

WILLIAM L. SLOVER
C. MICHAEL LOFTUS
DONALD G. AVERY
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PETER A. PFOHL
DANIEL M. JAFFE
KENDRA A. ERICSON

SLOVER & LOFTUS
ATTORNEYS AT LAW
1224 SEVENTEENTH STREET, N. W.
WASHINGTON, D. C. 20036-3003



WRITER'S E-MAIL:
abk@sloverandloftus.com

April 25, 2005

BY HAND DELIVERY

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board, Room 711
1925 K Street, N.W.
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings

Part of
Public Record

Re: STB Docket No. AB-646X, Atlantic & Western
Railway, L.P. – Abandonment Exemption – Rail Line
in Lee County, North Carolina

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceeding please find an original and ten copies of the Verified Notice of Exemption of the Atlantic & Western Railway, L.P. regarding the abandonment of its rail line in Lee County, North Carolina.

We have enclosed a check in the amount of \$3,000.00 to cover the filing fee for the Notice, and have enclosed an additional copy of the Notice to be date-stamped and returned to the bearer of this letter. Thank you for your attention to this matter.

Sincerely,

Andrew B. Kolesar III
An Attorney for the Atlantic & Western
Railway, L.P.

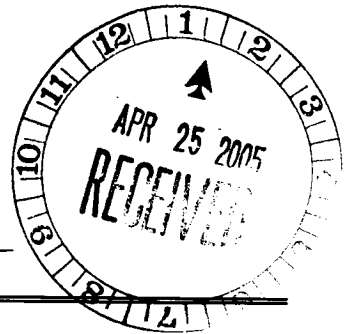
Enclosures

FILED

TRANSPORTATION

BEFORE THE
SURFACE TRANSPORTATION BOARD

213862



In the Matter of:

ATLANTIC & WESTERN RAILWAY,
L.P. – ABANDONMENT EXEMPTION
– RAIL LINE IN LEE COUNTY,
NORTH CAROLINA

Docket No. AB-646X

FILED

APR 25 2005

VERIFIED NOTICE OF EXEMPTION

FILED

APR 25 2005

TRANSPORTATION BOARD

ENTERED
Office of Proceedings

APR 26 2005

Part of
Public Record

Of Counsel:

Slover & Loftus
1224 Seventeenth St., N.W.
Washington, D.C. 20036
(202) 347-7170

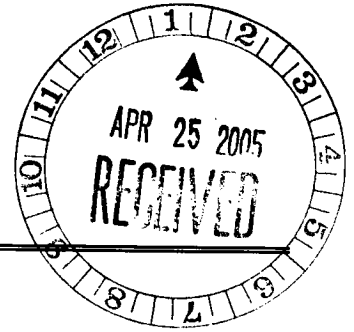
Dated: April 25, 2005

By: Kelvin J. Dowd
Andrew B. Kolesar III
Kendra A. Ericson
1224 Seventeenth Street, N.W.
Washington, D.C. 20036

Attorneys and Practitioners

ATLANTIC & WESTERN
RAILWAY, L.P.
2506 Thomas Drive
Panama City Beach, FL 32408

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



In the Matter of:

ATLANTIC & WESTERN RAILWAY,
L.P. – ABANDONMENT EXEMPTION
– RAIL LINE IN LEE COUNTY,
NORTH CAROLINA

Docket No. AB-646X

VERIFIED NOTICE OF EXEMPTION

The Atlantic & Western Railway, L.P. (“ATW”), pursuant to 49 C.F.R. Part 1152.50, files this Verified Notice of Exemption from the prior approval requirements of 49 U.S.C. § 10903 to permit ATW to abandon 0.74 miles of its line between in Jonesboro, Lee County, North Carolina (the “Line”). This single track line extends from Milepost 3.76 (V.S. 198+37) to Milepost 4.50 (V.S. 237+47), and constitutes the easternmost portion of ATW’s approximately 10-mile line between Cumnock and Jonesboro, North Carolina. No service has been provided over the Line since 1999, and as a result, the proposed abandonment of the Line qualifies for the Board’s out-of-service class exemption.

For the Board’s information, the North Carolina Department of Transportation (“NC DOT”) has agreed to purchase the Line – upon ATW’s receipt of abandonment authorization – in order to permit the construction of a highway bypass around Sanford, North Carolina. See Exhibit No. 1 hereto.

In support of this Notice, ATW states as follows:

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

ATW proposes to consummate the proposed abandonment as of the effective date of its authority under the Board's exemption process (i.e., on or about June 14, 2005).

B. Certification of Compliance
49 C.F.R. Part 1152.50(b)

ATW certifies that (i) no local traffic has moved over the Line for at least two (2) years prior to the date of this Notice; (ii) the Line has not serviced any overhead traffic for at least two (2) years prior to the date of this Notice; and (iii) no formal complaint 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 Board or any U.S. District Court, nor has such a case been decided in favor of a complainant within two (2) years of the date of this Notice.

C. General Required Information
49 C.F.R. § 1152.22

1. Name of Applicant
49 C.F.R. Part 1152.22(a)(1)

The Applicant is the Atlantic & Western Railway, L.P., with a business address of 2506 Thomas Drive, Panama City Beach, Florida 32408.

2. Common Carrier Status
49 C.F.R. Part 1152.22(a)(2)

ATW is a Class III common carrier by railroad, subject to 49 U.S.C.

Subtitle IV, chapter 105.¹

3. Relief Sought
49 C.F.R. Part 1152.22(a)(3)

By this Notice, ATW invokes exempt authority to abandon the Line.

4. Map of the Line
49 C.F.R. Part 1152.22(a)(4)

See Attachment A to the Environmental and Historic Reports included herewith as Exhibits 2 and 3.

5. Applicant's Representative
49 C.F.R. Part 1152.22(a)(7)

Andrew B. Kolesar III
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

6. Zip Codes
49 C.F.R. Part 1152.22(a)(8)

The Line traverses United States Postal Zip Code 27330.

¹ See Finance Docket No. 34306, K. Earl Durden, Rail Management Corporation, and Rail Partners, L.P. – Corporate Family Transaction Exemption (STB served Jan. 22, 2003); Finance Docket No. 31869, Green Bay Packaging, Inc., K. Earl Durden, Galveston Ry., Inc., Rail Management and Consulting Corp., and Rail Partners, L.P. – Continuance in Control Exemption – Galveston R.R., L.P., LRW Ry., L.P., ET Ry., L.P., ATW Ry., L.P., KWT Ry., Inc., Copper Basin Ry., Inc. & Wilmington Terminal RR. (ICC served July 5, 1991).

7. Alternative Use for Other Public Purposes
49 C.F.R. Part 1152.22(e)(4)

As indicated supra, ATW and the NC DOT have entered into an agreement under which NC DOT will purchase the Line within sixty days of abandonment authorization in order to permit the construction of a new highway bypass around Sanford, North Carolina. See Exhibit No. 1 hereto.

The Line traverses agricultural, residential and light commercial land and passes over no major waterways.

D. Labor Protection

ATW understands that in exempting the proposed abandonment, the Board does not relieve a carrier of its statutory obligation to protect the interests of employees. See 49 C.F.R. § 1152.50(c)(2); 49 U.S.C. §§ 10502(g) and 10903(b)(2). ATW states that no employee of any railroad will be adversely affected by ATW's abandonment of the Line. To the extent that the Board deems it legally necessary to prescribe labor protection conditions, however, the conditions imposed should be those established pursuant to Oregon Short Line R.R. Co. – Abandonment – Goshen, 360 I.C.C. 91 (1979).

E. Certificate of Compliance with Notice Requirements
49 C.F.R. § 1152.50(d)(2)

ATW hereby certifies that it has complied with the notice requirements set forth at 49 C.F.R. §§ 1152.50(d)(1) and 1105.11.

F. Certificate of Compliance with Notice Requirements
49 C.F.R. § 1105.12

ATW hereby certifies that it has complied with the notice requirements set forth in 49 C.F.R. § 1105.12. The required newspaper notice was published in the Sanford Herald, a newspaper of general circulation in Lee County, North Carolina, on Thursday, April 21, 2005, in the form set forth in Exhibit No. 4 to this Notice.

G. Environmental and Historic Documentation
49 C.F.R. Part 1105

Attached as Exhibit No. 2 and Exhibit No. 3 to this Notice are the Environmental and Historic Reports required under 49 C.F.R. Part 1105. ATW certifies that it served preliminary copies of these reports on the appropriate agencies for comment on April 5, 2005 (i.e., twenty days prior to filing this Notice). Exhibit No. 5 to this Notice includes the correspondence that ATW has received in response to these Reports.

Respectfully submitted,

ATLANTIC & WESTERN
RAILWAY, L.P.
2506 Thomas Drive
Panama City Beach, FL 32408

Of Counsel:

Slover & Loftus
1224 Seventeenth St., N.W.
Washington, D.C. 20036
(202) 347-7170

By: Kelvin J. Dowd
Andrew B. Kolesar III 
Kendra A. Ericson
1224 Seventeenth Street, N.W.
Washington, D.C. 20036

Dated: April 25, 2005

Attorneys and Practitioners

VERIFICATION

STATE OF FLORIDA)
) SS
COUNTY OF BAY)

The undersigned, having been duly sworn, hereby deposes and states as follows:

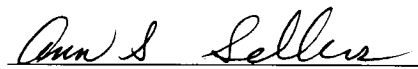
1. That I am the President of Rail Management Corporation the General Partner of the Atlantic & Western Railway, L.P.; and

2. That I have read the foregoing Notice of Exemption, that I have knowledge of the facts alleged therein, and that those facts are true to the best of my knowledge and belief.

ATLANTIC & WESTERN RAILWAY, L.P.

By: 
Michael E. Durden
President
Rail Management Corporation
Its General Partner

Subscribed and sworn to
before me this 20th day
of April, 2005


Notary Public

AGREEMENT OF ACCESS

THIS AGREEMENT OF ACCESS (the Agreement") is made and entered into this day of _____, 2005 by and between Atlantic and Western Railway, Limited Partnership, a North Carolina limited partnership with principal office located at 2506 Thomas Drive, Panama City Beach, Florida 32408 (the "ATW") and the North Carolina Department of Transportation, a division of the State of North Carolina, with relevant address located at 1 South Wilmington Street, Raleigh, North Carolina (the "Department") as follows:

WHEREAS, the Department desires to enter certain property owned by ATW located in Lee County, North Carolina described as the area of right of way shown on Project Plans from Stations 20+00-Y3 to 56+69.77-Y3-in Sanford, North Carolina, on Project 8.T540402 (the "Property"); and

WHEREAS, the Department is authorized by G.S. 136-118 to enter this Agreement without filling the pleadings as set forth in G.S. 136-103; and

WHEREAS, the Department has agreed to purchase the Property for a purchase price of \$338,770.00 in cash; and

WHEREAS, ATW has agreed to grant the Department the right of entry upon the Property pursuant to the specific terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants of the parties hereto, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The foregoing recitals are incorporated herein as if set out in full hereinafter.

2. ATW hereby grants to the Department the nonexclusive privilege of access, ingress and egress to the Property to carry out the work and construction of Project 8.T540402 in accordance with the plans and specifications on file in its office in Raleigh, North Carolina, and the Department shall have the same rights for carrying on the work and construction of the project as it would have by filing the pleadings required in G.S. 136.103.

3. The Department agrees to purchase the Property and all improvements thereon for the sum of \$338,770.00 in cash or other immediately available funds. The closing for said purchase and sale shall occur no later than sixty (60) days after receipt by ATW of approval from the Surface Transportation Board of abandonment of railroad operations on the Property. In the event of the failure of either party to close such purchase, the other party shall have the right to require specific performance of this Agreement.

4. The cost of any watchman or flagman service which ATW may require shall be borne solely by the Department.

5. To the extent allowed by North Carolina law, the Department or contractors shall indemnify, hold harmless and defend ATW, of and from any and all risks of loss, costs, damages, claims, actions, cause and causes of action, suits, demands or expense to any property, owned by ATW, which may now or hereafter be situated, placed or located on the Property or adjacent hereto, and the loss of or interference with any use or services thereof and (b) for any injury to or death of any and all persons (including but not limited to agents, servants, employees, invitees, contractors of ATW on or adjacent to the Property arising out of or resulting from the use of the Property by the Department, its agents, servants, employees, invitees and contractors, to the extent such injury or damage is caused by the negligence of Department, its agents and employees.

6. (a) During any use of the Property by the Department (or its contractor), the Department shall cause each of its contractors to obtain and maintain, a commercial general liability insurance policy applicable to the Department's obligations under this Agreement in the amount of \$2,000,000.00 for all personal injuries, death or property damage per occurrence arising during the term hereof. ATW must be named as an additional named insured on said insurance.

(b) The Department shall furnish certificates of insurance evidencing the above coverage and the form of the policy (or policies). The carrier and the amount of the coverage shall be subject to the prior approval of ATW. Such insurance shall contain a contractual liability endorsement which will cover the obligations assumed under this Agreement (and shall contain no endorsement or exclusion eliminating coverage for railroads) in addition to such other endorsement or endorsements as, in the opinion of counsel for ATW, may be necessary or advisable to fully protect and indemnify ATW. Such insurance shall contain notification provisions whereby the insurance company agrees to give thirty (30) days notice in writing to ATW of any change or cancellation of the policy. All such endorsements and notice provisions shall be stated on the certificate of insurance. Notwithstanding any of the provisions of this Agreement with respect to insurance to the contrary, it is understood and agreed that the liability assumed by the Department hereunder shall be limited to the insurance coverage stipulated herein but only to the extent allowed by law, but the liability assumed by any of the Department's contractors shall not be limited to Insurance Coverage stipulated herein.

7. The privilege herein granted is for use of the Property for the exclusive use of the Department and its representatives.

8. The Department shall not assign this Agreement or any part hereof without the prior written consent of ATW.

9. This Agreement contains the entire understanding between the parties hereto concerning the subject matter hereof and entirely supersedes and replaces all prior and contemporaneous agreements and representatives, written and oral. There are no representatives, statements, agreements, restrictions, promises, inducements, warranties, covenants, arrangements or understandings, oral or written between or among the parties hereto, relating to the subject matter of this Agreement, which are not fully expressed herein and no party shall be bound thereby. This Agreement may be amended only by written instrument duly executed by the parties, and no other act, document, usage or custom will be deemed to modify or amend this Agreement in any way.

10. Each party represents to the other that it has full power and authority to enter into this Agreement and that the persons signing below on behalf of each such party have been duly authorized to execute this Agreement.

11. This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina, without regard to its principles of conflicts of laws.

12. In the event either party resorts to legal action to enforce the terms and provisions of this Agreement, the prevailing party shall be entitled to recover the expenses of litigation so incurred. "Expenses of litigation" does not include any award of damages, penalties or any other type of compensatory or punitive damage award.

13. This Agreement is for the sole benefit of and binding upon the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal right or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

14. Neither the execution of this Agreement nor the performance of any act pursuant to the provisions hereof shall be deemed or construed to have the effect of creating

between the parties the relationship of principal or of agent or of partnership or of joint venture.

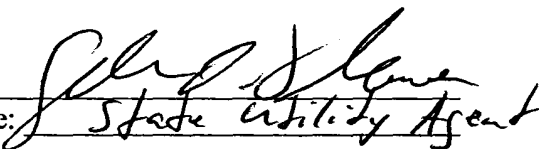
TO HAVE TO HOLD the same unto ATW, its successors and assigns, for the uses and purposes for which this Agreement of Access is granted.

IN WITNESS WHEREOF, ATW has hereunto set its hand and seal on the date first above written.

Atlantic and Western Railway,
Limited Partnership
By Rail Management Corporation
its General Partner

By: 
Michael E. Durden, Its President

North Carolina Department
of Transportation

By: 
Title: State Utility Agent

STATE OF FLORIDA
COUNTY OF BAY

I, the undersigned authority in and for said County and State, hereby certify that Michael E. Durden, whose name as President of Rail Management Corporation, General Partner of Atlantic and Western Railway, Limited Partnership, is signed to the foregoing Agreement of Access, and who is known to me, acknowledged before me on this day, that being informed of the contents of the Agreement of Access, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 22 day of Mar 2005.

Ann S. Sellers

Notary Public

My Commission Expires:

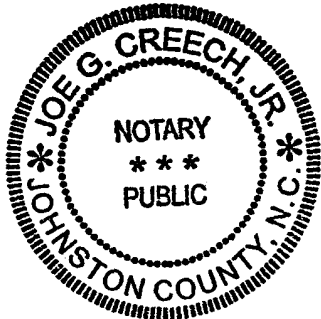


Ann S. Sellers
My Commission DO269737
Expires February 15, 2008

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, the undersigned authority in and for said County and State, hereby certify that AYDREN FLOWERS, whose name as STATE UTILITY AGENT of the North Carolina Department of Transportation, a division of the State of North Carolina, is signed to the foregoing Agreement of Access, and who is known to me, acknowledge before me on this day, that, being informed of the contents of the Agreement of Access, he, as STATE UTILITY AGENT and with full authority, executed the same voluntarily for and as the act of the North Carolina Department of Transportation.

Given under my hand and official seal this 8TH day of MARCH, 2005.



Joe G. Creech Jr.

Notary Public

My Commission Expires:

9-8-07

In the Matter of:	)	
	)	
ATLANTIC & WESTERN RAILWAY,	)	
L.P. – ABANDONMENT EXEMPTION	)	Docket No. AB-646X
– RAIL LINE IN LEE COUNTY,	)	
NORTH CAROLINA	)	
	)	

ATLANTIC & WESTERN
RAILWAY, L.P.
100 Professional Park, Suite 302
Carrollton, GA 30117

Of Counsel:

Slover & Loftus
1224 Seventeenth St., N.W.
Washington, D.C. 20036
(202) 347-7170

By: Kelvin J. Dowd
Andrew B. Kolesar III
Kendra A. Ericson
1224 Seventeenth Street, N.W.
Washington, D.C. 20036

Dated: April 25, 2005

Attorneys and Practitioners

**ENVIRONMENTAL REPORT ON THE
PROPOSED EXEMPT ABANDONMENT BY
ATLANTIC & WESTERN RAILWAY, L.P.
OF ITS RAIL LINE
LOCATED IN LEE COUNTY, NORTH CAROLINA**

This environmental report has been prepared by Atlantic & Western Railway, L.P. (“ATW”), in compliance with the Board’s regulations set forth at 49 C.F.R. § 1105.7. The sections of this report are numbered in the same sequence as the information requests set forth at 49 C.F.R. § 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.

Pursuant to a Notice of Exemption to be filed under 49 C.F.R. § 1152.50, ATW proposes to abandon approximately 0.74 miles of its rail line between Milepost 3.76 (V.S. 198+37) and Milepost 4.50 (V.S. 237+47) (the “Line”) in Jonesboro, Lee County, North Carolina. The Line to be abandoned constitutes the easternmost portion of ATW’s approximately 10-mile line between Cumnock and Jonesboro, North Carolina. No service has been provided over the Line since 1999, and as a result, the proposed abandonment of the Line qualifies for the Board’s out-of-service class exemption.

Most recently, the Line was used to transport lumber and alcohol for two shippers. One of the shippers, Redman Homes, moved inbound lumber to its facility on the Line, but that traffic terminated as of 1997 and Redman Homes closed its facility. The other shipper, Coty, is a manufacturer of perfume which shipped alcohol over the Line, but terminated service in 1999 and since has paved over the sidetrack at its facility.

While the Line being abandoned does not contain any connections, the balance of the ATW system includes connections with CSXT at Sanford and with Norfolk Southern at Cumnock, NC. The Line to be abandoned is located east of Sanford.

There are no structures on the subject line for which ATW needs to make disposition plans. As for the rail, plates, and other track materials which will be released by the abandonment, ATW intends to sell the track to the North Carolina Department of Transportation, along with the underlying real estate. The proposed abandonment will have no impact on ATW's operations as traffic over the Line ceased more than two (2) years ago.

Abandonment of the Line will allow ATW to avoid the costs associated with maintenance of 0.74 miles of unused track. A map depicting the location of the Line is appended hereto as Attachment A.

- (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.

The proposed abandonment will not affect the existing regional or local freight transportation systems or patterns. Traffic over the Line ceased more than two (2) years ago.

- (3) Land use.

- (i) Based on consultation with local and/or regional planning agencies and/or 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.

Upon information and belief, the proposed abandonment is consistent with existing land use plans. To that end, the North Carolina Department of Transportation

plans to acquire an easement or purchase the property to permit the construction of a highway upon consummation of the abandonment.

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

ATW anticipates no effect on any prime agricultural land as a result of the abandonment.

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

The Line is not located within a designated coastal zone; therefore, the proposed abandonment will have no impact.

- (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.

In light of the fact that the North Carolina Department of Transportation intends to utilize the right-of-way for the construction of a highway, ATW submits that the right-of-way is suitable for public purposes under 49 U.S.C. § 10905. The highway to be constructed over this right-of-way will benefit the public by providing a bypass around Sanford, thereby reducing traffic within Sanford.

(4) Energy.

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

The proposed action will have no effect on the transportation of energy resources.

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

The proposed action should have no effect on the movement and/or recovery of recyclable commodities.

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

See Part 4(iv), below.

- (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. To minimize the production of repetitive data, the information on overall energy efficiency in § 1105.7(e)(4)(iii) need not be supplied if the more detailed information in § 1105.7(e)(4)(iv) is required.

As indicated above, no traffic has moved over the Line for more than two (2) years. Consequently, the proposed abandonment will not cause diversions from present rail service to motor carriage in excess of the threshold levels.

(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 per day on any segment of rail line affected 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.

The above thresholds will not be exceeded.

- (ii) If the proposed action affects a Class I or non-attainment 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 per day on any segment of the 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.

The above thresholds will not be exceeded.

- (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.

As service over the Line already has ceased, the transportation of ozone depleting materials is not contemplated.

- (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.

The thresholds identified in item (5)(i) will not be surpassed, so this item is not applicable.

- (7) Safety.

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

There will be no adverse impact on public health and safety.

- (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.

As service over the Line already has ceased, the transportation of hazardous materials is not contemplated.

- (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.

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

(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.

ATW is not aware of any critical habitat that would be destroyed or modified as a result of the abandonment, of any impact or adverse effects on any wildlife, nor of any endangered species that will be adversely affected.

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

The Line does not pass through any parks, forests, or wildlife sanctuaries. Therefore, no adverse effects on any wildlife sanctuary, national park, or state park are anticipated.

(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.

No water quality impacts are expected with the proposed action as the Line does not traverse any major waterways. Upon information and belief, the abandonment therefore is consistent with Federal, State, and/or local water quality standards.

- (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.

No discernible effect on either wetlands or 100-year flood plains are expected in connection with the proposed abandonment. Further, the proposed abandonment does not implicate discharges of dredged or fill materials into the navigable waters of specified disposal sites under 33 U.S.C. § 1344. Consequently, a Section 404 permit will not be required.

- (iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required.)

The proposed abandonment does not implicate the discharge of any pollutant, or combination of pollutants, into navigable waters under 33 U.S.C. § 1342. Consequently, a Section 402 permit will not be required.

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

Insofar as there will be no adverse environmental impacts as a result of the proposed abandonment, no mitigation is necessary or appropriate.

Attachment A



In the Matter of:	)	
	)	
ATLANTIC & WESTERN RAILWAY,	)	
L.P. – ABANDONMENT EXEMPTION	)	Docket No. AB-646X
– RAIL LINE IN LEE COUNTY,	)	
NORTH CAROLINA	)	

ATLANTIC & WESTERN
RAILWAY, L.P.
100 Professional Park, Suite 302
Carrollton, GA 30117

Of Counsel:

Slover & Loftus
1224 Seventeenth St., N.W.
Washington, D.C. 20036
(202) 347-7170

Dated: April 25, 2005

By: Kelvin J. Dowd
Andrew B. Kolesar III
Kendra A. Ericson
1224 Seventeenth Street, N.W.
Washington, D.C. 20036

Attorneys and Practitioners

**HISTORIC REPORT FOR THE
PROPOSED EXEMPT ABANDONMENT BY
ATLANTIC & WESTERN RAILWAY, L.P.
OF ITS RAIL LINE
LOCATED IN LEE COUNTY, NORTH CAROLINA**

Pursuant to a Notice of Exemption to be filed under 49 C.F.R. § 1152.50, Atlantic & Western Railway, LP (“ATW”) proposes to abandon approximately 0.74 miles of its rail line between milepost 3.76 (V.S. 198+37) and milepost 4.50 (V.S. 237+47) (the “Line”), in Jonesboro, Lee County, North Carolina. The sections of this historic report are numbered in the same sequence as the information requests set forth at 49 C.F.R. § 1105.8.

I.

Contents Required by 49 U.S.C. § 1105.8(d)

- (1) Map. A U.S.G.S. topographical map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action.

A scaled map of the subject line is appended hereto as Attachment A.

- (2) Description of the Right-of-Way. A written description of the right-of-way (including approximate widths, to the extent known), and the topography and urban and/or rural characteristics of the surrounding area.

The Line is a single track line between milepost 3.76 (V.S. 198+37) and milepost 4.50 (V.S. 237+47), at Jonesboro in Lee County, North Carolina. The underlying right-of-way is approximately fifty feet wide and falls within the limits of Lee County, North Carolina. From the point of beginning at the main line point of switch, the Line runs east. The total length of the track and right-of-way is 0.74 miles.

The Line traverses agricultural, residential and light commercial land and passes over no major waterways.

- (3) Photographs of Structures. Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years old or older and of the immediate surrounding area.

There are no structures on the property other than five grade crossings.

- (4) Date(s) of Construction. The date(s) of construction of the structure(s), and the date(s) and extent of any major alterations, to the extent such information is known.

There are no structures other than the five grade crossings..

- (5) History of Operations. A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action.

The Line was built in 1903 by the ATW, whose management sought to build a line from Newton to Goldsboro, North Carolina. Over the years, ATW struggled to obtain shippers in the sparsely populated agriculture and lumbering region. In addition to lumber and agricultural products, ATW carried gravel, passengers, feeds, petroleum, fertilizer and alcohol.

Most recently, the Line was used to transport lumber and alcohol for two shippers. One of the shippers, Redman Homes, moved inbound lumber to its facility on the Line, but that traffic terminated as of 1997 and Redman Homes closed its facility. The other shipper, Coty, is a manufacturer of perfume which shipped alcohol over the Line, but terminated service in 1999 and since has paved over the sidetrack at its facility. No traffic has moved over the Line since that time.

ATW anticipates that following abandonment on the Line, the North Carolina Department of Transportation will construct a highway on the underlying right-of-way.

- (6) Documents in Possession of Carrier. A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic.

ATW has in its possession Valuation Maps that document the line, and will retain them if and as necessary.

- (7) Historic Structures. An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 C.F.R. 60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Preservation Office, local historical societies or universities).

ATW is of the opinion that no historic structures or structures available for listing as historic structures exist on the Line. To the best of ATW's knowledge, information and belief, the likelihood that there are archeological resources or any other previously unknown historic properties in the project area is very slim. These opinions are based on information in ATW's possession, as well as information gleaned by ATW personnel through the past conduct of rail operations.

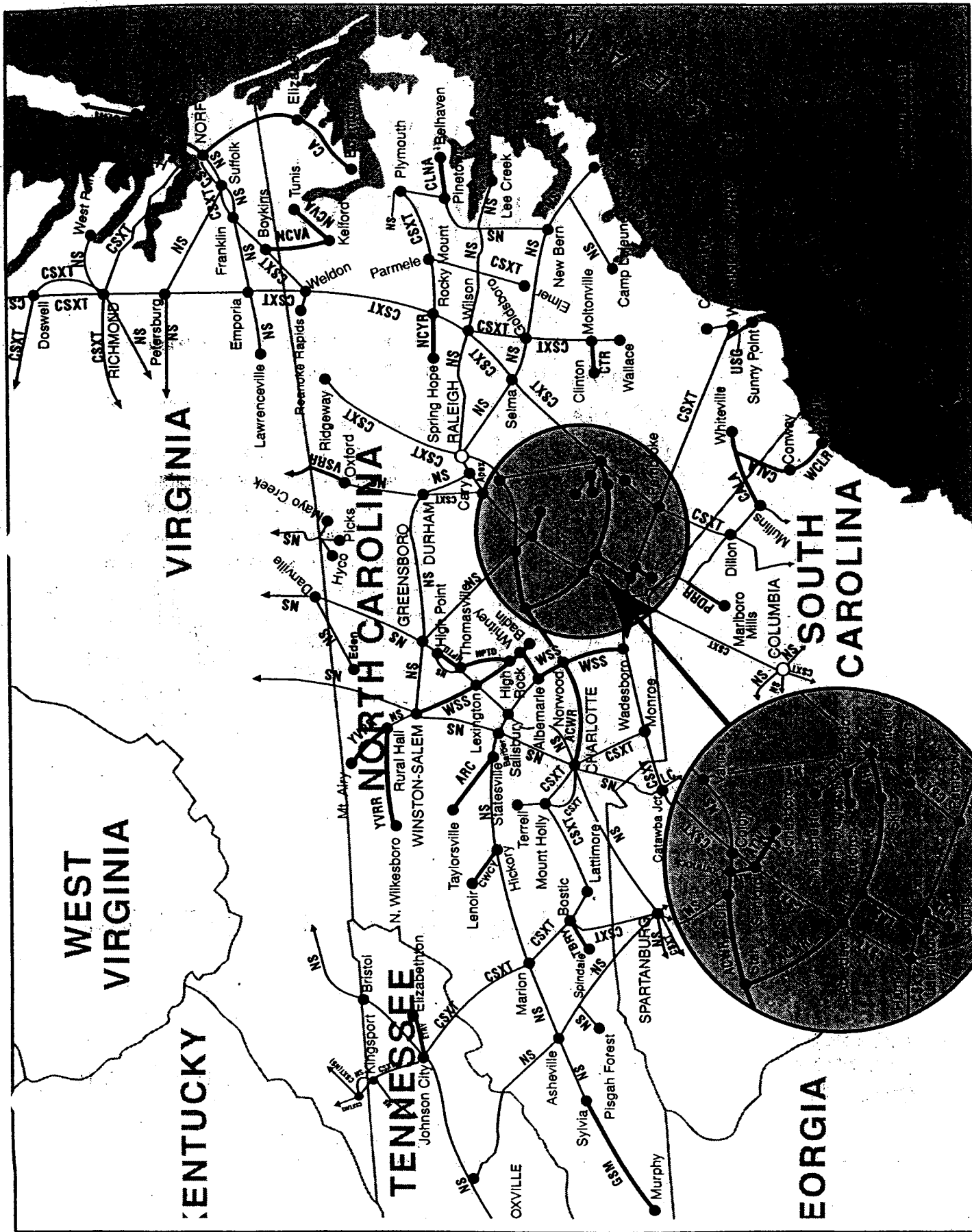
- (8) Conditions Affecting Recovery of Resources. A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.

To the best of ATW's knowledge, information and belief, there are no known prior subsurface ground disturbance or fill, or environmental conditions (naturally occurring or man-made) that might affect archeological recovery of resources. The

surrounding terrain is unimproved forest land, generally suitable for hunting and other compatible recreational uses.

Attachment A

REGION 8



+++ = Line to be Abandoned

Newspaper Notice

Atlantic & Western Railway, L.P. ("ATW") gives notice that on or about April 25, 2005, it intends to file with the Surface Transportation Board, Washington, D.C. 20423-0001, a notice of exemption under 49 CFR 1152 Subpart F – Exempt Abandonments permitting the abandonment of a 0.74 mile line of railroad between Milepost 3.76 (V.S. 198+37) and Milepost 4.50 (V.S. 237+47) in Jonesboro, Lee County, North Carolina. The line traverses United States Postal Service ZIP Code 27330. The proceeding will be docketed as No. AB-646X.

The Board's Section of Environmental Analysis (SEA) 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 Section of Environmental Analysis, Surface Transportation Board, 1925 K Street, N.W., Room 504, Washington, D.C. 20423-0001 or by calling that office at 202-565-1538.

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 Office of the Secretary, 1925 K Street, N.W., Room 711, Washington, D.C. 20423-0001 [See 49 C.F.R. 1104.1(a) and 1104.3(a)], and one copy must be served on applicant's representative [See 49 C.F.R. 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Congressional and Public Services at 202-565-1592. Copies of any comments or requests for conditions should be served on the applicants representative: Andrew B. Kolesar III, Slover & Loftus, 1224 Seventeenth St., N.W., Washington, D.C. 20036, 202-347-7170.



North Carolina
Department of Administration

Michael F. Easley, Governor

Gwynn T. Swinson, Secretary

April 11, 2005

Ms. Andrew Kolesar III
Slover and Loftus
1224 Seventeenth Street, NW
STB Docket NO. AB-646X
Washington DC 20036-3003

Dear Ms. Kolesar III:

Subject: Scoping - Atlantic and Western RR plans to request authority from the Surface Transportation Board (STB) to abandon segment of rail service in Jonesboro, Lee County.

The N. C.-State Clearinghouse has received the above project for intergovernmental review. This project has been assigned State Application Number 05-E-0000-0296. Please use this number with all inquiries or correspondence with this office.

Review of this project should be completed on or before 04/26/2005. Should you have any questions, please call (919)807-2425.

Sincerely,

A handwritten signature in cursive script that reads "Chrys Baggett".

Ms. Chrys Baggett
Environmental Policy Act Coordinator

Mailing Address:
1301 Mail Service Center
Raleigh, NC 27699-1301

Telephone: (919)807-2425
Fax (919)733-9571
State Courier #51-01-00
e-mail: Chrys.Baggett@ncmail.net

Location Address:
116 West Jones Street
Raleigh, North Carolina



North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Michael F. Easley, Governor

Charles S. Jones, Director

William G. Ross Jr., Secretary

April 15, 2005

Mr. Andrew B. Kolesar III
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036-3003

Re: Atlantic & Western Railway, Rail Line Track Abandonment
Located in Lee County, North Carolina

Dear Mr. Kolesar:

The NC Division of Coastal Management (DCM) received your letter of April 5, 2005 regarding the proposed abandonment of rail line track located in Lee County, North Carolina (STB Docket No. AB-646X). You requested that DCM provide any information or comments regarding the abandonment.

The rules of the NC Coastal Area Management Act (CAMA) regulate development in Areas of Environmental Concern (AECs) in the 20 counties bordering the coast of North Carolina. The abandonment of railroad tracks located in Lee County is not within DCM's jurisdiction. Therefore, DCM has no comment on the proposed activity.

If you have any questions, please feel free to contact me at (919) 733-2293 extension 230.

Sincerely,

Steven D. Sollod
Transportation Project Coordinator