeding. If you believe any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the Board's environmental review process, please contact the Section of Environmental Analysis (SEA), Surface Transportation Board, 1925 K Street, N.W., Washington, D. C. 20423-0001, Telephone (202) 565-1545, and refer to the above Docket. Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments (with a copy to me) would be appreciated within 3 weeks.

Your comments will be considered by the Board in evaluating the historic impacts of the contemplated action. If there are any questions concerning this proposal, please contact me directly at the above telephone number or address.

Yours very truly,

James R. Paschall

JRP/sg

62

HISTORIC REPORT
PROPOSED RAIL LINE ABANDONMENT

PROPOSED ACTION AND ALTERNATIVES

Norfolk Southern Railway Company (NS) proposes to abandon 2.5 miles of rail line between Milepost FG-0.0 at Williamson and Milepost FG-2.5 at Cinderella, West Virginia. A map delineating the line proposed for abandonment is attached as Appendix "A".

The alternatives to abandonment of the line are to not abandon or to discontinue service on the line, retaining the trackage in place. Neither of these alternatives is economically feasible for NS.

ADDITIONAL INFORMATION

- (1) **U.S.G.S. Topographic Map** -- Maps were furnished to the West Virginia Division of Culture and History.
- (2) **Written Description of Right of Way** -- The right of way width varies, but is generally 15 feet on each side of the main track centerline. The line passes through commercial (60%), residential (5%) and undeveloped wooded (35%) areas.
- (3) **Photographs** -- Photographs were furnished to the West Virginia Division of Culture and History.
- (4) **Date of Construction of Structures** -- Construction dates are shown on the Bridges and Structures Listing attached to this report.
- (5) **History of Operations and Changes Contemplated** -- The 2.5-mile rail line of Norfolk Southern Railway Company that will be the subject of the abandonment for which authority is sought in this proceeding is a branch or spur line between

Milepost FG-0.0 at Williamson, West Virginia and Milepost FG-2.5 at Cinderella, West Virginia. The rail line was built in 1912 by Norfolk and Western Railway Company to serve the Sycamore Mining Company. The subject branch springs from the mainline built by Norfolk and Western Railway Company's predecessor, Norfolk and Western Railroad Company, between Bluefield, West Virginia and Williamson, West Virginia. Norfolk Southern Railway Company is successor to Norfolk and Western Railway Company.

In a notice of exemption in ICC Docket No. AB-290 (Sub-No. 94X), *Norfolk and Western Railway Company - Discontinuance Exemption - In Mingo County, WV*, served April 18, 1990, the ICC permitted discontinuance of service over this line between Milepost FG-0.5 near Williamson, WV and Milepost FG-2.5 at Cinderella, WV. No rail traffic had moved over the line for at least 2 years prior to the date the notice of exemption for discontinuance of service over the line was filed on March 30, 1990. Therefore, since there has been no traffic over the line since service was discontinued, there has now been no rail traffic over the line in more than 14 years. Norfolk Southern Railway has kept the right-of-way intact with the hope that mining operations might resume along this line and service could be restored. However, after this considerable number of years, and with no apparent prospect that a mine might open or reopen along the line, Norfolk Southern Railway has determined that it should abandon, salvage and dispose of this unproductive property.

Norfolk and Western Railroad Company, predecessor of Norfolk and Western Railway Company, was incorporated under the general laws of Virginia,

May 3, 1881.

By 1896, Norfolk and Western Railroad Company operated a railroad system of 1,570.35 miles in length located in the States of Virginia, West Virginia, Maryland, North Carolina, Kentucky and Ohio.

Norfolk and Western Railroad Company property was sold at foreclosure September 15, 1896 and conveyed to Norfolk and Western Railway Company October 1, 1896. Norfolk and Western Railway Company was incorporated by special act of Virginia approved on January 15, 1896, and succeeded, under a plan of reorganization, to the properties of Norfolk and Western Railroad Company, the Lynchburg and Durham Railroad Company (that had been sold first to the Norfolk, Lynchburg and Durham Railroad Company) and the Roanoke and Southern Railway Company (that had been sold first to the Norfolk, Roanoke and Southern Railroad Company). The two companies shown in parentheses were organized on the dates of purchase for the sole purpose of acquiring and transferring the property of the named companies to Norfolk and Western Railway Company.

The Lynchburg and Durham Railroad Company was sold at foreclosure September 24, 1896 and conveyed to Norfolk and Western Railway Company October 6, 1896. Norfolk, Roanoke and Southern Railroad Company conveyed the property of Roanoke and Southern Railway Company (122 miles of line between Roanoke, VA and Winston-Salem, NC) that it purchased at foreclosure November 24, 1896, together with its rights and franchises, to Norfolk and Western Railway Company on December 2, 1896. Norfolk, Lynchburg and

Durham Railroad Company conveyed the property of the Lynchburg and Durham Railroad Company that it had purchased at foreclosure September 24, 1896 to Norfolk and Western Railway Company on October 6, 1896.

On June 1, 1982, Norfolk and Western Railway Company and Southern Railway Company consolidated as subsidiaries of Norfolk Southern Corporation, pursuant to authority granted by the Interstate Commerce Commission.

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

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

When NW filed for discontinuance of service over the subject line in 1990, it submitted photographs of 3 1-span and 2 5-span frame trestle bridges which take the line over Sycamore Creek at various points along the line. There were no other structures on the line that was the subject of that filing.

In a March 19, 1990 letter Mr. William G. Farrar, Deputy State Historic Preservation Officer, Department of Education and the Arts, Division of Culture and History, State of West Virginia stated to Mr. Richard W. Kienle of Norfolk Southern Corporation with regard to the proposed discontinuance of service over

2.0 miles of this line between Williamson, WV and Cinderella, WV in ICC Docket No. AB-290 (Sub-No. 94X), *Norfolk and Western Railway Company - Discontinuance Exemption - In Mingo County, WV*: "No known historical, architectural or archaeological sites listed on or eligible for inclusion in the National Register of Historic Places will be affected by this project.

As previously noted, Norfolk Southern Railway's predecessor Norfolk and Western Railway discontinued service over most of this line pursuant to a notice of exemption in ICC Docket No. AB-290 (Sub-No. 94X), *Norfolk and Western Railway Company - Discontinuance Exemption - In Mingo County, WV*, served April 18, 1990. There since there has been no traffic over the line since at least two years prior to the date service was discontinued in 1990. Therefore, there has now been no rail traffic over the line in more than 14 years. Since there is still no apparent prospect for renewed rail traffic over the line, there is no need for Norfolk Southern Railway to keep the line intact. Thus, Norfolk Southern Railway Company has determined that full abandonment authority should be obtained for the line.

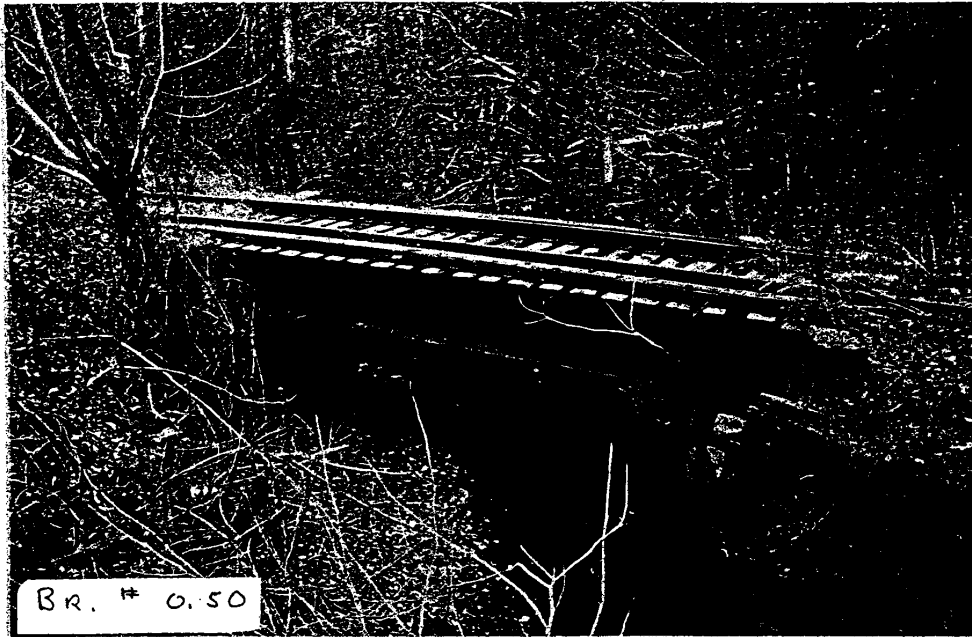
The change contemplated in the operation of the line of railroad track between Williamson, West Virginia and Cinderella, West Virginia is for Norfolk Southern Railway Company to abandon the subject unneeded, unused and unproductive line of railroad over which there has been no rail service for at least 14 years and to sell or dispose of the property and to redeploy any usable assets.

- (6) **Summary of Documents In Carrier's Possession That Might Be Useful for Documenting a Structure That Is Found To Be Historic** -- Bridge plans may be available for the structures on the line.
- (7) **Opinion Regarding Criteria For Listing In The National Register Of Historic Places** -- It is carrier's opinion that the structures on the line to be abandoned do not meet the criteria for listing in the *National Register of Historic Places*. The structures are small bridges that were built in the 1980s and are short in length and relatively modern and ordinary in design and construction. There is nothing that distinguishes the bridges from others in the region. The line passes through commercial, residential and undeveloped areas. Carrier has no reason to believe that there is any likelihood of finding archaeological resources or historic properties on the line proposed for abandonment.
- (8) **Subsurface Ground Conditions That Might Affect Archaeological Recovery** -- Carrier is not aware of any prior subsurface ground disturbances or environmental conditions that would affect archaeological recovery.
- (9) **Follow-Up Information** -- Additional information will be provided as appropriate.

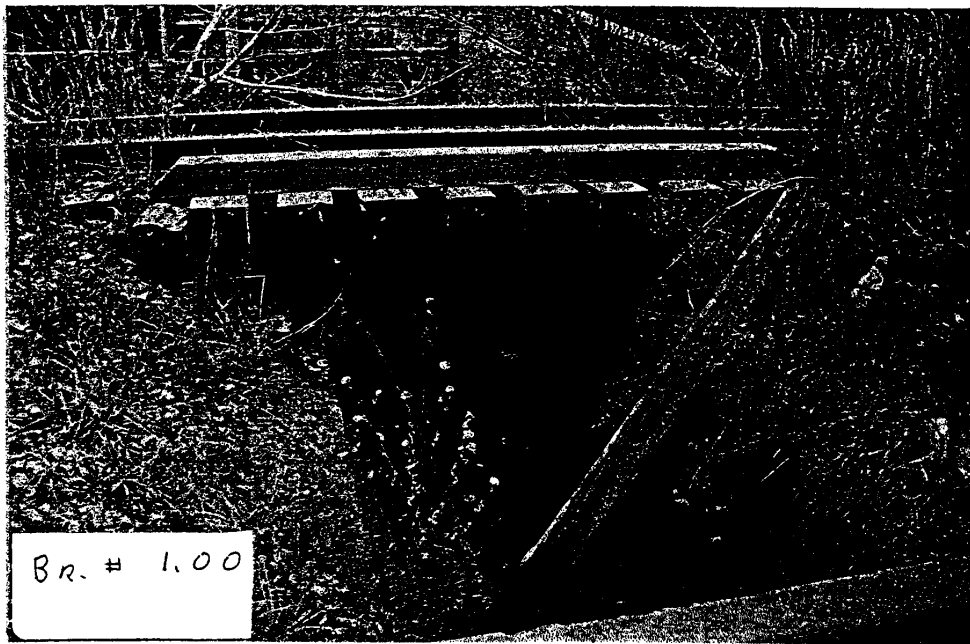
BRIDGE LISTING – POCAHONTAS DIVISION

MILEPOST	OPERATING STATION	STRUCTURE	CROSSING	BRANCH/LD	CONSTRUCT. DATE
FG .25	URPS JUNK	BRIDGE	SYCAMORE CR	SYCAMORE BR	1912*
FG .50	LOGAN MINGO	BRIDGE	WATERWAY	SYCAMORE BR	1912
FG 1.00	LOGAN MINGO	BRIDGE	SYCAMORE CR	SYCAMORE BR	1912
FG 1.50	LOGAN MINGO	BRIDGE	SYCAMORE CR	SYCAMORE BR	1912
FG 1.75	LOGAN MINGO	BRIDGE	SYCAMORE CR	SYCAMORE BR	1912

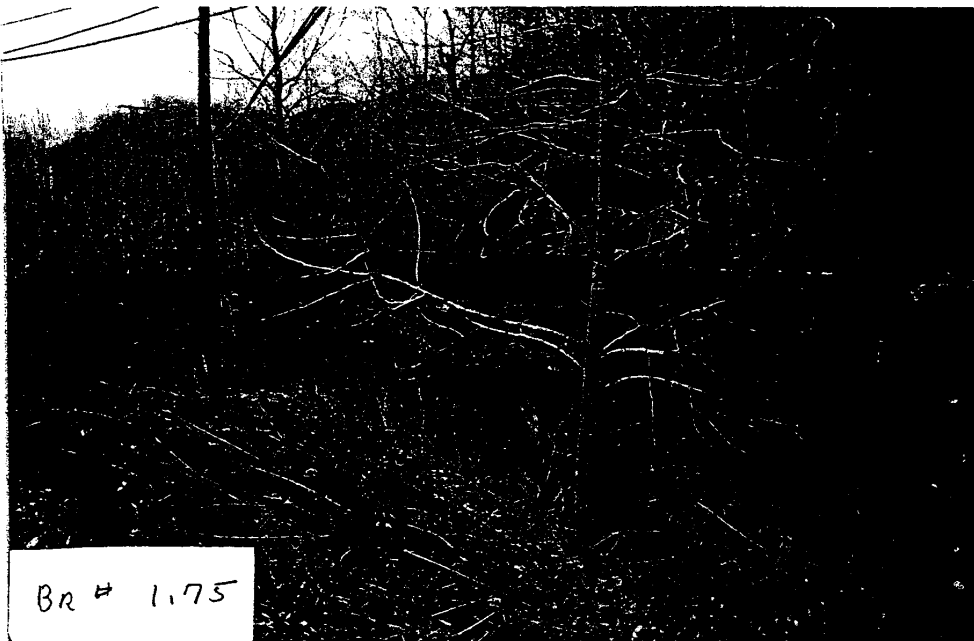
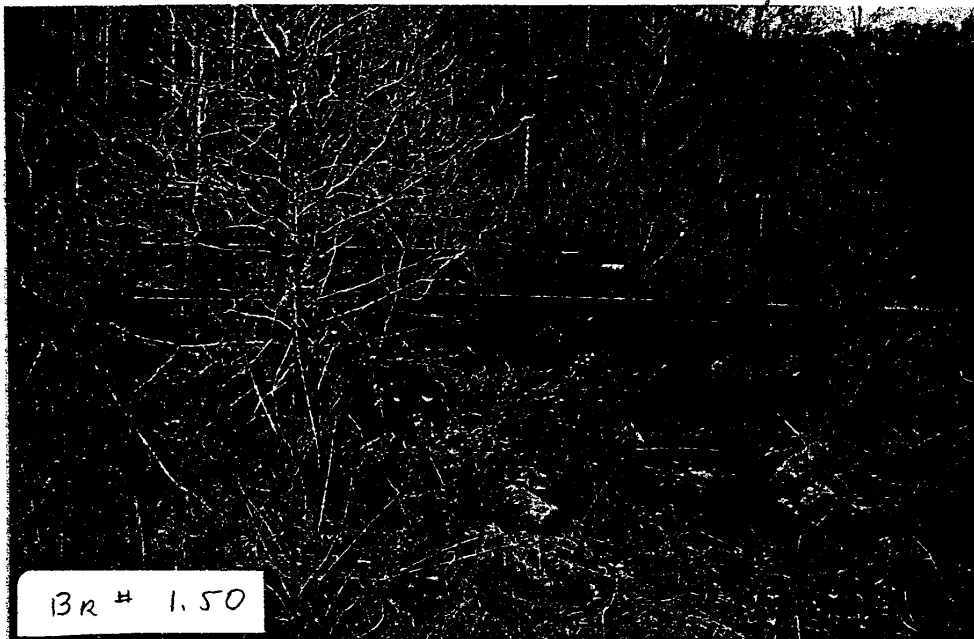
*Bridge #0.25 is no longer there – removed by junkyard.



BR. # 0.50



BR. # 1.00



State of West Virginia, Mingo County, to-wit:

I, Sandra G. Hurley, Publisher of Williamson Daily News, a paper published in the County aforesaid, do affirm that the

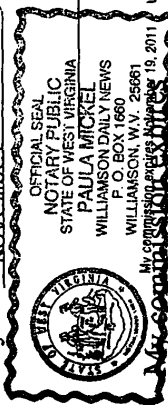
notice hereto attached was published in said paper for 1 successive weeks, the first publication thereof being on the 26th day of November, 2002, and the subsequent publication on the day of 2002, the day of 2002, the day of 2002, and the day of 2002.

72 Sandra G. Hurley

State of West Virginia, Mingo County, to-wit:

being duly sworn, says that she posted a copy of the annexed at the front door of the Court House of said County, on the day of 2002.

Taken, subscribed and sworn to before me, this 26th day of November, 2002. Printer's fee \$ 41.62



Paula Mickel
NOTARY PUBLIC

November 19, 2011

(Sub-No. 215X).
The STB's Section of Environmental Analysis (SEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in an STB decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Section of Environmental Analysis, Surface Transportation Board, 1925 K Street, N.W. Washington, DC 20423-0001 or by calling that office at 202-565-1545.
Appropriate offers of financial assistance to continue rail service can be filed with the STB. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the STB. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the STB's Office of the Secretary, 1925 K Street, N.W. Washington, DC 20423-0001 (See 49 CFR 1104.1(a) and 1104.3(a)), and one copy must be served on applicant's representative (See 49 CFR 1104.12(a)).
Questions regarding offers of financial assistance, public use or trial use may be directed to the STB's Office of Public Assistance at 202-927-7597. Copies of any comments or requests for conditions should be served on the applicant's representative: James R. Paschall, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510-9241, (757) 629-2759.

11:26

NOTICE OF INTENT TO ABANDON RAIL SERVICE
Norfolk Southern Railway Company gives notice that on or about December 18, 2002, it intends to file with the Surface Transportation Board (STB), Washington, DC 20423, a notice of exemption under 49 CFR 1152 Subpart F-Exempt Abandonments, permitting the abandonment of a 2.5 mile line of railroad between milepost FG-0.0, near Williamson, and milepost FG-2.5, near Cinderella, which traverses through United States Postal Service ZIP Code 25661 in Mingo County, West Virginia. The proceeding will be docketed as No. AB-290



**NORFOLK
SOUTHERN**

Norfolk Southern Corporation
Law Department
Three Commercial Place
Norfolk, Virginia 23510-9241

James R. Paschall
General Attorney

Writer's Direct Dial Number
(757) 629-2759

December 5, 2002

Mr. Boyce Griffith, Chairman
West Virginia Public Service Commission
P. O. Box 812
Charleston, WV 25323

Mr. Charles Hill, Property Manager
West Virginia State Rail Authority
120 Water Plant Drive
Moorefield, WV 26836

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

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

U. S. Department of Agriculture
Chief of the Forest Service
Sidney R. Yates Federal Building
201 14th Street, SW at Independence Ave., SW
Washington, DC 20250

National Park Service
Land Resources Division-MS800
800 N. Capitol St., N.W.
Washington, DC 20001

Re: STB Docket No. AB-290 (Sub-No. 215X), Norfolk Southern Railway Company -
Abandonment Between Williamson and Cinderella, West Virginia

Ladies and Gentlemen:

Pursuant to 49 CFR 1152.50(d)(1), Norfolk Southern Railway Company (NS) hereby gives notice that on or about December 18, 2002, it will file with the Surface Transportation Board a notice of exemption from regulation in accordance with the exemption regulations set forth at 49 CFR Part 1152, Subpart F. That notice of exemption will permit NS' abandonment of a 2.5-mile line of railroad lying between Milepost FG-0.0 at Williamson and Milepost FG-2.5 at Cinderella, Mingo County, West Virginia (see attached map). No revenue traffic has originated or terminated or moved overhead on the line to be abandoned for more than two years. Based on information in our possession, the line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

Very truly yours,

James R. Paschall