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April 7, 2021

BRADON J. SMITH

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301906

ENTERED

Office of Proceedings

April 7, 2021

Part of

Public Record

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
Washington, DC 20423-0001

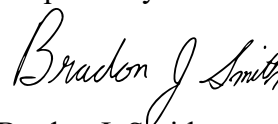
Re: **AB 1306X**
Blue Ridge Southern Railroad, L.L.C. —
Abandonment Exemption — in Henderson and
Transylvania Counties, North Carolina

Dear Ms. Brown:

Enclosed for filing in the above-captioned proceeding is a **Verified Notice of Exemption of the Blue Ridge Southern Railroad, L.L.C.**, filed pursuant to 49 C.F.R. § 1152.50. The filing fee of \$4,600 has been tendered via Pay.gov.

If you have any questions regarding this filing, please feel free to contact me at either bsmith@fletcher-sippel.com or (312) 252-1516. Thank you for your assistance on this matter. Kind regards.

Respectfully submitted,



Bradon J. Smith

**ATTORNEY FOR BLUE RIDGE
SOUTHERN RAILROAD, L.L.C.**

FILED

April 7, 2021

**SURFACE TRANSPORTATION
BOARD**

BJS:bs

Enclosures

FEE RECEIVED

April 7, 2021

SURFACE TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

AB 1306X
BLUE RIDGE SOUTHERN RAILROAD, L.L.C.
— ABANDONMENT EXEMPTION —
IN HENDERSON AND TRANSYLVANIA COUNTIES, NORTH CAROLINA

**VERIFIED NOTICE OF EXEMPTION OF
BLUE RIDGE SOUTHERN RAILROAD, L.L.C.
PURSUANT TO 49 C.F.R. § 1152.50**

Bradon J. Smith
Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606
(312) 252-1500

**ATTORNEYS FOR BLUE RIDGE SOUTHERN
RAILROAD, L.L.C.**

Dated: April 7, 2021

BEFORE THE
SURFACE TRANSPORTATION BOARD

AB 1306X
BLUE RIDGE SOUTHERN RAILROAD, L.L.C.
— ABANDONMENT EXEMPTION —
IN HENDERSON AND TRANSYLVANIA COUNTIES, NORTH CAROLINA

**VERIFIED NOTICE OF EXEMPTION OF
BLUE RIDGE SOUTHERN RAILROAD, L.L.C.
PURSUANT TO 49 C.F.R. § 1152.50**

Blue Ridge Southern Railroad, L.L.C. (“BRS”) hereby submits this notice of exemption pursuant to 49 C.F.R. § 1152.50 to abandon 19.1 miles of railroad situated between Milepost 0.7 (approximately 0.1 miles northeast of the Main Street Grade Crossing) at Hendersonville in Henderson County, and Milepost 19.8 (at the end of track approximately 0.2 miles west of Lamb Creek) at Pisgah Forest near Brevard, in Transylvania County, all within North Carolina (the “Line”).

In accordance with the requirements of 49 C.F.R. § 1152.50(d)(2), BRS submits the following information:

Certification for Class Exemption (49 C.F.R. § 1152.50(b)):

BRS qualifies to invoke the Surface Transportation Board’s (the “Board”) abandonment class exemption at 49 C.F.R. § 1152.50(b). See Verification and Certification of Rick D. Baden, Executive Vice President and Chief Financial Officer of BRS (Exhibit A).

Additional Information Required: (49 C.F.R. §§ 1152.22(a)(1)-(2), (7)-(8), and (e)(4)):

Exact name of applicant (49 C.F.R. § 1152.22(a)(1)):

Blue Ridge Southern Railroad, L.L.C.

Whether applicant is a common carrier by railroad (49 C.F.R. § 1152.22(a)(2)):

BRS is a common carrier by railroad subject to the Board's jurisdiction under 49 U.S.C. Subtitle IV. *Watco Holdings, Inc. — Continuance in Control Exemption — Blue Ridge Southern Railroad, L.L.C.*, FD 35281 (STB served Jul. 11, 2014).

Relief sought (49 C.F.R. § 1152.22(a)(3)):

Pursuant to the Board's class exemption for out-of-service rail lines, codified at 49 C.F.R. § 1152.50, BRS seeks to abandon roughly 19.1 miles of railroad situated between Milepost 0.7 (approximately 0.1 miles northeast of the Main Street Grade Crossing) at Hendersonville in Henderson County, and Milepost 19.8 (at the end of track approximately 0.2 miles west of Lamb Creek) at Pisgah Forest near Brevard in Transylvania County. BRS anticipates that abandonment authorization will facilitate interim use of the Line as a public recreational trail, consistent with 16 U.S.C. § 1247(d).

Map (49 C.F.R. § 1152.22(a)(4)):

A map of the Line is attached as Exhibit B.

BRS Representative (49 C.F.R. § 1152.22(a)(7)):

The BRS representative to whom correspondence regarding this abandonment should be sent to is:

Bradon J. Smith
Fletcher & Sippel LLC
29 N. Wacker Drive
Suite 800
Chicago, IL 60606-2832
312-252-1500

ZIP Codes traversed: (49 C.F.R. § 1152.22(a)(8))

The Line traverses United States Postal Service ZIP Codes 28793, 28739, 28791, 28729, 28768, and 28712.

Suitability for other public purposes (49 C.F.R. § 1152.22(e)(4)):

BRS is seeking abandonment authorization to render the Line eligible for an interim trails use pursuant to 16 U.S.C. § 1247(d). No alternative public purposes for the Line exists other than its current inactive state.

Consummation Date (49 C.F.R. § 1152.50(d)(2)):

BRS does not intend to consummate abandonment of the Line. Nevertheless, BRS would be entitled to consummate abandonment within the sooner of either (1) the 1-year period from the service date of the abandonment notice; or (2) within 60 days of the removal of all regulatory and legal barriers after that 1-year period, consistent with 49 C.F.R. § 1152.29(e)(2).

Labor Protection (49 C.F.R. § 1152.50(d)(2)):

The interests of affected railroad employees, if any, will be protected by the conditions discussed in *Oregon Short Line Co — Abandonment of Goshen Branch between Firth & Ammon, in Bingham & Bonneville Counties, Idaho* 360 I.C.C. 91 (1979).

Certifications (49 C.F.R. § 1152.50(d)(1) and 49 C.F.R. § 1105.11):

A certificate that the notice and publication requirements of 49 C.F.R. §§ 1152.50(d)(1); 1105.11; and 1105.12 have been satisfied is attached hereto as Exhibit C.

Environmental and Historic Report (49 C.F.R. §§ 1105.7 and 1105.8):

A combined Environmental and Historic Report (the “Report”) prepared in compliance with the requirements of 49 C.F.R. §§ 1105.7 and 1105.8 is attached hereto as Exhibit D. That Report concludes that the proposed abandonment, if implemented, will not significantly affect either the quality of the human environment, the conservation of energy resources, or historic resources.

Respectfully submitted,

A handwritten signature in black ink that reads "Bradon J. Smith". The signature is written in a cursive style with a large, stylized 'B' and 'S'.

Bradon J. Smith
Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606
(312) 252-1500

**ATTORNEY FOR BLUE RIDGE SOUTHERN
RAILROAD, L.L.C.**

Dated: April 7, 2021

BEFORE THE
SURFACE TRANSPORTATION BOARD

AB 1306X
BLUE RIDGE SOUTHERN RAILROAD, L.L.C.
— ABANDONMENT EXEMPTION —
IN HENDERSON AND TRANSYLVANIA COUNTIES, NORTH CAROLINA

EXHIBIT A

**VERIFICATION AND CERTIFICATION
OF
RICK D. BADEN**

BEFORE THE
SURFACE TRANSPORTATION BOARD

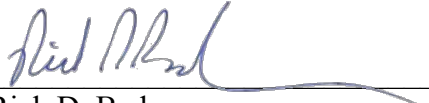
AB 1306X
BLUE RIDGE SOUTHERN RAILROAD, L.L.C.
— ABANDONMENT EXEMPTION —
IN HENDERSON AND TRANSYLVANIA COUNTIES, NORTH CAROLINA

VERIFICATION OF NOTICE AND CERTIFICATION OF ELIGIBILITY

I, Rick D. Baden, the Executive Vice President and Chief Financial Officer of Blue Ridge Southern Railroad, L.L.C., verify under penalty of perjury that the contents of the foregoing abandonment notice of exemption are true and correct.

Furthermore, I certify that:

1. no local traffic has moved over the line for at least 2 years;
2. there is no overhead traffic that cannot be rerouted over other lines; and
3. no formal complaint has been filed by a user of rail service on the line (or a state or local government entity acting on behalf of such a user) regarding cessation of service over the line either is pending with the Board or any U.S. District Court, nor has any complaint been decided in favor of the complainant in the past 2 years.


Rick D. Baden

Dated: April 5, 2021

BEFORE THE
SURFACE TRANSPORTATION BOARD

AB 1306X
BLUE RIDGE SOUTHERN RAILROAD, L.L.C.
— ABANDONMENT EXEMPTION —
IN HENDERSON AND TRANSYLVANIA COUNTIES, NORTH CAROLINA

EXHIBIT B

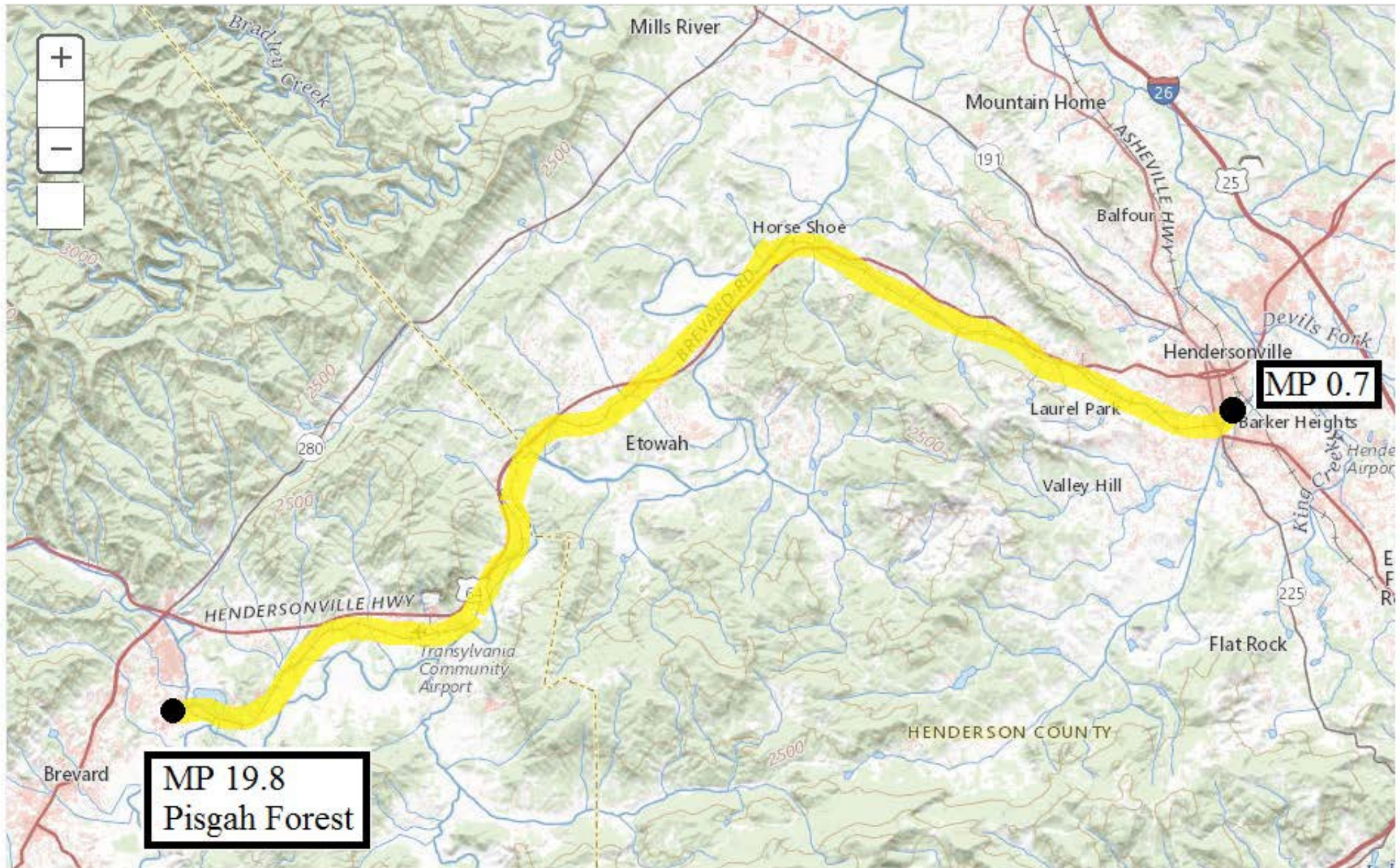
MAP

AB 1306X

Blue Ridge Southern Railroad, L.L.C.

-Abandonment Exemption-

In Henderson and Transylvania Counties, North Carolina



BEFORE THE
SURFACE TRANSPORTATION BOARD

AB 1306X
BLUE RIDGE SOUTHERN RAILROAD, L.L.C.
— ABANDONMENT EXEMPTION —
IN HENDERSON AND TRANSYLVANIA COUNTIES, NORTH CAROLINA

EXHIBIT C

**CERTIFICATES OF SERVICE AND
PUBLICATION**

BEFORE THE
SURFACE TRANSPORTATION BOARD

AB 1306X
BLUE RIDGE SOUTHERN RAILROAD, L.L.C.
— ABANDONMENT EXEMPTION —
IN HENDERSON AND TRANSYLVANIA COUNTIES, NORTH CAROLINA

CERTIFICATE OF SERVICE AND PUBLICATION

I, Bradon J. Smith, an attorney for the Blue Ridge Southern Railroad, L.L.C., in connection with the above-referenced proceeding, hereby certify that:

(1) the notice requirements of 49 C.F.R. § 1152.50(d)(1) have been satisfied, to wit: on March 25, 2021, written notice of the proposed abandonment was mailed to the (a) United States Department of Defense, MSDDC-TEA, Attn: Railroads for National Defense; (b) U.S. Department of Agriculture, Chief of the Forest Service; (c) National Center for Recreation and Conservation, National Park Service; and (d) the North Carolina Department of Transportation;

(2) the notice requirements of 49 C.F.R. § 1105.11 have been satisfied, to wit: on March 15, 2021 an Environmental and Historic Report was served by first class mail, postage prepaid in keeping with the notice requirements of 49 C.F.R. §§ 1105.7(b), 1105.8(c), and 1105.11; and

(3) a newspaper notice was published on April 1, 2021 in the *Transylvania Times*, a newspaper of general circulation in Henderson and Transylvania counties, North Carolina. The notice alerted the public to the proposed abandonment, to possible reuse alternatives, and to procedures for participating in the STB proceeding.



Bradon J. Smith

**ATTORNEY FOR BLUE RIDGE SOUTHERN
RAILROAD, L.L.C.**

Date: April 7, 2021

BEFORE THE
SURFACE TRANSPORTATION BOARD

AB 1306X
BLUE RIDGE SOUTHERN RAILROAD, L.L.C.
— ABANDONMENT EXEMPTION —
IN HENDERSON AND TRANSYLVANIA COUNTIES, NORTH CAROLINA

EXHIBIT D

**ENVIRONMENTAL AND HISTORIC
REPORT**

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB 1306X
BLUE RIDGE SOUTHERN RAILROAD, L.L.C.
– ABANDONMENT EXEMPTION –
IN HENDERSON AND TRANSYLVANIA COUNTIES, NORTH CAROLINA

ENVIRONMENTAL AND HISTORIC REPORT

Blue Ridge Southern Railroad, L.L.C. (“BRSR”) submits this combined Environmental and Historic Report (the “Report”) in compliance with the requirements of 49 C.F.R. §§ 1105.7 and 1105.8. Supporting correspondence and certifications are appended. As explained herein, the proposed abandonment—undertaken for the purposes of trails use prior to consummation—would not significantly impact the quality of the human environment or affect the conservation of energy resources.¹

ENVIRONMENTAL REPORT - 49 C.F.R. § 1105.7(e)

1. Proposed Action and Alternatives.

BRSR intends to file a notice of exemption with the Surface Transportation Board (“STB”) to abandon an approximately 19.1-mile segment of a railroad located in Henderson and Transylvania Counties, both in North Carolina, from milepost 0.7 (approximately 0.1 miles northeast of the Main Street Grade Crossing at Hendersonville), to milepost 19.8 (at the end of track approximately 0.2 miles west of Lamb Creek at Pisgah Forest near Brevard) (the “Line”). The Line has seen no local rail traffic in the previous two years. BRSR now desires to end common carrier service on the Line and arrange to preserve the right of way for public

¹ See, generally, 49 C.F.R. § 1105.5(a) (incorporating “significant” standard of 40 C.F.R. § 1508.27).

recreational use under an interim trails use arrangement with a third-party trails sponsor. The abandonment notice of exemption will be filed pursuant to 49 C.F.R. Part 1152, Subpart F.

Other than the intended trails use, no alternatives to the proposed abandonment appear reasonable, since the Line has been inactive to local traffic for at least 2 years, and there is no foreseeable prospect that a need for rail service would re-emerge. The only alternative is retention of the subject railroad property as a federally-regulated, but dormant, railroad line, whereon BRSR is unnecessarily required to provide common carrier service.

A map showing the Line is attached hereto as Appendix A.

2. Transportation System. BRSR does not anticipate that existing regional or local transportation systems or patterns will be significantly affected by the proposed abandonment but has requested input from Transylvania County, Henderson County, and the Land of Sky Rural Planning Organization (“LOSRPO”); Appendix B, Transylvania County correspondence; Appendix C, Henderson County correspondence, Appendix D, LOSRPO. In response letters dated February 3, 2021, the LOSRPO and the French Broad River Metropolitan Planning Organization (FBRMPO) states that the proposed project would allow for the development of a planned rail-trail on the corridor. Appendices D-1 and D-2. Since the Line is inactive, abandonment would not result in the diversion of traffic to other modes.

3. Land Use.

(i) BRSR does not believe that the proposed abandonment would be inconsistent with regional and/or local land use plans, and has solicited comments from the LOSRPO. Appendix D. Support for trails use was received both from the LOSRPO and the FBRMPO. See appendices D-1 and D-2 as noted above. The National Geodetic Survey (“NOAA”) has been contacted, also, but has not yet responded. Appendix E.

(ii) The Natural Resource Conservation Service (“NRCS”) has been contacted. Appendix F. BRSR has received no comments from NRCS to date.

(iii) The Line does not appear to be within a designated Coastal Management Area. Accordingly, the proposed abandonment will not affect any land or water uses in such an area or result in any coastal impacts. BRSR solicited comments from the U.S. Environmental Protection Agency Region 4 (“EPA Region 4”) and North Carolina Department of Environmental Quality (“NCDEQ”) to determine whether the proposed abandonment would have any bearing upon applicable federal, state and local water quality standards. Appendices G and H.

BRSR has received no comments from EPA Region 4. The NCDEQ responded after the draft version of this Report had been circulated, identifying 28 contamination sites within a 1-mile radius of the Line and recommending that precautions be taken for construction activities. Appendix H-1. BRS does not anticipate any construction activities will be undertaken pursuant to abandonment.

(iv) This abandonment is being undertaken in part to make the Line available for public recreational use consistent with 49 U.S.C. § 10905.

4. Energy.

(i) The proposed abandonment will not have any effect on the transportation of energy resources.

(ii) The movement and/or recovery of recyclable commodities will not be adversely affected by the proposed abandonment.

(iii) The abandonment will not result in an increase or decrease in overall energy efficiency. No rail freight traffic currently moves to or from points on the Line,

and, thus, there will be no changes in existing transportation patterns or energy usage as a result of the proposed abandonment.

(iv) Not applicable. The abandonment of the Line will not cause the diversion of more than 1,000 rail carloads per year or an average of 50 rail carloads per mile per year to motor carriers.

5. Air.

(i) Not applicable. The Line is inactive. The abandonment will not result in (A) a minimum increase in rail traffic of 100% or eight trains per day on any segment of rail line; (B) an increase in rail yard activity of at least 100%; or (C) an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles per day on any road segment.

(ii) Not applicable. BRSR does not believe that Henderson County or Transylvania County, North Carolina are Class I or Nonattainment Areas under the Clean Air Act. In any event, abandonment of the Line will not result in traffic increases exceeding the thresholds at 49 C.F.R. § 1105.7(e)(5)(ii)(A), (B) or (C).

(iii) Not applicable. BRSR has contacted and requested comments from the EPA Region 4 and NCDEQ. Appendices G and H. No responses from EPA Region 4 have been received to date.

6. Noise. Not applicable. As indicated above, none of the thresholds identified in 49 C.F.R. § 1105.7(e)(5)(i) will be exceeded as a result of the abandonment.

7. Safety.

(i) The proposed action will have no adverse effect upon public health or safety.

(ii) Not applicable. The proposed abandonment will have no effect on the transportation of hazardous materials.

(iii) There are no known hazardous waste sites or sites where there have been known hazardous material spills on the right-of-way of the Line.

8. Biological Resources.

(i) No critical habitat will be destroyed, altered or affected as a result of the proposed abandonment, and BRSR does not believe that any endangered or threatened species are present in the area or would be adversely affected. BRSR has requested comments from the NCDEQ and the U.S. Fish and Wildlife Service. Appendices H and I, respectively. No responses from the U.S. Fish and Wildlife Service have been received to date.

(ii) Similarly, BRSR has no reason to believe that any wildlife sanctuaries or refuges will be affected, based on its review of Appendix A and absent any further comment from conservation agencies. BRSR has also contacted and requested comments from the National Park Service, as set forth in Appendix J. No response has been received to date.

9. Water.

(i) The U.S. Environmental Protection Agency Region 4 has been contacted. Appendix G. NCDEQ has also been contacted. Appendix H. The North Carolina Department of Agriculture and Consumer Services Division of Soil and Water Conservation (“NC-Ag.”) has also been contacted and responded after circulation. Appendix K; K-1. NC-Ag had no further comment.

(ii) The Army Corps of Engineers (the “Corps”) has been contacted to determine if the proposed abandonment requires permits under Section 404 of the Clean Water Act, though no salvage is currently contemplated. Appendix L. In its response letter dated

February 18, 2021, the Corps indicated that any salvage that might result in discharge would require further examination by the Corps. Appendix L-1. However, BRSR is unaware of the proposed abandonment affecting any 100-year floodplain.

(iii) BRSR does not anticipate the discharge of any pollutants in relation to its proposed abandonment. Additionally, no material will be disposed of into waterways given the intention to preserve the bridges along the line segment for trails use. Accordingly, BRSR concludes that no permits under Section 402 of the Clean Water Act are required.

* * * * *

In addition to the agencies referenced above, BRSR also has contacted and requested comments from North Carolina Department of Administration State Clearinghouse. Appendix M. The North Carolina Department of Administration State Clearinghouse responded on March 16, 2021 with additional comments from the Department of Public Safety, Division of Emergency Management, indicating development activities may require local floodplain permits. Appendix M-1.

* * * * *

HISTORIC REPORT - 49 C.F.R. § 1105.8(d)

1. Map.A map of the Line is attached hereto as Appendix A.
2. Description of Line.The relevant segment of the Line is a 19.1-mile segment of a railroad located in Henderson and Transylvania Counties, both in North Carolina, from milepost 0.7 (approximately 0.1 miles northeast of the Main Street Grade Crossing at Hendersonville), to milepost 19.8 (at the end of track approximately 0.2 miles west of Lamb

Creek at Pisgah Forest near Brevard). There are 15 railroad structures on the line. An inventory of historic track structures (bridges) is appended to this report. Appendix N. BRSR has very little information about the bridges at this time, but it appears that each of the spans was constructed more than fifty years ago, though many are modest in size with small spans. BRSR intends to leave the bridges intact, and, upon completion of an anticipated interim trail use (post-abandonment authorization), plans to transfer them to the trail sponsor for use as part of a public pathway for pedestrians along the subject railroad corridor.

3. Photographs. Overhead images of the bridges are attached as Appendix O.

4. Information on Structures. There are no railroad structures other than the bridges.

5. History of Operations. Norfolk Southern Railway Company (“NS”) was the immediate predecessor owner and operator of the Line. *Blue Ridge Southern Railroad, L.L.C — Acquisition Exemption — Norfolk Southern Railway Company*, Docket No. FD 35820 (STB served Jul. 11, 2014). NS obtained the Line by virtue of its acquisition of the Southern Railway and its Transylvania Railroad Company. *Norfolk Southern Corporation — Control — Norfolk & Western Railway Company and Southern Railway Company*. 366 ICC 173, 256 (1982). Prior to its merger into NS, the Southern Railway — Carolina Division operated the Line in accordance with its lease from the Transylvania Railroad Company (“TRC”), dating to 1906. *Southern Railway Company et. al. — Valuation*, 37 Val.ICC 1, 452 (1931). The TRC obtained the Line in 1899 out of foreclosure on the assets of the insolvent Hendersonville and Brevard Railway,

Telegraph, and Telephone Company, which had been chartered by the state of North Carolina in 1891. *Id.* at 447.

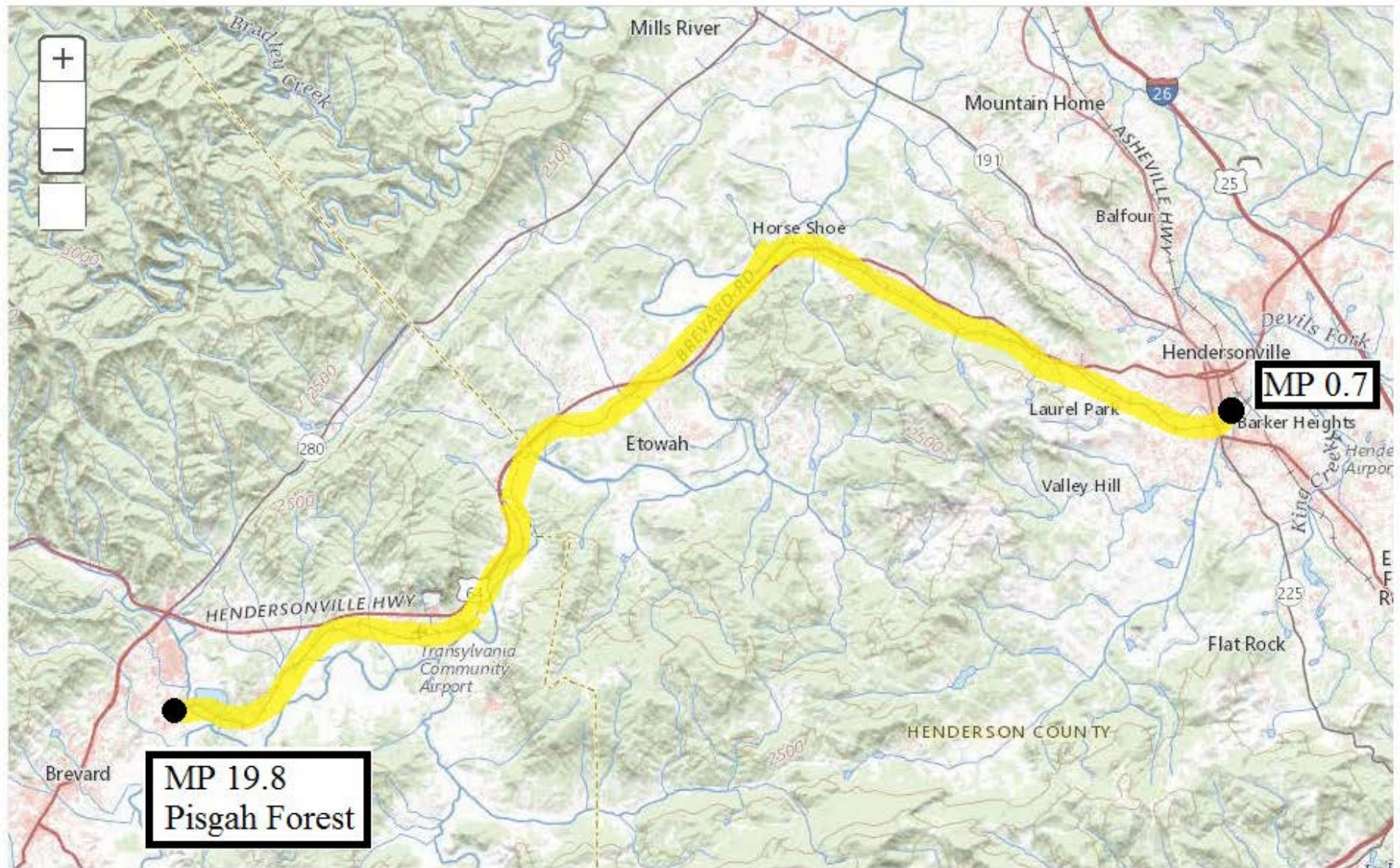
6. Engineering Documents. BRSR will provide copies of any engineering documents in its possession.

7. Historic Criteria. BRSR has contacted and given notice of the proposed abandonment to the North Carolina Department of Natural and Cultural Resources (“NC-DNCR”). Appendix P. NC-DNCR responded after circulation; it had no further comment. Appendix P-1. BRSR has no plans whatsoever to remove or alter the bridges, and expects that they will be retained by the trail sponsor under a trails use arrangement as important infrastructure supporting interim recreational use of the rail corridor. As such, BRSR believes that no historic properties will be affected by BRSR’s plans for the line segment, but BRSR would be willing to comply with the State Historical Preservation Officer’s recommendations if they were to be imposed by the Board as a precondition to abandonment consummation (which is not contemplated for the reasons given above) or as a condition to salvage (again, not anticipated) of bridges.

8. Ground Disturbances.

Based on available information, BRSR does not believe that there are archaeological resources in the area. Access to the Line is generally good.

AB 1306X
Blue Ridge Southern Railroad, L.L.C.
-Abandonment Exemption-
In Henderson and Transylvania Counties, North Carolina



FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

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BRADON J. SMITH
(312) 252-1516
bsmith@fletcher-sippel.com

January 26, 2021

Jaime Laughter
County Manager
Transylvania County
jaime.laughter@transylvaniacounty.org

Re: **Docket No. AB 1306X**
Blue Ridge Southern Railroad, L.L.C. – Abandonment Exemption – In
Henderson and Transylvania Counties, North Carolina

Dear County Manager Laughter:

On or after February 15, 2021, the Blue Ridge Southern Railroad, L.L.C. (“BRSR”) intends to file with the Surface Transportation Board (“STB”) a notice of exemption for the abandonment of approximately 19.1 miles of railroad situated between Milepost 0.7 (approximately 0.1 miles northeast of the Main Street Grade Crossing) at Hendersonville in Henderson County, and Milepost 19.8 (at the end of track approximately 0.2 miles west of Lamb Creek) at Pisgah Forest near Brevard, in Transylvania County, all within North Carolina. The notice of exemption will be filed pursuant to 49 C.F.R. § 1152.50(b), covering abandonment of rail lines over which no local traffic has moved during the previous two years. A map showing the location of the Line is enclosed for your reference.

In accordance with the STB’s environmental regulations, 49 C.F.R. § 1105, BRSR is advising you of the proposed abandonment so that you may assist us in identifying any potential effects it may have on the following (to the extent they are within your area of expertise or authority):

1. Regional and/or local use plans;
2. Regional or local transportation systems and patterns, including alternative transportation modes;
3. Energy consumption and efficiency;
4. Air emissions and noise levels;
5. Bodies of water and overall water quality under applicable federal, state or local standards;
6. Designated wetlands and 100-year old flood plains;
7. Endangered or threatened species and critical habitats;

APPENDIX B

County Manager, Transylvania County

Pg. 2

8. Wildlife sanctuaries or refuges and national or state parks or forests;
9. Prime agricultural land, and soil and natural resource conservation;
10. Existing or potential safety hazards;
11. Coastal Zone Management Areas; and
12. The need for permits under Sections 402 or 404 of the Clean Water Act.

Because of the limited nature of the proposed action, we foresee no adverse environmental effects. Nevertheless, we would appreciate your review and any comments you may wish to offer. We request a written response as soon as possible so that we may include it in the Environmental/Historic Report which will be prepared in connection with this abandonment in accordance with 49 C.F.R. § 1105.7. Any written comments should reference Docket No. AB 1306X and be sent to the undersigned, as counsel for BRSR.

A copy of the Environmental/Historic Report will be forwarded to you at least twenty days before BRSR's notice of exemption is filed at the STB. If you have any questions or need additional information in the meantime, please feel free to contact me at 312-252-1516. Thank you for your assistance.

Very truly yours,



Bradon J. Smith
Attorney for Blue Ridge Southern Railroad, L.L.C.

BJS/eg

Enclosure

FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208

Phone: (312) 252-1500
Fax: (312) 252-2400
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BRADON J. SMITH
(312) 252-1516
bsmith@fletcher-sippel.com

January 26, 2021

Steve Wyatt
County Manager
Henderson County
swyatt@hendersoncountync.gov

Re: **Docket No. AB 1306X**
Blue Ridge Southern Railroad, L.L.C. – Abandonment Exemption – In
Henderson and Transylvania Counties, North Carolina

Dear County Manager Wyatt:

On or after February 15, 2021, the Blue Ridge Southern Railroad, L.L.C. (“BRSR”) intends to file with the Surface Transportation Board (“STB”) a notice of exemption for the abandonment of approximately 19.1 miles of railroad situated between Milepost 0.7 (approximately 0.1 miles northeast of the Main Street Grade Crossing) at Hendersonville in Henderson County, and Milepost 19.8 (at the end of track approximately 0.2 miles west of Lamb Creek) at Pisgah Forest near Brevard, in Transylvania County, all within North Carolina. The notice of exemption will be filed pursuant to 49 C.F.R. § 1152.50(b), covering abandonment of rail lines over which no local traffic has moved during the previous two years. A map showing the location of the Line is enclosed for your reference.

In accordance with the STB’s environmental regulations, 49 C.F.R. § 1105, BRSR is advising you of the proposed abandonment so that you may assist us in identifying any potential effects it may have on the following (to the extent they are within your area of expertise or authority):

1. Regional and/or local use plans;
2. Regional or local transportation systems and patterns, including alternative transportation modes;
3. Energy consumption and efficiency;
4. Air emissions and noise levels;
5. Bodies of water and overall water quality under applicable federal, state or local standards;
6. Designated wetlands and 100-year old flood plains;
7. Endangered or threatened species and critical habitats;

APPENDIX C

County Manager, Henderson County

Pg. 2

8. Wildlife sanctuaries or refuges and national or state parks or forests;
9. Prime agricultural land, and soil and natural resource conservation;
10. Existing or potential safety hazards;
11. Coastal Zone Management Areas; and
12. The need for permits under Sections 402 or 404 of the Clean Water Act.

Because of the limited nature of the proposed action, we foresee no adverse environmental effects. Nevertheless, we would appreciate your review and any comments you may wish to offer. We request a written response as soon as possible so that we may include it in the Environmental/Historic Report which will be prepared in connection with this abandonment in accordance with 49 C.F.R. § 1105.7. Any written comments should reference Docket No. AB 1306X and be sent to the undersigned, as counsel for BRSR.

A copy of the Environmental/Historic Report will be forwarded to you at least twenty days before BRSR's notice of exemption is filed at the STB. If you have any questions or need additional information in the meantime, please feel free to contact me at 312-252-1516. Thank you for your assistance.

Very truly yours,

A handwritten signature in black ink that reads "Bradon J. Smith". The signature is written in a cursive, flowing style.

Bradon J. Smith
Attorney for Blue Ridge Southern Railroad, L.L.C.

BJS/eg

Enclosure

FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208

Phone: (312) 252-1500
Fax: (312) 252-2400
www.fletcher-sippel.com

BRADON J. SMITH
(312) 252-1516
bsmith@fletcher-sippel.com

January 26, 2021

Vicki Eastland
Coordinator
Land of Sky Rural Planning Organization
Vicki.eastland@landofsky.org

Re: **Docket No. AB 1306X**
Blue Ridge Southern Railroad, L.L.C. – Abandonment Exemption – In
Henderson and Transylvania Counties, North Carolina

Dear Ms. Eastland:

On or after February 15, 2021, the Blue Ridge Southern Railroad, L.L.C. (“BRSR”) intends to file with the Surface Transportation Board (“STB”) a notice of exemption for the abandonment of approximately 19.1 miles of railroad situated between Milepost 0.7 (approximately 0.1 miles northeast of the Main Street Grade Crossing) at Hendersonville in Henderson County, and Milepost 19.8 (at the end of track approximately 0.2 miles west of Lamb Creek) at Pisgah Forest near Brevard, in Transylvania County, all within North Carolina. The notice of exemption will be filed pursuant to 49 C.F.R. § 1152.50(b), covering abandonment of rail lines over which no local traffic has moved during the previous two years. A map showing the location of the Line is enclosed for your reference.

In accordance with the STB’s environmental regulations, 49 C.F.R. § 1105, BRSR is advising you of the proposed abandonment so that you may assist us in identifying any potential effects it may have on the following (to the extent they are within your area of expertise or authority):

1. Regional and/or local use plans;
2. Regional or local transportation systems and patterns, including alternative transportation modes;
3. Energy consumption and efficiency;
4. Air emissions and noise levels;
5. Bodies of water and overall water quality under applicable federal, state or local standards;
6. Designated wetlands and 100-year old flood plains;
7. Endangered or threatened species and critical habitats;

APPENDIX D

Coordinator, Land of Sky Rural Planning Organization

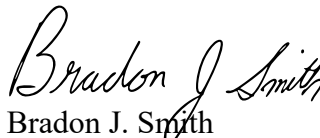
Pg. 2

8. Wildlife sanctuaries or refuges and national or state parks or forests;
9. Prime agricultural land, and soil and natural resource conservation;
10. Existing or potential safety hazards;
11. Coastal Zone Management Areas; and
12. The need for permits under Sections 402 or 404 of the Clean Water Act.

Because of the limited nature of the proposed action, we foresee no adverse environmental effects. Nevertheless, we would appreciate your review and any comments you may wish to offer. We request a written response as soon as possible so that we may include it in the Environmental/Historic Report which will be prepared in connection with this abandonment in accordance with 49 C.F.R. § 1105.7. Any written comments should reference Docket No. AB 1306X and be sent to the undersigned, as counsel for BRSR.

A copy of the Environmental/Historic Report will be forwarded to you at least twenty days before BRSR's notice of exemption is filed at the STB. If you have any questions or need additional information in the meantime, please feel free to contact me at 312-252-1516. Thank you for your assistance.

Very truly yours,

A handwritten signature in cursive script that reads "Bradon J. Smith".

Bradon J. Smith
Attorney for Blue Ridge Southern Railroad, L.L.C.

BJS/eg

Enclosure

APPENDIX D-1

From: [Vicki Eastland](#)
To: [Emily K. Gurney](#); [Bradon J. Smith](#)
Cc: jaime.laughter@transylvaniacounty.org; [Tristan Winkler](#)
Subject: RE: Abandonment Exemption of Blue Ridge Southern Railroad, LLC, STB Docket AB 1306X
Date: Wednesday, February 3, 2021 4:40:46 PM

Mr. Smith,

Thank you for reaching out regarding Blue Ridge Southern Railroad, LLC's Petition for Abandonment Exemption. This section of rail line lies partially in the Land of Sky RPO jurisdiction and partially in the French Broad River MPO jurisdiction. Because of this I shared this request with Tristan Winkler, Director of the French Broad River MPO for his input.

The potential abandonment of this line paves the way so to speak for the development and construction of the proposed Ecusta Rail Trail. The completion of this rail trail will provide safer off road connections for both pedestrians and cyclists between Brevard and Hendersonville. The Ecusta Rail Trail plays an important role in our regional vision for a safe and connected pedestrian and bicycle network as illustrated by its inclusion in several locally and regionally adopted plans, a few of these are listed below:

[Transylvania County Bicycle Plan](#)

[Hellbender Regional Trail Plan](#)

[Blue Ridge Bicycle Plan](#)

[Transylvania County Comprehensive Transportation Plan](#) (this plan is in the process of being updated)

Again, thank you for reaching out and please feel free to contact me for any additional information.

Thank you,

Vicki Eastland

Land of Sky RPO

Land of Sky Regional Council

landofskyrpo.org

828-251-6622

From: Emily K. Gurney <EGurney@fletcher-sippel.com>
Sent: Tuesday, January 26, 2021 3:01 PM
To: Vicki Eastland <vicki.eastland@landofsky.org>
Subject: Abandonment Exemption of Blue Ridge Southern Railroad, LLC, STB Docket AB 1306X

Be Advised: This email originated from outside Land of Sky

APPENDIX D-1

Attached please find an Environmental Notice Letter pertaining to Blue Ridge Southern Railroad, LLC's Petition for Abandonment Exemption.

Thank you.

Emily Gurney

Fletcher & Sippel LLC

29 North Wacker Drive, Suite 800

Chicago, IL 60606-3208

P: (312) 252-1500

F: (312) 252-2400

egurney@fletcher-sippel.com

This e-mail, including attachments, is covered by the Electronic Communications Privacy Act, 18 U.S.C. 2510-2521. It contains information that is confidential and it may be protected by the attorney/client or other privileges. This e-mail, including attachments, constitutes non-public information intended to be conveyed only to the designated recipient(s). If you are not an intended recipient, please delete the e-mail, including any and all attachments, and notify the sender by mail, e-mail, or at (312) 252-1500. The unauthorized use, dissemination, distribution or reproduction of this e-mail, including any and all attachments, is prohibited and may be unlawful.

APPENDIX D-2

From: [Tristan Winkler](#)
To: [Bradon J. Smith](#); [Emily K. Gurney](#)
Cc: [Autumn Radcliff](#); [Vicki Eastland](#)
Subject: Comments on Railroad Abandonment Exception in Henderson County, NC
Date: Wednesday, February 3, 2021 3:16:23 PM
Attachments: [image001.png](#)

Mr. Smith,

I received your notice via the Land of Sky RPO coordinator, Vicki Eastland. The portion of the rail line in Henderson County is within the jurisdiction of the French Broad River MPO. My general comment is that the transfer of the rail line would allow for the development of a planned rail-trail on the corridor, known as the Ecusta Rail Trail. This has been identified in several locally and regionally adopted plans, including:

- [The Henderson County Greenway Master Plan](#)
- [The French Broad River MPO 2045 Metropolitan Transportation](#)
- [The Hellbender Regional Trail Plan](#)

We see these as key bicycle and pedestrian linkages for our region and would support efforts to further their development and implementation. For the portion within Transylvania County, I would direct you to Vicki Eastland for further comment.

Thank you,

Tristan Winkler

French Broad River MPO Director
Land of Sky Regional Council
828.251.7454
847.997.7328 (cell)
Tristan@landofsky.org



All email correspondence to and from this address is subject to public review under the NC Public Records Law.

FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208

Phone: (312) 252-1500
Fax: (312) 252-2400
www.fletcher-sippel.com

BRADON J. SMITH
(312) 252-1516
bsmith@fletcher-sippel.com

January 26, 2021

National Geodetic Survey Information Services
Office of Ocean and Coastal Resource Management
NOAA Ocean Service
1305 East-West Highway
Silver Springs, MD 20910

Re: **Docket No. AB 1306X**
Blue Ridge Southern Railroad, L.L.C. – Abandonment Exemption – In
Henderson and Transylvania Counties, North Carolina

Dear Sir/Madam:

On or after February 15, 2021, the Blue Ridge Southern Railroad, L.L.C. (“BRSR”) intends to file with the Surface Transportation Board (“STB”) a notice of exemption for the abandonment of approximately 19.1 miles of railroad situated between Milepost 0.7 (approximately 0.1 miles northeast of the Main Street Grade Crossing) at Hendersonville in Henderson County, and Milepost 19.8 (at the end of track approximately 0.2 miles west of Lamb Creek) at Pisgah Forest near Brevard, in Transylvania County, all within North Carolina. The notice of exemption will be filed pursuant to 49 C.F.R. § 1152.50(b), covering abandonment of rail lines over which no local traffic has moved during the previous two years. A map showing the location of the Line is enclosed for your reference.

In accordance with the STB’s environmental regulations, 49 C.F.R. § 1105, BRSR is advising you of the proposed abandonment so that you may assist us in identifying any potential effects it may have on the following (to the extent they are within your area of expertise or authority):

1. Regional and/or local use plans;
2. Regional or local transportation systems and patterns, including alternative transportation modes;
3. Energy consumption and efficiency;
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5. Bodies of water and overall water quality under applicable federal, state or local standards;
6. Designated wetlands and 100-year old flood plains;

APPENDIX E

National Geodetic Survey Information Services

Pg. 2

7. Endangered or threatened species and critical habitats;
8. Wildlife sanctuaries or refuges and national or state parks or forests;
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Very truly yours,



Bradon J. Smith
Attorney for Blue Ridge Southern Railroad, L.L.C.

BJS/eg

Enclosure

FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

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Suite 800
Chicago, Illinois 60606-3208

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Fax: (312) 252-2400
www.fletcher-sippel.com

BRADON J. SMITH
(312) 252-1516
bsmith@fletcher-sippel.com

January 26, 2021

USDA Natural Resources Conservation Service
4407 Bland Rd., Suite 117
Raleigh, NC 27609

Re: **Docket No. AB 1306X**
Blue Ridge Southern Railroad, L.L.C. – Abandonment Exemption – In
Henderson and Transylvania Counties, North Carolina

Dear Sir/Madam:

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APPENDIX F

USDA Natural Resources Conservation Service

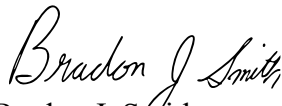
Pg. 2

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Very truly yours,



Bradon J. Smith
Attorney for Blue Ridge Southern Railroad, L.L.C.

BJS/eg

Enclosure

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Suite 800
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Fax: (312) 252-2400
www.fletcher-sippel.com

BRADON J. SMITH
(312) 252-1516
bsmith@fletcher-sippel.com

January 26, 2021

U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303-3104

Re: **Docket No. AB 1306X**
Blue Ridge Southern Railroad, L.L.C. – Abandonment Exemption – In
Henderson and Transylvania Counties, North Carolina

Dear Sir/Madam:

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APPENDIX G

U.S. Environmental Protection Agency, Region 4

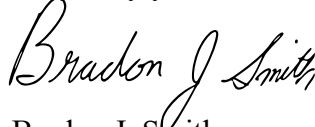
Pg. 2

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Very truly yours,



Bradon J. Smith
Attorney for Blue Ridge Southern Railroad, L.L.C.

BJS/eg

Enclosure

FLETCHER & SIPPEL LLC

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29 North Wacker Drive
Suite 800
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www.fletcher-sippel.com

BRADON J. SMITH
(312) 252-1516
bsmith@fletcher-sippel.com

January 26, 2021

North Carolina Department of Environmental Quality
217 West Jones Street
Raleigh, NC 27603

Re: **Docket No. AB 1306X**
Blue Ridge Southern Railroad, L.L.C. – Abandonment Exemption – In
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APPENDIX H

North Carolina Department of Environmental Quality

Pg. 2

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Very truly yours,



Bradon J. Smith
Attorney for Blue Ridge Southern Railroad, L.L.C.

BJS/eg

Enclosure

APPENDIX H-1



NORTH CAROLINA
Environmental Quality

ROY COOPER
Governor

MICHAEL S. REGAN
Secretary

JAMIE RAGAN
Director

MEMORANDUM

To: Crystal Best
State Clearinghouse
NC Department of Administration

From: Lyn Hardison
Division of Environmental Assistance and Customer Service
Environmental Assistance and Project Review Coordinator
Washington Regional Office

RE: 21-0849
Scoping - Proposal is for the abandonment of
approximately 19.1 miles of railroad situated between
milepost .07 at Hendersonville and milepost 19.8 at Pisgah
Forest near Brevard.
Henderson and Transylvania Counties

Date: March 11, 2021

The Department of Environment Quality has reviewed the proposal for the referenced project. Based on the information provided, twenty-eight (28) contamination sites were identified within one mile of the project site. In addition, several of our agencies have identified permits that may be required and offered some valuable guidance. The comments are attached for the applicant's review.

The Department will continue to be available to assist the applicant with any question or concerns.

Thank you for the opportunity to respond.

Attachments



APPENDIX H-1



NORTH CAROLINA
Environmental Quality

ROY COOPER
Governor

MICHAEL S. REGAN
Secretary

MICHAEL SCOTT
Director

Date: March 10, 2021

To: Michael Scott, Director
Division of Waste Management

Through: Janet Macdonald
Inactive Hazardous Sites Branch – Special Projects Unit

From: Bonnie S. Ware
Inactive Hazardous Sites Branch

Subject: NEPA Project # 21-0849, Blue Ridge Southern Railroad, Henderson (Transylvania) County, North Carolina

The Superfund Section has reviewed the proximity of sites under its jurisdiction to the Blue Ridge Southern Railroad project. Proposed project is for the abandonment of approximately 19.1 miles of railroad situated between milepost .07 at Hendersonville in Henderson County and milepost 19.8 at Pisgah Forest near Brevard in Transylvania County.

Twenty-Eight (28) Superfund Section sites were identified within one mile of the project as shown on the attached report. The Superfund Section recommends that site files be reviewed to ensure that appropriate precautions are incorporated into any construction activities that encounter potentially contaminated soil or groundwater. Superfund Section files can be viewed at: <http://deq.nc.gov/waste-management-laserfiche>.

Please contact Janet Macdonald at 919.707.8349 if you have any questions concerning the Superfund Section review portion of this SEPA/NEPA inquiry.



North Carolina Department of Environmental Quality | Division of Waste Management
217 West Jones Street | 1646 Mail Service Center | Raleigh, North Carolina 27699-1646
919.707.8200

APPENDIX H-1

3/10/2021

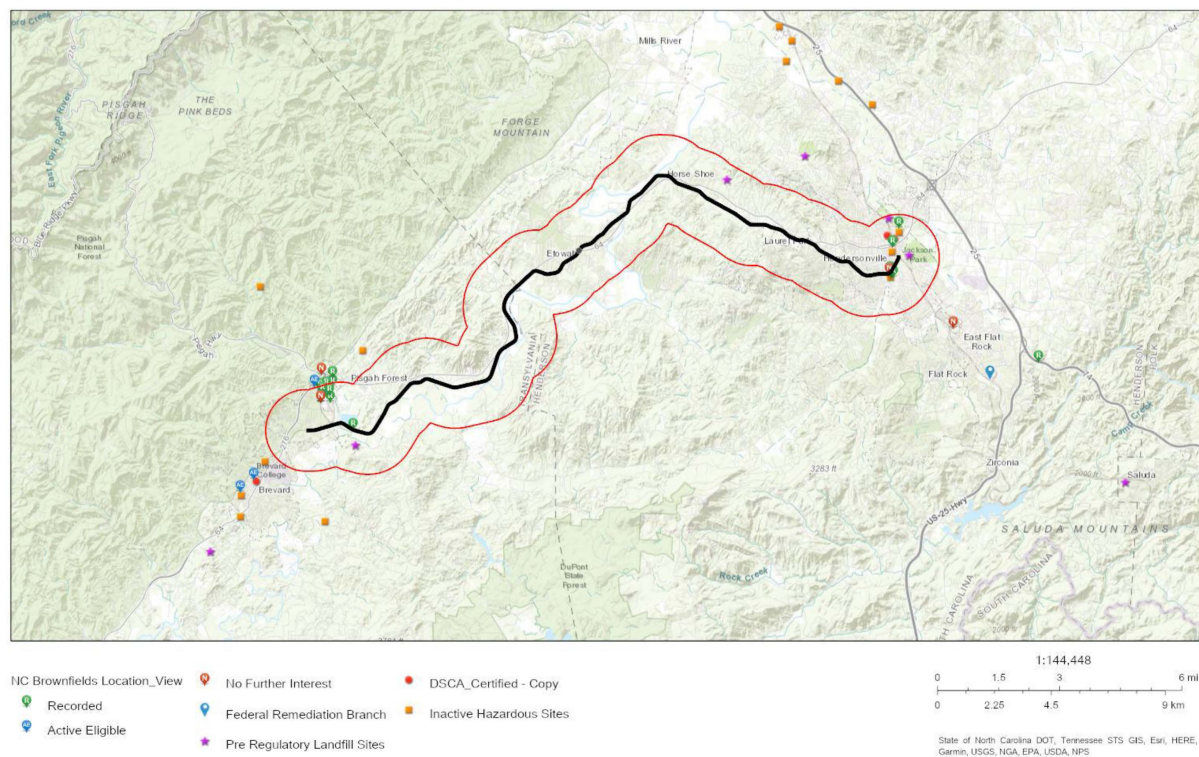


SUPERFUND SECTION ONLY : SEPA/NEPA

Area of Interest (AOI) Information

Area : 26,597.49 acres

Mar 10 2021 13:47:11 Eastern Standard Time



APPENDIX H-1

3/10/2021

Superfund Section Only : 21-0849 Henderson (Transylvania) County

Summary

Name	Count	Area(acres)	Length(mi)
Certified DSCA Sites	3	N/A	N/A
Federal Remediation Branch Sites	1	N/A	N/A
Inactive Hazardous Sites	3	N/A	N/A
Pre-Regulatory Landfill Sites	4	N/A	N/A
Brownfields Program Sites	17	N/A	N/A

Certified DSCA Sites

#	Site_ID	Site_Name	Count
1	DC450001	Blue Ridge Cleaners	1
2	DC450002	Carolina Cleaners	1
3	DC450004	Superior Cleaners & Laundry	1

Federal Remediation Branch Sites

#	SITE_ID	SITE_NAME	Count
1	NCD003166675	ECUSTA MILL	1

Inactive Hazardous Sites

#	EPAID	SITENAME	Count
1	NONCD0001090	OLD MILL BLDG	1
2	NONCD0003087	MAIN ST SOLVENT CONTAMINATION_500 BLOCK	1
3	NONCD0003130	ROBINSON TERRACE VOCS	1

Pre-Regulatory Landfill Sites

#	EPAID	SITENAME	Count
1	NONCD0000591	Davidson River Dump	1
2	NONCD0000359	Henderson Dump	1
3	NONCD0000761	Misty View Dr If	1
4	NONCD0000798	Mud Creek Dump	1

APPENDIX H-1

3/10/2021

Brownfields Program Sites

#	BF_ID	BF_Name	Count
1	1701313088	Ecusta Gateway	1
2	600902045	Grey Hosiery Mill	1
3	1700413045	Auto Undertakers	1
4	1501611088	Ecusta - Tract D	1
5	1502111088	Ecusta - Tract A	1
6	1502211088	Ecusta - Tract B	1
7	1502311088	Ecusta - Tract C	1
8	1101907045	Warren Marketing Group	1
9	1404710088	Ecusta - Tract G	1
10	903605045	Baxter Oil (Former)	1
11	701603088	Ecusta	1
12	1502511088	Ecusta - Tract F	1
13	2304919032	Robinson Terrace South	1
14	902405088	Ecusta - 2	1
15	902305088	Ecusta - 1	1
16	1103307088	Ecusta Mill Property	1
17	1605712045	CVS (RN)	1

APPENDIX H-1

ROY COOPER

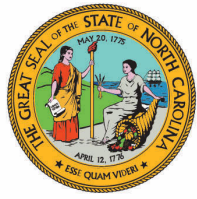
Governor

DIONNE DELLI-GATTI

Secretary

MICHAEL SCOTT

Director



NORTH CAROLINA
Environmental Quality

DATE: March 4, 2021

TO: Michael Scott, Division Director through Sharon Brinkley

FROM: Deb Aja, Western District Supervisor - Solid Waste Section

RE: NEPA Project 21-0849, Henderson and Transylvania Counties, N.C.
Blue Ridge Southern Railroad – Rail Abandonment Exemption

The Solid Waste Section has reviewed the environmental scoping document for Blue Ridge Southern Railroad project to abandon approximately 19.1 miles of railroad situated between milepost .07 at Hendersonville in Henderson County and milepost 19.8 at Pisgah Forest near Brevard in Transylvania County, North Carolina. The review has been completed and has found no adverse impact on the surrounding community and likewise knows of no situations in the community, which would affect this project from a solid waste perspective.

During the project, every feasible effort should be made to minimize the generation of waste, to recycle materials for which viable markets exist, and to use recycled products and materials in the development of this project where suitable. Any waste generated by this project that cannot be beneficially reused or recycled must be disposed of at a solid waste management facility approved to manage the respective waste type. The Section strongly recommends that any contractors are required to provide proof of proper disposal for all waste generated as part of the project.

A list of permitted solid waste management facilities is available on the Solid Waste Section portal site at: <http://deq.nc.gov/about/divisions/waste-management/waste-management-rules-data/solid-waste-management-annual-reports/solid-waste-permitted-facility-list>.

Please contact Mr. Lee Hill, Environmental Senior Specialist, with any questions regarding solid waste management for this project. Mr. Hill may be reached at (828) 296-4700 or by email at lee.hill@ncdenr.gov.

Cc: Jason Watkins, Field Operations Branch Head
Lee Hill, Environmental Senior Specialist



North Carolina Department of Environmental Quality | Division of Waste Management
217 West Jones Street | 1646 Mail Service Center | Raleigh, North Carolina 27699-1646
919.707.8200

APPENDIX H-1

State of North Carolina Department of Environmental Quality INTERGOVERNMENTAL REVIEW PROJECT COMMENTS

Reviewing Regional Office: Asheville
Project Number: 21-0849 Due Date: 03/10/2021
County: Henderson

After review of this project it has been determined that the DEQ permit(s) and/or approvals indicated may need to be obtained in order for this project to comply with North Carolina Law. Questions regarding these permits should be addressed to the Regional Office indicated on the reverse of the form. All applications, information and guidelines relative to these plans and permits are available from the same Regional Office.

	PERMITS	SPECIAL APPLICATION PROCEDURES or REQUIREMENTS	Normal Process Time (statutory time limit)
☐	Permit to construct & operate wastewater treatment facilities, non-standard sewer system extensions & sewer systems that do not discharge into state surface waters.	Application 90 days before begins construction or award of construction contracts. On-site inspection may be required. Post-application technical conference usual.	30 days (90 days)
☐	Permit to construct & operate, sewer extensions involving gravity sewers, pump stations and force mains discharging into a sewer collection system	Fast-Track Permitting program consists of the submittal of an application and an engineer's certification that the project meets all applicable State rules and Division Minimum Design Criteria.	30 days (N/A)
☐	NPDES - permit to discharge into surface water and/or permit to operate and construct wastewater facilities discharging into state surface waters.	Application 180 days before begins activity. On-site inspection. Pre-application conference usual. Additionally, obtain permit to construct wastewater treatment facility-granted after NPDES. Reply time, 30 days after receipt of plans or issue of NPDES permit-whichever is later.	90-120 days (N/A)
☐	Water Use Permit	Pre-application technical conference usually necessary.	30 days (N/A)
☐	Well Construction Permit	Complete application must be received and permit issued prior to the installation of a groundwater monitoring well located on property not owned by the applicant, and for a large capacity (>100,000 gallons per day) water supply well.	7 days (15 days)
☐	Dredge and Fill Permit	Application copy must be served on each adjacent riparian property owner. On-site inspection. Pre-application conference usual. Filling may require Easement to Fill from N.C. Department of Administration and Federal Dredge and Fill Permit.	55 days (90 days)
☐	Permit to construct & operate Air Pollution Abatement facilities and/or Emission Sources as per 15 A NCAC (2Q.0100 thru 2Q.0300)	Application must be submitted and permit received prior to construction and operation of the source. If a permit is required in an area without local zoning, then there are additional requirements and timelines (2Q.0113).	90 days
☐	Any open burning associated with subject proposal must be in compliance with 15 A NCAC 2D.1900	N/A	60 days (90 days)
☐	Demolition or renovations of structures containing asbestos material must be in compliance with 15 A NCAC 20.1110 (a) (1) which requires notification and removal prior to demolition. Contact Asbestos Control Group 919-707-5950	Please Note - The Health Hazards Control Unit (HHCU) of the N.C. Department of Health and Human Services, must be notified of plans to demolish a building, including residences for commercial or industrial expansion, even if no asbestos is present in the building.	60 days (90 days)
☒	The Sedimentation Pollution Control Act of 1973 must be properly addressed for any land disturbing activity. An erosion & sedimentation control plan will be required if one or more acres are to be disturbed. Plan must be filed with and approved by applicable Regional Office (Land Quality Section) at least 30 days before beginning activity. A NPDES Construction Stormwater permit (NCG010000) is also usually issued should design features meet minimum requirements. A fee of \$65 for the first acre or any part of an acre. An express review option is available with additional fees.		20 days (30 days)
☒	Sedimentation and erosion control must be addressed in accordance with NCDOT's approved program. Particular attention should be given to design and installation of appropriate perimeter sediment trapping devices as well as stable Stormwater conveyances and outlets.		(30 days)
☒	Sedimentation and erosion control must be addressed in accordance with <u>Henderson County's Local Government's</u> approved program. Particular attention should be given to design and installation of appropriate perimeter sediment trapping devices as well as stable Stormwater conveyances and outlets.		Based on Local Program
☒	Compliance with 15A NCAC 2H .0126 - NPDES Stormwater Program which regulates three types of activities: Industrial, Municipal Separate Storm Sewer System & Construction activities that disturb ≥ 1 acre.		30-60 days (90 days)
☒	Compliance with 15A NCAC 2H 1000 -State Stormwater Permitting Programs regulate site development and post-construction stormwater runoff control. Areas subject to these permit programs include all 20 coastal counties, and various other counties and watersheds throughout the state.		45 days (90 days)

APPENDIX H-1

State of North Carolina Department of Environmental Quality INTERGOVERNMENTAL REVIEW PROJECT COMMENTS

Reviewing Regional Office: Asheville
Project Number: 21-0849 Due Date: 03/10/2021
County: Henderson

	PERMITS	SPECIAL APPLICATION PROCEDURES or REQUIREMENTS	Normal Process Time (statutory time limit)
☐	Mining Permit	On-site inspection usual. Surety bond filed with DEQ Bond amount varies with type mine and number of acres of affected land. Affected area greater than one acre must be permitted. The appropriate bond must be received before the permit can be issued.	30 days (60 days)
☐	Dam Safety Permit	If permit required, application 60 days before begin construction. Applicant must hire N.C. qualified engineer to: prepare plans, inspect construction, and certify construction is according to DEQ approved plans. May also require a permit under mosquito control program. And a 404 permit from Corps of Engineers. An inspection of site is necessary to verify Hazard Classification. A minimum fee of \$200.00 must accompany the application. An additional processing fee based on a percentage or the total project cost will be required upon completion.	30 days (60 days)
☐	Oil Refining Facilities	N/A	90-120 days (N/A)
☐	Permit to drill exploratory oil or gas well	File surety bond of \$5,000 with DEQ running to State of NC conditional that any well opened by drill operator shall, upon abandonment, be plugged according to DEQ rules and regulations.	10 days N/A
☐	Geophysical Exploration Permit	Application filed with DEQ at least 10 days prior to issue of permit. Application by letter. No standard application form.	10 days N/A
☐	State Lakes Construction Permit	Application fee based on structure size is charged. Must include descriptions & drawings of structure & proof of ownership of riparian property	15-20 days N/A
☐	401 Water Quality Certification	Compliance with the T15A 02H .0500 Certifications are required whenever construction or operation of facilities will result in a discharge into navigable water as described in 33 CFR part 323.	60 days (130 days)
☐	Compliance with Catawba, Goose Creek, Jordan Lake, Randleman, Tar Pamlico or Neuse Riparian Buffer Rules is required. Buffer requirements: http://deq.nc.gov/about/divisions/water-resources/water-resources-permits/wastewater-branch/401-wetlands-buffer-permits/401-riparian-buffer-protection-program		
☐	Nutrient Offset: Loading requirements for nitrogen and phosphorus in the Neuse and Tar-Pamlico River basins, and in the Jordan and Falls Lake watersheds, as part of the nutrient-management strategies in these areas. DWR nutrient offset information: http://deq.nc.gov/about/divisions/water-resources/planning/nonpoint-source-management/nutrient-offset-information		
☐	CAMA Permit for MAJOR development	\$250.00 - \$475.00 fee must accompany application	75 days (150 days)
☐	CAMA Permit for MINOR development	\$100.00 fee must accompany application	22 days (25 days)
☐	Abandonment of any wells, if required must be in accordance with Title 15A. Subchapter 2C.0100.		
☒	Notification of the proper regional office is requested if "orphan" underground storage tanks (USTS) are discovered during any excavation operation.		
☐	Plans and specifications for the construction, expansion, or alteration of a public water system must be approved by the Division of Water Resources/Public Water Supply Section prior to the award of a contract or the initiation of construction as per 15A NCAC 18C .0300 et. seq., Plans and specifications should be submitted to 1634 Mail Service Center, Raleigh, North Carolina 27699-1634. All public water supply systems must comply with state and federal drinking water monitoring requirements. For more information, contact the Public Water Supply Section, (919) 707-9100.		30 days
☐	If existing water lines will be relocated during the construction, plans for the water line relocation must be submitted to the Division of Water Resources/Public Water Supply Section at 1634 Mail Service Center, Raleigh, North Carolina 27699-1634. For more information, contact the Public Water Supply Section, (919) 707-9100.		30 days
☐	Plans and specifications for the construction, expansion, or alteration of the _____ water system must be approved through the _____ delegated plan approval authority. Please contact them at _____ for further information.		

APPENDIX H-1

State of North Carolina Department of Environmental Quality
INTERGOVERNMENTAL REVIEW PROJECT COMMENTS

Reviewing Regional Office: Asheville
Project Number: 21-0849 Due Date: 03/10/2021
County: Henderson

Other Comments (attach additional pages as necessary, being certain to comment authority)

Division	Initials	No comment	Comments	Date Review
DAQ	PVB	☒		2/15/2021
DWR-WQROS	GLD	☐	Insufficient information presented to make a determination. Stream and wetland crossings associated with the project will likely require a 401 Water Quality Certification. Contact Kaylie Yankura at 828-296-4500 for additional information. Construction BMPs and sound erosion control measures shall be utilized to avoid discharging sediment laden water to streams and wetlands, which may result in a water quality violation.	2/15/2021
DWR-PWS	JH	☐	This project is partly within the water supply watershed for the City of Asheville's source water intake on the French Broad River.	2/19/2021
DEMLR (LQ & SW)	MMS	☐	Although the site is being abandoned, please note that the Sedimentation Pollution Control Act of 1973 must be properly addressed for any land disturbing activity. An erosion and sedimentation control plan may be required if one or more acres are to be disturbed. If public funding is involved with this site, a plan must be filed with and approved by applicable Regional Office (Land Quality Section) at least 30 days before beginning activity. A NPDES Construction Stormwater permit (NCG010000) is also usually issued should design features meet minimum requirements. A fee of \$65 for the first acre or any part of an acre. In addition, sedimentation an erosion control must be addressed in accordance with Henderson County's approved local program. Particular attention should be given the design and installation of appropriate perimeter and sediment trapping devices as well as stable stormwater conveyances and outlets. For this site compliance with 15A NCAC 2H .0126 - NPDES Stormwater Program may be required. This program regulates three types of activities: Industrial, Municipal Separate Storm Sewer System & Construction activities that disturb ≥ 1 acre. Compliance with 15A NCAC 2H 1000 -State Stormwater Permitting Programs which regulate site development and post-construction stormwater runoff control may be required for this site. Areas subject to these permit programs include all 20 coastal counties, and various other counties and watersheds throughout the state.	2/15/2021
DWM – UST	CEL	☐	I searched the Petroleum Underground Storage Tank (UST) and Non-UST Databases and did not identify any petroleum incidents on the proposed project area. The following comments are pertinent to my review: The Asheville Regional Office (ARO) UST Section recommends removal of any abandoned or out-of-use petroleum USTs or petroleum ASTs within the project area. The UST Section should be contacted regarding use of any proposed or on-site petroleum USTs or ASTs. We may be reached at (828) 296-4500. Any petroleum USTs or ASTs must be installed and maintained in accordance with applicable local, state, and federal regulations. For additional information on petroleum ASTs it is advisable that the North Carolina Department of Insurance at (919) 661-5880 ext. 239, USEPA (404) 562-8761, local fire department, and Local Building Inspectors be contacted. Any petroleum spills must be contained and the area of impact must be properly restored. Petroleum spills of significant quantity must be reported	2/16/2021

APPENDIX H-1

State of North Carolina Department of Environmental Quality

INTERGOVERNMENTAL REVIEW PROJECT COMMENTS

			to the North Carolina Department of Environmental Quality (NCDEQ) – Division of Waste Management (DWM) UST Section in the ARO. Any soils excavated during demolition or construction that show evidence of petroleum contamination, such as stained soil, odors, or free product must be reported immediately to the local Fire Marshall to determine whether explosive or inhalation hazards exist. Also, notify the UST Section of the ARO. Petroleum contaminated soils must be handled in accordance with all applicable regulations. Any questions or concerns regarding spills from petroleum USTs, ASTs, or vehicles should be directed to the UST Section at (828) 296-4500. If you have any questions or need additional information, please contact me via email at caroline.lafond@ncdenr.gov or by phone at (828) 296-4644.	
Other Comments		☐		/ /

REGIONAL OFFICES

Questions regarding these permits should be addressed to the Regional Office marked below.

- | | | |
|---|---|--|
| ☐ Asheville Regional Office
2090 U.S. 70 Highway
Swannanoa, NC 28778-8211
Phone: 828-296-4500
Fax: 828-299-7043 | ☐ Fayetteville Regional Office
225 Green Street, Suite 714,
Fayetteville, NC 28301-5043
Phone: 910-433-3300
Fax: 910-486-0707 | ☐ Mooresville Regional Office
610 East Center Avenue, Suite 301,
Mooresville, NC 28115
Phone: 704-663-1699
Fax: 704-663-6040 |
| ☐ Raleigh Regional Office
3800 Barrett Drive,
Raleigh, NC 27609
Phone: 919-791-4200
Fax: 919-571-4718 | ☐ Washington Regional Office
943 Washington Square Mall,
Washington, NC 27889
Phone: 252-946-6481
Fax: 252-975-3716 | ☐ Wilmington Regional Office
127 Cardinal Drive Ext.,
Wilmington, NC 28405
Phone: 910-796-7215
Fax: 910-350-2004 |
| | ☐ Winston-Salem Regional Office
450 Hanes Mill Road, Suite 300,
Winston-Salem, NC 27105
Phone: 336-776-9800
Fax: 336-776-9797 | |

APPENDIX H-1



NORTH CAROLINA
Environmental Quality

ROY COOPER
Governor

MICHAEL S. REGAN
Secretary

MICHAEL SCOTT
Director

TO: Lyn Hardison, Environmental Coordinator

FROM: Caroline LaFond, Regional UST Supervisor

COPY: Scott Bullock, Corrective Action Branch Head, Sharon Brinkley, Administrative Secretary

DATE: February 16, 2021

RE: Environmental Review – Project Number 21-0847 – Henderson County - Environmental Review - Proposal is for the abandonment of approximately 19.1 miles of railroad situated between milepost .07 at Hendersonville in Henderson County and milepost 19.8 at Pisgah Forest near Brevard in Transylvania County.

I searched the Petroleum Underground Storage Tank (UST) and Non-UST Databases and did not identify any petroleum Incidents on the proposed project area.

The following comments are pertinent to my review:

The Asheville Regional Office (ARO) UST Section recommends removal of any abandoned or out-of-use petroleum USTs or petroleum ASTs within the project area. The UST Section should be contacted regarding use of any proposed or on-site petroleum USTs or ASTs. We may be reached at (828) 296-4500.

Any petroleum USTs or ASTs must be installed and maintained in accordance with applicable local, state, and federal regulations. For additional information on petroleum ASTs it is advisable that the North Carolina Department of Insurance at (919) 661-5880 ext. 239, USEPA (404) 562-8761, local fire department, and Local Building Inspectors be contacted.

Any petroleum spills must be contained and the area of impact must be properly restored. Petroleum spills of significant quantity must be reported to the North Carolina Department of Environmental Quality (NCDEQ) – Division of Waste Management (DWM) UST Section in the ARO.

Any soils excavated during demolition or construction that show evidence of petroleum contamination, such as stained soil, odors, or free product must be reported immediately to the local Fire Marshall to determine whether explosive or inhalation hazards exist. Also, notify the UST Section of the ARO. Petroleum contaminated soils must be handled in accordance with all applicable regulations.

Any questions or concerns regarding spills from petroleum USTs, ASTs, or vehicles should be directed to the UST Section at (828) 296-4500. If you have any questions or need additional information, please contact me via email at caroline.lafond@ncdenr.gov or by phone at (828) 296-4644.



Department of Environmental Quality Project Review Form

Project Number: 21-0849**County: Henderson (Transylvania)****Date Received: 2-12-2021****Due Date: 3-10-2021**

Project Description: Scoping - Proposal is for the abandonment of approximately 19.1 miles of railroad situated between milepost .07 at Hendersonville in Henderson County and milepost 19.8 at Pisgah Forest near Brevard in Transylvania County

This Project is being reviewed as indicated below:

Regional Office	Regional Office Area	In-House Review	
☒ Asheville	☒ Air	☐ Air Quality	☐ Coastal Management
☐ Fayetteville	☒ DWR	☐ Parks & Recreation	☐ Marine Fisheries
☐ Mooresville	☒ DWR - Public Water	☒ Waste Mgmt	☐ Military Affairs
☐ Raleigh	☒ DEMLR (LQ & SW)	☐ Water Resources Mgmt	☐ DMF-Shellfish Sanitation
☐ Washington	☒ DWM-UST	☐ (Public Water, Planning & Water Quality Program)	☒ Wildlife <u>Andrea</u>
☐ Wilmington		☐ DWR-Transportation Unit	☐ Wildlife - DOT
☐ Winston-Salem			

Manager Sign-Off/Region:	Date: 3/2/2021	In-House Reviewer/Agency: A Leslie/NCWRC
--------------------------	-------------------	---

Response (check all applicable)

☐ No objection to project as proposed.☒ No Comment☐ Insufficient information to complete review☐ Other (specify or attach comments)

If you have any questions, please contact:

Lyn Hardison at lyn.hardison@ncdenr.gov or (252) 948-3842
943 Washington Square Mall Washington NC 27889
Courier No. 16-04-01

Department of Environmental Quality Project Review Form

Project Number: 21-0849**County: Henderson (Transylvania)****Date Received: 2-12-2021****Due Date: 3-10-2021**

Project Description: Scoping - Proposal is for the abandonment of approximately 19.1 miles of railroad situated between milepost .07 at Hendersonville in Henderson County and milepost 19.8 at Pisgah Forest near Brevard in Transylvania County

This Project is being reviewed as indicated below:

Regional Office	Regional Office Area	In-House Review	
☒ Asheville	☒ Air	☐ Air Quality	☐ Coastal Management
☐ Fayetteville	☒ DWR	☐ Parks & Recreation	☐ Marine Fisheries
☐ Mooresville	☒ DWR - Public Water	☒ Waste Mgmt	☐ Military Affairs
☐ Raleigh	☒ DEMLR (LQ & SW)	☐ Water Resources Mgmt	☐ DMF-Shellfish Sanitation
☐ Washington	☒ DWM-UST	☐ (Public Water, Planning & Water Quality Program)	☒ Wildlife <u>Andrea</u>
☐ Wilmington		☐ DWR-Transportation Unit	☐ Wildlife - DOT
☐ Winston-Salem			

Manager Sign-Off/Region:	Date: 3/10/21	In-House Reviewer/Agency: Melodi Deaver, Hazardous Waste Section
--------------------------	------------------	---

Response (check all applicable)

☐ No objection to project as proposed.☒ No Comment☐ Insufficient information to complete review☐ Other (specify or attach comments)

If you have any questions, please contact:

Lyn Hardison at lyn.hardison@ncdenr.gov or (252) 948-3842
943 Washington Square Mall Washington NC 27889
Courier No. 16-04-01

APPENDIX H-1

Control No.: 21-E-0000-0849

Date Received: 2/12/2021

County.: HENDERSON,
TRANSYLVANIA

Agency Response: 3/15/2021

Review Closed: 3/15/2021

LYN HARDISON
CLEARINGHOUSE COORDINATOR
DEPT OF ENVIRONMENTAL QUALITY

Project Information

Type: National Environmental Policy Act ping

Applicant: Blue Ridge Southern Railroad

Project Desc.: Proposal is for the abandonment of approximately 19.1 miles of railroad situated between milepost .07 at Hendersonville in Henderson County and milepost 19.8 at Pisgah Forest near Brevard in Transylvania County.

As a result of this review the following is submitted:

☐ No Comment

☐ Comments Below

☒ Documents Attached

Reviewed By: LYN HARDISON

Date: 3/10/2021

FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208

Phone: (312) 252-1500
Fax: (312) 252-2400
www.fletcher-sippel.com

BRADON J. SMITH
(312) 252-1516
bsmith@fletcher-sippel.com

January 26, 2021

U.S. Fish and Wildlife Service, Region 4
1875 Century Boulevard
Atlanta, GA 30345

Re: **Docket No. AB 1306X**
Blue Ridge Southern Railroad, L.L.C. – Abandonment Exemption – In
Henderson and Transylvania Counties, North Carolina

Dear Sir/Madam:

On or after February 15, 2021, the Blue Ridge Southern Railroad, L.L.C. (“BRSR”) intends to file with the Surface Transportation Board (“STB”) a notice of exemption for the abandonment of approximately 19.1 miles of railroad situated between Milepost 0.7 (approximately 0.1 miles northeast of the Main Street Grade Crossing) at Hendersonville in Henderson County, and Milepost 19.8 (at the end of track approximately 0.2 miles west of Lamb Creek) at Pisgah Forest near Brevard, in Transylvania County, all within North Carolina. The notice of exemption will be filed pursuant to 49 C.F.R. § 1152.50(b), covering abandonment of rail lines over which no local traffic has moved during the previous two years. A map showing the location of the Line is enclosed for your reference.

In accordance with the STB’s environmental regulations, 49 C.F.R. § 1105, BRSR is advising you of the proposed abandonment so that you may assist us in identifying any potential effects it may have on the following (to the extent they are within your area of expertise or authority):

1. Regional and/or local use plans;
2. Regional or local transportation systems and patterns, including alternative transportation modes;
3. Energy consumption and efficiency;
4. Air emissions and noise levels;
5. Bodies of water and overall water quality under applicable federal, state or local standards;
6. Designated wetlands and 100-year old flood plains;
7. Endangered or threatened species and critical habitats;
8. Wildlife sanctuaries or refuges and national or state parks or forests;

APPENDIX I

U.S. Fish and Wildlife Service, Region 4

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9. Prime agricultural land, and soil and natural resource conservation;
10. Existing or potential safety hazards;
11. Coastal Zone Management Areas; and
12. The need for permits under Sections 402 or 404 of the Clean Water Act.

Because of the limited nature of the proposed action, we foresee no adverse environmental effects. Nevertheless, we would appreciate your review and any comments you may wish to offer. We request a written response as soon as possible so that we may include it in the Environmental/Historic Report which will be prepared in connection with this abandonment in accordance with 49 C.F.R. § 1105.7. Any written comments should reference Docket No. AB 1306X and be sent to the undersigned, as counsel for BRSR.

A copy of the Environmental/Historic Report will be forwarded to you at least twenty days before BRSR's notice of exemption is filed at the STB. If you have any questions or need additional information in the meantime, please feel free to contact me at 312-252-1516. Thank you for your assistance.

Very truly yours,

A handwritten signature in black ink that reads "Bradon J. Smith". The signature is written in a cursive, flowing style.

Bradon J. Smith
Attorney for Blue Ridge Southern Railroad, L.L.C.

BJS/eg

Enclosure

FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208

Phone: (312) 252-1500
Fax: (312) 252-2400
www.fletcher-sippel.com

BRADON J. SMITH
(312) 252-1516
bsmith@fletcher-sippel.com

January 26, 2021

National Park Service
Southeast
Atlanta Federal Center, 1924 Building
100 Alabama Street, SW
Atlanta, GA 30303

Re: **Docket No. AB 1306X**
Blue Ridge Southern Railroad, L.L.C. – Abandonment Exemption – In
Henderson and Transylvania Counties, North Carolina

Dear Sir/Madam:

On or after February 15, 2021, the Blue Ridge Southern Railroad, L.L.C. (“BRSR”) intends to file with the Surface Transportation Board (“STB”) a notice of exemption for the abandonment of approximately 19.1 miles of railroad situated between Milepost 0.7 (approximately 0.1 miles northeast of the Main Street Grade Crossing) at Hendersonville in Henderson County, and Milepost 19.8 (at the end of track approximately 0.2 miles west of Lamb Creek) at Pisgah Forest near Brevard, in Transylvania County, all within North Carolina. The notice of exemption will be filed pursuant to 49 C.F.R. § 1152.50(b), covering abandonment of rail lines over which no local traffic has moved during the previous two years. A map showing the location of the Line is enclosed for your reference.

In accordance with the STB’s environmental regulations, 49 C.F.R. § 1105, BRSR is advising you of the proposed abandonment so that you may assist us in identifying any potential effects it may have on the following (to the extent they are within your area of expertise or authority):

1. Regional and/or local use plans;
2. Regional or local transportation systems and patterns, including alternative transportation modes;
3. Energy consumption and efficiency;
4. Air emissions and noise levels;
5. Bodies of water and overall water quality under applicable federal, state or local standards;

APPENDIX J

National Park Service

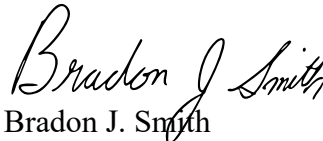
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6. Designated wetlands and 100-year old flood plains;
7. Endangered or threatened species and critical habitats;
8. Wildlife sanctuaries or refuges and national or state parks or forests;
9. Prime agricultural land, and soil and natural resource conservation;
10. Existing or potential safety hazards;
11. Coastal Zone Management Areas; and
12. The need for permits under Sections 402 or 404 of the Clean Water Act.

Because of the limited nature of the proposed action, we foresee no adverse environmental effects. Nevertheless, we would appreciate your review and any comments you may wish to offer. We request a written response as soon as possible so that we may include it in the Environmental/Historic Report which will be prepared in connection with this abandonment in accordance with 49 C.F.R. § 1105.7. Any written comments should reference Docket No. AB 1306X and be sent to the undersigned, as counsel for BRSR.

A copy of the Environmental/Historic Report will be forwarded to you at least twenty days before BRSR's notice of exemption is filed at the STB. If you have any questions or need additional information in the meantime, please feel free to contact me at 312-252-1516. Thank you for your assistance.

Very truly yours,



Bradon J. Smith

Attorney for Blue Ridge Southern Railroad, L.L.C.

BJS/eg

Enclosure

FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208

Phone: (312) 252-1500
Fax: (312) 252-2400
www.fletcher-sippel.com

BRADON J. SMITH
(312) 252-1516
bsmith@fletcher-sippel.com

January 26, 2021

North Carolina Department of Agriculture and Consumer Services
Division of Soil & Water Conservation
1614 Mail Service Center,
Raleigh NC 27699-1614

Re: **Docket No. AB 1306X**
Blue Ridge Southern Railroad, L.L.C. – Abandonment Exemption – In
Henderson and Transylvania Counties, North Carolina

Dear Sir/Madam:

On or after February 15, 2021, the Blue Ridge Southern Railroad, L.L.C. (“BRSR”) intends to file with the Surface Transportation Board (“STB”) a notice of exemption for the abandonment of approximately 19.1 miles of railroad situated between Milepost 0.7 (approximately 0.1 miles northeast of the Main Street Grade Crossing) at Hendersonville in Henderson County, and Milepost 19.8 (at the end of track approximately 0.2 miles west of Lamb Creek) at Pisgah Forest near Brevard, in Transylvania County, all within North Carolina. The notice of exemption will be filed pursuant to 49 C.F.R. § 1152.50(b), covering abandonment of rail lines over which no local traffic has moved during the previous two years. A map showing the location of the Line is enclosed for your reference.

In accordance with the STB’s environmental regulations, 49 C.F.R. § 1105, BRSR is advising you of the proposed abandonment so that you may assist us in identifying any potential effects it may have on the following (to the extent they are within your area of expertise or authority):

1. Regional and/or local use plans;
2. Regional or local transportation systems and patterns, including alternative transportation modes;
3. Energy consumption and efficiency;
4. Air emissions and noise levels;
5. Bodies of water and overall water quality under applicable federal, state or local standards;
6. Designated wetlands and 100-year old flood plains;

APPENDIX K

NCDA&CS Division of Soil and Water Conservation

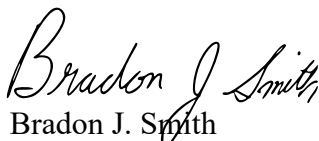
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7. Endangered or threatened species and critical habitats;
8. Wildlife sanctuaries or refuges and national or state parks or forests;
9. Prime agricultural land, and soil and natural resource conservation;
10. Existing or potential safety hazards;
11. Coastal Zone Management Areas; and
12. The need for permits under Sections 402 or 404 of the Clean Water Act.

Because of the limited nature of the proposed action, we foresee no adverse environmental effects. Nevertheless, we would appreciate your review and any comments you may wish to offer. We request a written response as soon as possible so that we may include it in the Environmental/Historic Report which will be prepared in connection with this abandonment in accordance with 49 C.F.R. § 1105.7. Any written comments should reference Docket No. AB 1306X and be sent to the undersigned, as counsel for BRSR.

A copy of the Environmental/Historic Report will be forwarded to you at least twenty days before BRSR's notice of exemption is filed at the STB. If you have any questions or need additional information in the meantime, please feel free to contact me at 312-252-1516. Thank you for your assistance.

Very truly yours,



Bradon J. Smith
Attorney for Blue Ridge Southern Railroad, L.L.C.

BJS/eg

Enclosure

Appendix K-1

Control No.: 21-E-0000-0849

Date Received: 2/12/2021

County.: HENDERSON,
TRANSYLVANIA

Agency Response: 3/15/2021

Review Closed: 3/15/2021

JOSEPH HUDYNIA
CLEARINGHOUSE COORDINATOR
DEPT OF AGRICULTURE

Project Information

Type: National Environmental Policy Act ping

Applicant: Blue Ridge Southern Railroad

Project Desc.: Proposal is for the abandonment of approximately 19.1 miles of railroad situated between milepost .07 at Hendersonville in Henderson County and milepost 19.8 at Pisgah Forest near Brevard in Transylvania County.

As a result of this review the following is submitted:

☒ No Comment

☐ Comments Below

☐ Documents Attached

Reviewed By: JOSEPH HUDYNIA

Date: 2/23/2021

FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208

Phone: (312) 252-1500
Fax: (312) 252-2400
www.fletcher-sippel.com

BRADON J. SMITH
(312) 252-1516
bsmith@fletcher-sippel.com

January 26, 2021

U.S. Army Corps of Engineers
Wilmington District
69 Darlington Ave.
Wilmington, NC 28403

Re: **Docket No. AB 1306X**
Blue Ridge Southern Railroad, L.L.C. – Abandonment Exemption – In
Henderson and Transylvania Counties, North Carolina

Dear Sir/Madam:

On or after February 15, 2021, the Blue Ridge Southern Railroad, L.L.C. (“BRSR”) intends to file with the Surface Transportation Board (“STB”) a notice of exemption for the abandonment of approximately 19.1 miles of railroad situated between Milepost 0.7 (approximately 0.1 miles northeast of the Main Street Grade Crossing) at Hendersonville in Henderson County, and Milepost 19.8 (at the end of track approximately 0.2 miles west of Lamb Creek) at Pisgah Forest near Brevard, in Transylvania County, all within North Carolina. The notice of exemption will be filed pursuant to 49 C.F.R. § 1152.50(b), covering abandonment of rail lines over which no local traffic has moved during the previous two years. A map showing the location of the Line is enclosed for your reference.

In accordance with the STB’s environmental regulations, 49 C.F.R. § 1105, BRSR is advising you of the proposed abandonment so that you may assist us in identifying any potential effects it may have on the following (to the extent they are within your area of expertise or authority):

1. Regional and/or local use plans;
2. Regional or local transportation systems and patterns, including alternative transportation modes;
3. Energy consumption and efficiency;
4. Air emissions and noise levels;
5. Bodies of water and overall water quality under applicable federal, state or local standards;
6. Designated wetlands and 100-year old flood plains;
7. Endangered or threatened species and critical habitats;

APPENDIX L

U.S. Army Corps of Engineers

Pg. 2

8. Wildlife sanctuaries or refuges and national or state parks or forests;
9. Prime agricultural land, and soil and natural resource conservation;
10. Existing or potential safety hazards;
11. Coastal Zone Management Areas; and
12. The need for permits under Sections 402 or 404 of the Clean Water Act.

Because of the limited nature of the proposed action, we foresee no adverse environmental effects. Nevertheless, we would appreciate your review and any comments you may wish to offer. We request a written response as soon as possible so that we may include it in the Environmental/Historic Report which will be prepared in connection with this abandonment in accordance with 49 C.F.R. § 1105.7. Any written comments should reference Docket No. AB 1306X and be sent to the undersigned, as counsel for BRSR.

A copy of the Environmental/Historic Report will be forwarded to you at least twenty days before BRSR's notice of exemption is filed at the STB. If you have any questions or need additional information in the meantime, please feel free to contact me at 312-252-1516. Thank you for your assistance.

Very truly yours,

A handwritten signature in black ink that reads "Bradon J. Smith". The signature is written in a cursive, flowing style.

Bradon J. Smith
Attorney for Blue Ridge Southern Railroad, L.L.C.

BJS/eg

Enclosure



APPENDIX L-1
DEPARTMENT OF THE ARMY
WILMINGTON DISTRICT, CORPS OF ENGINEERS
151 PATTON AVENUE
ROOM 208
ASHEVILLE, NORTH CAROLINA 28801-5006

February 18, 2021

Fletcher & Sippel, LLC
Attn.: Bradon Smith
29 North Wacker Drive, Suite 800
Chicago, Illinois 60606-3208

Dear Mr. Smith:

Reference is made to your letter of January 26, 2021, pertaining the Blue Ridge Southern Railroad (BRSR) filing of a notice of exemption for the abandonment of approximately 19.1 miles of railroad in Henderson and Transylvania counties, North Carolina. The railroad corridor runs between the cities of Hendersonville and Brevard (see attached map) and historically has been is referred to as the Ecusta Line locally.

Your letter stated BRSR is preparing environmental review documents in accordance with Surface Transportation Board regulations for this abandonment action. The letter requested an evaluation of environmental considerations/effects to jurisdictional waters of the United States (WoUS) that could involve Department of Army (DA) permitting for the above mentioned action. Under Section 404 of the Clean Water Act (CWA), DA authority regulates discharge of dredge or fill material into WoUS. This evaluation is limited to noting the potential presence of WoUS and is not a certified jurisdictional determination of WoUS located within the railroad corridor.

The Corps' evaluation is based upon review of the documents submitted by Fletcher and Sippel, available aerial photos, USGS topographic maps, SAW regulatory viewer, LiDAR data, knowledge of the railroad corridor, and the Corps' project database. This evaluation has determined there are a large number of WoUS within and adjacent to the railroad corridor. These jurisdictional waters include both named streams, unnamed tributaries, and wetlands. Also, a number of these waters have piped reaches in the corridor. These features are potential WoUS and DA jurisdictional features under Section 404 of the CWA. No request for a jurisdictional determination of WoUS for the railroad corridor has been submitted to the Corps. Therefore, the limits and extent of jurisdictional WoUS within the corridor has not been defined. If activities for the abandonment action will involve placement of fill material into WoUS, then DA authorization will be required prior to starting the proposed activities.

Please note, the information submitted did not provide detailed data or other information necessary to verify the size and type of impacts to jurisdictional waters present within the railroad corridor. The type of DA authorization required (i.e., general or individual permit) will be determined by the location, type, and extent of jurisdictional areas impacted by the work, and by the project design and construction limits.

APPENDIX L-1

Should you have any further questions related to this matter, please contact me at 828-271-7980, extension 4232.

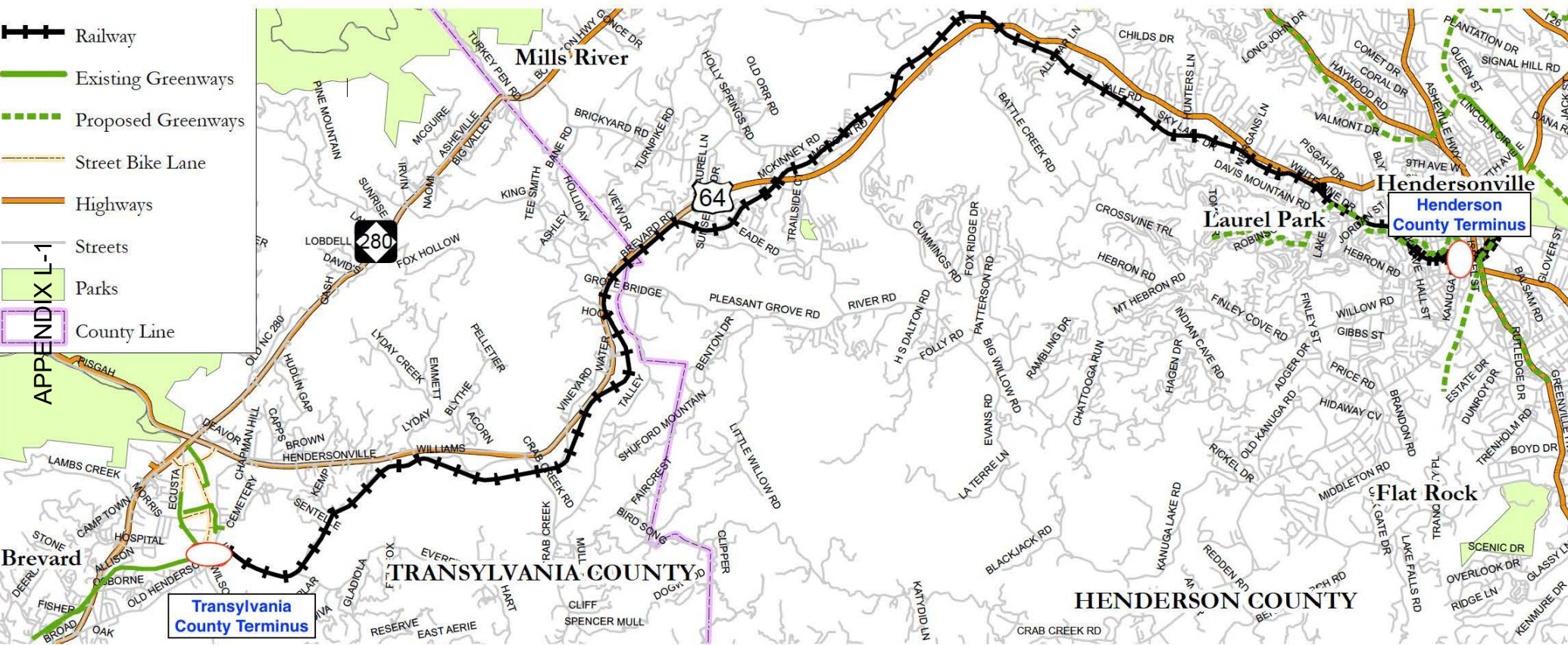
Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Brown', with a large, sweeping initial 'D'.

David Brown, P.G.
Regulatory Specialist

- Railway
- Existing Greenways
- Proposed Greenways
- Street Bike Lane
- Highways
- Streets
- Parks
- County Line

APPENDIX L-1



Transylvania
County Terminus

Henderson
County Terminus

HENDERSON COUNTY

FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208

Phone: (312) 252-1500
Fax: (312) 252-2400
www.fletcher-sippel.com

BRADON J. SMITH
(312) 252-1516
bsmith@fletcher-sippel.com

January 26, 2021

North Carolina Department of Administration
State Environmental Review Clearinghouse
1301 Mail Service Center
Raleigh, North Carolina 27699-1301

Re: **Docket No. AB 1306X**
Blue Ridge Southern Railroad, L.L.C. – Abandonment Exemption – In
Henderson and Transylvania Counties, North Carolina

Dear Sir/Madam:

On or after February 15, 2021, the Blue Ridge Southern Railroad, L.L.C. (“BRSR”) intends to file with the Surface Transportation Board (“STB”) a notice of exemption for the abandonment of approximately 19.1 miles of railroad situated between Milepost 0.7 (approximately 0.1 miles northeast of the Main Street Grade Crossing) at Hendersonville in Henderson County, and Milepost 19.8 (at the end of track approximately 0.2 miles west of Lamb Creek) at Pisgah Forest near Brevard, in Transylvania County, all within North Carolina. The notice of exemption will be filed pursuant to 49 C.F.R. § 1152.50(b), covering abandonment of rail lines over which no local traffic has moved during the previous two years. A map showing the location of the Line is enclosed for your reference.

In accordance with the STB’s environmental regulations, 49 C.F.R. § 1105, BRSR is advising you of the proposed abandonment so that you may assist us in identifying any potential effects it may have on the following (to the extent they are within your area of expertise or authority):

1. Regional and/or local use plans;
2. Regional or local transportation systems and patterns, including alternative transportation modes;
3. Energy consumption and efficiency;
4. Air emissions and noise levels;
5. Bodies of water and overall water quality under applicable federal, state or local standards;

APPENDIX M

North Carolina Department of Administration

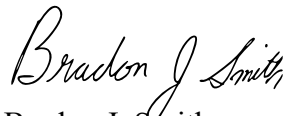
Pg. 2

6. Designated wetlands and 100-year old flood plains;
7. Endangered or threatened species and critical habitats;
8. Wildlife sanctuaries or refuges and national or state parks or forests;
9. Prime agricultural land, and soil and natural resource conservation;
10. Existing or potential safety hazards;
11. Coastal Zone Management Areas; and
12. The need for permits under Sections 402 or 404 of the Clean Water Act.

Because of the limited nature of the proposed action, we foresee no adverse environmental effects. Nevertheless, we would appreciate your review and any comments you may wish to offer. We request a written response as soon as possible so that we may include it in the Environmental/Historic Report which will be prepared in connection with this abandonment in accordance with 49 C.F.R. § 1105.7. Any written comments should reference Docket No. AB 1306X and be sent to the undersigned, as counsel for BRSR.

A copy of the Environmental/Historic Report will be forwarded to you at least twenty days before BRSR's notice of exemption is filed at the STB. If you have any questions or need additional information in the meantime, please feel free to contact me at 312-252-1516. Thank you for your assistance.

Very truly yours,



Bradon J. Smith
Attorney for Blue Ridge Southern Railroad, L.L.C.

BJS/eg

Enclosure

APPENDIX M-1



STATE OF NORTH CAROLINA
DEPARTMENT OF ADMINISTRATION

Roy Cooper
GOVERNOR

Mark Edwards
Acting Secretary

March 16, 2021

Bradon Smith
Blue Ridge Southern Railroad
c/o Fletcher & Sippel, LLC
29 North Wacker Drive, Suite 800
Chicago, IL 60606-

Re: SCH File # 21-E-0000-0849 Proposal is for the abandonment of approximately 19.1 miles of railroad situated between milepost .07 at Hendersonville in Henderson County and milepost 19.8 at Pisgah Forest near Brevard in Transylvania County.

Dear Bradon Smith:

The above referenced environmental impact information has been submitted to the State Clearinghouse under the provisions of the National Environmental Policy Act. According to G.S. 113A-10, when a state agency is required to prepare an environmental document under the provisions of federal law, the environmental document meets the provisions of the State Environmental Policy Act. Attached to this letter for your consideration are comments made by the agencies in the review of this document.

If any further environmental review documents are prepared for this project, they should be forwarded to this office for intergovernmental review.

Should you have any questions, please do not hesitate to call.

Sincerely,

CRYSTAL BEST
State Environmental Review Clearinghouse

Attachments

Mailing Address:
NC DEPARTMENT OF ADMINISTRATION
1301 MAIL SERVICE CENTER
RALEIGH, NC 27699-1301

Telephone: (919)807-2425
Fax: (919)733-9571
COURIER: #51-01-00
Email: state.clearinghouse@doa.nc.gov
Website: www.ncadmin.nc.gov

Location:
116 WEST JONES STREET
RALEIGH, NORTH CAROLINA

APPENDIX M-1

Control No.: 21-E-0000-0849

Date Received: 2/12/2021

County.: HENDERSON,
TRANSYLVANIA

Agency Response: 3/15/2021

Review Closed: 3/15/2021

JINTAO WEN
CLEARINGHOUSE COORDINATOR
DPS - DIV OF EMERGENCY MANAGEMENT

Project Information

Type: National Environmental Policy Act ping

Applicant: Blue Ridge Southern Railroad

Project Desc.: Proposal is for the abandonment of approximately 19.1 miles of railroad situated between milepost .07 at Hendersonville in Henderson County and milepost 19.8 at Pisgah Forest near Brevard in Transylvania County.

As a result of this review the following is submitted:

☐ No Comment

☒ Comments Below

☐ Documents Attached

From the information provided it appears the proposed project encroaches into multiple Special Flood Hazard Areas (SFHA) and floodways. Any encroachment, grading, or placement of equipment or materials in the SFHA will require a floodplain development permit issued by the local community. Please coordinate with local community's Floodplain Administrator for permitting.

If there is any encroachment, grading, or storage of equipment and materials in the floodway, then a hydraulic analysis shall be performed to determine the impact on flood levels during the base flood discharge due to the proposed construction. Any increase in flood levels will require approval of a Conditional Letter of Map Revision prior to construction. No structures shall be impacted by the increase in flood levels. If there are no increases in flood levels, a "No-Rise" study and certification will be required prior to construction.

Reviewed By: JINTAO WEN

Date: 3/8/2021

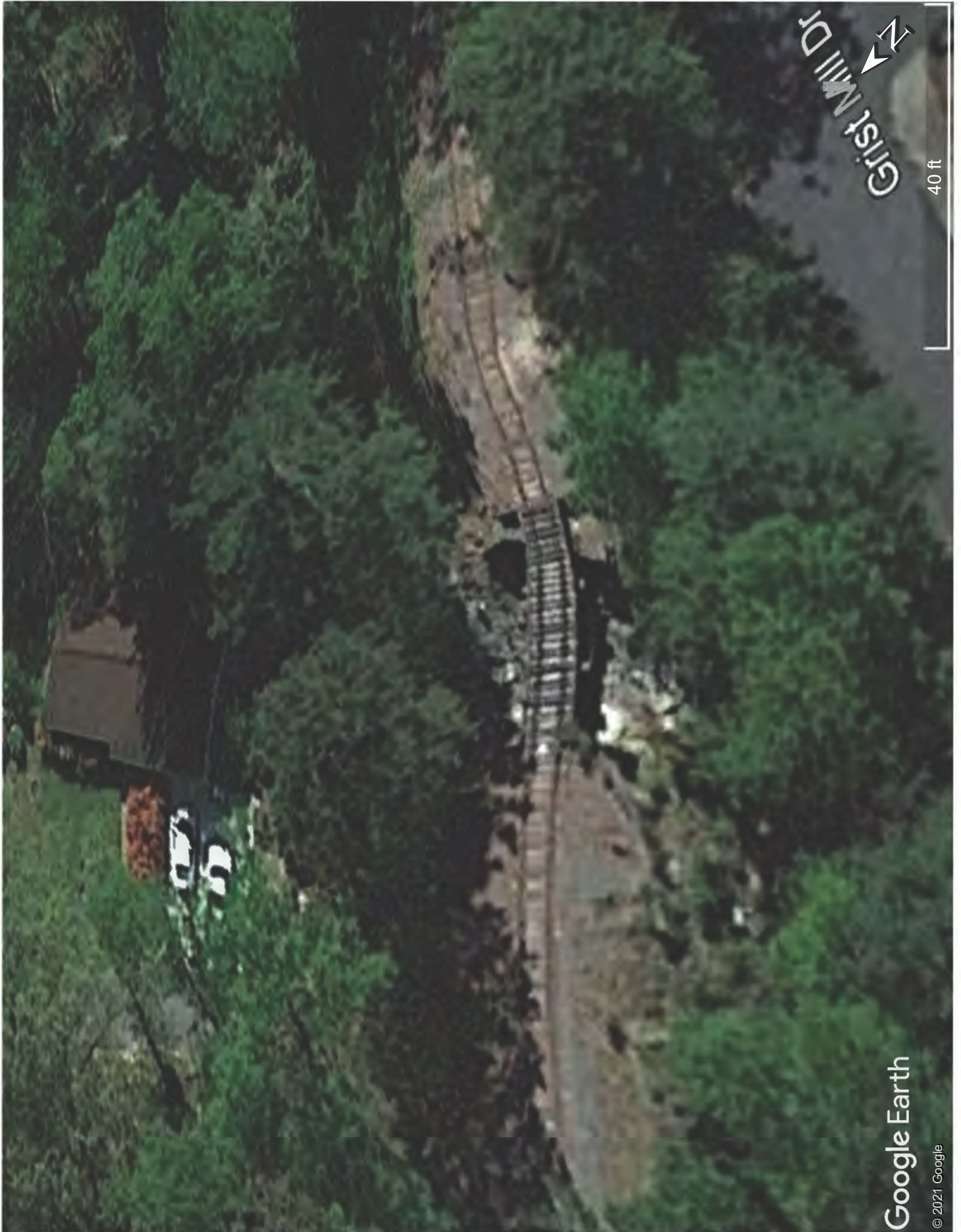
APPENDIX N

DOCKET NO. AB-1306X, BLUE RIDGE SOUTHERN RAILROAD, L.L.C.–
ABANDONMENT EXEMPTION –IN HENDERSON AND TRANSYLVANIA
COUNTIES, NORTH CAROLINA

Bridge Inventory

Bridge Number	Mile Post	Feature Crossed
Bridge 0.9	0.9	Waterway
Bridge 1.8	1.8	Waterway
Bridge 2.4	2.4	Waterway
Bridge 4.7	4.7	Waterway
Bridge 5.8	5.8	Waterway
Bridge 6.9	6.9	Waterway
Bridge 8.6	8.6	Waterway
Bridge 10.3	10.3	Poors Creek
Bridge 11.4	11.4	Burns Creek
Bridge 11.8	11.8	Brysons Creek
Bridge 12.6	12.6	Mill Creek
Bridge 13.7	13.7	Waterway
Bridge 15.0	15.0	Waterway
Bridge 16.0	16.0	Lydays Creek
Bridge 17.4	17.4	Glade Creek
Bridge 18.8	18.8	Thrashs Creek
Bridge 19.1	19.1	Davidson River













40 ft

Google Earth

© 2021 Google





Comfort Dr



60 ft

Google Earth

© 2021 Google



70 ft

Google Earth

© 2021 Google







80 ft

Google Earth

© 2021 Google











FLETCHER & SIPPEL LLC

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Fax: (312) 252-2400
www.fletcher-sippel.com

BRADON J. SMITH
(312) 252-1516
bsmith@fletcher-sippel.com

January 26, 2021

North Carolina Department of Natural and Cultural Resources
109 E. Jones Street
Mail Service Center 4601
Raleigh, NC 27601

Re: **Docket No. AB 1306X**
Blue Ridge Southern Railroad, L.L.C. – Abandonment Exemption – In
Henderson and Transylvania Counties, North Carolina

Dear Sir/Madam:

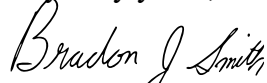
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Kindly offer of any written comments you may have regarding the proposed abandonment (if any) as soon as possible. Such comments should reference Docket No. AB 1306X and be sent to the undersigned counsel for BRSR.

In accordance with the Board’s regulations, a copy of the Environmental/Historic Report prepared in connection with this abandonment will be forwarded to you at least twenty days before BRSR’s notice of exemption is filed at the Board. If you have any questions or need additional information in the meantime, please feel free to contact me at 312-252-1516. Thank you for your assistance on this matter.

APPENDIX P

Very truly yours,

A handwritten signature in cursive script that reads "Bradon J. Smith".

Bradon J. Smith

Attorney for Blue Ridge Southern Railroad, L.L.C.

BJS/eg

Enclosure

APPENDIX P-1

Control No.: 21-E-0000-0849

Date Received: 2/12/2021

County.: HENDERSON,
TRANSYLVANIA

Agency Response: 3/15/2021

Review Closed: 3/15/2021

DEVON BORGARDT

Clearinghouse Reviewer

DEPT OF NATURAL & CULTURAL
RESOURCE

Project Information

Type: National Environmental Policy Act ping

Applicant: Blue Ridge Southern Railroad

Project Desc.: Proposal is for the abandonment of approximately 19.1 miles of railroad situated between milepost .07 at Hendersonville in Henderson County and milepost 19.8 at Pisgah Forest near Brevard in Transylvania County.

As a result of this review the following is submitted:

☒ No Comment

☐ Comments Below

☐ Documents Attached

Reviewed By: DEVON BORGARDT

Date: 3/1/2021