

BEFORE THE
SURFACE TRANSPORTATION BOARD
395 E Street, S.W.
WASHINGTON, D.C. 20423



STB Docket No. AB-568 (Sub-No. 2X)

SOUTHEAST SHORTLINES, INC.,
d/b/a THERMAL BELT RAILWAY
DISCONTINUANCE EXEMPTION
IN RUTHERFORD COUNTY, NC

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239758
ENTERED
Office of Proceedings

STB Docket No. AB-567 (Sub No. 2X)

RUTHERFORD RAILROAD DEVELOPMENT CORPORATION
-- ABANDONMENT EXEMPTION --
IN RUTHERFORD COUNTY, NC

DEC 22 2015
Part of
Public Record

PUBLIC USE CONDITION AND TRAIL USE REQUEST

Town of Forest City
John Condrey, Town Manager
c/o Jeff Bandini
Parker Poe Adams & Bernstein LLP
PO Box 389
Raleigh, NC 27602
Tel: 919-828-0564

FILING FEE WAIVER

Public Use Condition and Trail Use Request

December 21, 2015

Cynthia T. Brown, Chief
Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street S.W.
Washington, DC 20423-0001

Re: *Southeast Shortlines, Inc., d/b/a Thermal Belt Railway ("TBRY") and Rutherford Railroad Development Corporation ("RRDC") Abandonment in Rutherford County, STB Docket No. AB-568 (Sub-No. 2X) and STB Docket No. AB-567 (Sub No. 2X)*

Dear Secretary:

This request is filed on behalf of the Town of Forest City, which is a political subdivision, hereinafter referred to as "Proponent."

Proponent requests issuance of a Public Use Condition as well as an Interim Trail Use Condition rather than an outright abandonment authorization between Milepost SB 175.5 near Alexander Mills, North Carolina and Milepost SB 180.47 in Spindale, North Carolina, a distance of approximately 4.97 miles, together with a portion of the Bostic Spur which runs from approximately the northern right of way line of U.S. 74 Business a distance of approximately 2,441.4' westerly to a point at or near Railroad Milepost SF-407.40 and Railway Valuation Station 5343+22, as shown on the map in Exhibit A attached to the Verified Notice of Exemption, and more particularly described in Exhibit A-1 attached to the Verified Notice of Exemption.

Upon the issuance of an order for discontinuance of service by TBRY, the corridor will be released from an existing lease between TBRY and RRDC pursuant to a separate agreement.

A. Request For Public Use Condition

Proponent asks the Surface Transportation Board ("STB") to find that the corridor is suitable for other public use, specifically trail use, and to place the following conditions on the abandonment:

1. An order prohibiting TBRY and RRDC from disposing of the corridor, other than the ties and signal equipment, except for public use on reasonable terms. Justification for this condition is that the corridor would make an excellent recreational trail that will expand a current recreational trail, and conversion of the corridor to trail use is in accordance with local plans. In addition, the corridor provides important wildlife habitat and open space and its preservation as a recreational trail is consistent with those purposes. The time period sought is 180 days from the effective date of the abandonment authorization. Proponent needs this much time to complete a trail plan and negotiate an agreement with RRDC.

2. An order barring removal or destruction of potential trail-related structures such as bridges, trestles, culverts and tunnels. The justification for this condition is that these structures have considerable value for recreational trail purposes. The time period requested is 180 days from the effective date of the abandonment authorization for the same reason as indicated above.

B. Request For Interim Trail Use

The railroad right-of-way in this proceeding is suitable for railbanking. In addition to the public use conditions sought above, proponent also makes the following statement, pursuant to 49 C.F.R. § 1152.29:

STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY

In order to establish interim trail use and railbanking under section 8(d) of the National Trails System Act, 16 U.S.C. § 1247(d), and 49 CFR § 1152.29, Proponent is willing to assume full responsibility for: (1) managing the right-of-way, (2) any legal liability arising out of the transfer or use of the right-of-way (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and (3) the payment of any and all taxes that may be levied or assessed against the right-of-way owned by RRDC and formerly operated by TBRY.

The right-of-way, known as a portion of the Forest City to Gilkey railroad line, extends from railroad milepost SB 175.5 near Alexander Mills, North Carolina to railroad milepost 180.47 near Spindale, North Carolina, a distance of 4.97 miles in Rutherford County, together with a portion of the Bostic Spur which runs from approximately the northern right of way line of U.S. 74 Business a distance of approximately 2,441.4' westerly to a point at or near Railroad Milepost SF-407.40 and Railway Valuation Station 5343+22, as shown on the map in Exhibit A to the Verified Notice of Exemption and more particularly described in Exhibit A-1 attached to the Verified Notice of Exemption. The right-of-way is the line of railroad proposed for abandonment in STB Docket No. AB-568 (Sub-No. 2X) and STB Docket No. AB-567 (Sub No. 2X).

A map depicting the right-of-way is attached hereto as Exhibit A.

Proponent acknowledges that use of the right-of-way is subject to the user continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

A copy of this statement is being served upon TBRY, c/o Don McGrady, President, 5725 Giles Farm Road, Morganton, NC 28655, and RRDC, c/o David A. Lloyd, Esq., 230 Spindale Street, Spindale, NC 28160, by U.S. Mail, postage pre-paid, first class, on the same date it is being served on the STB, this day of December 21, 2015.

Finally, the Proponent, as a governmental entity, respectfully requests a waiver of the STB's filing fees in accordance with 49 C.F.R. § 1002.2(e)(1).

Respectfully submitted,

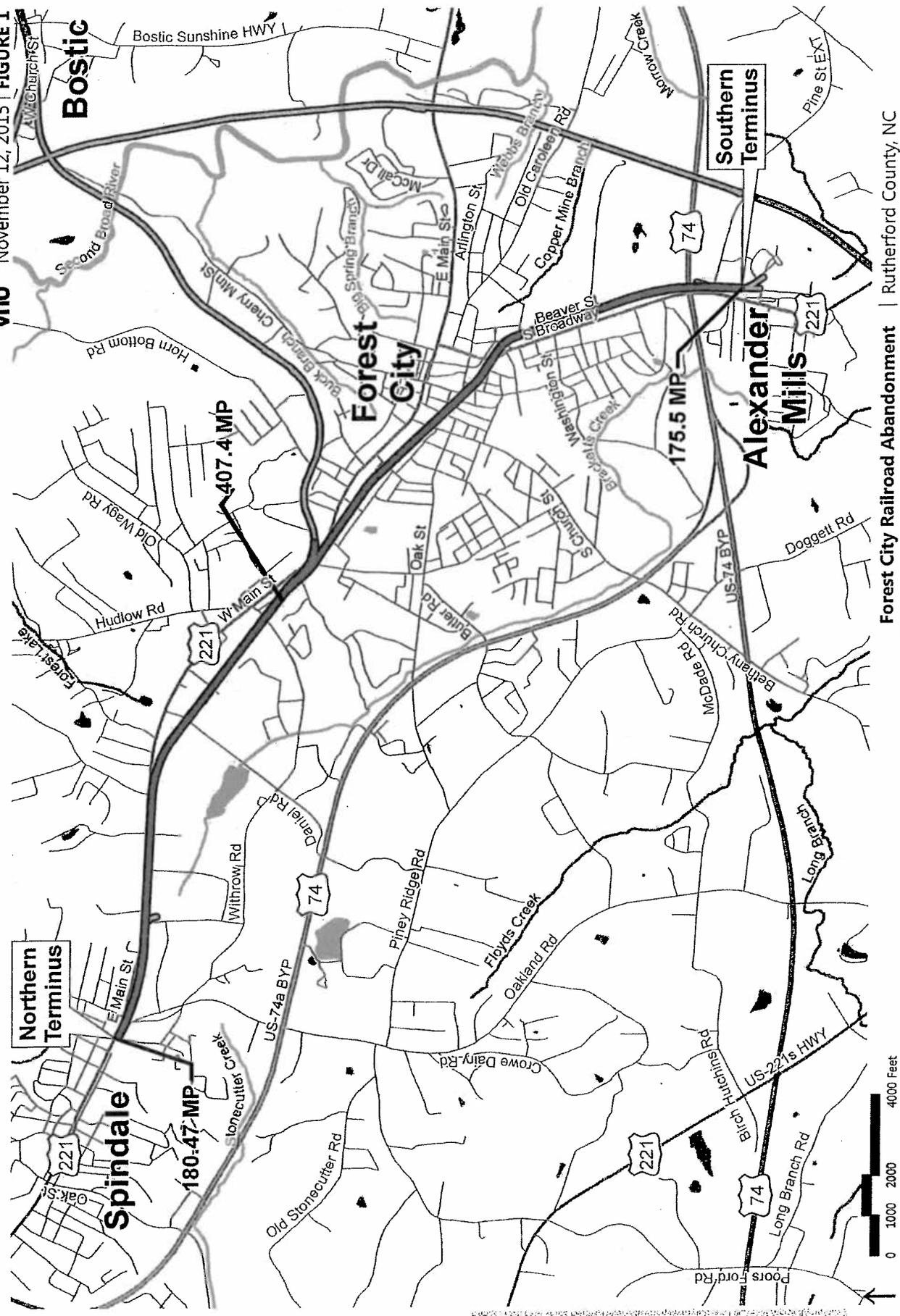
Town of Forest City

By: John Condrey
John Condrey, Town Manager
c/o Elizabeth T. Miller, Esq.
P.O. Box 800
346 North Main Street
Rutherfordton, NC 28139

cc: Jeff Bandini (Parker Poe)
David A. Lloyd, Esq. (RRDC)
Don McGrady (TBRY)

EXHIBIT A

[MAP ATTACHED HERETO]



Forest City Railroad Abandonment | Rutherford County, NC

Study Area Figure

- Subject Rail Line
- Local Road
- Population Center
- Hydrology
- Existing Railroad
- Hydrology Feature

Source Info:
NC Transportation, NCOneMap, NC DWR



EXHIBIT A-1

Railroad Corridor #1 (Alexander Mills to Spindale)

BEING a railroad corridor 100 feet wide, more or less, owned by the Rutherford Railroad Development Corporation (RRDC) in Rutherford County, North Carolina, between Alexander Mills and Spindale, North Carolina, being more particularly described as follows:

BEGINNING at the centerline of a 100 foot wide railroad corridor adjoining the northerly line of that parcel of land conveyed to the Town of Alexander Mills by Norfolk Southern Railway Company in a deed recorded in Deed Book 718, Page 332, Rutherford County Registry, and beginning at Railroad Milepost 175.50 and Railway Centerline Station 9283+95.5; thence running with the centerline of the railroad corridor in a northerly and northwesterly direction for a distance of 25,970.10 feet, more or less, to a point at Railroad Milepost 180.47 and Railway Centerline Station 9543+65.6, more or less, said point being the POINT OF TERMINATION of the railroad corridor herein described, containing 59.619 acres, more or less. For informational purposes, the POINT OF TERMINATION of the afore-described railroad corridor is also the point of beginning of the railroad corridor subject to a prior abandonment by the RRDC and discontinuance of service by the Thermal Belt Railway (TBRY) pursuant to STB Docket No. AB-568 (Sub-No. 1X) and STB Docket No. AB-567 (Sub No. 1X).

Railroad Corridor #2 (Bostic Spur)

BEING a railroad corridor 200 feet in width, more or less, owned by the RRDC in Forest City, Rutherford County, North Carolina, being more particularly described as follows:

BEGINNING at a new iron pin (NIP) located at Railroad Centerline Station 5318+80.6, said NIP having NC Grid NAD'83(2011) coordinates of N: 591,531.297' E:1,141,451.051' and being located S 81°15'38" E 172.58' from NC Grid monument "RU-27" having NC Grid NAD'83(2011) coordinates of N: 591,557.514' E: 1,141,280.505', said NIP also being located N 09°10'35" E 100.00' from a NIP located near the northern edge of pavement of U.S. Hwy #74 Business, thence running with the centerline of the railroad corridor in a westerly direction a distance of 2,441.4 feet, more or less, to a point at Railroad Milepost SF-407.40 and Railway Valuation Station 5343+22, said point being the POINT OF TERMINATION of the railroad corridor herein described at its connection with the railroad corridor described above as Railroad Corridor #1 (Alexander Mills to Spindale), containing 11.21 acres, more or less.

I hereby certify that I have caused the foregoing Public Use Condition and Trail Use Request in regards to STB Docket No. AB-568 (Sub-No. 2X) and STB Docket No. AB-567 (Sub No. 2X) to be served upon all parties of record in this proceeding by electronic mail and regular mail, pursuant to 49 C.F.R. § 1104.12, this the 21st day of December, 2015.



Jeffrey A. Bandini
Parker Poe Adams & Bernstein, LLP
P.O. Box 389
Raleigh, NC 27602
Tel.: (919) 890-4155