

HEI-26528

CLARK HILL

John D. Helfner
T 202.572.8679
F 202.572.8690
Email: jheffner@ClarkHill.com

Clark Hill
1001 Pennsylvania Avenue NW
Suite 1300
Washington DC 20004
T 202.772.0909
F 202.772.0919
clarkhill.com

July 8, 2019

Ms. Diana Wood
Office of Environmental Assessment
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

RE: FD 36328, Hickman-Fulton County River Port Authority

Dear Ms. Wood:

Pursuant to 49 CFR §1105.10(c)(2), I am writing on behalf of the Hickman-Fulton County River Port Authority ("HFCRPA") to request a waiver of the six months' pre-filing notice required by the Board's environmental regulations at 49 CFR §1105.10(a)(1). Within the next few months HFCRPA plans to petition the Board for an individual exemption under 49 U.S.C. §10901 to permit it to construct and operate approximately 18.9 miles of new common carrier railroad trackage ("the Line"). HFCRPA submits that a waiver of the 6 months' advance notice requirement is consistent with the regulations of the Office of Environmental Assessment ("OEA") and the Board's policies.

For your information, HFCRPA is a public agency and political subdivision formed jointly by the Hickman-Fulton County River Port in the State of Kentucky and the Union City Industrial Development Authority in the State of Tennessee. In addition, HFCRPA would rehabilitate another 27.2 miles of deteriorated track presently operated by two short line railroads, the Tennken Railroad and the Indiana Business Railroad, Inc., d/b/a Union City Terminal Railroad. The Tennken Railroad will connect with a new line of railroad that the Board had previously authorized by the Board in FD 35802 in 2016 to be constructed and operated by the Northwest Tennessee Regional Port Authority ("NWTRPA") that would serve the Port of Cates Landing on the Mississippi River. The NWTRPA expects to begin

Ms. Diana Wood
July 8, 2019
Page 2

that construction shortly. A portion of the proposed Line would be laid over an existing but abandoned former Louisville & Nashville right of way. The remainder of the Line would be on a new railroad right of way. Ultimately, HFCRPA's Line would join the Tennken Railroad with the Union City Terminal Railroad forming a 46.1 mile long loop connecting with the Canadian National Railroad's Illinois Central Railroad subsidiary at both Dyersburg and Rives, TN. I am attaching a map illustrating the Line to be constructed and its existing railroad connections.

Both the NWTRPA and the HFCRPA facilities are significant insofar as they are located on the only developable land between the confluence of the Mississippi and Ohio Rivers on the north and the deep water draft at Baton Rouge, LA, on the south that does not need levee protection nor is on an elevated bluff.

As noted during the meeting with the OEA staff, HFCRPA's Line will serve a very lightly settled, economically depressed, agricultural area in Southwest Kentucky and adjacent Tennessee. The area is primarily rural with few residences, tourist attractions, shopping areas, schools, and hospitals along or even near the Line. HFCRPA believes the Line will be extremely important in enabling the port to attain its full potential as well as an important asset in attracting industry and therefore jobs to the area.

Once constructed, HFCRPA expects to contract with either the Tennken Railroad or the Union City Terminal Railroad for operation of the subject track. Nevertheless, it seeks operating as well as construction authority from the Board and will have a "residual" common carrier obligation over the Line once that authority is consummated.

The waiver provisions of the Board's environmental rules require a party seeking a waiver to describe as completely as possible the environmental effects and timing of the proposed action and to show that all or part of the six months' lead time is not appropriate. Moreover, the regulations require a party seeking a waiver to indicate (1) whether the area affected is a nonattainment area, (2) the number of trains per day that would be involved and the commodities and tonnage that would be handled, and (3) the impacts, if any, on endangered species.

In response to these inquiries, HFCRPA anticipates the environmental effects of its proposed construction project will be minimal. Regarding the questions identified above, the subject area is an attainment area. As to the

Ms. Diana Wood
July 8, 2019
Page 3

anticipated traffic, HFCRPA anticipates that once the Line is fully operational traffic frequency will at most be limited to one roundtrip per day. In any event, HFCRPA does not anticipate that the traffic to be handled over the Line will exceed the traffic threshold of 8 trips per day for an attainment area as per 49 CFR §1105.7(e) (5) and (6). All of this traffic represents new business.

Once operations do commence, movement of freight by rail instead of truck will be very beneficial due to reduced highway congestion and associated air and noise pollution and energy consummation. The Line will be built on land owned or to be acquired by HFCRPA. There will be up to nine anticipated road crossings depending upon the alignment chosen.

As to wetland impacts, the EA identified farm wetlands east and west of the rail corridor. However, none would appear to be affected by the Line. Aside from some small streams and a drainage channel, the Line will not cross any bodies of water. Because the environmental effects of this project are negligible, HFCRPA does not believe that an environmental impact statement would be necessary. Accordingly, the six months' lead time is unnecessary and should be waived.

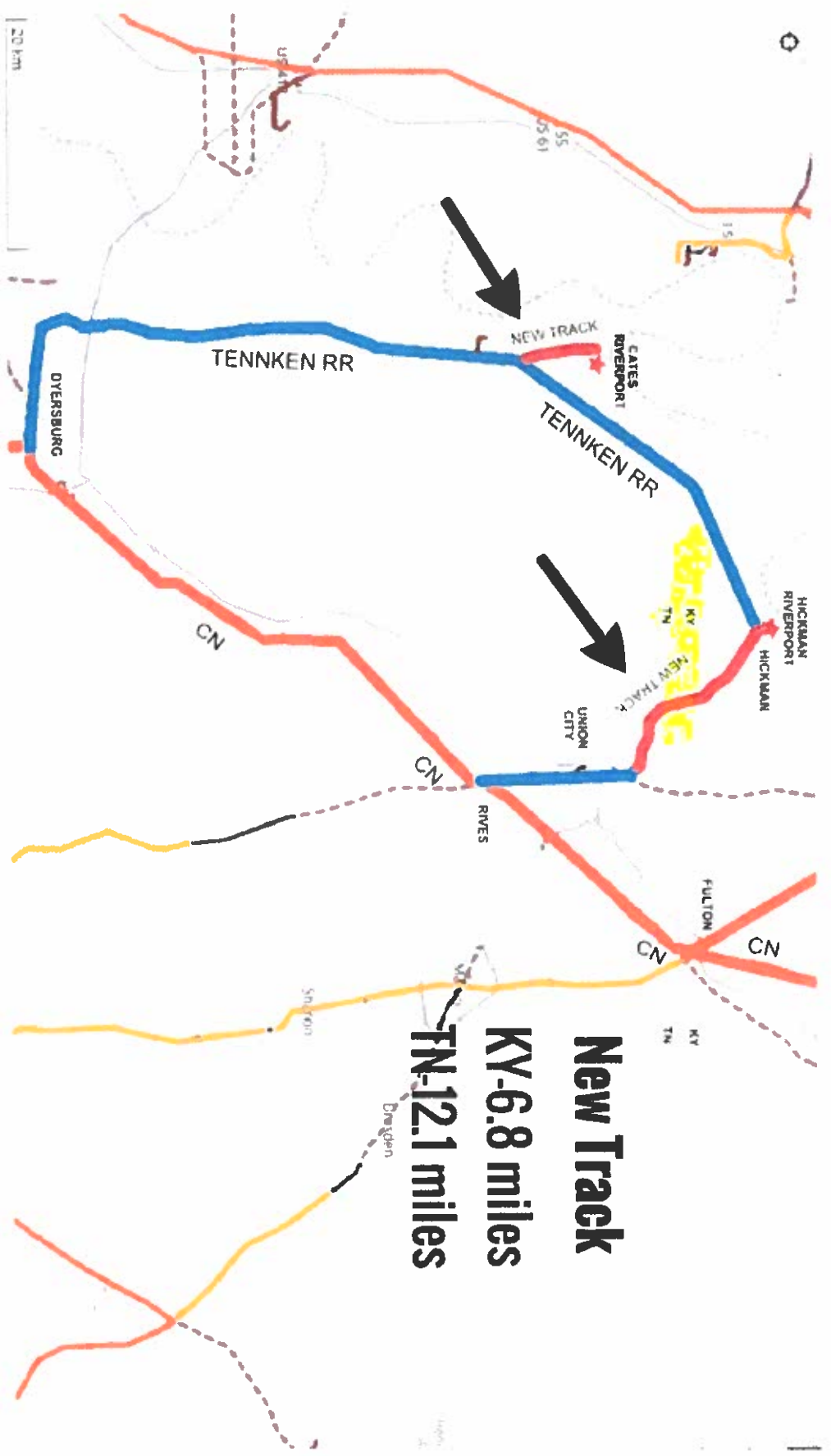
Please acknowledge receipt of this letter by email.

Sincerely yours,



John D. Heffner

cc: Victoria Rutson, Esq.
Ms. Danielle Gosselin



New Track
KY-6.8 miles
TN-12.1 miles