



655 Fifteenth Street, NW, Suite 225
Washington, DC 20005

balljanik.com

t 202.638.3307
f 202.783.6947

235352

January 23, 2014

ENTERED
Office of Proceedings
January 24, 2014
Part of
Public Record

Karl Morell
Of Counsel
kmorell@balljanik.com

E-FILED

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

Re: Docket No. AB-1112X, Caldwell Railroad Commission -
Abandonment Exemption - in Caldwell County, NC

Dear Ms. Rutson:

Enclosed for filing in Docket No. AB-1112X are Caldwell Railroad
Commission's ("CRC") Environmental and Historic Reports.

CRC was exempt from the requirements of 49 U.S.C. Subtitle IV in
Finance Docket No. 32659, *Caldwell County Economic Development
Commission - Exemption From 49 U.S.C. Subtitle IV* (not printed),
served August 3, 1995.

Sincerely,

Karl Morell
Of Counsel

Enclosure

ENVIRONMENTAL REPORT

(49 C.F.R. 1105.7)

Docket No. AB-1112X

CALDWELL RAILROAD COMMISSION --ABANDONMENT EXEMPTION-- IN CALDWELL COUNTY, NC

(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.

Caldwell Railroad Commission ("CRC") proposes to abandon the 3.91-mile rail line located between mileposts 108.79 and 112.7, in Lenoir, Caldwell County, North Carolina (the "Line"). Upon receipt of abandonment authority, CRC intends to remove the rail, track material, and crossties. The culverts and ballast will remain in place along the Line.

The Line has had no local traffic for well over two years. The Line is stub-ended and not capable of handling overhead traffic. Because of the lack of traffic on the Line, only very limited maintenance has been performed on the Line for some time. Therefore, the proposed abandonment will have no impact on rail freight operations and maintenance practices on the Line.

The only alternative to abandonment would be to not abandon the Line and forego the opportunity costs from salvaging the Line.

In Finance Docket No. 32659, *Caldwell County Economic Development Commission – Exemption From 49 U.S.C. Subtitle IV* (not printed), served August 3, 1995, Caldwell County

Economic Development Commission (“CCEDC”) received an exemption from the requirements of 49 U.S.C. Subtitle IV pertaining to its ownership of the 22.1-mile rail line located between milepost 90.6, at Hickory, NC, and milepost 112.7 in Lenoir, NC. The exemption was made subject to the conditions that CCEDC: (1) notify the Interstate Commerce Commission (“ICC”), now the Surface Transportation Board (“Board”), in advance of any proposed abandonment or discontinuance of service on the Line; (2) submit any environmental or historic data that may be required to permit the ICC to conduct an environmental review of the abandonment or discontinuance; and (3) comply with any conditions that might be found to be required prior to consummation of the abandonment or discontinuance. In 2008, CCEDC changed its name to Caldwell Railroad Commission.

CRC intends to railbank the Line with Caldwell County Pathways, Incorporated (“Pathways”). Consequently, Pathways will be requesting the Board to issue a notice of interim trail use or abandonment (“NITU”) pursuant to 16 U.S.C. § 1247(d) and 49 C.F. R. § 1152.29.

A map of the proposed abandonment is attached hereto as Exhibit 1.

(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.

No passenger or freight traffic will be diverted to other modes as a result of the proposed abandonment. No local traffic has moved over the Line in well over 2 years and the Line is not capable of handling overhead traffic. Therefore, the proposed abandonment will have no adverse effects on local or regional transportation systems or patterns.

(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. (ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land. (iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by 1105.9. (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.

(i) CRC expects that the proposed abandonment will be consistent with existing land use plans. CRC contacted the City of Lenoir. See Exhibit 2. To date, no response to this request has been received. A copy of this Report is being supplied to the appropriate local and state agencies for their information and comment.

(ii) The proposed abandonment will have no adverse effect on prime agricultural land since the Line is located within the city limits of Lenoir. CRC contacted the Natural Resources Conservation Service about the proposed abandonment. See Exhibit 3. To date, no response to this request has been received. A copy of this Report is being supplied to the USDA Natural Resources Conservation Service for its information and comment.

(iii) The Line does not pass through a designated coastal zone.

(iv) The involved right-of-way does not appear to be suitable for alternative public use other than a recreational trail. CRC intends to railbank the Line with Pathways.

(4) Energy. (i) Describe the effect of the proposed action on transportation of energy resources. (ii) Describe the effect of the proposed action on recyclable commodities. (iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why. (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.

(i) The proposed abandonment will have no effect on the transportation of energy resources.

(ii) The proposed abandonment will have no effect on the transportation of recyclable commodities.

(iii) The proposed abandonment will have no adverse effect on overall energy efficiency since no local traffic has moved over the Line in well over 2 years and the Line is not capable of handling overhead traffic. The traffic that previously moved over the Line has been transferred either to other modes or other routings.

(iv) The proposed abandonment will not cause the diversion of any rail traffic to motor carriage since no local traffic has been handled over the Line in well over 2 years and the Line is not capable of handling overhead traffic.

(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. For a proposal under 49 U.S.C. § 10901 (or § 10505) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in sub-section (5)(i)(A) will apply. (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. However, for a rail construction under 49 U.S.C. § 10901 (or 49 U.S.C. § 10505), or a case involving the reinstatement of service over a previously abandoned line, only the three train a day threshold in this item shall apply. (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.

(i) The proposed abandonment will not result in meeting or exceeding the specified thresholds.

(ii) The proposed abandonment will not result in meeting or exceeding the specified thresholds.

(iii) The proposed abandonment will not affect the transportation of ozone depleting materials.

(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.

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). (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. (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.

(i) The proposed abandonment will have no detrimental effects on public health and safety.

(ii) The proposed abandonment will not affect the transportation of hazardous materials.

(iii) There are no known hazardous material waste sites or sites where known hazardous material spills have occurred on or along the rail corridor 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. (ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

(i) The U.S. Fish and Wildlife Service has no objection to the proposed abandonment.

See Exhibit 4. A copy of this Report is being supplied to the U.S. Fish and Wildlife Service for its information and further comment.

(ii) CRC does not believe that any wildlife sanctuaries or refuges, National or State parks or forests would be adversely affected by the proposed abandonment. CRC notified the National Parks Service of the proposed abandonment and requested assistance in identifying any potential effects on wildlife sanctuaries or refuges, National or State parks or forests. See Exhibit 5. To date, no response to this request has been received. A copy of this Report is being supplied to the National Park Service for its information and comment.

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

(i) The proposed abandonment, in CRC's view, will be consistent with applicable water quality standards. CRC contacted the North Carolina Department of Environment and Natural Resources ("NCENR") and the U.S. Environmental Protection Agency ("US EPA") concerning this matter requesting assistance in determining whether the proposed abandonment is consistent with applicable Federal, State, or local water quality standards. See Exhibit 6. To date, no response has been received from US EPA. According to NCENR: (1) erosion and sedimentation control permitting may be required for the track removal and trail construction activities; (2) post-construction stormwater might be required, related to the final imperviousness of the trail; and (3) no specific water quality concerns are evident. See Exhibit 7. A copy of this Report is being supplied to the US EPA and the NCENR for their information and comment.

(ii) CRC contacted the Department of the Army Corps of Engineers concerning these matters. The Army Corps of Engineers determined that the proposed abandonment may impact jurisdictional waters of the United States and their associated wetlands. Any discharge of excavation or fill material into waters of the United States will require Department of the Army permit authorization. See Exhibit 8. A copy of this Report is being supplied to the Army Corps of Engineers for its information and further comment.

(iii) NCRC believes the proposed abandonment will not require the issuance of any permits under Section 402 of the Clean Water Act. CRC contacted the US EPA concerning this matter and requested assistance in identifying any potential effects on applicable water quality standards and determining whether the proposed abandonment is consistent with applicable Federal, State, or local water quality standards. See Exhibit 6. To date, no response to this

request has been received. A copy of this Report is being supplied to the US EPA for its information and comment.

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

CRC does not expect any adverse environmental impact from the proposed abandonment and, therefore, sees no need for any mitigating actions. CRC will, of course, adhere to any remedial actions suggested by the recipients of this Report and required by the Board.

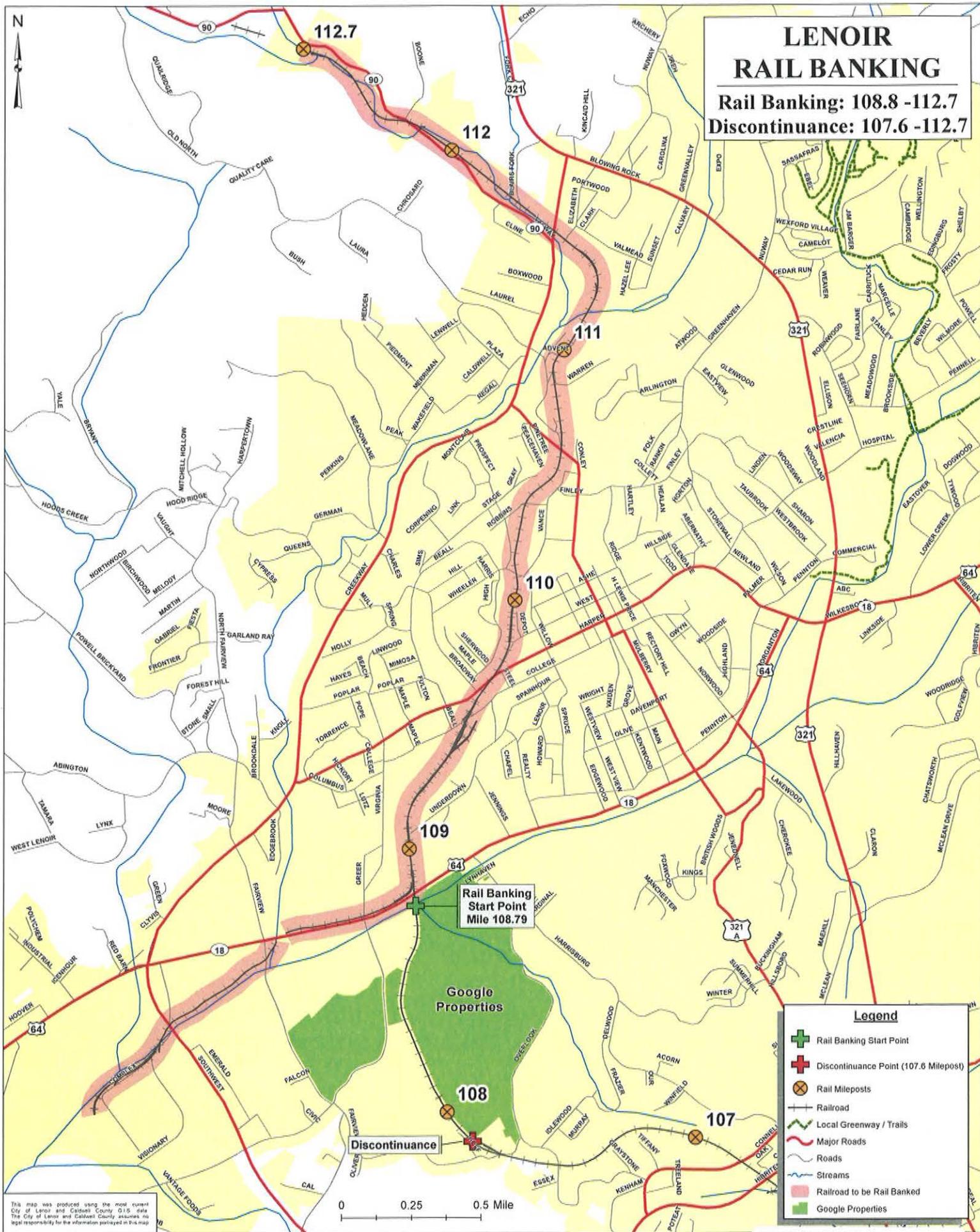


EXHIBIT 1



655 Fifteenth Street, NW, Suite 225
Washington, DC 20005

balljanik.com

t 202.638.3307

f 202.783.6947

EXHIBIT 2

August 20, 2013

Karl Morell
Of Counsel
kmorell@balljanik.com

Mr. W. Lane Bailey
City Manager
City of Lenoir
801 West Avenue
Lenoir, NC 28645

Re: Docket No. AB-1112X, Caldwell Railroad Commission --
Abandonment Exemption -- In Caldwell County, NC

Dear Mr. Bailey:

Caldwell Railroad Commission ("CRC") is planning to make a filing with the Surface Transportation Board ("STB"), on or about September 25, 2013, for CRC to abandon the 3.91-mile rail line located between mileposts 108.79 and 112.7, in Lenoir, Caldwell County, North Carolina (the "Line"). A map of the proposed abandonment is attached.

Pursuant to the STB's environmental regulations at 49 C.F.R. Part 1105, we are advising you of this proposed action so that you may assist us in identifying any potential effects on existing land use plans. We must determine whether the proposed abandonment is inconsistent with existing land use plans.

We would appreciate your review of the proposed abandonment and any comments you may wish to offer. We would also appreciate you providing us with a written response so that we can forward it to the STB.



August 20, 2013
Page 2

Thank you in advance for your prompt assistance. If you have any questions concerning this matter, please contact me.

Attorney for: Caldwell
Railroad Commission

Sincerely,

A handwritten signature in black ink that reads "Karl Morell". The signature is written in a cursive, flowing style.

Karl Morell
Of Counsel

Enclosure



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Washington, DC 20005

balljanik.com

t 202.638.3307
f 202.783.6947

EXHIBIT 3

August 20, 2013

Karl Morell
Of Counsel
kmorell@balljanik.com

Natural Resources Conservation Service
4405 Bland Road, Suite 205
Raleigh, NC 27609

Re: Docket No. AB-1112X, Caldwell Railroad Commission --
Abandonment Exemption -- In Caldwell County, NC

Dear Sir/Madam:

Caldwell Railroad Commission ("CRC") is planning to make a filing with the Surface Transportation Board ("STB"), on or about September 25, 2013, for CRC to abandon the 3.91-mile rail line located between mileposts 108.79 and 112.7, in Lenoir, Caldwell County, North Carolina (the "Line"). A map of the proposed abandonment is attached.

Pursuant to the STB's environmental regulations at 49 C.F.R. Part 1105, we are advising you of this proposed action so that you may assist us in identifying any potential effects on prime agricultural land.

We would appreciate your review of the proposed abandonment and any comments you may wish to offer. We would also appreciate you providing us with a written response so that we can forward it to the STB.



August 20, 2013
Page 2

Thank you in advance for your prompt assistance. If you have any questions concerning this matter, please contact me.

Attorney for: Caldwell
Railroad Commission

Sincerely,

A handwritten signature in black ink that reads "Karl Morell". The signature is written in a cursive style.

Karl Morell
Of Counsel

Enclosure



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Asheville Field Office
160 Zillicoa Street
Asheville, North Carolina 28801

September 27, 2013

Mr. Karl Morell
Ball Janik, LLP
655 Fifteenth Street, Suite 225
Washington, DC 20005

Dear Mr. Morell:

Subject: Docket No. AB-1112X, Caldwell Railroad Commission – 3.91-mile Abandonment in Caldwell County North Carolina

We received your letter dated August 20, 2013 (received September 18, 2013), requesting our comments on the subject project. The following comments are provided in accordance with the provisions of the National Environmental Policy Act (42 U.S.C. §4321 et seq.) and section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1543) (Act).

According to our records and a review of the information you provided, no federally listed endangered or threatened species or their habitats occur in the project area. Therefore, we believe the requirements under section 7 of the Act are fulfilled. However, obligations under section 7 of the Act must be reconsidered if: (1) new information reveals impacts of this identified action that may affect listed species or critical habitat in a manner not previously considered, (2) this action is subsequently modified in a manner that was not considered in this review, or (3) a new species is listed or critical habitat is determined that may be affected by the identified action.

Thank you for allowing us to comment on this project. If you have any questions, please contact Mr. Allen Ratzlaff of our staff at 828/258-3939, Ext. 229. In any future correspondence concerning this project, please reference our Log Number 4-2-13-405.



655 Fifteenth Street, NW, Suite 225
Washington, DC 20005

balljanik.com

t 202.638.3307

f 202.783.6947

EXHIBIT 5

August 20, 2013

Karl Morell
Of Counsel
kmorell@balljanik.com

National Park Service
RTCA Program
100 Alabama Street, SW
Atlanta, GA 30303

Re: Docket No. AB-1112X, Caldwell Railroad Commission --
Abandonment Exemption -- In Caldwell County, NC

Dear Mr. Sir/Madam:

Caldwell Railroad Commission ("CRC") is planning to make a filing with the Surface Transportation Board ("STB"), on or about September 25, 2013, for CRC to abandon the 3.91-mile rail line located between mileposts 108.79 and 112.7, in Lenoir, Caldwell County, North Carolina (the "Line"). A map of the proposed abandonment is attached.

Pursuant to the STB's environmental regulations at 49 C.F.R. Part 1105, we are advising you of this proposed action so that you may assist us in identifying any potential effects on wildlife sanctuaries or refuges, National or State parks or forests.

We would appreciate your review of the proposed abandonment and any comments you may wish to offer. We would also appreciate you providing us with a written response so that we can forward it to the STB.



August 20, 2013
Page 2

Thank you in advance for your prompt assistance. If you have any questions concerning this matter, please contact me.

Attorney for: Caldwell
Railroad Commission

Sincerely,

A handwritten signature in black ink that reads "Karl Morell". The signature is written in a cursive, flowing style.

Karl Morell
Of Counsel

Enclosure



655 Fifteenth Street, NW, Suite 225
Washington, DC 20005

balljanik.com

t 202.638.3307
f 202.783.6947

EXHIBIT 6

August 20, 2013

Karl Morell
Of Counsel
kmorell@balljanik.com

Environmental Protection Agency
Region 4
Federal Center 61
Forsyth Street, SW
Atlanta, GA 30303-3104

Re: Docket No. AB-1112X, Caldwell Railroad Commission --
Abandonment Exemption -- In Caldwell County, NC

Dear Sir/Madam:

Caldwell Railroad Commission ("CRC") is planning to make a filing with the Surface Transportation Board ("STB"), on or about September 25, 2013, for CRC to abandon the 3.91-mile rail line located between mileposts 108.79 and 112.7, in Lenoir, Caldwell County, North Carolina (the "Line"). A map of the proposed abandonment is attached.

Pursuant to the STB's environmental regulations at 49 C.F.R. Part 1105, we are advising you of this proposed action so that you may assist us in identifying any potential effects on applicable water quality standards. We also seek your assistance in determining whether the proposed abandonment is consistent with applicable Federal, State or local water quality standards. CRC does not believe any permits under Section 402 of the Clean Water Act will be required.

We would appreciate your review of the proposed abandonment and any comments you may wish to offer. We would also appreciate you providing us with a written response so that we can forward it to the STB.



August 20, 2013
Page 2

Thank you in advance for your prompt assistance. If you have any questions concerning this matter, please contact me.

Attorney for: Caldwell
Railroad Commission

Sincerely,


Karl Morell
Of Counsel

Enclosure

EXHIBIT 7

Morell, Karl

From: Cranford, Chuck [chuck.cranford@ncdenr.gov]
Sent: Tuesday, September 03, 2013 11:20 AM
To: Morell, Karl
Cc: Matthews, Matt
Subject: RE: Caldwell Railroad Abandonment
Mr. Morell –

I have not received any information from Lenoir.

According to the information you have supplied thus far, I can make the following comments at this stage:

- Erosion and Sedimentation Control permitting might be required for the track removal and trail construction activities, if that will be the case, a NPDES Construction Stormwater permit will also be applicable.
- Post-construction stormwater might be required, related to the final imperviousness of the trail.
- No specific water quality concerns are evident.

Let me know if you need anything else.

Best,
Chuck

Chuck Cranford
Supervisor, Surface Water Protection Section
Division of Water Resources
Asheville Regional Office
2090 U.S. 70 Highway
Swannanoa, NC 28778
Tel: 828-296-4500
Fax: 828-299-7043
chuck.cranford@ncdenr.gov

Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties unless the content is exempt by statute or other regulation.

From: Morell, Karl [mailto:kmorell@balljanik.com]
Sent: Tuesday, August 27, 2013 3:13 PM
To: Cranford, Chuck
Subject: RE: Caldwell Railroad Abandonment

If you simply abandon the rail corridor is treated like any other land so that if you have easements they would revert. If you rail bank the corridor the entire corridor remains intact and can be used for a trail. The conversion to a trail part of the abandonment process. Lenoir is simply going to remove the tracks. The culverts and ballast will remain in place. Some parts of the corridor may get asphalt.



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
WILMINGTON DISTRICT, CORPS OF ENGINEERS
151 PATTON AVENUE
ROOM 208
ASHEVILLE, NORTH CAROLINA 28801-5006

EXHIBIT 8

September 5, 2013

Regulatory Division

Action ID: SAW-2013-01686

Mr. Karl Morell
Ball Janik LLP
655 Fifteenth Street, NW, Suite 225
Washington, DC 20005

Dear Mr. Morell:

Reference is made to the letter you submitted, dated August 20, 2013, regarding Caldwell Railroad Commission's plan to abandon the existing railroad line in Lenoir starting at mile 108.79 and ending at mile 112.7. The project is in Lenoir, Caldwell County, North Carolina. This letter is to clarify Department of the Army permit requirements for the proposed work.

We have reviewed the subject documents and determined that the proposed activity may impact jurisdictional waters of the United States and their associated wetlands, which are subject to our regulatory authority pursuant to Section 404 of the Clean Water Act. The railroad corridor contains or crossing Blairs Fork Creek, Spainhour Creek, and an unnamed tributary to Lower Creek, which are waters of the United States. Any discharge of excavated or fill material into waters of the United States and/or any adjacent wetlands, as well as the resultant flooding of adjacent wetlands, that may be present within the project limits will require Department of the Army (DA) permit authorization. The type of DA authorization required (i.e., nationwide or individual permit) will be determined by the location, type, extent of jurisdictional area impacted by the project, and by the project design and construction limits. The maximum processing time for a nationwide permit application is 45 days from the date of receipt of a complete application.

Due to the limited information provided for the project, we are unable to provide specific comments concerning DA permit requirements until additional data is furnished which details the extent of the potential jurisdictional impacts within the limits of the proposed project. To assist you in this process, we recommend a qualified environmental consultant review the project and conduct a delineation of any jurisdictional waters and/or the wetlands present within the project area. When this information becomes available, it should be forwarded to our office for review and comment, as well as a determination of DA permit eligibility.

Should you have any further questions related to DA permits for this project or would like to schedule a site visit, please contact me at 828-271-7980, extension 226. You may also visit our website at <http://www.saw.usace.army.mil/missions/RegulatoryPermitProgram.aspx> to view the conditions associated with Nationwide Permits as well as notification procedures and applications.

Sincerely,

A handwritten signature in blue ink that reads "Tasha L. McCormick". The signature is written in a cursive style with a large initial 'T' and 'M'.

Tasha L. McCormick
Regulatory Specialist
Asheville Field Office

**HISTORIC REPORT
(49 C.F.R. SECTION 1105.8)**

DOCKET NO. AB-1112X

**CALDWELL RAILROAD COMMISSION
– ABANDONMENT EXEMPTION –
CALDWELL COUNTY, NC**

The Historic Report should contain the information required by Section 1105.7(e)(1) of the Environmental Report prepared for the proposed abandonment:

(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.

Caldwell Railroad Commission ("CRC") proposes to abandon the 3.91-mile rail line located between mileposts 108.79 and 112.7, in Lenoir, Caldwell County, North Carolina (the "Line"). Upon receipt of abandonment authority, CRC intends to remove the rail, track material, and crossties. The culverts and ballast will remain in place along the Line.

The Line has had no local traffic for well over two years. The Line is stub-ended and not capable of handling overhead traffic. Because of the lack of traffic on the Line, only very limited maintenance has been performed on the Line for some time. Therefore, the proposed abandonment will have no impact on rail freight operations and maintenance practices on the Line.

The only alternative to abandonment would be to not abandon the Line and forego the opportunity costs from salvaging the Line.

In Finance Docket No. 32659, *Caldwell County Economic Development Commission – Exemption From 49 U.S.C. Subtitle IV* (not printed), served August 3, 1995, Caldwell County Economic Development Commission (“CCEDC”) received an exemption from the requirements of 49 U.S.C. Subtitle IV pertaining to its ownership of the 22.1-mile rail line located between milepost 90.6, at Hickory, NC, and milepost 112.7 in Lenoir, NC. The exemption was made subject to the conditions that CCEDC: (1) notify the Interstate Commerce Commission (“ICC”), now the Surface Transportation Board (“Board”), in advance of any proposed abandonment or discontinuance of service on the Line; (2) submit any environmental or historic data that may be required to permit the ICC to conduct an environmental review of the abandonment or discontinuance; and (3) comply with any conditions that might be found to be required prior to consummation of the abandonment or discontinuance. In 2008, CCEDC changed its name to Caldwell Railroad Commission.

CRC intends to railbank the Line with Caldwell County Pathways, Incorporated (“Pathways”). Consequently, Pathways will be requesting the Board to issue a notice of interim trail use or abandonment (“NITU”) pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29.

A map of the proposed abandonment is attached hereto as Exhibit 1.

HISTORIC REPORT

1. A U.S.G.S. topographic 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 or older and are part of the proposed action.

A map depicting the Line proposed for abandonment was supplied to the North Carolina Department of Cultural Resources (“SHPO”). See Exhibit 2. There are no railroad owned structures located on or along the Line.

2. 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 3.91-mile line begins at milepost 108.79, adjacent to route 64 and extends in a northerly direction through the City of Lenoir to the end of the line at milepost 112.7, in Caldwell County, North Carolina. The Line traverses a fairly dense populated urban area, with several at grade crossings to the end of the Line.

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

There are no railroad structures on the property that are 50 years old or older.

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

There are no railroad structures on the property.

5. 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.

There has been no traffic on the Line for well over 2 years. In fact, there has been no traffic on the Line since 2007 when the former operator of the Line discontinued service. See STB Docket No. AB-999X, *Caldwell County Railroad Company – Discontinuance of Service Exemption – In Caldwell County, NC* (not printed), served July 9, 2007. Therefore, the proposed abandonment will not result in any operational changes.

6. 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.

CRC does not possess any such documents.

7. 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 Historic Preservation Office, local historical societies or universities).

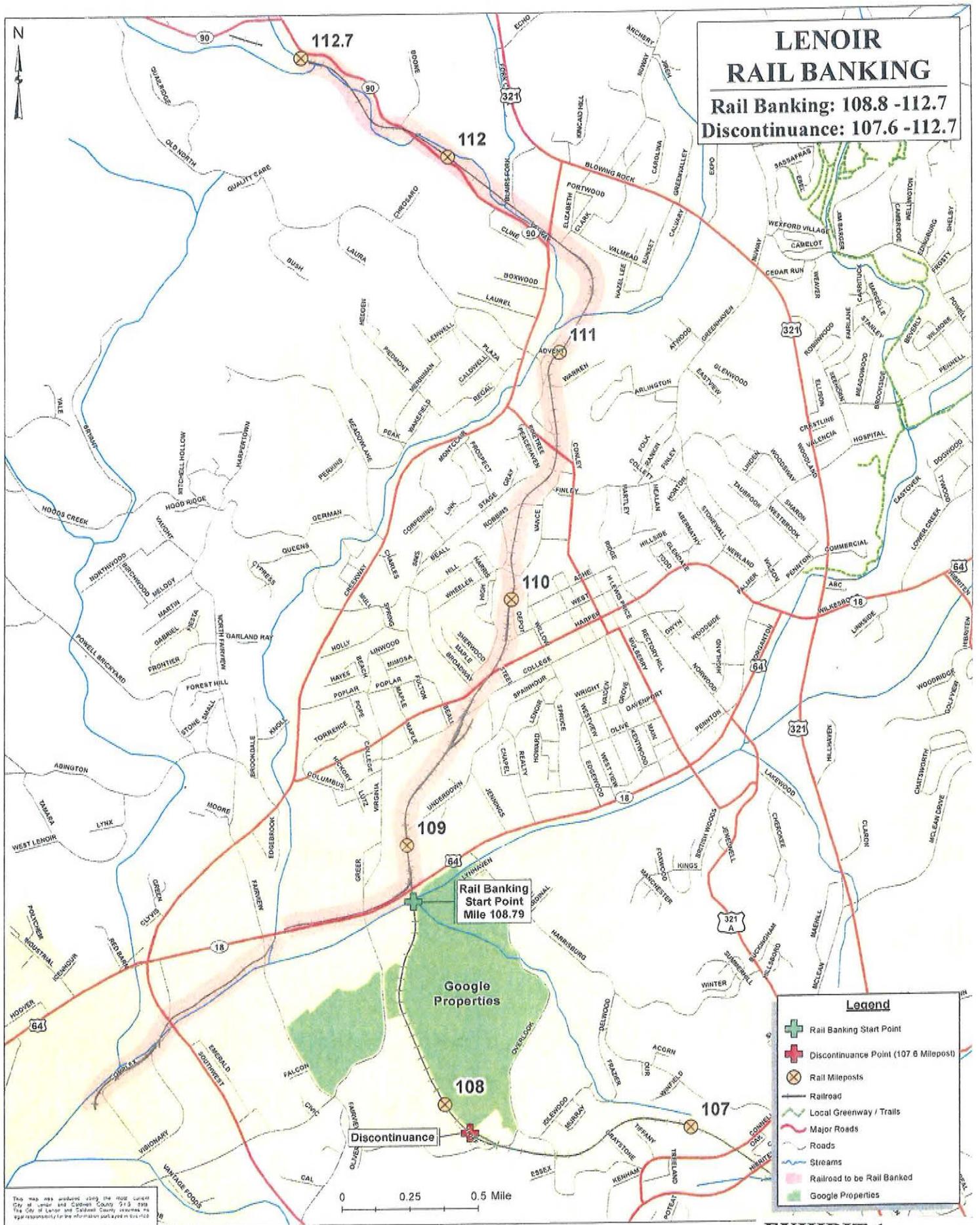
The Line contains no historic structures and CRC is unaware of any archeological resources or railroad historic properties along the Line. *See Exhibit 3.*

8. 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 the archeological recovery of resources (such as swampy conditions or the presence of toxic waste), and the surrounding terrain.

There are no existing records as to any known subsurface ground disturbance or fill, or environmental condition that might affect the archeological recovery of any potential resources.

9. Within 30 days of receipt of the historic report, the State Historic Preservation Officer may request the following additional information regarding specified nonrailroad owned properties or groups of properties immediately adjacent to the railroad right-of-way: photographs of specified properties that can be readily seen from the railroad right-of-way (or other public rights-of-way adjacent to the property) and a written description of any previously discovered archeological sites, identifying the location and type of the site (i.e., prehistoric or native American).

CRC does not foresee the likelihood that any additional information will need to be supplied in association with the proposed line abandonment. However, if any additional information is requested, CRC will promptly supply the necessary information.



LENOIR
RAIL BANKING
 Rail Banking: 108.8 - 112.7
 Discontinuance: 107.6 - 112.7

Rail Banking Start Point
 Mile 108.79

Discontinuance

Legend

- + Rail Banking Start Point
- + Discontinuance Point (107.6 Milepost)
- x Rail Mileposts
- Railroad
- Local Greenway / Trails
- Major Roads
- Roads
- Streams
- Streams to be Rail Banked
- Google Properties

0 0.25 0.5 Mile

This map was produced using the 100% current City of Lenoir and Caldwell County 2013 2014 the City of Lenoir and Caldwell County reserves no legal responsibility for the information published on this map.

EXHIBIT 1



655 Fifteenth Street, NW, Suite 225
Washington, DC 20005
balljanik.com
t 202.638.3307
f 202.783.6947

EXHIBIT 2

August 20, 2013

Karl Morell
Of Counsel
kmorell@balljanik.com

North Carolina Historic Preservation Office
North Carolina Division of Archives and History
4617 Mail Service Center
Raleigh, NC 27699-4617

Re: Docket No. AB-1112X, Caldwell Railroad Commission --
Abandonment Exemption -- In Caldwell County, NC

Dear Sir/Madam:

Caldwell Railroad Commission ("CRC") is planning to make a filing with the Surface Transportation Board ("STB"), on or about September 25, 2013, for CRC to abandon the 3.91-mile rail line located between mileposts 108.79 and 112.7, in Lenoir, Caldwell County, North Carolina (the "Line"). One of the requirements for this filing with the STB is that the owner of the rail line contact the State Historic Preservation Office regarding the proposed abandonment.

Enclosed is a map depicting the area where the rail line is located. The proposed abandonment will involve the removal of the rail, track materials and crossties.

The 3.91-mile rail line CRC seeks to abandon begins at milepost 108.79, at U.S. Highway 64 and extends northward to milepost 112.7, at Highway 90. The line traverses a densely populated urban area.

There are no structures on the Line. We will send you a copy of the Historic Report as soon as it is completed.



August 20, 2013
Page 2

Thank you in advance for your prompt assistance. If you have any questions concerning this matter, please contact me.

Attorney for: Caldwell
Railroad Commission

Sincerely,

A handwritten signature in black ink that reads "Karl Morell". The signature is written in a cursive, flowing style.

Karl Morell
Of Counsel

Enclosure



EXHIBIT 3

**North Carolina Department of Cultural Resources
State Historic Preservation Office**

Ramona M. Bartos, Administrator

Governor Pat McCrory
Secretary Susan Kluttz

Office of Archives and History
Deputy Secretary Kevin Cherry

September 5, 2013

Karl Morell
Ball Janik, LLP
655 Fifteenth Street, NW, Suite 225
Washington, DC 20005

Re: Docket AB-1112X, Caldwell Railroad Commission Abandonment Exemption, Caldwell County,
ER 13-1802

Dear Mr. Morell:

Thank you for your letter of August 20, 2013, concerning the above project.

We have conducted a review of the project and are aware of no historic resources which would be affected by the project. Therefore, we have no comment on the project as proposed.

The above comments are made pursuant to Section 106 of the National Historic Preservation Act and the Advisory Council on Historic Preservation's Regulations for Compliance with Section 106 codified at 36 CFR Part 800.

Thank you for your cooperation and consideration. If you have questions concerning the above comment, contact Renee Gledhill-Earley, environmental review coordinator, at 919-807-6579 or renee.gledhill-earley@ncdcr.gov. In all future communication concerning this project, please cite the above referenced tracking number.

Sincerely,

Renee Gledhill-Earley

for Ramona M. Bartos