

HEO-2987



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

February 20, 2018

Jeff McWhorter, President and CEO
Palmetto Railways
540 East Bay Street
Charleston, South Carolina 29403

**Re: STB Docket No. FD 36095, Palmetto Railways – Construction Exemption –
In Berkeley County, South Carolina; Response to EIS Waiver Request**

Dear Mr. McWhorter:

Pursuant to 49 C.F.R. § 1105.6(d), the Surface Transportation Board's (Board) Office of Environmental Analysis (OEA) is granting your request of August 22, 2017 for a waiver of 49 C.F.R. § 1105.6(a), which generally provides for the preparation of an environmental impact statement (EIS) for a rail line construction proposal. We are granting the requested waiver based on consultation with the United States Army Corps of Engineers, Charleston District (Corps), the joint-lead agency in this project; a review of available information gathered to date, including materials submitted by applicant Palmetto Railways (PR), including a detailed Environmental Report, prepared pursuant to 49 C.F.R. § 1105.7, which includes PR's Avoidance, Minimization and Mitigation Plan; preliminary consultation with tribes, and federal, state and local agencies, including the United States Coast Guard (USCG), a cooperating agency; a site visit on October 24, 2017 with OEA and the Corps' third-party consultant for this project, ICF Jones and Stokes, Inc. (ICF), and OEA's and the Corps' joint independent review of the project area.

OEA and the Corps believe, at this time, that construction and operation of the rail line is not likely to result in significant environmental impact and that the preparation of an environmental assessment (EA) is the appropriate level of environmental documentation for this proceeding, for the reasons set forth below.¹

¹ The Board normally requires an EIS for rail line construction projects, 49 C.F.R. § 1105.6(b), but may reclassify the proposal to one requiring an EA, pursuant to 49 C.F.R. § 1105.6(d), if the proposal is not likely to have a significant impact on the environment.

Background

On August 3, 2017, PR filed an exemption petition under 49 U.S.C. § 10502 to construct and operate a 22.7-mile rail line between the A-Line of CSX Transportation, Inc. (CSXT) near Santee Cooper's Cross Generating Station (through the CSXT Cross Subdivision connection) and the Camp Hall Commerce Park (Proposed Route) in Berkeley County, South Carolina (see Project Map at Attachment 1).

According to PR, the Camp Hall Commerce Park comprises approximately 6,781 acres, of which 2,880 acres have been permitted for development of the Volvo Cars of North America facility in Berkeley County. An additional 1,387 acres of the Camp Hall Commerce Park has been permitted for industrial development by the South Carolina Public Service Authority (Santee Cooper). The Line is intended to bring industrial rail service to the Volvo Cars facility, as well as the areas being developed by Santee Cooper. In addition, the Line would support the State of South Carolina and Berkeley County's infrastructure needs and help alleviate highway congestion involving large commercial trucks. PR estimates its projected train traffic at five round trips (a total of ten trains) per week.

PR's Environmental Report

In August 2017, PR submitted an Environmental Report that analyzed six alternative routes—Eutawville/Holly Hill, Ridgeville, Soter South, Soter North, Moncks Corner, and Cross (See Project Map at Attachment 2). To determine its preferred alternative, PR evaluated each alternative using the following criteria:

- Direct access to the Camp Hall and Volvo Cars facility and accompanying freight railyard;
- Efficient direct access to the Port of Charleston; engineering and construction costs;
- Potential impacts to properties;
- Potential environmental impacts to relevant environmental resource areas including land use, safety, water resources, air quality, biological resources, traffic and transportation, and cultural resources, and;
- Ability to mitigate potential environmental impacts.

After applying the criteria and receiving public comments, PR determined that the Cross Route would be the applicant's Proposed Route.

Agency Preliminary Consultation

In August of 2017, OEA, working with the Corps and USCG, began consultation with approximately 55 tribes and federal, state and local agencies. OEA sent each entity a letter that described the project area and requested information on environmental resources that could be affected by the proposal, as well as what approvals and permits might be required. OEA

received 14 responses. Specifically, commenters indicated that construction of PR's Proposed Route had the potential to impact federally threatened and endangered species and state species of concern; prime agricultural farmland; wetlands; floodplains; water quality; and cultural resources.

Site Visit

After considering the responses to the consultation letters, OEA, the Corps, USCG, and ICF conducted a site visit to the project area on October 24, 2017. Applicant PR also attended the site visit. The site visit participants were able to observe area geomorphology; topography; vegetation; wildlife; water resources; traffic and land use in the project area. The site visit revealed land uses ranging from urban in and around Charleston, to suburban, then to rural/agrarian along the western to northern fringes. Topography throughout the project area was nearly level, and land uses, where undeveloped, were predominantly in open water, field, or pine forest. Traffic and road capacities generally coincided with land uses and growth patterns.

OEA's Consideration of PR's EIS Waiver Request

Based on the information available to date—PR's Environmental Report, responses to the consultation letters, the site visit, and OEA and the Corps' independent review of PR's six alternative routes—OEA and the Corps believe that the construction and operation of the Proposed Route would not likely result in significant environmental impacts and that potential environmental impacts most likely could be minimized below significance through appropriate mitigation measures. Therefore, as specified in detail below, OEA and the Corps conclude at the present time that preparation of an EA is the appropriate level of environmental documentation.²

1. **Traffic Delay** – The Proposed Route would cross three two-lane highways (US Highway 176, SC Highway 311, and Old Highway 6), fifteen secondary roads, and twenty-one minor forestry/agricultural roads. According to PR, the South Carolina Department of Transportation Traffic Point Data from 2015, US Highway 176 has an average daily traffic volume of 3900 vehicles per day, 1400 vehicles per day on SC Highway 311 and between 800 and 3100 vehicles per day at two crossings on Old Highway 6. Given the expected train frequency of five roundtrip train trips (a total of ten trains) per week, traffic delay caused by trains traveling on the Proposed Route would last less than five minutes.
2. **Safety** – PR has proposed using a combination of active and passive warning and control devices at all at-grade rail crossing intersections, and would implement early warning systems at Shortcut Road, Old Highway 6, and Ranger Road in accordance with the US Department of Transportation Federal Highway Administration's Manual of Uniform

² Pursuant to 33 CFR 325.2(a)(4), the Corps' District Engineer will follow Appendix B of 33 CFR part 230 for environmental procedures and documentation required by the National Environmental Policy Act of 1969, which states that a permit application requires either an EA or an EIS unless it is included within a categorical exclusion.

Traffic Control Devices. PR intends to implement public awareness and rail safety awareness programs, such as Operation Lifesaver, for targeted audiences in the impacted communities along the right-of-way.

3. **Noise and Vibration** – Based on preliminary noise and vibration assessments for the project area, PR estimates that of the 85 noise-sensitive receptors it has identified, 6 residential structures would be classified as having moderate impacts from locomotive horn use at public-at grade crossings. As set forth in PR's Environmental Report, the level of foreseeable train traffic would result in no vibration impacts.
4. **Water Resources** – According to PR, construction of the Proposed Route would impact some jurisdictional waters of the United States, including streams and wetlands. The Proposed Route is located mostly within the Cooper River watershed of the Ashley River Sub-basin, with a small portion located in the Four Hole Swamp watershed of the Edisto River Sub-basin. PR's Environmental Report states that a desktop preliminary screening process utilized National Wetland Inventory (NWI) mapping to assess the presence or absence of jurisdictional waters to approximate the potential waters within each of the alternative project corridors applicant studied. A detailed on-site delineation of wetlands and other aquatic resources then was performed for PR's Proposed Route between April 2016 and January 2017. A supplementary delineation was conducted to account for an increased study area and alignment changes at the north and south end of the project area in May 2017. The Corps reviewed these delineations and concurred with the final depiction of wetlands and other aquatic resources in letters dated April 10, 2017 and August 17, 2017. Unavoidable wetland impacts along the project corridor would generally include fill and clearing impacts to jurisdictional wetlands and culvert, piping, and shade impacts to streams and jurisdictional ditches.

To minimize these potential impacts, PR intends to use construction techniques that minimize the amount of fill material to waters of the U.S. and plans to design culverts and bridges that maintain the existing flow/exchange and hydrology for wetland areas and marshes. PR states that all required compensatory mitigation for unavoidable impacts to jurisdictional wetlands and other waters of the U.S. will be obtained through off-site landscape scale permittee-responsible mitigation activities utilizing the watershed approach, the purchase of appropriate mitigation credits, or a combined approach.

According to PR, the Proposed Route would cross five Federal Emergency Management Agency (FEMA) regulated 100-year floodplains, but would not cross any FEMA regulated floodways. The Proposed Route would cross the Lakes Marion and Moultrie Diversion Canal, a navigable water, as well as eight US Geological Survey named streams and seven minor tributaries or major ditches. The streams include Big Run, Black Creek, Caton Creek, and Mill Branch. The primary water quality impacts would likely result from the conversion of forested areas to maintained railroad right-of-way and the channelization of storm water runoff along certain areas. To mitigate for potential impacts to floodplains, PR states that appropriate rail design measures would be implemented to ensure minimal impact to the regulated resources, which would likely

include placement of appropriately sized bridges or culverts under the road crossings to allow water and aquatic organisms to pass relatively unhindered. PR's Environmental Report indicates that its current design has been modeled and an opinion of probable no-rise has been made.

The SC Department of Health and Environmental Control commented that the entire project is located within the State's Coastal Zone and is subject to the enforceable policies contained within the SC Coastal Zone Management Program through the Coastal Zone Consistency review process. To mitigate potential water quality impacts from the Proposed Route, PR plans to use a variety of post-construction stormwater best management practices designed to convey, filter, and dissipate runoff from the Proposed Route, including but not limited to: vegetated swales, vegetated filter strips, stream bank stabilization, and channelized flow dissipation. PR has prepared a mitigation plan that, among other things, includes a combination of landscaping, the purchase of mitigation bank credits, and wetland enhancement.

5. **Air** – The Proposed Route would not affect a class I or nonattainment area under the Clean Air Act, as sampling data compiled by the South Carolina Department of Health and Environmental Control continues to show that the entire state of South Carolina is in attainment of the National Ambient Air Quality Standards (NAAQS). No transportation of ozone depleting materials (including nitrogen oxide and Freon) is planned or anticipated. Construction and operation of the Proposed Route would be in attainment with the U.S. Environmental Protection Agency's established NAAQS. It is expected that PR and its contractors would maintain their vehicles/equipment so that carbon monoxide, ozone-producing chemicals and other emissions are kept to a minimum. Although the Proposed Route would add incremental emissions within the project area, those anticipated emissions are expected to have minimal impact on air quality in the North Charleston-Summerville-Charleston Metropolitan Statistical Area and thus would be within allowable concentration limits for emissions in the state.
6. **Land Use** – PR states that according to the USGS Land Cover Institute (LCI), land uses within the project area include developed areas, croplands, shrublands, herbaceous areas, forests, wetlands, and open waters. Land use along the Proposed Route includes a mix of commercial, residential, silvicultural, and wetlands. The Proposed Route is mostly covered by forests, forested wetlands, and open water. According to the LCI, only 1.5% of the alignment of the Proposed Route is classified as developed land. PR states that the Proposed Route has the support of local and/or regional planning agencies and is consistent with existing land use plans for the area.
7. **Cultural Resources** – The South Carolina Department of Archives and History (SHPO) provided comments on PR's *Phase 1 Cultural Resource Survey Camp Hall Rail Project Berkeley County, South Carolina*, pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations at 36 C.F.R. § 800.

For archaeological resources, the SHPO concurs with the survey's findings that there are no recorded archaeological sites or isolated finds along the 200-foot width of the Proposed Route's alignment and that no further archaeological investigation is required. The Muscogee (Creek) Nation also concurs with the survey's findings that there are no recorded archaeological sites or isolated finds along the 200-foot width evaluated for the Proposed Route and that no further archaeological investigation is required. However, the tribe has requested to be immediately contacted should any cultural material (i.e. pottery, shards, bricks, historic ceramics, glass, projectile points) or human remains be encountered during ground disturbance, construction or demolition activities. The Catawba Indian Nation commented that it has an interest in the proposed project and will be participating in the development of a Memorandum of Agreement to address potential adverse effects on cultural resources.

For architectural resources, the SHPO concurs with the survey's findings that the Lakes Marion and Moultrie Diversion Canal remains National Register of Historic Places (NRHP) eligible and indicates that the Garrett Cemetery and the Bulltown Ditch are NRHP eligible. The SHPO states that the Proposed Route would have an adverse effect on these resources and has requested additional consultation to apply the criteria of adverse effects, pursuant to 36 C.F.R. § 800.5.

8. **Biological Resources** – The U.S. Fish and Wildlife Service (USFWS) commented that the current list of federally threatened and endangered (T&E) species in Berkeley County needs to be updated to include the northern long-eared bat (NLEB). The NLEB was listed as threatened under the Endangered Species Act of 1973, as amended (16 U.S.C. § 1531, et seq.) (ESA) on May 4, 2015. At that time, the NLEB was thought to occur in only ten counties in South Carolina. However, recent surveys have discovered that NLEB also exist in the coastal counties of Beaufort, Berkeley and Charleston. As of July 2017, USFWS assumes that the NLEB is likely to occur statewide throughout the year. USFWS indicates that the presence of At-Risk Species (ARS) should be included in the environmental document. USFWS requests consultation under section 7 of the ESA. Specifically, USFWS recommends T&E species and habitat surveys within the project area. The SC Department of Natural Resources also provided comments specific to state species of concern. To address these issues, the EA will document specific avoidance, minimization, and mitigation measures that would be required based on survey results and federal and state consultation.
9. **Other Federal and state agencies** – Other agencies identified specific mitigation measures and permits that might be required further into the process. These will be addressed in the EA.
10. **Site Visit** – OEA, the Corps, USCG and ICF staff did not identify any significant issues during the site visit in October 2017.

The EA will examine existing social, economic, and environmental conditions to serve as the baseline for comparing the potential impacts that construction and operation of the Proposed

Route versus the No-Action Alternative would have on the area, consistent with the National Environmental Policy Act and the relevant regulations. The Board and the Corps have authority to impose conditions that are consistent with each agency's statutory authority. Any conditions the Board imposes to address potential environmental impacts must relate directly to the specific transaction, must be reasonable, and must be supported by the record. Moreover, OEA encourages applicants to propose voluntary mitigation that can be more far-reaching than what the Board unilaterally could require. For the Proposed Route here, PR already has engaged in substantial outreach with potentially affected agencies, government entities, and communities, and has developed some voluntary mitigation measures to address their concerns, as discussed in the Environmental Report. The Board also encourages applicants like PR to negotiate mutually acceptable agreements with affected communities and other government entities, if appropriate. If PR enters into any negotiated agreements, the Board would require compliance with the terms of any such agreements (as well as all of PR's voluntary mitigation) as environmental conditions in any final decision approving the Proposed Route.

After the EA containing an environmental analysis of the above-mentioned environmental issue areas and recommended mitigation is prepared, OEA and the Corps will make it available in draft form (Draft EA) for public review and comment. Once the comment period is concluded, OEA and the Corps will prepare a Final EA discussing the comments received on the Draft EA and including any appropriate modifications to its existing analysis or additional analysis. The Final EA will also set forth final recommended mitigation measures. The Board will then consider both the Draft EA and Final EA, the public comments, PR's voluntary mitigation measures, OEA's mitigation recommendations, and the Corps' compensatory mitigation requirements before making its final decision in this proceeding. Should the process disclose unanticipated impacts that are significant and cannot be adequately mitigated, the Board and the Corps will require the preparation of an EIS.

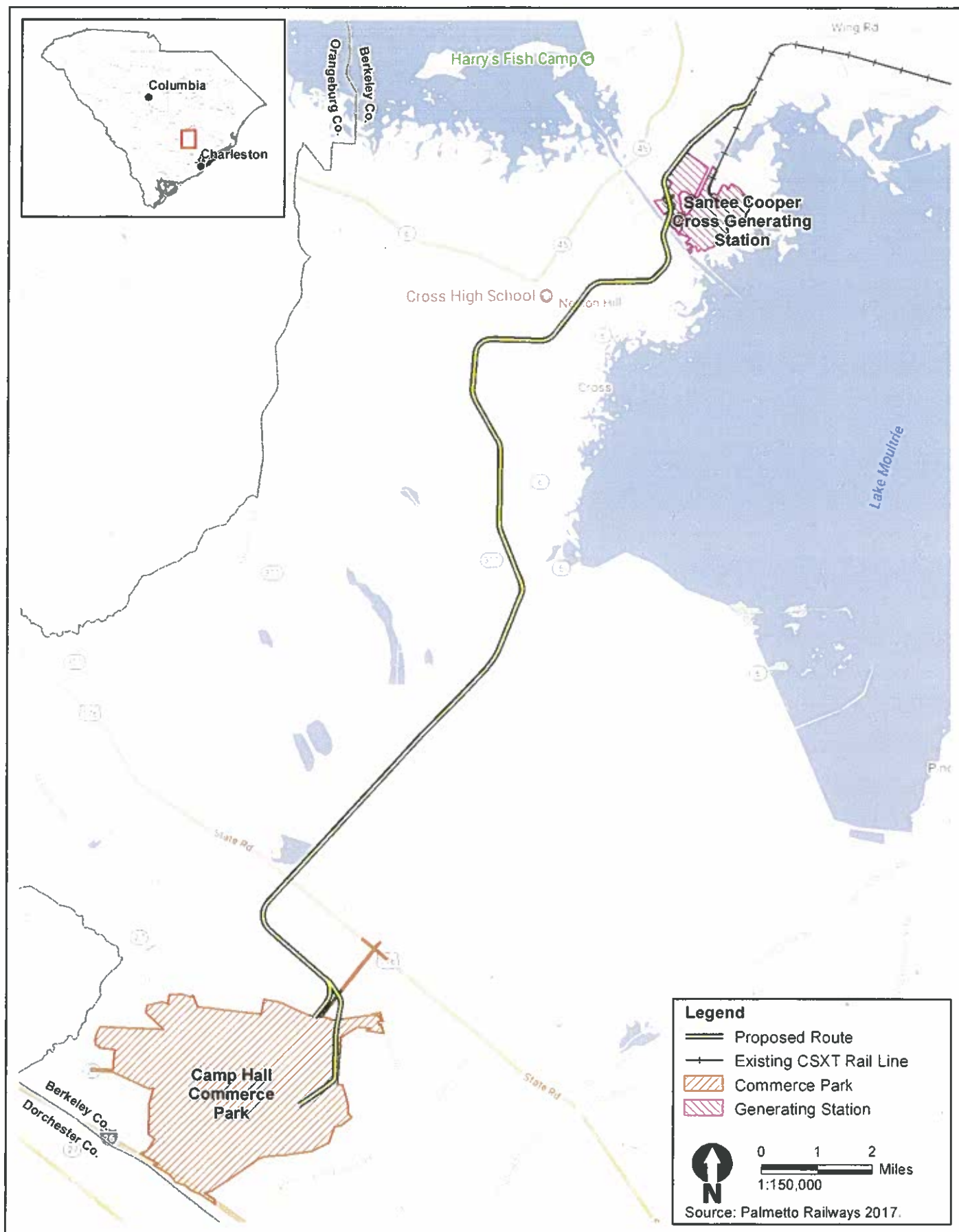
If you have any questions, please do not hesitate to contact me or Diana Wood, OEA Project Manager at 202-245-0302 or by email at diana.wood@stb.gov.

Sincerely,

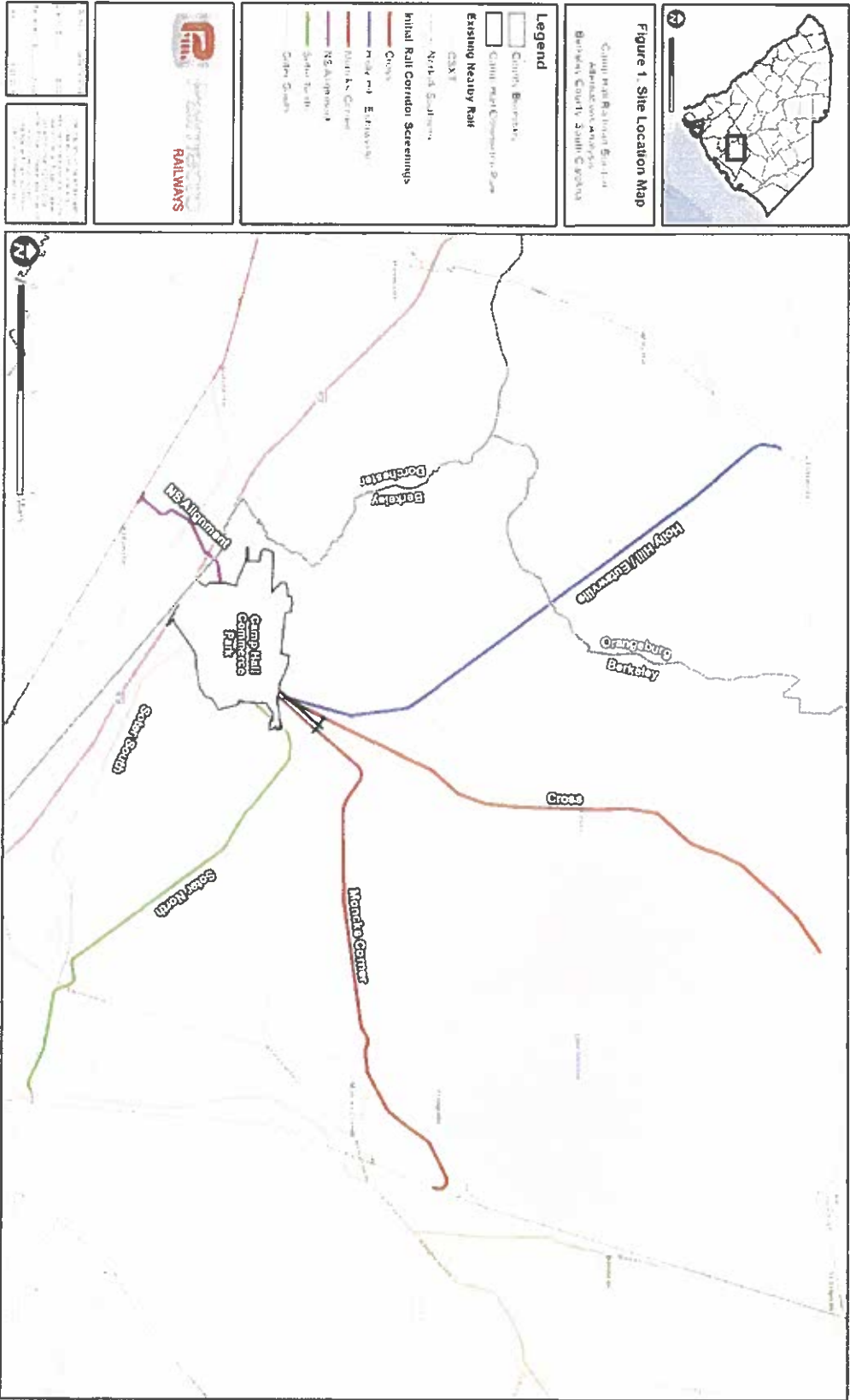


Victoria Rutson
Director, Office of Environmental Analysis

cc: Elizabeth G. Williams, U.S. Army Corps of Engineers
William G. Tate, U.S. Coast Guard



Attachment 1
Palmetto Railways Proposed Route



Attachment 2
Palmetto Railways Alternatives Analysis Map