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ENTERED
Office of Proceedings
November 7, 2019
Part of
Public Record



November 6, 2019

VIA FEDERAL EXPRESS

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

Re: Docket No. AB-1292 (Sub-No. 0 - X), Alabama and Tennessee River Railway, LLC
-- Abandonment Exemption in Marshall County, AL

Dear Ms. Brown:

Enclosed for filing is a Verified Notice of Exemption for Alabama & Tennessee River Railway, LLC ("ATN") to abandon an approximately 885-foot rail line beginning approximately 3,670 feet north of Milepost 86 in Guntersville, Marshall County, AL. A check for the filing fee of \$4,400 is enclosed.

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

Sincerely yours,

HOLLAND & KNIGHT LLP

Paul R. Hitchcock
Senior Policy Advisor

PRH:kmg
Enclosures

FILED
November 7, 2019
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
November 7, 2019
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-1292 (Sub-No. 0 - X)

ALABAMA & TENNESSEE RIVER RAILWAY, LLC – ABANDONMENT EXEMPTION –
IN MARSHALL COUNTY, AL

VERIFIED NOTICE OF EXEMPTION



Scott G. Williams
Paul R. Hitchcock
Holland & Knight LLP
Suite 3900
50 North Laura Street
Jacksonville, FL 32202
(904) 353-2000
paul.hitchcock@hkllaw.com

For: Alabama & Tennessee River
Railway, LLC.

Dated: November 7, 2019

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-1292 (Sub-No. 0 - X)

ALABAMA & TENNESSEE RIVER VALLEY RAILWAY, LLC – ABANDONMENT
EXEMPTION–
MARSHALL COUNTY, AL

VERIFIED NOTICE OF EXEMPTION



Alabama & Tennessee River Railway, LLC (“ATN”) files this Verified Notice of Exemption pursuant to the class exemption at 49 C.F.R. § 1152.50 for ATN to abandon an approximately 885-foot rail line beginning approximately 3,670 feet north of Milepost 86 in Marshall County, AL (the “Line”) and continuing to end of track. No local rail traffic has moved over the Line during the past two years. The Line is a stub end, and therefore no overhead traffic is possible.

Based on information in the possession of ATN, 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 December 27, 2019, but in no case later than December 30, 2019, as the real property on which the track is located is subject to a purchase and sale agreement between the City of Guntersville, AL and ATN, which sale both parties seek to close prior to the end of the year.
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. Alabama & Tennessee River Railway, LLC.

(2) Whether applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105. ATN is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

(3) Relief sought. ATN seeks to use the class exemption at 49 C.F.R. § 1152.50 to abandon an approximately 885-foot long rail line beginning approximately 3,670 feet north of Milepost 86 and continuing to end of track (the "Line"). There are no stations on the Line.

(4) Map. *See* Exhibit B.

(7) Name, title, and address of representative of applicant to whom correspondence should be sent. Paul R. Hitchcock, Holland & Knight LLP, Suite 3900, 50 North Laura St., Jacksonville, FL 32202, paul.hitchcock@hklaw.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 Code 35976.

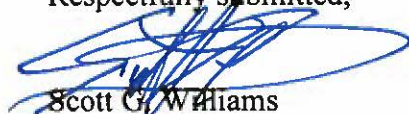
(e) Rural and community impact.

(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.

ATN believes that the property proposed for abandonment is suitable for other purposes, and has contracted with the City of Guntersville (which fully supports this Notice) to purchase the real property upon consummation of this abandonment.

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,



Scott G. Williams
Holland & Knight LLP
Suite 3900
50 North Laura St.
Jacksonville, FL 32202
Attorney for: Alabama & Tennessee River Railway, LLP

Dated: November 7, 2019

EXHIBIT A-VERIFICATION AND CERTIFICATION

VERIFICATION AND CERTIFICATION
THAT RAIL LINE MEETS THE CRITERIA OF
49 CFR SEC. 1152.50(b)

STATE OF ALABAMA)
COUNTY OF ~~JEFFERSON~~) SS.
 ETOWAH

I, Brian Bennett, state that I am General Manager for Alabama & Tennessee River Railway, LLC ("ATN"); 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 the ATN 885 foot rail line beginning approximately 3,670 feet north of Milepost 86 and continuing to the end of track in Marshall County, AL (the "Line") for two years prior to the date hereof, and that there is and can be no overhead traffic on the Line as it is a stub end. Further, 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 or is either pending with the Surface Transportation Board or any United States District Court or has been decided in favor of a complainant within that two year period. The foregoing certification is made on behalf of ATN 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 of Brian Bennett, consisting of stylized initials and a surname, written in black ink.

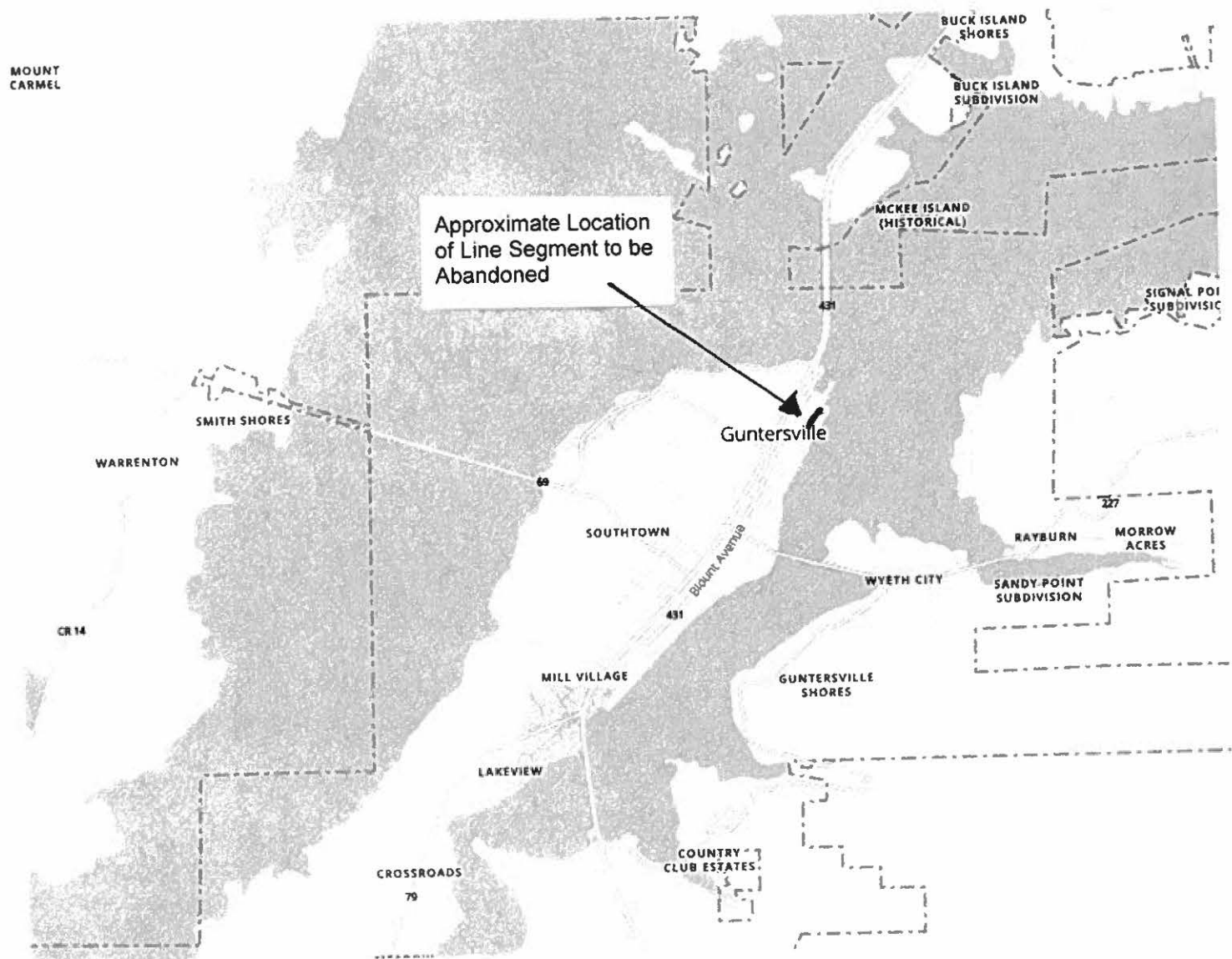
Brian Bennett

SWORN AND SUBSCRIBED BEFORE ME,
a notary public in and for the State of Alabama,
this 5 day of November, 2019.

A handwritten signature of the Notary Public, written in black ink.

Notary Public
9/1/22

EXHIBIT B-MAP



Alabama & Tennessee River Railroad Abandonment in Guntersville, Alabama

Approximate Location of 885 feet of
Rail Line to be Abandoned

Appendix A

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-1292 (Sub-No. 0 - X) was mailed via first class mail on October 28, 2019, to the following parties:

Alabama Public Service Commission

Alabama Public Service Commission
P. O. Box 304260
Montgomery, AL 36130

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



Paul R. Hitchcock
November 7, 2019

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Paul R. Hitchcock
Senior Policy Advisor
+1 904-798-5409
Paul.Hitchcock@hklaw.com

October 28, 2019

Alabama Public Service Commission
P. O. Box 304260
Montgomery, AL 36130

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

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, D.C. 20240

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

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

Dear Sir/Madam:

This notice is furnished to you pursuant to 49 CFR 1152.50(d)(1). On or about November 6, 2019, Alabama & Tennessee River Railway, LLC (ATVR) intends to file with the Surface Transportation Board, Washington D.C. 20423, a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments permitting ATVR to abandon service over an approximately 885 foot long rail line, which traverses through United States Postal Service ZIP 35976 in Marshall County, AL. Based on information in our possession, 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.

CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-1292 (Sub-No. 0 - X) in the following form was advertised on November __, 2019 in The Guntersville Adviser-Gleam, a newspaper of general circulation in Marshall County, AL as required by 49 C.F.R. § 1105.7(c) and .12.

Paul R. Hitchcock
November __, 2019

Notice of Intent to Abandon

Alabama & Tennessee River Railway, LLC ("ATRR") gives notice that on or about November 6, 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 ATRR to abandon service over an approximately 885 foot long rail line, which traverses through United States Postal Service ZIP 35976 in Marshall County, AL. The proceeding will be docketed as No. AB-1292 (Sub-No. 0-X).

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: Paul R. Hitchcock, Holland & Knight LLP, Suite 3900, 50 North Laura St. Jacksonville, FL 32202; paul.hitchcock@hklaw.com.

CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB-1292 (Sub-No. 0 - X) in the following form was advertised on October 30, 2019 in The Guntersville Advertiser-Glean, a newspaper of general circulation in Marshall County, AL, as required by 49 C.F.R. § 1105.7(c) and .12.



Paul R. Hitchcock

November 7, 2019

Notice of Intent to Abandon

Alabama & Tennessee River Railway, LLC (“ATRR”) gives notice that on or about November 6, 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 ATRR to abandon service over an approximately 885 foot long rail line, which traverses through United States Postal Service ZIP 35976 in Marshall County, AL. The proceeding will be docketed as No. AB-1292 (Sub-No. 0-X).

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: Paul R. Hitchcock, Holland & Knight LLP, Suite 3900, 50 North Laura St. Jacksonville, FL 32202; paul.hitchcock@hklaw.com.

Combined Environmental and Historic Report
Certificate of Service

Pursuant to the requirements of 49 C.F.R. § 1105.7(b) and 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-1292 (Sub-No. 0 - X) was mailed via first class mail on October 14, 2019, to the following parties:

Mr. Lance R. LeFleur, Director, Alabama Department of Environmental Management, P.O. Box 301463, Montgomery, AL 36130-1463

Ms. Mary S. Walker, Regional Administrator, U.S. EPA- Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street SW, Atlanta, GA 30303-8960

Mr. Philip Hinesley, Chief, Alabama Department of Conservation and Natural Resources Lands Division - Coastal Section, 31115 Five Rivers Boulevard Spanish Fort, AL 36527

Dr. William Plunkett, Natural Resources Conservation Service USDA, P.O. Box 311, Auburn, AL 36831-0311

U.S. Fish and Wildlife Services, Alabama Ecological Services Field Office, Southeast Region 4, 1208 B Main Street, Daphne, AL 36526-4419

US Army Corps of Engineers, Mobile District Planning and Environmental Division, P.O. Box 2288, Mobile, AL 36628

Mayor Leigh Dollar, Office of the Mayor c/o Mr. Dan Warnes, City Attorney, 2312 Taylor St. Guntersville, Alabama 35976

Marshall County Commission, Marshall County Court House, 424 Blount Ave. Suite 305, Guntersville, AL 35976

Alabama Department of Transportation, P.O. Box 303050, Montgomery, AL 36130-3050

Alabama Highway Department, 1409 Coliseum Blvd. Room K-101, Montgomery AL 36130

Mr. Frank White, Historic Preservation Officer, Alabama Historical Commission, 468 South Perry Street, Montgomery, AL 36104

Mr. Charlie Stockman, National Park Service, Rivers and Trails Conservation Program, 1201 Eye Street, NW 9th floor, Washington D.C. 20005

National Geodetic Survey, Geodetic Service Division Room 9202, NGS/12 1315 East-West Hwy, Silver Spring, MD 20910-3282

USDA Natural Resources Conservation Service, 1400 Independence Ave. SW, #5105A, Washington, DC 20250



Paul R. Hitchcock

EXHIBIT D- COMBINED ENVIRONMENTAL AND HISTORIC REPORT

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB DOCKET NO. AB-1292 (Sub-No. 0 - X)

Alabama & Tennessee River Railway, LLC –

ABANDONMENT EXEMPTION -

**ABANDONMENT OF 885 FEET OF RAIL LINE BEGINNING 3,670 FEET NORTH OF
MP 86**

IN MARSHALL COUNTY, ALABAMA

Combined Environmental and Historic Report

Alabama & Tennessee River Railway, LLC (“ATN”) submits this Combined Environmental and Historic Report (“CEHR”) pursuant to 49 C.F.R. § 1105.7(e) and 49 C.F.R. § 1105.8(d), respectively, in connection with its proposed abandonment of 885 feet of rail line approximately 3,670 feet north of Milepost 86 in Marshall County, Alabama.

ENVIRONMENTAL REPORT

49 CFR 1105.7(e)(1)

Proposed Action and Alternatives

Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

RESPONSE: ATN proposes the abandonment of 885 feet of rail line approximately 3,670 feet north of Milepost 86 in Marshall County, Alabama. No traffic has moved over the line for well over two years, and there is no possibility of overhead traffic as the line is a stub end track.

Following abandonment of the 885-foot segment described above, the segment's rail and related track material will be salvaged. Salvage will consist of removing the rail and track material from the existing roadbed. The contour of the existing roadbed will remain as is and existing drainage systems will remain intact. When the rail and track material are removed, the contractor will smooth the roadbed to a level surface. No ballast will be removed, and no soil disturbance will occur. No digging or burying of any kind will be permitted. Accordingly, ATN believes that no National Pollutant Discharge Elimination System permit or other storm water mitigation measures will be required. All salvaged steel components will either be reused or sold as scrap. Crossties may be reused in other railroad operations, or they will be disposed of in accordance with applicable federal and state laws and regulations.

There are no bridges on the line segment.

The alternative to abandonment is to not abandon the line and retain the entire track in place. This alternative is not satisfactory. The railroad would incur opportunity and other holding costs that would need to be covered by non-existent on-line shippers were the entire line segment to be retained.

A map depicting the location of the line proposed for abandonment within the City of Guntersville and a drawing showing the affected property are attached as Appendix A. The property parcel on which the track is located begins at the northern boundary of the Taylor Street right-of-way and extends slightly beyond the end of rail, ending near Scott Street; all within the City of Guntersville, Alabama. An example of ATN's letter to federal, state and local government agencies is attached as Appendix B. A complete list of the consulting agencies that ATN has contacted is found in the Certificate of Service. Comments received as a result of ATN's written requests for feedback will be found in Appendix C.

49 CFR 1105.7(e)(2) Transportation system.

Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

RESPONSE: Effects of the proposed action on regional or local transportation systems and patterns would be negligible. There has been no rail freight traffic on the line segment proposed for abandonment for at least two years and there is no overhead traffic on the line.

49 CFR 1105.7(e)(3) Land use.

(i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

RESPONSE: An outline of future land use plans has been requested from Marshall County, and the City of Guntersville, which were asked to comment on the consistency of the proposed action with existing land use plans. By letter dated October 24, 2019, Mayor Leigh Barnett Dollar of the City of Guntersville stated:

“I am writing to express the strong and unqualified support of the City of Guntersville for the abandonment proposed by the Alabama & Tennessee River Railway, LLC. This abandonment is not just consistent with the City’s land use plans, it is important to them. The City has a contract with the railroad to acquire the property on which the tracks to be abandoned are located. Upon abandonment, the City will close on that Transaction, which will enable the city to pursue its plans, which are important to the future potential development of this area of the city near its downtown and close to its waterfront. I urge the Surface Transportation Board to approve this abandonment as quickly as possible.” See Appendix C.

Both ATN and the City desire to close on the sale before the end of the year.

(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.

RESPONSE: The line is located within the City of Guntersville in a developed area. Consultation was requested from The United States Department of Agriculture Natural Resources

Conservation Service (USDA NRCS) by letter dated October 14 together with a copy of the preliminary CEHR. See sample of consultation letter sent to all consulting agencies, Appendix B. No comments have been received to date.

Consultation was also requested from the National Geodetic Survey (“NGS”) by letter dated October 14 together with a copy of the preliminary CEHR. See sample of consultation letter sent to all consulting agencies, Appendix B. On November 11, 2019, NGS responded that there “could be” geodetic survey markers “in the area” described in the CEHR, and asking ATN to consult with NGS prior to beginning any salvage activities “that will disturb, or destroy any geodetic marks identified nearby.” See Appendix C. NGS helpfully provided a link to its NGS Data Explorer, an on-line functionality that provides the public with tools to search for and locate survey marks: <https://geodesy.noaa.gov/NGSDataExplorer/> ATN has used that tool and concludes that the closest marker is not within the APE. See, printout of tool screen in Appendix C, immediately following email of November 4 from NGS. Accordingly ATN submits that no mitigation condition related to the NGS comments is appropriate.

(iii) *If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by Sec. 1105.9.*

RESPONSE: Consultation was requested from the State Coastal Zone Management Program Manager by letter dated October 14 together with a copy of the preliminary CEHR. See sample of consultation letter sent to all consulting agencies, Appendix B. No response has been received to date. ATN has no reason to believe that the proposed action would be inconsistent with the coastal zone management plan as the subject line is not within a coastal zone.

(iv) If the proposed action is an abandonment state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. 10905 and explain why.

RESPONSE: The right-of-way underlying the line segment proposed for abandonment may be appropriate for public roadway access to certain nearby properties. ATN has entered into a Sale and Purchase Agreement with the City of Guntersville, whereby the City will purchase the property for whatever purposes it may deem proper once the abandonment is consummated. Because the properties have first been offered for sale for public purposes, no public use condition is appropriate.

49 CFR 1105.7(e)(4) Energy.

(i) Describe the effect of the proposed action on transportation of energy resources.

RESPONSE: Development and transportation of energy resources will not be affected by the proposed action.

(ii) Describe the effect of the proposed action on recyclable commodities.

RESPONSE: Movement or recovery of recyclable commodities will not be affected by the proposed action.

(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

RESPONSE: The proposed action will not result in any material impact in overall energy efficiency.

(iv) If the proposed action will cause diversions from rail to motor carriage of more than:

(A) 1,000 rail carloads a year; or

(B) An average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given.

RESPONSE: No diversions will occur, hence the diversion of traffic to motor carriers will not exceed the thresholds set forth at 49 CFR §1105.7(e)(4). Accordingly, there is no need to produce data on diverted traffic or to quantify the net change in energy consumption.

49 CFR 1105.7(e)(5) Air.

(i) If the proposed action will result in either:

- (A) An increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or*
- (B) An increase in rail yard activity of at least 100 percent (measured by carload activity), or*
- (C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions.*

RESPONSE: The above thresholds will not be exceeded.

(ii) If the proposed action affects a class I or nonattainment area under the Clean Air Act, and will result in either:

- (A) An increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line,*
- (B) An increase in rail yard activity of at least 20 percent (measured by carload activity), or*
- (C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan.*

RESPONSE: The above thresholds will not be exceeded. For completeness, Guntersville, AL is in an attainment area for all National Ambient Air Quality Standard (NAAQS) pollutants according to the U.S. Environmental Protection Agency web site. (See <https://www3.epa.gov/airquality/greenbook/anc1.html>)

(iii) If transportation of ozone depleting materials (such as nitrogen oxide and Freon®) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

RESPONSE: Not applicable.

49 CFR 1105.7(e)(6) Noise.

If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause:

- (i) An incremental increase in noise levels of three decibels Ldn or more; or*
- (ii) An increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area, and quantify the noise increase for these receptors if the thresholds are surpassed.*

RESPONSE: The above thresholds will not be exceeded.

49 CFR 1105.7(e)(7) Safety.

- (i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).*

RESPONSE: The proposed action will have no adverse impact on public health and safety.

There are no grade crossings on the line to be abandoned.

- (ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.*

RESPONSE: Not applicable.

- (iii) If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.*

RESPONSE: ATN has no knowledge of hazardous waste sites or sites where there have been known hazardous material spills on the right-of-way or in adjacent areas.

49 CFR 1105.7(e)(8) Biological Resources.

- (i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.*

RESPONSE: ATN has requested input from the U.S. Fish and Wildlife Service (USFWS) to ascertain any impacts to surrounding habitats and species. See Appendix B. ATN has no reason

to believe that any of endangered or threatened species is located within or adjacent to the subject rail line, or that any of these would be adversely affected by the proposed action.

(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

RESPONSE: ATN has notified the National Parks Service of the proposed abandonment by letter dated October 14 together with a copy of the preliminary CEHR. See sample of consultation letter sent to all consulting agencies, Appendix B. No comments have been received to date. The subject line segment does not pass through state parks or forests, national parks or forests, or wildlife sanctuaries. No adverse effects on wildlife sanctuaries, national parks or forests, or state parks or forests are anticipated.

49 CFR 1105.7(e)(9) Water.

(i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

RESPONSE: ATN does not intend to remove or alter the contour of the roadbed underlying the rail line segment proposed to be abandoned by way of excavation or other ground-disturbance activity. Accordingly, no soils will be disturbed as a result of the proposed abandonment, and no storm water mitigation measures — including, but not limited to, a National Pollutant Discharge Elimination System permit — will be required. There are no bridges on the line segment. There are no plans to undertake in-stream work, or dredge and/or use any fill materials in connection with the proposed abandonment, so, for this reason also, the proposed abandonment will not result in water quality impacts. Consultation has been requested from the State Environmental Protection Agency and from the US Environmental Protection Agency by letter dated October 14 together with a copy of the preliminary CEHR. See sample of consultation letter sent to all consulting agencies, Appendix B. No comments have been received to date.

(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

RESPONSE: ATN believes that no permits under Section 404 of the Clean Water Act are required for the proposed abandonment and that no designated wetlands or 100-year flood plains will be affected by the proposed abandonment. The right of way to be abandoned appears to be between 250 and 300 feet from the nearest body of water, which will not be affected by the abandonment and salvage of materials. Upon receiving abandonment authority, removal of track material will be accomplished by use of the right-of-way for access. No new access roads are contemplated. ATN does not intend to disturb any of the underlying roadbed or perform any activities that would cause sedimentation or erosion of the soil, and does not anticipate any dredging or use of fill in the removal of the track material. Based upon this course of action, ATN does not believe a permit under Section 404 of the Clean Water Act will be required. ATN notified the U.S. Army Corps of Engineers by letter dated October 14 together with a copy of the preliminary CEHR requesting assistance in confirming that no permits under Section 404 of the Clean Water Act are required for the proposed abandonment and confirming that no designated wetlands or 100-year flood plains will be affected by the proposed abandonment. See sample of consultation letter sent to all consulting agencies, Appendix B. No comments have been received to date.

(iii) State whether permits under Section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action.

RESPONSE: ATN does not plan to remove or alter the roadbed underlying the line to be abandoned, to undertake in-stream work or to dredge or use any fill materials. There will be no excavation or other ground-disturbance activity, and, because no soils will be disturbed, no storm water mitigation measures—including, but not limited to, a National Pollutant Discharge

Elimination System permit—will be required. ATN anticipates that the proposed abandonment will not affect water quality and that additional permitting under Section 402 will not be required. Nevertheless, ATN has requested input from the State Department of Environmental Protection, and from the US Environmental Protection Agency by letter dated October 14 together with a copy of the preliminary CEHR. See sample of consultation letter sent to all consulting agencies, Appendix B. No comments have been received to date.

49 CFR 1105.7(e)(10) Proposed Mitigation.

(10) Proposed Mitigation. Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

RESPONSE: ATN does not expect any adverse environmental impact from the proposed abandonment and, therefore, sees no need for any mitigating actions. Only minimal physical activity will occur as a result of the salvage of the segments proposed for abandonment, such as removal of rail, ties, and other railroad appurtenances. Removal will take place over the existing right of way and will be moved via highway away from the property. ATN will, of course, adhere to any mitigation actions required by the Board.

HISTORIC REPORT

49 CFR 1105.8(d)

PROPOSED ACTION AND ALTERNATIVES

ATN proposes the abandonment of a total of 885 feet of rail line approximately 3,670 feet north of Milepost 86 in Marshall County, Alabama.

Following abandonment, the segment's rail and related track material will be salvaged. Salvage will consist of removing the rail and track material from the existing roadbed. The contour of the existing roadbed will remain as is and any existing drainage systems will remain intact. When the rail and track material are removed, the contractor will smooth the roadbed to a level surface. No ballast will be removed, and no soil disturbance will occur. No digging or burying of any kind will be permitted. All salvaged steel components will either be reused or sold as scrap. Crossties may be reused in other railroad operations, or they will be disposed of in accordance with applicable federal and state laws and regulations. There are no bridges, buildings or other structures on the line segment.

The alternative to abandonment is to not abandon the line and retain the track in place. This alternative is not satisfactory. The railroad would incur opportunity and other holding costs that would need to be covered by non-existent on-line shippers were the entire line segment to be retained.

ADDITIONAL INFORMATION

(1) **U.S.G.S. Topographic Map or Alternative Map** - Maps were furnished to Alabama Historical Commission by letter dated October 14 together with a copy of the preliminary CEHR. See sample of consultation letter sent to all consulting agencies, Appendix B. See also Appendix A.

- (2) **Written Description of Right of Way** - The right-of-way width ranges between 50 and 60 feet and is slightly longer than 885 feet, with the track ending just before the northerly-most boundary of the right of way parcel. Pursuant to Surface Transportation Board (STB) policy, the railroad's right-of-way will constitute the Area of Potential Effect (APE) for this undertaking.
- (3) **Photographs** — There are no bridges or other structures on the subject line segment.
- (4) **Date of Construction of Structures** — Not applicable.
- (5) **History of Operations and Changes Contemplated** — The railroad property that is the subject of the proposed abandonment consists of 885 feet of rail line beginning approximately 3,670 feet north of Milepost MP 86 in Marshall County, Alabama.

ATN believes that the segment was originally owned by the Nashville, Chattanooga and St. Louis Railway, which was merged into the Louisville and Nashville Railroad Company (L&N). L&N was ultimately acquired and integrated into the Family Lines System, which was a trade name adopted to identify the Louisville and Nashville Railroad Company and Seaboard Coast Line Railroad Company. In May, 1969, Seaboard Coast Line Industries, Inc. was formed as the holding company. On November 1, 1980, Seaboard Coast Line Industries, Inc. and Chessie System, Inc. merged and became CSX Corporation, a holding company with all the various railroad operating companies within the corporate family. Ultimately, most of the operating railroads were merged into CSX Transportation, Inc. (CSXT). ATN leased the line from CSXT in 2004 and continues to lease the line from HGS-ATN, LLC, which acquired the real estate (but not the common carrier obligation) from CSXT by purchase on July 6, 2018.

- (6) **Summary of Documents In Carrier's Possession That Might Be Useful for Documenting a Structure That Is Found To Be Historic** — Not applicable.

(7) Opinion Regarding Criteria For Listing In The National Register Of Historic Places

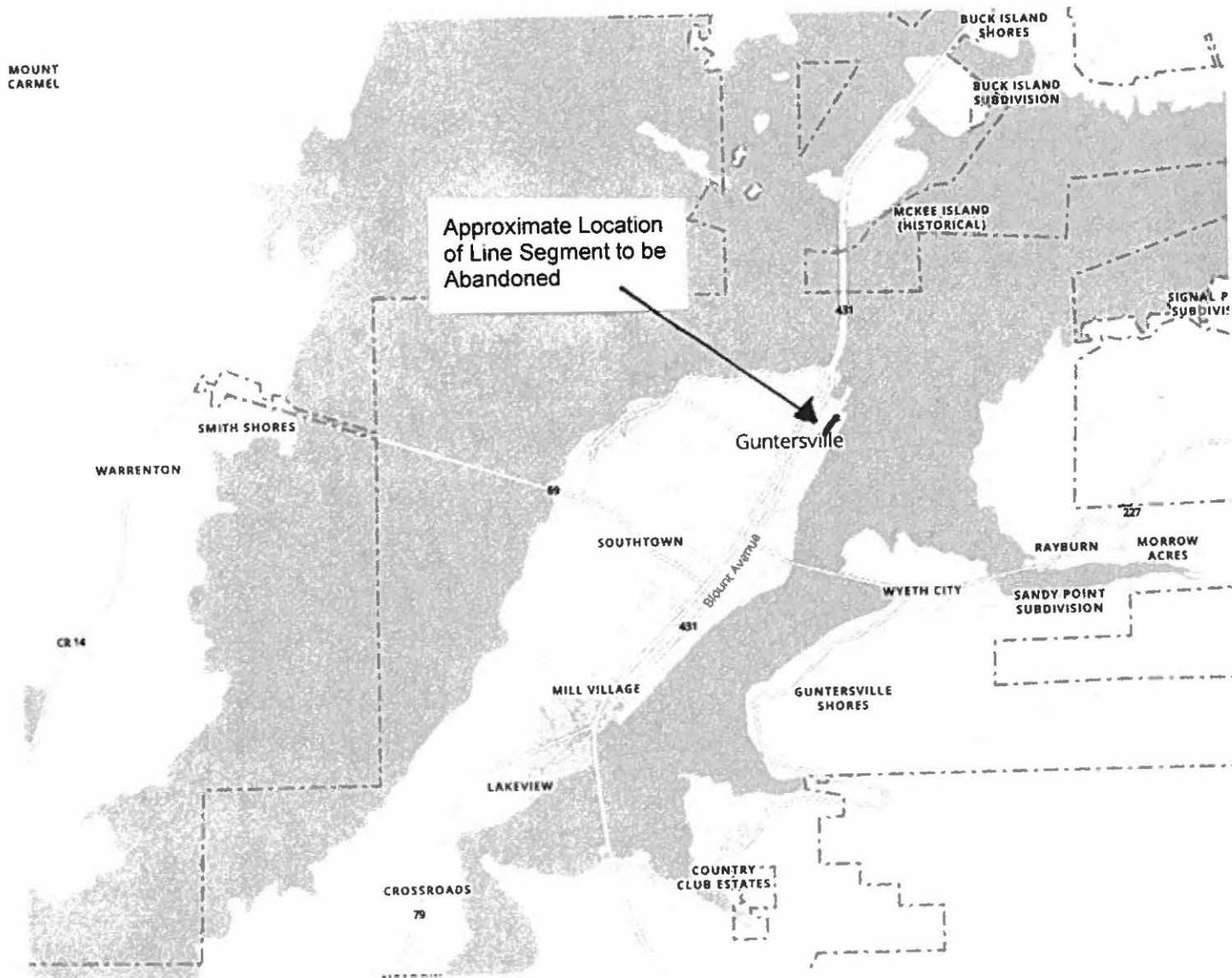
— There are no structures on the subject line or within the APE. ATN has no reason to believe that there is any likelihood of finding archaeological resources or historic properties on the line proposed for abandonment in the course of track salvage.

(8) Subsurface Ground Conditions That Might Affect Archaeological Recovery — The railroad is not aware of any prior subsurface ground disturbances or environmental conditions that would affect archaeological recovery. Moreover, abandonment of the line and salvage of material from its surface will not affect any potential archaeological resources. The subsurface of the right-of-way was initially disturbed in the construction of the railroad line by grading and filling. Abandonment and salvage of the line will not result in activities below the surface, or below the level of initial disturbance.

(9) Follow-Up Information — ATN does not foresee the likelihood that any additional information will need to be supplied in association with the proposed abandonment other than that information previously submitted. But, if any additional information is requested, ATN will promptly supply the necessary information. ATN notified Alabama Historical Commission requesting assistance to determine whether there are any archeological resources or any other previously unknown historic properties by letter dated October 14 together with a copy of the preliminary CEHR. See sample of consultation letter sent to all consulting agencies, Appendix B. No comments have been received to date.

APPENDIX A

MAP and DRAWING



Alabama & Tennessee River Railroad Abandonment in Guntersville, Alabama

Approximate Location of 885 feet of
Rail Line to be Abandoned

Appendix A

APPENDIX B

SAMPLE OF LETTER SENT TO ALL CONSULTING AGENCIES

(WITHOUT MAPS OR ATTACHMENTS)

Please see:

Combined Environmental and Historic Report
Certificate of Service for List of All Consulting Authorities Receiving Letter

Holland & Knight

50 North Laura Street, Suite 3900 | Jacksonville, FL 32202 | T 904.353.2000 | F 904.358.1872
Holland & Knight LLP | www.hklaw.com

Paul R. Hitchcock
Senior Policy Advisor
+1 904-798-5409
Paul.Hitchcock@hklaw.com

October 14, 2019

Mr. Lance R. LeFleur
Alabama Department of Environmental
Management
P. O. Box 301463
Montgomery, AL 36130-1463

Re: STB Docket No. AB-1292 (Sub-No. 0 - X), Alabama & Tennessee River Railway,
LLC -- Abandonment Exemption -- in Marshall County, Alabama

Dear Mr. LeFleur:

Alabama & Tennessee River Railway, LLC (ATRR) plans to request authority from the Surface Transportation Board (STB) to abandon and discontinue operations over an 885-foot segment of rail line approximately 3,670 feet north of Milepost MP 86 in Marshall County, Alabama.

Enclosed is a Combined Environmental and Historic Report (Report) which describes the proposed abandonment and other pertinent information. A drawing of the proposed track abandonment can be found in Appendix A of this report, together with a map portraying its location within the City of Guntersville. Appendix B of this report lists the various agencies receiving it. The final version to be filed with the STB will contain responses received as of the date of filing.

The railroad does not anticipate adverse environmental impacts; however, if you identify any adverse environmental effects, please describe the actions that would assist in alleviating them. Please provide us with a written response indicating any concerns or lack thereof, which will be included in the Report and sent to the STB.

This Report is being provided so that you may submit information that will form the basis for the STB's independent environmental analysis of the proceeding. If you believe any of the information is incorrect, if you think pertinent information is missing, or if you have any questions about the Board's Environmental Review process, please contact the Office of Environmental Analysis (SEA) by telephone at (202) 245-0295 or by mail to:

Mr. Lance R. LeFleur
October 14, 2019
Page 2

Surface Transportation Board
Office of Environmental Analysis
395 E Street, S.W.
Washington, DC 20423-0001

Please refer to the above Docket when contacting the STB. Applicable statutes and regulations impose stringent deadlines for processing this action.

Your comments will be considered by the Board in evaluating the environmental impacts of the contemplated action. In order for us to consider your input prior to filing with the STB, we must receive your comments within three weeks. Please provide information to me by email at paul.hitchcock@hklaw.com or by mail to the above address.

Sincerely yours,

HOLLAND & KNIGHT LLP

A handwritten signature in blue ink that reads "Paul R. Hitchcock". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Paul R. Hitchcock
Senior Policy Advisor

PRH:kmg
Enclosure

APPENDIX C

RESPONSES FROM CONSULTING AUTHORITIES

OFFICE OF THE MAYOR
GUNTERSVILLE, ALABAMA

LEIGH BARNETT DOLLAR, MAYOR

October 24th, 2019

Surface Transportation Board
Office of Environmental Analysis
395 E Street, S.W.
Washington DC 20423-0001

RE: STB Docket No. AB-1292 (Sub-No. 0 X), Alabama & Tennessee River Railway,
LLC -- Abandonment Exemption -- in Marshall County, Alabama

Ladies and Gentlemen:

I am writing to express the strong and unqualified support of the City of Guntersville for the abandonment proposed by the Alabama & Tennessee River Railway.

This abandonment is not just consistent with the City's land use plans, it is important to them. The City has a contract with the railroad to acquire the property on which the tracks to be abandoned are located. Upon abandonment, the City will close on that transaction, which will enable the City to pursue its plans, which are important to the future potential development of this area of the city near its downtown and close to its waterfront.

I urge the Surface Transportation Board to approve this abandonment as quickly as possible. Please refer any questions about the City's position in this regulatory proceeding to our city attorney, Mr. Dan Warnes.

Thank you for considering the interests of the City of Guntersville and its citizens.

Yours truly,



cc: Mr. Dan Warnes
City Attorney
2312 Taylor St.
Guntersville, AL 35976

Mr. Paul Hitchcock
Senior Policy Advisor
Holland & Knight
Suite 3900
50 North Laura St.
Jacksonville, FL 32202



Hitchcock, Paul R (JAX - X25409)

From: deborah.brooks <ngs.infocenter@noaa.gov>
Sent: Monday, November 4, 2019 2:16 PM
To: Hitchcock, Paul R (JAX - X25409)
Subject: [JIRA] (IMOV-6233) NGS RESPONSE: STB Docket No. AB 1292 (Sub No. 0 - X)

[External email]

Thank you for submitting your request. Below is your request summary

(IMOV-6233) NGS RESPONSE: STB Docket No. AB 1292 (Sub No. 0 - X)

Components: NGS_Responses

Created: 04 Nov 2019 2:15 PM

Thank you for informing the National Geodetic Survey (NGS) of the Alabama & Tennessee River Railway LLC (ATRR)'s decision to abandon and salvage a 885 foot rail segment approximately 3,670 feet north of Milepost MP 86 in Marshall County, Alabama.

There could be geodetic survey marks located in the area described, and any marks still present could be disturbed by the abandonment. While it is illegal to disturb or destroy a mark, sometimes disturbing or destroying a mark is unavoidable. In such cases, the mark can often be preserved or reset with advanced planning. NGS provides the public with tools to search for and locate survey marks, see the NGS Data Explorer (<https://geodesy.noaa.gov/NGSDataExplorer/>).

If a mark will be disturbed by the abandonment, ATRR should consult with NGS at least 90 days prior to beginning salvage activities that will disturb, or destroy any geodetic marks identified nearby. Information is available online to help reset marks or report disturbed/destroyed marks: <https://geodesy.noaa.gov/surveys/mark-recovery/index.shtml>
<<https://www.google.com/url?q=https://geodesy.noaa.gov/surveys/mark-recovery/index.shtml&sa=D&ust=1560385764139000&usg=AFQjCNGDkoXCHtBcDJBsXm2KQLkhwYDxQ>>.

If you have additional questions, email NGS.Infocenter@noaa.gov.

This notice is also being shared with Denis Riordan, (denis.riordan@noaa.gov, 240-678-2107) the Regional Geodetic Advisor, so he may work with any interested local agencies or stakeholders.

Sincerely,

Deborah M. Brooks

Geodesist

deborah.brooks@noaa.gov

More information on preserving marks, mark resets, and destroyed marks.

Preserving Marks

Significant resources were invested to create an extensive geodetic network across the United States by establishing precise coordinates at physical survey marks. Disturbing or destroying these marks reduces geodetic control available to local surveyors, so please make every effort to preserve this valuable network.

Mark Resets

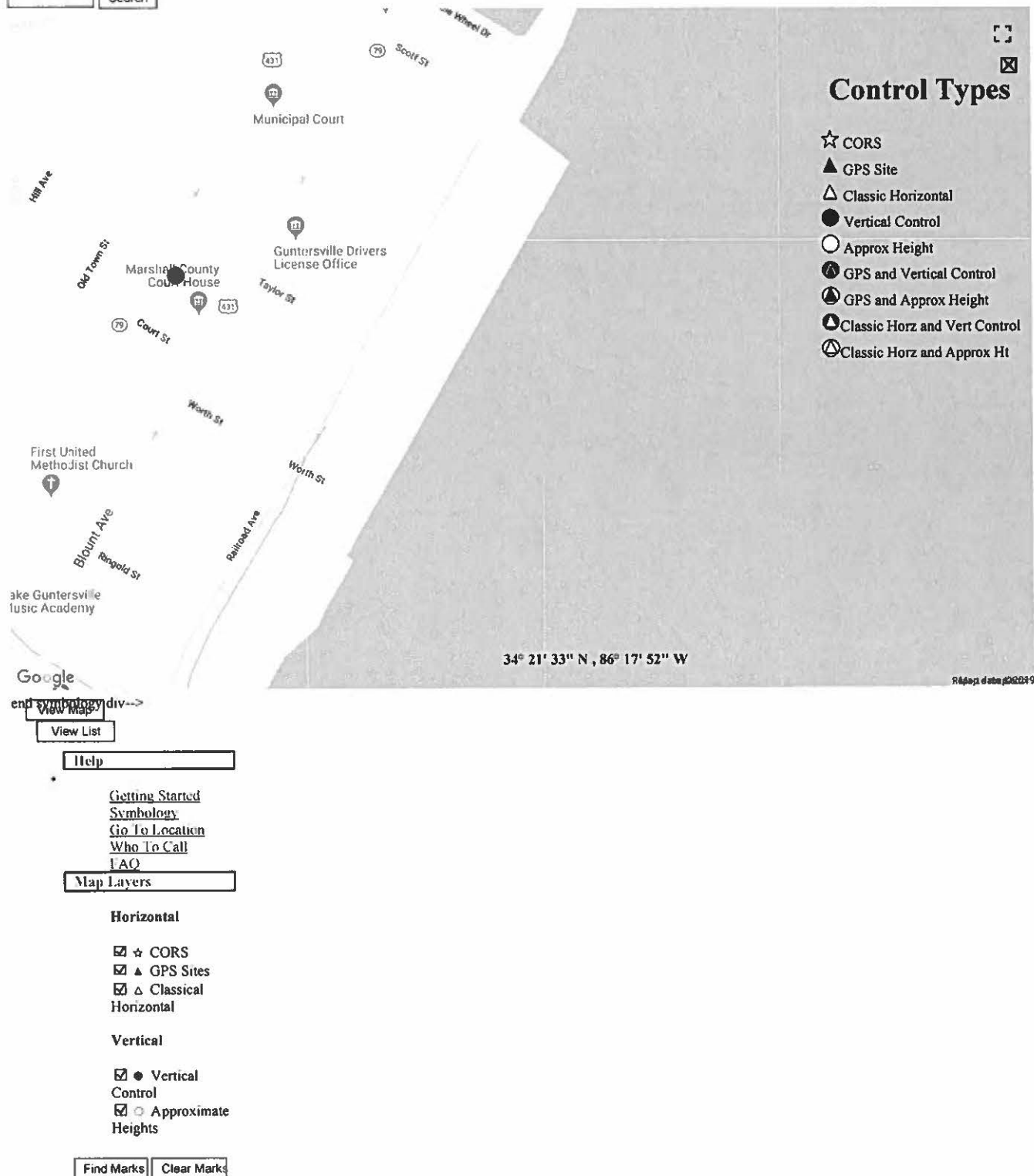
If a mark is about to be destroyed (e.g., due to planned construction), it may be possible to reset the mark and retain the geodetic control. Review the Bench Mark Reset Procedures (https://geodesy.noaa.gov/PUBS_LIB/Benchmark_4_1_2011.pdf) or contact your closest geodetic advisor (<https://geodesy.noaa.gov/ADVISORS/index.shtml>). Please do not attempt to reset a mark that has been separated from the base. Any remnants of destroyed marks must be properly discarded and not reused in any manner, as this is a violation of Federal law.

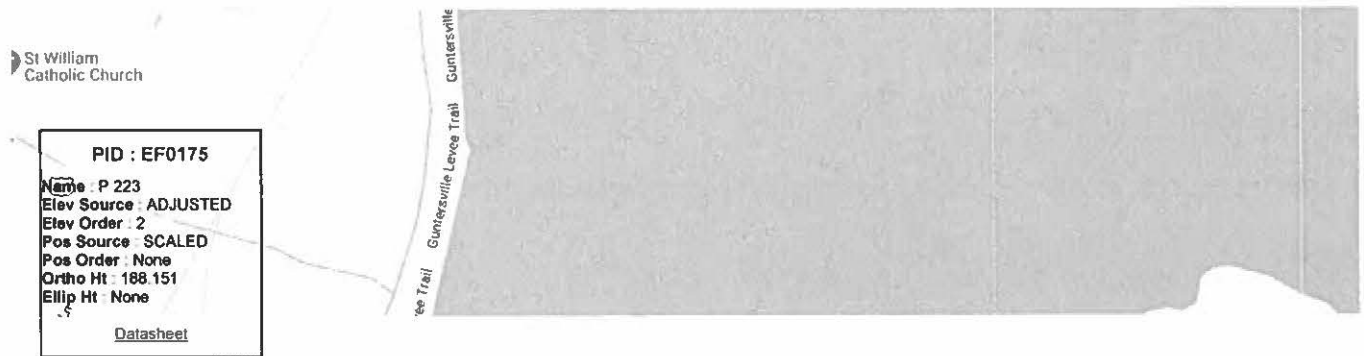
Destroyed Marks

If it is determined that a mark has been destroyed, please provide enough photo evidence to show how this determination was made. To submit this information to NGS, follow the instructions regarding "destroyed marks" on the Mark Recovery Entry web page (https://geodesy.noaa.gov/cgi-bin/recvy_entry_www.prl)

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- ⊙ GPS and Vertical Control
- ⊙ GPS and Approx Height
- ⊙ Classic Horz and Vert Control
- ⊙ Classic Horz and Approx Ht

Zoom in
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Go To Location
Who To Call
FAQ

Map Layers

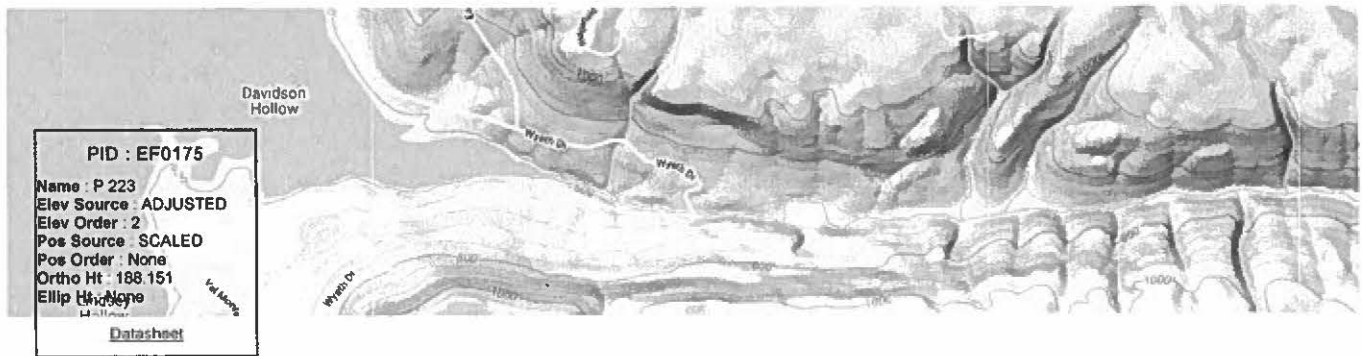
Horizontal

- ☒ ☆ CORS
- ☒ ▲ GPS Sites
- ☒ △ Classical Horizontal

Vertical

- ☒ ● Vertical Control
- ☒ ○ Approximate Heights

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APPENDIX D

PHOTOGRAPHS (NONE)

Combined Environmental and Historic Report
Certificate of Service

Pursuant to the requirements of 49 C.F.R. § 1105.7(b) and 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-1292 (Sub-No. 0 - X) was mailed via first class mail on October 14, 2019, to the following parties:

Mr. Lance R. LeFleur, Director, Alabama Department of Environmental Management, P.O. Box 301463, Montgomery, AL 36130-1463

Ms. Mary S. Walker, Regional Administrator, U.S. EPA- Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street SW, Atlanta, GA 30303-8960

Mr. Philip Hinesley, Chief, Alabama Department of Conservation and Natural Resources Lands Division - Coastal Section, 31115 Five Rivers Boulevard Spanish Fort, AL 36527

Dr. William Plunkett, Natural Resources Conservation Service USDA, P.O. Box 311, Auburn, AL 36831-0311

U.S. Fish and Wildlife Services, Alabama Ecological Services Field Office, Southeast Region 4, 1208 B Main Street, Daphne, AL 36526-4419

US Army Corps of Engineers, Mobile District Planning and Environmental Division, P.O. Box 2288, Mobile, AL 36628

Mayor Leigh Dollar, Office of the Mayor c/o Mr. Dan Warnes, City Attorney, 2312 Taylor St. Guntersville, Alabama 35976

Marshall County Commission, Marshall County Court House, 424 Blount Ave. Suite 305, Guntersville, AL 35976

Alabama Department of Transportation, P.O. Box 303050, Montgomery, AL 36130-3050

Alabama Highway Department,. 1409 Coliseum Blvd. Room K-101, Montgomery AL 36130

Mr. Frank White, Historic Preservation Officer, Alabama Historical Commission, 468 South Perry Street, Montgomery, AL 36104

Mr. Charlie Stockman, National Park Service, Rivers and Trails Conservation Program, 1201 Eye Street, NW 9th floor, Washington D.C. 20005

National Geodetic Survey, Geodetic Service Division Room 9202, NGS/12 1315 East-West Hwy, Silver Spring, MD 20910-3282

USDA Natural Resources Conservation Service, 1400 Independence Ave. SW, #5105A, Washington, DC 20250



Paul R. Hitchcock
November 7, 2019