

*140<sup>th</sup> 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](mailto:bdunlapjr@nssh.com)

October 21, 2011

**Via Electronic Mail  
Confirmed Via Hand Delivery**

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

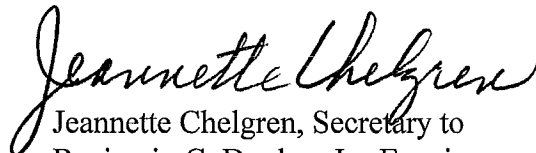
**In re: Application of Norfolk Southern Railway Company to abolish the public rail-highway crossing of High Street above its tracks in the City of Bethlehem and the Borough of Hellertown, Northampton County, Pennsylvania (DOT # 592 787 H). PUC Docket No. A-2008-2075123**

Dear Secretary Chiavetta:

Enclosed please find the original of the revised 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 October 17, 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.)

**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, upon the satisfactory completion of removal of the existing bridge structure, including all supporting structures, by the City, at its sole cost and expense.

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, at its sole cost and expense, subject to any reimbursement under agreement paragraphs 3, 5 and 6 of this Stipulation. The City shall provide thirty (30) days prior notice of the bridge removal to the Commission's Bureau of Technical Utility Services ("BTUS") and the other parties and shall submit removal plans to the extent required by BTUS staff.

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

3. That the City of Bethlehem shall provide thirty (30) days prior notice of the bridge removal to the Commission's Bureau of Technical Utility Services and the other parties and shall submit removal plans to the extent required by Bureau of Technical Utility Services Staff.

4. 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.

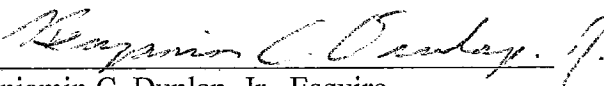
5. That the City of Bethlehem shall continue to assume maintenance responsibility for the west roadway approach to the crossing and the Borough of Hellertown shall continue to assume maintenance responsibility for the east approach to the crossing, at their respective sole cost and expense, as they have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

6. 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.

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

**[SIGNATURES ON FOLLOWING PAGES]**

Date: *October 20, 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:

\_\_\_\_\_  
Dennis Reichard  
Acting Mayor, City of Bethlehem

Date:

\_\_\_\_\_  
Gene Auman  
Deputy 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

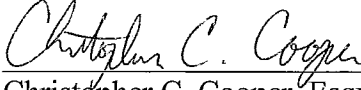
Date:

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David M. Backenstoe, Esquire  
Solicitor for Northampton County

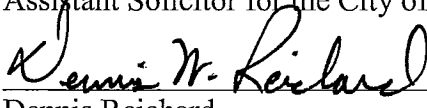
Date:

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


Date: 10/19/11

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

Date: 10/19/11

  
\_\_\_\_\_  
Dennis Reichard  
Acting Mayor, City of Bethlehem

Date: 10/19/11

  
\_\_\_\_\_  
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Deputy Controller, City of Bethlehem

Date:

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Jason D. Sharp, Esquire  
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Department of Transportation

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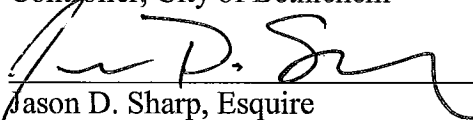
\_\_\_\_\_  
John B. Callahan  
Mayor, City of Bethlehem

Date:

\_\_\_\_\_  
Meg Holland  
Controller, City of Bethlehem

Date:

10/18/2011

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

Date:

\_\_\_\_\_  
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Mayor, City of Bethlehem

Date: \_\_\_\_\_  
Meg Holland  
Controller, City of Bethlehem

Date: \_\_\_\_\_  
Jason D. Sharp, Esquire  
Attorney for Commonwealth of Pennsylvania  
Department of Transportation

Date: *October 18, 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  
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Date: \_\_\_\_\_  
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Attorney for Commonwealth of Pennsylvania  
Department of Transportation

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

Date:

*10/20/21*

*[Signature]*  
\_\_\_\_\_  
John Herzog, Esquire  
Attorney for Commonwealth of Pennsylvania  
Public Utility Commission – Law Bureau, on behalf  
of the Bureau of Transportation & Safety

Date:

\_\_\_\_\_  
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Solicitor for Borough of Hellertown

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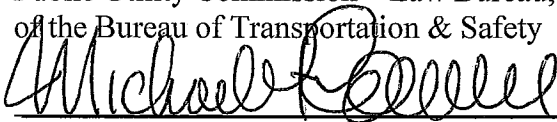
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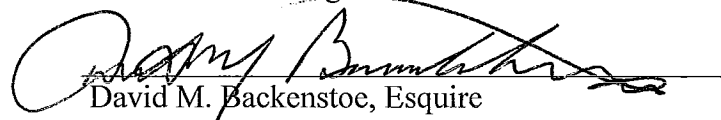
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Solicitor for Borough of Hellertown

Date: 10/20/11

  
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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

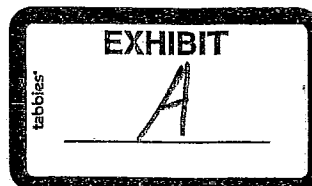
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crossing of High Street above its tracks in the : Docket No. A-2008-2075123  
City of Bethlehem and Borough of Hellertown, :  
Northampton County, Pennsylvania :  
(DOT # 592 787 H) :**

**AFFIDAVIT OF THOMAS BRACEY**

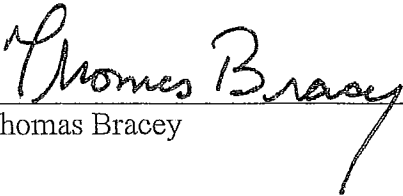
State of Georgia :  
:ss  
County of Fulton :

I, Thomas Bracey, Senior Engineer Public Improvements, of Norfolk Southern Railway Company, being duly sworn according to law, hereby state as follows:

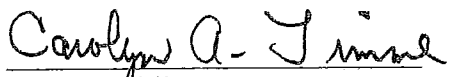
1. Pennsylvania Lines LLC and Norfolk Southern Railway Company (“Norfolk Southern”) were granted authority to abandon rail service on the rail line that includes the High Street crossing at issue in this matter pursuant to a decision of the federal Surface Transportation Board (“STB”) having a service date of February 10, 2004. A true and correct copy of the STB’s Decision is attached hereto as Exhibit “1.”
2. Norfolk Southern consummated the abandonment of service on the line by letter dated February 4, 2006, a true and correct copy of which is attached hereto as Exhibit “2.”
3. All rails and ties have been removed from the subject rail line.

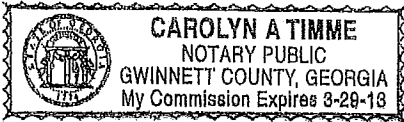


4. Norfolk Southern has no intention of resuming service on the line.

  
\_\_\_\_\_  
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,<sup>1</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>2</sup> 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

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<sup>1</sup> 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.

<sup>2</sup> 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.<sup>3</sup>

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.

---

<sup>3</sup> 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.

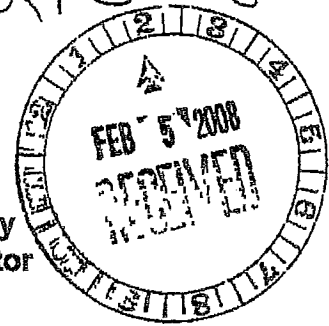
Vernon A. Williams

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.

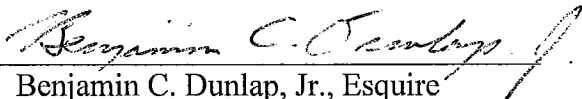
The settlement will serve to protect the public safety, since the City will be responsible for preventing all vehicular and pedestrian access to the bridge. The corridor will remain intact for potential future trail use. Norfolk Southern’s cost contribution will be available for design and engineering 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, 18<sup>th</sup> Floor  
P. O. Box 840  
Harrisburg, PA 17108-0840  
Phone: (717) 236-3010  
Telefax: (717) 234-1925  
E-mail: [bdunlapjr@nssh.com](mailto:bdunlapjr@nssh.com)

Date: October 20, 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

October 19, 2011

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

10 East Church Street  
Bethlehem, Pa 18018  
(610) 865-7011  
[ccooper@bethlehem-pa.gov](mailto: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) :

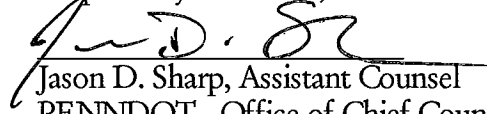
**COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF  
TRANSPORTATION'S STATEMENT IN SUPPORT OF SETTLEMENT**

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: October 18, 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  
Assistant Counsel  
7<sup>th</sup> Floor RCSOB  
400 Market Street  
P.O. Box 8767  
Harrisburg, PA 17105-8767  
Sup. Ct. ID No. 27879  
Telephone: 717-772-4171  
Fax No.: 717-705-2830  
Email: [marthsmith@pa.gov](mailto:marthsmith@pa.gov)

Date: October 18, 2011

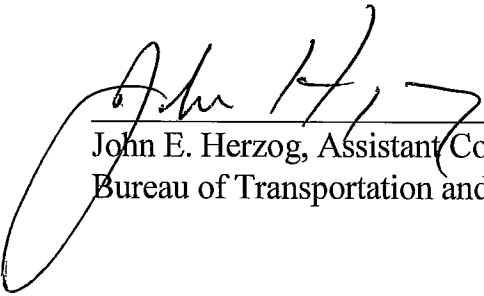
BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

**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: 10/20/11

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

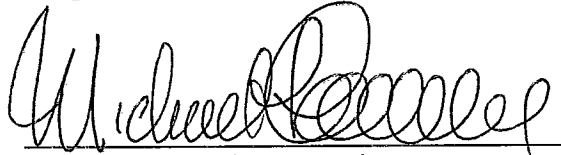
**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**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, appearing to read "Michael 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.

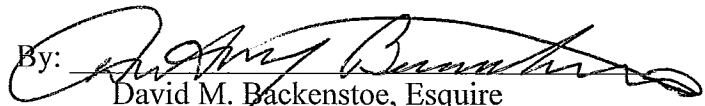
The settlement will serve to protect the public safety, since the City will be responsible for preventing all vehicular and pedestrian access to the bridge. The City has already barricaded the bridge to prevent all vehicular and pedestrian access. The corridor will remain intact for potential future 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

October 20, 2011

By:   
David M. Backenstoe, Esquire  
Supreme Court ID # 49473  
148 Main Street  
Hellertown, Pa 18055  
(610) 838-2255  
[dmbesq@ptd.net](mailto: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 revised 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](mailto:kmelillo@pa.gov)

Martha R. Smith, Esquire  
Assistant Counsel  
PA Dept. Of Conservation & Natural Resources  
7<sup>th</sup> Floor RCSOB  
P. O. Box 8767  
Harrisburg, PA 17105-8767  
E-mail: [marthsmith@pa.gov](mailto:marthsmith@pa.gov)

John Herzog, Esquire  
PA Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265  
E-mail: [jherzog@pa.gov](mailto:jherzog@pa.gov)

Jason D. Sharp, Esquire  
Office of Chief Counsel  
PennDOT  
P.O. Box 8212  
Harrisburg, PA 17105-8212  
E-mail: [jsharp@pa.gov](mailto:jsharp@pa.gov)

Christopher Cooper, Esquire  
City of Bethlehem  
10 E. Church Street  
Bethlehem, PA 18018  
E-mail: [ccooper@bethlehem-pa.gov](mailto:ccooper@bethlehem-pa.gov)

David M. Backenstoe, Esquire  
148 Main Street  
Hellertown, PA 18055  
E-mail: [dmbesq@ptd.net](mailto:dmbesq@ptd.net)

Michael F. Corriere, Esquire  
433 E. Broad Street  
P. O. Box 1217  
Bethlehem, PA 18016-1217  
E-mail: mfcesq@ptd.net

**Via Regular First Class Mail:**

Suburban Propane LP  
Attn: Mike Merrill  
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, 6<sup>th</sup> flr.  
Philadelphia, PA 19107

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

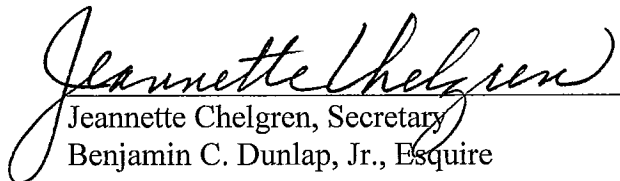
Lower Saucon Authority  
Attn: Tiffany T. Clewell  
3706 Old Philadelphia Pike  
Bethlehem, PA 18015

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 18017

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

Date: October 21, 2011

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