

140th anniversary
Nauman Smith
Attorneys At Law

Please Reply to:
P. O. Box 840
Harrisburg, PA 17108-0840

Benjamin C. Dunlap, Jr.
E-mail: bdunlapjr@nssh.com

September 19, 2011

**Via Electronic Mail
Confirmed Via Hand Delivery**

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

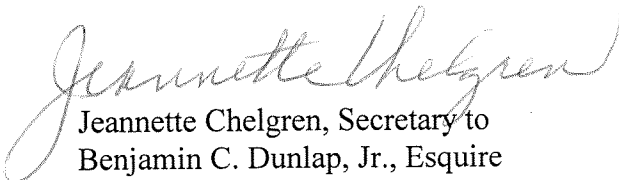
In re: Application of Norfolk Southern Railway Company to abolish the public rail-highway crossing of High Street above its tracks in the City of Bethlehem and the Borough of Hellertown, Northampton County, Pennsylvania (DOT # 592 787 H). PUC Docket No. A-2008-2075123

Dear Secretary Chiavetta:

Enclosed please find the original of the Stipulation of Settlement and related Statements in Support for filing in the above-referenced matter. In accordance with the accompanying Certificate of Service, we are serving a copy of the Stipulation and related Statements in Support on all parties of record. In accordance with the Order of Administrative Law Judge Kandace F. Melillo entered July 28, 2011, also enclosed is a CD containing the settlement documents filed herewith.

If you have any questions, please do not hesitate to contact our office.

Sincerely yours,


Jeannette Chelgren, Secretary to
Benjamin C. Dunlap, Jr., Esquire

Enclosures

cc: All Parties of Record (w/encs.)
ALJ Kandace F. Melillo (via electronic mail and hand delivery, w/encs.)
Randal S. Noe, Esquire (w/enc.)
Thomas Bracey (w/enc.)
David Wyatt (w/enc.)

Superior analysis. Effective solutions. Since 1871.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**In re: Application of Norfolk Southern Railway :
Company to abolish the public rail-highway :
crossing of High Street above its tracks in the : Docket No. A-2008-2075123
City of Bethlehem and Borough of Hellertown, :
Northampton County, Pennsylvania :
(DOT # 592 787 H) :**

STIPULATION OF SETTLEMENT

WHEREAS, Norfolk Southern Railway Company (“Norfolk Southern”) filed an Application to abolish the public rail-highway crossing carrying High Street above its tracks in the City of Bethlehem (“City”) and the Borough of Hellertown (“Borough”), Northampton County (“County”) on November 14, 2008, in the above-referenced Public Utility Commission (“PUC” or “Commission”) proceeding; and

WHEREAS, Norfolk Southern had previously been assigned maintenance responsibility for the bridge structure at the crossing in a Commission Order entered September 1, 1999, at Docket M-00991256; and

WHEREAS, all parties deny ownership of the present bridge structure at the subject crossing; and

WHEREAS, a field investigation and conference was arranged by a PUC staff engineer and held on February 5, 2009, at the site of the subject crossing; and

WHEREAS, a Secretarial Letter approving Norfolk Southern’s Application to abolish the crossing was issued on March 18, 2009; and

WHEREAS, Norfolk Southern filed a Petition to Appeal the Secretarial Letter on April 6, 2009, on the basis that the Secretarial Letter did not accurately reflect Norfolk Southern's agreement regarding the work that it would perform to abolish the crossing; and

WHEREAS, the City filed a Petition to Appeal Secretarial Letter on April 6, 2009, in which it objected to the abolition of the crossing and asserted that the Pennsylvania Department of Conservation and Natural Resources ("DCNR") must be added as a party due to the potential for trail development at the site; and

WHEREAS, the PUC entered an Opinion and Order on May 19, 2009, which granted the Petitions to Appeal Secretarial Letter filed by the City and Norfolk Southern, added DCNR as a party to the proceeding, and assigned the matter to the Office of Administrative Law Judge for further proceedings; and

WHEREAS, an initial prehearing conference was scheduled on December 2, 2009, before Administrative Law Judge ("ALJ") Kandace F. Melillo; and

WHEREAS, pursuant to a Prehearing Conference Order issued by ALJ Melillo, prehearing conference memoranda were submitted by Norfolk Southern, the City, DCNR, the PUC Law Bureau and the Pennsylvania Department of Transportation ("PennDOT"); and

WHEREAS, those same parties that filed prehearing memoranda attended the initial prehearing conference and agreed upon a framework to pursue a potential settlement of the matter; and

WHEREAS, a Procedural Order by ALJ Melillo dated December 4, 2009, memorialized the agreements reached by the parties at the December 2, 2009, prehearing conference; and

WHEREAS, the parties thereafter conducted settlement negotiations; and

WHEREAS, a further prehearing conference was held before ALJ Melillo on June 21, 2011, at which the City notified the Commission and other parties that the bridge had been closed, due to the findings of recent bridge inspections; and

WHEREAS, the City's actions in closing the bridge were affirmed by Commission Order entered June 30, 2011, in this proceeding; and

WHEREAS, no rail line is present at the subject location and service on the line has been abandoned pursuant to proceedings with the federal Surface Transportation Board; and

WHEREAS, the parties have now agreed to settlement terms in this proceeding, which are memorialized in this Stipulation of Settlement ("Stipulation").

NOW, THEREFORE, pursuant to §§ 507 and 2702 *et seq.*, of the Pennsylvania Public Utility Code ("Code"), 66 Pa.C.S. §§ 507 and 2702 *et seq.*, the undersigned parties to this proceeding agree in this Stipulation as follows:

1. The subject crossing shall be abolished, with the present bridge structure to remain in place.
2. Upon the PUC's approval of this Stipulation, the City agrees to assume ownership and all future maintenance responsibility for the present bridge structure at its sole cost and expense, including those costs and work responsibilities in the June 30, 2011, Order, which shall be made permanent. In addition, the City agrees to inspect the present bridge structure on an annual basis until such time as it is removed, and to construct appropriate barriers to prevent access under the bridge structure should a future inspection determine conditions present a safety issue under the bridge. The City agrees to remove the present bridge structure within three (3)

years of a PUC Order approving this Stipulation and abolishing the crossing, at its sole cost and expense, subject to any reimbursement under agreement paragraphs 3, 5 and 6 of this Stipulation.

3. The City, PennDOT, the County and the Borough agree to cooperate to obtain federal and/or state funding for the construction of a new bridge structure at the present crossing site.

4. Within six (6) months after federal and/or state funding is committed, the City agrees to enter into a contract for construction design and engineering of a new bridge, at its cost and expense, subject to the reimbursement stated below. At this time construction design and engineering costs for a new bridge are estimated at approximately Four Hundred Seventeen Thousand Dollars (\$417,000). The City also agrees to reconstruct the bridge, at its cost and expense, subject to the reimbursement stated herein.

5. Following the commitment of federal and/or state funding and the City's entry into a contract for the engineering and design of a new bridge structure at the site of the crossing, Norfolk Southern shall pay the City One Hundred Thousand Dollars (\$100,000). Norfolk Southern shall make additional payments to the City of One Hundred Thousand Dollars (\$100,000) each upon the three following benchmarks: upon the completion of the preliminary design, upon the completion of final design, and upon the start of construction of the new bridge structure. Norfolk Southern's total payments to the City shall total Four Hundred Thousand Dollars (\$400,000).

6. If the City is not able to obtain federal and/or state funding for a new bridge structure, or otherwise decides upon an alternate roadway structure at the site of the present crossing, Norfolk Southern shall contribute a sum, not to exceed Four Hundred Thousand Dollars (\$400,000.00) to reimburse the City's actual costs for the design, engineering and

construction of such alternate structure. Norfolk Southern shall pay such costs as they are incurred and invoiced.

7. DCNR concurs with the City's proposal of constructing a new bridge. DCNR has additionally committed a grant of Four Hundred Thousand Dollars (\$400,000) for further development of a segment of the South Bethlehem Greenway trail, a project in connection with the potential trail underneath the bridge.

8. The City agrees to assume ownership as well as work responsibility for the future maintenance of the reconstructed bridge. The Borough agrees to assume 24% of the cost responsibility for the reconstructed bridge, the County agrees to assume 23% of the cost responsibility for the reconstructed bridge and the City agrees to assume the remaining 53% of the cost responsibility for the reconstructed bridge. The City agrees to continue to assume maintenance responsibility for the west approach to the crossing and the Borough agrees to continue to assume maintenance responsibility for the east approach to the crossing, at their respective sole cost and expense. The Borough agrees to assume responsibility for snow removal on any reconstructed bridge or alternative structure, at its sole cost and expense.

9. Norfolk Southern agrees to provide an easement to the City for the reconstructed bridge or any alternate structure at no cost to the City.

10. Should Norfolk Southern decide to sell the former rail line segment that traverses the subject crossing, Norfolk Southern acknowledges its obligation to notify the City and consider any offer the City may make to purchase the property, pursuant to 66 Pa.C.S. § 2709.

11. DCNR agrees with the City, PennDOT and Norfolk Southern that the negotiations that led to this Stipulation and the agreements and obligations contained herein fulfill the parties'

responsibilities under the Decision Tree Process outlined in the publication “Rail-Trail Bridges in Pennsylvania, a Guidebook for the Structured Disposition Process.”

12. Subject to the parties’ right to withdraw from this Stipulation pursuant to Paragraph 14, the parties hereto agree to abide by the work responsibilities and financial obligations delineated in this Stipulation.

13. This Stipulation is contingent upon its approval pursuant to §§ 507 and 2702 *et seq.* of the Code and the issuance of a Commission Secretarial Letter or Order accepting and approving the same.

14. The parties agree that any party may petition the Commission for hearing if the Commission Secretarial Letter or Order substantively modifies the terms of this Stipulation. In that event, any party may give notice to the other parties that it is withdrawing from this Stipulation. Such notice must be in writing and must be given within ten (10) business days of the issuance of any Initial or Recommended Decision or any Commission Order or Secretarial Letter which adopts this Stipulation with substantive modifications of its terms. The consequence of any party withdrawing from this Stipulation as set forth above is that all issues associated with the requested relief presented in the proceeding will be fully litigated unless otherwise stipulated between the parties and all obligations of the parties as set forth above to each other are terminated and of no force and effect.

15. The parties agree that the purpose of this Stipulation is to act as a General Release, except as specifically noted within, and is to settle, compromise and release all claims, actions, suits and rights whatsoever existing between and on behalf of the respective parties as set forth above, their successors and assigns, including all such claims, actions, suits and rights whatsoever, whether known or unknown to the parties, except to enforce the terms of this Stipulation.

16. The parties, by the signatures of their representatives below, stipulate to the facts in the Affidavit attached hereto as Exhibit "A."

17. The benefits and obligations of this Stipulation shall be binding upon the successors and assigns of the parties to this Stipulation.

18. Counterparts: This document may be signed in counterparts and all signatures attached hereto will be considered as original.

In order to effectuate the parties' Stipulation, the undersigned parties request that the Commission issue a Secretarial Letter or Order in substantially the following form. The Commission will serve the public interest by adopting this Stipulation. The Stipulation will save the parties the time and expense they would incur further litigating this matter before the Commission. Since all of the parties agree to the terms of the Stipulation, adopting it will eliminate the possibility of any appeal from the Commission Secretarial Letter or Order, thus saving the parties the additional time and expense they might incur in such an appeal. Adopting this Stipulation will further the statutory provisions of 66 Pa.C.S. § 2702 *et seq.*, in regard to the public convenience and safety, and further the Commission policy of encouraging settlements. 52 Pa. Code § 5.231(a). The parties hereto therefore request that the Commission adopt the following ordering paragraphs in accordance with the Stipulation of the parties and in furtherance of the public interest and safety:

1. That the Stipulation of Settlement entered into by the parties to this proceeding be and hereby is approved and adopted by the Commission.

2. That the crossing where High Street crosses above the former rail line of Norfolk Southern Railway Company in the City of Bethlehem shall be abolished, with the present

crossing structure, including all supporting structures, to be removed by the City within three (3) years of this Order, at its sole cost and expense. All work necessary to remove the structure shall be completed in a manner satisfactory to the Commission.

3. That ownership and maintenance responsibility for the present bridge structure where High Street crosses above the former rail line of Norfolk Southern Railway Company in the City of Bethlehem is hereby assigned to and accepted by the City of Bethlehem at its sole cost and expense, as the City has agreed. Such maintenance responsibilities explicitly include the work and cost responsibilities contained in the June 30, 2011, Order in this proceeding. Such maintenance responsibilities shall also include an annual inspection of the bridge structure by the City and the construction of appropriate barriers to prevent access under the bridge structure should a future inspection determine that conditions present a safety issue under the bridge.


4. That the City of Bethlehem shall continue to assume maintenance responsibility for the west roadway approach to the crossing and the Borough of Hellertown shall continue to assume maintenance responsibility for the east approach to the crossing, at their respective sole cost and expense, as they have agreed to do, pursuant to the September 1, 1999, Commission Order at Docket M-00991256.

5. That this Order, insofar as it allocates costs and expenses to various parties, is without prejudice to their rights to recover those costs and expenses from others pursuant to any applicable law or lawful agreement.

6. The Commission retains jurisdiction of this matter until satisfactory completion of the removal of the existing bridge structure.

[SIGNATURES ON FOLLOWING PAGES]

Date: Sept. 19, 2011



Benjamin C. Dunlap, Jr., Esquire
Attorney for Norfolk Southern Railway Company

Date:

Christopher C. Cooper, Esquire
Assistant Solicitor for the City of Bethlehem

Date:

Jason D. Sharp, Esquire
Attorney for Commonwealth of Pennsylvania
Department of Transportation

Date:

Martha R. Smith, Esquire
Attorney for Commonwealth of Pennsylvania
Department of Conservation & Natural Resources

Date:

John Herzog, Esquire
Attorney for Commonwealth of Pennsylvania
Public Utility Commission – Law Bureau, on behalf
of the Bureau of Transportation & Safety

Date:

Michael F. Corriere
Solicitor for Borough of Hellertown

Date:

David M. Backenstoe, Esquire
Solicitor for Northampton County

Date:

Benjamin C. Dunlap, Jr., Esquire
Attorney for Norfolk Southern Railway Company

Date:

Sept 15, 2011

Christopher C. Cooper

Christopher C. Cooper, Esquire
Assistant Solicitor for the City of Bethlehem

Date:

Sept 15, 2011

John B. Callahan

John B. Callahan
Mayor, City of Bethlehem

Date:

Meg Holland 9/15/2011

Meg Holland
Controller, City of Bethlehem

Date:

Jason D. Sharp, Esquire
Attorney for Commonwealth of Pennsylvania
Department of Transportation

Date:

Martha R. Smith, Esquire
Attorney for Commonwealth of Pennsylvania
Department of Conservation & Natural Resources

Date:

John Herzog, Esquire
Attorney for Commonwealth of Pennsylvania
Public Utility Commission – Law Bureau, on behalf
of the Bureau of Transportation & Safety

Date:

Michael F. Corriere
Solicitor for Borough of Hellertown

Date:

Karl F. Longenbach, Esquire
Solicitor for Northampton County

Date:

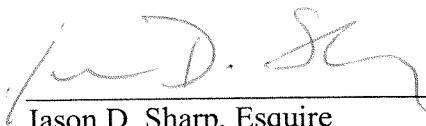
Benjamin C. Dunlap, Jr., Esquire
Attorney for Norfolk Southern Railway Company

Date:

Christopher C. Cooper, Esquire
Assistant Solicitor for the City of Bethlehem

Date:

9/16/2011



Jason D. Sharp, Esquire
Attorney for Commonwealth of Pennsylvania
Department of Transportation

Date:

Martha R. Smith, Esquire
Attorney for Commonwealth of Pennsylvania
Department of Conservation & Natural Resources

Date:

John Herzog, Esquire
Attorney for Commonwealth of Pennsylvania
Public Utility Commission – Law Bureau, on behalf
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Date:

Michael F. Corriere
Solicitor for Borough of Hellertown

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Karl F. Longenbach, Esquire
Solicitor for Northampton County

Date:

Benjamin C. Dunlap, Jr., Esquire
Attorney for Norfolk Southern Railway Company

Date:

Christopher C. Cooper, Esquire
Assistant Solicitor for the City of Bethlehem

Date:

Jason D. Sharp, Esquire
Attorney for Commonwealth of Pennsylvania
Department of Transportation

Date: *September 7, 2011*

Martha R. Smith

Martha R. Smith, Esquire
Attorney for Commonwealth of Pennsylvania
Department of Conservation & Natural Resources

Date:

John Herzog, Esquire
Attorney for Commonwealth of Pennsylvania
Public Utility Commission – Law Bureau, on behalf
of the Bureau of Transportation & Safety

Date:

Michael F. Corriere
Solicitor for Borough of Hellertown

Date:

Karl F. Longenbach, Esquire
Solicitor for Northampton County

Date:

Benjamin C. Dunlap, Jr., Esquire
Attorney for Norfolk Southern Railway Company

Date:

Christopher C. Cooper, Esquire
Assistant Solicitor for the City of Bethlehem

Date:

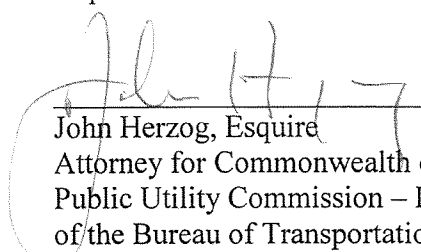
Jason D. Sharp, Esquire
Attorney for Commonwealth of Pennsylvania
Department of Transportation

Date:

Martha R. Smith, Esquire
Attorney for Commonwealth of Pennsylvania
Department of Conservation & Natural Resources

Date:

9/16/17



John Herzog, Esquire
Attorney for Commonwealth of Pennsylvania
Public Utility Commission – Law Bureau, on behalf
of the Bureau of Transportation & Safety

Date:

Michael F. Corriere
Solicitor for Borough of Hellertown

Date:

Karl F. Longenbach, Esquire
Solicitor for Northampton County

Date:

Benjamin C. Dunlap, Jr., Esquire
Attorney for Norfolk Southern Railway Company

Date:

Christopher C. Cooper, Esquire
Assistant Solicitor for the City of Bethlehem

Date:

Jason D. Sharp, Esquire
Attorney for Commonwealth of Pennsylvania
Department of Transportation

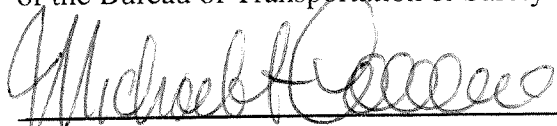
Date:

Martha R. Smith, Esquire
Attorney for Commonwealth of Pennsylvania
Department of Conservation & Natural Resources

Date:

John Herzog, Esquire
Attorney for Commonwealth of Pennsylvania
Public Utility Commission – Law Bureau, on behalf
of the Bureau of Transportation & Safety

Date: *September 13, 2011*



Michael F. Corriere
Solicitor for Borough of Hellertown

Date:

Karl F. Longenbach, Esquire
Solicitor for Northampton County

Date:

Benjamin C. Dunlap, Jr., Esquire
Attorney for Norfolk Southern Railway Company

Date:

Christopher C. Cooper, Esquire
Assistant Solicitor for the City of Bethlehem

Date:

Jason D. Sharp, Esquire
Attorney for Commonwealth of Pennsylvania
Department of Transportation

Date:

Martha R. Smith, Esquire
Attorney for Commonwealth of Pennsylvania
Department of Conservation & Natural Resources

Date:

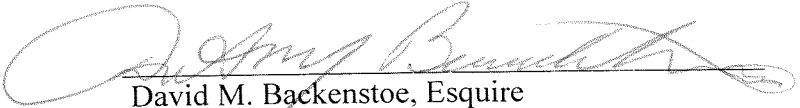
John Herzog, Esquire
Attorney for Commonwealth of Pennsylvania
Public Utility Commission – Law Bureau, on behalf
of the Bureau of Transportation & Safety

Date:

Michael F. Corriere
Solicitor for Borough of Hellertown

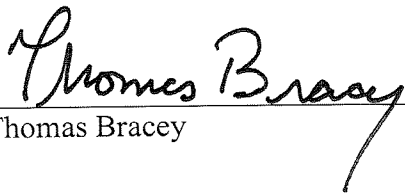
Date:

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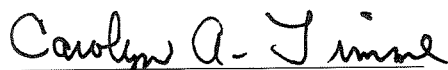


David M. Backenstoe, Esquire
Solicitor for Northampton County

4. Norfolk Southern has no intention of resuming service on the line.

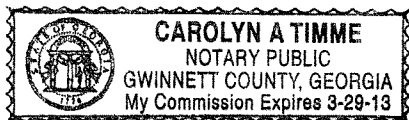

Thomas Bracey

Sworn and subscribed to before
me, a Notary Public, this 8
day of September, 2011.



Notary Public

My Commission Expires:



34410

SERVICE DATE - FEBRUARY 10, 2004

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-859 (Sub-No. 1X)]

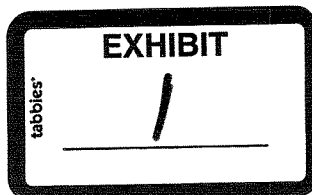
Pennsylvania Lines LLC--Abandonment Exemption--in Northampton County, PA

[STB Docket No. AB-290 (Sub-No. 245X)]

Norfolk Southern Railway Company--Discontinuance of Service Exemption--in Northampton County, PA

Pennsylvania Lines LLC (PRR) and Norfolk Southern Railway Company (NSR) (collectively, petitioners) have jointly filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments and Discontinuances of Service for PRR to abandon, and NSR to discontinue service over, a 3.7-mile line of railroad between milepost EK-53.0 at Hellertown and milepost EK-56.7 at Bethlehem, in Northampton, PA. The line traverses United States Postal Service Zip Codes 18015, 18016, 18017, 18018, 18020, 18025 and 18055.

PRR and NSR have certified that: (1) no local traffic has moved over the line for at least 2 years; (2) no overhead traffic has moved over the line for at least 2 years and overhead traffic, if there were any, could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of



complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment or discontinuance shall be protected under Oregon Short Line R. Co.-Abandonment-Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on March 11, 2004, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,¹ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),² and trail use/rail banking requests under 49 CFR 1152.29 must be filed by February 20, 2004. Petitions to reopen or requests for public use conditions under 49 CFR

¹ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

² Each offer of financial assistance must be accompanied by the filing fee, which currently is set at \$1,100. See 49 CFR 1002.2(f)(25).

1152.28 must be filed by March 1, 2004, with: Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001.³

A copy of any petition filed with the Board should be sent to applicants' representative: James R. Paschall, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk Southern Railway Company, Norfolk, VA 23510.

If the verified notice contains false or misleading information, the exemption is void ab initio.

PRR and NSR have filed an environmental report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by February 13, 2004. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565-1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

³ On February 2, 2004, the Bucks County Transportation Management Association (Bucks County) filed a letter in opposition to the abandonment of the rail line. Bucks County states that the line represents the only existing rail line between Philadelphia and the Allentown/Bethlehem area and that abandonment of the line would eliminate any possibility of restoring commuter rail service through this area. Bucks County and any other interested person may file petitions for relief within the deadlines established in this notice.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), PRR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by PRR's filing of a notice of consummation by February 10, 2005, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at
“WWW.STB.DOT.GOV.”

Decided: February 4, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

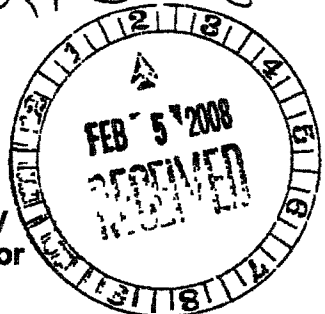
Vernon A. Williams

Secretary



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

221538



Greg E. Summy
General Solicitor

(757) 533-4890 office
(757) 533-4872 fax
E-mail. Greg.Summy@nscorp.com

February 4, 2008

via DHL Express
(original and 10 copies)

Anne K. Quinlan, Secretary
Surface Transportation Board
395 E Street, S. W.
Washington, DC 20024

ENTERED
Office of Proceedings
FEB 5 - 2008
Part of
Public Record

Re: STB Docket No. AB-859 (Sub-No. 1X), Pennsylvania Lines LLC –
Abandonment Exemption – in Northampton County, PA, embracing
STB Docket No. AB-290 (Sub-No. 245X), Norfolk Southern Railway Company –
Discontinuance of Service Exemption – in Northampton County, PA

NOTICE OF CONSUMMATION

Dear Ms. Quinlan:

This refers to the STB's decision authorizing abandonment of the line of railroad between milepost EK-53.0 at Hellertown and milepost EK-56.7 at Bethlehem, in Northampton County, Pennsylvania, by Norfolk Southern Railway Company, as successor by merger to Pennsylvania Lines, LLC.

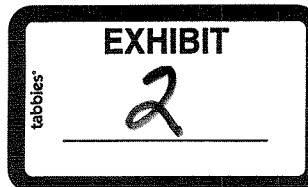
All environmental conditions have been met and abandonment of the line is consummated with the filing of this letter with the Board.

This notice has been sent to the Pennsylvania Public Utility Commission pursuant to 49 C.F.R. parts 1152.29(e)(2).

Very truly yours,

Greg E. Summy

cc: Pennsylvania Public Utility Commission
Rail Services Update



**BEFORE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**In re: Application of Norfolk Southern Railway :
Company to abolish the public rail-highway :
crossing of High Street above its tracks in the : Docket No. A-2008-2075123
City of Bethlehem and Borough of Hellertown, :
Northampton County, Pennsylvania :
(DOT # 592 787 H) :**

**STATEMENT OF NORFOLK SOUTHERN RAILWAY COMPANY
IN SUPPORT OF SETTLEMENT**

Norfolk Southern Railway Company (“Norfolk Southern”) concurs with the other parties that the settlement is in the public interest. The settlement addresses all of the issues involved in the litigation, *i.e.*, the abolition of the rail-highway crossing and the future disposition of the bridge structure and costs related thereto. As noted in the Stipulation of Settlement, the settlement avoids the time and expense involved in litigation and eliminates the possibility of an appeal from the Commission’s Secretarial Letter or Order.

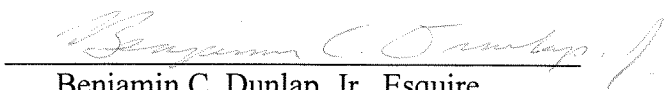
The settlement will serve to protect the public safety, since the City will be responsible for preventing all vehicular and pedestrian access to the bridge. The corridor will remain intact for potential future trail use. Norfolk Southern’s cost contribution will be available for design and engineering for a future bridge, when state or federal funding is finalized, or used toward an alternative structure if such funding is not secured, within three (3) years of the Commission’s Order. The settlement is consistent with the relief requested in Norfolk Southern’s original

Application, with the change from the relief originally requested agreed upon by all parties, including Norfolk Southern.

The settlement is likewise in the best interests of Norfolk Southern. Norfolk Southern has attained certainty regarding any cost allocation that could have been made to it through its agreement to share in the costs for any subsequent structure that may be constructed following abolition.

For all of the above reasons, Norfolk Southern submits that this settlement complies with the requirements of 66 Pa.C.S. § 2702 *et seq.*, in regard to the public safety and convenience, and therefore should be approved.

Respectfully submitted,
NAUMAN, SMITH, SHISSLER & HALL, LLP

By 
Benjamin C. Dunlap, Jr., Esquire
Supreme Court ID # 66283

200 North Third Street, 18th Floor
P. O. Box 840
Harrisburg, PA 17108-0840
Phone: (717) 236-3010
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E-mail: bdunlapjr@nssh.com

Date: September 19, 2011

Attorney for Norfolk Southern Railway Company

**BEFORE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**In re: Application of Norfolk Southern Railway :
Company to abolish the public rail-highway :
crossing of High Street above its tracks in the : Docket No. A-2008-2075123
City of Bethlehem and Borough of Hellertown, :
Northampton County, Pennsylvania :
(DOT # 592 787 H) :**

STATEMENT OF CITY OF BETHLEHEM IN SUPPORT OF SETTLEMENT

The City of Bethlehem (“City”) concurs with the other parties that the settlement is in the public interest. The settlement addresses all of the issues involved in the litigation, *i.e.*, the abolition of the rail-highway crossing and the future disposition of the bridge structure and costs related thereto. As noted in the Stipulation of Settlement, the settlement avoids the time and expense involved in litigation and eliminates the possibility of an appeal from the Commission’s Secretarial Letter or Order.

The settlement will serve to protect the public safety, since the City will be responsible for preventing all vehicular and pedestrian access to the bridge. The City has already barricaded the bridge to prevent all vehicular and pedestrian access. The corridor will remain intact for potential future trail use. Norfolk Southern’s cost contribution will be available for design and engineering for a future bridge, when Bridge Bill funding is finalized, or used toward an alternative structure if Bridge Bill funding is not secured, at whatever point that is determined following abolition. The settlement is in the best interests of the City. The City will attain funds

from Norfolk Southern which will enable it to design and provide an appropriate structure at this crossing to allow for future trail connections between the City and the Borough of Freemansburg. This settlement is in the best interest of the citizens of the City.

For all of the above reasons, the City submits that this settlement complies with the requirements of 66 Pa.C.S. § 2702 *et seq.*, in regard to the public safety and convenience, and therefore should be approved.

Respectfully submitted,
City of Bethlehem Solicitor's Office

September 14, 2011

By: Christopher C. Cooper
Christopher C. Cooper, Esquire
Supreme Court ID # 307344

10 East Church Street
Bethlehem, Pa 18018
(610) 865-7011
ccooper@bethlehem-pa.gov
Attorney for City of Bethlehem

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Norfolk Southern Railway Company :
to abolish the public rail highway crossing of High : Docket No.: A-2008-2075123
Street above its tracks in the City of Bethlehem and :
the Borough of Hellertown, Northampton County, :
PA (DOT # 592 787H) :

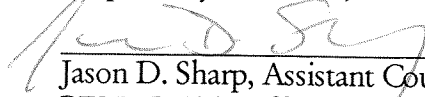
**COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF
TRANSPORTATION'S STATEMENT IN SUPPORT OF SETTLEMENT**

The Commission will serve the public interest by adopting the Settlement Petition in the above captioned matter. The settlement will save the parties the time and expense they would incur in further litigating this matter before the Commission. Since all of the parties agree to the terms of the settlement, adopting it will eliminate the possibility of any appeal from the Commission Secretarial Letter or Order, thus saving the parties the additional time and expense they might incur in such an appeal. Adopting this settlement will further the statutory provisions of 66 Pa. C.S. § 2702 *et seq.*, in regard to the public convenience and safety.

This settlement is in the public interest because it promotes the safety and welfare of the public. The Commission's paramount goals in regulating crossings are to prevent accidents and promote public safety. 66 Pa. C.S. § 2702 (b). The settlement in this matter ensures that the subject bridge will remain closed due to issues identified in the recent National Bridge Inspection Program reports. The settlement lays out the maintenance obligations of the various parties, which benefits the public by ensuring that there is an enumerated party allocated with the responsibility to ensure that the bridge is maintained until removal and that the area is secured after abolishment. Finally, the settlement sets forth a workable framework for the potential future replacement of the bridge, if deemed necessary by the local parties.

For all of the above reasons, PennDOT submits the Stipulation of Settlement in the above matter should be approved.

Respectfully submitted,



Jason D. Sharp, Assistant Counsel
PENNDOT - Office of Chief Counsel

DATED: September 16, 2011

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Norfolk Southern Railway Company :
For approval to abolish and replace with one lane :
Roadway on fill at a public above-grade crossing :
Where High Street crosses over the track of : A-2008-2075123
Norfolk southern Railway Company in the City of :
Bethlehem, Northampton County, and the :
Allocation of costs incident thereto :

STATEMENT OF THE COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
IN SUPPORT OF SETTLEMENT

The Commonwealth of Pennsylvania, Department of Conservation and Natural Resources (DCNR), believes that the settlement arrived at between the parties in this matter is in the public interest. This settlement will not only serve to protect the public safety, but will allow the corridor to remain intact for anticipated future trail use. As per paragraph 7 of the settlement document, DCNR has committed significant grant funds for further development of a segment of the South Bethlehem Greenway Trail, a project in connection with the potential trail underneath the bridge at issue. This settlement will further advance DCNR's and the City of Bethlehem's rail-trail goals. This settlement further complies with and satisfies the requirements of the Decision Tree Process.

For the above reasons, DCNR submits that this settlement meets the requirements of 66 Pa.C.S. § 2702 *et seq.*, in regard to the public safety and convenience, and therefore should be approved.

Respectfully submitted,

COMMONWEALTH OF PENNSYLVANIA
Dept. of Conservation and Natural Resources

By: Martha R. Smith
Martha R. Smith
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Date: September 7, 2011

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

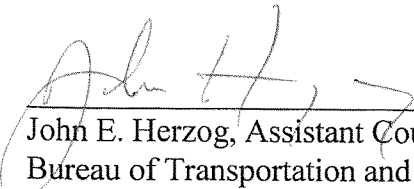
In re: Application of Norfolk Southern Railway :
Company to abolish the public rail-highway :
crossing of High Street above its tracks in the : **Docket No. A-2008-2075123**
City of Bethlehem and Borough of Hellertown, :
Northampton County, Pennsylvania :
(DOT # 592 787 H) :

Statement in Support of the Settlement

The Bureau of Transportation and Safety submits that the settlement is in the public interest. The resolution of the Application ensures the appropriate disposition of the crossing.

Date:

9/16/11



John E. Herzog, Assistant Counsel, for the
Bureau of Transportation and Safety

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In re: Application of Norfolk Southern Railway :
Company to abolish the public rail-highway : Docket No. A-2008-2075123
Crossing of High Street above its tracks in the :
City of Bethlehem and Borough of Hellertown :
Northampton County, Pennsylvania :
(DOT # 592 787 H) :

STATEMENT IN SUPPORT OF STIPULATION OF SETTLEMENT

I, Michael F. Corriere, Esquire, Solicitor for the Borough of Hellertown am authorized to advise the Court that the Borough of Hellertown is in support of the Stipulation of Settlement and hereby consent to the stipulation being approved by the Court and entered as a Court order.

Respectfully,

A handwritten signature in black ink, reading "Michael F. Corriere", written over a horizontal line.

Michael F. Corriere, Esquire
Hellertown Borough Solicitor

**BEFORE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**In re: Application of Norfolk Southern Railway :
Company to abolish the public rail-highway :
crossing of High Street above its tracks in the : Docket No. A-2008-2075123
City of Bethlehem and Borough of Hellertown, :
Northampton County, Pennsylvania :
(DOT # 592 787 H) :**

STATEMENT OF COUNTY OF NORTHAMPTON IN SUPPORT OF SETTLEMENT

The County of Northampton (“County”) concurs with the other parties that the settlement is in the public interest. The settlement addresses all of the issues involved in the litigation, *i.e.*, the abolition of the rail-highway crossing and the future disposition of the bridge structure and costs related thereto. As noted in the Stipulation of Settlement, the settlement avoids the time and expense involved in litigation and eliminates the possibility of an appeal from the Commission’s Secretarial Letter or Order.

The settlement will serve to protect the public safety, since the City will be responsible for preventing all vehicular and pedestrian access to the bridge. The City has already barricaded the bridge to prevent all vehicular and pedestrian access. The corridor will remain intact for potential future trail use. Norfolk Southern’s cost contribution will be available for design and engineering for a future bridge, when Bridge Bill funding is finalized, or used toward an alternative structure if Bridge Bill funding is not secured, at whatever point that is determined following abolition. The settlement is in the best interests of the parties. The City will attain

funds from Norfolk Southern which will enable it to design and provide an appropriate structure at this crossing to allow for future trail connections between the City and the Borough of Freemansburg. This settlement is in the best interest of the citizens of the parties.

For all of the above reasons, the County submits that this settlement complies with the requirements of 66 Pa.C.S. § 2702 *et seq.*, in regard to the public safety and convenience, and therefore should be approved.

Respectfully submitted,
County of Northampton Solicitor's Office

September 16, 2011

By: 

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dmbesq@ptd.net
Attorney for County of Northampton

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**In re: Application of Norfolk Southern Railway :
Company to abolish the public rail-highway :
crossing of High Street above its tracks in the : Docket No. A-2008-2075123
City of Bethlehem and Borough of Hellertown, :
Northampton County, Pennsylvania :
(DOT # 592 787 H) :**

CERTIFICATE OF SERVICE

I hereby certify that I served one (1) copy of the Stipulation of Settlement and related Statements in Support in the above action, this day by electronic mail and by depositing the same in the United States mail, postage prepaid, in Harrisburg, Pennsylvania, addressed to:

Via Electronic Mail/Regular Mail:

Adm. Law Judge Kandace F. Melillo
PA Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265
E-mail: kmelillo@pa.gov

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David M. Backenstoe, Esquire
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Via Regular First Class Mail:

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240 Route 10 West
Whippany, NJ 07981

Moravian College
Attn: Facilities Services
1415 Cortland Street
Bethlehem, PA 18018

XO Communication
C/o De-Tech Inc.
Attn: Robert Freed
120 N. Pearl Street
Crestline, OH 44827

Verizon Pennsylvania, Inc.
Attn: Ernestine Draper
900 Race Street, 6th flr.
Philadelphia, PA 19107

RCN Telecom Services, Inc.
Attn: Marie M. Lew, President
196 Van Buren Street, Suite 300
Herndon, PA 20170


Lower Saucon Authority
Attn: Tiffany T. Clewell
3706 Old Philadelphia Pike
Bethlehem, PA 18015

PPL Electric Utilities Corporation
Attn: Jennifer Perdick
827 Housman Road
Allentown, PA 18104

UGI Utilities Inc.
Attn: Linda Sofranek
2121 City Line Road
Bethlehem, PA 180172

Hellertown Boro Authority/Hellertown Boro
Attn: Glenn B. Higbie
501 Durham Street
P. O. Box 81
Hellertown, PA 18055

Date: September 19, 2011


Jeannette Chelgren, Secretary
Benjamin C. Dunlap, Jr., Esquire