



EI-8052

June 26, 2008

Section of Environmental Analysis  
Surface Transportation Board  
395 E Street, SW  
Washington, District of Columbia 20423-0001

Re: Abandonment of 2.82 miles of rail line between railroad mileposts TW 0.00 and TW 2.82 in Toledo, Ohio  
**STB Docket No. AB-290 (Sub-No. 290X), Norfolk Southern Railway**

This is in response to correspondence, received from Marcellus C. Kirchner of Norfolk Southern Corporation, on March 31, 2008. Our comments are made pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended, and the associated regulations at 36 CFR Part 800.

Norfolk Southern Railway Company (NSR) expects to file with the Surface Transportation Board (STB) a Notice of Exemption seeking authority to abandon 2.82 miles of rail line between railroad mileposts TW 0.00 and TW 2.82 in Toledo, Ohio. On behalf of the STB, NSR requested our comments regarding the effects of this project on historic properties.

As stated in the Historic Report included in Mr. Kirchner's submission (see enclosure), the Ohio Historic Preservation Office provided comments regarding this segment of rail line during a 1989 discontinuance proceeding. At that time we recommended that the bridge located at milepost TW 0.62 had been determined to be eligible for listing in the National Register of Historic Places (NRHP) and that the bridges located at mileposts TW 0.54 and TW 0.99 appeared to be significant and may be eligible for listing in the NRHP. Our opinion remains unchanged.

Page six of the Historic Report prepared by NSR states that "(t)he change contemplated in the operation of the subject railroad line is for Norfolk Southern Railway Company to abandon and salvage the track and material." It is our understanding that this means that the bridges along the line will be demolished. Pursuant to 36 CFR Section 800.5(a)(2)(i), demolition of properties that are eligible for listing in the NRHP constitutes an adverse effect on historic properties.

It is highly likely that the removal and salvage of the 2.82 miles of track will affect additional historic properties as well. In its efforts to identify properties listed in or eligible for listing in the National Register of Historic Places that may be affected by this project, NSR only applied the NRHP criteria to the three bridges discussed above.

OHIO HISTORICAL SOCIETY

*Ohio Historic Preservation Office*

567 East Hudson Street, Columbus, Ohio 43211-1030 ph: 614.298.2000 fx: 614.298.2037

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There are likely numerous other NSR-owned structures along the line that should be assessed for eligibility for the NRHP. Furthermore, 36 CFR Section 800.4(a)(1) requires the delineation of an Area of Potential Effects that accounts for both direct and indirect effects that will result from the project. It is our opinion that the proposed removal and salvage of the track will affect the setting and association – two of the seven aspects of integrity for all historic properties – of properties located along this section of rail line. Regardless of ownership, these properties must be evaluated for NRHP eligibility and the effects of the project on them must be determined through the application of the criteria of adverse effect [36 CFR Section 800.5(a)(1)].

To assist the STB and NSR in their efforts to fulfill their obligations to identify historic properties that may be affected by the project, we have enclosed a map generated from our GIS system showing the distribution of properties included in the Ohio Historic Inventory (blue squares) and listed in the NRHP (red pentagon) along the 2.82-mile section of rail line proposed for abandonment. Included among these properties is the former Standart-Simmons Hardware Company building, a NRHP-listed property (NRHP Ref. # 75001472) that includes a rail spur that appears to begin the line proposed for abandonment and salvage.

Please note that just because a property isn't included in our inventory data does not mean that it is not eligible for listing in the NRHP. Pursuant to 36 CFR Section 800.4, STB and NSR are responsible for applying the NRHP criteria to all properties within the project APE and providing sufficient documentation to substantiate their findings.

Until the STB and NSR have delineated an Area of Potential Effects, identified historic properties within it by applying the NRHP criteria to all properties, and produced meaningful analysis of effects of the proposed rail line removal on these properties, it is impossible to determine to what extent the proposed project will adversely affect historic properties. However, since it is clear that NSR intends to demolish three bridges that the Ohio Historic Preservation Office previously recommended as being eligible for listing in the NRHP, it is our opinion that an adverse effect will occur.

In accordance with 36 CFR Section 800.6(a)(1), the STB should notify the Advisory Council on Historic Preservation (ACHP) of the adverse effect that will result from the proposed project by providing the project documentation specified in 36 CFR Section 800.11(e). The ACHP has fifteen days from receipt of this documentation to determine if it wishes to participate in the resolution of the adverse effect.

As required by 36 CFR Section 800.6(a), the STB and NSR must demonstrate their efforts to develop and evaluate project alternatives that would avoid, minimize, or mitigate adverse effects on historic properties. We dispute NSR's claim, made on pages six and seven of the Historic Report, that there is no feasible alternative to the proposed

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abandonment action. While we do not dispute NSR's claim that "there is no revenue or potential revenue from railroad traffic on the line or other income sufficient to cover the costs of ownership, maintenance, and operation of the property," we do feel that there are feasible alternatives regarding the fate of the NRHP-eligible bridges. For example, NSR could make the bridges available for use on hike/bike trails or for use in other transportation projects.

In closing, we encourage the STB and NSR to identify individuals and organizations with a legal, economic, or preservation interest in this project and extend consulting party status to them, as required by 36 CFR Section 800.2(c)(5). The City of Toledo, as the local government with jurisdiction over the area in which the effects of the undertaking will occur, must be treated as a consulting party pursuant to 36 CFR Section 800.2(c)(4). We request that the STB and NSR seek the comments of the City's historic preservation staff (copied on this correspondence) regarding the proposed undertaking.

We look forward to receiving additional analysis and working with the STB, NSR, and consulting parties to resolve the adverse effect on historic properties that will result from this project. If you have any questions, please contact Justin Cook, History Reviews Manager, by phone at (614) 298-2000 or by email at [jcook@ohiohistory.org](mailto:jcook@ohiohistory.org). Thank you for your cooperation.

Sincerely,



Mark J. Epstein, Department Head  
Resource Protection and Review

MJE:jc

Enclosures: OHPO GIS Map and NSR Historic Report

Copy: Marcellus C. Kirchner, Norfolk Southern Corporation, Three Commercial Place,  
Norfolk, Virginia 23510-2191 (with OHPO GIS map enclosure)  
Andrew Sager, Historical Review Specialist, Department of Neighborhoods,  
City of Toledo, One Government Center, Suite 1800, Toledo, Ohio 43604  
(with OHPO GIS map and NSR Historic Report enclosures)

OHPO Serial # 1018826

**HISTORIC REPORT**  
**PROPOSED RAIL LINE ABANDONMENT**

**PROPOSED ACTION AND ALTERNATIVES**

Norfolk Southern Railway Company (NSR) proposes to abandon 2.82 miles of rail line between railroad milepost TW 0.00 and railroad milepost TW 2.82 in Lucas County, Ohio. The abandonment will end NSR's common carrier obligation to provide service over this line of railroad.

The line proposed for abandonment has been dormant for many years. Discontinuance authority for the line was received from the Interstate Commerce Commission in ICC Docket Number AB-290 (Sub-No. 39X), effective June 20, 1989. The portion of the line between milepost TW 2.69 and milepost TW 2.82, which shares the right-of-way and a bridge with an active rail line, was retired many years ago and no salvage or other track removal activities will occur on that segment and the bridge will be unaffected.

The bridge at milepost TW 0.99, which crosses NSR's extremely active Chicago Line, creates clearance problems for that line and has also become an attractive nuisance for trespassers and vandals. The bridges at milepost TW 0.54 over Swan Creek and at milepost TW 0.62 over Newton Street also have become attractive nuisances for trespassers and vandals. For these reasons, these three bridges should be removed.

The only alternative would be not to abandon the line and retain the track in place. This alternative is not satisfactory. Service over the line is not required to serve

any shippers. NSR would incur opportunity and holding costs that would be absorbed by other customers were the line to be retained without being used for active rail freight service.

A map delineating the line proposed for abandonment is attached.

### **ADDITIONAL INFORMATION**

(1) **U.S.G.S. Topographic Map** -- Maps were furnished to the Ohio Historic Preservation Office.

(2) **Written Description of Right of Way** -- The right of way width varies from 10-100 feet on each side of the main track centerline. The line passes through urban, residential areas.

(3) **Photographs** -- Photographs of the bridges were furnished to the Ohio Historic Preservation Office.

(4) **Date of Construction of Structures** -- See the Bridge List attached to this report.

(5) **History of Operations and Changes Contemplated** - The line of railroad that is the subject of the related notice to the Surface Transportation Board (STB) is a 2.82-mile segment of rail line between Mileposts TW 0.00 and TW 2.82 in the City of Toledo, in Lucas County, Ohio.

Discontinuance authority for the line was received from the Interstate Commerce Commission in ICC Docket Number AB-290 (Sub-No. 39X), effective June 20, 1989.

The portion of the line between milepost TW 2.69 and milepost TW 2.82, which shares the right-of-way and a bridge with an active rail line, was retired many years ago and no salvage or other track removal activities will occur on that segment and the bridge will

be unaffected.

This line segment was originally part of the Toledo and Maumee Narrow Gauge Railroad, which was organized on May 16, 1873, to build a line from Toledo to Grand Rapids, Ohio.

On May 23, 1879, The Toledo, Delphos and Burlington Railroad Company was organized by the consolidation of The Toledo, Delphos and Indianapolis Railway Company, The Toledo and Maumee Narrow Gauge Railroad, The Delphos and Kokomo Railway Company of Ohio, and The Delphos, Bluffton and Frankfort Railway Company of Indiana.

The Toledo, Cincinnati and St. Louis Railroad Company was organized in the State of Indiana in 1881 to construct an extension of The Toledo, Delphos and Burlington Railroad Company from the state line at Ohio to a point on the state line of Illinois. In October 1881, the Indiana and Illinois corporations were consolidated.

In August 1883, The Toledo, Cincinnati and St. Louis Railroad Company went into receivership. On June 28, 1884, the four divisions of the railroad were sold under their separate mortgages.

The line from Toledo to East St. Louis comprised of The Toledo, Delphos and Burlington and the original Toledo, Cincinnati and St. Louis was sold on December 30, 1885 as three separate companies by each state, The Toledo, Dupont and Western Railway in Ohio, The Bluffton, Kokomo and Southwestern in Indiana, and The Toledo, Charleston and St. Louis in Illinois. On June 12, 1886, these companies consolidated under the name of The Toledo, St. Louis and Kansas City Railroad, otherwise known as The Cloverleaf Route.

The Toledo, St. Louis and Kansas City Railroad went in and out of receivership and foreclosure several times until sold on March 27, 1900. When incorporated on June 9, 1900, the line became known as The Toledo, St. Louis and Western Railroad Company.

On June 18, 1923, the ICC approved the merger of The New York, Chicago and St. Louis Railroad Company, The Chicago and State Line Railroad Company, The Ft. Wayne, Cincinnati and Louisville Railroad Company, The Lake Erie and Western Railroad Company, and The Toledo, St. Louis and Western Railroad Company into the New York, Chicago and St. Louis Railroad Company, otherwise known as The Nickel Plate.

On October 16, 1964, the New York, Chicago and St. Louis Railroad Company was merged into The Norfolk and Western Railway Company.

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.

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 Norfolk Southern Railway Company, effective September 1, 1998.

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"); 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*, and the transaction was closed and became effective June 1, 1999.

Lucas County was formed on June 20, 1835 and was named after Robert Lucas, who was the Governor of Ohio at that time.

The City of Toledo was founded in 1833 when the towns of Lawrence and Vistula joined on the site of a former stockade called Fort Industry.

Several books have been written about the history of Lucas County, Ohio, and are available in the Lucas County Library, *Natural History of Lucas County*, by Louis Walter Campbell, published in 1961; and *History of Toledo and Lucas County, Ohio*, by Clark Waggoner, originally published in 1888.

The change contemplated in the operation of the subject railroad line is for Norfolk Southern Railway Company to abandon and 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 no revenue or potential revenue from

railroad traffic on the line or other income sufficient to cover the costs of ownership, maintenance and operation of the property.

**(6) 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.

**(7) 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 meet the criteria for listing in the National Register of Historic Places. The structures are bridges which are ordinary in design and construction. There is nothing that distinguishes the bridges from others in the region.

During the 1989 discontinuance proceeding for this line segment, the Ohio Historical Society stated that the bridge located at milepost TW 0.62 had been determined eligible for the National Register of Historic Places and that the bridges located at mileposts TW 0.54 and TW 0.99 appear to be significant and may be eligible for listing in the National Register of Historic Places.

There is no reason to believe that there is any likelihood of finding archaeological resources or historic properties on the line proposed for abandonment.

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

– 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

START PROJECT (TW 0.00)



END PROJECT (TW 2.82)

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- National Register Luozs
- Archeology Luozs
- Buildings Luozs
- Determinations of Eligible
- Utilities Luozs
- Roads Luozs
- Rail Features Luozs
- Hydrography Luozs
- Hydrography(py) Luozs
- Luozs County
- NR Districts of Luozs
- Toledo, OH Quad
- Resseford, OH Quad