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Crystal M. Zorbaugh

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

ENTERED
Office of Proceedings
September 20, 2019
Part of
Public Record

September 20, 2019

BY HAND DELIVERY

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

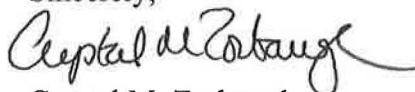
Re: Norfolk Southern Railway Company – Abandonment Exemption – In the City of Cincinnati, OH and Hamilton County, OH, AB-290 (Sub-No. 405X)

Dear Ms. Brown:

Pursuant to 49 C.F.R. Part 1152, Subpart F – Exempt Abandonments and Discontinuances enclosed are an original and 11 copies of a verified notice of exemption for Norfolk Southern Railway Company ("NSR") to abandon rail service over an approximately 0.64-mile rail line, extending from Milepost CT 3.06 to Milepost CT 3.70, including 2,868 feet of unmileposted runaround track located at Milepost CT 3.49 in the City of Cincinnati, OH and Hamilton County, Ohio (the "Line").

Please acknowledge receipt and filing of this notice of exemption by date stamping the enclosed eleventh copy and returning it to the courier for return to me. This submission also includes an electronic copy of the entire filing and a separate electronic file of a draft Federal Register notice. A check in the amount of \$4,400.00 is enclosed to cover the applicable filing fee. If there are any questions about this matter, please contact me directly, either by telephone: 202-663-7831 or by e-mail: czorbaugh@bakerandmiller.com or William A. Mullins, who can be reached at (202) 663-7823 or by e-mail at wmullins@bakerandmiller.com.

Sincerely,



Crystal M. Zorbaugh
Attorney for Norfolk Southern Railway Company

Enclosures

cc: Greg Summy, Laura Hoag, Scott Plum

FEE RECEIVED
September 20, 2019
SURFACE
TRANSPORTATION BOARD

FILED
September 20, 2019
SURFACE
TRANSPORTATION BOARD

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

AB-290 (Sub-No. 405X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF CINCINNATI, OH AND HAMILTON COUNTY, OH**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

**Greg E. Summy
General Solicitor
NORFOLK SOUTHERN CORPORATION
Three Commercial Place
Norfolk, Virginia 23510
Tel: (757) 533-4939
Fax: (757) 533-4872**

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

September 20, 2019

**Attorneys for Norfolk Southern Railway
Company**

***This filing contains color.**

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

AB-290 (Sub-No. 405X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF CINCINNATI, OH AND HAMILTON COUNTY, OH**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

Norfolk Southern Railway Company (“NSR”) hereby submits a verified notice of exemption pursuant to 49 C.F.R. part 1152, subpart F (Exempt Abandonments and Discontinuances) for NSR to abandon rail service over an approximately 0.64-mile rail line, extending from Milepost CT 3.06 to Milepost CT 3.70, including 2,868 feet of unmileposted runaround track located at Milepost CT 3.49 in the City of Cincinnati, OH and Hamilton County, Ohio (the “Line”). All of the track is located in the City of Cincinnati, OH and Hamilton County, OH. The Line traverses United States Postal Zip Code territories 45207 and 45212. There are no customers served on the Line, which has been out of service for over ten years.

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

Certification: 49 C.F.R. § 1152.50(b)

NSR certifies that the Line satisfies the criteria for abandonment under the exemption provisions at 49 C.F.R. part 1152, subpart F. See Certification of Todd L. Reynolds, General Manager Operations – Central Region for Norfolk Southern Railway Company (Exhibit A). During the past ten years, NSR has provided no local or overhead traffic over the Line; overhead

traffic, if there were any, could be rerouted over other lines; and no formal complaint has been filed by a user of rail service on the Line or a state or local government entity acting on behalf of such user regarding cessation of service over the Line is either pending before the Surface Transportation Board or any U.S. District Court, or has been decided in favor of the complainant within the two-year period.

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

The proposed abandonment will be consummated on or after November 9, 2019 (50 days after filing the notice of exemption).

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

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

Norfolk Southern Railway Company

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

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

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

NSR hereby invokes the Board's two-year-out-of-service class exemption procedures to abandon rail service over an approximately 0.64-mile rail line, extending from Milepost CT 3.06 to Milepost CT 3.70, including 2,868 feet of unmileposted runaround track located at Milepost CT 3.49 in the City of Cincinnati, OH and Hamilton County, Ohio. All of the track is located in the City of Cincinnati, OH and Hamilton County, Ohio. The Line traverses United States Postal Zip Code territories 45207 and 45212.

Map (49 C.F.R. § 1152.22(a)(4)):

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

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

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

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

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

The Line is located in the following United States Postal Zip Code territories: 45207 and 45212.

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

NSR has a mix of fee simple ownership and easements to the right-of-way underlying the Line proposed for abandonment; thus, NSR may have a corridor available for redeployment for alternative public use(s). However, NSR is currently in discussions with Xavier University concerning the possible acquisition of the Line, which is adjacent to the University. The Line does not contain any federally granted right-of-way. As appropriate, NSR is willing to promptly make available any information in its possession to anyone so requesting it.

Labor Protection

Because the Line has been inactive for ten years, no railroad employees will be adversely affected by exercise of abandonment authority. Nevertheless, the interests of NSR's employees who may be adversely affected by the proposed abandonment will be adequately protected by the

labor protective conditions set forth in Oregon Short Line R. Co – Abandonment – Goshen, 360 I.C.C. 91 (1979).

Certifications

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

Environmental and Historic Report

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

Respectfully submitted,

Greg E. Summy
General Solicitor
NORFOLK SOUTHERN CORPORATION
Three Commercial Place
Norfolk, Virginia 23510
Tel: (757) 533-4939
Fax: (757) 533-4872



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

September 20, 2019

Attorneys for Norfolk Southern Railway Company

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

AB-290 (Sub-No. 405X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF CINCINNATI, OH AND HAMILTON COUNTY, OH**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

VERIFICATION

Verification

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

Executed this 13th day of September, 2019



Michael McClellan
Vice President
Norfolk Southern Railway Company

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

AB-290 (Sub-No. 405X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF CINCINNATI, OH AND HAMILTON COUNTY, OH**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

EXHIBIT A

CERTIFICATION

CERTIFICATION

STATE OF OHIO:

ss:

CITY OF CINCINNATI:

Todd L. Reynolds makes oath and says that he is General Manager Operations – Central Region for Norfolk Southern Railway Company (NSR); that the rail line between Milepost CT 3.06 and Milepost CT 3.70 and associated runaround track, over which service is to be discontinued, is subject to his supervision and direction; that no local traffic has moved over the line for at least two years, that no overhead traffic has moved over the line for at least two years and that overhead traffic, if there were any, could be rerouted over other lines; and that no formal complaint filed by a user of rail service on the line or a state or local government entity acting on behalf of such user regarding cessation of service over the line either is pending before the Surface Transportation Board or any U. S. District Court or has been decided in favor of the complainant within the two-year period.



Todd L. Reynolds

Subscribed and sworn to before me this
26 day of August, 2019.


Notary Public

My commission expires:



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

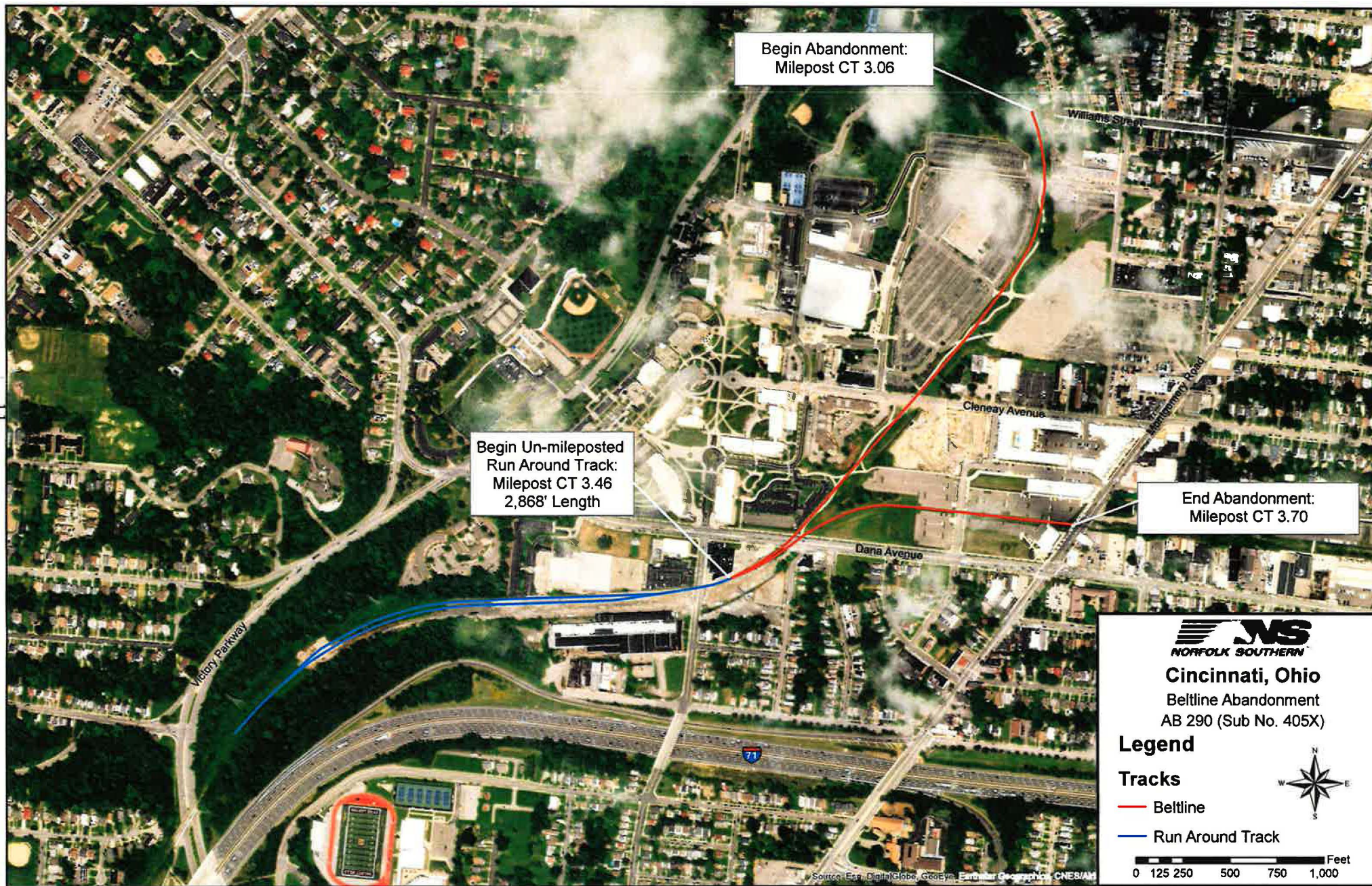
AB-290 (Sub-No. 405X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF CINCINNATI, OH AND HAMILTON COUNTY, OH**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

EXHIBIT B

MAP



Begin Abandonment:
Milepost CT 3.06

Begin Un-mileposted
Run Around Track:
Milepost CT 3.46
2,868' Length

End Abandonment:
Milepost CT 3.70



Cincinnati, Ohio
Beltline Abandonment
AB 290 (Sub No. 405X)

Legend

Tracks

— Beltline

— Run Around Track



0 125 250 500 750 1,000 Feet

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Air

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

AB-290 (Sub-No. 405X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF CINCINNATI, OH AND HAMILTON COUNTY, OH**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

EXHIBIT C

CERTIFICATES OF SERVICE/PUBLICATION

Certificate of Service of Advance Notice

49 C.F.R. § 1152.50(d)(1) – Notice

I certify that, on September 9, 2019, in keeping with 49 C.F.R. § 1152.50(d)(1), I caused the following parties to be served with the written notice of intent of Norfolk Southern Railway Company to invoke the Board's notice of exemption procedures to abandon rail service over an approximately 0.64-mile rail line, extending from Milepost CT 3.06 to Milepost CT 3.70, including 2,868 feet of unmileposted runaround track located at Milepost CT 3.49 in the City of Cincinnati, OH and Hamilton County, Ohio (the "Line"). I further certify that the line does not contain any federally granted right of way.

Public Service Commission, et al.

Ohio Public Utilities Commission
180 East Broad Street
Columbus, Ohio 43215

Ohio Rail Development Commission
1980 West Broad Street
Columbus, Ohio 43223

Ms. Tammy K. Campbell, P.E.
District Deputy Director
Ohio Department of Transportation
505 South State Route 741
Lebanon, Ohio 45036

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

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

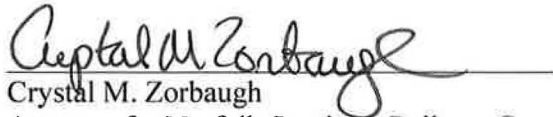
The National Park Service, Recreation Resources Assistance Division

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

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

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

September 20, 2019


Crystal M. Zorbaugh
Attorney for Norfolk Southern Railway Company

Certificate of Newspaper Publication

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

I certify that a “Notice of Intent to Abandon Rail Service” was published in the form prescribed by the Board for abandonment notices of exemption (49 C.F.R. § 1105.12). The notice was published one time on September 7, 2019, in the Enquirer, a newspaper of general circulation in the City of Cincinnati, OH and Hamilton County, Ohio for United States Postal Zip Code territories 45207 and 45212.

September 20, 2019


Crystal M. Zorbaugh
Attorney for Norfolk Southern Railway Company

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

AB-290 (Sub-No. 405X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF CINCINNATI, OH AND HAMILTON COUNTY, OH**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

EXHIBIT D

**CERTIFICATE OF COMPLIANCE WITH
ENVIRONMENTAL AND HISTORIC REPORT
REQUIREMENTS**

Environmental and Historic Report
Certificate of Service

Pursuant to the requirements of 49 C.F.R. § 1105.7(b) and 49 C.F.R. § 1105.8(c), the undersigned hereby certifies that a copy of the Combined Environmental and Historic Report in Docket No. AB-290 (Sub-No. 405X) was mailed via first class mail on August 19, 2019 to the following parties:

STATE HISTORIC PRESERVATION OFFICE

Mr. Burt Logan
State Historic Preservation Officer
Ohio State Historic Preservation Office
800 E. 17th Ave.,
Columbus Ohio, 43211

STATE DOT

Ms. Tammy K. Campbell, P.E.
District Deputy Director
Ohio Department of Transportation
505 South State Route 741
Lebanon, Ohio 45036

US ENVIRONMENTAL PROTECTION AGENCY

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

REGIONAL/STATE EPA

Ms. Virginia Laszewski
US EPA Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3507

Ms. Barb Clary
District Administrator
Ohio EPA, Southwest District Office
401 East Fifth Street
Dayton, Ohio 45402

CITY

Mayor John Cranley
City of Cincinnati
Office of the Mayor
801 Plum St., Suite 150
Cincinnati, OH 45202

COUNTY

Mr. Jeff Aluotto
Hamilton County Administrator
County Administration Building
138 East Court Street, Room 603
Cincinnati, OH 45202

US ARMY CORPS OF ENGINEERS

Ms. Sarah Atherton
U.S. Army Corps of Engineers
Great Lakes & Ohio River Division, Louisville District
P.O. Box 59
Louisville, KY 40201-0059

STATE COASTAL ZONE MANAGEMENT

Mr. Scudder D. Mackey, Ph.D.
Chief
Office of Coastal Management
Ohio Department of Natural Resources
105 W. Shoreline Drive
Sandusky, Ohio 44870

FISH AND WILDLIFE SERVICE

Mr. Charles Wooley
Regional Director
United States Fish & Wildlife Service
Midwest Region 3
5600 American Boulevard West, Suite 990
Bloomington, MN 55437

NATIONAL PARK SERVICE

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

Mr. David Thomson
National Park Service, Midwest Regional Office
Rivers, Trails, and Conservation Assistance Program
601 Riverfront Dr.
Omaha, NE 68102

NATIONAL GEODETIC SURVEY

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

NATURAL RESOURCES CONSERVATION SERVICE

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

Mr. Terry J. Cosby
State Conservationist
USDA NRCS Ohio State Office
200 N. High Street, Room 522
Columbus, Ohio 43215



Laura Hoag
September 05, 2019

ATTACHMENT 1

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

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

AB-290 (Sub. No. 405X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– PROPOSED ABANDONMENT –
IN THE CITY OF CINCINNATI, OHIO AND HAMILTON COUNTY, OH**

Combined Environmental and Historic Report

Norfolk Southern Railway Company (“NSR”) submits this Combined Environmental and Historic Report (“E&HR”) pursuant to 49 C.F.R. § 1105.7(e) and 49 C.F.R. § 1105.8(d), respectively, in connection with NSR’s proposed abandonment of an approximately 0.64-mile- rail line, extending from Milepost CT 3.06 to Milepost CT 3.70 (the “Line”), including 2,868 feet of unmileposted runaround track located at Milepost CT 3.49 in the City of Cincinnati, Ohio and Hamilton County, Ohio.

August 19, 2019

ENVIRONMENTAL REPORT

49 CFR 1105.7(e)(1)

Proposed Action and Alternatives

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

RESPONSE: NSR is seeking to abandon an approximately 0.64-mile-long-rail line extending from Milepost CT 3.06 to Milepost CT 3.70, including 2,868 feet of unmileposted runaround track located at Milepost CT 3.49, in the City of Cincinnati, Ohio and Hamilton County, Ohio. There are no structures on the Line.

No customers have been served on the Line for more than a decade. Following abandonment, NSR will convey the right-of-way to Xavier University (Xavier) with the Line's rail and related track material intact. Xavier has no immediate plans to salvage the Line's rail and related track material, but will be responsible for such salvaging should it occur in the future.¹

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

A map depicting the Line is attached as **Appendix A**. An example of NSR's letter to federal, state and local government agencies along with a list of the consulting agencies that NSR

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

has contacted is attached as **Appendix B**. Comments received as a result of NSR's written requests for feedback can be found in **Appendix C**.

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

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

RESPONSE: Effects of the proposed action on regional or local transportation systems and patterns would be negligible. There is no rail freight or passenger traffic originating or terminating on the Line. Additionally, no rail or passenger traffic has moved over the line in more than a decade.

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

(i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

RESPONSE: An outline of future land use plans has been requested from the City of Cincinnati, Ohio, and Hamilton County, Ohio, both of which were asked to comment on the consistency of the proposed abandonment of the Line with existing land use plans.

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

RESPONSE: NSR does not believe the abandonment will have any adverse impact on prime agricultural land because the Line to be abandoned is in the City of Cincinnati. However, a copy of this E&HR has been mailed to The United States Department of Agriculture Natural Resources Conservation Service ("USDA NRCS") for its information and to provide USDA NRCS an opportunity to comment. In its response, the USDA NRCS identified no prime farmland concerns.

(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: The Line is not located within a coastal zone. However, a copy of the E&HR was mailed to the Ohio Department of Natural Resources Office of Coastal Management. The Ohio Department of Natural Resources Office of Coastal Management subsequently confirmed the project is neither in a coastal area nor the Lake Erie watershed; therefore, a Federal Consistency review was not required.

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

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

49 CFR 1105.7(e)(4) Energy.

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

RESPONSE: Development and transportation of energy resources will not be affected by the abandonment. There has been no rail freight or passenger traffic originating or terminating on the Line in over a decade.

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

RESPONSE: Movement or recovery of recyclable commodities will not be affected by the abandonment. There has been no rail freight or passenger traffic originating or terminating on the Line in over a decade.

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

RESPONSE: The proposed action Involves the abandonment of a rail Line that has been inactive for over a decade, and as such, will not result in an increase or decrease in overall energy.

(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, so the above thresholds will not be exceeded.

49 CFR 1105.7(e)(5) Air.

(i) If the proposed action will result in either:

(A) An increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or

(B) An increase in rail yard activity of at least 100 percent (measured by carload activity), or

(C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions.

RESPONSE: The above thresholds will not be exceeded.

(ii) If the proposed action affects a class I or nonattainment area under the Clean Air Act, and will result in either:

(A) An increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line,

(B) An increase in rail yard activity of at least 20 percent (measured by carload activity), or

(C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan.

RESPONSE: The above thresholds will not be exceeded.

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

RESPONSE: Not applicable.

49 CFR 1105.7(e)(6) Noise.

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

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

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

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

RESPONSE: The above thresholds will not be exceeded.

49 CFR 1105.7(e)(7) Safety.

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

RESPONSE: Abandonment of the Line will have no adverse impact on public health and safety.

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

RESPONSE: Not applicable.

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

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

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

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

RESPONSE: NSR does not believe the abandonment will have any adverse impact on surrounding habitats and species. However, a copy of this E&HR has been mailed to the U.S. Fish and Wildlife Service (“USFWS”) to ascertain any impacts to surrounding habitats and species. USFWS responded and stated there are no Federal wilderness areas, wildlife refuges or designated critical habitat within the vicinity of the project area.

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

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

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: Neither NSR nor Xavier intend to remove or alter the contour of the roadbed underlying the Line to be abandoned by way of excavation or other ground-disturbance activity. No salvage of the Line and related track material is anticipated at this time. Accordingly, no soils will be disturbed as a result of the proposed abandonment, and no storm water mitigation measures – including, but not limited to, a National Pollutant Discharge Elimination System permit – will be required. There are no plans to undertake in-stream work, or dredge and/or use any fill materials in connection with the proposed abandonment, so, for this reason also, the proposed abandonment will not result in water quality impacts.

Consultation has been requested from the Ohio Environmental Protection Agency (“OEPA”) and the United States Environmental Protection Agency (“EPA Region 5”). While

EPA Region 5 responded regarding section 402 of the Clean Water Act, it provided no response regarding NPDES requirements.

(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 geometry of the roadbed will not be altered and no in-stream work is contemplated. No discernible effects on either 100-year flood plains or adjacent wetlands are expected in connection with the proposed abandonment. No salvage of the Line and related track material is anticipated at this time. Consequently, NSR does not believe a Section 404 permit will be required in connection with the proposed abandonment. Consultation was requested from the U.S. Army Corps of Engineers Great Lakes & Ohio River Division, Louisville District (“USACE”).

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

RESPONSE: Neither NSR nor Xavier plan to remove or alter the roadbed underlying the Line, or to undertake in-stream work or to dredge or use any fill materials. No salvage of the Line and related track material is anticipated at this time. There will be no excavation or other ground-disturbance activity, and, because no soils will be disturbed, no storm water mitigation measures – including, but not limited to, a National Pollutant Discharge Elimination System permit – will be required. NSR anticipates that the abandonment will not affect water quality and that additional permitting under Section 402 will not be required. Nevertheless, NSR has requested input from the U.S. EPA, EPA Region 5 and the Ohio Environmental Protection Agency. EPA Region 5 responded, stating there are no further requirements that would require EPA input under section 402 of the Clean Water Act. EPA Region 5 recommended NS contact the Ohio EPA’s Division of Surface Water to determine if there were any additional state mandated requirements related to

this abandonment. NSR followed this recommendation and the Ohio EPA Division of Surface Water also stated there were no regulatory concerns.

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

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

RESPONSE: Abandonment of the Line is not expected to produce adverse environmental impacts for the reasons set forth above. NSR will convey the right-of-way to Xavier with the Line's rail and related track material intact, and Xavier has no immediate plans to salvage the Line's rail and related track material. Should the Board direct any mitigation or salvage conditions in granting abandonment authority, NSR will execute an agreement with Xavier to assure that Xavier complies with such requirements should Xavier later decide to perform salvage activities.

HISTORIC REPORT

49 CFR 1105.8(d)

PROPOSED ACTION AND ALTERNATIVES

NSR proposes to abandon an approximately 0.64-mile rail line, extending from Milepost CT 3.06 to Milepost CT 3.70 (the "Line"), including 2,868 feet of unmileposted runaround track located at Milepost CT 3.49 in the City of Cincinnati, Ohio and Hamilton County, Ohio. No customers have been served on the Line for more than a decade.

Following abandonment, NSR will convey the right-of-way to Xavier University (Xavier) with the Line's rail and related track material intact. Xavier has no immediate plans to salvage the Line's rail and related track material, but will be responsible for such salvaging should it occur in the future.

The alternative to abandonment is to not abandon the Line and for NSR to retain the Line.

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

A map depicting the Line is attached in **Appendix A**.

ADDITIONAL INFORMATION

- (1) **U.S.G.S. Topographic Map** – Map was furnished to the Ohio State Historic Preservation Office.
- (2) **Written Description Of Right Of Way** – The right-of-way width ranges from 50 feet to 200 feet along the main track centerline. Pursuant to Surface Transportation Board policy, the railroad's right-of-way will constitute the Area of Potential Effect (“APE”) for this undertaking.
- (3) **Photographs** - As there are no structures on the line, no photographs are required.
- (4) **Date Of Construction Of Structures** – There are no structures on the Line.
- (5) **History Of Operations And Changes Contemplated** – The Line that is the subject of this proposed abandonment consists of approximately 0.64 miles of rail line between Milepost CT 3.06 and Milepost CT 3.70, including 2,868 feet of unmileposted runaround track located at Milepost CT 3.49 in the City of Cincinnati, Ohio and Hamilton County, Ohio. Immediately prior to its acquisition by Norfolk and Western Railroad Company (“N&W”), the Line was owned by The Cincinnati, Portsmouth and Virginia Railroad (“CPV”).² The Line was created from CPV’s acquisition of two rail lines in separate transactions. In the first transaction, CPV acquired the segment from Milepost CT 3.49 to Milepost CT 3.70 from the Ohio and North Western Railroad Company on June 6, 1891. The Ohio and North Western Railroad Company acquired this line in foreclosure from the Cincinnati and Eastern Railway in 1887. The Cincinnati and Eastern Railway

² See 26 I.C.C. Val. Rep. 1, Valuation Docket No. 343, 255, 369 (1929).

previously extended its track from Clare, OH to Idlewild, OH in 1880. In the second transaction, CPV acquired the segment from Milepost CT 3.49 to Milepost CT 3.06 from The Cincinnati Connecting Belt Railroad Company on April 9, 1901. CPV was ultimately purchased by N&W in the later part of 1901. The Line has been owned by NSR since N&W merged into NSR in 1982.

There have been no operations over the Line in over a decade. In 2016, a connecting line segment from Milepost CT 3.70 to Milepost CT 7.80 was abandoned. See Norfolk Southern Railway Company – Abandonment Exemption – In Hamilton County, OH, AB-290 (Sub-No. 381X) (STB served Aug. 8, 2016). Given the absence of traffic on the Line, no major changes are contemplated from the proposed abandonment.

(6) **Summary of Documents In Carrier's Possession That Might Be Useful For Documenting A Structure That Is Found To Be Historic** – There are no structures on the line.

(7) **Opinion Regarding Criteria For Listing In The National Register Of Historic Places**
There are no structures within the APE for this project. The railroad has no reason to believe that there is any likelihood of finding archaeological resources or historic properties on the Line proposed for abandonment in the course of track salvage.

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

The railroad is not aware of any prior subsurface ground disturbances or environmental conditions that would affect archaeological recovery. Moreover, abandonment of the Line will not affect any potential archaeological resources. The subsurface of the right-of-way was initially disturbed in the construction of the railroad line by grading and filling. Abandonment of the Line will not result in activities below the surface, or below the level of initial disturbance. No salvage of material from the surface is contemplated at this time.

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

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

AB-290 (Sub. No. 405X)

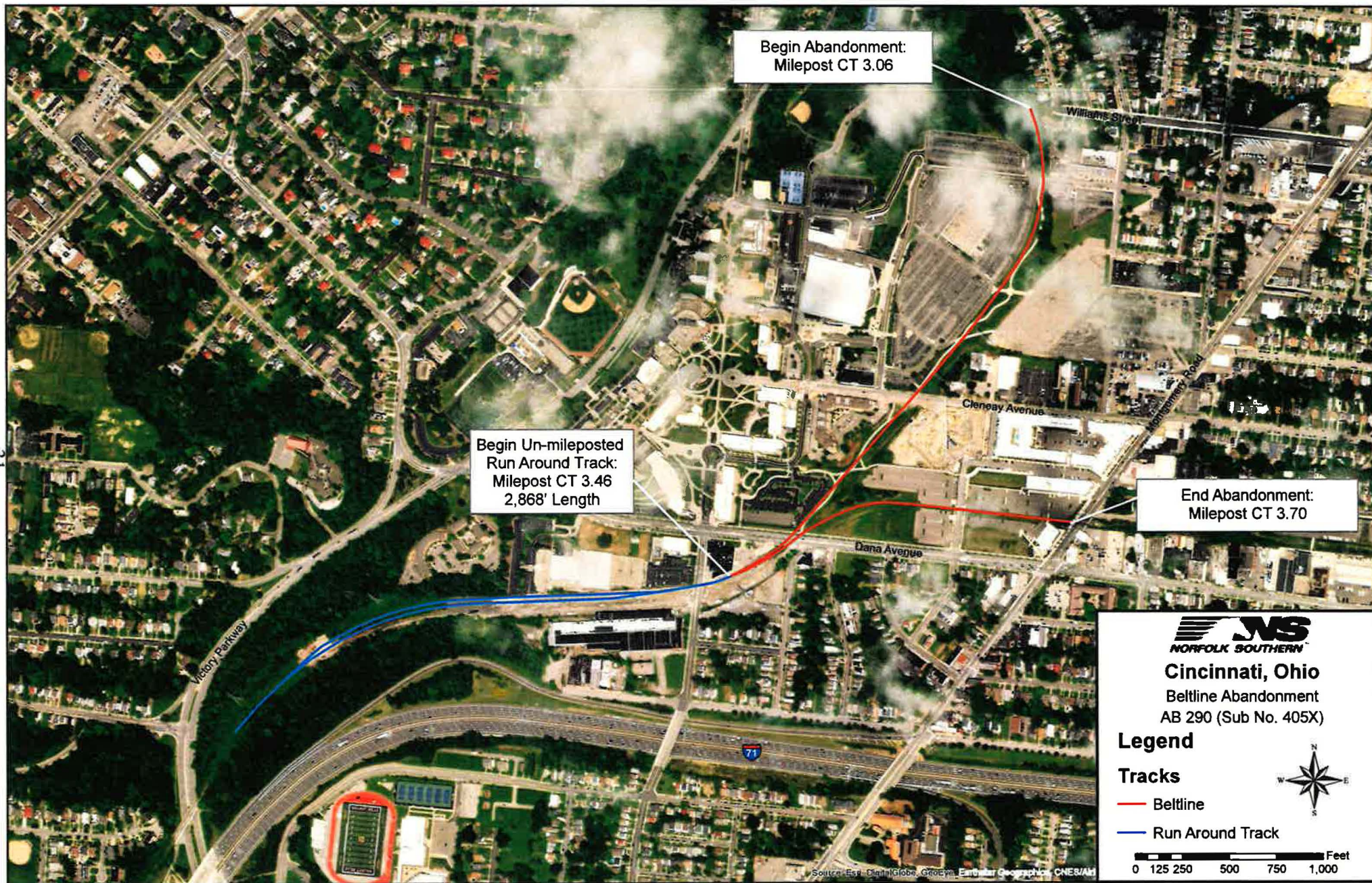
**NORFOLK SOUTHERN RAILWAY COMPANY
– PROPOSED ABANDONMENT –**

IN THE CITY OF CINCINNATI, OHIO AND HAMILTON COUNTY, OH

Combined Environmental and Historic Report

APPENDIX A

Map



Cincinnati, Ohio
Beltline Abandonment
AB 290 (Sub No. 405X)

Legend

Tracks

- Beltline
- Run Around Track



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Air

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

AB-290 (Sub. No. 405X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– PROPOSED ABANDONMENT –**

IN THE CITY OF CINCINNATI, OHIO AND HAMILTON COUNTY, OH

Combined Environmental and Historic Report

APPENDIX B

Sample Consultation Letter & Recipient List

August 19, 2019

[ENTITY}

RE: AB-290 (Sub-No. 405X), Norfolk Southern Railway Company Abandonment – in Cincinnati, OH

[GREETING]

Norfolk Southern Railway Company (NSR) plans to request authority from the Surface Transportation Board (STB) to abandon the segment of rail line between Milepost CT 3.70 and Milepost CT 3.06, a distance of 0.64 miles in the City of Cincinnati, OH ("Line").

Enclosed is a Combined Environmental and Historic Report (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. **Appendix B** of this report lists the various agencies receiving it. **Appendix C** of this report lists the various agency responses.

The railroad does not anticipate adverse environmental impacts; however, if you identify any adverse environmental effects, please describe the actions that would assist in alleviating them. Please provide us with a written response indicating any concerns or lack thereof, which will be included in the Report and sent to the Surface Transportation Board (STB).

This Report is being provided so that you may submit information that will form the basis for the STB's independent environmental analysis of the proceeding. If you believe any of the information is incorrect, if you think pertinent information is missing, or if you have any questions about the Board's Environmental Review process, please contact the Office of Environmental Analysis (OEA) by telephone at (202) 245-0245 or by mail to:

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

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

Your comments will be considered by the 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 Scott Plum by email or by mail at:

Scott Plum, Manager
Strategic Planning – 12th Floor
Norfolk Southern Corporation
3 Commercial Place
Norfolk, VA 23510
(757) 629-2884
scott.plum@nscorp.com

Best regards,

Laura E. Hoag

Attachment

RECIPIENT LIST
AB-290 (Sub-No 405X)

Proposed Rail Line Abandonment on Norfolk Southern Railway Company's rail line segment between CT 3.06 and CT 3.7 in Cincinnati, Ohio, a distance of approximately .64 miles.

STATE HISTORIC PRESERVATION OFFICE

Mr. Burt Logan
State Historic Preservation Officer
Ohio State Historic Preservation Office
800 E. 17th Ave.,
Columbus Ohio, 43211

STATE DOT

Ms. Tammy K. Campbell, P.E.
District Deputy Director
Ohio Department of Transportation
505 South State Route 741
Lebanon, Ohio 45036

US ENVIRONMENTAL PROTECTION AGENCY

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

REGIONAL/STATE EPA

Ms. Virginia Laszewski
US EPA Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3507

Ms. Barb Clary
District Administrator
Ohio EPA, Southwest District Office
401 East Fifth Street
Dayton, Ohio 45402

CITY

Mayor John Cranley
City of Cincinnati
Office of the Mayor
801 Plum St., Suite 150
Cincinnati, OH 45202

COUNTY

Mr. Jeff Aluotto
Hamilton County Administrator
County Administration Building
138 East Court Street, Room 603
Cincinnati, OH 45202

US ARMY CORPS OF ENGINEERS

Ms. Sarah Atherton
U.S. Army Corps of Engineers
Great Lakes & Ohio River Division, Louisville District
P.O. Box 59
Louisville, KY 40201-0059

STATE COASTAL ZONE MANAGEMENT

Mr. Scudder D. Mackey, Ph.D.
Chief
Office of Coastal Management
Ohio Department of Natural Resources
105 W. Shoreline Drive
Sandusky, Ohio 44870

FISH AND WILDLIFE SERVICE

Mr. Charles Wooley
Regional Director
United States Fish & Wildlife Service
Midwest Region 3
5600 American Boulevard West, Suite 990
Bloomington, MN 55437

NATIONAL PARK SERVICE

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

Mr. David Thomson
National Park Service, Midwest Regional Office
Rivers, Trails, and Conservation Assistance Program
601 Riverfront Dr.
Omaha, NE 68102

NATIONAL GEODETIC SURVEY

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

NATURAL RESOURCES CONSERVATION SERVICE

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

Mr. Terry J. Cosby
State Conservationist
USDA NRCS Ohio State Office
200 N. High Street, Room 522
Columbus, Ohio 43215

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

AB-290 (Sub. No. 405X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– PROPOSED ABANDONMENT –**

IN THE CITY OF CINCINNATI, OHIO AND HAMILTON COUNTY, OH

Combined Environmental and Historic Report

APPENDIX C

Agency Comments/Responses

ATTACHMENT 2

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

Plum, Scott D.

From: susan_zimmermann@fws.gov on behalf of Ohio, FW3 <ohio@fws.gov>
Sent: Tuesday, September 3, 2019 8:57 AM
To: Plum, Scott D.
Subject: [EXTERNAL] Norfolk Southern RR - AB-290 (Sub-No. 405X) Line Abandonment, Cincinnati OH



UNITED STATES DEPARTMENT OF THE INTERIOR
U.S. Fish and Wildlife Service
Ecological Services Office
4625 Morse Road, Suite 104
Columbus, Ohio 43230
(614) 416-8993 / Fax (614) 416-8994



TAILS# 03E15000-2019-TA-1848

Dear Mr. Plum,

We have received your recent correspondence requesting information about the subject proposal. There are no Federal wilderness areas, wildlife refuges or designated critical habitat within the vicinity of the project area.

FEDERALLY LISTED, PROPOSED, AND CANDIDATE SPECIES COMMENTS: Due to the project, type, size, and location, we do not anticipate adverse effects to federally endangered, threatened, proposed, or candidate species. Should the project design change, or during the term of this action, additional information on listed or proposed species or their critical habitat become available, or if new information reveals effects of the action that were not previously considered, consultation with the U.S. Fish and Wildlife Service should be initiated to assess any potential impacts.

If you have questions, or if we can be of further assistance in this matter, please contact our office at (614) 416-8993 or ohio@fws.gov.

Sincerely,

Patrice M. Ashfield,
Field Office Supervisor

Plum, Scott D.

From: Steve.Holland@dnr.state.oh.us
Sent: Monday, August 26, 2019 3:47 PM
To: Plum, Scott D.
Subject: [EXTERNAL] AP-290(Sub-No. 405X), Rail Line Abandonment in Cincinnati, OH

Mr. Plum,

We have received the above-referenced document. The proposed project is not located within Ohio's designated coastal area or the Lake Erie watershed. Therefore, a Federal Consistency review is not required. We have no additional comments. Thanks.

Steve



Steven J. Holland, MPA
Coastal Resources Administrator – Office of Coastal Management
Ohio Department of Natural Resources
105 West Shoreline Drive
Sandusky, Ohio 44870
Desk: 419-609-4104
www.ohiodnr.gov

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

AUG 07 2019

REPLY TO THE ATTENTION OF

WP-16J

Scott Plum, Manager
Strategic Planning – 12th Floor
Norfolk Southern Corporation
3 Commercial Place
Norfolk, VA 23510

Re: AB-290 (Sub-No. 450X) Norfolk Southern Railway Company - Abandonment - in Cincinnati, OH

Dear Mr. Plum:

Your correspondence was received by the United States Environmental Protection Agency (EPA) on August 1, 2019. Thank you for making EPA aware of these actions. At this time, based on your description of activities, there are no further requirements that would require EPA input under section 402 of the Clean Water Act.

We recommend that you contact Ohio EPA's Division of Surface Water, at (614) 644-2001, to determine if there are any additional state mandated requirements related to your action.

If you have any remaining questions for EPA, feel free to contact Jason Hewitt at (312) 353-3114, or at hewitt.jason@epa.gov.

Sincerely,

A handwritten signature in cursive script that reads "Joan M. Tanaka".

Joan M. Tanaka
Acting Director, Water Division

Plum, Scott D.

From: joby.jackson@epa.ohio.gov
Sent: Wednesday, August 21, 2019 9:27 AM
To: Tiffani.Kavalec@epa.ohio.gov; Plum, Scott D.
Subject: [EXTERNAL] RE: Norfolk Southern Railway Abandonment in Cincinnati, OH- AB 290 (Sub-No. 405X)

We do not have any regulatory concerns with this project moving forward.

Joby Jackson
Environmental Manager
Division of Surface Water
Southwest District Office
401 E. Fifth Street
Dayton, OH 45402
937.285.6029
joby.jackson@epa.ohio.gov

From: Kavalec, Tiffani <Tiffani.Kavalec@epa.ohio.gov>
Sent: Wednesday, August 21, 2019 8:16 AM
To: scott.plum@nscorp.com
Cc: Jackson, Joby <joby.jackson@epa.ohio.gov>
Subject: FW: Norfolk Southern Railway Abandonment in Cincinnati, OH- AB 290 (Sub-No. 405X)

Thank you for the notice Scott. I have copied my Southwest District Manager to review if we have any regulatory concerns with the proposal.

Tiffani Kavalec, Chief
Ohio EPA | Division of Surface Water
P.O. Box 1049, Columbus, OH 43216-1049
Ph: 614-644-3538
Tiffani.Kavalec@epa.ohio.gov



From: Plum, Scott D. <Scott.Plum@nscorp.com>
Sent: Wednesday, August 21, 2019 7:58 AM
To: Kavalec, Tiffani <Tiffani.Kavalec@epa.ohio.gov>
Subject: Norfolk Southern Railway Abandonment in Cincinnati, OH- AB 290 (Sub-No. 405X)

Ms. Tiffani Kavalec,

Norfolk Southern Railway Company (NSR) is considering the abandonment of a section of track in Cincinnati, OH. Region 5 of the United States EPA suggested that we contact your office to determine if there are any additional state mandates related to our action. NSR is required to serve various consulting agencies and, while NSR also served the Ohio EPA Southwest District Office, we are sending you a courtesy copy as well.

If you have any questions, please contact me.

Best regards,

Scott Plum

Manager - NS Strategic Planning
3 Commercial Place /Norfolk, VA 23510
757 629 2884
scott.plum@nscorp.com



Did You Know: Children of parents who talk to their teens about drugs are up to 50% less likely to use. Start the conversation:
StartTalking.Ohio.Gov

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Plum, Scott D.

From: Baker, Steven - NRCS, Columbus, OH <steven.baker@usda.gov>
Sent: Monday, August 5, 2019 3:57 PM
To: Plum, Scott D.
Subject: [EXTERNAL] AB-290 (Sub 405X)
Attachments: CPA-106_NS_Abandonment.pdf

Hi Scott, no prime farmland concerns from NRCS in this project.

Thanks,

Steve Baker
State Soil Scientist, OH NRCS
200 N. High Street, Rm. 522
Columbus, OH 43215
Office – 614-255-2483

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**FARMLAND CONVERSION IMPACT RATING
FOR CORRIDOR TYPE PROJECTS**

PART I (To be completed by Federal Agency)		3. Date of Land Evaluation Request		4. Sheet 1 of _____	
1. Name of Project AB-290 (Sub 405X)		5. Federal Agency Involved			
2. Type of Project		6. County and State			
PART II (To be completed by NRCS)		1. Date Request Received by NRCS 8/1/19		2. Person Completing Form SBaker	
3. Does the corridor contain prime, unique statewide or local important farmland? (If no, the FPPA does not apply - Do not complete additional parts of this form).		YES ☐ NO ☒		4. Acres Irrigated Average Farm Size	
5. Major Crop(s)		6. Farmable Land in Government Jurisdiction Acres: _____ %		7. Amount of Farmland As Defined in FPPA Acres: _____ %	
8. Name Of Land Evaluation System Used		9. Name of Local Site Assessment System		10. Date Land Evaluation Returned by NRCS 8/5/19	
PART III (To be completed by Federal Agency)		Alternative Corridor For Segment _____			
		Corridor A	Corridor B	Corridor C	Corridor D
A. Total Acres To Be Converted Directly					
B. Total Acres To Be Converted Indirectly, Or To Receive Services					
C. Total Acres In Corridor					
PART IV (To be completed by NRCS) Land Evaluation Information					
A. Total Acres Prime And Unique Farmland					
B. Total Acres Statewide And Local Important Farmland					
C. Percentage Of Farmland in County Or Local Govt. Unit To Be Converted					
D. Percentage Of Farmland in Govt. Jurisdiction With Same Or Higher Relative Value					
PART V (To be completed by NRCS) Land Evaluation Information Criterion Relative value of Farmland to Be Serviced or Converted (Scale of 0 - 100 Points)					
PART VI (To be completed by Federal Agency) Corridor Assessment Criteria (These criteria are explained in 7 CFR 658.5(c))		Maximum Points			
1. Area in Nonurban Use		15			
2. Perimeter in Nonurban Use		10			
3. Percent Of Corridor Being Farmed		20			
4. Protection Provided By State And Local Government		20			
5. Size of Present Farm Unit Compared To Average		10			
6. Creation Of Nonfarmable Farmland		25			
7. Availability Of Farm Support Services		5			
8. On-Farm Investments		20			
9. Effects Of Conversion On Farm Support Services		25			
10. Compatibility With Existing Agricultural Use		10			
TOTAL CORRIDOR ASSESSMENT POINTS		160	0	0	0
PART VII (To be completed by Federal Agency)					
Relative Value Of Farmland (From Part V)		100	0	0	0
Total Corridor Assessment (From Part VI above or a local site assessment)		160	0	0	0
TOTAL POINTS (Total of above 2 lines)		260	0	0	0
1. Corridor Selected:	2. Total Acres of Farmlands to be Converted by Project:	3. Date Of Selection:	4. Was A Local Site Assessment Used? YES ☐ NO ☐		

5. Reason For Selection:

NRCS Note _ Built-up/Urban Area, Not prime Farmland

Signature of Person Completing this Part:

DATE

NOTE: Complete a form for each segment with more than one Alternate Corridor

CORRIDOR - TYPE SITE ASSESSMENT CRITERIA

The following criteria are to be used for projects that have a linear or corridor - type site configuration connecting two distant points, and crossing several different tracts of land. These include utility lines, highways, railroads, stream improvements, and flood control systems. Federal agencies are to assess the suitability of each corridor - type site or design alternative for protection as farmland along with the land evaluation information.

- (1) How much land is in nonurban use within a radius of 1.0 mile from where the project is intended?

More than 90 percent - 15 points
 90 to 20 percent - 14 to 1 point(s)
 Less than 20 percent - 0 points

- (2) How much of the perimeter of the site borders on land in nonurban use?

More than 90 percent - 10 points
 90 to 20 percent - 9 to 1 point(s)
 Less than 20 percent - 0 points

- (3) How much of the site has been farmed (managed for a scheduled harvest or timber activity) more than five of the last 10 years?

More than 90 percent - 20 points
 90 to 20 percent - 19 to 1 point(s)
 Less than 20 percent - 0 points

- (4) Is the site subject to state or unit of local government policies or programs to protect farmland or covered by private programs to protect farmland?

Site is protected - 20 points
 Site is not protected - 0 points

- (5) Is the farm unit(s) containing the site (before the project) as large as the average - size farming unit in the County ?

(Average farm sizes in each county are available from the NRCS field offices in each state. Data are from the latest available Census of Agriculture, Acreage or Farm Units in Operation with \$1,000 or more in sales.)
 As large or larger - 10 points
 Below average - deduct 1 point for each 5 percent below the average, down to 0 points if 50 percent or more below average - 9 to 0 points

- (6) If the site is chosen for the project, how much of the remaining land on the farm will become non-farmable because of interference with land patterns?

Acreage equal to more than 25 percent of acres directly converted by the project - 25 points
 Acreage equal to between 25 and 5 percent of the acres directly converted by the project - 1 to 24 point(s)
 Acreage equal to less than 5 percent of the acres directly converted by the project - 0 points

- (7) Does the site have available adequate supply of farm support services and markets, i.e., farm suppliers, equipment dealers, processing and storage facilities and farmer's markets?

All required services are available - 5 points
 Some required services are available - 4 to 1 point(s)
 No required services are available - 0 points

- (8) Does the site have substantial and well-maintained on-farm investments such as barns, other storage building, fruit trees and vines, field terraces, drainage, irrigation, waterways, or other soil and water conservation measures?

High amount of on-farm investment - 20 points
 Moderate amount of on-farm investment - 19 to 1 point(s)
 No on-farm investment - 0 points

- (9) Would the project at this site, by converting farmland to nonagricultural use, reduce the demand for farm support services so as to jeopardize the continued existence of these support services and thus, the viability of the farms remaining in the area?

Substantial reduction in demand for support services if the site is converted - 25 points
 Some reduction in demand for support services if the site is converted - 1 to 24 point(s)
 No significant reduction in demand for support services if the site is converted - 0 points

- (10) Is the kind and intensity of the proposed use of the site sufficiently incompatible with agriculture that it is likely to contribute to the eventual conversion of surrounding farmland to nonagricultural use?

Proposed project is incompatible to existing agricultural use of surrounding farmland - 10 points
 Proposed project is tolerable to existing agricultural use of surrounding farmland - 9 to 1 point(s)
 Proposed project is fully compatible with existing agricultural use of surrounding farmland - 0 points



REPLY TO
ATTENTION OF

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

September 11, 2019

Regulatory Division
North Branch
LRH-2019-760-OHR

Scott Plum
Strategic Planning – 12th Floor
Norfolk Southern Corporation
3 Commercial Place
Norfolk, Virginia 23510

Dear Mr. Plum:

I refer to your letter dated August 26, 2019 regarding the proposed AB-290 (Sub-No. 405X), Norfolk Southern Railway Company Abandonment Project located in the City of Cincinnati, Hamilton County, Ohio (Latitude: 39.146658, Longitude -84.472375). Your proposal is located in the watershed of the Mill Creek, a direct tributary of the Ohio River, a navigable water of the United States. We have assigned the following file number to your inquiry: LRH-2019-760-OHR. Please reference this file number on all future correspondence related to the subject project.

The United States Army Corps of Engineers' (Corps) authority to regulate waters of the United States is based on the definitions and limits of jurisdiction contained in 33 CFR §328, including the amendment to 33 CFR §328.3 (80 Federal Register 37053), and 33 CFR §329. Section 404 of the Clean Water Act requires a Department of the Army (DA) permit be obtained prior to the discharge of dredged and/or fill material into waters of the United States, including wetlands. Navigable waters, their tributaries and adjacent wetlands are waters of the United States subject to the provisions of Section 404 of the Clean Water Act. Section 10 of the Rivers and Harbors Act of 1899 requires a DA permit be obtained for any work in, on, over or under a navigable water.

A delineation should be conducted on the project area to determine the presence of waters of the United States (e.g. rivers, streams [perennial, intermittent and ephemeral], ditches, ponds, wetlands, impoundments). Please be advised that the Corps has supplemented the 1987 Wetland Delineation Manual with new data forms and indicators that must be used for any data collection for wetland delineations within the Eastern Mountain and Piedmont, Midwest and Northcentral and Northeast Regions of Ohio as shown on the enclosed map. A copy of the Supplements can be found at: <http://www.lrh.usace.army.mil/Missions/Regulatory/Wetlands.aspx>.

Activities subject to regulation under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899 may be authorized by a General Permit or an Individual Permit (IP). General Permits are issued nationwide or regionally for a category or categories of

activities that are either similar in nature and cause only minimal individual and cumulative adverse impacts (Nationwide and Regional General Permits) or would result in avoiding unnecessary regulatory control exercised by another federal, state, or local agency and the environmental consequences of the activity would be individually and cumulatively minimal (Programmatic General Permit). There are currently 52 Nationwide Permits (NWP) with 32 general conditions used by the Corps to authorize projects resulting in minimal individual and cumulative adverse impacts. The NWPs are valid until March 18, 2022 and can be found at: <http://www.lrh.usace.army.mil/Missions/Regulatory/Public-Notices/Article/1126355/lrh-2016-0006-oh/>

Under the NWPs, pre-construction notification (PCN) to the Corps for authorization is required in many cases and resource agency coordination (Ohio Environmental Protection Agency, United States Fish and Wildlife Service, and Ohio State Historic Preservation Office) is required in some cases. Additionally, if threatened or endangered species or its critical habitat might be affected by the activity or is in the vicinity of the project; or if the activity may have the potential to cause effects to any historic properties listed, determined to be eligible for listing in, or potentially eligible for listing in the National Register of Historic Places, including previously unidentified properties, the applicant may not begin the activity until notified by the Corps that the requirements of the Endangered Species Act and/or the National Historic Preservation Act have been satisfied and that the activity is authorized. Further, if the proposed activity requires a written waiver to exceed specified limits of certain NWPs the applicant cannot begin the activity until the Corps approves a waiver (case-by-case basis). NWP General Condition 32(b) and (c) and Regional Condition 6 outline the information that must be included in a PCN.

Activities that do not qualify for authorization under the General Permit program may qualify for authorization by a Standard IP. Authorization under an IP may be obtained only through application (ENG Form 4345) with the Corps. These permits are issued for activities that have more than minimal adverse impacts to waters of the United States and evaluation of each permit application involves more thorough review of the potential environmental effects of the proposed activity upon the public interest. The Corps may not issue a permit if the proposed project is not in the public interest, is not in compliance with the United States Environmental Protection Agency's Section 404(b)(1) guidelines (this does not apply to Section 10 of the Rivers and Harbors Act of 1899 only activities), is not in compliance with other laws (such as Section 401 of the Clean Water Act, National Environmental Policy Act, Fish and Wildlife Coordination Act, Endangered Species Act, National Historic Preservation Act), would result in significant degradation of the aquatic environment (net after mitigation), or if the proposed mitigation is not determined to be adequate.

Based on a review of the information provided, we have determined that your proposal may result in a discharge of dredged and/or fill material into waters of the United States. Therefore, a permit may be required from this office for the proposed project. Also, we recommend the site be field verified using the steps outlined in the 1987 Wetland Delineation Manual and supplements referenced above.

Enclosed are checklists for: applications for individual DA permits; preparing a PCN; and preparing a compensatory mitigation plan. We appreciate your concern for our nation's aquatic resources. We are available for pre-application consultation. If you have any questions regarding the information in this letter or the enclosures, please contact Andrew Wendt by phone at (513) 825-4518 or via email at Andrew.j.wendt@usace.army.mil.

Sincerely,

Laurie Moore

Laurie A. Moore
Regulatory Project Manager
North Branch

Enclosures

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

AB-290 (Sub-No. 405X)

**NORFOLK SOUTHERN RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN THE CITY OF CINCINNATI, OH AND HAMILTON COUNTY, OH**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

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

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[AB 290 (Sub-No. 405X)]

Norfolk Southern Railway Company – Abandonment Exemption – In the City of Cincinnati, OH and Hamilton County, Ohio

Norfolk Southern Railway Company (“NSR”) has filed on September 18, 2019, a verified notice of exemption under 49 C.F.R. part 1152 subpart F–Exempt Abandonments to abandon rail service over an approximately 0.64-mile rail line, extending from Milepost CT 3.06 to Milepost CT 3.70, including 2,868 feet of unmileposted runaround track located at Milepost CT 3.49 in the City of Cincinnati, OH and Hamilton County, Ohio (the “Line”). All of the Line is located in the City of Cincinnati, OH and Hamilton County, Ohio. The Line traverses United States Postal Zip Code territories 45207 and 45212. There are no customers served on the Line, which has been out of service for well over two years.

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

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

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 9, 2019, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,¹ formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),² and trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by _____, 2019. Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by _____, 2019, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

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

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

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

¹ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

² Each OFA must be accompanied by the filing fee, which is currently set at \$1,900. See 49 C.F.R. § 1002.2(f)(25).

environmental assessment (EA) by _____, 2019. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

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

Pursuant to the provisions of 49 C.F.R. § 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by NSR's filing of a notice of consummation by _____, 2020, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

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

Decided: _____, 2019.

By the Board, _____, Acting Director, Office of Proceedings