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February 20, 2019

Cynthia T. Brown  
Chief of the Section of Administration, Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423

ENTERED  
Office of Proceedings

FEB 21 2019

Part of  
Public Record

247121

ENTERED

Office of Proceedings  
February 21, 2019

Part of  
Public Record

Re: **Docket No. AB-55 (Sub-No. 788X), CSX Transportation, Inc.—Abandonment  
Exemption—in Preston County, WV**

Dear Ms. Brown,

Enclosed are the original and 10 copies of a Verified Notice of Exemption for CSX Transportation, Inc. ("CSXT") to abandon an approximately 6.78-mile rail line that runs between mileposts BAJ 3.0 and BAJ 9.78 in Preston County, WV. Also enclosed are a check for the filing fee of \$4,200, and a CD containing the Notice in WORD and pdf format.

Please time and date stamp the additional copy of this letter and Notice and return it in the self-addressed prepaid envelope.

Thank you for your assistance. If you have any questions, please contact me.

Sincerely yours,



Melanie B. Yasbin  
Attorney for CSX Transportation, Inc.

Enclosure

**FILED**

FEB 21 2019

**SURFACE  
TRANSPORTATION BOARD**

**FEE RECEIVED**

FEB 21 2019

**SURFACE  
TRANSPORTATION BOARD**



BEFORE THE  
SURFACE TRANSPORTATION BOARD

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Docket No. AB-55 (Sub-No. 788X)

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CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—  
IN PRESTON COUNTY, WV

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VERIFIED NOTICE OF EXEMPTION

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Steven C. Armbrust, Esq.  
CSX Transportation, Inc.  
500 Water Street  
Jacksonville, FL 32202  
(904) 359-1229

Louis E. Gitomer, Esq.  
Melanie B. Yasbin, Esq.  
Law Offices of Louis E. Gitomer, LLC  
600 Baltimore Avenue, Suite 301  
Towson, MD 21204  
(410) 296-2250  
Lou@lgrailaw.com

Attorneys for: CSX TRANSPORTATION,  
INC.

Dated: February 20, 2019

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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Docket No. AB-55 (Sub-No. 788X)

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CSX TRANSPORTATION, INC.–ABANDONMENT EXEMPTION–  
IN PRESTON COUNTY, WV

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VERIFIED NOTICE OF EXEMPTION

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CSX Transportation, Inc. (“CSXT”) files this Verified Notice of Exemption pursuant to the class exemption at 49 C.F.R. § 1152.50 for CSXT to abandon an approximately 6.78-mile rail line that runs between mileposts BAJ 3.0 and BAJ 9.78 in Preston County, West Virginia (the “Line”). No local rail traffic has moved over the Line during the past two years. Any overhead traffic on the Line can be and has been rerouted.

In a decision served by the Surface Transportation Board (the “Board”) on April 9, 2004 in STB Docket Nos. AB-55 (Sub-No. 625X) CSXT was granted authority to abandon an approximately 14.3-mile rail line between milepost BAJ 0.0 and milepost BAJ 14.3, subject to trail use, public use, environmental<sup>1</sup>, and standard employee protective conditions. The current Line was part of the 14.3-mile line. CSXT consummated the abandonment on the portion of the line extending from milepost BAJ 9.78 to milepost BAJ 14.3. A trail use agreement was reached with Greer Industries for the portion of the line between milepost BAJ 0.0 to milepost 3.0.

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<sup>1</sup>A condition requiring CSXT to notify NGS 90 days prior to any salvage activities to plan for relocation of geodetic station markers and a Section 106 historic preservation condition. By decision served on January 26, 2006, the section 106 condition was removed.

CSXT and the West Virginia Department of Transportation State Rail Authority were negotiating for trail use on the remaining 6.78 mile line. CSXT and the West Virginia State Rail Authority (“West Virginia State Rail Authority”) reached a trail use agreement but did not file the agreement with the Board, therefore CSXT still has a common carrier obligation over the Line. CSXT is seeking renewed authority to abandon the Line, which is an island. CSXT and the West Virginia State Rail Authority have reached a trail use agreement, subject to the Board granting abandonment authority and the issuance of an NITU.

Based on information in the possession of CSXT, the Line does not contain federally granted rights-of-way. Any documentation in the railroad’s possession will be made available promptly to those requesting it.

1. Proposed consummation date. The proposed consummation date is April 1, 2019.
2. Certification required by 49 C.F.R. § 1152.50(b). *See* Exhibit A.
3. Information required by 49 C.F.R. § 1152.22(a)(1) through (4), (7), and (8), and (e)(4).

(a) General.

(1) Exact name of applicant. CSX Transportation, Inc.

(2) Whether applicant is a common carrier by railroad subject to 49 U.S.C.

Subtitle IV, Chapter 105. CSXT is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

(3) Relief sought. CSXT seeks to use the class exemption at 49 C.F.R. § 1152.50 to abandon an approximately 6.78-mile rail line that runs between mileposts BAJ 3.0 and BAJ 9.78 in Preston County, West Virginia. There are four stations on the Line, Murphy

Mine at milepost BAJ 3.0, Stoer at milepost BAJ 4.0, Shatzer at milepost BAJ 8.0, and Preston at milepost BAJ 9.0. The station can be closed.

(4) Map. *See* Exhibit B.

(7) Name, title, and address of representative of applicant to whom correspondence should be sent. Louis E. Gitomer, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204, (410) 296-2250, Lou@lgrailaw.com.

(8) List of all United States Postal Service ZIP Codes that the line proposed for discontinuance traverses. The Line traverses U.S. Postal ZIP Codes 26764 and 26537.

(e) Rural and community impact.

(4) Statement of whether the properties proposed to be abandoned are appropriate for use for other public purposes, including roads and highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the applicant is aware of any restriction on the title to the property, including any reversionary interest, which would affect the transfer of title or the use of property for other than rail purposes, this shall be disclosed.

CSXT believes that the property proposed for abandonment may be suitable for other purposes, but may be subject to reversionary interests that may affect transfer of title for other than rail purposes.

4. The level of labor protection. The interests of any railroad employees who may be adversely affected by the proposed abandonment will be adequately protected by the labor protective conditions in *Oregon Short Line R. Co. –Abandonment–Goshen*, 360 I.C.C. 91 (1979).

5. Certification. Certificates of compliance with the notice requirements of 49 C.F.R. §§ 1152.50(d)(1) and 1105.11 are attached as Exhibit C.
6. Environmental Report. See Exhibit D.
7. Historic Report. See Exhibit D.

Respectfully submitted,



Steven C. Armbrust, Esq.  
CSX Transportation, Inc.  
500 Water Street  
Jacksonville, FL 32202  
(904) 359-1229

Louis E. Gitomer, Esq.  
Melanie B. Yasbin, Esq.  
Law Offices of Louis E. Gitomer  
600 Baltimore Avenue, Suite 301  
Towson, MD 21204  
(410) 296-2250  
Lou@lgraillaw.com

Attorneys for: CSX TRANSPORTATION,  
INC.

Dated: February 20, 2019

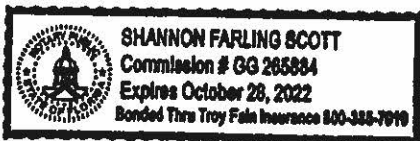
## **EXHIBIT A-VERIFICATION AND CERTIFICATION**

**VERIFICATION AND CERTIFICATION THAT RAIL LINE MEETS  
CRITERIA OF 49 C.F.R. SECTION 1152.50(b)**

STATE OF FLORIDA                     )  
                                                  )  
COUNTY OF DUVAL                 )       ss.

I, Michael Navarro, state that I am Manager Finance  
for CSX Transportation, Inc. ("CSXT"); that I am authorized to make this verification; and that I  
have read the foregoing Notice of Exemption and know the facts asserted therein are true and  
accurate as stated, to the best of my knowledge, information, and belief.

I hereby certify that no local freight traffic has moved over CSXT's 6.78-mile rail line  
between mileposts BAJ 3.0 and milepost BAJ 9.78 in Preston County, WV for two years prior to  
the date hereof and that any overhead traffic can be rerouted over other lines. Further, no formal  
complaint filed by a user of rail service on the line (or a State or local government entity acting  
on behalf of such user) regarding cessation of service over the line either is pending with the  
Surface Transportation Board or any U.S. District Court or has been decided in favor of a  
complainant within the two-year period. The foregoing certification is made on behalf of CSXT  
by the undersigned after due and careful investigation of the matters herein certified and based  
on the best of the knowledge, information, and belief of the undersigned.



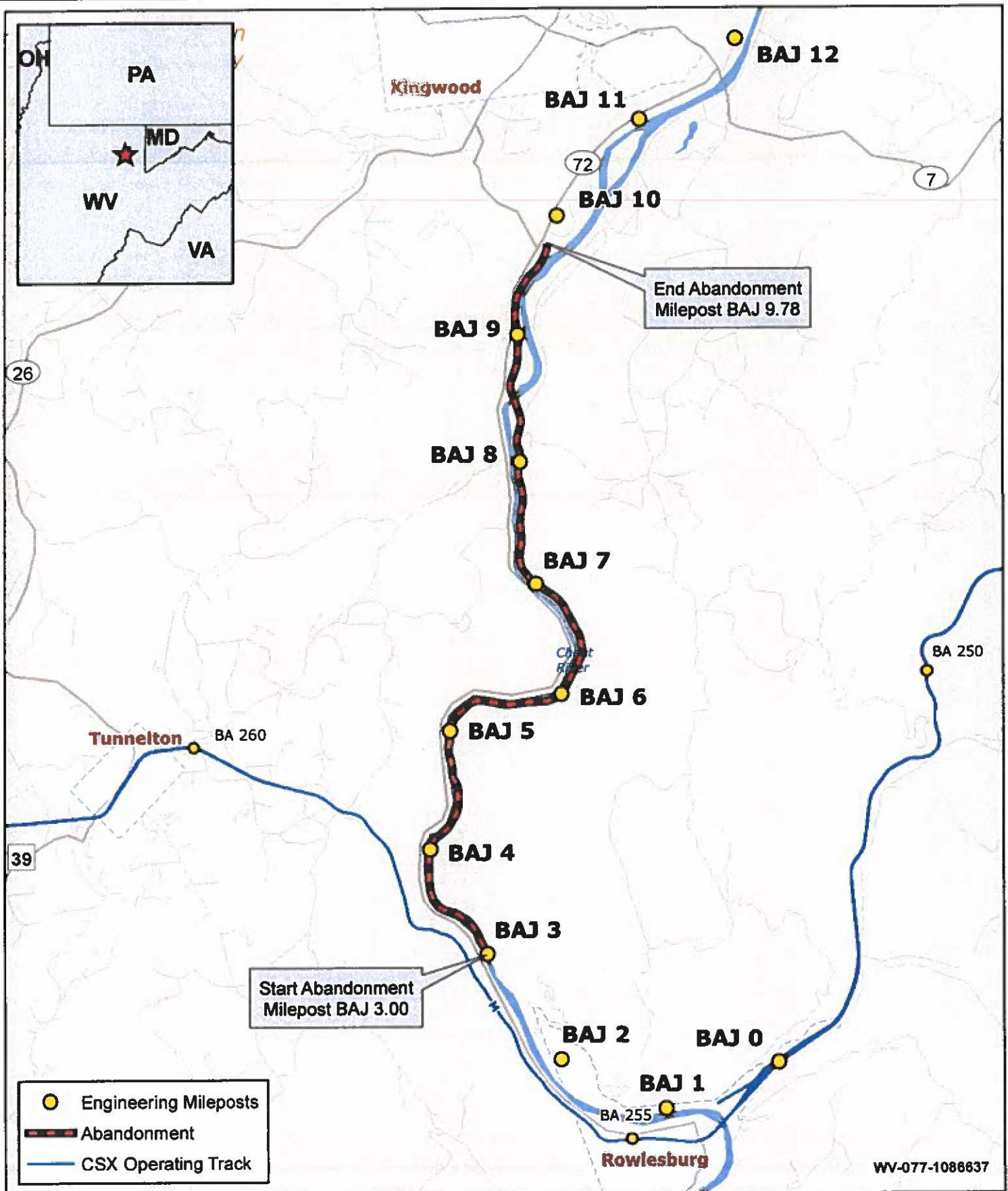
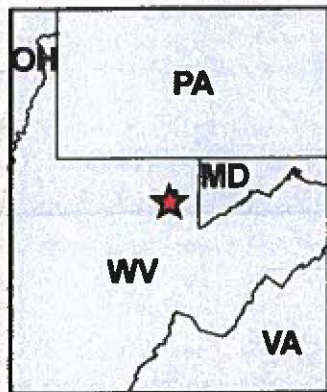
A handwritten signature in dark ink, appearing to read "Michael Navarro", written over a horizontal line.

SUBSCRIBED AND SWORN TO before me this 7<sup>th</sup> day of February 2019

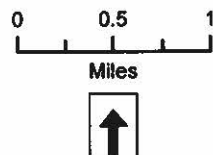
My Commission Expires: 10/28/22

A handwritten signature in dark ink, appearing to read "Shannon Farling Scott", written over a horizontal line.  
Notary Public

## **EXHIBIT B-MAP**



**CSX Transportation, Inc.**  
**Proposed Abandonment**  
**Preston County, WV**  
Milepost BAJ 3.00 to BAJ 9.78  
Total Distance of approx. 6.78 Miles  
Baltimore Division - Mountain Subdivision  
STB Docket No. AB 55 (Sub-No. 788X)



## **EXHIBIT C-CERTIFICATES OF SERVICE AND PUBLICATION**

Pursuant to 49 C.F.R. § 1152.50 (d) (1), the undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-55 (Sub-No. 788X) was mailed via first class mail on February 7, 2019 to the following parties:

Public Service Commission of West Virginia  
201 Brooks Street  
Charleston, WV 25301

### **Military Traffic Management Command**

Headquarters  
Military Surface Deployment and Distribution Command  
Transportation Engineering Agency  
ATTN: SDTE-SA (Railroads for National Defense)  
1 Soldier Way, Building 1900W  
Scott AFB, IL 62225

### **National Park Service**

Mr. Rick Potts  
Chief, Conservation and Outdoor Recreation Division  
Rivers, Trails and Conservation Assistance Program National Park Service  
1849 C Street, N.W. (Org Code 2220)  
Washington, DC 20240

### **National Park Service**

U.S. Department of Interior  
National Park Service  
Land Resources Division  
1849 C Street, N.W.  
Washington, DC 20240

U.S. Department of Agriculture

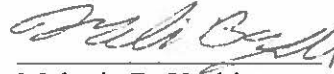
U.S. Department of Agriculture  
Chief of the Forest Service  
1400 Independence Avenue, S.W.  
Washington, DC 20250-0003

A handwritten signature in dark ink, appearing to read "Melanie B. Yasbin", is written over a horizontal line.

Melanie B. Yasbin  
February 20, 2019

## CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-55 (Sub-No. 788X) in the following form was advertised on February 19, 2019 in The Dominion Post, a newspaper of general circulation in Preston County, WV as required by 49 C.F.R. § 1105.7(c) and .12.



Melanie B. Yasbin

February 20, 2019

### Notice of Intent to Abandon

CSX Transportation, Inc. ("CSXT") gives notice that on or about February 20, 2019, it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments permitting the abandonment of an approximately 6.78-mile rail line that runs between mileposts BAJ 3.0 and BAJ 9.78 in Preston County, West Virginia. The proceeding will be docketed as No. AB-55 (Sub-No. 788X).

The Board's Office of Environmental Analysis (OEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the OEA, Surface Transportation Board, Washington, DC 20423 or by calling that office at (202) 245-0295.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Section of Administration, Office of Proceedings, 395 E Street, SW, Washington, DC 20423-0001 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicant's representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238. Copies of any comments or requests for conditions should be served on the applicant's representative: Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204, (410)296-2250, Lou@lgrailaw.com.

## **EXHIBIT D– COMBINED ENVIRONMENTAL AND HISTORIC REPORT**

The Combined Environmental and Historic Report was e-filed with the Board's Office of Environmental Assessment on February 19, 2019.

## ENVIRONMENTAL REPORT CERTIFICATE OF SERVICE

Pursuant to the requirements of 49 C.F.R. § 1105.7, the undersigned hereby certifies that a copy of the Combined Environmental and Historic Report in Docket No. AB-55 (Sub-No. 788X) was mailed via first class mail on January 31, 2019 to the following parties:

|                                                                                                                                                   |                                                                                                                                                               |
|---------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ms. Kathy Mace<br>County Administrator<br>Preston County Commission<br>106 W. Main Street, Suite 202<br>Kingwood, WV 26537                        | Mayor F. Margaret Schollar<br>Town of Rowlesburg<br>42 Poplar St<br>P.O. Box 458<br>Rowlesburg, WV 26425                                                      |
| Environmental Protection Agency<br>Region 3<br>1650 Arch Street<br>Philadelphia, PA 19103                                                         | West Virginia Department of Environmental Protection<br>Division Water and Waste Management<br>601 57 <sup>th</sup> Street, SE<br>Charleston, WV 25304        |
| U.S. Department of the Interior<br>Fish & Wildlife Service<br>West Virginia Field Office<br>694 Beverly Pike<br>Elkins, WV 26241                  | National Geodetic Survey<br><a href="mailto:ngs.infocenter@noaa.gov">ngs.infocenter@noaa.gov</a>                                                              |
| Mr. Donald L. Williams, P.E.<br>District Engineer<br>West Virginia Division of Highways<br>Division 4<br>PO Box 4220<br>Clarksburg, WV 26302-4220 | U.S. Army Corps of Engineers<br>District Engineer<br>502 8 <sup>th</sup> Street<br>Huntington, WV 25701-2070                                                  |
| West Virginia Department of Commerce<br>State Capitol Complex<br>1900 Kanawha Boulevard East<br>Building 3, Suite 600<br>Charleston, WV 25305     | Ms. Cindy Butler<br>Executive Director<br>West Virginia Department of Transportation<br>State Rail Authority<br>120 Water Plant Drive<br>Moorefield, WV 26836 |
| National Park Service<br>Northeast Region<br>1234 Market Street<br>Philadelphia, PA 19107                                                         | USDA-NRCS<br>Kindwood Service Center<br>157 Plaza Ct., Ste 13<br>Kingwood, WV 26537                                                                           |

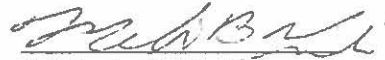


Melanie B. Yasbin  
February 20, 2019

## **HISTORIC REPORT CERTIFICATE OF SERVICE**

Pursuant to the requirements of 49 C.F.R. § 1105.8(c), the undersigned hereby certifies that a copy of the Combined Environmental and Historic Report in Docket No. AB-55 (Sub-No. 788X) was mailed via first class mail on January 31, 2019 to the following parties:

Ms. Susan Pierce  
Director  
West Virginia Division of Culture and History  
1900 Kanawha Blvd. East  
Charleston, WV 25305-0300



Melanie B. Yasbin  
February 20, 2019