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OEA  
EAXX-472-00-0-1730460733

SERVICE DATE – NOVEMBER 25, 2024

**SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC 20423**

**DRAFT ENVIRONMENTAL ASSESSMENT**

**Docket No. AB 290 (Sub-No. 417X)**

**Norfolk Southern Railway Company – Abandonment Exemption –  
In Mingo County, W. Va**

**BACKGROUND**

In this proceeding, Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the prior approval requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in Mingo County, West Virginia. The rail line proposed for abandonment extends approximately 3.5 miles from milepost AL 0.0 at Sprigg, W. Va to milepost AL 3.5 at Vimy, near Matewan, W. Va. (the Line). A map depicting the Line in relationship to the area served is appended to this Draft Environmental Assessment (Draft EA). If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

**DESCRIPTION OF THE LINE**

The Line formerly served a variety of coal mining related operations in the area and consists of a 50 to 120 foot right-of way (ROW). The track configuration within the ROW varies from a single track, at-grade, on stone ballast, to 3 tracks in a number of locations along the Line. Historically, small coal-related towns were present along the Line but have been replaced by modern residential, commercial, and agricultural uses. Two plate girder bridges are located on the Line, crossing Sprouse Creek and Ferrell Branch, both tributaries to the Tug Fork River.<sup>1</sup>

According to NSR, the Line was originally obtained in a condemnation hearing in 1914 by the Norfolk and Western Railway Company, which later merged into the Norfolk Southern Railway Company in 1998. The original construction date of the Line is unknown, but an examination of historic USGS mapping shows that as of 1909, the Line was only constructed from Sprigg to a point about .7 miles to the north running adjacent to current WV 49, accessing a

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<sup>1</sup> NSR filed an errata on November 15, 2024, stating that it unintentionally omitted the bridges in its initial filing. NSR clarifies that there are two bridges on the Line, and that it has provided this information to the appropriate federal, state, and local agencies.

coal mine along the west side of Tug Fork River. By 1928, the entire 3.5 mile Line had been constructed, providing transportation access to at least 6 different coal mining operations.

## **ENVIRONMENTAL REVIEW**

NSR submitted a combined environmental and historic report (E&H Report) that concludes the quality of the human environment would not be affected significantly as a result of the proposed abandonment of the Line, including salvage. NSR served the E&H Report on a number of appropriate federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)]<sup>2</sup> implementing the National Environmental Policy Act. The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

### ***Diversion of Traffic***

According to NSR, no local traffic has moved over the Line in over two years, and there is no need to reroute any overhead traffic. Therefore the proposed abandonment would not result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network. Nor would the proposed abandonment adversely impact the development, use and transportation of energy resources or recyclable commodities or the transportation of ozone-depleting materials.

### ***Salvage Activities***

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way. According to NSR, following abandonment there would be no salvage of the Line's rail and related track materials. The contour of the existing roadbed would remain as is, and existing drainage systems would remain intact. No ballast would be removed, and no soil disturbance would occur.

NSR requested comments from the United States Department of Agriculture, Natural Resources Conservation Service (NRCS). On August 8, 2024, NRCS submitted a comment

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<sup>2</sup> The E&H Report is available for viewing on the Board's website at [www.stb.gov](http://www.stb.gov) by clicking "Search STB Records;" selecting "Filings" in the "Search for" dropdown menu; entering "AB" "290" "Sub-No. 417" "X" sequentially in the four boxes for "Docket Number," then selecting "Search." The E&H Report was filed on October 31, 2024.

stating that the proposed abandonment would have no negative impact on prime agricultural land.

NSR requested comments from the U.S. Fish and Wildlife Service (USFWS) regarding the potential impact of the proposed abandonment to protected wildlife, including federally listed threatened and endangered species. To date, USFWS has not provided comments. To identify protected species in the project area, OEA conducted a search of the USFWS Information for Planning and Consultation (IPaC) system.<sup>3</sup> Four protected threatened or endangered species are located in the area of the proposed abandonment: Gray Bat (*Myotis grisecens*), Indiana Bat (*Myotis sodalis*), Northern Long-eared Bat (*Myotis septentrionalis*), and the Tricolored Bat (*Perimyotis subflavus*). In addition, the Monarch Butterfly (*Danaus plexippus*) and the Big Sandy Crayfish (*Cambarus callainus*) were identified in the area. According to the IPaC report, there is no critical habitat for these species in the project area. OEA has determined that these federally listed threatened or endangered species would not be affected because no abandonment-related salvage would be conducted, and the Line would remain intact. OEA is providing USFWS West Virginia Ecological Services Field Office with a copy of this Draft EA for its review.

NSR submitted the E&H Report to the U.S. Environmental Protection Agency (USEPA) and the U.S. Army Corps of Engineers (Corps) and requested comments on potential permitting requirements under Sections 402 and 404 of the Clean Water Act (CWA). OEA has not received responses from either agency but believes that the proposed abandonment would not impact waterways, including wetlands, given that NSR would not be conducting salvage if the Board authorizes abandonment. NSR received a letter dated August 9, 2024 from the Division of Water and Water Management of the West Virginia Department of Environmental Protection (WVDEP), stating that it had no objection to the proposed abandonment because the activities would be consistent with water quality standards, not a source for water pollution, and there would be no stormwater or industrial discharge requiring a permit under Section 404 of the Clean Water Act. OEA is providing USEPA Region 3, the Corps Pittsburgh District Headquarters, and WVDEP with a copy of this Draft EA for review.

The proposed abandonment is not located within a Coastal Zone. Therefore, no further consultation is required.

OEA believes that there would be no impacts from any air emissions or noise on the area surrounding the proposed abandonment because no salvage or other land disturbing activities would occur.

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<sup>3</sup> U.S. Fish and Wildlife Service, Information for Planning and Consultation (IPaC) Tool at <https://ipac.ecosphere.fws.gov/> (Accessed November 14, 2024).

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. In addition to the parties on the Board's service list for this proceeding, OEA is providing a copy of this Draft EA to the following agencies for review and comment: U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, USEPA Region 3, and WVDEP.

## **HISTORIC REVIEW**

NSR served the E&H Report on the West Virginia State Historic Preservation Office (State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c).<sup>4</sup> OEA has not heard from the State Historic Preservation Officer (SHPO) and therefore has not been able to consider the SHPO's opinion before determining if the rail line may be potentially eligible for listing on the National Register of Historic Places. Accordingly, OEA is recommending a condition requiring the railroad to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures and objects within the project right-of-way (the Area of Potential Effect) eligible for listing or listed in the National Register of Historic Places until completion of the Section 106 process. Guidance regarding the Board's historic preservation review process is available on the Board's website at <https://www.stb.gov/resources/environmental/historic-preservation-overview>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the U.S. Department of Housing and Urban Development's Tribal Directory Assessment Tool (TDAT) to identify federally recognized Tribes that may have ancestral connections to the project area.<sup>5</sup> The database indicated that the following federally-recognized tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment: Cherokee Nation, Eastern Band of Cherokee Indians, and the Seneca-Cayuga Nation. Accordingly, OEA is sending a copy of this Draft EA to these Tribes for review and comment.

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<sup>4</sup> Applicants seeking authority from the Board to abandon railroad lines may act on behalf of the Board when complying with the Section 106 regulations of the National Historic Preservation Act. Applicants are authorized to initiate the Section 106 review process and carry out some of its steps, but the Board retains overall responsibility for the Section 106 review. See 36 C.F.R. § 800.2(c)(4); 49 C.F.R. Part 1105; Delegation Letter (Dec. 9, 2009). The Delegation Letter can be found at a link on the bottom of the Board's website overlooking historic preservation at <https://www.stb.gov/resources/environmental/historic-preservation-overview>.

<sup>5</sup> U.S. Department of Housing and Urban Development, Tribal Directory Assessment Tool, <https://egis.hud.gov/tdat> (last accessed November 14, 2024).

**CONDITIONS**

OEA recommends that the following condition be imposed on any decision granting abandonment authority:<sup>6</sup>

Norfolk Southern Railroad (NSR) shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 54 U.S.C. § 306108, has been completed. NSR shall report back to the Office of Environmental Analysis (OEA) regarding any consultations with the State Historic Preservation Office, Tribes, and the public. NSR may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

**CONCLUSIONS**

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended condition is imposed, abandonment of the Line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

**PUBLIC USE**

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Board's Federal Register notice of the proposed abandonment.

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<sup>6</sup> If an interim trail use agreement under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 is reached for the Line (or a portion thereof), compliance with this condition is not required with respect to any portion of the Line covered by the interim trail use agreement for the duration of the agreement.

The Federal Register notice is also issued as a Board decision and is available on the Board's website.<sup>7</sup>

### **TRAIL USE**

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29). The Federal Register notice is also issued as a Board decision and is available on the Board's website.<sup>8</sup>

### **PUBLIC ASSISTANCE**

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

### **COMMENTS**

OEA encourages interested parties to submit their comments on the Draft EA electronically through the Board's website at <https://www.stb.gov/>. From the Board's home page, select "File an Environmental Comment" below the "Need Assistance?" button. Log-in accounts are not needed to file environmental comments electronically, and brief comments can be typed in the comment field, and lengthier comments can be attached as Word, Adobe Acrobat, or other file formats.

Alternatively, comments submitted by mail should be addressed to: Alan Tabachnick, Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001, Attention:

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<sup>7</sup> Board decisions are available for viewing on the Board's website at [www.stb.gov](http://www.stb.gov) by clicking "Search STB Records;" selecting "Decisions" in the "Search for" dropdown menu; entering "AB" "290" "417" "X" sequentially in the four boxes for "Docket Number," then selecting "Search."

<sup>8</sup> Id.

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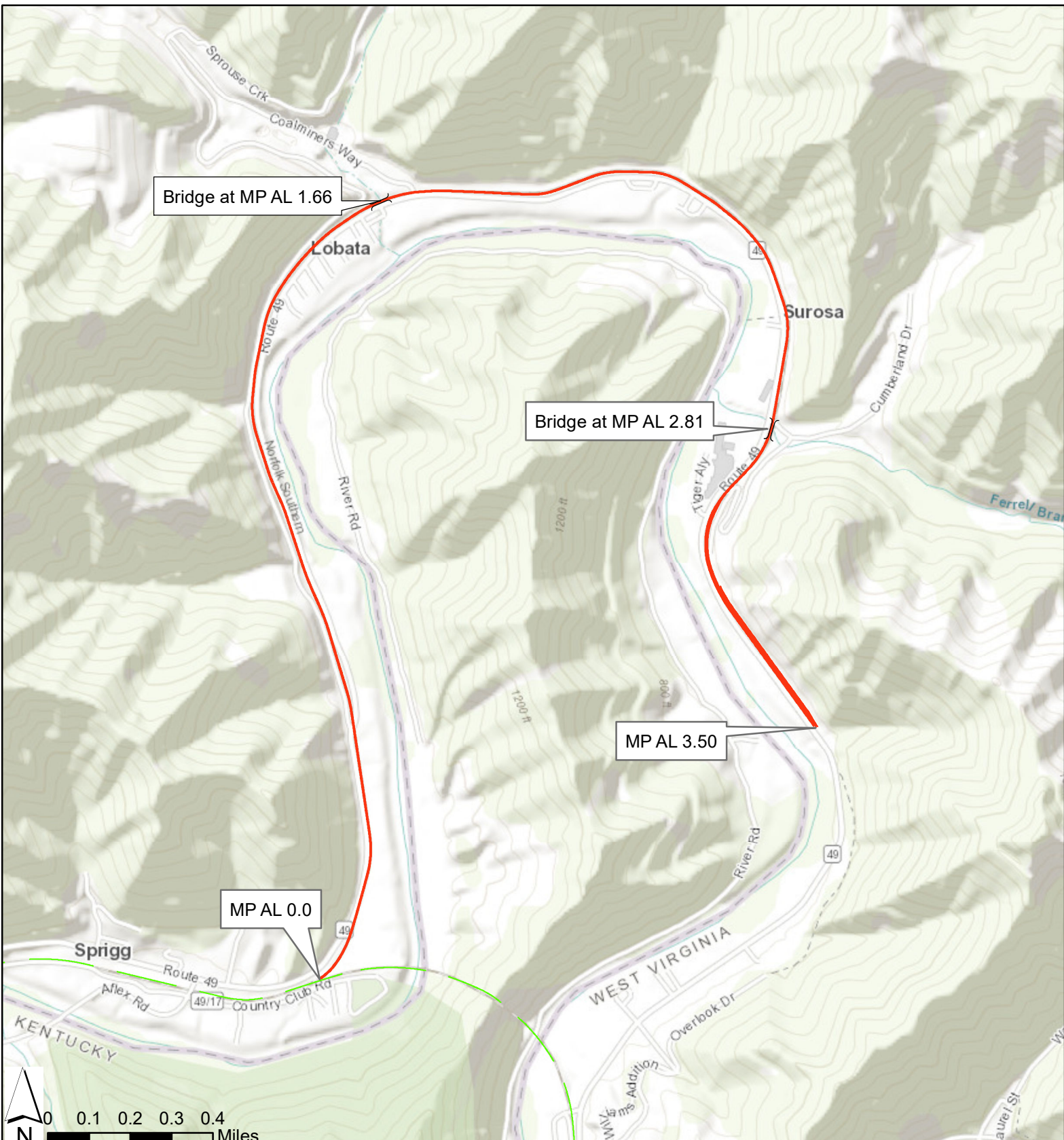
Environmental Filing, Docket No. AB 290 (Sub-No. 417X). If you have any questions, please contact Alan Tabachnick by email at [alan.tabachnick@stb.gov](mailto:alan.tabachnick@stb.gov) or by phone at 202-934-8469.

Date made available to the public: November 25, 2024.

**Comment due date:** December 10, 2024.

By the Board, Danielle Gosselin, Director, Office of Environmental Analysis.

Attachment



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 Norfolk Southern Railway  
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 In Mingo County, W. Va

**Legend**  
 — the Line  
 — NS Operating

Note: Maps produced by the STB's Office of Environmental Analysis are based on information provided by the applicant and are for reference purposes only.



Mingo County, WV



West Virginia