

Justin J. Marks
T 202.772.0916
F 202.772.0930
Email: jmarks@ClarkHill.com

ENTERED
Office of Proceedings
September 14, 2020
Part of
Public Record

September 14, 2020

Clark Hill
1001 Pennsylvania Avenue NW
Suite 1300
Washington, DC 20004
T 202.772.0909
F 202.772.0919

clarkhill.com

VIA E-FILING

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

Re: Somerset Railroad Corporation – Abandonment Exemption –
in Niagara County, NY
Surface Transportation Board Docket No. AB 1303X

Dear Ms. Brown:

Enclosed for filing in the above referenced docket is the Environment and Historical Report of Somerset Railroad Corporation (“SRC”). SRC intends to file a petition for exemption for SRC to abandon a segment of rail line in Niagara County, NY. Please let me know if you have any questions regarding this filing.

Sincerely,



Justin J. Marks
Counsel to Somerset Railroad Corporation

Enclosure

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. AB ~~1300X~~ 1303X

SOMERSET RAILROAD CORPORATION
- ABANDONMENT EXEMPTION - IN NIAGARA COUNTY, NY

ENVIRONMENTAL/HISTORIC REPORT

(color copies included)

Eric M. Hocky
Clark Hill PLC
Two Commerce Square
2001 Market St.
Suite 2620
Philadelphia, PA 19103
(215) 640-8500
ehocky@clarkhill.com

Justin J. Marks
Clark Hill PLC
1001 Pennsylvania Ave. N.W.
Suite 1300 South
Washington, DC 20004
(202) 772-0916
jmarks@clarkhill.com

*Counsel for Somerset Railroad
Corporation*

Dated: September 14, 2020

Before the
SURFACE TRANSPORTATION BOARD
STB Docket No. AB ~~1300X~~ 1303X
SOMERSET RAILROAD CORPORATION
- ABANDONMENT EXEMPTION - IN NIAGARA COUNTY, NY

ENVIRONMENTAL/HISTORIC REPORT

Somerset Railroad Corporation (“SRC” or “Applicant”) will be seeking exemption authority for SRC to abandon between M.P. 2.2 and the power plant at the end of its line, a distance of approximately 13.39 miles (the “Subject Line”). There are no stations on the Subject Line. The Subject Line traverses through United States Postal Service ZIP Codes 14012, 14008, 14108, and 14094. A map of the Subject Line is attached as Exhibit A.

The only customer on the Subject Line, the Somerset power generation station, a coal-burning power plant, owned by SRC’s parent company, has been decommissioned, and no longer requires rail service.

SRC plans to seek Surface Transportation Board (“STB”) authorization for its abandonment through a petition for exemption pursuant to 49 USC §10502 and the Board’s regulations at 49 CFR §1152.60 from the prior approval requirements of 49 USC §10903 on or about October 1, 2020. This Report is being filed in connection therewith, and in accordance with the requirements of 49 CFR 1105.7 and 1105.8. To prepare this Report, Applicant consulted with various state and federal agencies as required by the Board’s regulations. *See the*

letters attached as Exhibit B.¹ Based on the written responses received by Applicant to-date attached as Exhibit C, Applicant states as follows:

ENVIRONMENTAL REPORT

(49 CFR 1105.7)

1. PROPOSED ACTION AND ALTERNATIVES

Applicant originally constructed the Subject Line for the purposes of providing rail service to the now decommissioned Somerset power generation station (the “Generation Station”), owned by SRC’s parent company, at that time New York State Electric and Gas Corporation (“NYSEG”). *Somerset Railroad Corporation – Construction – Niagara County, New York*, Interstate Commerce Commission FD No. 29254F, 366 ICC 144 (decided Mar. 29, 1982). The current owner of the Generation Station and SRC is Riesling Power LLC. The Generation Station was decommissioned as of March 31, 2020. It had been the sole shipper over the Subject Line.

At this time SRC anticipates salvaging the track, rail ties, and other track materials from the Subject Line following abandonment. It intends to leave the bridges in place.

2. EFFECTS ON THE TRANSPORTATION SYSTEM

The abandonment will have no effect on the transportation system because the Subject Line is stub-ended and only serves the decommissioned power plant that no longer requires rail service. (The last rail service was provided in December 2019.)² As such, no traffic will be diverted. Applicant sent a consultation letter regarding the proposed abandonment to the New

¹ The consultation letters indicated that SRC would be petitioning for abandonment of two segments, the above referenced 13.39-mile Subject Line and a segment extending from mile post 0.0 to 2.2 near Lockport, NY. SRC has determined to proceed only with the abandonment of the Subject Line.

² The Subject Line continues to be used to ship out empty coal hopper cars for scrapping.

York State Department of Transportation (“NYDOT”). *See* the letters attached as part of Exhibit B. No response has been received from NYDOT.

3. **LAND USE**

(i) Applicant is unaware of any regional or local land use patterns with which the proposed abandonment would be inconsistent. Applicant consulted with the following agencies regarding the proposed abandonment that may be concerned with land use issues: US Department of Agriculture Natural Resources Conservation Service – Local (“NRCS Local”), US Department of Agriculture Natural Resources Conservation Service – National (“NRCS National”), Environmental Protection Agency Region 2 (“EPA Region 2”), U.S. Army Corp of Engineers Buffalo District (“ACE”), National Park Service – National (“NPS National”), National Park Service – Region 1 (“NPS Region 1”), U.S. Fish & Wildlife Service – Northeast Region (“FWS Northeast Region”), National Geodetic Survey, National Oceanic and Atmospheric Administration (“NGS”), New York Coastal Management Program, Office of Planning and Development, New York Department of State (“NY DOS”), New York State Department of Transportation (“NY DOT”), New York State Department of Environmental Conservation (“NY DEC”), New York State Clearinghouse (“NY Clearinghouse”), the Chair and Vice Chair of the Niagara County Legislature.

Copies of these letters are attached as part of Exhibit B. To date, Applicant has only received written responses from the following consulted agencies, copies of which are included as part of Exhibit C:

- NY DOS states that the SRS proposed abandonment is outside of the coastal area.
- NGS states that it has conducted a desktop recon and found two marks that are along the Subject Line, within the segments to be abandoned. Attached with the correspondence contains the datasheets for those two marks.

- EPA states that its regional staff is unfamiliar with specific information for the area and recommends that SRC utilize its online mapping tool. EPA further “notes that there are several impaired streams and several wetlands in the vicinity of the rail segments to be abandoned that should be identified.” And EPA states that “[a]ll best management practices should be used to avoid impacts to those areas.”

(ii) Applicant does not believe that the proposed abandonment will have any adverse effect on any prime agricultural land. Consultation notices were sent to the potentially concerned agencies listed in paragraph 3(i) above, and as indicated, no responses have been received except for the responses from NY DOS, NGS, and EPA.

(iii) NY DOS has confirmed to Applicant that the Subject Line is not in a coastal zone, and accordingly, consistency with any coastal zone plans is inapplicable.

(iv) Applicant believes that the right of way may be suitable for use as a trail or other public purposes; however, to-date, no entity has expressed an interest in acquiring the Subject Line for interim trail use and rail banking, or any other public use.

4. **ENERGY**

As noted above, the sole customer on the Subject Line, the Generation Station was decommissioned as of March 31, 2020, and no longer requires rail service. The last rail service was provided in December 2019. Since the Subject Line only served a single shipper that is no longer receiving rail service,

- (i) the proposed abandonment will have no effect on the transportation of energy sources;
 - (ii) the proposed abandonment will have no effect on recyclable commodities;
 - (iii) the proposed abandonment will be no effect on overall energy efficiency;
- and

(iv) the proposed abandonment will not divert any traffic from rail to motor carriage.

The effects of the proposed abandonment will not exceed the thresholds set forth in 49 CFR 1105.7(e)(4)(iv).

5. AIR

The proposed abandonment will not result in any increases in rail or truck traffic or rail yard activity. The effects of the proposed abandonment will not exceed the thresholds set forth in 49 CFR 1105.7(e)(5).

6. NOISE

Applicant does not believe that the proposed abandonment will result in any increase in noise levels.

7. SAFETY

Applicant does not believe that the proposed abandonment will have any adverse effect on public health or safety.

8. BIOLOGICAL RESOURCES

(i) Applicant has consulted with the FWS Northeast Region, as well as to the following agencies that are potentially concerned with biological resources: NY DEC, NPS National, NPS Region 1, ACE, NRCS-National, and NRCS–Local. Copies of these consultation letters are attached as part of Exhibit B. Applicant has received no relevant responses.

(ii) Applicant does not believe that there are any wildlife sanctuaries or refuges, National or State parks or forests in the vicinity of the proposed abandonment. Consultation letters were sent to the agencies identified in the paragraph 8(i), and Applicant did not receive any responses.

9. WATER

(i) The proposed abandonment and any salvage will be handled in a manner that is consistent with the applicable local, State and Federal water quality standards. Applicant consulted with the agencies identified in paragraph 8(i) and have received no responses.

(ii) Applicant sent a consultation letter regarding the proposed abandonment to the U.S. Army Corps of Engineers. A copy of this letter is attached as part of Exhibit B. No response has been received to-date.

(iii) Applicant does not believe that any Clean Water Act permits will be required. Consultation letters were sent to NY DEC and EPA. Copies of these letters are attached as part of Exhibit B. EPA responded as summarized in Section 3(i) above.

10. PROPOSED MITIGATION

Since no adverse environmental impacts are expected, no mitigation is proposed.

11. ADDITIONAL INFORMATION FOR RAIL CONSTRUCTION

Not applicable.

12. CONSULTATION

As shown by the copies of letters attached as Exhibit B, Applicant has consulted with the following agencies: NRCS Local, NRCS National, EPA Region 2, ACE, NPS National, NPS Region 1, FWS Northeast Region, NGS, NY DOS, NY DOT, NY DEC, NY Clearinghouse, the Chair and Vice Chair of the Niagara County Legislature. Written responses received to-date are attached as Exhibit C. Written responses received from NY DOS, NGS, and EPA are summarized in Section 3(i) above.

13. CERTIFICATIONS

Applicant certifies that:

- (a) It consulted with the agencies listed in 49 CFR 1105.7, as described in paragraph 12 above.
- (b) On this date, it sent copies of this report to each of the agencies consulted as shown on the attached certificate of service.
- (c) Notice of the proposed abandonment was published in *The Buffalo News* on August 25, 2020. A copy of the form of notice and the proof of publication are attached as Exhibit D.
- (d) Applicant will not file its verified notice of abandonment until at least twenty (20) days after the consulted agencies have been served with a copy of this report.

HISTORIC REPORT (49 CFR 1105.8)

1. U.S.G.S TOPOGRAPHIC MAP

U.S.G.S. topographic maps showing the location of the proposed abandonment are attached as Exhibit E.

2. DESCRIPTION OF RIGHT OF WAY

SRC seeks exemption authority to abandon between M.P. 2.2 and the power plant at the end of its line, a distance of approximately 13.39 miles (“Subject Line”). The Subject Line is located primarily in rural terrain. The right of way is generally 80 feet wide. The right of way is crossed by several local roadways.

Applicant originally constructed the Subject Line for the purposes of providing rail service to serve the now decommissioned Generation Station located at the end of the Subject Line, owned by SRC’s parent company, at that time New York State Electric and Gas Corporation (“NYSEG”). *Somerset Railroad Corporation – Construction – Niagara County, New York*, Interstate Commerce Commission FD No. 29254F, 366 ICC 144 (decided Mar. 29, 1982). The current owner of the Generation Station and SRC is Riesling Power LLC, which acquired them in 2016. In December 2019, the Generation Station received its last unit coal train. The Generation Station was decommissioned as of March 31, 2020.

3. PHOTOGRAPHS OF HISTORIC STRUCTURE(S)

As explained, SRC received authority to construct the Subject Line in 1982 and accordingly there are no structures that are 50 years old or older (historic). Therefore, no photographs are required.

4. DATES OF CONSTRUCTION OF HISTORIC STRUCTURE(S)

No structures over 50 years old exist on the Subject Line.

5. HISTORY OF CARRIER OPERATIONS IN THE AREA

SRC obtained authority from the Interstate Commerce Commission to construct and operate the Subject Line in 1982 for the purposes of providing coal by rail to the Generation Station. Rail service was provided to the Generation Station until December 2019.

6. SUMMARY OF STRUCTURE DOCUMENTATION

There are 9 bridges on the Subject Line located at mileposts 4.63, 6.7, 6.9, 7, 12.4, 14.67, 14.92, 15.27. However, since none of the structures are over 50 years old no documentation is required.

7. OPINION REGARDING CRITERIA FOR LISTING

Based on readily available information in SRC's possession, SRC does not believe that the Subject Line or right of way represent an historical resource or that any protective conditions are warranted.

Applicant has given notice of the proposed abandonment to the New York State Historic Preservation Office at the New York Office of Parks, Recreation and Historic Preservation ("SHPO"), a copy of which is included as part of Exhibit F. The SHPO submitted a letter to SRC indicating, "it is the opinion of the SHPO that no historic properties, including archaeological and/or historic resources, will be affected by this [abandonment]." A copy of the SHPO's letter is included as part of Exhibit G.

8. **ENVIRONMENTAL CONDITIONS**

Applicant is unaware of any prior subsurface ground disturbance or fill, or environmental conditions which might affect the archeological recovery of resources or the surrounding terrain. Moreover, any future salvage work that is done would take place within the right of way, would be surface work only and would not disturb subsurface resources.

Respectfully submitted,



Eric M. Hocky
Clark Hill PLC
Two Commerce Square
2001 Market St.
Suite 2620
Philadelphia, PA 19103
(215) 640-8500
ehocky@clarkhill.com

Justin J. Marks
Clark Hill PLC
1001 Pennsylvania Ave. N.W.
Suite 1300 South
Washington, DC 20004
(202) 772-0916
jmarks@clarkhill.com

Counsel for Somerset Railroad Corporation

Dated: September 14, 2020

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of September, 2020, I served a copy of the foregoing Environmental and Historic Report on the persons listed below by first class mail, postage prepaid:

United States Department of Agriculture Natural Resources Conservation Service Lockport Service Center 4487 Lake Ave Lockport, NY 14094-1139 heath.eisele@ny.usda.gov	Environmental Protection Agency Region 2 290 Broadway New York, New York 10007-1866
United States Department of Agriculture Natural Resources Conservation Service Office of the Chief 1400 Independence Ave., SW Room 5105-A Washington, DC 20250	U.S. Army Corp of Engineers Buffalo District 1776 Niagara St. Buffalo, NY 14207 Public.affairs@lrb01.usace.army.mil
National Park Service 1849 C Street, NW Washington, DC 20240	National Park Service Region 1 1234 Market Street 20th Floor Philadelphia, PA 19107
U.S. Fish & Wildlife Service Northeast Region Regional Director's Office 300 Westgate Center Dr. Hadley, MA 01035-9589	National Geodetic Survey Communications and Outreach Branch, NOAA, N/NGS12 National Geodetic Survey, SSMC3 #9340 1315 East-West Highway Silver Spring, MD 20910-3282 ngs.infocenter@noaa.gov
New York Coastal Management Program Office of Planning and Development New York Department of State Suite 1010 One Commerce Place, 99 Washington Ave. Albany, New York 12231-0001 opd@dos.ny.gov	Commissioner New York State Department of Transportation 50 Wolf Road Albany, New York 12232
New York State Department of Environmental Conservation 625 Broadway Albany, New York 12233-0001 contact@dec.ny.gov	New York State Clearinghouse 1220 Washington Avenue Building 5 - Floor 1 Albany, NY 12226

Rebecca Wydysh, Chair of Niagara County Legislature John Syracuse, Vice Chair of Niagara County Legislature 175 Hawley Street Lockport, NY 14094.	Mr. Tim Horenburg, Supervisor Town of Newfane supervisor@townofnewfane.com
--	--



Justin J. Marks
CLARK HILL PLC
1001 Pennsylvania Ave. N.W.
Suite 1300 South
Washington, DC 20004
202.772.0916
jmarks@clarkhill.com

EXHIBIT A

MAP

LAKE ONTARIO

Somerset Plant Site

SOMERSET

HARTLAND

ROYALTON

Lockport

Conrail

MP 2.2

"Hojack" Railroad (abandoned)

Somerset Railroad

LAKE ONTARIO

Somerset Plant Site

SOMERSET

HARTLAND

ROYALTON

Lockport

Conrail

Wrights Corners

Ridgewood

Charlotteville

Hojack Railroad (abandoned)

Somerset Railroad

MP 2.2

EXHIBIT B

CONSULTATION LETTERS

CLARK HILL

Justin J. Marks
T 202.772.0916
F 202.772.0930
Email: jmarks@ClarkHill.com

Clark Hill
1001 Pennsylvania Avenue NW
Suite 1300
Washington, DC 20004
T 202.772.0909
F 202.772.0919

clarkhill.com

July 21, 2020

VIA EMAIL AND FIRST-CLASS MAIL

ALL AGENCIES ON THE
ATTACHED SERVICE LIST

Re: Somerset Railroad Corporation – Abandonment Exemption –
in Niagara County, NY
Surface Transportation Board Docket No. AB 1303

To Whom it May Concern:

This letter is to advise you that Somerset Railroad Corporation (“SRC”) intends to file a petition for exemption for SRC to abandon the following two segments of rail line (together, the “Subject Line”):

- (1) Between M.P. 0.0 where SRC’s line connects with CSXT’s Lockport Branch (west of Lockport, NY) and M.P. 2.2, a distance of 2.2 miles, and
- (2) Between M.P. 2.2 and the power plant at the end of its line, a distance of approximately 13.39 miles.

The Subject Line traverses through United States Postal Service ZIP Codes 14012, 14008, 14108, and 14094. A map of the Subject Line is attached as Exhibit A.

SRC plans to petition the Surface Transportation Board (“STB”) for an exemption under 49 USC §10502 from the provisions of 49 USC §10903 to enable SRC to abandon the Subject Line, on or after September 21, 2020 in STB Docket No. AB 1303.

The major customer on the Subject Line, the power plant – owned by SRC’s parent company, has been decommissioned, and no longer requires rail service.

Based upon information in SRC’s possession, the Subject Line does not contain federally granted rights of way.

July 21, 2020

Page 2

SRC intends to salvage the rail and ties. SRC believes that the abandonment will not have a significant effect upon the environment.

In advance of preparing an environmental report as required by applicable STB regulations, we are consulting with appropriate agencies such as yours as to any concerns which they may have as to environmental effects of the proposed abandonment.

We would appreciate an expression from you by August 20, 2020 that, within the area of your authority, you do not perceive that the abandonment will have a significant effect upon the environment (or expressing any concerns that you have). If you have any questions about the railroad's proposal or if you need assistance in this matter, please call me at (202) 772-0916.

Thank you for your cooperation.

Sincerely,

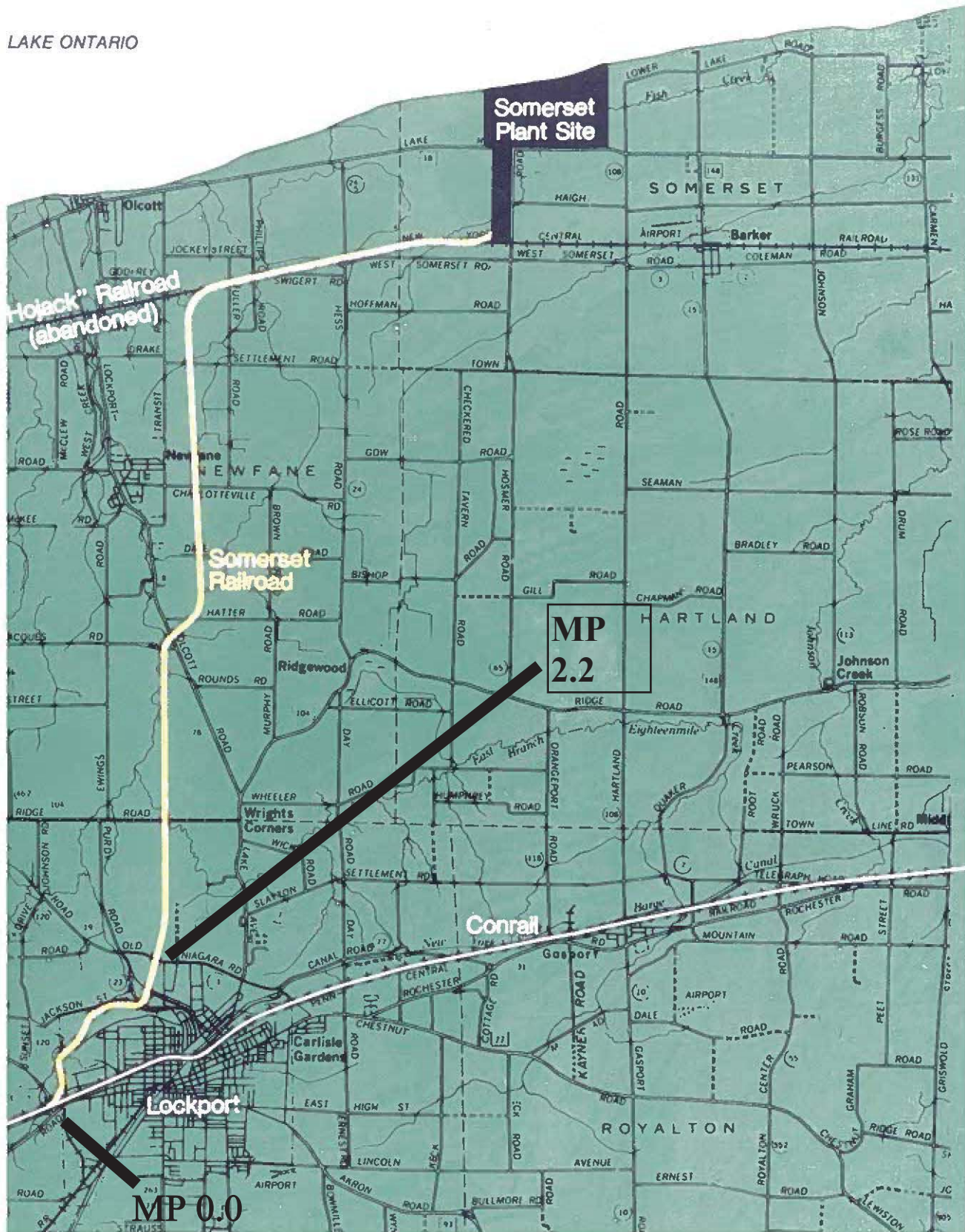
A handwritten signature in blue ink that reads "Justin J. Marks". The signature is fluid and cursive, with the first name "Justin" and last name "Marks" clearly legible.

Justin J. Marks
Counsel to Somerset Railroad Corporation

Enclosure

Exhibit A

LAKE ONTARIO



Environmental Agency List for Consultation Letters

United States Department of Agriculture Natural Resources Conservation Service Lockport Service Center 4487 Lake Ave Lockport, NY 14094-1139 heath.eisele@ny.usda.gov	Environmental Protection Agency Region 2 290 Broadway New York, New York 10007-1866
United States Department of Agriculture Natural Resources Conservation Service Office of the Chief 1400 Independence Ave., SW Room 5105-A Washington, DC 20250	U.S. Army Corp of Engineers Buffalo District 1776 Niagara St. Buffalo, NY 14207 Public.affairs@lrb01.usace.army.mil
National Park Service 1849 C Street, NW Washington, DC 20240	National Park Service Region 1 1234 Market Street 20th Floor Philadelphia, PA 19107
U.S. Fish & Wildlife Service Northeast Region Regional Director's Office 300 Westgate Center Dr. Hadley, MA 01035-9589	National Geodetic Survey Communications and Outreach Branch, NOAA, N/NGS12 National Geodetic Survey, SSMC3 #9340 1315 East-West Highway Silver Spring, MD 20910-3282 ngs.infocenter@noaa.gov
New York Coastal Management Program Office of Planning and Development New York Department of State Suite 1010 One Commerce Place, 99 Washington Ave. Albany, New York 12231-0001 opd@dos.ny.gov	Commissioner New York State Department of Transportation 50 Wolf Road Albany, New York 12232
New York State Department of Environmental Conservation 625 Broadway Albany, New York 12233-0001 contact@dec.ny.gov	New York State Clearinghouse 1220 Washington Avenue Building 5 - Floor 1 Albany, NY 12226
Rebecca Wydysh, Chair of Niagara County Legislature John Syracuse, Vice Chair of Niagara County Legislature 175 Hawley Street Lockport, NY 14094.	

CLARK HILL

Justin J. Marks
T 202.772.0916
F 202.772.0930
Email: jmarks@ClarkHill.com

Clark Hill
1001 Pennsylvania Avenue NW
Suite 1300
Washington, DC 20004
T 202.772.0909
F 202.772.0919

clarkhill.com

July 21, 2020

Via email (opd@dos.ny.gov)

New York Coastal Management Program
Office of Planning and Development
New York Department of State
Suite 1010
One Commerce Place, 99 Washington Ave.
Albany, New York 12231-0001

Re: Somerset Railroad Corporation (“SRC”) – Abandonment Exemption – in Niagara
County, NY Surface Transportation Board Docket No. AB 1303

To Whom it May Concern:

This letter is to advise you that Somerset Railroad Corporation (“SRC”) intends to file a petition for exemption for SRC to abandon the following two segments of rail line (together, the “Subject Line”):

- (1) Between M.P. 0.0 where SRC’s line connects with CSXT’s Lockport Branch (west of Lockport, NY) and M.P. 2.2, a distance of 2.2 miles, and
- (2) Between M.P. 2.2 and the power plant at the end of its line, a distance of approximately 13.39 miles.

The Subject Line traverses through United States Postal Service ZIP Codes 14012, 14008, 14108, and 14094. A map of the Subject Line is attached as Exhibit A.

SRC plans to petition the Surface Transportation Board (“STB”) for an exemption under 49 USC §10502 from the provisions of 49 USC §10903 to enable SRC to abandon the Subject Line, on or after September 21, 2020 in STB Docket No. AB 1303.

The major customer on the Subject Line, the power plant – owned by SRC’s parent company, has been decommissioned, and no longer requires rail service.

July 21, 2020

Page 2

Based upon information in SRC's possession, the Subject Line does not contain federally granted rights of way.

SRC intends to salvage the rail and ties. SRC believes that the abandonment will not have a significant effect upon the environment.

In advance of preparing an environmental report as required by applicable STB regulations, we are consulting with appropriate agencies such as yours as to any concerns which they may have as to environmental effects of the proposed abandonment.

As your agency has jurisdiction over coastal zones in New York, please advise if the Subject Line is within New York's coastal zone. If it is within the coastal zone, please advise further (1) if the proposed abandonment is an action listed for review in New York's coastal zone management plan, and (2) if the action is so listed, whether the proposed action is consistent with the coastal zone management plan.

We would appreciate an expression from you by August 20, 2020 that, within the area of your authority, you do not perceive that the abandonment will have a significant effect upon the environment (or expressing any concerns that you have). If you have any questions about the railroad's proposal or if you need assistance in this matter, please call me at (202) 772-0916.

Thank you for your cooperation.

Sincerely,

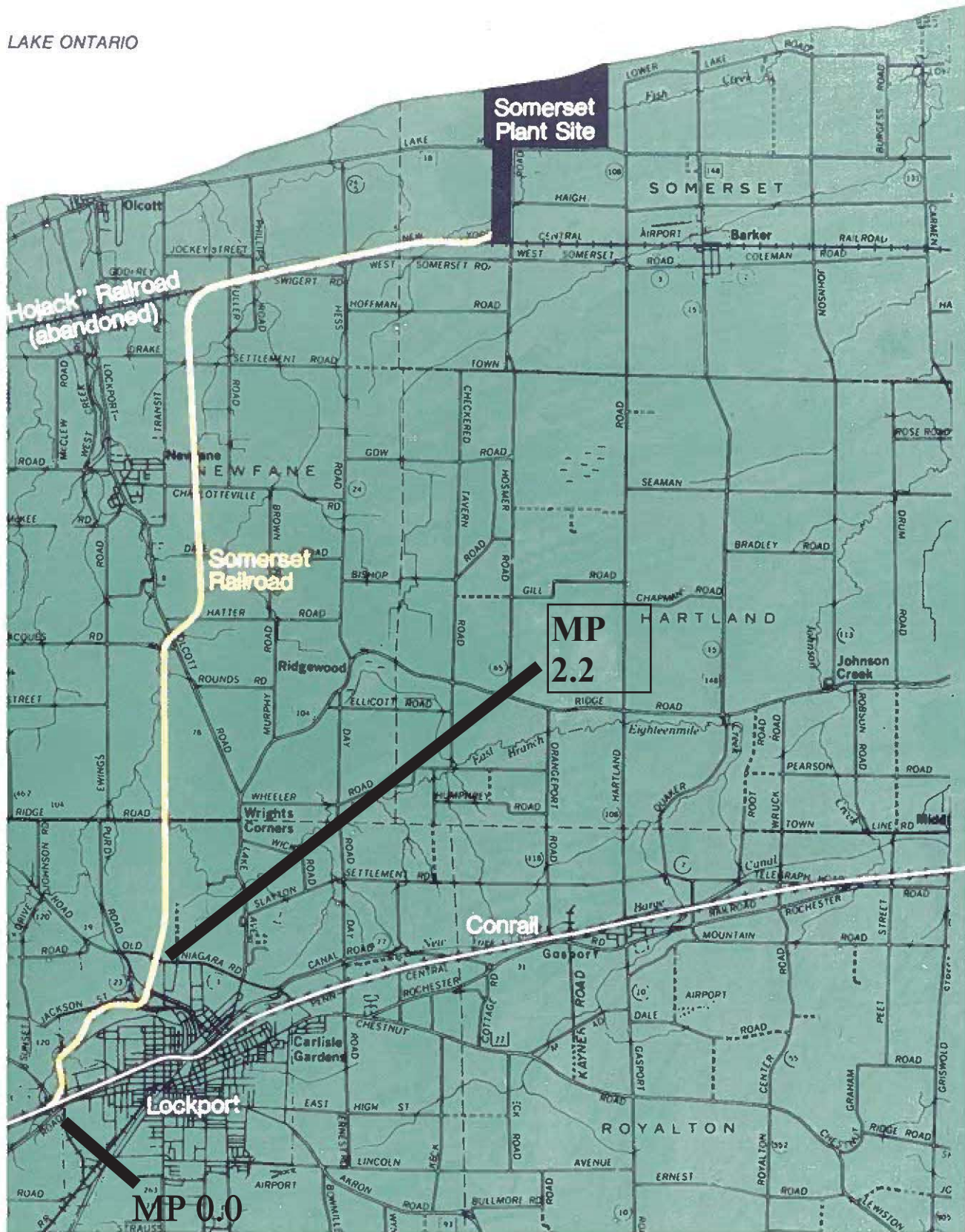


Justin J. Marks
Counsel to Somerset Railroad Corporation

Enclosure

Exhibit A

LAKE ONTARIO



CLARK HILL

Justin J. Marks
T 202.772.0916
F 202.772.0930
Email: jmarks@ClarkHill.com

Clark Hill
1001 Pennsylvania Avenue NW
Suite 1300
Washington, DC 20004
T 202.772.0909
F 202.772.0919

clarkhill.com

July 28, 2020

Via email (opd@dos.ny.gov)

New York Coastal Management Program
Office of Planning and Development
New York Department of State
Suite 1010
One Commerce Place, 99 Washington Ave.
Albany, New York 12231-0001

Re: Somerset Railroad Corporation ("SRC") – Abandonment Exemption – in Niagara County, NY Surface Transportation Board Docket No. AB 1303

Dear Mr. Maraglio:

You and I spoke on July 22, 2020 related to SRC's July 21 letter informing the NYS Coastal Management Program that SRC intends to abandon two segments of rail line (together, the "Subject Line"):

- (1) Between M.P. 0.0 where SRC's line connects with CSXT's Lockport Branch (west of Lockport, NY) and M.P. 2.2, a distance of 2.2 miles, and
- (2) Between M.P. 2.2 and the power plant at the end of its line, a distance of approximately 13.39 miles.

On our phone call, you asked whether the Subject Line ends inside the gates of the power plant or outside the gates of the power plant. On our call, you stated that a railroad abandonment is not a listed action, but if the Subject Line ends inside the gates of the power plant, it would fall within a coastal zone. Further, you stated that even if the Subject Line does not end within the gates of the power plant, the abandonment may nevertheless have coastal impacts. However, you stated that it is SRC's responsibility to consider whether the abandonment will have any coastal effects.

First, the Subject Line does not terminate inside the power plant and as such, it does not fall within the coastal zone. Second, SRC does not anticipate any impact on the coastal zone as a result of the abandonment because any salvage work to remove the Subject Line will be

July 28, 2020

Page 2

conducted outside of the coastal zone. Any decommissioning of the power plant at the end of the Subject Line will be conducted separately from the SRC abandonment.

Thank you for your prompt response to our consultation letter.

Sincerely,

A handwritten signature in blue ink, reading "Justin J. Marks". The signature is fluid and cursive, with the first name "Justin" and last name "Marks" clearly legible.

Justin J. Marks

Counsel to Somerset Railroad Corporation

EXHIBIT C

AGENCY RESPONSES

Marks, Justin J.

From: Maraglio, Matthew (DOS) <Matthew.Maraglio@dos.ny.gov>
Sent: Wednesday, July 29, 2020 9:33 AM
To: Marks, Justin J.
Subject: FW: Somerset Railroad Corporation Abandonment
Attachments: SRC July 28 Letter to Coastal Zone Program.pdf

[External Message]

Justin

I would like to make correction to your characterization of our conversation. The abandonment of a railroad IS a listed action. Please see table three of the NYS Coastal Management Program:

“Surface Transportation Board - Authority to abandon railway lines (to the extent that the abandonment involves removal of trackage and disposition of right of-way); authority to construct railroads; authority to construct slurry pipelines.”

Based on the information that you provided, I agree that the proposed action would be undertaken OUTSIDE of the coastal area. If you do not believe that effects on uses or resources of the coastal area are reasonably foreseeable, the Department would need to request authority from NOAA to review this action for the purposes of federal consistency review. At this time and based on the information provided, the Department does not intend to make this request.

Matthew Maraglio

Coastal Resources Specialist

New York State Department of State
Office of Planning, Development & Community Infrastructure

99 Washington Avenue, Suite 1010, Albany, NY 12231

(518) 473-3371 | matthew.maraglio@dos.ny.gov

www.dos.ny.gov

Follow us on Twitter/Instagram: @nysdos

Like us on [facebook](https://www.facebook.com/nysdos)

From: Marks, Justin J. <jmarks@ClarkHill.com>
Sent: Tuesday, July 28, 2020 5:03 PM
To: dos.sm.Cstl.OPD <OPD@dos.ny.gov>
Subject: Somerset Railroad Corporation Abandonment

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Please find the attached letter in response to a July 22 phone call with Mr. Maraglio.

Thank you,

Justin J. Marks

CLARK HILL PLC

1001 Pennsylvania Ave. NW | Washington, DC 20004
202.772.0916 (Direct) | 202.772.0930 (Fax) |
jmarks@ClarkHill.com | www.clarkhill.com

This email message and any attachments are confidential and may be privileged. If you are not the intended recipient, please notify us immediately by reply email and destroy all copies of this message and any attachments. Please do not copy, forward, or disclose the contents to any other person. Thank you.



It's past April 1st, but the Census count is still going on.

***Please respond:* online, by phone or by mail.**

<https://2020census.gov/en/ways-to-respond.html>

Marks, Justin J.

From: dan.martin <ngs.infocenter@noaa.gov>
Sent: Thursday, July 30, 2020 6:48 AM
To: Marks, Justin J.
Subject: [JIRA] (IMOV-6935) Railroad Abandonment Consultation Letter

[External Message]

A comment is added on your issue:

Re: Railroad Abandonment Consultation Letter

Hi Deborah,

I am well, thanks. Hope you are the same.

I have conducted desktop recon and came up with two marks that are along the rail line, within the section to be abandoned. I have attached a pdf (Somerset RR Marks) containing the datasheets for those two marks.

Dan

National Geodetic Survey

The NGS Data Sheet

See file [dsdata.pdf](#) for more information about the datasheet.

PROGRAM = datasheet95, VERSION = 8.12.5.9

Starting Datasheet Retrieval...

1 National Geodetic Survey, Retrieval Date = JULY 30, 2020

OG0293 *****

OG0293 DESIGNATION - W 20 RESET 1982

OG0293 PID - OG0293

OG0293 STATE/COUNTY- NY/NIAGARA

OG0293 COUNTRY - US

OG0293 USGS QUAD - NEWFANE (2019)

OG0293

OG0293 *CURRENT SURVEY CONTROL

OG0293

OG0293* NAD 83(1986) POSITION- 43 19 25. (N) 078 40 18. (W) SCALED

OG0293* [NAVD 88](#) ORTHO HEIGHT - 100.27 (meters) 329.0 (feet) RESET

OG0293

OG0293 GEOID HEIGHT - -36.088 (meters) GEOID18

OG0293 VERT ORDER - THIRD

OG0293

OG0293.The horizontal coordinates were scaled from a map and have

OG0293.an estimated accuracy of +/- 6 seconds.

OG0293.

OG0293.The orthometric height was computed from unverified reset data.

OG0293

OG0293.No vertical observational check was made to the station.

OG0293

OG0293.Significant digits in the geoid height do not necessarily reflect accuracy.

OG0293.GEOID18 height accuracy estimate available [here](#).

OG0293

OG0293.Click [photographs](#) - Photos may exist for this station.

OG0293

OG0293; North East Units Estimated Accuracy

OG0293;SPC NY W - 369,120. 342,840. MT (+/- 180 meters Scaled)

OG0293

OG0293_U.S. NATIONAL GRID SPATIAL ADDRESS: 17TPH887993(NAD 83)

OG0293

OG0293 SUPERSEDED SURVEY CONTROL

OG0293

OG0293 NGVD 29 (05/02/16) 100.44 (m) 329.5 (f) RESET 3

OG0293

OG0293.Superseded values are not recommended for survey control.

OG0293

OG0293.NGS no longer adjusts projects to the NAD 27 or NGVD 29 datums.

OG0293.See file [dsdata.pdf](#) to determine how the superseded data were derived.

OG0293

OG0293_MARKER: DB = BENCH MARK DISK

OG0293_SETTING: 7 = SET IN TOP OF CONCRETE MONUMENT

OG0293_STAMPING: W 20 RESET 1982

OG0293_PROJECTION: FLUSH

OG0293_STABILITY: C = MAY HOLD, BUT OF TYPE COMMONLY SUBJECT TO

OG0293+STABILITY: SURFACE MOTION

OG0293

OG0293 HISTORY - Date Condition Report By

OG0293 HISTORY - 1982 MONUMENTED NGS

OG0293

OG0293 STATION DESCRIPTION

OG0293

OG0293'DESCRIBED BY NATIONAL GEODETIC SURVEY 1982
 OG0293'1.2 MI WEST FROM APPLETON.
 OG0293'2.0 KM (1.25 MI) WEST ALONG SWIGERT ROAD FROM THE INTERSECTION OF
 OG0293'SWIGERT AND HESS ROADS IN APPLETON TO A T-ROAD, TURN LEFT AND GO SOUTH
 OG0293'ON PHILLIPS ROAD FOR 0.2 KM (0.1 MI) TO THE MARK ON THE LEFT,
 OG0293'12.2 METERS (40.0 FT) SOUTH OF THE SOUTH RAIL OF RAILROAD TRACKS,
 OG0293'8.5 METERS (28.0 FT) EAST OF THE CENTER OF PHILLIPS ROAD,
 OG0293'AND 0.9 METER (3.0 FT) EAST OF POWERLINE POLE NUMBER 33.
 OG0293'THE MARK IS 2.0 FT BELOW PHILLIPS ROAD.

1 National Geodetic Survey, Retrieval Date = JULY 30, 2020

OG0145 *****

OG0145 DESIGNATION - Y 20

OG0145 PID - OG0145

OG0145 STATE/COUNTY- NY/NIAGARA

OG0145 COUNTRY - US

OG0145 USGS QUAD - BARKER (2019)

OG0145

OG0145 *CURRENT SURVEY CONTROL

OG0145

OG0145*	NAD 83(1986) POSITION-	43 19 51.	(N) 078 37 23.	(W) SCALED
OG0145*	NAVD 88 ORTHO HEIGHT -	96.076 (meters)	315.21 (feet)	ADJUSTED

OG0145

OG0145	GEOID HEIGHT -	-36.084 (meters)	GEOID18
--------	----------------	------------------	---------

OG0145	DYNAMIC HEIGHT -	96.056 (meters)	315.14 (feet) COMP
--------	------------------	-----------------	--------------------

OG0145	MODELED GRAVITY -	980,411.0 (mgal)	NAVD 88
--------	-------------------	------------------	---------

OG0145

OG0145 VERT ORDER - FIRST CLASS II

OG0145

OG0145.The horizontal coordinates were scaled from a map and have

OG0145.an estimated accuracy of +/- 6 seconds.

OG0145.

OG0145.The orthometric height was determined by differential leveling and

OG0145.adjusted by the NATIONAL GEODETIC SURVEY

OG0145.in June 1991.

OG0145

OG0145.Significant digits in the geoid height do not necessarily reflect accuracy.

OG0145.GEOID18 height accuracy estimate available [here](#).

OG0145

OG0145.Click [photographs](#) - Photos may exist for this station.

OG0145

OG0145.The dynamic height is computed by dividing the NAVD 88

OG0145.geopotential number by the normal gravity value computed on the

OG0145.Geodetic Reference System of 1980 (GRS 80) ellipsoid at 45

OG0145.degrees latitude (g = 980.6199 gals.).

OG0145

OG0145.The modeled gravity was interpolated from observed gravity values.

OG0145

OG0145;	North	East	Units	Estimated Accuracy
---------	-------	------	-------	--------------------

OG0145;SPC NY W	- 369,920.	346,780.	MT	(+/- 180 meters Scaled)
-----------------	------------	----------	----	-------------------------

OG0145

OG0145_U.S. NATIONAL GRID SPATIAL ADDRESS: 17TPJ927002(NAD 83)

OG0145

OG0145 SUPERSEDED SURVEY CONTROL

OG0145

OG0145	NGVD 29 (??/??/92)	96.244 (m)	315.76 (f)	ADJ UNCH	1 2
--------	--------------------	------------	------------	----------	-----

OG0145

OG0145.Superseded values are not recommended for survey control.

OG0145

OG0145.NGS no longer adjusts projects to the NAD 27 or NGVD 29 datums.

OG0145.See file [dsdata.pdf](#) to determine how the superseded data were derived.

OG0145

OG0145_MARKER: DD = SURVEY DISK

OG0145_SETTING: 30 = SET IN A LIGHT STRUCTURE

OG0145_SP_SET: CULVERT

OG0145_STABILITY: D = MARK OF QUESTIONABLE OR UNKNOWN STABILITY

OG0145

OG0145 HISTORY - Date Condition Report By

OG0145 HISTORY - 1919 MONUMENTED CGS

OG0145

OG0145

OG0145

STATION DESCRIPTION

OG0145'DESCRIBED BY COAST AND GEODETIC SURVEY 1919

OG0145'1 MI W FROM WEST SOMERSET.

OG0145'ABOUT 1 MILE WEST ALONG THE NEW YORK CENTRAL RAILROAD FROM THE

OG0145'STATION AT WEST SOMERSET, NIAGARA COUNTY, 2-1/2 POLES WEST OF

OG0145'MILEPOST P 146, 1 POLE WEST OF A FARM-ROAD CROSSING, 11 FEET NORTH OF

OG0145'THE NORTH RAIL, AT THE EAST ABUTMENT OF A CONCRETE CULVERT, IN THE

OG0145'CENTER OF THE SEAT FOR A COPING SLAB, ABOUT 3-1/2 FEET BELOW THE TOP

OG0145'OF THE RAIL. A STANDARD DISK.

*** retrieval complete.

Elapsed Time = 00:00:02



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY

NEW YORK, NY 10007-1866

August 19, 2020

Justin J. Marks
Counsel to Somerset Railroad Corporation
Clark Hill
1001 Pennsylvania Avenue NW, Suite 300
Washington, DC 20004

Re: Somerset Railroad Corporation - Abandonment Exemption - in Niagara County, NY
Surface Transportation Board Docket No. AB 1303

Dear Mr. Marks,

The U.S. Environmental Protection Agency (EPA) received your letter dated July 21, 2020 advising that Somerset Railroad Corporation (SRC) intends to file a petition for exemption for SRC to abandon the following two segments of rail line (1) Between M.P. 0.0 where SRC's line connects with CSXT's Lockport Branch (west of Lockport, NY) and M.P. 2.2, a distance of 2.2 miles, and (2) Between M.P. 2.2 and the power plant at the end of its line, a distance of approximately 13.39 miles. You have asked if EPA has any specific environmental information about the area of the rail line.

While regional EPA staff are unfamiliar with specific information for the area, we recommend that you utilize EPA's online mapping tool, NEPAassist, located on the web at <https://www.epa.gov/nepa/nepassist>. NEPAassist facilitates the environmental review process and project planning in relation to environmental considerations. The web-based application draws environmental data dynamically from EPA Geographic Information System databases and web services and provides immediate screening of environmental assessment indicators for a user defined area of interest. EPA notes that there are several impaired streams and several wetlands in the vicinity of the rail segments to be abandoned that should be identified. All best management practices should be used to avoid impacts to those areas.

If you have any other questions, please contact Lingard Knutson at (212) 637-3747 or Knutson.lingard@epa.gov.

Sincerely,

Mark Austin

Mark Austin, Team Leader
Environmental Review Team

EXHIBIT D

NEWSPAPER NOTICE

THE BUFFALO NEWS

-Affidavit-

Maureen Elardo of the City of Buffalo, New York, being duly sworn, deposes and says that he/she is Principal Clerk of THE BUFFALO NEWS INC., Publisher of THE BUFFALO NEWS, a daily newspaper, or The Sun, a weekly newspaper, or the Pennysaver, a weekly shopper published in Buffalo NY. A notice was inserted and published therein **1** times, the first insertion being on **08/25/2020** and the last insertion being on **08/25/2020**

Maureen Elardo

Dates Ad Ran:

Buffalo News (P1) 08/25/20

Sworn to before me this 25th day of, August 2020

Debra M Palkowski

Notary Public, Erie County, New York

DEBRA M. PALKOWSKI
Notary Public - State of New York
No. 01P84955693
Qualified in Erie County
My Commission Expires Sept. 5, 2021

THE BUFFALO NEWS

-Affidavit-

Maureen Elardo of the City of Buffalo, New York, being duly sworn, deposes and says that he/she is Principal Clerk of THE BUFFALO NEWS INC., Publisher of THE BUFFALO NEWS, a daily newspaper, or The Sun, a weekly newspaper, or the Pennysaver, a weekly shopper published in Buffalo NY. A notice was inserted and published therein **1** times, the first insertion being on **08/25/2020** and the last insertion being on **08/25/2020**

Maureen Elardo

Dates Ad Ran:

Buffalo News (P1) 08/25/20

Sworn to before me this 25th day of, August 2020

Debra M. Palkowski

Notary Public, Erie County, New York

DEBRA M. PALKOWSKI
Notary Public - State of New York
No. 01P84955693
Qualified in Erie County
My Commission Expires Sept. 5, 2021

Ad ID#: 1589354

THE BUFFALO NEWS

-Receipt-

Date:	08/25/20
Account #:	574019
Company Name:	Clark Hill PC
Contact:	Nikki Gardner
Address:	500 Woodward Ave. Suite 3500 Detroit, MI 48226
Telephone:	(313) 965-3432
Fax:	

Ad ID:	1589354
Run Dates:	08/25/20 to 08/25/20
OC_Flag3:	N
# of Inserts:	1.07
Columns wide:	1
Total # of Lines:	101
Total Cost:	\$840.15
Ad Class:	764
Account Rep:	Maureen Elardo
Phone #:	(716) 856-5555
Email:	melardo@buffnews.com

Payments:

Method	Card Type	Name on Card	Last 4 Digits	Expire Date	Check Number	Amount Paid
CC	MC		7466			\$840.15

Gross: \$840.15

Paid Amount: - \$840.15

Amount Due: \$0.00

Your ad

Notice of Intent to Abandon Rail Service

Somerset Railroad Corporation gives notice that on or about September 21, 2020 it intends to file with the Surface Transportation Board, Washington, DC, a petition for exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903, et seq., permitting the abandonment of a 13.39 mile line of railroad between railroad milepost 2.2, near Lockport, NY traversing through United States Postal Service ZIP Codes 14012, 14008, 14108, and 14094, and approximately railroad milepost 15.59, at the end of the line near the former Somerset power plant in Niagara County, NY. The proceeding has been docketed as No. AB 1300X.

The Board's Office of Environmental Analysis (OEA) will generally prepare an Environmental Assessment (EA), which will normally be available 60 days after the filing of the petition for abandonment exemption. Comments on environmental and energy matters should be filed no later than 30 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to OEA, Surface Transportation Board, Washington, DC or by calling OEA at (202) 245-0291.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. Any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of Proceedings either via e-filing or addressed to 395 E. Street S.W., Washington, DC 20423-0001 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicants' representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0236. Copies of any comments or requests for conditions should be served on the applicant's representative Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Ave. N.W., Suite 1300 South, Washington, DC 20004; jmarks@clarkhill.com.

THE BUFFALO NEWS

-Ad Proof-

The pages that follow show proofs of your ad scheduled to run on the dates indicated below.

Please confirm placement prior to deadline, by contacting your account rep at (716) 856-5555.

Ad proof

Proof is for text only.
Graphics will not show here.

Notice of Intent to Abandon Rail Service

Somerset Railroad Corporation gives notice that on or about September 21, 2020 it intends to file with the Surface Transportation Board, Washington, DC, a petition for exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903, et seq., permitting the abandonment of a 13.39 mile line of railroad between railroad milepost 2.2, near Lockport, NY traversing through United States Postal Service ZIP Codes 14012, 14008, 14108, and 14094, and approximately railroad milepost 15.59, at the end of the line near the former Somerset power plant in Niagara County, NY. The proceeding has been docketed as No. AB 1300X.

The Board's Office of Environmental Analysis (OEA) will generally prepare an Environmental Assessment (EA), which will normally be available 60 days after the filing of the petition for abandonment exemption. Comments on environmental and energy matters should be filed no later than 30 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to OEA, Surface Transportation Board, Washington, DC or by calling OEA at (202) 245-0291.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. Any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of Proceedings either via e-filing or addressed to 395 E. Street S.W., Washington, DC 20423-0001 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicants' representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238. Copies of any comments or requests for conditions should be served on the applicant's representative Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Ave. N.W. Suite 1300 South, Washington, DC 20004; jmarks@clarkhill.com.

Date: 08/25/20

Account #: 574019

Company Name: Clark Hill PC

Contact: Nikki Gardner

Address: 500 Woodward Ave. Suite 3500
Detroit, MI 48226

Telephone: (313) 965-3432
Fax:

Run Dates:

Buffalo News (P1) 08/25/20
Web-BuffNews/Buffalo.com (P6)
08/25/20

Ad ID: 1589354

Start: 08/25/20

Stop: 08/25/20

Total Cost: \$840.15

of Lines: 101

of Inserts: 1

Ad Class: 764

Account Rep: Maureen Elardo

Phone #: (716) 856-5555

Email: melardo@buffnews.com

EXHIBIT E

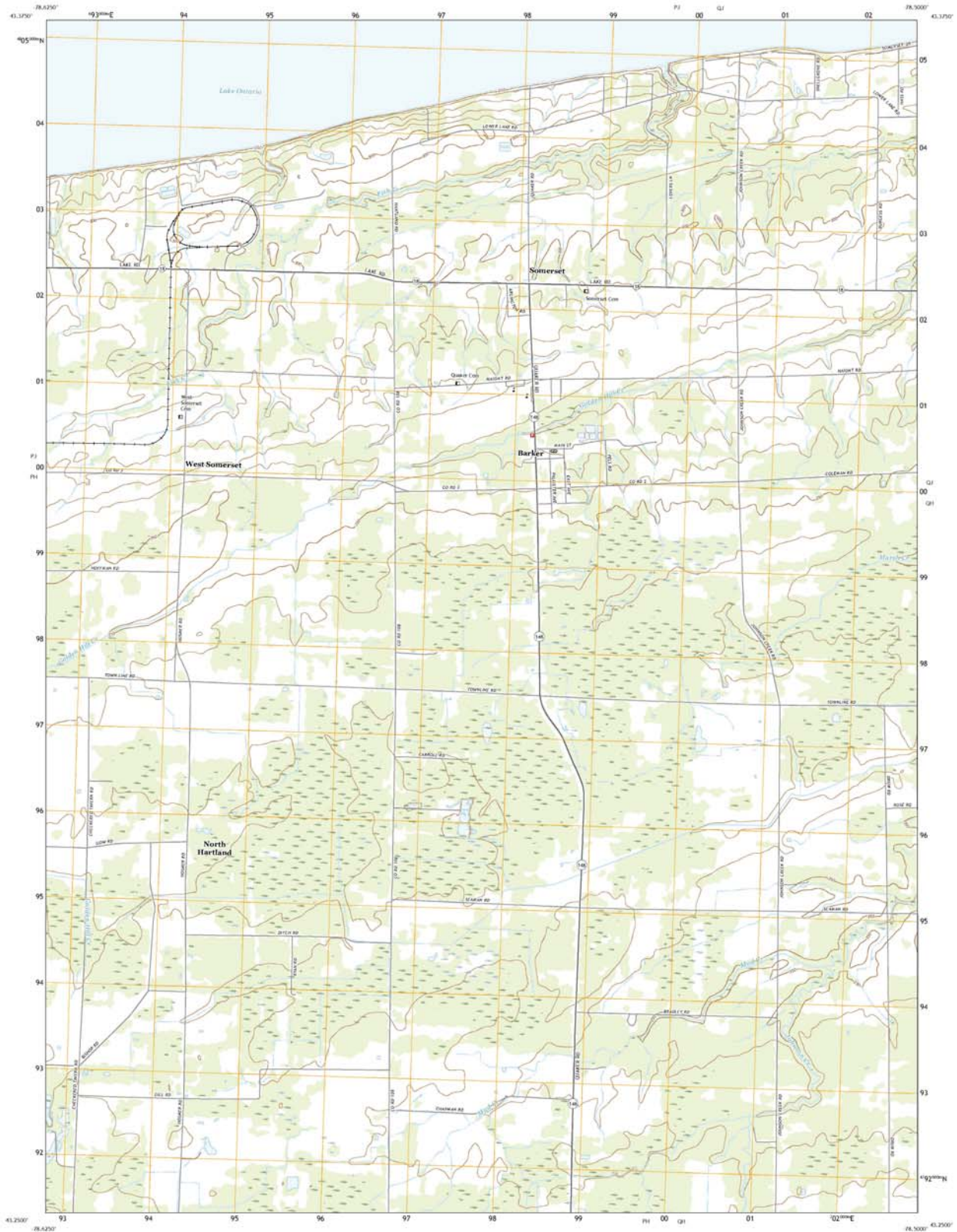
TOPOGRAPHICAL MAPS



U.S. DEPARTMENT OF THE INTERIOR
U.S. GEOLOGICAL SURVEY

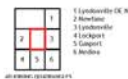
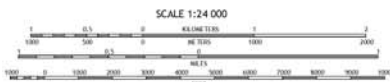


BARKER QUADRANGLE
NEW YORK - NIAGARA COUNTY
7.5-MINUTE SERIES



Produced by the United States Geological Survey
North American Datum of 1983 (NAD83)
World Coordinate System of 1983 (WGS84) - Projection and
1 000 meter geoid/mean sea level (MSL) - Zone 17T
This map is not a legal document. Boundaries may be
generalized for this map scale. Private lands within government
jurisdiction may not be shown. Obtain permission before
entering private lands.

Imagery: NADP, September 2017 - December 2017
Roads: U.S. Census Bureau, 2016
Hydrography: National Hydrography Dataset, 2015
Contours: National Elevation Dataset, 2011
Boundaries: Multiple sources; see metadata file 2017 - 2018
Waterbodies: FWS National Wetlands Inventory 1981 - 2002



ROAD CLASSIFICATION
Expressway: Local Connector
Secondary Road: Local Road
Bypass: Road
Interstate Road: US Route
State Route

BARKER, NY
2019





U.S. DEPARTMENT OF THE INTERIOR
U.S. GEOLOGICAL SURVEY

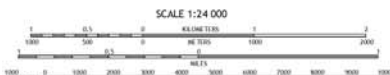
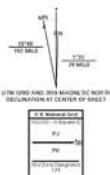


NEWFANE QUADRANGLE
NEW YORK - NIAGARA COUNTY
7.5-MINUTE SERIES



Produced by the United States Geological Survey
North American Datum of 1983 (NAD83)
World Coordinate System of 1983 (WGS84) Projection and
1 000 meter geotiff format Transverse Mercator, Zone 17T
This map is not a legal document. Boundaries may be
generalized for this map scale. Private lands within government
operations may not be shown. Obtain permission before
entering private lands.

Imagery: NADP, September 2017, December 2017
Roads: U.S. Census Bureau, 2016
Hydrography: National Hydrography Dataset, 2004
Contours: National Topographic Database, 1986
Boundaries: Multiple sources; see metadata file 2017 - 2018
Waterbodies: FWS National Wetlands Inventory 1981 - 2002



ROAD CLASSIFICATION

Expressway	Local Connector
Secondary Hwy	Local Road
Interstate Route	US Route
	State Route



NEWFANE, NY
2019

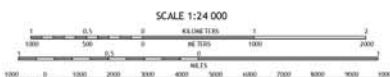
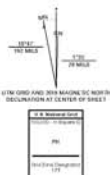




Produced by the United States Geological Survey

World American Datum of 1983 (NAD83).
 World Geodetic System of 1984 (WGS84). Projection and
 UTM meter grid Universal Transverse Mercator, Zone 17T.
 This map is not a legal document. Boundaries may be
 generalized for this map scale. Private lands within government
 reserves may not be shown. Obtain permission before
 entering private lands.

Inquiry		NAP, September
Feeds	U.S.	Canada
Name		
Hydrography	National Hydrography	US
Contours	National Contours	Hypsometric
Boundaries	Multiscale boundaries	see metadata
Workflows	TMS National Workflows	Inventory



CONTOUR INTERVAL: 10 FEET
NORTH AMERICAN VERTICAL DATUM OF 1988

This map was produced to conform with the
National Geospatial Program US Topo Product Standard, 2011.
Metadata associated with this product is draft version 0.0.1.



1	2	3
4		5
6	7	8

www.kluweronline.nl

ROAD CLASSIFICATION

Expressway		Local Connector	
Secondary Hwy		Local Road	
Ramp		FWD	

 Interstate Route  US Route  State Route

LOCKPORT, NY
2019

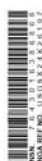


EXHIBIT F

SHPO CORRESPONDENCE

CLARK HILL

Justin J. Marks
T 202.772.0916
F 202.772.0930
Email: jmarks@ClarkHill.com

Clark Hill
1001 Pennsylvania Avenue NW
Suite 1300
Washington, DC 20004
T 202.772.0909
F 202.772.0919

clarkhill.com

July 21, 2020

Via email (Sloane.Bullough@parks.ny.gov)

New York State Historic Preservation Office
NYS Office of Parks, Recreation and Historic Preservation
Albany NY, 12238

Re: Somerset Railroad Corporation (“SRC”) – Abandonment Exemption – in Niagara
County, NY Surface Transportation Board Docket No. AB 1303

Dear Ms. Bullough:

This letter is to advise you that Somerset Railroad Corporation (“SRC”) intends to file a petition for exemption for SRC to abandon the following two segments of rail line (together, the “Subject Line”):

- (1) Between M.P. 0.0 where SRC’s line connects with CSXT’s Lockport Branch (west of Lockport, NY) and M.P. 2.2, a distance of 2.2 miles, and
- (2) Between M.P. 2.2 and the power plant at the end of its line, a distance of approximately 13.39 miles.

The Subject Line traverses through United States Postal Service ZIP Codes 14012, 14008, 14108, and 14094. A map of the Subject Line is attached as Exhibit A.

SRC plans to petition the Surface Transportation Board (“STB”) for an exemption under 49 USC §10502 from the provisions of 49 USC §10903 to enable SRC to abandon the Subject Line, on or after September 21, 2020 in STB Docket No. AB 1303.

The major customer on the Subject Line, the power plant – owned by SRC’s parent company, has been decommissioned, and no longer requires rail service.

Based upon information in SRC’s possession, the Subject Line does not contain federally granted rights of way.

July 21, 2020

Page 2

SRC intends to salvage the rail and ties. However, SRC was not authorized to construct Segment 2 above until 1982, and the Segment was not constructed until after the authorization. As such, Segment 2 is less than 50 years old. SRC believes that the abandonment will not have any significant historic impacts.

In advance of preparing an historic report as required by applicable STB regulations, we are consulting with appropriate agencies such as yours as to any concerns which they may have as to environmental or historic effects of the proposed abandonment.

We would appreciate an expression from you by August 20, 2020 that, within the area of your authority, you do not perceive that the abandonment will have a significant effect upon any historic preservation (or expressing any concerns that you have). If you have any questions about the railroad's proposal or if you need assistance in this matter, please call me at (202) 772-0916.

Thank you for your cooperation.

Sincerely,

A handwritten signature in blue ink that reads "Justin J. Marks". The signature is written in a cursive, flowing style.

Justin J. Marks
Counsel to Somerset Railroad Corporation

Enclosure

Exhibit A

[illegible]

Somerset Plant Site

Hotack" Railroad
(abandoned)

Somerset Railroad

MP 2.2

Conrail

Lockport:

MP 0.0



Parks, Recreation, and Historic Preservation

ANDREW M. CUOMO
Governor

ERIK KULLESEID
Commissioner

August 10, 2020

Justin Marks
Senior Attorney
Clark Hill PLC
1001 Pennsylvania Ave
Suite 1300
Washington, DC 20004

Re: STB
Somerset Railroad Corporation - Abandonment Exemption Project
13.39 Miles of Railroad
(Zip Codes 14012, 14008, 14108, and 14094), Niagara County, NY
20PR04406
AB 1303 - Surface Transportation Board

Dear Mr. Marks:

Thank you for requesting the comments of the State Historic Preservation Office (SHPO). We have reviewed the project materials in accordance with Section 106 of the National Historic Preservation Act of 1966. These comments are those of the SHPO and relate only to Historic/Cultural resources. They do not include potential environmental impact to New York State Parkland that may be involved in or near your project. Such impact must be considered as part of the environmental review of the project pursuant to the National Environmental Policy Act (New York Environmental Conservation Law Article 8).

Based upon this review, the SHPO is no longer requesting additional project information. Therefore, it is the opinion of the SHPO that no historic properties, including archaeological and/or historic resources, will be affected by this undertaking.

If you have any questions, I can be reached at nancy.herter@parks.ny.gov.

Sincerely,

A handwritten signature in cursive script that reads "Nancy Herter".

Nancy Herter
Archaeology Unit Program Coordinator