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NORFOLK SOUTHERN CORPORATION
THREE COMMERCIAL PLACE
NORFOLK, VA 23510



James R. Paschall
General Attorney

Direct Dial Number
(757) 629-2759
fax (757) 533-4872

October 27, 2004

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

Re: STB Docket No. AB-290 (Sub-No. 256X), Norfolk Southern Railway Company - Abandonment Exemption - Borough Of Downingtown, In Chester County, Pennsylvania - Notice of Exemption

Dear Mr. Williams:

Enclosed for filing with the Board in the subject docket is an original and ten copies of Norfolk Southern Railway Company's Notice of Exemption in the subject proceeding. Also, enclosed is a check in the amount of \$2,800 for the filing fee.

Please acknowledge receipt of this filing on the enclosed copy of this letter and return it to me in the self-addressed, stamped envelope.

FILED

OCT 28 2004

Office of Proceedings
Surface Transportation Board

Yours very truly,

James R. Paschall

Enclosures

FEE RECEIVED

OCT 28 2004

SURFACE
TRANSPORTATION BOARD

Mr. Vernon A. Williams
Re: AB-290, Sub-No. 256X
Page 2 of 2
October 27, 2004

cc w/ encl.:
Ms. Susan Zacher
Pennsylvania Historical and Museum Commission
Bureau for Historic Preservation
Commonwealth Keystone Building, 2d Floor
400 North Street
Harrisburg, PA 17120-0093

John A. Gillan
Division Counsel
Hanson Aggregates
2300 Gateway Centre Blvd
Morrisville, NC 27560

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-290 (SUB-NO. 256X)
NORFOLK SOUTHERN RAILWAY COMPANY
-- ABANDONMENT --

BOROUGH OF DOWNINGTOWN,
IN CHESTER COUNTY, PENNSYLVANIA

VERIFIED NOTICE OF EXEMPTION

COMES NOW Norfolk Southern Railway Company ("NSR"), and files this notice of exemption from regulation under 49 U.S.C. §10903, pursuant to the provisions of 49 U.S.C. §10502 and the Board's regulations at 49 CFR §1152.50, for NSR's abandonment of the line of railroad lying between Milepost 18.92 and Milepost 19.72 at Downingtown, in Chester County, Pennsylvania (the "Line").¹

Pursuant to the Board's regulations at 49 CFR §1152.50, NSR states as follows:

¹ **Error! Main Document Only.** NSR acquired the Line from Consolidated Rail Corporation (Conrail) through Pennsylvania Lines LLC. Conrail received an exemption to abandon the old Chester Valley Running Track line between Milepost 17.5 near Exton, Pennsylvania and Milepost 19.2 near Ackworth, Pennsylvania in ICC Docket No. AB-167 (Sub-No. 1136X), *Consolidated Rail Corporation - Abandonment Exemption - Chester County, PA*, served September 19, 1994. The subject Line overlaps 0.28 mile of the line in that proceeding because NSR has not been able to verify that Conrail exercised the abandonment authority with respect to that segment.

Traffic Certification - §§ 1152.50(b) and (d)(2)

The attached certificate of NSR General Manager D. A. Brown confirms that no traffic has originated, terminated or moved overhead on the Line for at least two years, (or any overhead traffic on the Line can be rerouted over other lines), and no complaint concerning cessation of service over this Line is pending with the Board or a U. S. District Court or has been decided in favor of a complainant within the two-year period.

Consummation Date - § 1152.50(d)(2)

The effective date of the abandonment of the NSR Line between milepost 18.92 and milepost MP 19.72 at Downingtown, PA, will be December 18, 2004.

General Corporate Information - § 1152.22(a)(1-2) and (7)

The party filing this notice is Norfolk Southern Railway Company, a common carrier by railroad subject to STB jurisdiction under 49 U.S.C. Subtitle IV, Chapter 105, whose representative to whom correspondence may be sent is:

James R. Paschall
General Attorney
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510
(757) 629-2759

Description of the Line and the Relief Sought - § 1152.22(a)(3-4 and 7)

The relief sought is an exemption from regulation for NSR's abandonment of the Line under the class exemption for abandonment of out-of-service lines. The Line for which the abandonment authority is sought consists of 0.8-mile of track between milepost MP 18.92 and milepost MP 19.72 at Downingtown, PA. A map

showing the line to be abandoned, other rail lines in the area, highways, and population centers is attached as Exhibit 1 to this notice. The line traverses United States Postal Service ZIP Codes 19335 and 19372.

Suitability of the Line for Other Public Purposes - § 1152.22(e)(4)

NSR has received no inquiries about public use of the right-of-way comprising the Line and is unaware of any potential public purposes to which the right of way may be suited. However, NSR has agreed to sell the Line to Hanson Aggregates, which will use the property to expand its business and may reconfigure the track in order to use it as an industrial lead or loading track if it resumes shipments via rail.

NSR is not aware of any restriction on the title to the property which would affect the transfer of title or the use of property for other than rail purposes, however, in view of the pending sale of the Line for local development purposes, which is supported by the Borough of Downingtown, NSR believes that no public use condition should be imposed as to this Line.

Labor Protection - § 1152.50(d)(2)

Since the Line to be abandoned has been out of service for over two years, NSR believes no employees will be adversely affected by exercise of abandonment authority for this Line. However, as a condition to exercise of the authority permitted by the exemption in this matter, NSR will accept the imposition of

For the foregoing reasons, NSR believes the proposed rail line abandonment is exempt from under 49 U.S.C. §10903 pursuant to 49 U.S.C. §10502 and 49 C.F.R. §1152.50 and requests that the Board serve the appropriate notice of exemption.

Respectfully submitted,

NORFOLK SOUTHERN RAILWAY
COMPANY


Kathryn B. McQuade
Executive Vice President Planning
and Chief Information Officer

Of Counsel:

James R. Paschall
General Attorney
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191
(757) 629-2759

Dated: October 27, 2004

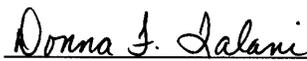
VERIFICATION

COMMONWEALTH OF VIRGINIA :
: SS:
CITY OF NORFOLK :

Kathryn B. McQuade, being duly sworn, deposes and says that she is Executive Vice President Planning and Chief Information Officer of Norfolk Southern Railway Company; that she is authorized to sign, verify, and file with the Surface Transportation Board the foregoing Notice of Exemption in AB-290 (Sub-No. 256X) on behalf of Norfolk Southern Railway Company; that she has carefully examined all of the statements contained in said Notice of Exemption; that she has knowledge of the matters set forth therein; and that all such statements made and matters set forth are true and correct to the best of her knowledge, information, and belief.


Kathryn. B. McQuade

Subscribed and sworn to before me
this 25th day of October, 2004.


Notary Public

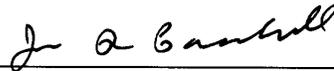
My commission expires:

My Commission Expires April 30, 2007

[SEAL]

CERTIFICATION

I hereby certify (1), pursuant to § 1105.11, that Environmental and Historic Reports were submitted to the agencies identified in § 1105.7(b) and to the appropriate State Historic Preservation Officer (see Exhibit 2); (2), pursuant to § 1105.12, that a notice of intent to abandon rail service was published in *The Daily Local News*, West Chester, Pennsylvania, on October 7, 2004 (see Exhibit 3); and (3) that the notice required by § 1152.50(d)(1) was given (see Exhibit 4).



James R. Paschall

Dated: October 27, 2004

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Exemption was served upon Mr. William Shane, Chairman, Pennsylvania Public Utility Commission; the United States Department of Defense (MTMCTEA); Regional Director-National Park Service; National Park Service, Recreation Resources Assistance Division; National Park Service, Land Resources Division; and U. S. Department of Agriculture, Chief of the Forest Service; on October 27, 2004, by first class mail, postage prepaid.



James R. Paschall

CERTIFICATION

COMMONWEALTH OF PENNSYLVANIA:
SS:
COUNTY OF DAUPHIN :

D. A. Brown II makes oath and says that he is General Manager Northern Region for Pennsylvania Lines LLC and Norfolk Southern Railway Company; that the line between MP 18.92 and MP 19.72 in the Borough of Downingtown, Chester County, Pennsylvania, over which operations are to be abandoned and service 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.



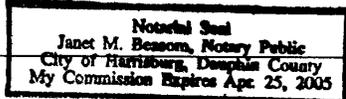
D. A. Brown II

Subscribed and sworn to before me
this 11 day of August, 2004.



Notary Public

My commission expires:



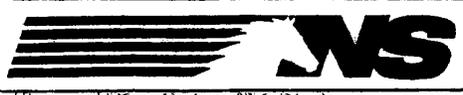


EXHIBIT 1

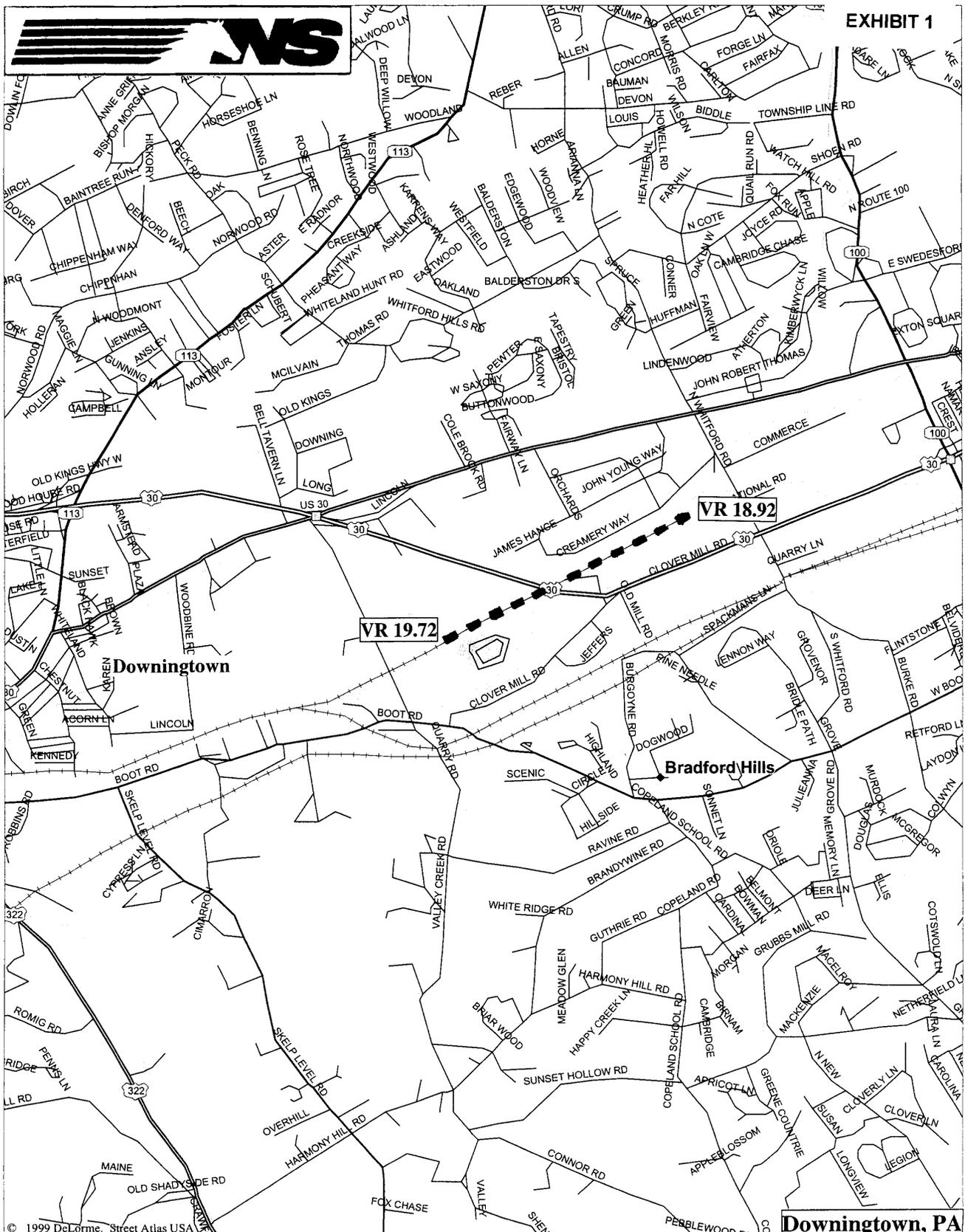


EXHIBIT 2

**ENVIRONMENTAL AND
HISTORIC REPORTS**

**ENVIRONMENTAL REPORT ON
PROPOSED RAIL LINE ABANDONMENT**

**NORFOLK SOUTHERN
RAILWAY COMPANY AS OPERATOR OF PENNSYLVANIA LINES, LLC
(BETWEEN MP 18.92 AND MP 19.72
DOWNTOWN, CHESTER COUNTY, PENNSYLVANIA)**

.....
**NORFOLK SOUTHERN
RAILWAY COMPANY AS OPERATOR OF PENNSYLVANIA LINES, LLC
ENVIRONMENTAL PROTECTION DEPARTMENT
110 FRANKLIN ROAD, SE
ROANOKE, VIRGINIA 24042-0013**

**ENVIRONMENTAL REPORT ON
PROPOSED RAIL LINE ABANDONMENT**

**Abandonment of: .80 miles of track between MP 18.92 and MP 19.72 in the
Borough of Downingtown, Chester County, Pennsylvania.**

1. PROPOSED ACTION AND ALTERNATIVES

Norfolk Southern Railway Company as operator of Pennsylvania Lines, LLC (hereinafter called PRR) proposes to abandon .80 miles of rail line in the Borough of Downingtown, Chester County, Pennsylvania. The Line is leased and operated under allocated assets operating agreement with the owner, PRR. A Map delineating the line proposed for abandonment is attached as **Appendix A**.

The alternatives to abandonment of the entire line are:

1. to not abandon and retain the trackage in place.
2. to discontinue service on the line and retain the trackage in place.

These alternatives are not satisfactory. Service over the line is not required to serve any active shippers. PRR would incur opportunity and other holding costs that would need to be covered by PRR's other customers were the line to be retained without being used for active rail freight service. If the line is abandoned, the track and materials may be salvaged and the property sold to be put to a more productive use. A grade crossing can be eliminated, which will benefit local traffic and reduce railroad and public maintenance costs.

PRR's letter to federal, state and local government agencies is attached as **Appendix B**. Responses to the letter or other comments received as result of consultations can be found in **Appendix C**. Certification of the recipients of this report can be found in **Appendix D**.

2. TRANSPORTATION SYSTEM

Effects of the proposed action on regional or local transportation systems and patterns are expected to be negligible. Within the last two years, no rail freight or passenger traffic has moved on the line segment proposed for abandonment. Consequently, no rail traffic will be diverted to highway mode as a result of the abandonment.

3. LAND USE

- (i) The proposed abandonment involves .80 miles of rail line in the Borough of Downingtown, Pennsylvania. The land use along the rail line proposed for abandonment is 90% undeveloped and 10% developed.

With respect to effects of the proposed rail line abandonment on land use, PRR believes any impact will be negligible. The absence of traffic on the rail line proposed for abandonment indicates a substantial lack of rail dependent land uses in the service area. Since no rail traffic moves on the line over which service is to be abandoned, the abandonment is not expected to have any effect on existing land use, future land use, land use plans or the land use planning process. Therefore the proposed abandonment is expected to be consistent with any land use plans for the service area.

- (ii) Prime Agricultural Lands

No effects on any prime agricultural land are anticipated as a result of the abandonment.

(iii) Coastal Zone

Not Applicable

(iv) Alternative Public Use

The right-of-way should be suitable for alternative public use. A local aggregate industry, adjacent to the right-of-way, has expressed interest in using the property to increase the accessibility to their business. Inasmuch as the Borough supports the ability of local businesses to grow, PRR believes this is a suitable alternative public use. Thus, PRR considers the proposed abandonment to be consistent with any land use plans for the service area.

4. ENERGY

(i) Development and Transportation of Energy Resources

Development and transportation of energy resources will not be affected by the abandonment. No freight or passenger traffic has moved on the line proposed for abandonment for two years, and therefore, compared with the past two years, the abandonment would have no effect on development and transportation of energy resources.

(ii) Movement/Recovery of Recyclable Commodities

Movement/recovery of recyclable commodities will not be affected by the abandonment. No freight or passenger traffic has moved on the line proposed for abandonment for two years, and therefore, compared with the

past two years, the abandonment would have no effect on movement or recovery of recyclable commodities.

(iii) Impact on Energy Efficiency

Energy efficiency will not be impacted by the proposed abandonment. No freight or passenger traffic has moved on the line proposed for abandonment for two years, and therefore, compared with the past two years, the abandonment would have no effect on energy efficiency.

(iv) Diversion of Traffic to Motor Carriers

No traffic is expected to be diverted to motor carriers in connection with the proposed abandonment.

5. AIR

The proposed action is abandonment and does not exceed Surface Transportation Board thresholds at 49 CFR 1105.7 (e) (5) and therefore does not require a quantified analysis of emissions.

(i) Effects on Air Emissions

The State of Pennsylvania, Chester County, and the Borough of Downingtown do not have established analysis thresholds for air emissions; however, the state of Pennsylvania does have regulations regarding the emission of fugitive dust to ambient air. These regulations are published in 25 Pa. Code §123.1 and are provided in **Appendix E**.

United States Environmental Protection Agency (USEPA Region 3) has National Ambient Air Quality Standards for pollutants (including ozone) as found in 40 CFR Part 50; however, PRR does not anticipate any adverse effect on Pennsylvania's air quality as a result of the proposed abandonment.

(ii) Class I or Non-Attainment Area

Chester County and the Borough of Downingtown are in attainment for all National Ambient Air Quality Standard (NAAQS) pollutants according to the USEPA Region 3. Chester County, PA, is non-attainment for ozone. PRR does not believe any Class I or Non-Attainment areas would be affected by the proposed abandonment.

(iii) Ozone Depleting Materials

Not applicable. Transportation of ozone depleting materials (such as nitrogen oxide and freon) is not contemplated, since the proposed action is abandonment.

6. NOISE

The proposed action does not exceed Surface Transportation Board thresholds at 49 CFR 1105.7 (e)(6) and therefore does not require a quantified analysis of noise levels. Noise levels associated with rail removal or salvage operations are temporary and should not have a significant impact on the area surrounding the proposed abandonment.

There is no federal noise regulation according to the EPA. Neither the state of Pennsylvania, Chester County, nor the Borough of Downingtown has established analysis thresholds for noise.

7. SAFETY

(i) Public Health and Safety

Abandonment of the captioned rail line will have no significant effect upon public health or safety. At grade crossings on the line to be abandoned, the potential for accidents and delays will be eliminated.

(ii) Hazardous Materials Transport

Not applicable. Action proposed is abandonment.

(iii) Hazardous Waste or Hazmat Spill Sites

PRR has no knowledge of any hazardous waste sites or sites where there have been known hazardous material spills on the ROW of the line proposed for abandonment or which will be affected by this abandonment. A search of company records was conducted and comments were requested from federal, state and local agencies. There were no potential hazardous materials/waste sites identified near the area of the proposed abandonment.

8. BIOLOGICAL RESOURCES

- (i) The US Fish and Wildlife Service (USFWS) has indicated that the “proposed project is within the known range of the bog turtle (*Clemmys muhlenbergii*), a species that is federally listed as threatened” and occurs in wetland areas. The rail line proposed for abandonment does cross a waterway/wetlands. However, no work is anticipated in conjunction with

this area. The USFWS has also provided a list of threatened and endangered species known to occur in Pennsylvania. The Pennsylvania Department of Conservation and Natural Resources has indicated several endangered and/or threatened species that may occur in Chester County. Detailed information is provided in **Appendix F** and summarized in **Table I** below:

**TABLE I
ENDANGERED AND/OR THREATENED SPECIES
CHESTER COUNTY, PENNSYLVANIA**

	Scientific Name	Common Name	Federal Status	State Status
Animals	<i>Rana utricularia</i>	Coastal Plain Leopard Frog	--	LT
	<i>Clemmys muhlenbergii</i>	Bog Turtle	LT	LE
Plants	<i>Euphorbia purpurea</i>	Glade Spurge	--	LE
	<i>Arethusa bulbosa</i>	Swamp Pink	--	LE
	<i>Carex polymorpha</i>	Variable Sedge	--	LE
	<i>Isotria medeoloides</i>	Small Whorled Pogonia	--	LT
	<i>Aster depauperatus</i>	Serpentine Aster	--	LT

LE – Listed Endangered
 LT- Listed Threatened
 -- Not Applicable

PRR is not aware of any critical habitat that would be destroyed or modified as a result of the proposed abandonment. Since salvage operations will be handled generally within the ROW, PRR does not believe that any endangered species that might be present would be adversely affected. PRR is willing to undertake reasonable mitigating actions to protect any endangered species that might be encountered in connection with abandonment activities.

(ii) Sanctuaries, Refuges and Parks

Based on the site investigation and comments received from government agencies, the line segment proposed for abandonment does not pass through any city parks, state parks/forests, national parks/forests, or wildlife sanctuaries. No adverse effects on any wildlife sanctuary, national park, state park, or city park are anticipated.

9. WATER

(i) Water Quality Standards

PRR does not intend to either remove or appreciably alter the contour of the roadbed underlying the rail line to be abandoned. The areal extent of disturbed areas will be kept to a minimum and limited to the ROW wherever possible. Since there are no plans to undertake in-stream work, or dredge and/or fill any materials in connection with the proposed abandonment, no water quality impacts are expected in connection with the proposed action. Therefore, PRR considers the abandonment to be consistent with any applicable Federal, State, and/or local water quality standards.

(ii) Wetlands/100-Year Flood Plains

The rail line proposed for abandonment does cross one unnamed waterway and passes through the 100-year flood plain. Since the geometry of the roadbed will not be significantly altered, and the aforementioned conditions are not present, no discernible effects on either the 100-year flood plains or wetlands are expected in connection with the proposed

abandonment. Consequently, PRR does not believe a Section 404 permit will be required in connection with the proposed abandonment.

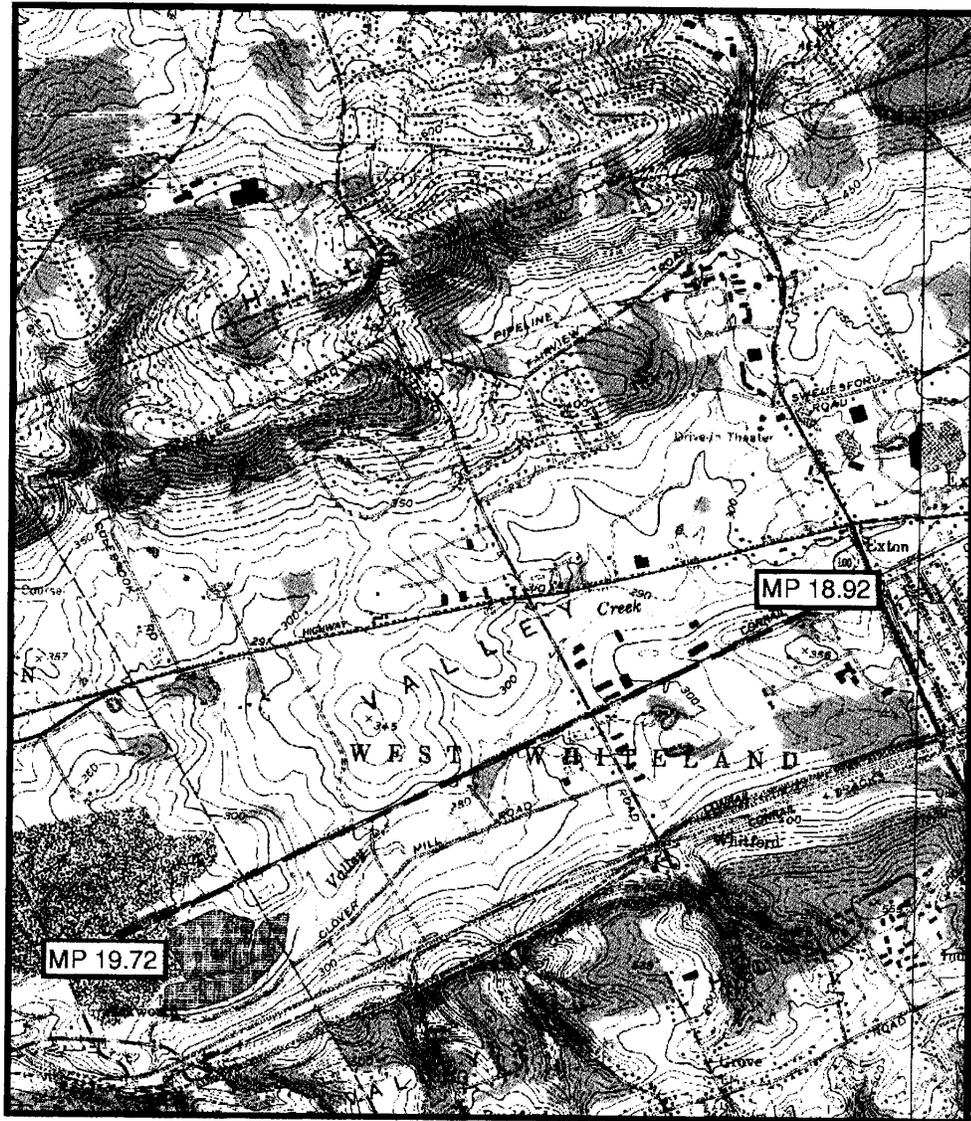
(iii) Section 402 Permit

Inasmuch as PRR does not intend to either remove or appreciably alter the contour of the roadbed underlying the rail line to be abandoned, undertake significant in-stream work, or dredge and/or fill any materials in connection with the proposed abandonment, water quality effects should be negligible. PRR does not believe that a permit under Section 402 of the Federal Water Pollution Control Act will be required.

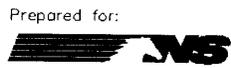
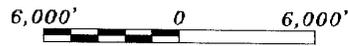
10. PROPOSED MITIGATION

Abandonment of the involved rail line is not expected to produce adverse environmental impacts. Only minimal physical activity associated with removal of rail, ties, and other railroad appurtenances will be produced by the proposed action. PRR will undertake all reasonable mitigation associated with these activities to assure that physical activities associated with the abandonment do not produce adverse environmental effects.

APPENDIX A
Site Map



NORFOLK SOUTHERN RAILWAY COMPANY - DOWNINGTOWN, PENNSYLVANIA
 PORTION OF USGS 7.5' MALVERN, UNIONVILLE, AND DOWNINGTOWN, PA. QUADRANGLE



Downingtown, Pennsylvania
 Proposed Abandonment NS District
 MP 18.92 to MP 19.72



APPENDIX B
Agency Letter

RECIPIENT LIST

Proposed Abandonment of the segment of rail from MP 18.92 to MP 19.72, a distance of .80 miles in the Borough of Downingtown, Chester County, Pennsylvania.

State Clearinghouse (or alternate):

Pennsylvania Department of Transportation
Building
P.O. Box 3441
Harrisburg, Pennsylvania 17120

State Environmental Protection Agency:

16th Floor, Rachel Carson State Office Building
P.O. Box 2063
Harrisburg, Pennsylvania 17105-2063

**State Coastal Zone Management Agency
(if applicable)**

Not applicable

Head of each County:

Mark Possenti, Director of Administration
4-10 West Lancaster Avenue
Downingtown, PA 19335

**Environmental Protection Agency
(regional office)**

1650 Arch Street
Philadelphia, Pennsylvania 19103

U.S. Army Corps of Engineers:

2032 William S. Moorhead Federal
1000 Liberty Avenue, Suite 1828
Pittsburgh, Pennsylvania 15222-4186

National Park Service:

U.S. Custom House
200 Chestnut Street, Fifth Floor
Philadelphia, Pennsylvania 19106

**U.S. Natural Resources Conservation
(Service):**

Robin E. Heard, State Conservationist
One Credit Union Place, Suite 340
Harrisburg, Pennsylvania 17110-2993

National Geodetic Survey:

Mr. Richard Snay
Chief of Spatial Reference System Division
1315 East/West Highway, Room 8813
Silver Spring, MD 20910

U.S. Fish and Wildlife:

300 West Gate Center Drive
Hadley, Massachusetts 01035-9589





Environmental Protection Department
110 Franklin Road, SE (Box 13)
Roanoke, VA 24042-0013

May 26, 2004

Dear Sir/Madam:

Norfolk Southern Railway Company (NS) plans to request authority from the Surface Transportation Board (STB) to abandon the segment of rail from MP 18.92 to MP 19.72, a distance of .80 miles in the Borough of Downingtown, Chester County, Pennsylvania. A map of the proposed track abandonment can be found in Appendix A of this Environmental Report for Proposed Rail Line Abandonment.

NS does not anticipate any adverse environmental impacts; however, if you identify any adverse environmental impacts please describe any actions that would assist to mitigate such impacts. Additionally, you may provide us with a written response that can be included in an Environmental Report, which will be sent to the STB. The following page lists the various agencies receiving this report and the type of information NS anticipates receiving from those agencies.

This report is also 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 Section of Environmental Analysis (SEA), Room 3219, Surface Transportation Board, 1925 K Street, N.W., Washington DC 20423-001, Telephone (202) 565-1552 and refer to the above Docket. Because applicable statutes and regulations impose stringent deadlines for processing this action, 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 our application with the STB, NS must receive your comments within three weeks. Please either provide a copy of your comments by mail at the address below or provide information by telephone to Mr. Larry Western at (540) 981-4239.

Norfolk Southern Railway Company
Larry G. Western
Environmental Protection Department
110 Franklin Road, SE (Box 13)
Roanoke, VA 24042-0013

Yours truly,

A handwritten signature in black ink, appearing to read 'K.R. Miller', written over a horizontal line.

K.R. Miller
Director Environmental Engineering and Audits
Norfolk Southern Railway Company

cc: L.G. Western
J. R. Paschall
J. M. Lipps

APPENDIX C
Agency Responses



Commonwealth of Pennsylvania
Pennsylvania Historical and Museum Commission
Bureau for Historic Preservation
Commonwealth Keystone Building, 2nd Floor
400 North Street
Harrisburg, PA 17120-0093
www.phmc.state.pa.us

Oct. 15, 2004



James R. Paschall
Norfolk Southern Corporation
Law Dept.
Three Commercial Place
Norfolk, VA 23510-9241

TO EXPEDITE REVIEW USE
SNP REFERENCE NUMBER

Re: ER 05-0071-029-A
STB Docket AB-290 (Sub-No. 256X), Norfolk Southern Company
(NSR) Abandonment of .80 miles of track between Milepost 18.92 and
Milepost 19.72, East Bradford Township, Chester County

Dear Mr. Paschall:

The Bureau for Historic Preservation (the State Historic Preservation Office) has reviewed the above named project in accordance with Section 106 of the National Historic Preservation Act of 1966, as amended in 1980 and 1992, and the regulations (36 CFR Part 800) of the Advisory Council on Historic Preservation as revised in 1999. These requirements include consideration of the project's potential effect upon both historic and archaeological resources.

The Chester Valley Running Track, the railroad proposed for abandonment, was determined eligible for the National Register of Historic Places on November 3, 1993. The proposed abandonment and sale of the right-of-way for commercial/business development will have an effect on properties eligible for the National Register of Historic Places. Furthermore, it is our opinion that this project will adversely effect the historic and architectural qualities that make the property eligible. To comply with the regulations of the Advisory Council on Historic Preservation, you must follow the procedures outlined in 36 CFR 800.5 (e), when the effect is adverse. You will need to notify the Advisory Council of the effect finding and continue to consult with the Bureau for Historic Preservation to seek ways to avoid or reduce the effects on historic properties.

If you need further information in this matter please consult Susan Zacher at (717) 783-9920.

Sincerely,

Kurt W. Carr, Chief
Division of Archaeology &
Protection

cc: STB
KWC/smz

APPENDIX D
Certification of Environmental Report
Recipients

RECIPIENT LIST

Proposed Abandonment of the segment of rail from MP NR 0.0 to MP NR 11.3, a distance of 11.3 miles between Helenwood and Sterling, Scott County, Tennessee.

State Clearinghouse (or alternate):

Pennsylvania Department of Transportation
Building
P.O. Box 3441
Harrisburg, Pennsylvania 17120

State Environmental Protection Agency:

16th Floor, Rachel Carson State Office Building
P.O. Box 2063
Harrisburg, Pennsylvania 17105-2063

**State Coastal Zone Management Agency
(if applicable)**

Not applicable

Head of each County:

Mark Possenti, Director of Administration
4-10 West Lancaster Avenue
Downingtown, PA 19335

Environmental Protection Agency

(regional office)

1650 Arch Street
Philadelphia, Pennsylvania 19103

U.S. Army Corps of Engineers:

2032 William S. Moorhead Federal
1000 Liberty Avenue, Suite 1828
Pittsburgh, Pennsylvania 15222-4186

National Park Service:

U.S. Custom House
200 Chestnut Street, Fifth Floor
Philadelphia, Pennsylvania 19106

**U.S. Natural Resources Conservation
(Service):**

Robin E. Heard, State Conservationist
One Credit Union Place, Suite 340
Harrisburg, Pennsylvania 17110-2993

National Geodetic Survey:

Mr. Richard Snay
Chief of Spatial Reference System Division
1315 East/West Highway, Room 8813
Silver Spring, MD 20910

U.S. Fish and Wildlife:

300 West Gate Center Drive
Hadley, Massachusetts 01035-9589

Proposed Abandonment of the segment of rail between Milepost 18.92 and Milepost 19.72 a distance of .80 miles of in the Borough of Downingtown, Chester County, Pennsylvania

This Environmental Report for Proposed Rail Line Abandonment was sent to the above referenced agencies on

5/26/04
Date


K.R. Miller, Director of Operations



Certification of Environmental Report Recipients

West Whiteland Township

Township Manager
Stephen J. Ross
222 North Pottstown Pike
Exton, PA 19341

East Caln Township:

Township Manager
Robert H. Glisson
PO Box 232,
Downingtown, PA 19335-0232

Proposed Abandonment of the segment of rail between Milepost 18.92 and Milepost 19.72 a distance of .80 miles of in the Borough of Downingtown, Chester County, Pennsylvania

This Environmental Report for Proposed Rail Line Abandonment was sent to the above referenced agencies on

9/7/04

Date

A handwritten signature in black ink, appearing to read "K.R. Miller".

K.R. Miller, Director of Operations



**NORFOLK
SOUTHERN**

Norfolk Southern Corporation
Environmental Protection
110 Franklin Road, S.E.
Roanoke, Virginia 24042-0013

September 7, 2004

East Caln Township:
Township Manager
Robert H. Glisson
PO Box 232,
Downingtown, PA 19335-0232

Dear Mr. Glisson,

Attached is a copy of The Environmental Report for Proposed Rail Line Abandonment for the Downingtown, PA location. As part of the requirement of the Surface Transportation Board we are requested to send a copy of this report to the county/local planning commission in which the segment of rail is located.

We sent a copy of the report to the Borough of Downingtown. On September 7, 2004 Sharon Beck, the Assistant Secretary for the Borough of Downingtown called our office to explain that she believed this segment of rail was located just outside her Borough.

A subsequent call to Tracy Lee (West Whiteland Township) has revealed that the segment of rail is located in West Whiteland Township and East Caln Township. Therefore, you are being sent a copy of this report in order to fulfill the requirement of 49 C.F.R. Part 1105.7 (4).

Thank you for your assistance. If you have any questions or comments please send them to Norfolk Southern Railway Company, Mr. Larry G. Western., 110 Franklin Street, SE Box 13, Roanoke, Virginia 24042-0013. If you need any further information, please contact Mr. Western at (540) 981-4239.

Yours truly,

A handwritten signature in black ink, appearing to read 'K.R. Miller', with a long horizontal flourish extending to the right.

K.R. Miller
Director of Operations

Attachment



**NORFOLK
SOUTHERN**

Norfolk Southern Corporation
Environmental Protection
110 Franklin Road, S.E.
Roanoke, Virginia 24042-0013

September 7, 2004

West Whiteland Township
Township Manager
Stephen J. Ross
222 North Pottstown Pike
Exton, PA 19341

Dear Mr. Ross,

Attached is a copy of The Environmental Report for Proposed Rail Line Abandonment for the Downingtown, PA location. As part of the requirement of the Surface Transportation Board we are requested to send a copy of this report to the county/local planning commission in which the segment of rail is located.

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K .R. Miller
Director of Operations

Attachment

APPENDIX E
Fugitive Dust Regulation

123.1. **Prohibition of certain fugitive emissions.**

(a) No person may permit the emission into the outdoor atmosphere of a fugitive air contaminant from a source other than the following:

- (1) Construction or demolition of buildings or structures.
- (2) Grading, paving and maintenance of roads and streets.
- (3) Use of roads and streets. Emissions from material in or on trucks, railroad cars and other vehicular equipment are not considered as emissions from use of roads and streets.
- (4) Clearing of land.
- (5) Stockpiling of materials.
- (6) Open burning operations.
- (7) Blasting in open pit mines. Emissions from drilling are not considered as emissions from blasting.
- (8) Coke oven batteries, provided the fugitive air contaminants emitted from any coke oven battery comply with the standards for visible fugitive emissions in § § 123.44 and 129.15 (relating to limitations of visible fugitive air contaminants from operation of any coke oven battery; and coke pushing operations).
- (9) Sources and classes of sources other than those identified in paragraphs (1)—(8), for which the operator has obtained a determination from the Department that fugitive emissions from the source, after appropriate control, meet the following requirements:

- (i) The emissions are of minor significance with respect to causing air pollution.
- (ii) The emissions are not preventing or interfering with the attainment or maintenance of an ambient air quality standard.
- (b) An application form for requesting a determination under either subsection (a)(9) or § 129.15(c) is available from the Department. In reviewing these applications, the Department may require the applicant to supply information including, but not limited to, a description of proposed control measures, characteristics of emissions, quantity of emissions and ambient air quality data and analysis showing the impact of the source on ambient air quality. The applicant is required to demonstrate that the requirements of subsections (a)(9) and (c) and § 123.2 (relating to fugitive particulate matter) or of the requirements of § 129.15(c) have been satisfied. Upon such demonstration, the Department will issue a determination, in writing, either as an operating permit condition, for those sources subject to permit requirements under the act, or as an order containing appropriate conditions and limitations.
- (c) A person responsible for any source specified in subsections (a)(1)—(7) or (9) shall take all reasonable actions to prevent particulate matter from becoming airborne. These actions include, but not be limited to, the following:
 - (1) Use, where possible, of water or chemicals for control of dust in the demolition of buildings or structures, construction operations, the grading of roads or the clearing of land.
 - (2) Application of asphalt, oil, water or suitable chemicals on dirt roads, material stockpiles and other surfaces which may give rise to airborne dusts.
 - (3) Paving and maintenance of roadways.
 - (4) Prompt removal of earth or other material from paved streets onto which earth or other material has been transported by trucking or earth moving equipment, erosion by water, or other means.
- (d) The requirements contained in subsection (a) and § 123.2 do not apply to fugitive emissions arising from the production of agricultural commodities in their unmanufactured state on the premises of the farm operation.

Source

The provisions of this § 123.1 adopted September 10, 1971, effective September 11, 1971, 1 Pa.B. 1804; amended March 3, 1972, effective March 20, 1972, 2 Pa.B. 383; amended August 12, 1977, effective August 29, 1977, 7 Pa.B. 2251. Immediately preceding text appears at serial pages (4620) and (24610).

Notes of Decisions

Agency Authority

Although the Department of Environmental Resources under the Air Pollution Control Act (35 P. S. § 4001 et seq.) had been granted specific authority by the Legislature to regulate “air contamination sources” producing “air pollution” that includes obnoxious odors, nowhere was there any grant of authority to the Public Utility Commission, either directly or indirectly, to regulate air pollution emanating from a public utility. *Country Place Waste Treatment Co. v. Pennsylvania Public Utility Commission*, 654 A.2d 72 (Pa. Cmwlth. 1995).

Application

The Department may utilize this section in an effort to specifically control an alleged fugitive air contaminant despite the fact certain sources of this contaminant, as well as the dust itself, might have been concurrently involved in an application of § 123.13 (relating to processes) as it relates to nonfugitive air contaminants or particulate matter emissions. *Commonwealth v. Locust Point Quarries Inc.*, 72 Pa. D. & C.2d 700 (1975).

Application Properly Denied

The Department was required to deny an application for reactivation of beehive coke ovens, regardless of economic consequences, when the application did not provide information which would show that the ovens would meet the limitations applicable to fugitive emissions, and constitutional rights are not violated even though there is no known method to operate beehive coke ovens in compliance with this title. *Rochez Brothers Inc. v. Department of Environmental Resources*, 334 A.2d 790 (Pa. Cmwlth. 1975).

Burden of Proof

Testimony by the environmental group’s president that the air was polluted (that is, “fuming” resulted from the reaction process used to treat waste at the industrial processors facility) was not credible on the issues relating to the existence or cause of air quality problems as would shift the burden of proof to the Department of Environmental Resources to justify the issuance of the solid waste disposal permit. *Concerned Citizens of Yough, Inc. v. Department of Environmental Resources*, 639 A.2d 1265 (Pa. Cmwlth. 1994).

The Commonwealth need not prove that the fugitive dust emissions in question caused or contributed to a condition of air pollution because the determination that such emissions cause or contribute to a condition of air pollution had already been made at the time the section was promulgated, and the section is reasonably understandable and specific. *Department of Environmental Resources v. Locust Point Quarries, Inc.*, 396 A.2d 1205 (Pa. 1979).

Construction

Since § 123.2 (relating to fugitive particulate matter) applies only to the nine exemptions listed in (a)(1)—(9), the two sections do not overlap and either one can stand alone as a basis for a violation. *Medusa Corp. v. Department of Environmental Resources*, 415 A.2d 105 (Pa. Cmwlth. 1980).

Criminal Prosecution

To prove a criminal violation of this section, as modified by § 123.13 (relating to processes), scientific evidence must be introduced proving beyond a reasonable doubt that the offensive fugitive emissions exceeded the permissible maximum set forth in § 123.12 (relating to incinerators). *Department of Environmental Resources v. Locust Point Quarries Inc.*, 367 A.2d 392 (Pa. Cmwlth. 1976).

Evidence

To properly challenge the reasonableness of this section, evidence must be presented to establish that the section will not aid in reaching national ambient air quality standards and that the proscribed activity is insignificant as a cause of air pollution. *Department of Environmental Resources v. Locust Point Quarries, Inc.*, 396 A.2d 1205 (Pa. 1979).

A conviction for violation of this section cannot be sustained absent sufficient visual and/or scientific evidence to establish that the quarry dust observed by Department agents was such as to constitute air pollution as defined by the Air Pollution Control Act. *Commonwealth v. Locust Point Quarries Inc.*, 72 Pa. D. & C.2d 700 (1975).

Fugitive Emissions

A fugitive emission is an emission of an air contaminant in a specific manner and it includes particulate matter, sulfur compounds, odor and visible emissions if emitted other than through a flue. *Department of Environmental Resources v. Locust Point Quarries, Inc.*, 396 A.2d 1205 (Pa. 1979).

General Comment

This section was intended to stand alone and be construed independently of § 123.13 (relating to processes). *Department of Environmental Resources v. Locust Point Quarries, Inc.*, 396 A.2d 1205 (Pa. 1979).

Minor Significance

The comment by the Environmental Hearing Board that the operator failed to invoke the “minor significance” exception of (a)(9) was proper because the exception existed throughout the relevant time period of 1973 to 1976, and the procedural provisions added by a 1977 amendment were immaterial. *Medusa Corp. v. Department of Environmental Resources*, 415 A.2d 105 (Pa. Cmwlth. 1980).

A rock quarry was not a source of minor significance within the meaning of § 127.14 (relating to exemptions) if nothing in the record supported such a determination and the DER had not so determined. *Mignatti Construction Co., Inc. v. Environmental Hearing Board*, 411 A.2d 860 (Pa. Cmwlth. 1980).

Review

A request for a grace period for compliance with a temporary variance did not have a res judicata effect on a subsequent request for an exemption from emission control requirements under this provision, since there was no identity of the thing sued for. *Bethlehem Steel Corporation v. Department of Environmental Resources*, 390 A.2d 1383 (Pa. Cmwlth. 1978).

On appeal from the Department's refusal to grant applicant permission to reactivate certain coke ovens, if the appellant did not show that the oven would meet the limitations in this title, but showed only the "dire need" for the coke to be produced, the scope of review is limited to whether constitutional rights were violated, an error of law committed, or any necessary finding of fact was not supported by the evidence. *Rochez Brothers, Inc. v. Department of Environmental Resources*, 334 A.2d 790 (Pa. Cmwlth. 1975).

Cross References

This section cited in 25 Pa. Code § 77.108 (relating to permit for small noncoal operations); 25 Pa. Code § 121.8 (relating to compliance responsibilities); 25 Pa. Code § 123.2 (relating to fugitive particulate matter); 25 Pa. Code § 123.42 (relating to exceptions); 25 Pa. Code § 129.15 (relating to coke pushing operations); and 25 Pa. Code § 264.521 (relating to design and operating standards).

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APPENDIX F
Federal and State Threatened and
Endangered Species Listings

§ 75.1. Endangered species.

(a) *General.* The species of fish, amphibians and reptiles listed in subsections (b) and (c) are classified endangered. The catching, taking, killing, possessing, importing to or exporting from this Commonwealth, selling, offering for sale or purchasing of any individual of these species, alive or dead, or any part thereof, without a special permit from the Executive Director is prohibited.

(b) *Fish.* The following species are endangered:

- (1) Northern brook lamprey, *Ichthyomyzon fossor*.
- (2) Shortnose sturgeon, *Acipenser brevirostrum*.
- (3) Lake sturgeon, *Acipenser fulvescens*.
- (4) Atlantic sturgeon, *Acipenser oxyrhynchus*.
- (5) Spotted gar, *Lepisosteus oculatus*.
- (6) Hickory shad, *Alosa mediocris*.
- (7) Cisco, *Coregonus artedi*.
- (8) Silver chub, *Macrhybopsis storeriana*.
- (9) Gravel chub, *Erimystax x-punctatus*.
- (10) Bridle shiner, *Notropis bifrenatus*.
- (11) River shiner, *Notropis blennius*.
- (12) Ghost shiner, *Notropis buchanani*.
- (13) Ironcolor shiner, *Notropis chalybaeus*.
- (14) Blackchin shiner, *Notropis heterodon*.

- (15) Redfin shiner, *Lythrurus umbratilis*.
 - (16) Longnose sucker, *Catostomus catostomus*.
 - (17) Bigmouth buffalo, *Ictiobus cyprinellus*.
 - (18) Black bullhead, *Amerius melas*.
 - (19) Mountain madtom, *Noturus eleutherus*.
 - (20) Tadpole madtom, *Noturus gyrinus*.
 - (21) Northern madtom, *Noturus stigmosus*.
 - (22) Burbot, *Lota lota* (inland populations only).
 - (23) Threespine stickleback, *Gasterosteus aculeatus*.
 - (24) Banded sunfish, *Enneacanthus obesus*.
 - (25) Warmouth, *Lepomis gulosus*.
 - (26) Longear sunfish, *Lepomis megalotis*.
 - (27) Iowa darter, *Etheostoma exile*.
 - (28) Eastern sand darter, *Etheostoma pellucida*.
 - (29) Northern riffleshell mussel, *Epioblasma torulosa rangiana*.
 - (30) Clubshell mussel, *Pleurobema clava*.
 - (31) Dwarf wedgemussel, *Alasmidonta heterodon*.
- (c) *Reptiles and amphibians*. The following species are endangered:
- (1) Bog Turtle, *Clemmys mühlenbergii*.
 - (2) New Jersey Chorus Frog, *Pseudacris triseriata kalmi*.
 - (3) Coastal Plain Leopard Frog, *Rana utricularia*.
 - (4) Massasauga Rattlesnake, *Sistrurus catenatus*.
 - (5) Kirtland's Snake, *Clonophis kirtlandii*.

(6) Eastern Mud Salamander, *Pseudotriton m. montanus*.

Authority

The provisions of this § 75.1 amended under the Fish and Boat Code, 30 Pa.C.S. § § 2102 and 2305.

Source

The provisions of this § 75.1 adopted January 6, 1984, effective January 7, 1984, 14 Pa.B. 46; amended February 8, 1991, effective February 9, 1991, 21 Pa.B. 498; amended April 15, 1994, effective April 16, 1994, 24 Pa.B. 1958; amended September 17, 1999, effective September 18, 1999, 29 Pa.B. 4869; amended July 18, 2003, effective July 19, 2003, 33 Pa.B. 3496. Immediately preceding text appears at serial pages (260209) to (260210).

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§ 75.2. Threatened species.

(a) *General.* The species of fish, amphibians and reptiles listed in subsections (b) and (c) are classified as threatened. The catching, taking, killing, possessing, importing to or exporting from this Commonwealth, selling, offering for sale or purchasing, of any individual of these species, alive or dead, or any part thereof, without a special permit from the Executive Director is prohibited.

(b) *Fish.* The following species are threatened:

- (1) Mountain brook lamprey, *Ichthyomyzon greeleyi*.
- (2) Skipjack herring, *Alosa chrysochloris*.
- (3) Goldeye, *Hiodon alosoides*.
- (4) Mooneye, *Hiodon tergisus*.
- (5) Bigmouth shiner, *Notropis dorsalis*.
- (6) Southern redbelly dace, *Phoxinus erythrogaster*.
- (7) Smallmouth buffalo, *Ictiobus bubalus*.
- (8) Spotted sucker, *Minytrema melanops*.
- (9) Brindled madtom, *Noturus miurus*.
- (10) Bluebreast darter, *Etheostoma camurum*.
- (11) Spotted darter, *Etheostoma maculatum*.
- (12) Tippecanoe darter, *Etheostoma tippecanoe*.
- (13) Channel darter, *Percina copelandi*.
- (14) Gilt darter, *Percina evides*.
- (15) Longhead darter, *Percina macrocephala*.

(c) *Amphibians and reptiles*. The following species are threatened:

- (1) Green Salamander, *Aneides aeneus*.
- (2) Red-bellied Turtle, *Pseudemys rubriventris*.
- (3) Rough Green Snake, *Opheodrys aestivus*.

Authority

The provisions of this § 75.2 amended under the Fish and Boat Code, 30 Pa.C.S. § § 2102 and 2305.

Source

The provisions of this § 75.2 adopted February 8, 1991, effective February 9, 1991, 21 Pa.B. 498; amended November 7, 1997, effective November 8, 1997, 27 Pa.B. 5779; amended September 17, 1999, effective September 18, 1999, 29 Pa.B. 4869. Immediately preceding text appears at serial page (236604).

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HISTORIC REPORT
PROPOSED RAIL LINE ABANDONMENT

PROPOSED ACTION AND ALTERNATIVES

Norfolk Southern Railway Company (NSR) proposes to abandon .80 miles of rail line between milepost MP 18.92 and milepost MP 19.72 at Downingtown, Pennsylvania. A map delineating the line proposed for abandonment is attached as Appendix "A".

The alternatives to abandonment of the line are to not abandon or to discontinue service on the line, retaining the trackage in place. Neither of these alternatives is economically feasible for NSR.

ADDITIONAL INFORMATION

- (1) **U.S.G.S. Topographic Map** -- Maps were furnished to the Pennsylvania Historical and Museum Commission.
- (2) **Written Description of Right of Way** -- The right of way width varies but is generally 20-30 feet on each side of the main track centerline. The line passes through undeveloped (90%) and developed (10%) areas.
- (3) **Photographs** -- Not applicable. There are no structures on the line that are 50 years old and older.
- (4) **Date of Construction of Structures** -- Not applicable.
- (5) **History of Operations and Changes Contemplated** -- In the related notice of exemption to the Surface Transportation Board (STB) for abandonment of a railroad line, Norfolk Southern Railway Company (NSR) gives notice of an exemption under the STB's class exemption for abandonment of out-of-service rail lines for the abandonment of a 0.8-mile line of railroad between Milepost 18.92 and 19.72 at Downingtown, Pennsylvania, in Chester County, Pennsylvania (the "Line"). The Line occasionally was referred to by its

previous owner, Consolidated Rail Corporation (Conrail), as the "Old Chester Valley Running Track."

Conrail received an exemption to abandon the old Chester Valley Running Track line between Milepost 17.5 near Exton, Pennsylvania and Milepost 19.2 near Ackworth, Pennsylvania in ICC Docket No. AB-167 (Sub-No. 1136X), *Consolidated Rail Corporation - Abandonment Exemption - Chester County, PA*, served September 19, 1994. The subject Line overlaps 0.28 mile of the line in that proceeding because NSR has not been able to verify that Conrail exercised the abandonment authority with respect to that segment.

The rail line segment to be abandoned is the dead-end branch of a longer line of railroad originally constructed between 1850 and 1853 by the Chester Valley Railroad Company, which became part of the Philadelphia and Reading Railroad Company system in 1859.

The Chester Valley Railroad Company was successor to The Norristown and Valley Railroad Company. The Norristown and Valley Railroad Company was incorporated under special act of Pennsylvania on June 18, 1835 to construct a railroad from a point on the Columbia and Philadelphia Railroad east of Brandywine Creek to a connection with the Philadelphia, Germantown and Norristown Railroad Company at or near Norristown, PA. The Norristown and Valley Railroad Company did some grading near Downingtown, PA but discontinued construction of the proposed railroad line when it encountered financial difficulties.

The Chester Valley Railroad Company was chartered on May 22, 1850 (shown in at least one source as April 22, 1850 and in at least one other source as October 26, 1850) to operate a 21.5-mile rail line between Bridgeport, PA and Downingtown, PA. This purpose was accomplished in part through Chester Valley Railroad Company's acquisition of the property and franchises of The Norristown and Valley Railroad Company. Chester Valley

Railroad's acquisition of the Norristown and Valley Railroad franchise and assets took place on October 26, 1850, which, as noted, is also shown in at least one reference as the incorporation date of the Chester Valley Railroad Company. The Chester Valley Railroad Company then completed the road begun by its predecessor. The Chester Valley Railroad Company opened the railroad line for operation on September 12, 1853.

The Chester Valley Railroad Company was operated from the time of its completion to December 31, 1858 by the Philadelphia, Germantown and Norristown Railroad Company. On January 1, 1859, the Chester Valley Railroad Company line was leased to the Philadelphia and Reading Railroad Company.¹ This lease was part of the expansion of the Philadelphia and Reading Railroad system lines through leases and purchases of other railroad lines in order to gain access to the coal mining regions of Eastern Pennsylvania. The Chester Valley Railroad Company line connected with the Philadelphia and Reading Railroad line at Bridgeport and a Pennsylvania Railroad Company line at Downingtown.

The Philadelphia and Chester Valley Railroad Company was incorporated under the general laws of Pennsylvania on March 22, 1888. On May 4, 1888, it acquired the property of its predecessor, The Chester Valley Railroad Company, which had been sold at foreclosure on January 17, 1888. The Philadelphia and Chester Valley Railroad's line continued to be leased and operated by the Philadelphia and Reading Railroad Company for a rental of forty-five percent of the gross receipts from traffic on the line.

The mortgage on the Philadelphia and Reading Railroad Company property was foreclosed in 1896 after the company had gone through an earlier receivership starting in 1880 and a failed reorganization in 1884. The Philadelphia and Reading Railroad's properties

¹After December 1, 1870, the Philadelphia, Norristown and Germantown Railroad Company was leased to and operated by the Philadelphia and Reading Railroad Company, then by the Philadelphia and Reading Railway Company, and finally by the Reading Company.

were sold on September 23, 1896 and the company was reorganized on October 17, 1896 as Philadelphia and Reading Railway Company.

The Reading Company owned a majority of the capital stock of The Philadelphia and Chester Valley Railroad Company on the date of the ICC's valuation of the Reading Company and its leased lines, June 30, 1917.

On December 31, 1923, pursuant to a court decree, the Reading Company merged twelve of its wholly-owned operating subsidiaries, including the Philadelphia and Reading Railway Company, into one operating company under the Reading Company name. The Reading Company adopted certain leases of railroad lines of the Philadelphia and Reading Railway Company and its other predecessors, including the lease of The Philadelphia and Chester Valley Railroad Company property.

Effective December 31, 1945, the Reading Company consummated the merger of 11 of its subsidiaries in Pennsylvania into the Reading Company. The Reading Company organization remained undisturbed, but the owned stock of the merged subsidiary companies was cancelled. The subsidiaries merged into the Reading Company on this date included the Philadelphia and Chester Valley Railroad Company. The merger did not result in any basic changes in the operation of Reading Company system, since the merged subsidiaries already were completely coordinated into that system. The merger, however, had the effect of eliminating the expense of maintaining separate corporate entities for the subsidiaries and of achieving some tax savings.

After a period of decline in the 1950s and 1960s, The Reading Company filed a petition for reorganization under Section 77 of the Bankruptcy Act in the United States District Court for the Eastern District of Pennsylvania on November 23, 1971. The line of the former Philadelphia and Chester Valley Railroad Company remained under the control of the Reading Company through the period of the Reading Company bankruptcy, until the

formation of Consolidated Rail Corporation on April 1, 1976.

From April 1, 1976, when Conrail acquired and took possession of its properties, until June 1, 1999, Conrail held title to and operated the property which it had acquired under the now defunct United States Railway Association's (USRA) "Final System Plan" for reorganization of the bankrupt northeastern and midwestern railroads (Penn Central Transportation Company, its secondary debtors, the Lehigh Valley Railroad Company, the Central Railroad of New Jersey, the Lehigh & Hudson River Railway Company, the Reading Company, Erie Lackawanna Railway Company and a small portion of the Ann Arbor Railroad Company). The Final System Plan had been submitted to Congress on July 26, 1975 and was automatically approved after 60 days without further action by Congress under the Regional Rail Reorganization Act of 1973 (3R Act).

Norfolk Southern Corporation, a non-carrier holding company, was incorporated in the Commonwealth of Virginia on July 23, 1980. An Agreement of Merger and Reorganization, dated July 31, 1980, was the basis for Norfolk Southern Corporation's control of Norfolk and Western Railway Company, headquartered in Roanoke, Virginia, and Southern Railway Company, headquartered in Washington, DC with a substantial number of its offices also in Atlanta, Georgia, and of their subsidiaries and affiliates. Norfolk Southern Corporation acquired control of Norfolk and Western Railway Company and Southern Railway Company and their subsidiaries and affiliates on June 1, 1982, pursuant to approval granted by the Interstate Commerce Commission (ICC). In October 1982, Norfolk Southern Corporation established its corporate headquarters at Norfolk, Virginia.

Two studies of the Norfolk and Western Railway Company and Southern Railway Company systems provide detailed information on their history. 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, N.C.:

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 (NSR) merged Norfolk and Western Railway Company (NW) into NSR, 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*. The transaction was closed and became effective June 1, 1999.

Pursuant to the Conrail Transaction Agreement, certain Conrail assets, including Conrail's interest in the Line, were allocated to Pennsylvania Lines LLC ("PRR"), a wholly-owned subsidiary of Conrail. Furthermore, pursuant to the Conrail Transaction Agreement, PRR's assets, in turn, were leased to and were operated by NSR under the terms of an allocated assets operating agreement between PRR and NSR (the "NSR Operating

Agreement") with an initial term of twenty-five (25) years from the effective date of June 1, 1999. As a result of the Conrail transaction, Norfolk Southern's rail operations grew to include some 7,200 miles of the Conrail system (predominately the former Pennsylvania Railroad Company lines), creating balanced rail transportation in the East to the benefit of customers and communities alike.

On June 4, 2003, Norfolk Southern Corporation (NSC), CSX Corporation (CSX), and Consolidated Rail Corporation (Conrail) announced the joint filing of a petition with the Surface Transportation Board (STB) to establish direct ownership and control by CSX Transportation, Inc. (CSXT) and Norfolk Southern Railway Company (NSR), the railroad subsidiaries of CSX and NSC, respectively, of the two Conrail subsidiaries - New York Central Lines LLC (NYC) and Pennsylvania Lines LLC (PRR) that CSXT and NSR had been managing and operating, respectively, since June 1, 1999 under operating agreements approved by the STB in the 1998 decision. The petition was approved by the STB, subject to certain conditions, in a decision served on November 7, 2003. The transaction, which was concluded on August 27, 2004 by the merger of NYC and PRR into CSXT and NSR, respectively, replaced the operating agreements and allowed NSR and CSXT to operate the NYC and PRR lines via direct ownership.

The change contemplated in the operation of this small segment of the Old Chester Valley Running Track is for NSR to abandon the subject Line of railroad. There has been no rail service and no demand for rail freight service over the Line for several years. The Line can no longer be profitably maintained or held dormant by NSR. As a result of the abandonment action, NSR's common carrier obligation to provide freight service over this Line will be abandoned and the property will become ordinary real estate under state law. This result will enable NSR to redeploy this non-productive asset to provide rail freight service to the shipping public in general more productively. A local aggregates company has expressed

interest in acquiring the property (through a property swap) for the expansion of its business. The Borough of Downingtown supports this transaction in order to increase business and employment at Downingtown.

The following books on the Reading (Railroad) Company are listed for sale on the web site http://www.railroadxing.com/reading_comp/. Commentators have cited the histories written by Mr. Holton as definitive histories of the Reading.

Reading Railroad History of a Coal Age Empire: The 19th Century
J. Holton / Hardcover / Published 1990

Reading Railroad History of a Coal Age Empire the 20th Century
J. Holton / Hardcover / Published 1992

Reading Diesels: Second Generation
Dale W. Woodland / Hardcover / Published 1996

Reading Diesels: The First Generation
Dale W. Woodland / Hardcover / Published 1991

Steam Locomotives of the Reading and P and R Railroads: The Complete History from the Ten Ton Pioneer Engines of 1837 to the Last Giant Two Hundred a
Edward H. Wiswesser

- (6) **Summary of Documents In Carriers' Possession That Might Be Useful for Documenting a Structure That Is Found To Be Historic** – Not applicable.
- (7) **Opinion Regarding Criteria For Listing In The National Register Of Historic Places** -- There are no structures on the line to be abandoned. Carrier has 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**
Carrier is not aware of any prior subsurface ground disturbances or environmental conditions that would affect archaeological recovery.
- (9) **Follow-Up Information** -- Additional information will be provided as appropriate.



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

James R. Paschall
General Attorney

(757) 629-2752

October 6, 2004

Writer's Direct Dial Number

Director
Pennsylvania Historical and Museum Commission
300 North Street
Harrisburg, PA 17120

Re: Docket No. AB-290 (Sub-No. 256X), Norfolk Southern Railway
Company (NSR) – Abandonment – Borough of Downingtown,
Chester County, Pennsylvania

Dear Sir or Madam:

On or about October 29, 2004, we expect to be filing with the Surface Transportation Board a notice of exemption seeking authority for NSR to abandon .80 miles of rail line located between railroad milepost MP18.92 and railroad milepost MP 19.72 at Downingtown, Pennsylvania. Attached is a Historic Report describing the proposed action and any expected historic effects, as well as a map of the affected area.

We are providing this report so that you may review the information that will form the basis for the Board's independent environmental analysis of this proceeding. If you believe any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the Board's environmental review process, please contact the Section of Environmental Analysis (SEA), Surface Transportation Board, 1925 K Street, N.W., Washington, D. C. 20423-0001, Telephone (202) 565-1545, and refer to the above Docket. Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments (with a copy to me) would be appreciated within 3 weeks.

Your comments will be considered by the Board in evaluating the historic impacts of the contemplated action. If there are any questions concerning this proposal, please contact me directly at the above telephone number or address.

Yours very truly,

A handwritten signature in black ink, appearing to read "J R Paschall". The signature is written in a cursive, flowing style.

James R. Paschall

JRP:kch
Enclosures

Proof of Publication of Notice in the Daily Local News
Under Newspaper Advertising Act No. 587, Approved May 16, 1929

State of Pennsylvania
County of Chester

{ ss:

{ No. Term, 2004

Meghan D. Cavanaugh, Legal Representative of the Daily Local News Company, a corporation, of the County and State aforesaid, being duly affirmed, deposes and says that the Daily Local News, a newspaper of general circulation, published at 250 N. Bradford, Ave., West Chester, PA, County and State aforesaid, was established November 19, 1872, and Incorporated December 11, 1911, since which date the Daily Local News has been regularly issued in said county, and that the printed notice or publication attached hereto is exactly the same as printed and published in the regular editions and issues of the said Daily Local News on the following dates viz:

October 7

A.D. 2004

Affiant further deposes that he/she is the proper person duly authorized by the Daily Local News Company, a corporation, publishers of said Daily Local News, a newspaper of general circulation, to verify the foregoing statement under oath, and that affiant is not interested in the subject matter of the aforesaid notice or advertisement, and that all allegations in the foregoing statements as to time, place and character of publication are true.

COPY OF NOTICE OR PUBLICATION

NOTICE

NOTICE OF INTENT TO ABANDON RAIL SERVICE

Norfolk Southern Railway Company (NSR) gives notice that on or about October 29, 2004, it intends to file with the Surface Transportation Board (STB), Washington, DC 20423, a notice of exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903, et seq., and 49 U.S.C. 1152 Subpart F-Exempt Abandonments, permitting NSR's abandonment of a 80-mile line of railroad between milepost MP 16.92 and milepost MP 19.72, which traverses through United States Postal Service ZIP Codes 19335 and 19372 in Chester County, Pennsylvania. The proceeding will be docketed as No. AB-290 (Sub No. 256).

The STB's Section of Environmental Analysis (SEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in an STB decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Section of Environmental Analysis, Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001 or by calling that office at 202-365-1545.

Appropriate offers of financial assistance to continue rail service can be filed with the STB. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the STB. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the STB's Office of the Secretary, 1925 K Street, N.W., Washington, DC 20423-0001 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicant's representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the STB's Office of Public Assistance at 202-927-7597. Copies of any comments or requests for conditions should be served on the applicant's representative: James R. Paschall, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510-9241, (757) 629-2753.

The DAILY LOCAL NEWS COMPANY, a corporation, publishers of the Daily Local News, a newspaper of general circulation, hereby affirms, deposes and certifies that the same has been duly paid.
Publisher's Receipt for Advertising Costs
of the aforesaid notice and publication costs and certifies that the same has been duly paid.
a Corporation, Publishers of the DAILY LOCAL NEWS, a newspaper of General Circulation.

[Signature]
affirmed to and subscribed before me this 7th

day of October, 2004

[Signature]
Notary Public
Notarial Seal
Beverly A. Wolfe, Notary Public
East Bradford Twp., Chester County
My Commission Expires June 4, 2005

Member, Pennsylvania Association of Notaries

Statement of Advertising Costs
Norfolk Southern Corporation
Law Department
Three Commercial Place
Norfolk, VA 23510-9241

To DAILY LOCAL NEWS COMPANY, Dr.
For publishing the notice or publication attached
hereto on the above stated dates\$
Probating same\$
Total\$



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

James R. Paschall
General Attorney

Writer's Direct Dial Number

(757) 629-2759

October 19, 2004

Mr. William Shane, Chairman
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17120

Regional Director
National Park Service
U. S. Custom House
200 Chestnut St., Fifth Floor
Philadelphia, PA 19106

MTMCTEA
Attn: Railroads for National Defense
720 Thimble Shoals Blvd., Suite 130
Newport News, VA 23606-2574

National Park Service
Recreation Resources Assistance Division
1849 C Street, N. W. (2310)
Washington, DC 20240-0001

U. S. Department of Agriculture
Chief of the Forest Service
Sidney R. Yates Federal Building
201 14th Street, SW at Independence Ave., SW
Washington, DC 20250

Mr. William Shaddox
National Park Service
Land Resources Division
1849 C Street, N. W. (2540)
Washington, DC 20242-0004

Re: STB Docket No. AB-290 (Sub. No. 256X), Norfolk Southern Railway Company –
Abandonment – Borough of Downingtown, Chester County, Pennsylvania

Ladies and Gentlemen:

Pursuant to 49 CFR 1152.50(d)(1), Norfolk Southern Railway Company (NSR) hereby gives notice that on or about October 29, 2004, it will file with the Surface Transportation Board a notice of exemption from regulation in accordance with the exemption regulations set forth at 49 CFR Part 1152, Subpart F. That notice of exemption will permit NSR's abandonment of a .80-mile line of railroad lying between milepost MP 18.92 and milepost MP 19.72 at Downingtown, Chester County, Pennsylvania (see attached map). No revenue traffic has originated or terminated or moved overhead on the line to be abandoned for more than two years. Based on information in our possession, the line does not contain federally granted rights-of-way. Any documentation in the railroads' possession will be made available promptly to those requesting it.

Very truly yours,

James R. Paschall

JRP:kch
Attachment