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

James R. Paschall
Senior General Attorney

Writer's Direct Dial Number

(757) 629-2759
fax (757) 533-4872



March 9, 2005

via fax 202-565-9000 and original via mail - 15 total pages

Ms. Victoria Rutson, Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

Re: STB Docket No. AB-290 (Sub-No. 248X), Norfolk Southern Railway Company – Abandonment Exemption – In Washington County, NC - Report on Environmental Consultations or Notification Conditions in STB Decision Served July 26, 2004

Dear Ms. Rutson:

In a decision served July 26, 2004 in the subject docket, the Board granted to Norfolk Southern Railway Company ("NSR") an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon a 7.3-mile line of railroad between Milepost NS-82.7 at Mackeys, NC and Milepost NS-90.0 at Plymouth, NC, in Washington County, NC (the "Line"), subject to environmental consultation or notice conditions and standard employee protective conditions. After a background statement, this letter reports on the notices and environmental consultations undertaken by NSR in accordance with the eight conditions in the Board's decision. This NSR action was completed after the early salvage of the track and material by a contractor of VEPCO, which purchased the Line from NSR. Through it, NSR has concluded that the salvage work was done satisfactorily and the environmental agencies had no objection to the work as performed. No agency requested additional mitigation measures.

The Board granted NSR's request for an exemption of the abandonment of the Plymouth-Mackeys, NC Line from the Offer of Financial Assistance provisions of 49 U.S.C. 10904 and the public use provisions of 49 U.S.C. 10905 because NSR had already transferred the right-of-way to Dominion Resources (also referred to as Dominion Virginia Power or VEPCO) for a valid public purpose. That purpose was to permit VEPCO to improve and more easily to access and maintain its electric power transmission facilities along the right-of-way, which VEPCO would maintain as a private

access gravel road. NSR stated that VEPCO's facilities were damaged by Hurricane Isabel and required substantial repair, rehabilitation, or upgrading before the next hurricane season. The sole shipper on the Line, at Mackeys, continues to have access to rail service from NSR at its facility at Plymouth and did not oppose the abandonment.

In a July 26, 2004 letter to the Board, with a copy to me, Mr. Patrick B. Simmons, Director, North Carolina Department of Transportation, Rail Division stated that the track had been removed from the Plymouth-Mackeys, NC Line, prior to the effective date of the STB abandonment exemption decision and posed questions about this situation. The e-mails appended to Mr. Simmons' letter stated that rail and track material, but not ballast, had been removed from the right-of-way. They also stated that this work had been done by VEPCO's contractor, not NSR. Nonetheless, NSR was the party responsible to the Board for compliance with any conditions concerning salvage of the Line connected to the abandonment. NSR's reply to Mr. Simmons, with a copy to the Board, stated our view that the principal problem was not that the salvage work was necessarily improper, but that NSR had not reported this early work to and co-ordinated it with the Board, especially with SEA. In accordance with the requests in your follow-up letter, we have attempted to rectify or mitigate this unintended mishandling.

In the petition for exemption, NSR stated that it had transferred the right-of-way to VEPCO and explained why it had done so. In NSR's reply letter to Mr. Simmons, NSR acknowledged not satisfactorily monitoring and reporting the work performed by VEPCO during the pendency of the STB abandonment proceeding with the result that any potential environmental conditions could not have been definitely taken into account. NSR may have been able to ask VEPCO to defer work for a brief additional period of time, or to perform early consultations with the agencies, or at least to timely advise the Board of VEPCO's actions so that these could be considered in the July 26, 2004 decision. Because VEPCO had purchased the track and material, NSR did not set the salvage work schedule. Since VEPCO had agreed to follow NSR specifications for track removal, and had agreed to maintain NSR's right-of-way easement until the proceeding was concluded, NSR assumed environmental conditions, precautions or consultations would be timely performed but had not considered how to assure this.

In connection with NSR's sale of the right-of-way, including the track and material, to VEPCO, NSR had retained an easement for the rail Line until the abandonment exemption would be consummated. NSR's intention was to preserve the Board's jurisdiction and to be able to restore service on the Line if NSR would be required to do so. Since the only shipper on the Line did not object to the abandonment and transfer of the property to VEPCO, NSR thought that restoration of service was quite unlikely. In most cases, track and material are not sold to a purchaser of an abandoned right-of-way but retained by NSR, which ultimately removes it. However, in

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this case, the track was sold (to be salvaged in connection with VEPCO's work in order to better accommodate that work), but NSR's reservations, and precautions, such as VEPCO's agreement to preserve the railroad easement and to work within NSR salvage specifications, did not properly anticipate the need to report on premature actions or to complete any environmental consultation conditions before the salvage of the track and material which was now under VEPCO's schedule.

NSR did not file the abandonment petition on or near its scheduled date. Filing on that date would have led to an earlier Board decision that fit better with VEPCO's tight schedule to use the right-of-way and to perform work on its system as conveniently and inexpensively as possible before the next hurricane season. The date was missed in large part because our consultant was revising our environmental report and making some effort to get written agency responses. We should have realized that we needed to co-ordinate internally and with VEPCO more closely and then timely report to and consult with the Board as required. Most of the subsequent consultation conditions apparently could have been omitted if we had obtained written or more specific oral responses from the environmental agencies earlier. Since we could not get the responses, and although we think the work performed and later consultations were completed satisfactorily, we realize that better and more timely handling of our initial and any needed follow-up environmental reports might have minimized the concerns and extra work caused by the earlier poor handling and inadequate communication.

NSR's further investigation and consultations have convinced us that confidence in VEPCO's compliance with all environmental conditions, standards or requirements in performing its work was justified. We believe that VEPCO's contractor's work was performed in accordance with our salvage standards and did not result in any adverse environmental consequences. We think that the omission of advance consultations with any agencies that VEPCO did not feel the need to contact did not result in the failure to take any necessary actions or precautions in the performance of the work. None of these omissions has resulted in the need for additional mitigation measures.

With that explanation as background, the rest of this letter reports the results of NSR's actions, notices and agency consultations in accordance with the conditions in the July 26, 2004 decision. We have found no adverse environmental consequences caused by VEPCO's contractor's salvage of the track and material on the Line. No agency has requested subsequent or additional mitigation measures. The agencies have expressed satisfaction with, or have not objected to, the salvage work and have been satisfied with the subsequent NSR explanation of the situation and consultations.

NSR's System Engineer Design and Construction, Mr. Richard P. Dietz, inspected the Line soon after the Board's decision was served and NSR received a

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follow-up letter from you. Mr. Dietz observed that VEPCO's contractor had removed the track and ties, but not the ballast, from the right-of-way and had not disturbed the grading or other features of the flat terrain in the surrounding area. Mr. Dietz verified that VEPCO has preserved the single structure, an 8-foot long trestle, on the Line as part of its access road. The absence of bridges or structures along the Line is a good indication that the right-of-way is located in a less environmentally sensitive area than might be found in other parts of eastern North Carolina. Mr. Dietz concluded that VEPCO's contractor had performed the work according to NSR standards for track removal, as previously provided to VEPCO.

Mr. Dietz diligently worked on the consultations and the determinations that the salvage work had been done properly and no mitigation measures were required after receipt of the Board's decision and your subsequent letter. In all of his conversations with agency officials, Mr. Dietz assured them that he had personally inspected VEPCO's entire project and was satisfied that the track and tie removal had complied with Norfolk Southern specifications that are designed to prevent environmental contamination or damage. While Mr. Dietz completed most of this work promptly after the service date of the Board's order and your subsequent letter, he was delayed in finishing the project completely because he was waiting for written responses from some agencies and mainly because he could not reach a person who could handle the matter at two of the agencies. He was not responsible for deciding whether to make an interim report to the Board. We decided to try to complete all consultations before reporting, but it now seems that a more timely interim report would have been a better choice. Upon request, Mr. Dietz last week made an oral report to a SEA staff member and sought advice on completion of the consultations.

Mr. Dietz was assisted in his recent efforts by Mr. Troy Brady of SEA, who helped identify the agency contact persons for the remaining consultations. Mr. Dietz was able to make those last two contacts and thus obtain at least oral responses from all the agencies. Shown below are the conditions imposed by the Board in its July 26, 2004 decision followed by a report of Mr. Dietz's actions or consultations with respect to each. The report shows that Mr. Dietz inspected the work personally, advised all agencies of the work and gave those agencies an opportunity to consult further on any possible adverse consequences or needed mitigation measures. The results of Mr. Dietz's inspection and discussions are his conclusions that no adverse environmental consequences appear to have resulted from the salvage of the Line and that no mitigation measures were needed as a result of the salvage work.

(1) Consult with NGS prior to undertaking salvage operations; if salvage operations are expected to destroy or disturb any geodetic station markers, NSR shall notify NGS not less than 90 days prior to commencement of such operations.

Mr. Dietz e-mailed a letter to National Geodetic Survey liaison for North Carolina, Gary Thompson, on August 30, 2004. Mr. Dietz advised of the location of the track generally and with reference to USGS Quad maps. He also reviewed the NGS website data control sheets to determine the location of NGS markers in the area. None of markers listed on either USGS quad map covering the location of the Line were found on the right-of-way of the subject trackage. Any markers in the area that refer to a location along the railroad were on a portion of the Line at Mackeys that was abandoned previously. NGS did not respond to Mr. Dietz's e-mail. In a letter dated and received by fax on July 29, 2004, VEPCO advised NSR that its contractor did not disturb any NGS markers during its salvage work. NSR provided a copy of this letter to the Board earlier and attaches another copy to this letter. Since none of the markers close to the Line are on the right-of-way and public utilities such as VEPCO are among the primary remaining users of these markers, which have been largely superseded by global positioning technology, NSR finds additional assurance in VEPCO's statement.

(2) Be prohibited from salvaging or disposing of the right-of-way until consultation with U.S. EPA has been completed.

Mr. Dietz conversed with Mr. Heinz Mueller of EPA Region 4 in Atlanta at 2:00 p.m. on Thursday, October 7, 2004. Mr. Dietz described the abandonment and circumstances and the need for consultation after the salvage work had been done. Mr. Mueller suggested Mr. Dietz send a letter describing the location and work, but said he did not see any problem with the salvage work already completed. Mr. Dietz advised Mr. Mueller of his own on-site inspection of the work and of the NSR specifications for track removal that were provided to VEPCO. Mr. Mueller said he would respond in 30 days. Mr. Dietz mailed the follow-up letter to Mr. Mueller the same day.

(3) Be prohibited from salvaging or disposing of the right-of-way until consultation with ACOE has been completed.

Mr. Dietz conversed with Mr. David Franklin of the Regulatory Department of the Army Corp of Engineers in Wilmington, NC at 9:30 a.m. on September 23, 2004. He described the location, salvage activities and circumstances. Mr. Franklin advised Mr. Dietz that the ACOE's main concerns in such cases are changing the footprint of the right-of-way in any wetlands, alteration of any drainage systems in a floodplain, or work within a navigable waterway. Mr. Franklin suggested that Mr. Dietz forward a USGS map depicting the railroad location and he would provide further advice in response. Mr. Franklin also offered the observation that he did not think there would be any concerns regarding the removal of the track and materials based on Mr. Dietz's descriptions. Mr. Dietz's letter to the ACOE was mailed on September 23, 2004. As we have indicated previously, there is only one small trestle along this right-of-way and it

has been retained by VEPCO. Thus, we think it reasonable to conclude that ACOE was unlikely to be concerned with the salvage work performed along this Line.

(4) Be prohibited from salvaging or disposing of the right-of-way until consultation with NRCS has been completed.

Mr. Dietz conversed with Mr. Rufus Croom of the Washington County offices of the USDA-NRCS in Plymouth, NC on September 23, 2004. Mr. Dietz described the work performed in removal of the track. Mr. Croom noted to Mr. Dietz that he was aware of the project and advised that he did not have any problems with the work that was performed. Mr. Dietz reports that Mr. Croom commented on the fine job that was done by the contractor on the salvage project.

(5) Be prohibited from salvaging or disposing of the right-of-way until consultation with NC-WRC has been completed.

Mr. Dietz spoke with Mr. Travis Williams of the North Carolina Wildlife Commission on the morning of March 1, 2005. Mr. Dietz advised Mr. Williams of the circumstances and conditions of the abandonment and subsequent salvage work. Mr. Williams said his main concerns were stream work, culvert and bridge removal. Mr. Dietz advised Mr. Williams that no such work had taken place and that the right-of-way remained intact as maintenance roadway for Dominion Virginia Power (VEPCO). Under those circumstances, Mr. Williams stated that he did not foresee any problems and would respond in writing to Mr. Dietz.

(6) Be prohibited from salvaging or disposing of the right-of-way until consultation with U.S. Fish and Wildlife Service has been completed.

Mr. Dietz had a telephone conversation on September 23, 2004 at 10:15 a.m. with Mr. Peter Benjamin of the USFWS Regional office located in Raleigh, NC. They discussed the foregoing item from the Board's decision and additional detail in the body of the decision concerning possible impact to three species listed on the USFWS website. Mr. Dietz described the salvage activities that had taken place and the overall status and circumstances of the project. Mr. Benjamin advised that from the information supplied, he thought the salvage work would not have had any adverse impact on the three species.

(7) Be prohibited from salvaging or disposing of the right-of-way until consultation with NC-DENR has been completed.

Mr. Dietz spoke with Ms. Sue Regier of NC DENR - Parks and Recreation on the

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afternoon of March 1, 2005. Mr. Dietz described the circumstances and conditions of the salvage in the same way as he had to Mr. Williams. Ms. Regier expressed no complaints with the activities undertaken by VEPCO's contractor. She told Mr. Dietz that she would so respond to his letter in writing.

(8) Be prohibited from salvaging or disposing of the right-of-way until consultation with Washington County, NC, has been completed.

Mr. Dietz contacted a Washington County official. The official commented that the County's main concern was with road restoration and suggested Mr. Dietz contact the North Carolina Department of Transportation. Mr. Dietz discussed the salvage and road crossing restoration with Mr. John Abel of the NC DOT, Plymouth District, Division 1, District 3 on October 20, 2004. Mr. Dietz said that Mr. Abel told him there were no complaints with road restoration on all road crossings on the Line segment within the county on which the salvage work was undertaken. VEPCO's contractor addressed the major concern of removal of all ties in primary roads. NC DOT permitted the contractor to leave cross-ties in secondary roads. The contractor graded restored road crossings to remove humps and removed all signs from them. NC DOT supplied the asphalt and the contractor completed the road crossing restoration work.

As indicated above, Mr. Dietz received oral responses with respect to all eight agency consultation conditions in the Board's July 26, 2004 decision, but has received no written responses from the agencies, although he sent some follow-up letters requesting such responses when he was asked to do so. Mr. Brady suggested to Mr. Dietz that NSR file a written report on the environmental consultations and the results of those consultations at this time. While a few of the agencies recently have said they would provide further written responses, Mr. Brady suggested that a written report that detailed the oral responses NSR has received sent from NSR to the Board through SEA is appropriate and may suffice. Since it seems quite unlikely that any written responses from the agencies will vary from the oral responses already given to Mr. Dietz and the date of possible receipt of further responses is probably unpredictable, we also think it is appropriate for NSR to make this written report to the Board without waiting for further written confirmations from the agencies consulted.

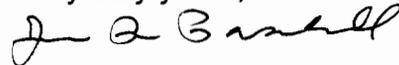
In addition to the above report, I enclose the following copies of relevant letters and a photo: letter of February 5, 2004 from Phyllis Rubinstein to NSR's Jerry Causey stating that a Phase I Environmental Report for various fee properties on the Line found no actionable Environmental Contamination; letter of July 29, 2004 from Donald W. Hoover of Dominion Virginia Power to NSR's John T. Moon, II stating that the salvage had taken place with a minimum of excavation activity, the trestle was not removed, and no USGS markers were removed; a photo of the trestle at Milepost 87.30; the

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September 23, 2004 letter of Mr. Dietz to the Army Corps of Engineers; the October 7, 2004 letter of Mr. Dietz to the U. S. Environmental Protection Agency; and the March 1, 2005 letter of Mr. Dietz to the North Carolina DENR Parks and Recreation Division.

I trust that this report will assure the Board that NSR has fulfilled the environmental consultations in the decision served July 26, 2004, even though after the fact; that the salvage work undertaken by VEPCO's contractor did not result in any apparent adverse environmental consequences; that the consulted agencies were satisfied with the work done by the VEPCO contractor or at least by NSR's personal inspection, description and report on that work; that the agencies do not require any further mitigation measures as a result of the salvage work; and, that these further actions by NSR have mitigated and rectified the earlier mishandling of the matter. If anything else is required from NSR in connection with this matter, however, please let us know.

Very truly yours,



James R. Paschall

Enclosures - 7 additional pages

cc w/ encl:
Honorable Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

cc via e-mail w/ encl:
Mr. Troy Brady
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

Phyllis M. Rubinstein
Direct Dial: 804.775.3814
Facsimile: 804.775.3800
E-Mail: prubinstein@lawmh.com



Richmond, Virginia
Arlington, Virginia
Guangzhou, China

McCandlish Holton
A PROFESSIONAL CORPORATION

February 5, 2004

Jerry L. Causey, Esquire
General Attorney-Real Estate
Norfolk Southern Corporation
One Georgia Center, Suite 1702
600 W. Peachtree Street, NW
Atlanta, Georgia 30308-3603

***Phase I Environmental Site Assessment of Fee Property
between Edenton and Plymouth, North Carolina***

Dear Jerry:

Reference is made to that certain Contract of Purchase and Sale dated December 17, 2003 between Norfolk Southern Corporation and Virginia Electric and Power Company. In connection with paragraph 10(b) of the Contract, Dominion Virginia Power has had a Phase I Environmental Assessment performed by Groundwater and Environmental Services, Inc. (GES) for the various fee properties located between Edenton and Plymouth, North Carolina. The Phase I reports no Actionable Environmental Contamination as defined in the Contract. Although Dominion Virginia Power is able to provide you with a copy of the Phase I Environmental Report, you have indicated that that is not necessary at this time.

If you have any questions in connection with this matter, please do not hesitate to call me.

Sincerely yours,

Phyllis M. Rubinstein

cc: Thomas W. Ambler, Esquire
Sarah B. Corey
Donald W. Hoover
Jimmy Hughes

396535v1

Dominion Virginia Power
120 Tiedegar Street, Richmond, VA 23219
Mailing Address: P.O. Box 26532
Richmond, VA 23261



July 29, 2004

Norfolk Southern
Three Commercial Place
Norfolk, Virginia 23510
Attention: Mr. John T. Moon, II

**Re: Track Removal in Washington County, North Carolina
Existing Electric Transmission Line Corridor**

Dear John,

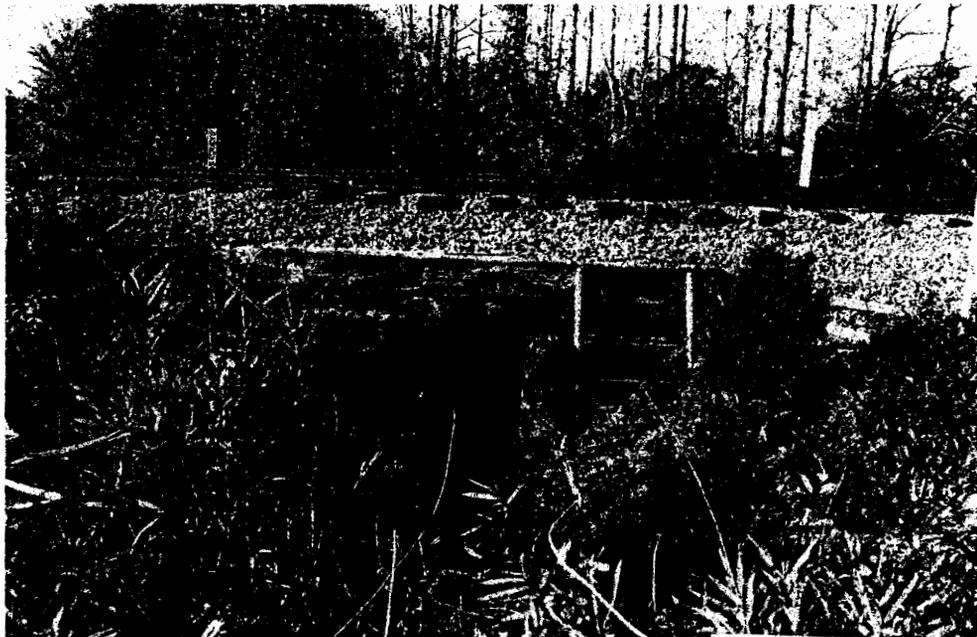
Dominion Virginia Power employed a contractor to remove the Norfolk Southern railroad tracks and ties from the Albemarle Sound to MilePost 90 near Plymouth, NC in February of this year. During removal, the tracks and railroad ties were removed with minimum excavation activity. The trestle that you inquired about was not removed during this activity. Also, the USGS markers were not removed or disturbed by our contractor according to our field construction supervisor.

Please let me know if I can be of any further assistance.

Sincerely,

Donald W. Hoover
Coordinator Right-of-Way
Electric Transmission

C: Jimi Duke – Project Manager



BRIDGE # NS 87.30



Norfolk Southern Corporation
Design & Construction
175 Spring Street, S.W.
Box 142
Atlanta, Georgia 30303

September 23, 2004

David Franklin
U.S. Army Corps of Engineers
PO Box 18990
Wilmington, NC 28402

Re: Mackeys to Plymouth, NC – Rail line abandonment

Dear Mr. Franklin

In reference to our telephone conversation today, Norfolk Southern received STB authority (Docket No. AB 290(248X)) to abandon its line of railroad located between the cities of Mackeys and Plymouth, North Carolina, the railroad mileposts being NS 82.7 to NS 90. As a condition of this authority, Norfolk Southern is required to contact the Army Corps of Engineers regarding any impacts that railroad salvage activities might have on the surrounding areas under the ACOE jurisdiction.

As described in our conversation, Norfolk Southern's specifications for removing track require the contractor to maintain all existing drainage conditions and to repair any systems back to their original conditions after salvage is completed. In addition, the right of way is to be backgraded to a level surface after the track has been removed. On this segment of track, the right of way has been left intact as it has become a maintenance roadway for VEPCO for their electric transmission line. Attached for your use in determining if any concerns are to be addressed are two USGS maps indicating the portion of the rail line to be abandoned, and the page of the STB decision relating to the ACOE.

Sincerely


R P Dietz



Norfolk Southern Corporation
Design & Construction
175 Spring Street, S.W.
Box 142
Atlanta, Georgia 30303

October 7, 2004

Mr. Hines Mueller
Environmental Protection Agency
Atlanta Federal Center
61 Forsyth Street, SW – 13th Floor
Atlanta, GA 30303

Re: Mackeys to Plymouth, NC – Rail line abandonment

Dear Mr. Mueller

In reference to our telephone conversation today, Norfolk Southern received STB authority (Docket No. AB 290(248X)) to abandon its line of railroad located between the cities of Mackeys and Plymouth, North Carolina, the railroad mileposts being NS 82.7 to NS 90.0.

As noted in our conversation, Norfolk Southern had sold the underlying property and the new owner, Virginia Electric Power Company (VEPCO) removed the track in order to restore a transmission line damaged during last year's hurricanes. However, this work was completed before the STB rendered its decision on the abandonment authority. As a condition of this authority Norfolk Southern was required to consult with the EPA regarding any impacts that railroad salvage activities might have on the surrounding area.

Our specifications for removing track require the contractor to maintain the right of way and existing drainage systems as found and to repair any systems back to their original conditions after salvage is completed. In addition, the right of way is to be backgraded to a level surface after the track has been removed. I have inspected this abandonment after the work had been completed and the contractor complied with these requirements.

On this segment of track, the right of way has been left intact as it has become a maintenance roadway for VEPCO for their electric transmission line. Please advise if any concerns need to be addressed from this project. Attached is a location map indicating the portion of the rail line that was abandoned.

Sincerely

A handwritten signature in black ink, appearing to read 'R P Dietz', written over the typed name.

R P Dietz



Norfolk Southern Corporation
Design & Construction
175 Spring Street, S.W.
Box 142
Atlanta, Georgia 30303

March 1, 2005

Ms. Sue Regier
NC- DENR Parks and Recreation
Mail Service Center 1615
Raleigh, NC 27699-1615

Re: Mackeys to Plymouth, NC – Norfolk Southern - Rail line abandonment

Dear Ms. Regier

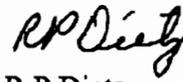
In reference to our telephone conversation today, Norfolk Southern received STB authority (Docket No. AB 290(248X)) to abandon its line of railroad located between the cities of Mackeys and Plymouth, North Carolina, the railroad mileposts being NS 82.7 to NS 90.0.

As noted in our conversation, Norfolk Southern had sold the underlying property and the new owner, Dominion Virginia Power removed the track in order to restore a transmission line damaged during the 2003 hurricanes. However, this work was completed before the STB rendered its decision on the abandonment authority. As a condition of this authority Norfolk Southern was required to consult with the North Carolina Department of Environment and Natural Resources, Division of Parks and Recreation regarding any impacts that railroad salvage activities might have on certain species in the surrounding area. Included is a page from the STB decision indicating the species of concern.

Our specifications for removing track require the contractor to maintain the right of way and existing drainage systems as found and to repair any systems back to their original conditions after salvage is completed. As mentioned, no streamwork, culvert, bridgework or vegetation clearing was performed during the salvage activities along this right of way. In addition, the right of way was to be backgraded to a level surface after the track has been removed. I have inspected this abandonment after the work had been completed and the contractor complied with these requirements. The right of way has been left intact as it has become a maintenance roadway for VEPCO for their electric transmission line.

Please advise if any additional concerns need to be addressed from this project. Attached is a location map indicating the portion of the rail line that was abandoned.

Sincerely



R P Dietz