



EI-3267<sup>12</sup>

November 19, 2007

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
395 E Street, S.W.  
Washington, DC 20423-0001

RE: Norfolk Southern Railway Company Abandonment in Marion, Grant  
County, Indiana, STB Docket No. AB-290(Sub-No. 291X)

Dear Mr. Williams:

This request is filed on behalf of the City of Marion, Indiana, which is a municipal corporation, and Greenways Foundation, Inc., which is a non-profit conservation group, both of which are hereinafter referred to as the "proponents". While not taking a position on the merits of this abandonment, the proponents request issuance of a Public Use Condition, as well as a Certificate of Notice of Interim Trail Use rather than an outright abandonment authorization between Milepost TS 153.35 to Mile Post TS 157.01.

A. Public Use Condition.

Proponents request the STB to find that this property is suitable for public use, specifically trail use, and to place the following conditions on the abandonment:

1. An order prohibiting the carrier from disposing of the corridor, other than the tracks, ties and signal equipment, except of public use on reasonable terms. The justification for this condition is that the corridor is located within the City of Marion, crosses an existing trailway (Cardinal Greenway) and passes through an area where there currently exists a waterpark recreational facility operated by the public park system of the City of Marion. The city has plans to expand the area where the waterpark is currently located along the existing corridor. The corridor would make an excellent recreational trail and conversion of the property to trail use will be a tremendous benefit to the citizens of the City of Marion. The time period sought is 180 days from the effective date of the

abandonment authorization. Proponents need this much time because they have not had an opportunity to review title information, or to commence negotiations with the carrier.

2. An order barring removal or destruction of potential trail-related structures such as bridges, trestles, culverts and tunnels. The justification for this condition is that these structures have considerable value for recreational trail purposes. The time period requested is 180 days from the effective date of the abandonment authorization for the same reason as indicated above.

#### B. Interim Trail Use.

The railroad right-of-way in this proceeding is suitable for railbanking. In addition to the public use conditions sought above, Proponents also make the following request:

#### STATE OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY

In order to establish interim trail use and rail banking under section 8(d) of the National Trails Systems Act, 16 U.S.C. § 1247(d), and 49 C.F.R. § 1152.29, City of Marion and Greenways Foundation, Inc. are willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by Norfolk Southern Railway Company and operated by Norfolk Southern Railway Company and/or Norfolk Southern Corporation.

The property known as the Norfolk Southern Railway extends from railroad milepost TS 153.35 to milepost TS 157.01 a distance of 3.66 miles in Grant County, Indiana. The right-of-way is part of a line of railroad proposed for abandonment in STB Docket No. AB-290(Sub-No. 291X).

Maps depicting the right-of-way are attached.

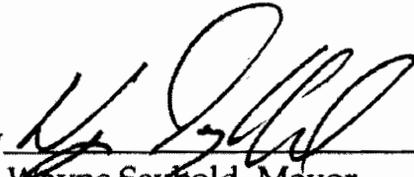
The City of Marion and Greenways Foundation, Inc. acknowledge that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

By signature below, we certify of service upon Norfolk Southern Corporation, d/b/a Norfolk Southern Railway Company, c/o Marcellus C. Kirchner, Three Commercial Place, Norfolk, Virginia 23510-2129, by U.S. Mail, postage prepaid, first class, this 21st day of November, 2007.

Respectfully submitted,

CITY OF MARION

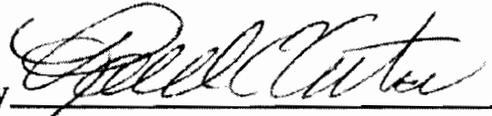
By



Wayne Seybold, Mayor  
301 South Branson Street  
Marion, Indiana 46952

THE GREENWAYS FOUNDATION

By



Ronald E. Carter, Executive Director  
P.O. Box 80091  
Indianapolis, Indiana 46280-0091

**PROPOSED  
RECREATION  
EXPANSION**

This is an aerial photograph of a residential area with a grid of streets. A central road runs vertically. A trailhead is marked with a white circle at the intersection of this road and a diagonal road. Three areas are highlighted with a stippled texture: a large area to the left of the trailhead labeled 'CURRENT RECREATION (WATERPARK)', a large area above the trailhead labeled 'PROPOSED RECREATION EXPANSION', and a smaller area below the trailhead labeled 'PROPOSED RECREATION'. A road curves from the bottom left towards the trailhead.

**TRAILHEAD**

**CURRENT  
RECREATION  
(WATERPARK)**

**PROPOSED  
RECREATION**



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

*Copy*

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

October 1, 2007

Mr. Wayne Seybold, Mayor  
City of Marion  
301 S. Branson Street  
Marion, IN 46952

RE: Docket No AB-290 (Sub-No. 291X), Norfolk Southern Railway Company -  
Abandonment – in Marion, Grant County, Indiana

Dear Mayor Seybold:

Norfolk Southern Railway Company (NSR) served you with its Environmental Report concerning the proposed abandonment of a segment of rail line in Marion, Grant County, Indiana, on August 14, 2007.

A small section of track at the north end of the segment of line proposed for abandonment is used jointly by NSR's former Conrail Marion Branch which remains very much active. To avoid the confusion caused by this overlap of the two rail lines at this point, the limits of the subject abandonment will be reduced by a quarter of a mile such that they will now extend from Milepost TS 153.35 (rather than Milepost TS 153.10) to Milepost TS 157.01. This change eliminating the joint trackage from the abandonment project results in a reduction to 3.66 miles from the 3.91 miles included in the original Environmental Report.

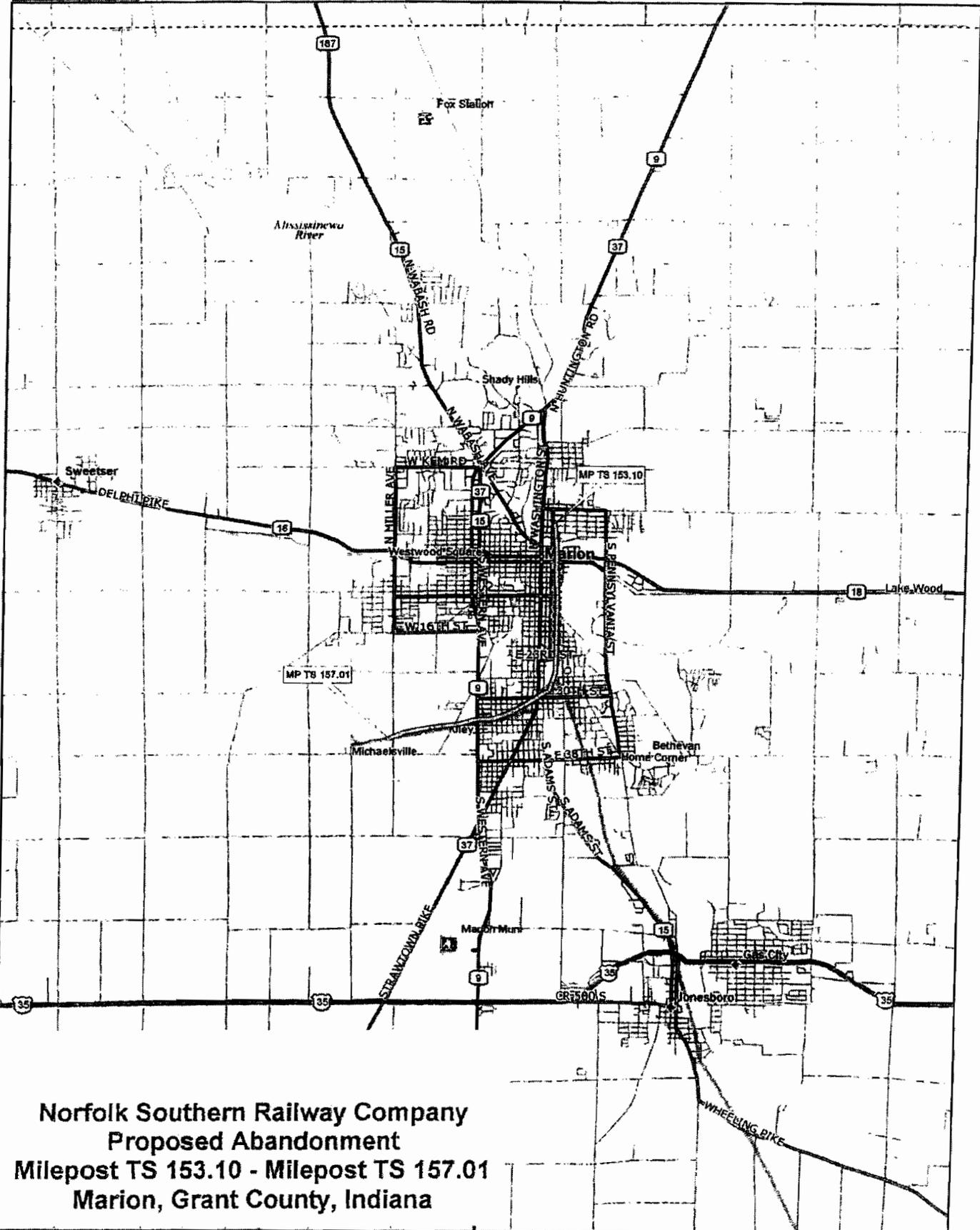
Also, NSR wishes to clarify the response in Section 49 CFR §1105.7(e)(3)(iv) of the Environmental Report to read: "NSR has not yet been able to verify that it has fee title to some parcels comprising the right of way underlying the line proposed for abandonment; therefore, NSR may not have a contiguous corridor available for public use."

If you have any comments or questions, please direct them to Kathy Headrick at [kathy.headrick@nscorp.com](mailto:kathy.headrick@nscorp.com) or mail to:

Kathy Headrick, Coordinator-Abandonments  
Strategic Planning – 12<sup>th</sup> Floor  
Norfolk Southern Corporation  
3 Commercial Place  
Norfolk, VA 23510

Very truly yours,

Marcellus C. Kirchner



**Norfolk Southern Railway Company  
 Proposed Abandonment  
 Milepost TS 153.10 - Milepost TS 157.01  
 Marion, Grant County, Indiana**

Data use subject to license