



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

220828

FEE RECEIVED

James R. Paschall
Senior General Attorney



NOV 28 2007

(757) 629-2759

November 27, 2007

FILED

**VIA DHL EXPRESS SURFACE
TRANSPORTATION BOARD**

NOV 28 2007

Mr. Vernon A. Williams, Secretary
Surface Transportation Board
395 E Street, S W
Washington, D C 20024

**SURFACE
TRANSPORTATION BOARD**

Re STB Docket No AB-290 (Sub. No 271X), Norfolk Southern Railway
Company – Abandonment - In Wyoming and Genesee Counties, NY –
Notice of Exemption

Dear Mr Williams

Enclosed for filing with the Board in the captioned proceeding are an original and ten copies of the Notice of Exemption Also enclosed is a check in the amount of \$3,200 00 to cover the filing fee

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

Yours very truly,

James R. Paschall

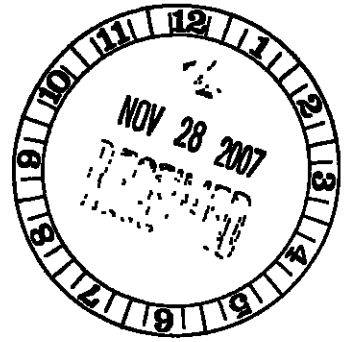
James R Paschall

JRP/kch
Enclosures **ENTERED
Office of Proceedings**

NOV 28 2007

**Part of
Public Record**

BEFORE THE
SURFACE TRANSPORTATION BOARD



DOCKET NO AB-290 (SUB-NO 271X)

NORFOLK SOUTHERN RAILWAY COMPANY

-- ABANDONMENT--

IN WYOMING AND GENESEE COUNTIES, NEW YORK

VERIFIED NOTICE OF EXEMPTION

COMES NOW Norfolk Southern Railway Company ("NSR") and files this notice of exemption from regulation under 49 U S C § 10903, pursuant to the provisions of 49 U S C § 10502 and 49 CFR § 1152 50, for abandonment of its line of railroad lying between mileposts UG 360 20 (Alexander) and UG 364 70 (Attica) in Wyoming and Genesee Counties, New York

Pursuant to the Board's regulations codified at 49 CFR § 1152 50, the Railroad states as follows

Traffic Certification - §§ 1152 50(b) and (d)(2)

As the attached certificate of General Manager R A Bartle 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 mileposts UG 360 20 and UG 364 70 in Wyoming and Genesee Counties, New York, will be January 17, 2008

General Corporate Information - § 1152 22(a)(1-2) and (7)

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

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

Description of the Line and the Relief Sought - § 1152 22(a)(3-4 and 7)

The relief sought is an exemption from the prior approval requirements of 49 U S C §10903 in order for NSR to abandon the subject line The line that will be subject to abandonment under the exemption consists of 4 50 miles of track between mileposts UG 360 20 (Alexander) and UG 364 70 (Attica) in Wyoming and Genesee Counties, New York 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 Codes 14005 and 14011 The line includes the stations of Alexander and Attica

Suitability of the Line for Other Public Purposes - § 1152 22(e)(4)

NSR has not yet been able to verify that it has fee title to some parcels comprising the right of way underlying the line proposed for abandonment, therefore, NSR may not have a contiguous corridor available for public use NSR would need to verify its title to a few remaining parcels in order for any public use condition to become effective

Labor Protection - § 1152 50(d)(2)

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

Environmental and Historic Reports, Certifications - § 1105 7 and § 1105 8

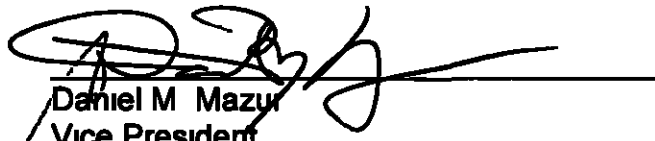
Attached are environmental and historical reports prepared and served in accordance with the Surface Transportation Board's regulations NSR certifies that the notice and transmittal requirements of § 1105 7, § 1105 8 and § 1105 11 have been met

Service and Newspaper Notice Requirements Certification - § 1152 50(d)(1-2)

As the attached certification indicates, NSR certifies that it has complied with the service and notice requirements of § 1152 50(d)(1)(certain government agencies) and § 1105 12 (newspaper notice)

For the foregoing reasons, NSR believes the proposed rail line abandonment is exempt from the prior approval requirements of 49 U S C §§ 10903 pursuant to 49 C F R § 1152 50 and requests that the Board serve the appropriate notice of exemption

Respectfully submitted,


Daniel M. Mazur
Vice President
Norfolk Southern Railway Company

Of Counsel

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

Attorney for Norfolk Southern Railway Company

Dated November 27, 2007

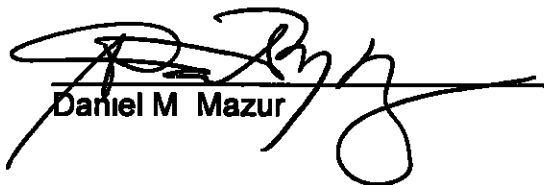
VERIFICATION

COMMONWEALTH OF VIRGINIA

SS

CITY OF NORFOLK

Daniel M Mazur, being duly sworn, deposes and says that he is Vice President 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 271X) 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


Daniel M Mazur

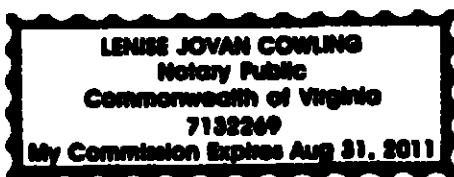
Subscribed and sworn to before me
this 26th day of November, 2007


Notary Public

My commission expires

Aug. 31, 2011

[SEAL]



CERTIFICATION

STATE OF PENNSYLVANIA

ss.

CITY OF HARRISBURG

R. A Bartle makes oath and says that he is General Manager Northern Region for Norfolk Southern Railway Company, that the line between milepost UG 360 20 and milepost UG 364 70 in Wyoming and Genesee Counties, New York, which is to be abandoned, is subject to his supervision and direction; that no local traffic has moved over the line for at least two years; that all overhead traffic, if any, has been 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.



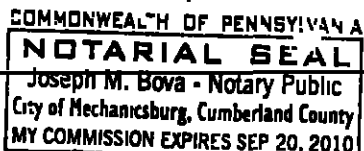
R. A. Bartle

Subscribed and sworn to before me
this 9th day of November, 2007.



Notary Public

My commission expires



CERTIFICATION

I hereby certify (1), pursuant to § 1105 11, that Environmental and Historic Reports were submitted to the agencies identified in § 1105 7(b) and to the appropriate State Historic Preservation Officer (see Exhibit 2), (2), pursuant to § 1105 12, that a notice of intent to abandon rail service was published in *The Batavia Daily News*, Batavia, New York, on November 2, 2007 (see Exhibit 3), and (3) that the notice required by § 1152 50(d)(1) was given (see Exhibit 4)



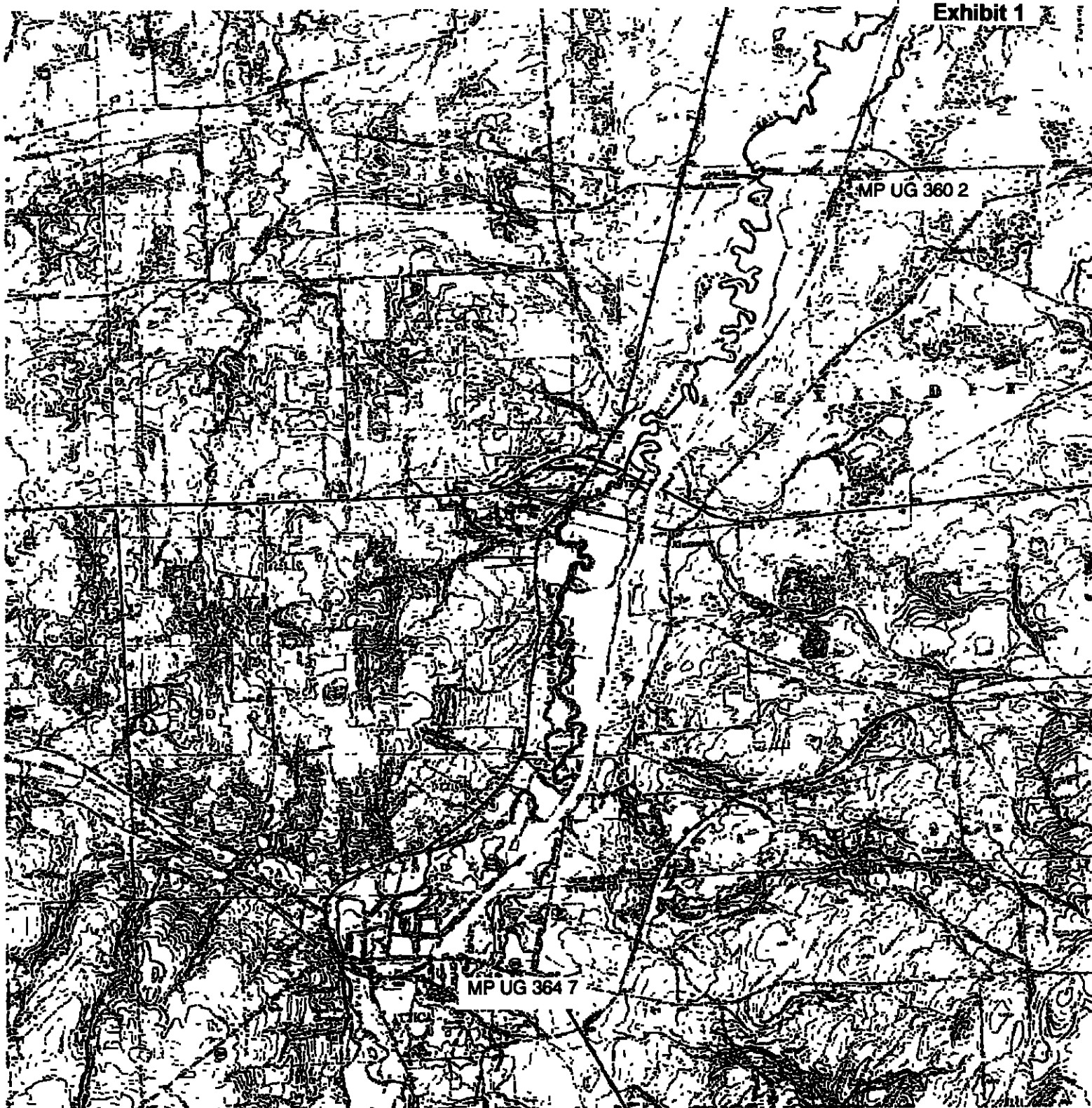
James R Paschall

Dated November 27, 2007

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Exemption was served upon Astrid C Glynn, Commissioner, New York State Department of Transportation, U S Department of Agriculture, Chief of the Forest Service, Regional Director, National Park Service, Ms Jan Matthews, Associate Director, U S Department of the Interior- National Park Service, and the United States Department of Defense (MTMCTEA), on November 27, 2007, by first class mail, postage prepaid


James R Paschall



**Norfolk Southern
Proposed Abandonment
MP UG 360.2 (Alexander)-
MP UG 364.7 (Attica)
Genesee and Wyoming Counties
New York**

EXHIBIT 2

ENVIRONMENTAL AND HISTORIC REPORTS

**NORFOLK SOUTHERN RAILWAY COMPANY
STB DOCKET NO. AB-290 (Sub-No. 271X)
PROPOSED RAIL LINE ABANDONMENT**

**BETWEEN MP UG 360.20 AT ALEXANDER AND MP UG 364.70 AT ATTICA,
IN WYOMING AND GENESEE COUNTIES, NEW YORK**

ENVIRONMENTAL REPORT

**December 8, 2006
Revised November 6, 2007**

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

NORFOLK SOUTHERN RAILWAY COMPANY

STB DOCKET NO. AB-290 (Sub-No. 271X)

**ENVIRONMENTAL REPORT ON
PROPOSED RAIL LINE ABANDONMENT**

49 CFR 1105.7(e)(1) Proposed Action and Alternatives.

Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

RESPONSE Norfolk Southern Railway Company (NSR) proposes to abandon 4.50 miles of rail line between railroad milepost UG 360.20 at Alexander and railroad milepost UG 364.70 at Attica in Wyoming and Genesee Counties, New York. The line proposed for abandonment, known as the Groveland Industrial Track, is now dormant.

The former Conrail line segment between MP UG 361.90 and UG 364.70 was in operation by NSR until the fourth quarter 2005 when it was taken out of service due to track conditions. Extensive rehabilitation would be required to restore the segment to service.

The line segment between MP UG 360.20 and UG 361.90 was retired and the track materials removed by Conrail several years prior to NSR's initiation of operations over the Groveland Industrial Track. NSR is not able to document the receipt and exercise of abandonment authority by Conrail over this 1.70 mile segment, therefore, it

is being included with this abandonment filing. No further salvage or other disturbance of the right-of-way will be required on this segment.

The alternatives to abandonment of the entire line are to not abandon the line or to discontinue service over the active segment of the line and retain the track in place. These alternatives are not satisfactory. Norfolk Southern would incur opportunity and other holding costs that would need to be covered by other customers were this line segment to be retained.

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

49 CFR 1105.7(e)(2) Transportation system.

Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

RESPONSE: Effects of the proposed action on regional or local transportation systems and patterns are expected to be negligible. There is no rail freight or passenger traffic remaining on the line segment proposed for abandonment.

The line was taken out of service at the end of October 2005.

49 CFR 1105.7(e)(3) Land use.

(i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the

proposed action is consistent with existing land use plans. Describe any inconsistencies

RESPONSE: The proposed abandonment involves 4.50 miles of rail line located in the City of Alexander, New York and the Village of Attica, New York. The land along this line is about 85% farmland and 15% residential. NSR believes impacts to land use by the proposed rail line abandonment will be negligible. An outline of future land use plans has been requested from the managers of Wyoming and Genesee Counties, in which lie the Village of Attica and the City of Alexander, respectively. In addition, consultation from the Mayor of the Village of Attica was requested. These agencies were also asked to comment on the consistency of the proposed abandonment with existing land use plans. In a response attached in **Appendix C**, the Genesee County Manager advises that the abandonment of this property and conversion to a recreational trail would be consistent with Genesee County's comprehensive land use plan, but the county has no plans to purchase property.

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

RESPONSE: The United States Department of Agriculture Natural Resources Conservation Service has stated that minor amounts of prime farmland exist along this corridor, however, the area is subject to flooding. In addition, the agency advised Norfolk Southern that abandonment alone should have no effect on this land. A copy of this response can be found in **Appendix C**.

(iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by Sec 1105 9.

RESPONSE Not Applicable, as the property is not located in a coastal zone

(iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U S C. 10906 and explain why.

RESPONSE Subsequent to the issuance of the original report, NSR corrected its response to state that it has not yet been able to verify that it has fee title to some parcels comprising the right of way underlying the line proposed for abandonment, therefore, NSR may not have a contiguous corridor available for public use As the surrounding area is mostly farmland subject to flooding it is unlikely that the right of way would be used to establish other transportation options

49 CFR 1105.7(e)(4) Energy.

(i) Describe the effect of the proposed action on transportation of energy resources

RESPONSE. Development and transportation of energy resources will not be affected by the abandonment as no freight or passenger traffic is moving over the line, and the line did not carry any energy resources when it was last in operation.

(ii) Describe the effect of the proposed action on recyclable commodities

RESPONSE Movement or recovery of recyclable commodities will not be affected by the abandonment as no freight or passenger traffic is moving over the line, and the line did not carry such commodities when it was last in operation.

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

RESPONSE The proposed action will not result in an increase or decrease in overall energy efficiency as no freight or passenger traffic has moved over the line in over two years

*(iv) If the proposed action will cause diversions from rail to motor carriage of more than.
(A) 1,000 rail carloads a year; or
(B) An average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given.*

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

49 CFR 1105.7(e)(5) Air.

*(i) If the proposed action will result in either
(A) An increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or
(B) An increase in rail yard activity of at least 100 percent (measured by carload activity), or
(C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions.*

RESPONSE The above thresholds will not be exceeded.

*(ii) If the proposed action affects a class I or nonattainment area under the Clean Air Act, and will result in either
(A) An increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line,
(B) An increase in rail yard activity of at least 20 percent (measured by carload activity), or
(C) An average increase in truck traffic of more than 10 percent of the average daily*

traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan.

RESPONSE: The above thresholds will not be exceeded The U S Environmental Protection Agency website lists Genesee County, New York as a non attainment area for 8-hour Ozone, but no other criteria pollutants exceed National Ambient Air Quality Standards Wyoming County, New York is in attainment status for all designated pollutants.

(iii) If transportation of ozone depleting materials (such as nitrogen oxide and Freon®) is contemplated, identify the materials and quantity, the frequency of service, safety practices (including any speed restrictions), the applicant's safety record (to the extent available) on derailments, accidents and spills, contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment

RESPONSE Not applicable

49 CFR 1105.7(e)(6) Noise.

If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause

(i) An incremental increase in noise levels of three decibels Ldn or more; or

(ii) An increase to a noise level of 65 decibels Ldn or greater.

If so, identify sensitive receptors (e.g , schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area, and quantify the noise increase for these receptors if the thresholds are surpassed

RESPONSE The above thresholds will not be exceeded

49 CFR 1105.7(e)(7) Safety.

(i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings)

RESPONSE: Abandonment of the captioned rail line will have no significant effect upon public health or safety. Moreover, the closing of the remaining at-grade crossings on the segment to be abandoned and salvaged enhances public safety by eliminating distractions to vehicular traffic crossing the line. A list of the crossings on the line segment and their current status is provided in **Appendix D**.

(ii) If hazardous materials are expected to be transported, identify the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds, safety practices (including any speed restrictions), the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills, the contingency plans to deal with accidental spills, and the likelihood of an accidental release of hazardous materials

RESPONSE: Not applicable.

(iii) If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved

RESPONSE: NSR has no knowledge of hazardous waste sites or sites where there have been known hazardous material spills on the right of way or in adjacent areas.

49 CFR 1105.7(e)(8) Biological Resources.

(i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects

RESPONSE: NSR does not believe that any federally listed endangered species or their habitats will be adversely affected by the abandonment. A consultation was requested from the U.S. Fish and Wildlife Service (USFWS) to ascertain any impacts to

surrounding habitats and species. In their response, a copy of which is attached in **Appendix C**, the U S Fish and Wildlife Service states that no Federally-listed or proposed endangered or threatened species are known to exist within the project impact area, no habitat in the project impact area is currently designated or proposed "critical habitat", and, no further consultation with the U S. Fish and Wildlife Service is required.

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

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

49 CFR 1105.7(e)(9) Water.

(i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

RESPONSE: Norfolk Southern does not intend to either appreciably remove or alter the contour of the roadbed underlying the rail line to be abandoned. Since there are no plans to undertake in-stream work, or dredge and/or use any fill materials in connection with the proposed abandonment, water quality impacts are not expected in connection with the proposed action. Consultation has been requested from the New York State Department of Environmental Conservation and from the Army Corps of Engineers.

(ii) Based on consultation with the U.S Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U S C. 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected Describe the effects

RESPONSE. The rail line proposed for abandonment is adjacent to wet, swampy areas of land, but there are no planned alterations to the roadbed Given these circumstances the Environmental Protection Agency has determined that a Section 404 permit required for regulation of wetlands and other waters is not needed The U. S Army Corps of Engineers identified several bodies of water within the project area, but determined that the organization has no jurisdiction over the proposal and a Section 404 permit is not required The decision was based on the project outlined with no intent to use discharge or fill A copy of each agency response can be found in **Appendix C** of this report

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

RESPONSE There are no intentions to remove or alter the roadbed underlying the line to be abandoned, to undertake in-stream work or to dredge or use any fill materials. There should be no significant effects to water quality or the need to acquire a Section 402 permit under the Federal Water Pollution Control Act, however, consultation was requested from the Environmental Protection Agency and from the New York State Department of Environmental Conservation, Division of Water In a letter attached in **Appendix C**, the New York State Department of Environmental Conservation, Division of Water advised Norfolk Southern that construction activities that result in one or more acres of land

disturbance, defined as demolition, clearing, grading, excavation or filling, require a permit
As Norfolk Southern will not take part in the listed activities and does not plan to alter the
contour of the roadbed, a permit should not be required

49 CFR 1105.7(e)(10) Proposed Mitigation.

Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate

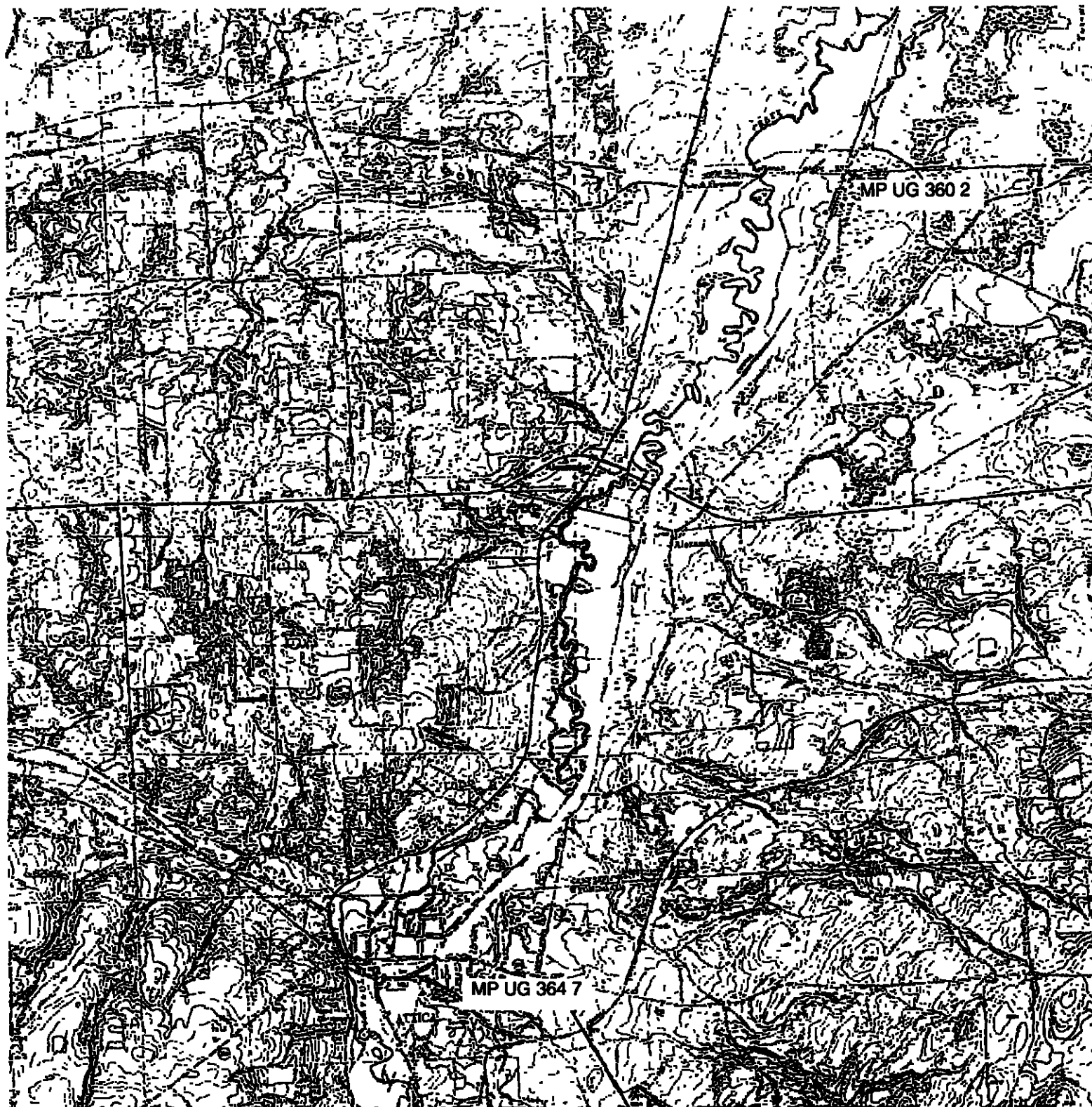
RESPONSE. Abandonment of the involved rail line is not expected to produce adverse environmental impacts. Only minimal physical activity may occur, such as removal of rail, ties, and other railroad appurtenances. NSR will undertake all reasonable mitigation associated with these activities to assure the abandonment does not produce adverse environmental impacts.

Additional Information - National Geodetic Survey Marker

Attached in **Appendix C** is a response from the National Geodetic Survey stating there are approximately 3 National Geodetic Survey markers on or near the Line. NGS requests a 90-day advance notice to attempt formal relocation if the markers will be disturbed by the abandonment.

APPENDIX A

Site Map



**Norfolk Southern
Proposed Abandonment
MP UG 360.2 (Alexander)-
MP UG 364.7 (Attica)
Genesee and Wyoming Counties
New York**

APPENDIX B

Agency Letters



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

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

December 8, 2006

RE Docket No AB-290 (Sub-No 271X), Norfolk Southern Railway Company
Abandonment – in Wyoming and Genesee Counties, New York

Dear Sir/Madam

Norfolk Southern Railway Company (NSR) plans to request authority from the Surface Transportation Board (STB) to abandon the segment of rail line between Milepost UG 360 20 at Alexander and Milepost UG 364 70 at Attica, a distance of 4 50 miles, located in Wyoming and Genesee Counties, New York

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

NSR does not anticipate adverse environmental impacts, however, if you identify any adverse environmental effects please describe the actions that would assist in alleviating them. Please provide us with a written response indicating any concerns or lack thereof, which will be included in an Environmental Report and sent to the Surface Transportation Board (STB). Appendix B of this report lists the various agencies receiving it.

This report is also being provided so that you may submit information that will form the basis for the STB's independent environmental analysis of the proceeding. If you believe any of the information is incorrect, if you think pertinent information is missing, or if you have any questions about the Board's Environmental Review process, please contact the Section of Environmental Analysis (SEA) by telephone at (202) 565-1552 or by mail to

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

Please refer to the above Docket when contacting the STB. Applicable statutes and regulations impose stringent deadlines for processing this action. For this reason your written comments (with a copy to us) would be appreciated within three weeks.

Your comments will be considered by the Board in evaluating the environmental impacts of the contemplated action. In order for us to consider your input prior to filing with the STB, NSR must receive your comments within three weeks. Please provide information to Kathy Headrick by email at kathy.headrick@nscorp.com, or by mail to

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

Sincerely,



Marcellus C. Kirchner
Director Strategic Planning
Norfolk Southern Railway Company

RECIPIENT LIST

Proposed Rail Line Abandonment of the segment of rail line between MP UG 360.20 and MP UG 364.70, a distance of 4.50 miles, located in Alexander and Attica, Wyoming and Genesee Counties, New York.

**Mr Doug Berwanger, Chairman
Wyoming County Board of Supervisors
143 N Main Street
Warsaw, NY 14569**

**Ms Lynn Tedford
Attica Village Office
9 Water Street
Attica, New York 14011**

**Mr Jay Gsell, County Manager
Genesee County, 7 Main Street
Batavia, NY 14207**

**Ms Diane Kozlowski
United States Army Corps of Engineers
1776 Niagara Street
Buffalo, NY 14207**

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

**Ms Diane Lynch, USFWS
Northeast Regional Office
300 Westgate Center Drive
Hadley, MA 01035**

**Mr David Stilwell, Supervisor
U S Fish and Wildlife Service
New York Field Office
3817 Luker Road
Cortland, NY 13045**

**Mr James Seiler, District Conservationist
United States Dept of Agriculture
Batavia Service Center
29 Liberty Street
Batavia, NY 14020**

**Mr Ron Alvarado, State Conservationist
United States Dept of Agriculture
441 S Salina Street, Suite 354
Syracuse, NY 13202**

**Mr John Cantilli
Wetlands Protection Section, US EPA
290 Broadway, 24th Floor
New York, NY 10007**

**Mr Jeff Gratz
Section 402 Permitting, US EPA
290 Broadway, 24th Floor
New York, NY 10007**

**Mr Mario del Vicario
Water Quality, US EPA
290 Broadway, 24th Floor
New York, NY 10007**

**Ms Sandra Allen, Director
Division of Water
NY Dept of Environmental Conservation
625 Broadway
Albany, NY 12233**

**Ms Pat Hooks, Regional Director
National Park Service
100 Alabama Street, SW
Atlanta, GA 30303**

**National Geodetic Survey
1315 East West Highway
Silver Spring, MD 10910**

**New York Department of State
Division of Coastal Resources
41 State Street
Albany, NY 12231**

APPENDIX C

Agency Responses

GENESEE COUNTY



JAY A. GSELL
County Manager

FRANK V. CIACCIA
Assistant County Manager

COUNTY COURTHOUSE
7 Main Street
Batavia, New York 14020
(585) 344-2550 Ext. 2204
Fax: (585) 344-8582

April 6, 2006

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

Re: Docket No AB-290 (Sub-No. 271X), Norfolk Southern Railway Company
Abandonment – in Genesee and Wyoming Counties, New York

Dear Ms. Braun

In response to your letter of April 4, 2006 please be advised that the abandonment of this property and its conversion to a recreational trail, as it is currently being used by local snowmobile clubs, would be consistent with Genesee County's comprehensive land use plan. However, Genesee County has no plans to purchase this property were it to become available.

Respectfully,


Jay A. Gsell
County Manager

JAG:lbt

**UNITED STATES DEPARTMENT
OF AGRICULTURE
(585) 343-9167 Ext. 1015
Fax (585) 343-5538**

**NATURAL RESOURCES
CONSERVATION SERVICE
29 Liberty St.; Suite # 1
Batavia, New York 14020**

April 11, 2006

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

Dear Ms. Braun:

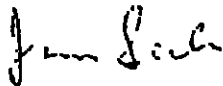
This letter is a follow-up to Mr. Marcellus Kirchner's request for soil information within the proposed railroad segment Alexander to Attica New York 3.1 miles in length under consideration for abandonment.

There are minor amounts of prime farmland along this railroad right of way including Eel and Genesee silt loam. In this setting although prime farmland, they are subject to flooding. Most of the remaining soils in this area are classified as farmland of statewide importance

The railroad segment is within the Alexander Agricultural District (AG-10) with no proposed uses after abandonment. I do not see any potential impacts resulting from the proposed activity.

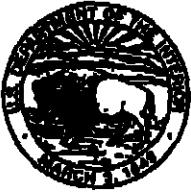
If you wish to discuss this matter, please call me at (585) 343-2362.

Yours truly,



Jim Seiler
District Conservationist

AN EQUAL OPPORTUNITY EMPLOYER



FAX TRANSMITTAL RE: LISTED SPECIES REQUEST
U.S. FISH AND WILDLIFE SERVICE
New York Field Office
3817 Luker Road, Cortland, NY 13045
Phone: (607) 753-9334 Fax: (607) 753-9699



May 16, 2006

To: Marcellus C. Kirchner

This responds to your April 4, 2006, request for listed species information in the vicinity of the proposed rail line abandonment between Milepost UG 361.9 in the Town of Alexander and Milepost UG 364.7 in the Town of Attica, Genesee and Wyoming Counties, New York.

Except for occasional transient individuals, no Federally-listed or proposed endangered or threatened species under our jurisdiction are known to exist within the project impact area. In addition, no habitat in the project impact area is currently designated or proposed "critical habitat" in accordance with provisions of the Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) Therefore, no further ESA coordination or consultation with the U.S. Fish and Wildlife Service (Service) is required. Should project plans change, or if additional information on listed or proposed species or critical habitat becomes available, this determination may be reconsidered. The most recent compilation of Federally-listed and proposed endangered and threatened species in New York* is available for your information. Until the proposed project is complete, we recommend that you check our website* every 90 days from the date of this letter to ensure that listed species presence/absence information for the proposed project is current. Should our determination change, further consultation between the Service and the Surface Transportation Board pursuant to the ESA, may be necessary.

The above comments pertaining to endangered species under our jurisdiction are provided as technical assistance pursuant to the ESA. This response does not preclude additional Service comments under other legislation.

For additional information on fish and wildlife resources or State-listed species, we suggest you contact the appropriate New York State Department of Environmental Conservation regional office(s)* and New York Natural Heritage Program Information Services.*

Thank you for your time. If you require additional information please contact me at (607) 753-9334. Future correspondence with us on this project should reference project file 60941.

Sincerely,

Robyn A. Niver
Endangered Species Biologist

*Additional information referred to above may be found on our website at:
<http://www.fws.gov/northeast/nyfo/es/section7.htm>

Braun, Donna L.

From: Gratz Jeff@epamail.epa.gov
Sent: Monday, April 24, 2006 9:02 AM
To: redraper@gw.dec.state.ny.us
Cc: Braun, Donna L.
Subject: Re: FW: rail line abandonment

Attachments: Regional EPA - 1 doc, Site Map PNG



Regional EPA -
1 doc (49 KB)



Site Map PNG (62
KB)

Dick - Please see the correspondence below with questions regarding the need for a NPDES permit. As the state permitting authority, please feel free to contact Ms. Braun directly.

thanks.

- Jeff

Jeff Gratz
Chief, Point and Nonpoint Source Control Program EPA Region II
Ph: 212-637-3873 Fax: 212-637-3887

"Braun, Donna
L."

<donna.braun@nsc
orp.com>

To
Jeff Gratz/R2/USEPA/US@EPA
cc

03/31/2006 02:56
PM

Subject
FW: rail line abandonment

Dear Mr. Gratz,

John Cantilli advised me to address my questions regarding Section 402 (NPDES) permitting in relation to proposed rail line abandonment with you. Please review the original letter and map sent to Walter Andrews, another representative of the Environmental Protection Agency, which will provide more details of the proposed project. I

appreciate your help!

Donna Braun
Strategic Planning
Norfolk Southern Corporation
757-629-2889

-----Original Message-----

From: Cantilli.John@epamail.epa.gov
[mailto:Cantilli.John@epamail.epa.gov]
Sent: Wednesday, March 08, 2006 11:48 AM
To: donna.braun@nscorp.com
Subject: rail line abandonment

Ms. Braun:

I have received your March 3 letter to Walter Andrews. It does not appear that removal activities in Genesee and Wyoming Counties will involve any work regulated by Section 404 (wetlands and other waters) of the CWA. For Section 402 (NPDES) questions, please contact Jeff Gratz at gratz.jeff@epa.gov. For other matters regarding water quality standards, please contact Mario del Vicario (delvicario.mario@epa.gov).

John Cantilli
Wetlands Protection Section
U.S. Environmental Protection Agency
290 Broadway, 24th Floor
New York, NY 10007-1866

(See attached file: Regional EPA - 1.doc)(See attached file: Site Map.PNG)



DEPARTMENT OF THE ARMY
BUFFALO DISTRICT, CORPS OF ENGINEERS
1776 NIAGARA STREET
BUFFALO, NEW YORK 14207-3199

April 12, 2006

REPLY TO
ATTENTION OF
Regulatory Branch

SUBJECT: Determination of No Jurisdiction for Application No.
2006-01100(0)

Ms. Donna Braun
Norfolk Southern Railway Company
3 Commercial Place
12th Floor - Strategic Planning
Norfolk, Virginia 23510

Dear Ms. Braun:

This pertains to your proposed abandonment of 2.8 miles of rail line in the vicinity of Tonawanda Creek and other waters and wetlands, between Milepost UG 361 9 to 364/7, Town of Alexander and Village of Attica, Genesee and Wyoming Counties, New York.

The Corps of Engineers' regulatory responsibilities under Section 404 of the Clean Water Act establishes jurisdiction over the discharge of dredged or fill material into Waters of the United States, including wetlands. However, although there are several Waters of the United States in the project area, the information accompanying your application indicates the proposed work will not involve a discharge of dredged or fill material into any of these waters. Therefore, I determined we have no jurisdiction over the proposal and a Department of the Army permit is not required.

Although a permit is not required, we request proper measures be taken to avoid impacts to any waterway.

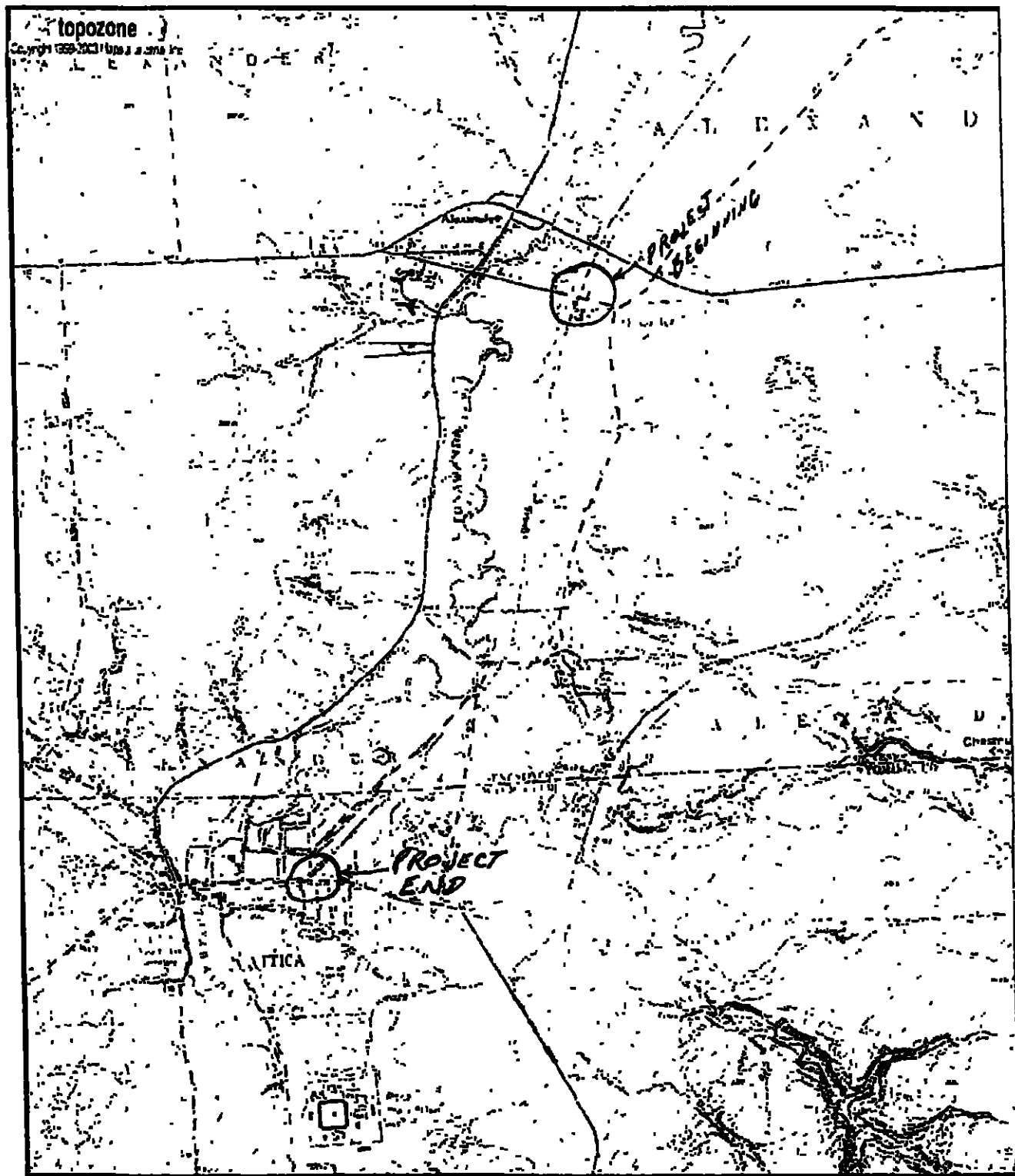
You are encouraged to contact the appropriate state and local governmental officials to insure that the proposed work complies with their requirements.

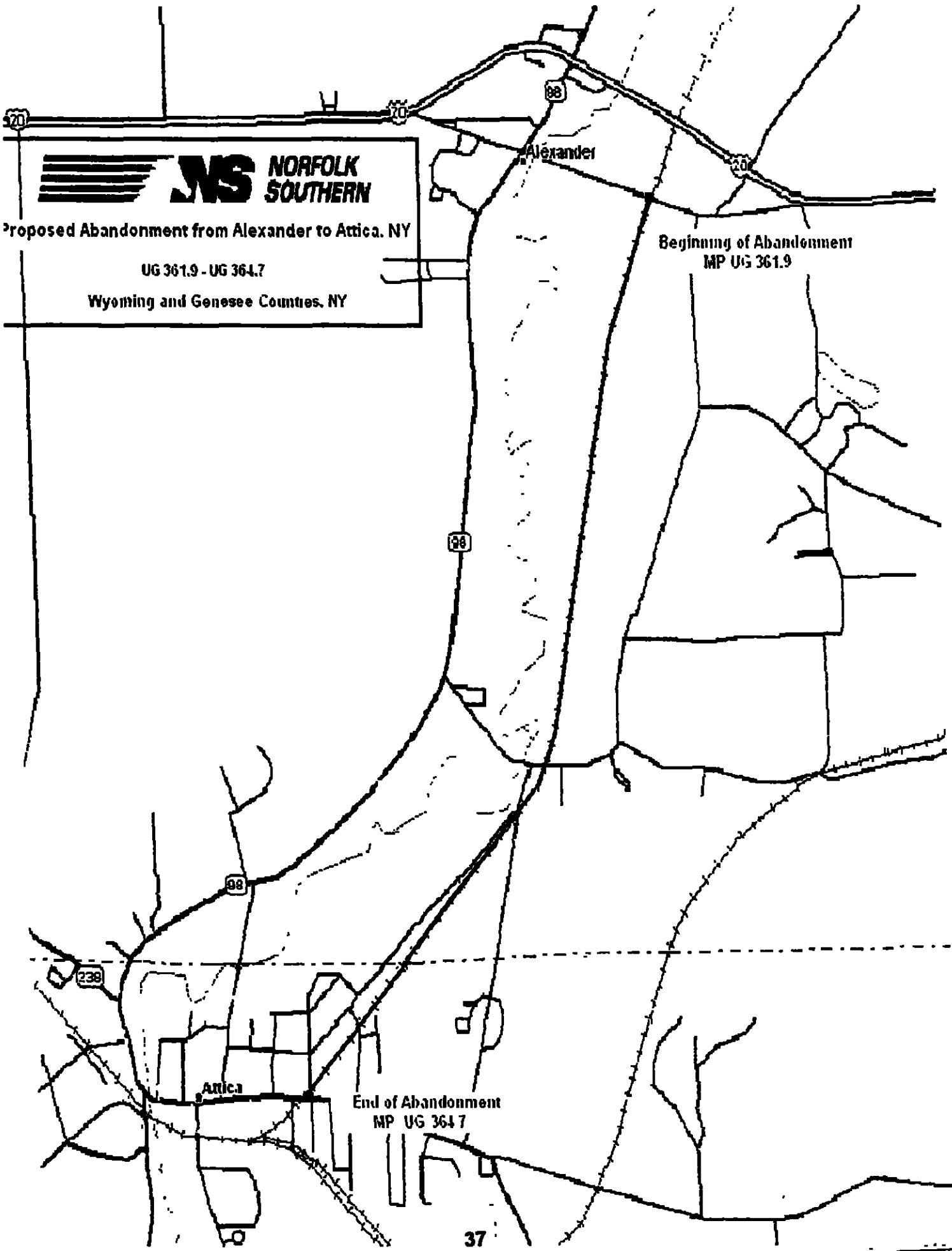
Questions pertaining to this matter should be directed to me at (716) 877-6923, by writing to the following address: U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207-3199, or by e-mail at: joseph.e.kassler@usace.army.mil

Sincerely,

Joseph E. Kassler
Joseph E. Kassler
Monitoring and Enforcement

Enclosures





Proposed Abandonment from Alexander to Attica, NY

UG 361.9 - UG 364.7

Wyoming and Genesee Counties, NY

Beginning of Abandonment
MP UG 361.9

End of Abandonment
MP UG 364.7

New York State Department of Environmental Conservation

Division of Water, 4th Floor

625 Broadway, Albany, New York 12233-3500

Phone: (518) 402-8233 • FAX: (518) 402-8230

Website: www.dec.state.ny.us



Denise M. Sweeney
Commissioner

APR 17 2006

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

Dear Mr. Kirchner:

**RE: Abandonment Docket #AB-290
(Sub No. 271X) Genesee and Wyoming Counties**

We have received your March 3, 2006 letter, with attachments, in which you request concurrence on your conclusion that no permits under Section 402 of the Clean Water Act are required for the proposed rail line abandonment project in Genesee and Wyoming Counties.

Based on our review of the information contained in your letter regarding the brief project description provided, it appears that this rail line abandonment project may involve construction activity that is subject to the requirements of the New York State Department of Environmental Conservation's SPDES General Permit for Stormwater Discharges from Construction Activity (GP-02-01). However, given the brief project description and our limited knowledge of the exact nature and size of any land disturbance(s) associated with this project, we can not make a determination as to whether this specific construction activity will need to gain coverage under GP-02-01. We can, however, provide you with the criteria under which this construction activity would need to gain coverage under the general permit. This criteria is as follows:

- Owners/operators of construction activities that will result in the disturbance of one (1) or more acres of land must obtain coverage under SPDES General Permit GP-02-01 before discharging to either "Waters of the United States" or a municipal separate storm sewer system that discharges to "Waters of the United States." Land disturbance is defined as the exposure of soil resulting from construction activities such as demolition, clearing, grading, excavation or filling.

If you have any questions on the general permit or criteria for needing permit coverage, please do not hesitate to contact David Gasper at (518) 402-8114

Sincerely,

A handwritten signature in black ink, appearing to read 'Sandra Allen', with a long horizontal flourish extending to the right.

Sandra Allen
Director
Division of Water

Headrick, Kathy, C

From: Simon Monroe [Simon.Monroe@noaa.gov]
Sent: Friday, February 09, 2007 6:31 PM
To: Headrick, Kathy, C
Cc: Surface Transportation Board, National Society of Professional Surveyors, Gilbert Mitchell
Subject: [Fwd: [Fwd: NGS Response, STB Docket AB-290 (SUB NO 271X)]]

Thank you for sharing your railroad abandonment environmental report for Wyoming, Genesee County, New York.

Approximately 03 geodetic survey marks may be located in the area described. If marks will be disturbed by the abandonment, NGS requests 90-day advance notice to attempt their formal relocation. These marks are described on the attached file. Additional advice is provided at <http://geodesy.noaa.gov/marks/railroads/>

Dist	PID.	H V	Vert_Source	Approx	Approx .	Stab	Designation
----	-----	- -	-----	-----	-----	----	-----
. .	NC0029	3	29/RESET	N425238	W0781526	B .	T 84 RESET 1976
	NC0027	2	88/ADJUSTED	N425411	W0781447	C .	S 84
.	NC0030	. 2	88/ADJUSTED	N425149	W0781626	C	U 84

APPENDIX D

At-Grade Crossings

Location	Milepost	Lat/Lon	Status
Route 20	MP UG 361 73		Crossing removed
Alexander Road	MP UG 361 90	LAT 42 594593 LON -78 256187	Crossing remains
Private crossing	MP UG 362 47	LAT 42 596035 LON -78.061119	Crossing remains
Private crossing	MP UG 362 82	LAT 42.596035 LON -78 061119	Crossing remains
Private crossing	MP UG 363 25	LAT 42.593035 LON -78 061119	Crossing remains
Pettibone/Stroh Road	MP UG 363 51	LAT: 42.877258 LON -78 060471	Crossing remains
Maplewood Avenue	MP UG 363 68	LAT 42.597866 LON -78 061546	Crossing remains
Jefferson Street	MP UG 364 48	LAT 42 866959 LON -78 269333	Crossing remains
Pearl Street	MP UG 364 70	LAT 42 864426 LON: -78 272797	Crossing remains

**Environmental Report
Certificate of Service**

Pursuant to the requirements of 49 C.F.R. § 1105.8(c), the undersigned hereby certifies that a copy of the Environmental Report in Docket No. AB-290 (Sub-No. 271X) was mailed via first class mail on December 8, 2006 to the following parties

Mr. Doug Berwanger, Chairman
Wyoming County Board of Supervisors
143 N. Main Street
Warsaw, NY 14569

Ms. Lynn Tedford
Attica Village Office
9 Water Street
Attica, New York 14011

Mr. Jay Gsell, County Manager
Genesee County
7 Main Street
Batavia, NY 14207

Ms. Diane Kozlowski
United States Army Corps of Engineers
1776 Niagara Street
Buffalo, NY 14207

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

Ms. Diane Lynch
US Fish and Wildlife Service
Northeast Regional Office
300 Westgate Center Drive
Hadley, MA 01035

Mr. David Stilwell, Supervisor
U. S. Fish and Wildlife Service
New York Field Office
3817 Luker Road
Cortland, NY 13045

Mr. James Seiler
District Conservationist
United States Dept. of Agriculture
Batavia Service Center
29 Liberty Street
Batavia, NY 14020

Mr. Ron Alvarado
State Conservationist
United States Dept. of Agriculture
441 S. Salina Street, Suite 354
Syracuse, NY 13202

Mr. John Cantilli
Wetlands Protection Section, US EPA
290 Broadway, 24th Floor
New York, NY 10007

Mr. Jeff Gratz
Section 402 Permitting, US EPA
290 Broadway, 24th Floor
New York, NY 10007

Mr. Mano del Vicario
Water Quality, US EPA
290 Broadway, 24th Floor
New York, NY 10007

Ms. Sandra Allen, Director
Division of Water
NY Dept. of Environmental
Conservation
625 Broadway
Albany, NY 12233

Ms. Pat Hooks, Regional Director
National Park Service
100 Alabama Street, SW
Atlanta, GA 30303

National Geodetic Survey
1315 East West Highway
Silver Spring, MD 10910

New York Department of State
Division of Coastal Resources
41 State Street
Albany, NY 12231

A handwritten signature in black ink, appearing to read 'Marcellus C. Kirchner', written over a horizontal line.

Marcellus C Kirchner

December 8, 2006

Historic Report

Proposed Rail Line Abandonment

Proposed Action and Alternatives

Norfolk Southern Railway Company (NSR) proposes to abandon a segment of rail line between Alexander and Attica, New York. The segment under consideration totals approximately 4.50 miles between railroad mileposts UG 360 20 and UG 364 70 on a portion of a line known as the Groveland Industrial Track. The adjacent segment of track on this line between railroad mileposts UG 360 20 and UG 361 90 was taken out of service and the track materials removed by Consolidated Rail Corporation (Conrail) several years prior to the acquisition of this line from Conrail in 1999. NSR is unable to document the receipt and exercise of abandonment authority by Conrail over this 1.70 mile segment; therefore, it is being included with this abandonment filing, however no further salvage or other disturbance of the right-of-way will be required on the 1.70 mile segment. Conrail abandoned the track adjacent to this segment between Alexander and Griegsville, NY (railroad mileposts UG 325 80 to UG 360 20) in 1982.

The alternatives to abandonment of the entire line are to not abandon the line or to discontinue service over the active segment of the line and retain the track in place. These alternatives are not satisfactory. Norfolk Southern would

incur opportunity and other holding costs that would need to be covered by other customers were this line segment to be retained

Additional Information

U.S.G.S Topographic Map

Maps were furnished to the New York State Historic Preservation Office.

Written Description of Right of Way

The width of the corridor ranges from 100 to 132 feet, (50 to 66 feet on each side of the track centerline) The surrounding property is about 85% farmland and 15% residential

Photographs

Photographs were furnished to the New York State Historic Preservation Office

Date of Construction of Structures

Construction dates are shown on the Bridges and Structures Listing attached to this report in **Appendix B**

History of Operations and Changes Contemplated

The history for the segment of railroad proposed for abandonment dates back to April of 1832 when the Erie Railroad was chartered by the State of New

York as the *New York and Erie Railroad Company* Plans for the railroad extended from Piermont to Dunkirk, NY on Lake Erie. Construction began in 1836 and the line finally reached Dunkirk in 1851 Another predecessor is the Buffalo, New York and Erie, organized on October 24, 1857 and successor of the Buffalo, Corning and New York and the Buffalo and New York City Railroad Company In 1861 the New York and Erie purchased a portion of the Buffalo and New York City Railroad between Hornellsville and Attica Then in February of 1863 the Buffalo, New York and Erie, was leased along with a segment of line formerly belonging to the Buffalo and New York City running between Attica and Buffalo Also obtained in this transaction was a segment of rail running from Attica to Corning and formerly belonging to the Buffalo, Corning and New York. On April 24, 1878 the road was sold under foreclosure and reorganized as the New York, Lake Erie and Western Railroad. In 1883, the Erie's new extension into Chicago opened between Marion, Ohio and Hammond, Indiana

On November 13, 1895 the *Erie Railroad Company* was organized and took over the properties of the New York, Lake Erie and Western, the New York, Pennsylvania & Ohio, the Chicago and Erie and several other smaller lines throughout New York, New Jersey, Pennsylvania, Ohio, Indiana, and Illinois. While under the ownership of the Erie, the segment of line proposed for abandonment was referred to as the Attica section of the Rochester Division which ran from Painted Post, NY through Avon, NY to Attica, NY

1956, the Erie began to discuss potential consolidation with the Delaware, Lackawanna and Western Railway which served many of the same markets as

the Erie Both properties were in financial difficulties at the time. A merger agreement was reached in 1959, and Interstate Commerce Commission authorization of the combination became effective October 17, 1960 The new company, comprising 3,031 route miles, would be known as the *Erie-Lackawanna Railroad* (the hyphen was retained until 1963) Because of intervening labor litigation, the merger was not actually placed into effect until June 1961

Erie Lackawanna sought inclusion in the merger between the Norfolk and Western and Chesapeake and Ohio systems which was announced and filed at the Interstate Commerce Commission but never consummated As a result, Erie Lackawanna was required to be placed under a new holding company of the Norfolk and Western called *Dereco, Inc* The financial condition of the Erie Lackawanna continued to decline, however, and the extensive destruction of its physical plant resulting from Hurricane Agnes in 1972 finally resulted in a filing for Chapter 7 bankruptcy on June 26, 1972 Thomas F Patton and Ralph Tyler, Jr were appointed as trustees.

The Erie Lackawanna initially sought to reorganize independently and thus resisted joining other bankrupt eastern and Midwestern railroads in reorganization under the aegis of the United States Railway Association pursuant to the Regional Railroad Reorganization Act of 1973 (3-R Act). The financial condition of the Erie Lackawanna continued to deteriorate, exacerbated by rapidly escalating materials prices, and on January 9, 1975 it advised the Federal government that it wished to become a "railroad in reorganization" under the 3-R

Act. Although this request came too late for inclusion in the *Preliminary System Plan* which was issued on February 26, 1975, the Erie Lackawanna was included in the *Final System Plan* issued by the U S Railway Association in July of that year. The Railroad Revitalization and Regulatory Reform Act of 1976 (4-R Act) placed the Final System Plan into law. Erie Lackawanna lines designated for retention, including the subject line, thus came under the operation of the newly-formed *Consolidated Rail Corporation* (Conrail) effective April 1, 1976.

Conrail returned to profitability in 1981, and was sold to the public in 1987 in the largest initial public offering in U S history.

A good history of the Erie Lackawanna is found in H. Roger Grant, *Erie Lackawanna: Death of an American Railroad, 1938-1992* (Stanford, CA: Stanford University Press, 1994).

Norfolk Southern Corporation ("NSC"), parent to Norfolk Southern Railway Company ("NSR"), entered into a Transaction Agreement (the "Conrail Transaction Agreement") among NSC, NSR, CSX Corporation ("CSX"), CSX Transportation, Inc ("CSXT"), a wholly-owned subsidiary of CSX, Conrail Inc ("CRR"), Consolidated Rail Corporation ("Conrail"), a wholly-owned subsidiary of CRR, and CRR Holdings LLC, dated June 10, 1997, pursuant to which CSX and NSC indirectly acquired all the outstanding capital stock of CRR. The Conrail Transaction Agreement was approved by the Surface Transportation Board ("STB") in a decision served July 23, 1998 in STB Finance Docket No. 33388, *CSX Corporation and CSX Transportation, Inc , Norfolk Southern Corporation and Norfolk Southern Railway Company – Control and Operating*

Leases/Agreements – Conrail Inc. and Consolidated Rail Corporation. The transaction was closed and became effective June 1, 1999

Pursuant to the Conrail Transaction Agreement, certain Conrail assets were allocated to Pennsylvania Lines LLC ("PRR"), a wholly-owned subsidiary of Conrail. Furthermore, pursuant to the Conrail Transaction Agreement, PRR's assets, in turn, were leased to and were operated by NSR under the terms of an allocated assets operating agreement between PRR and NSR (the "NSR Operating Agreement") with an original term of twenty-five (25) years from the effective date of June 1, 1999, and two optional renewal terms of five (5) years each. The Conrail Transaction Agreement permitted NSR to operate and to enter into various transactions with regard to the assets allocated to PRR.

On June 4, 2003, Norfolk Southern Corporation (NSC), CSX Corporation (CSX), and Consolidated Rail Corporation (Conrail) announced the joint filing of a petition with the STB for approval to establish direct ownership and control by CSX Transportation, Inc. (CSXT) and Norfolk Southern Railway Company (NSR), the railroad subsidiaries of CSX and NSC, respectively, of the two Conrail subsidiaries – New York Central Lines LLC (NYC) and Pennsylvania Lines LLC (PRR) that CSXT and NSR had been managing and operating, respectively, since June 1, 1999 under operating agreements approved by the STB in the 1998 decision. The STB approved the petition, subject to certain conditions, in a decision served on November 7, 2003. The transaction was concluded on August 27, 2004 by the merger of NYC and PRR into CSXT and NSR, respectively. The transaction's effect was to replace the PRR and NYC

operating agreements and allow NSR and CSXT to operate the NYC and PRR lines via direct ownership.

Another predecessor to Norfolk Southern is the Norfolk and Western Railway Company, 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 in parenthesis 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

In 1982 the Norfolk and Western merged with the Southern Railway Company; a railroad that was incorporated under the laws of the Commonwealth of Virginia on June 18, 1894. Southern Railway Company was successor to Richmond and West Point Terminal Railway and Warehouse Company (incorporated in 1880) and its subsidiaries, including principal subsidiaries Richmond and Danville Railroad Company (1847), the East Tennessee, Virginia and Georgia Railway Company (1887), Charlotte, Columbia and Augusta Railroad Company (1869), Virginia Midland Railway Company (1880), Columbia and Greenville Railroad Company (1880), Western North Carolina Railroad Company (1880) and Georgia Pacific Railway Company (1881) Except for leased lines of the Atlanta and Charlotte Air Line Railway Company (1877) and

the North Carolina Railroad Company (1868), these railroads were declared insolvent and placed in receivers' hand in 1892. In 1894, these insolvent railroads were sold at foreclosure sales and deeded to the Southern Railway Company. Southern Railway Company also then leased the Atlanta and Charlotte Air Line Railway Company and North Carolina Railroad Company properties. Southern Railway Company acquired several other smaller companies in 1894. After its acquisitions and leases in 1894, Southern Railway Company operated 4,432 miles of railway line, 3,940 miles of which were owned and 492 miles of which were leased. The Southern and its predecessors are credited for many firsts in the railroad industry including the South Carolina Canal & Rail Road Co being the first to operate at night or carry passengers as well as U.S. troops and mail. Southern Railway was the first major U.S. railroad to convert to diesel power locomotives as well. The Southern Railway was the longest line in the south and known for its modernization and innovation including the use of computers, mechanization of track maintenance, improved car efficiency, and tight fiscal policy.

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

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

Under approval granted by the ICC in Finance Docket No. 29430 (Sub-No. 1), *Norfolk Southern Corporation – Control – Norfolk and Western Railway Company and Southern Railway Company*, 366 I.C.C. 173 (1982), dated March 19, 1982, Norfolk Southern Corporation acquired control of Norfolk and Western Railway Company and Southern Railway Company on June 1, 1982.

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

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

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

Alexander is a village in Genesee County and was incorporated in 1834. It lies on Tonawanda Creek. The Village was named for Alexander Rea, a settler who purchased the land on which the village lies in 1802 The Village of Alexander is within the Town of Alexander The village is in the south-central part of the town and is part of the Batavia metro area

The larger area of Batavia was laid out in 1801 by Joseph Ellicott, agent for the Holland Land Company All of western New York was sold through his office of the Holland Land Company The current City of Batavia was an early settlement in what is today called Genesee County, the farthest western region of New York State, comprising the Genesee Valley and westward to the Niagara River, Lake Erie, and the Pennsylvania line The area was purchased in 1792 by the Holland Land Company, a consortium of Dutch bankers The 3.5 million acre territory, purchased from Robert Morris, a prominent Revolutionary banker, was known as "The Holland Purchase "

In 1801 Ellicott, as agent for the company, established a land office in Batavia and the entire purchase was named Genesee County in 1802, with Batavia as the county seat The company sold off the purchase until 1846, when the company was dissolved The phrase "doing a land office business," which

denotes prosperity, dates from this era. The office still exists and is a museum today, designated a National Historic Landmark.

The present counties of western New York were all laid out from the original Genesee County, and the modern Genesee County is but one of many. But the entire area as a region is still referred to as *Genesee Country*. Thus, Batavia was the core from which the rest of western New York was opened for settlement and development.

Wyoming County was formed from Genesee County in 1841. The county seat is Warsaw, a name modified from a Delaware Indian word meaning "broad bottom lands". In the vicinity of the proposed rail line abandonment and in the northernmost part of Wyoming County is Attica maximum security prison. This prison is the site of a famous 1971 prison mate uprising.

The change contemplated in the operation of the subject railroad line in Alexander and Attica, NY is for Norfolk Southern Railway Company to abandon the subject unprofitable line of railroad, salvage the track and material and to the extent of its title to the real estate to deal with the right-of-way as ordinary real estate no longer subject to a common carrier obligation. There is no feasible alternative to the abandonment action because there is not enough revenue from railroad traffic on the line to cover the costs of ownership, maintenance and operation of the property.

Summary of Documents in Carrier's Possession that Might be Useful for Documenting a Structure that is Found to be Historic

While plans may be available for the structures on the line, it is most likely that any such plans are standard plans used for the construction of similar structures on the dates of construction

Opinion Regarding Criteria for Listing in the National Register of Historic Places

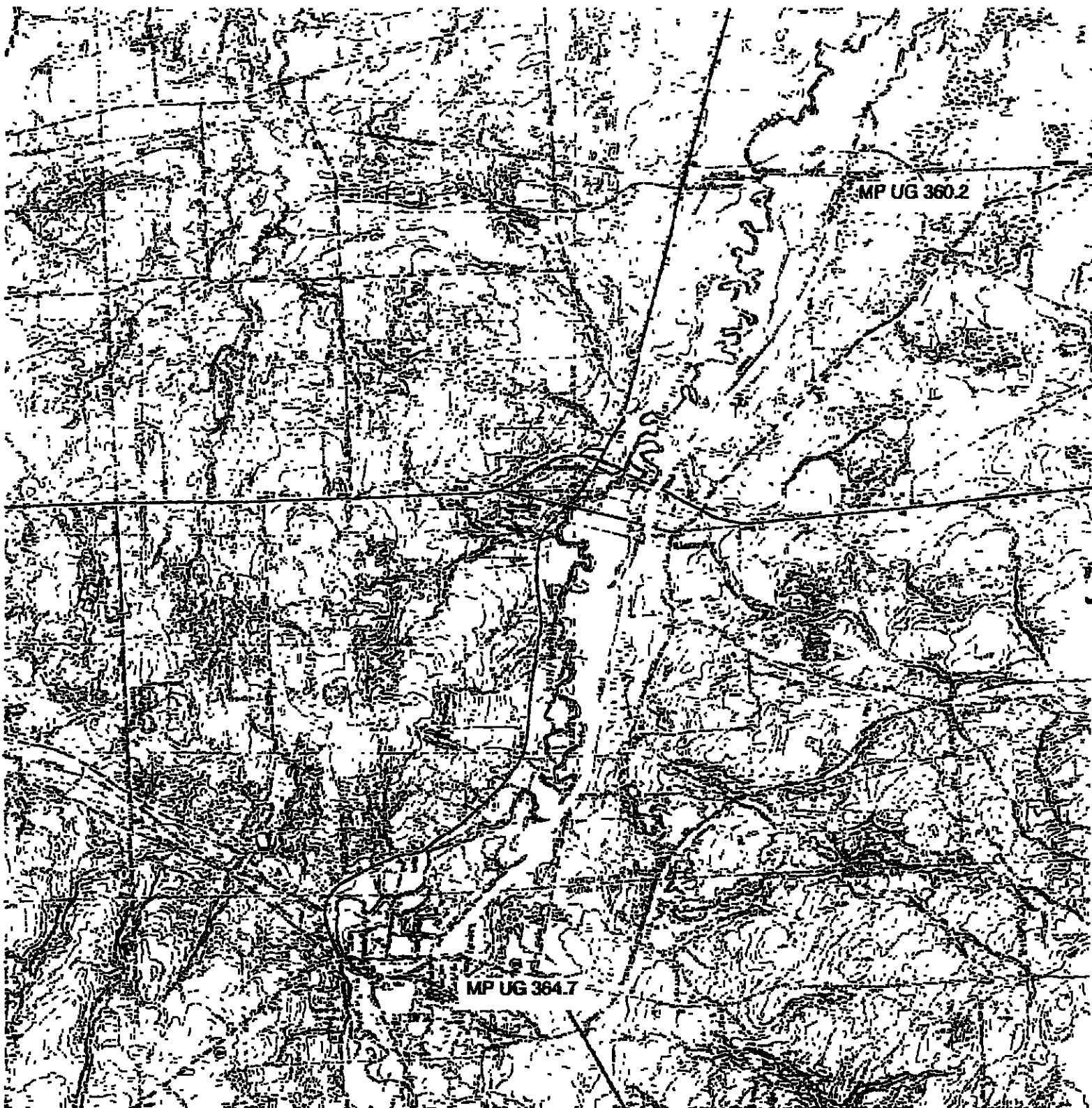
NSR's opinion is that neither the structures on the line to be abandoned nor the line itself meets the criteria for listing in the National Register of Historic Places. In addition, the line passes through mostly farmland subject to flooding; therefore, NSR has no reason to believe that there is any likelihood of finding historic properties on the line proposed for abandonment

Subsurface Ground Conditions that Might Affect Archaeological Recovery

NSR is not aware of any prior subsurface ground disturbances or environmental conditions that would affect archaeological recovery. Moreover, abandonment of the line and salvage of material from its surface will not affect any potential archaeological resources. The subsurface of the right-of-way was initially disturbed in the construction of the railroad line by grading and filling. Abandonment and salvage of the line will not result in activities below the surface, or below the level of initial disturbance.

Follow-Up Information

NSR will provide any relevant and available additional information as required or appropriate



**Norfolk Southern
Proposed Abandonment
MP UG 360.2 (Alexander)-
MP UG 364.7 (Attica)
Genesee and Wyoming Counties
New York**

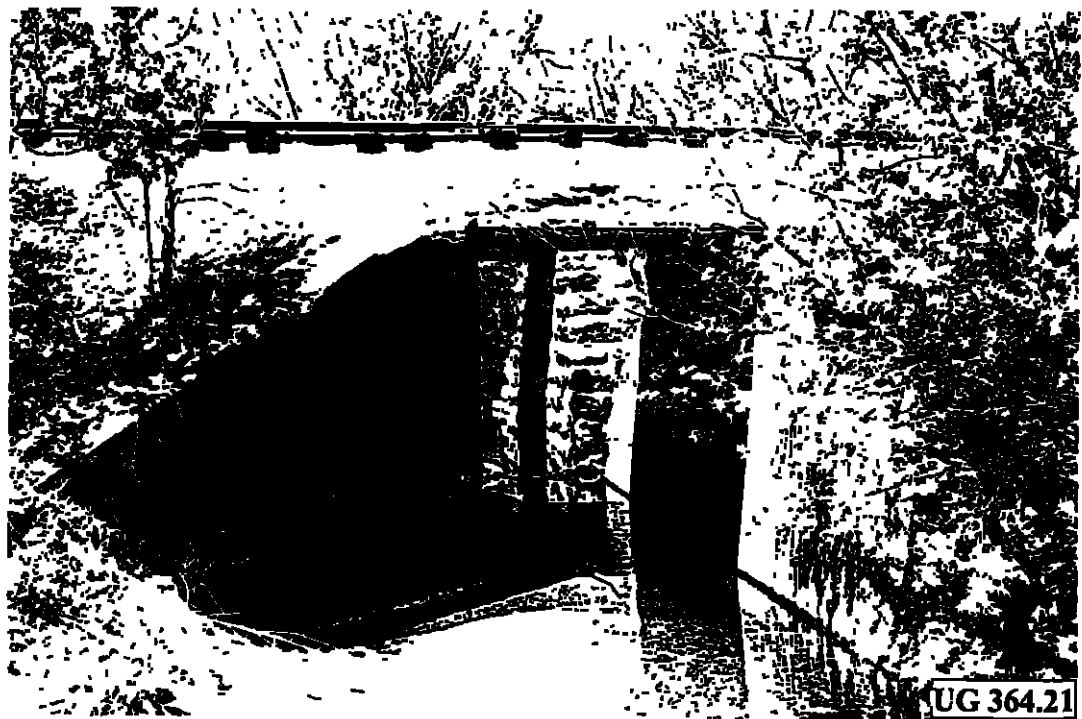
APPENDIX B

Norfolk Southern Railway Company Abandonment – Alexander to Attica, New York

Bridge List

Milepost	Bridge Type	Deck Construction	Length in Feet	Year Constructed
UG 362 09	Concrete Slab	Ballast	8	1909
UG 363 65	Concrete Slab	Ballast	11	1916
UG 363 79	Concrete Slab	Ballast	20	1916
UG 364 21	Concrete Slab	Ballast	8	1912







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

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

December 8, 2006

Bernadette Castro, Commissioner
New York State Historic Preservation Office
Peebles Island Resource Center
P. O. Box 189
Waterford, NY 1218809189

RE. STB Docket No AB-290 (Sub-No 271X), Norfolk Southern Railway Company -
Abandonment – Wyoming and Genesee Counties, New York

Dear Ms. Castro:

Norfolk Southern Railway Company soon expects to file with the Surface Transportation Board a Petition for Exemption seeking authority to abandon 4.50 miles of rail line between railroad milepost UG 360.20 near Alexander and railroad milepost UG 364.70 near Attica, in Wyoming and Genesee Counties, New York. Enclosed is a Historic Report describing the proposed action and any expected historic effects, as well as a map of the affected area, topographic maps, and photographs of the structures on the line.

We are providing this report so that you may review the information that will form the basis for the Board's independent environmental analysis of this proceeding. If you believe any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the Board's environmental review process, please contact the Section of Environmental Analysis (SEA), Surface Transportation Board, 1925 K Street, N.W., Washington, 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 us) would be appreciated as soon as possible. Please refer your comments to me by mail at the above address or by email at marc.kirchner@nscorp.com.

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

Sincerely,

Marcellus C. Kirchner

Enclosures
cc James R. Paschall, Esq.

**Historic Report
Certificate of Service**

Pursuant to the requirements of 49 C.F.R. § 1105.8(c), the undersigned hereby certifies that a copy of the Historic Report in Docket No. AB-290 (Sub-No. 271X) was mailed via first class mail on December 8, 2006 to the following party.

Bernadette Castro, Commissioner
New York State Historic Preservation Office
Peebles Island Resource Center
P. O. Box 189
Waterford, NY 12188-0189



Marcellus C. Kirchner

December 8, 2006

PREPAID LEGALS
PO BOX 870
BATAVIA NY 14021-0870

REFERENCE 72596
1076474 804- abandon rail se

STATE OF NEW YORK)
) ss
GENESEE COUNTY)

Linda Dixon being duly sworn, deposes and says that she is Legal Billing Clerk of Batavia Newspapers Corporation, Publishers of "The Daily News," a newspaper printed and published in Batavia, and that a notice, of which the annexed is a copy, was duly printed and published in said Newspaper

PUBLISHED ON 11/02

TOTAL COST 53 79 AD SPACE 119 LINE
FILED ON 11/03/07

Sworn to and subscribed before me this

7th day of November, 2007
Rebecca L. Nichols

REBECCA L. NICHOLS
Notary Public State of NY, Genesee Co
My Commission Expires January 31, 2011

LEGAL NOTICE
NOTICE OF INTENT TO
ABANDON RAIL SERVICE
Norfolk Southern Railway Company (NSR) gives notice that on or about November 28, 2007, it intends to file with the Surface Transportation Board (STB), Washington, DC 20423, a notice of exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 permitting NSR's abandonment of a 4.5 mile line of railroad between mileposts UG 380.20 and UG 384.70 which traverses through United States Postal Service ZIP Codes 14005 and 14011 in Wyoming and Genesee Counties, New York. The line includes the stations of Alexander and Alma. The proceeding will be docketed as No. AB-290 (Sub No. 271X). 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 SEA 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, 395 E Street, S.W., Washington, DC 20423-0001 or by calling that office at 202-245-0295. 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, 395 E Street, S.W., Washington, DC 20423-0001. (See 49 CFR 1104.1(a) and 1104.3(a)). One copy must be served on applicant's representative. (See 49 CFR 1104.12(a)). Questions regarding offers of financial assistance, public use or trails use may be directed to the STB's Office of Congressional and Public Services at 202-245-0230. Copies of any comments or requests for conditions should be served on the applicant's representative, James R. Paschall, Senior General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510-8241; (757) 629-2759 (804) 2-10-1.



Exhibit 4

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

James R Paschall
Senior General Attorney

(757) 629-2759

November 6, 2007

Ms Astrid C Glynn, Commissioner
New York State Department of Transportation
50 Wolf Road
Albany, NY 12205

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

United States Department of Defense
Military Traffic Management Command
Transportation Engineering Agency (MTMCTEA)
Railroads for National Defense Program
720 Thimble Shoals Blvd , Suite 130
Newport News, VA 23606-2574

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

Ms Jan Matthews, Associate Director
U S Dept of the Interior-National Park Service
Cultural Resources, Room 3126
1849 C Street, N W
Washington, DC 20240

Re STB Docket No AB-290 (Sub-No 271X), Norfolk Southern Railway Company –
Abandonment – Wyoming and Genesee Counties, NY

Ladies and Gentlemen

Pursuant to 49 CFR 1152.50(d)(1) Norfolk Southern Railway Company (NSR), hereby gives notice that on or about November 28th, 2007, it will file with the Surface Transportation Board a notice of exemption from regulation in accordance with the exemption regulations set forth at 49 CFR Part 1152, Subpart F. That notice of exemption will permit NSR's Abandonment of a 4.5-mile line of railroad lying between milepost UG 360.20 and milepost UG 364.70 in Wyoming and Genesee Counties, New York (see attached map). No revenue traffic has originated or terminated or moved overhead on the line which is to be abandoned for more than two years. Based on information in our possession, the line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

Very truly yours,

James R Paschall

JRP:kch
Enclosure