

#EO-398
Daw

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

OFFICE OF ECONOMICS, ENVIRONMENTAL ANALYSIS, AND ADMINISTRATION

January 26, 2007

Ms. Katry Harris
Historic Preservation Specialist
Office of Federal Agency Programs
Advisory Council on Historic Preservation
1100 Pennsylvania Avenue, NW, Suite 809
Washington, DC 20004

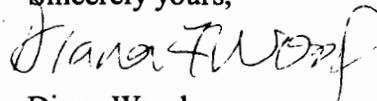
Re: STB Docket No. AB-290 (Sub-No. 267X) – Norfolk Southern Railway
Company – Abandonment Exemption between Blue Creek and Acup
(Sanderson) - in Kanawha County, West Virginia

Dear Ms. Harris:

The Section of Environmental Analysis (SEA) is the office within the Surface Transportation Board responsible for conducting the environmental review process pursuant to the National Environmental Policy Act, including the National Historic Preservation Act (NHPA). By letter dated December 7, 2006 (copy enclosed), SEA notified the Council of the finding of adverse effect to historic properties for the above referenced proceeding and provided the Council with required documentation.

Pursuant to 36 CFR 800.6(b)(1)(iv) of the regulations implementing Section 106 of the NHPA, please find enclosed a copy of the Memorandum of Agreement (MOA) which resulted from the Section 106 consultation process for the above referenced proceeding. The MOA will assist the Norfolk Southern Railway Company in avoiding or mitigating any adverse effects resulting from the proposed abandonment. The filing of this MOA with the Council completes our compliance responsibilities under Section 106 of NHPA.

Sincerely yours,



Diana Wood

Section of Environmental Analysis

cc: James R. Paschall, NSR
Susan M. Pierce, West Virginia Division of Culture and History

Enclosures



Preserving America's Heritage

January 9, 2007

Ms. Victoria Rutson
Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423

Re: *Norfolk Southern Railway – Abandonment Exemption
Kanawha County, West Virginia
STB Docket No. AB-290 (Sub-No. 267X)
ACHP Ref.: 5786*

Dear Ms. Rutson:

The Advisory Council on Historic Preservation (ACHP) recently received your notification and supporting documentation regarding the adverse effects of the referenced undertaking on properties eligible for inclusion in the National Register of Historic Places. Based upon the information you provided, we have concluded that Appendix A, *Criteria for Council Involvement in Reviewing Individual Section 106 Cases*, of our regulations, "Protection of Historic Properties" (36 CFR Part 800), does not apply to this undertaking. Accordingly, we do not believe that our participation in the consultation to resolve adverse effects is warranted. However, should circumstances change and you or other consulting parties determine that our participation is required, please notify us.

Pursuant to 36 CFR §800.6(b)(1)(iv), you will need to file the final Memorandum of Agreement (MOA), developed in consultation with the West Virginia State Historic Preservation Office (SHPO) and other consulting parties, and related documentation at the conclusion of the consultation process. The filing of this MOA with the ACHP and fulfillment of its stipulations are required to complete your compliance responsibilities under Section 106 of the National Historic Preservation Act.

Thank you for providing us with your notification of adverse effect. If you have any questions or require further assistance, please contact me at (202) 606-8520 or kharris@achp.gov.

Sincerely,

Katry Harris
Historic Preservation Specialist
Office of Federal Agency Programs

ADVISORY COUNCIL ON HISTORIC PRESERVATION

1100 Pennsylvania Avenue NW, Suite 809 • Washington, DC 20004
Phone: 202-606-8503 • Fax: 202-606-8647 • achp@achp.gov • www.achp.gov



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

December 7, 2006

Katry Harris
Advisory Council on Historic Preservation
Office of Federal Agency Programs
1100 Pennsylvania Avenue, NW, Suite 803
Washington, DC 20004

Re: STB Docket No. AB-290 (Sub-No. 267X), Norfolk Southern Railway
Company – Abandonment Exemption – in Kanawha County, WV;
Notification of Adverse effect

Dear Ms. Harris:

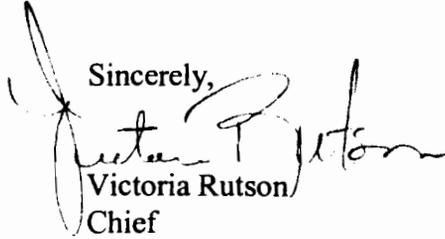
The Surface Transportation Board's (Board) Section of Environmental Analysis (SEA) is conducting an environmental review for the above referenced abandonment proceeding pursuant to the National Environmental Policy Act and Section 106 of the National Historic Preservation Act. SEA has been consulting with the West Virginia Division of Culture and History (State Historic Preservation Office or SHPO) and Norfolk Southern Railway (the Applicant) regarding this proceeding and has determined that the proposed 12.22 mile abandonment will have an adverse effect on the rail line, which is considered eligible for listing in the National Register of Historic Places.

This adverse effect finding was suggested in the letter (copy enclosed) from Mr. Randall Reid-Smith, Commissioner of the West Virginia Archives and History Commission, dated April 18, 2006, and confirmed by Ms. Shirley Stewart-Burns, Historian for the SHPO, in a subsequent phone conversation on September 8, 2006. To date, the Applicant has submitted 16 State Historic Inventory forms to the SHPO and drafted a Memorandum of Agreement (MOA), which, among other things, requires the railroad to document bridges and trestles slated for demolition, tunnels for closure, and exterior facades. In addition, the Applicant must write a brief history of the line, provide track charts and locations of historic images, and determine a method for resolving disputes.

SEA will be working with the SHPO, the Applicant, and other concerned or affected parties to complete the Section 106 process. Pursuant to 36 CFR 800.6(b), SEA intends to work with appropriate consulting parties regarding the review of the MOA and to stipulate the resolution of adverse effects to historic properties. We do not seek your participation at this time.

The following documents are enclosed for your review pursuant to 36 CFR 800.11(e): 1) the Applicant's notice of exemption that describes the proposed action and contains information about the rail line; 2) the environmental and historic reports submitted by the railroad; 3) the environmental assessment prepared by SEA; 4) a copy of the consultation letter from Commissioner Reid-Smith to the Applicant; and 5) photographs of the line.

Please notify us within 15 days of this letter if you would like to participate in the resolution of adverse effects to historic properties for this project. If you have any questions or require additional information regarding this proceeding, please do not hesitate to call me or Diana Wood of my staff at (202) 565-1552.

Sincerely,

Victoria Rutson
Chief

Section of Environmental Analysis

Enclosures (5)

cc (w/out enclosures): Ms. Shirley Stewart-Burns, West Virginia SHPO
Mr. James R. Paschall, Norfolk Southern Railway

**MEMORANDUM OF AGREEMENT
SUBMITTED TO THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
PURSUANT TO 36 CFR 800**

Whereas, the Surface Transportation Board (“STB”), a federal agency, has determined that the abandonment of the Norfolk Southern Railway Company (“NSR”) line of railroad between milepost TP 14.69 at Blue Creek and milepost TP 26.91 at Acup (Sanderson), WV in Kanawha County, WV (“Blue Creek Rail Line”) pursuant to a notice of exemption filed by NSR in STB Docket No. AB-290 (Sub-No. 267X) will have an adverse effect upon that rail line, which is considered eligible to be listed in the National Register of Historic Places, and has consulted with the West Virginia State Historic Preservation Officer (“WVSHPO”) pursuant to 36 CFR 800, regulations implementing Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470f); and

Whereas, Norfolk Southern Railway Company has participated in the consultation regarding this project,

Now, therefore, the STB and the WVSHPO agree that the undertaking will be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The STB will insure that the following measures are carried out regarding the demolition of existing bridges or trestles or closure of existing open tunnels on the Blue Creek Rail Line.

1. Prior to demolition of bridges or trestles or closure of tunnels on the Blue Creek Line, the STB shall ensure that such structures are documented under the supervision of the WVSHPO and according to the following standards. The WV State Historic Inventory Form will be completed for each such bridge, trestle or tunnel with any available additional information prepared in outline form to be attached to the Form. All documentation must be approved by the WV SHPO prior to the initiation of demolition of such existing bridges or trestles or closure of such tunnels.

2. A series of black and white photographs will be taken of the exterior facades of the bridges, trestles or tunnels. The use of a 35mm camera is acceptable. Negatives will be included in the documentation package. Any historic image available to NSR will be reproduced for inclusion or referenced by source.

3. A brief history of the Blue Creek Rail Line will be written. This will include construction dates for the line and structures along the line, the corporate succession of the railroad that built the rail line through its current operator and any available

information regarding the use and alterations of the Blue Creek Rail Line or its relationship to surrounding historic properties, if any.

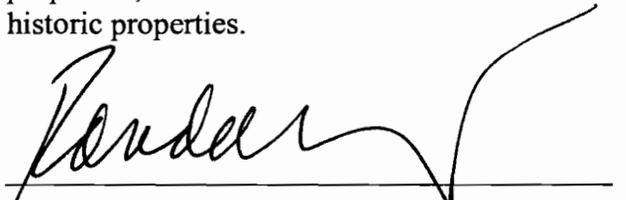
4. Any bridges, trestles or tunnels on the Blue Creek Rail Line that were not built according to standard plans, if any, shall be identified and any available plans and drawings for those structures shall be incorporated.

5. A copy of a track chart of the Blue Creek Rail Line shall be incorporated.

6. Sources of information will be documented, including locations of historic images. The author of the documentation shall be identified.

7. Should the SHPO object in writing to the sufficiency of the documents submitted under this MOA, the STB will consult with the SHPO to resolve the dispute. If the STB determines that the objection cannot be resolved, the STB will seek the recommendations of the Advisory Council with reference only to the subject of the dispute; all other stipulations shall remain in full effect.

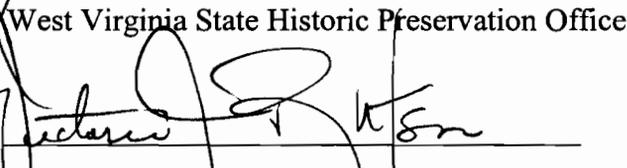
Execution of this Memorandum of Agreement evidences that the STB has afforded the Advisory Council an opportunity to comment on the project and its effects on historic properties, and that the STB has taken into account the effects of the undertaking on historic properties.



West Virginia State Historic Preservation Office

30 August 2006

Date



For the Surface Transportation Board
Federal Agency Sponsor

Jan. 26, 2007

Date

Concur:



James R. Paschall, Senior General Attorney
For Norfolk Southern Railway Company
Consulting Party

July 19, 2006

Date