

**Appendix A**  
**Environmental Outreach and Consultation**

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**Environmental Outreach and Consultation**

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**Exhibit 1**  
**Request for Preliminary Environmental Consultation**

**Recipient List**

U.S. Army Corps of Engineers, Memphis District  
Mitch Elcan  
167 N. Main Street Room B-202  
Memphis, Tennessee 38103-1894

Tennessee Department of Environment and Conservation  
Division of Water Pollution Control  
Conner Franklin  
1625 Hollywood Drive  
Jackson, Tennessee 38305

United States Fish and Wildlife Service  
Mary Jennings  
446 Neal Street  
Cookeville, Tennessee 38501

Tennessee Wildlife Resources Agency  
Alan Peterson  
200 Lowell Thomas Drive  
Jackson, Tennessee 38301

State Historic Preservation Officer  
E. Patrick McIntyre, Jr.  
Executive Director  
2941 Lebanon Road  
Nashville, Tennessee 37243

Tennessee Department of Transportation  
John Hewitt  
Environmental Permits Manager  
James K. Polk Building, Suite 900  
505 Deaderick Street  
Nashville, Tennessee 37243

United States Environmental Protection Agency, Region 4  
Heinz Mueller  
61 Forsyth Street  
Atlanta, Georgia 30303

Natural Resources Conservation Service  
James Denton  
District Conservationist  
1216-B Stad Avenue  
Union City, Tennessee 38261

Northwest Tennessee Human Resource Agency  
John A. Bucy  
Executive Director  
P.O. Box 963  
124 Weldon Drive  
Martin, Tennessee 38237-0963

Lake County  
Macie Rogerson  
Lake County Mayor  
229 Church Street  
Tiptonville, Tennessee 38079

City of Tiptonville  
Danny Cook  
Mayor  
City Hall  
130 South Court Street  
Tiptonville, Tennessee 38079



***SURFACE TRANSPORTATION BOARD***  
***Washington, DC 20423***

*Office of Environmental Analysis*

July 24, 2014

RE: STB Finance Docket No. 35802, Northwest Tennessee Regional Port Authority—Rail Construction and Operation—in Lake County, Tennessee:  
**Request for Information and Comments on Proposed 5.5 Mile Rail Line to serve the Port of Cates Landing**

The Northwest Tennessee Regional Port Authority (NWTRPA or Port Authority) is interested in constructing a new rail line and has filed a petition before the Surface Transportation Board (Board). The Board is an independent agency within the United States Department of Transportation that has jurisdiction over railroad construction and operations. As part of its licensing process, the Board will conduct an environmental review under the National Environmental Policy Act (NEPA). We are writing to you to ask you for any information you may have on the Port Authority's proposed new rail line and to request your comments so that we may begin our environmental review process.

Pursuant to NEPA and the Board's environmental rules at 49 CFR 1105, the Board's Office of Environmental Analysis (OEA) will prepare an environmental document that evaluates the potential environmental impacts of the proposed rail construction project and the reasonable and feasible alternatives to the proposal. OEA is beginning the process of gathering information on the project area and project-related issues and concerns. Information collected will assist us in preparing the appropriate NEPA document for the proposed project.

Description of the Proposed Rail Project

NWTRPA is a political subdivision that has been established by the counties of Dyer, Lake, and Obion in northwest Tennessee for the purpose of owning, constructing, and operating a regional river port facility in Lake County, Tennessee. On June 27, 2014, NWTRPA filed a petition with the Board, pursuant to 49 U.S.C. 10502, for authority to construct approximately 5.5 miles of new railroad line that would connect an existing rail line near Tiptonville, Tennessee to the site of a newly constructed port facility on the Mississippi River at Cates Landing (see the attached map which shows the location of the proposed rail line as proposed by NWTRPA). If the proposed rail line is constructed, NWTRPA intends to enter into a contract with an existing short line railroad to provide common carrier service to customers located at the port and at an adjacent

industrial park currently under development in conjunction with the port.

The proposed rail line would begin at an intersection with the existing Tennken Railroad near Tiptonville, Tennessee and would extend to the northwest in the direction of the port. Approximately three miles from the connection with the existing railroad, the proposed rail line would bisect the proposed Lake County Industrial Park. Approximately 2.5 miles northwest of the Industrial Park, the line would enter the campus of the Port of Cates Landing and would parallel the port's slack water harbor to the main dock facility. The rail right-of-way would primarily cross open farm land and could cross as many as two public roads.

The proposed rail line would be used to transport shipments of agricultural products, as well as industrial and energy commodities and products. Once the port facility and the adjacent industrial park are fully developed, NWTRPA anticipates that the rail line would also transport raw materials for industrial products, finished manufactured goods, agricultural commodities and products, and special cargoes. NWTRPA predicts that rail traffic on the line would initially consist of fewer than 1,000 carloads annually, but would eventually increase to more than 1,000 carloads annually as the port facility and industrial park becomes fully developed.

#### Agency Consultation

At this time, I request your preliminary comments regarding the proposed rail project. Any information you provide relating to the following issues will assist OEA in determining what environmental issues should be addressed in its environmental review:

- Safety
- Local land use
- Existing transportation systems
- Air emissions and ambient air quality
- Energy use
- Water quality and wetlands
- Ambient noise levels
- Historic sites, archaeological sites, or cultural resources
- Socioeconomics (population, employment, growth, and development)
- Wildlife, vegetation, and fisheries
- Soils and geology

Information on additional issues or concerns that you consider appropriate would also be appreciated. Please respond by September 1, 2014 so that we can incorporate your response into the environmental review process, as appropriate, and schedule any meetings, site visits, surveys, and conduct any necessary follow-up activities. Please submit comments and responses to EnSafe, Inc., OEA's independent third-party contractor in this case, at the following address:

EnSafe, Inc.  
Attn: Brian Yates  
5724 Summer Trees Drive  
Memphis, Tennessee 38134

I appreciate your assistance on this project. If you have any questions, please do not hesitate to contact Josh Wayland of my staff at (202) 245-0330 or Brian Yates of EnSafe at (901) 372-7962. Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria Rutson". The signature is written in a cursive style with a large initial "V".

Victoria Rutson  
Director  
Office of Environmental Analysis

**Exhibit 2**  
**Correspondence with United States Department of Agriculture,  
Natural Resources Conservation Service**



Natural Resources Conservation Service  
675 U.S. Courthouse  
801 Broadway  
Nashville, Tennessee 37203

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August 5, 2014

Victoria Rutson  
Director, Office of Environmental Analysis  
Surface Transportation Board  
395 E Street, S.W.  
Washington, DC 20423

Dear Ms. Rutson:

We received your request for any concerns we might have with a project to build a rail line to serve the Port of Cates Landing in Lake County, Tennessee.

NRCS has responsibility for implementing the Farmland Protection Policy Act (FPPA). The FPPA is intended to minimize the impact that Federal programs have on the conversion of farmland to nonagricultural uses. When locations and all possible alternates have been established for this project, a CPA-106 form should be initiated by the responsible agency and submitted to this office. NRCS will then supply a farmland conversion impact rating. More information about FPPA can be found at <http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/landuse/fppa/>.

In most cases, an FPPA Assessment will not be required for modifications to existing structures, for land that is already in or committed to urban uses (commonly identified as having density of 30 or more structures per 40-acre area), for land within an existing right-of-way purchased on or before August 4, 1984, for corridor projects less than 10 acres in 1 mile where an approved LESA system is in place, for land used for water storage, or for other projects that do not irreversibly convert prime farmland to non-agricultural uses. Land use zoning for non-agricultural use in itself, or current ownership however are not exemptions under FPPA.

Our soil survey information can also be found online at <http://websoilsurvey.nrcs.usda.gov>. This website will provide you with all of our most current soil survey data and interpretations, including prime farmland and hydric soils.

Please feel free to call me at (615) 277-2550, or e-mail me at [doug.slabaugh@tn.usda.gov](mailto:doug.slabaugh@tn.usda.gov), if you have questions about this request, or if you need assistance with accessing our soils information on the web and any other needs that may arise for Tennessee Soil Survey products or information.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Douglas Slabaugh".

J. DOUGLAS SLABAUGH, State Soil Scientist



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Date: July 20, 2015

Josh Wayland  
Office Of Environmental Analysis  
Surface Transportation Board

Mr. Wayland:

As requested, I have reviewed the proposed Port of Cates Landing-Rail Extension and the following is my response on the impact that Hydric Soils and Prime Farmland would have on project, for the three alternatives.

Alternatives A & B are very similar in proximity therefore I will address these two alternatives together and I will use percentages rather than acres due to not being able to copy the exact footprint of the project. Web Soil Survey indicates that approximately 86.7 percent of the site is Prime Farmland. It also has about 54.7 percent of soils that are hydric by component or has hydric inclusions within the map unit. Since the majority of the area (all alternatives) have been cleared and in a croppable condition, the only concern for wetlands would most likely be Farmed Wetlands (FW).

Alternative C is a short distance to the west and the Web Soil Survey indicates that approximately 90.9 percent of the project is Prime Farmland. The soils in this site with hydric concerns is about 35.6 percent. Again, this area is predominately cropland or in a croppable condition and FW is the main concern as far as having wetland issues.

Basically Prime Farmland and the possibility of encountering a wetland are the only two concerns that I see with the proposed project from a Food Security Act or Prime Farmland Policy Act stand point. As always, streams that may be impacted by the project may be regulated by the Corps of Engineers or Tennessee Department of Environment and Conservation.

If you have any additional questions concerning this report, please contact me at (731) 668-0700.

A handwritten signature in black ink, appearing to read "Charles L. Davis".

Charles L. Davis  
Resource Soil Scientist

**Exhibit 3**  
**Correspondence with City of Tiptonville, Tennessee**

Danny Cook  
Mayor



CITY OF TIPTONVILLE

Dewayne Haggard  
Mario Montgomery  
Daisy Parks  
Richard Perkins  
Sarah J. Woods  
Reid Yates

130 South Court Street  
Tiptonville, Tennessee 38079  
731-253-9922

Fran Hearn, City Treasurer

EI-20712

August 11, 2014

Victoria Rutson, Director  
Office of Environmental Analysis  
Surface Transportation Board  
Washington, DC 20423

RE: STB Finance Docket No.: 35802  
Northwest Tennessee Regional Port Authority  
Rail Construction and Operation in Lake County, Tennessee

Dear Ms. Rutson:

I am in receipt of your letter of July 24, 2014, in connection with the referenced matter.

By letter dated June 16, 2014, addressed to Ms. Cynthia T. Brown, Chief of Administration of the Surface Transportation Board, I advised of the full and unconditional support of the Northwest Tennessee Regional Port Authority's Petition for Exemption by the City of Tiptonville and by me, personally. The entire project comprising the development of the Port of Cates Landing, including the construction of the proposed Rail Line, will benefit the City of Tiptonville and all of Northwest Tennessee in a multitude of ways, and we encourage the Surface Transportation Board to approve the pending Petition at the earliest possible date.

In response to the specific issues enumerated in your letter, I advise as follows:

Safety: We foresee no prejudice to the safety of the Citizens and residents of Tiptonville or Lake County as a result of the Rail Line construction or operation of the Port.

Local Land use: Local land use will be maximized, and the public benefited by the construction of the Rail Line and operation of the Port of Cates Landing.

Existing Transportation Systems: Existing transportation systems will be enhanced as a result of the Rail Lines construction and operation of the Port of Cates Landing.

Air Emissions and Ambient Air: We foresee no prejudice to air quality as a result of the development of the Port of Cates Landing and construction and operation of the Rail Line.

Energy use: We foresee no prejudice to existing energy infrastructure as a result to the development of the Port and construction and operation of the Rail Line.

Water Quality and Wetlands: We foresee no prejudice to local water quality or wetlands as a result of the development of the Port and Rail Line.

Ambient Noise Levels: We foresee no objectionable increase to current environmental conditions or noise levels as a result of the development of the Port and Rail Line.

Historic Sites, Archeological Sites, or Cultural Recourses: No historical sites, archeological sites or cultural resources will be prejudiced or impaired as a result of the development of the Port and Rail Line.

Socio-Economics (Population Employment, Growth, and Development): Lake County, Tennessee, is one of the most impoverished counties in the Nation. We foresee huge, positive changes in population, employment, growth and development resulting from the Port and Rail Line.

Wildlife, Vegetation and Fisheries: We foresee no prejudice to wildlife, vegetation or fisheries resulting from the development and operation of the Port and Rail Line.

Soils and Geology: We see no prejudice whatsoever to local soils and geology resulting from the operation of the Port and Rail Line.

I appreciate very much you attentiveness and diligence in researching the foregoing matters to ensure no ill effect arising from the Port and Rail Line. However, this project holds huge, substantive promise for our population and region for generations

Victoria Rutson, Director

August 11, 2014

Page 3

to come. For this reason, I urge you to expedite your due diligence efforts, approve the construction of the Rail Line, and in doing so, allow us to incur the benefits these projects will surely bring.

With thanks for your service to our Nation, I am

Respectfully yours,



Danny Cook, Mayor

cc: Mr. Brian Yates, Ensafe Inc.  
5724 Summer Trees Drive  
Memphis, TN 38134

**Exhibit 4**  
**Correspondence with Tennessee Department of Environment and  
Conservation**



EI-20713

STATE OF TENNESSEE  
DEPARTMENT OF ENVIRONMENT AND CONSERVATION  
DIVISION OF WATER RESOURCES

William R. Snodgrass - Tennessee Tower  
312 Rosa L. Parks Avenue, 11<sup>th</sup> Floor  
Nashville, Tennessee 37243-1102

August 12, 2014

Mr. Brian Yates  
ENSAFE, Inc.  
5724 Summer Trees Drive  
Memphis, Tennessee 38134

RE: Northwest Tennessee Regional Port Authority – Rail Construction  
STB Finance Document No. 35802

Dear Mr. Yates:

Thank you for contacting the Division of Water Resources for a review of the proposed rail construction for the Northwest Tennessee Regional Port Authority (NTRPA) in Lake County. According to the information submitted by the Surface Transportation Board in their July 24, 2014, the NTRPA Regional Port Authority is proposing to construct 5.5 miles of rail line to serve the Port of Cates Landing.

NTRPA will need to ensure that all appropriate permits are in place before construction may begin including, but not limited, to an Aquatic Resource Alteration Permit (ARAP), needed for any alterations to waters of the state, and coverage under Tennessee's General NPDES Permit for Discharges of Storm Water Associated with Construction Activities (CGP) needed for any land disturbance of one acre or more. Also, appropriate erosion prevention and sediment control measures must be installed and maintained throughout the duration of the project. From our information, it does not appear that any public water supply sources are in such close proximity of the project that they would be impacted. It does not appear that the proposed route of the rail line itself will have an impact upon wetlands that would require an ARAP or any endangered species; however, just past the northern end of the rail line where I presume the riverport itself is going to be constructed is the habitat the Interior Least Tern and the area is also considered wetlands. Jimmy Smith is the Manager of the Natural Resources Unit within the Division of Water Resources and will be the contact regarding ARAP permits. He can be reached at jimmy.r.smith@tn.gov or at (615) 532-0648. Roger McCoy, Director of the Division of Natural Areas can be reached at (615) 532-0437 or roger.mccoy@tn.gov regarding endangered species information.

If you have any further questions, I will be glad to try to assist you. You may reach me at (615) 532-0170 or [tom.moss@tn.gov](mailto:tom.moss@tn.gov).

Sincerely,

Thomas A. Moss  
Environmental Review Coordinator

**Exhibit 5**  
**Correspondence with Northwest Tennessee Development District**



EI-20714

**Regional Planning**

P.O. Box 963  
124 Weldon Dr.  
Martin, TN 38237-0963  
731.587.4213  
Fax: 731.587.4587

August 21, 2014

Attn: Brian Yates  
EnSafe, Inc.  
5724 Summer Trees Dr.  
Memphis, Tennessee 38134

**RE: STB Finance Docket No. 35802, Northwest Tennessee Regional Port Authority --- Rail Construction and Operation--- in Lake County, Tennessee: Request for Information on proposed 5.5 Mile Rail Line to serve the Port of Cates Landing**

Dear Mr. Yates:

Thank you for your letter dated July 24<sup>th</sup>, 2014 requesting comments from the Northwest Tennessee Human Resource Agency concerning the proposed 5.5-mile rail line to serve Cates Landing in Lake County, Tennessee. John Bucy, executive director of the Northwest Tennessee Human Resource Agency and the Northwest Tennessee Development District has requested that I respond to your request in writing for both agencies.

We have been involved from the start with grant proposals to assist in funding the Northwest Regional (Deep Water) Port at Cates Landing. We have assisted in obtaining funds from the Delta Regional Authority (DRA), the Tennessee Department of Economic & Community Development (ECD), and the Tennessee Department of Transportation TDOT. Other support we have been able to give to the Port's efforts included writing letters of support to elected officials, attending many Port meetings, and assisting other agencies with their prospective funding opportunities.

I say all of the above to make a point that we are very familiar with the Port and it's request going forward to the Surface Transportation Board (STB) to build a 5.5 mile connector rail line to join up to the Tenn-Kenn Railroad main line. We are very much in support of the efforts to go forward with obtaining the necessary approvals to build this rail line.

The Northwest Tennessee Regional Port at Cates Landing will one day have a large company locate there and with the adjoining Industrial Park, there will definitely be a need to rail to be connected to this site running from the main line of Tenn-Kenn Railroad

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which is 5.5 miles to the east. Much planning and work has already taken place including a new wide highway recently built by TDOT for heavy truck traffic. The deep-water port is now in operation. Now, the need for the rail to be built for the future industries has come front and center.

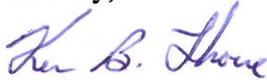
We do not see any negatives to be listed in the forms of:

- Safety
- Local land use
- Existing transportation systems
- Air emissions and ambient air quality
- Energy Use
- Water quality and wetlands
- Ambient noise levels
- Historic sites, archaeological sites, or cultural resources
- Socioeconomics (population, employment, growth, and development)
- Wildlife, vegetation, and fisheries
- Soils and geology

Again, we fully support this request moving forward to assist in building the rail connector line to the Port.

If you have any questions, please feel free to phone me at (731)587-4213 ext. 229

Sincerely,



Ken Thorne  
Director of Planning  
NWTDD

C: Mr. John Bucy, Executive Director NWTDD and Nwthra

**Exhibit 6**  
**Correspondence with Tennessee Wildlife Resources Agency**

**TENNESSEE WILDLIFE RESOURCES AGENCY**

ELLINGTON AGRICULTURAL CENTER  
P. O. BOX 40747  
NASHVILLE, TENNESSEE 37204

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August 28, 2014

Ensafe, Inc.  
Attention: Brian Yates  
5724 Summer Trees Drive  
Memphis, TN 38134

Re: STB Finance Docket No. 35802, Northwest Tennessee Regional Port Authority – Rail Construction and Operation – Lake County, Tennessee:  
Response to Request for Information and Comments on Proposed 5.5 Mile Rail Line to Serve the Port of Cates Landing

Dear Mr. Yates:

The Tennessee Wildlife Resources Agency has received and reviewed the information that was sent to us regarding the 5.5 Mile rail line to serve the Port of Cates Landing project proposed by the Northwest Tennessee Regional Port Authority in Lake County, Tennessee. Our concerns for this proposed rail line project are potential impacts to streams and wetlands. We request that if streams and/or wetlands are delineated within the project footprint that mitigation for these impacts occur in accordance with state and federal rules and regulations. We also request that the design of the rail line allow the migration of aquatic life through in-stream structures and that hydrology be maintained on both sides of the rail line, if wetlands are delineated.

Thank you for the opportunity to comment on these projects. If you have further questions regarding this matter, please contact me at 615-781-6572 or at Rob.Todd@tn.gov.

Sincerely,

A handwritten signature in cursive script that reads "Robert M. Todd".

Robert M. Todd  
Fish and Wildlife Environmentalist

cc: Allen Pyburn, Region I Habitat Biologist  
Alan Peterson, Region I Manager  
Mary Jennings, USFWS  
Kelly Laycock, EPA

**The State of Tennessee**

IS AN EQUAL OPPORTUNITY, EQUAL ACCESS, AFFIRMATIVE ACTION EMPLOYER

**Exhibit 7**  
**Correspondence with United States Department of the Interior,**  
**Fish and Wildlife Service**



# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
446 Neal Street  
Cookeville, TN 38501

August 28, 2014

Mr. Brian Yates  
Ensafe  
5724 Summer Trees Drive  
Memphis, Tennessee 38134

Subject: FWS# 2014-CPA-0659. STB Finance Docket No. 35802. Northwest Tennessee Regional Port Authority – Rail Construction and Operation in Lake County, Tennessee.

Dear Mr. Yates:

The Surface Transportation Board (STB) has requested the U. S. Fish and Wildlife Service (Service) provide comments during the environmental review phase of the subject project. The Northwest Tennessee Regional Port Authority is proposing a new 5.5-mile rail line to serve the Port of Cates Landing on the Mississippi River. The rail line would primarily cross open farmland and possibly cross two public roads. The STB has requested our agency submit comments to your office since Ensafe, Inc., is OEA's independent third-party contractor for this proposal. The following constitute the comments of the U.S. Department of the Interior, provided in accordance with provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), Migratory Bird Treaty Act (16 U.S.C. 703–712), and the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

Information available to the Service does not indicate that wetlands exist within the impact area of the proposed project. However, our wetland determination has been made in the absence of a field inspection and does not constitute a wetland delineation for the purposes of Section 404 of the Clean Water Act. The Corps of Engineers and Tennessee Department of Environment and Conservation should be contacted if other evidence, particularly that obtained during an on-site inspection, indicates the potential presence of wetlands and or streams.

The least tern (*Sterna antillarum*) is known to occur and nest along the Mississippi River near the Port of Cates Landing. However, the least tern tends to occupy sandbar-type areas along the river and we would not expect it to occur in the area where the project is proposed. Our database does not indicate any current federally listed species in the vicinity of the project that would be impacted by the project. Therefore, based on the best information available at this time, we believe that the requirements of the Fish and Wildlife Coordination Act and section 7 of the Endangered Species Act of 1973, as amended, are fulfilled. Obligations under section 7 of the

Act must be reconsidered if (1) new information reveals impacts of the action that may affect listed species or critical habitat in a manner not previously considered, (2) the action is subsequently modified to include activities which were not considered during this consultation, or (3) new species are listed or critical habitat designated that might be affected by the action. Thank you for the opportunity to comment on this proposed action. If you have any questions regarding the information which we have provided, please contact Robbie Sykes of my staff at 931/525-4979.

Sincerely,



for Mary E. Jennings  
Field Supervisor

**Exhibit 8**  
**Correspondence with United States Army Corps of Engineers,**  
**Memphis District**



***SURFACE TRANSPORTATION BOARD***  
***Washington, DC 20423***

*Office of Environmental Analysis*

September 17, 2014

Tim Flinn  
US Army Corps of Engineers  
Memphis District, Regulatory Branch  
167 N. Main Street, Room B-202  
Memphis, TN 38103-1894

**RE: Cooperating Agency Invitation for Environmental Review**  
STB Finance Docket No. 35802—Northwest Tennessee Regional Port  
Authority—Rail Construction and Operation—in Lake County, Tennessee.

Dear Mr. Flinn,

I am writing to invite you to participate as a cooperating agency in an environmental document to be prepared by the Surface Transportation Board (Board) in conjunction with a proposal by the Northwest Tennessee Regional Port Authority (NWTRPA) to construct and operate a new rail line in Lake County, Tennessee.

Pursuant to the National Environmental Policy Act (NEPA) and the Board's rules, the Board's Office of Environmental Analysis (OEA) will prepare an environmental document that evaluates the potential environmental impacts of the proposed rail construction project and the reasonable and feasible alternatives to the proposal. Under NEPA and applicable rules of the Board and the Council on Environmental Quality (CEQ), an Environmental Impact Statement (EIS) will be required if the proposed project would have significant environmental impacts. If the proposed project appears unlikely to have significant environmental impacts, then an Environmental Assessment (EA) may be prepared instead.

Because we believe that NWTRPA's proposal would have the potential to impact resources under your jurisdiction, we are writing to you now, consistent with 40 C.F.R. § 1501.6, to ask you to join us as a cooperating agency in the preparation of an appropriate environmental document for this project.

Description of the Proposed Rail Project

NWTRPA is a political subdivision and noncarrier established by the counties of Dyer, Lake, and Obion in northwest Tennessee for the purpose of owning, constructing, and operating a regional river port facility in Lake County, Tennessee. On June 27, 2014, NWTRPA filed a petition with the Board seeking authority to construct

and operated approximately 5.5 miles of new rail line. The new rail line would provide rail service to the newly constructed Port of Cates Landing on the Mississippi River and would connect to the existing Tennken Railroad near Tiptonville, Tennessee. The enclosed map shows the project area and the location of the proposed rail line.

If the proposed rail line is constructed, NWTRPA intends to enter into a contract with the Tennken Railroad to provide common carrier service to customers located at the Port of Cates Landing and at the adjacent Lake County Industrial Park, which is currently under development in conjunction with the port. As you are aware, the harbor at the Port of Cates Landing was the subject of an EA prepared by your agency between 2000 and 2004, which concluded that the construction of the harbor and the port facility, as mitigated by compensatory wetland restoration and other actions, would not significantly affect the quality of the human environment.

The proposed rail line would begin at an intersection with the existing Tennken Railroad near Tiptonville, Tennessee and would extend to the northwest in the direction of the port. Approximately three miles from the connection with the existing railroad, the proposed rail line would bisect the Lake County Industrial Park. Approximately 2.5 miles northwest of the Industrial Park, the proposed rail line would enter the Port of Cates Landing and would parallel the port's slack water harbor to the main dock facility. The proposed rail right-of-way would primarily cross open farm land and could cross as many as two public roads.

The proposed rail line would be used to transport shipments of agricultural products, as well as industrial and energy commodities and products. Once the port facility and the adjacent industrial park are fully developed, NWTRPA anticipates that the rail line would also transport raw materials for industrial products, finished manufactured goods, agricultural commodities and products, and special cargoes. NWTRPA predicts that rail traffic on the line would initially consist of fewer than 1,000 carloads annually, but would eventually increase to more than 1,000 carloads annually as the port facility and industrial park becomes fully developed.

#### Cooperating Agency Involvement

We expect your agency's involvement to include primarily those issue areas under your agency's jurisdiction and special expertise. No direct writing or analysis should be required of your agency for the document's preparation. The activities we plan to undertake to facilitate interagency cooperation will likely include the following:

1. Invite you to participate in any public or stakeholder meetings;
2. Consult with you on any relevant technical studies that will be required for the project;
3. Provide you with project information, including study results;
4. Request your review of relevant sections of the environmental document prior to its release for comment by the public and other agencies;
5. Encourage your agency to provide input on subjects within your jurisdiction

- and expertise; and
6. Include information in the environmental document required by your agency to discharge its NEPA responsibilities and any other requirements regarding jurisdictional approvals, permits, licenses, and/or clearances.

Please be assured that we will work closely with you to ensure that the environmental document allows you to discharge your jurisdictional responsibilities. And we ask that you feel free to tell us if, at any point in the process, your needs are not being met. We expect that at the end of the environmental review, the environmental document and our public involvement process will satisfy all of our NEPA requirements, including those related to project alternatives, environmental consequences, and mitigation.

If you have any questions or would like to discuss the proposal in more detail or our agencies' respective roles and responsibilities during the preparation of the environmental document, please contact Josh Wayland at 202-245-0330 (e-mail address: **joshua.wayland@stb.dot.gov**), or Bryan Yates of EnSafe, Inc., our independent third party contractor for this project, at (901) 372-7962 (e-mail address: **byates@Ensafecom.com**). Please forward confirmation that you will participate as a cooperating agency to us by November 1, 2014. We look forward to your response and to working with you.

Sincerely,

A handwritten signature in black ink that reads "Victoria Rutson". The signature is written in a cursive style with a large, stylized initial "V".

Victoria Rutson  
Director  
Office of Environmental Analysis



REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
**MEMPHIS DISTRICT CORPS OF ENGINEERS**  
167 NORTH MAIN STREET B-202  
MEMPHIS, TENNESSEE 38103-1894

EI-20717

September 25, 2014

Operations Division  
Regulatory Branch

Ms. Victoria Rutson  
Surface Transportation Board  
Office of Environmental Analysis  
395 E Street SW  
Washington, DC 20423

Dear Ms. Rutson:

This is in response to your letter dated September 17, 2014, concerning our participation as a cooperating agency during preparation of environmental documentation for the construction and operation of a new rail line in Lake County, Tennessee (STB Finance Docket No. 35802). The environmental documentation would be prepared by the Surface Transportation Board with a proposal by the Northwest Tennessee Regional Port Authority.

We appreciate the opportunity to participate as a cooperating agency. We look forward to working with you on this project. I have assigned this effort to Mitch Elcan of my staff. He can be reached at (901) 544-0737 or by email at [james.m.elcan@usace.army.mil](mailto:james.m.elcan@usace.army.mil). For future reference, this project has been assigned File No. MVM-2014-395.

Sincerely,

Tim H. Flinn, P.E.  
Chief, Eastern Section  
Regulatory Branch



REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
MEMPHIS DISTRICT CORPS OF ENGINEERS  
167 NORTH MAIN STREET B-202  
MEMPHIS, TENNESSEE 38103-1894

EI-21012

January 12, 2015

Operations Division  
Regulatory Branch

Mr. Joshua Wayland  
Surface Transportation Board  
Office of Environmental Analysis  
395 E Street SW  
Washington, DC 20423-0001

Dear Mr. Wayland:

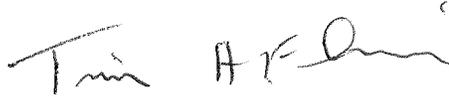
This is in response to your recent request dated December 18, 2014, requesting our agency's review and comment of the Port of Cates Landing – Rail Extension, Description of Proposed Action and Alternatives (DOPPA) prepared as part of the environmental documentation under the National Environmental Policy Act. Based on the information provided, we offer the following comments in regard to the DOPPA:

1. Our office would require verification of the presence of all waters and/or other waters of the United States within the project area prior to submission of a Department of the Army (DA) permit application. It is stated in Sections 2.1 – 2.3 that preliminary investigations indicate wetlands have not been identified within each of the alignments. Please provide our office with sufficient information (photographs, maps, wetland delineation forms, etc.) so that we may verify the wetland/stream survey. Our office will also be glad to accompany you and/or your representative for a site visit to review this delineation.
2. Figure 1-1 (USGS Topographic Map) indicates there are potentially jurisdictional other waters of the United States (OWUS) which would be crossed with each of the alternative rail alignments. These watercourses are shown on the USGS map by either solid or dashed blue lines. These watercourses should also be shown on Figures 2-1, 2-2, and 2-3 if they are determined to be OWUS. Currently, these figures indicate one OWUS is present within the alignment of Alternative A.
3. For DA permits, each crossing of a single water of the United States at a specific location is considered a single and complete linear project. Although it is appropriate to document impacts to biological, water and other natural resources with each alternative as part of environmental documentation, any proposed wetland and stream impacts should be specified at each project location as part of a permit application. This will determine the appropriate type of DA permit for this project.
4. The DOPPA indicates that preliminary investigations have not identified any historic structures or Native American cultural resources with each of the alternative rail alignments.

Documentation substantiating this finding should be provided as part of a permit application.

We appreciate the opportunity to provide comments on the DOPPA. If you have questions, please contact Mitch Elcan at (901) 544-0737 or by email at [james.m.elcan@usace.army.mil](mailto:james.m.elcan@usace.army.mil) and refer to File No. MVM-2014-395.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim H. Flinn". The signature is written in a cursive style with a large, sweeping initial "T".

Tim H. Flinn, P.E.  
Chief, Eastern Section  
Regulatory Branch

**Appendix B**  
**Cultural Resources Consultation and Documentation**

**Appendix B**  
**Cultural Resources Consultation and Documentation**

- Exhibit 1      Cultural Resources Survey for the Proposed Cates Landing Railroad in  
Lake County, Tennessee
  
- Exhibit 2      Correspondence with Tennessee Historical Commission
  
- Exhibit 3      Tribal Consultation

**Exhibit 1**  
**Cultural Resources Survey for the Proposed Cates Landing Railroad**  
**in Lake County, Tennessee**

**CULTURAL RESOURCES SURVEY FOR THE PROPOSED CATES LANDING  
RAILROAD IN LAKE COUNTY, TENNESSEE**

by

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for

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Lead Federal Agency

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

May 2015

## **MANAGEMENT SUMMARY**

By petition filed with the Surface Transportation Board (the Board) on June 27, 2014, the Northwest Tennessee Regional Port Authority (NWTRPA) is seeking an exemption under 49 United States Code §10901 for authority to construct and operate a new rail line in Lake County, Tennessee. In the petition, NWTRPA proposed to construct and operate approximately 5.5 miles of new rail line to serve the newly constructed Port of Cates Landing on the Mississippi River near the town of Tiptonville, Tennessee.

The Board is the federal agency responsible for granting authority for the construction, operation, and maintenance of new rail line facilities. The Board's Office of Environmental Analysis (OEA) is responsible for undertaking environmental and historic review of proposed projects on behalf of the Board under the National Environmental Policy Act (NEPA), Section 106 of the National Historic Preservation Act (Section 106), and related laws. OEA is preparing an Environmental Assessment (EA) in accordance with NEPA, the Council on Environmental Quality guidelines, and the Board's environmental rules to identify and analyze the potential environmental impacts associated with NWTRPA's proposed project and all reasonable and foreseeable alternatives, including the No Action Alternative.

NWTRPA is a regional rail authority and political subdivision of the State of Tennessee established by the three counties of Dyer, Lake, and Obion in northwest Tennessee for the purpose of constructing, owning, and operating a regional river port on the Mississippi River. In 2014, NWTRPA completed construction of the Port of Cates Landing near Tiptonville in Lake County (river mile 900) and approved the contracting firm R.J. Corman Railroad Group as the port operator. The port site includes a slack water harbor and a 44-acre site for the port facilities and associated infrastructure. The proposed rail line would service the port, as well as a proposed 345 acre industrial park located south of and adjacent to the port.

The proposed rail line would be approximately 5.5 in length and would have a right-of-way approximately 150 in width, for a total project area of approximately 100 acres. The entire project area is on the Tiptonville 1:24,000 topographic sheet (Index No. 419 NW).

The Cultural Resources Phase I reconnaissance survey was conducted on behalf of the Board in partial compliance with the Board's Section 106 obligations and will inform the EA that OEA is preparing for the proposed rail line construction.

Field surveys were conducted by Gerald and Nancy Smith on August 2-4, 2014 under generally good to excellent field conditions. The entire area except for roads was under cultivation with clear soil visibility under standing crops. No archaeological sites were found within the proposed railroad corridor.

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## INTRODUCTION

This was a Phase I survey of a proposed railroad corridor done on the Surface Transportation Board (the Board), and its contractor, Ensafe, Inc. of Memphis, Tennessee. The project proponent for the proposed rail line is the Northwest Tennessee Regional Port Authority (NWTRPA), a port authority and political subdivision of the State of Tennessee. NWTRPA has submitted a petition to the Board for authority to construct and operate the proposed rail line, which would provide rail service to the newly constructed Port of Cates Landing and the planned Lake County Industrial Park adjacent to the port. The Board is not involved in the planning, approval, or construction of either the Port of Cates Landing or the Lake County Industrial Park.

The Board is federal agency responsible for granting authority for the construction, operation, and maintenance of new rail line facilities. The Board's Office of Environmental Analysis (OEA) is responsible for undertaking environmental and historic review of proposed projects on behalf of the Board under the National Environmental Policy Act (NEPA), Section 106 of the National Historic Preservation Act (Section 106), and related laws. The Board is the lead federal agency for the historic and environmental review of the proposed rail line. OEA is preparing an Environmental Assessment (EA) that will analyze the potential impacts to environmental, cultural, and historic resources should the Board approve NWTRPA's proposal. The U.S. Corps of Engineers is a cooperating agency.

The proposed rail line would extend approximately 5.5 miles from the Port of Cates Landing, through the Lake County Industrial Park, to a connection with the Tennken Railroad, a Class III common carrier short line railroad. The rail corridor would be approximately 150 in width. The total project area is approximately 100 acres. The entire project area is on the Tiptonville 1:24,000 topographic sheet (Index No. 419 NW). Figure 1 shows the location of the project area and of identified archeological sites in the vicinity of the project area.

The field survey was conducted by Gerald and Nancy Smith on August 2-4, 2014, under generally good to excellent field conditions. The survey covered the portion of the proposed rail corridor south of the planned Lake County Industrial Park. Longitudinal pedestrian transects

were conducted at 30 foot intervals along the entire route. No cultural remains were observed.

The Lake County Industrial Park, including the area that the proposed rail line would cross, was the subject of a 2013 survey conducted by Gerald and Nancy Smith. This survey identified one archeological site (40LK212) within the industrial park area, but outside of the proposed rail corridor. Because no archeological sites were identified in the proposed rail corridor in the 2013 survey, no additional survey was conducted in that area for the present project.



## ENVIRONMENT

The project area is in the Lower Mississippi River Alluvial Valley, adjacent to the Mississippi River, with the industrial park and northern railroad corridor areas on a recent natural levee of the river and the central and southern railroad corridor passing through lower lying earlier river channel scars. The climate is moderate, with a growing season averaging about 221 days (Brown 1969:2). Average temperatures range from a high of 92° Fahrenheit in July to 49° in January and lows of 70° in July to 28° in January. Rainfall is fairly evenly distributed throughout the year with an occasional dry periods in August - October. Winter and spring rains tend to come as long periods of drizzle and summer rains generally as thunderstorms.

Geologically, the area is quite young, being comprised of late and post-Pleistocene Mississippi River surfaces and meander belt ridge and channel fill deposits. The areas east and west of the industrial park consist of a mosaic of recent channels and meander belt ridges, and the industrial park itself is on a modern natural levee formation. Reelfoot Lake and much of southern and eastern Lake county are in areas noted by Saucier (1994: 298-299) as being on the downwarped eastern side of the Reelfoot Fault, while the project area is mainly on the uplifted western side.

The Reelfoot area has long been the focus of extensive ecological study, including reconstruction of the probable preclearing forest habitats by Victor Shelford (1963). Shelford's work there (1963: 94 - 103) emphasizes development of a succession of habitats as the area is abandoned by the river and is gradually elevated by flood deposits. Initial Cottonwood-Willow forest is characteristic of sand bars and banklines in and along the active channel. The Mature Cottonwood-Willow Forest is less frequently flooded and includes a wide range of vines and understory plants with swamp rabbits, opossums, and raccoons, commonly present and grey squirrels and deer also present. The Old Cottonwood-Willow Forest begins to develop as soil deposition reaches 28 to 30 feet above mean low water and the previous forest is invaded by boxelder, hackberry, elm, and sweetgum.

Shelford's Sugarberry (a.k.a. hackberry)-Elm-Sweetgum Forest includes a wide range of other tree species along with vines and shrubs. Additional animal species present include bear, cougar, bobcat, and wolf. This forest is followed by the Floodplain Oak-Hickory Forest of about

50% cherrybark and pin oak, 15 to 20% shellbark and bitternut hickory, and otherwise including a wide range of species from previous stages. The Tulip Poplar-Oak Forest is considered probable for all areas 40 to 45 or more feet above low water and not disturbed by the river for several hundred years. It includes tulip poplar, basswood, chinkapin oak, Shumard oak, beech, elm, and hackberry as major arboreal species. Backswamp and lake marginal areas of permanent to extensive seasonal flooding are characterized by the Cypress-Ash Forest of cypress, tupelo gum, and ash. Successive non forest aquatic zones extend into progressively deeper areas of old meander loop lakes such as Reelfoot Lake and others in the area.

Correlation of Shelford's forest type distributions (1963: Fig. 4-2 and 4-3) with soils on the Lake County soil survey (Brown *et al*: 1969) suggests Tulip Poplar - Oak Forest on Reelfoot-Tiptonville-Adler soils with Sugarberry-Elm-Sweetgum and Cypress-Ash Forest on various elements of the Iberia-Sharkey-Bowdre soil association. Had conversion from forest to agriculture not occurred, the industrial park would have been in Tulip Poplar-Oak forest and most of the railroad corridor in a mosaic of wetland habitats. Sweetgum-Elm-Cypress Seasonal Swamp would be expectable in Iberia and Bowdre soil areas and Cypress Swamp areas of Sharkey clay. However, the area has been cleared and converted to cropland. The majority of the industrial park and railroad corridor is located within row crops comprised of soybeans and corn.

## **CULTURE/HISTORICAL BACKGROUND**

### ***Prehistory***

The Mississippi River drainage of western Tennessee and Kentucky has been occupied by humans for at least the past 10,000 to 12,000 years. It is covered in general regional treatments as provided by McNutt (1996); Morse and Morse (1983); Phillips (1970); and Phillips, Ford, and Griffin (1951). More localized information is provided in Mainfort (1996), Smith (1979, 1990, 1993, and 1996), Smith and Evans (1987), and Smith and Smith (2013). The summary provided here is intended as a general framework for the study area discussion.

The cultural remains of the earliest inhabitants consist primarily of large fluted points and an associated complex of scrapers, flake knives, multipurpose flake tools, and unfluted points otherwise similar to the fluted forms. Most of the known specimens are from east of the loess sheet, but some are also known from the vicinity of the Mississippi River bluffs where they have apparently been exposed by deep erosion cutting into the loess deposits in which they were included. Specimens from this period are rare, and very few sites are known. The population was apparently small and consisted of small groups living by hunting large animals and gathering plant foods. Climatic conditions were much cooler than the present and may well have been more similar to those currently characteristic of the Great Lakes than to local modern conditions.

By approximately 8000 BC the archaeological record indicates increasing importance of plant foods by the appearance of grinding tools meant mainly for grinding seeds and nuts from species present in the environment. The large, slow game animals of the late Pleistocene were gone and deer was the main large animal available. Hunting weapons emphasized the use of spear thrower darts tipped with stemmed, notched, or barbed points. The population during this cultural period, the Early Archaic, appears to have increased and archaeological sites are now present on the oldest exposed surfaces of the Alluvial Valley itself.

The Middle Archaic period of about 5000 to 3500 BC is poorly known in the area. Basally notched Eva points are present in the Tennessee River valley during this period, and a variety of side notched types are present to the north in the Midwest. Some of the Midwestern types are

occasionally found in western Tennessee, but many are also similar to Early Archaic types, thus rendering clear definition of Middle Archaic occupations in western Tennessee difficult. Ground stone axes and spear thrower weights appear regionally during this period and continue in use into late prehistoric times. The climate had become much warmer and drier than the present, with the upland forests likely made up of xeric oak and hickory species of minimal food value and permanent surface water restricted to the largest streams. Middle Archaic occupations are known from the Mississippi alluvial valley and adjacent uplands to the south, and are quite distinct from either the Tennessee River or the Midwestern materials of the period.

By about 3500 BC climatic and environmental conditions had improved to approximate modern conditions in the area. This change and the introduction of new subsistence methods appear to have resulted in continuing population growth. The most important development combined concentration on seasonally concentrated food sources with storage methods allowing effective preservation of food from times of abundance through those of severe shortage. In the western Tennessee area this Late Archaic development resulted in spring and summer occupation of the Tennessee River valley, emphasizing use of fish and mussels along with generalized hunting and gathering, followed by movement to the eastern part of the loess sheet for fall and winter occupation of groves of shagbark and scalybark hickories on stream terraces for storable nuts as well as hunting territory.

Between about 1500 and 1000 BC, a new way of life, and possibly new people, appeared from the south in southwestern Tennessee, southwest of the Hatchie River. This new culture in the area represented the expanding frontier of the Poverty Point culture based in Louisiana and southern Mississippi. By about 500 BC these sites had appeared throughout the Mississippi River drainage of western Tennessee, to the exclusion of Tennessee River based Late Archaic activity. Projectile point styles are distinct from those of the Tennessee River valley, corresponding instead to those of the lower Mississippi River valley. The larger sites in particular are marked by the presence of a wide variety of spherical, biconical, and ellipsoidal baked clay objects used to the south for baking food in cooking pits. The form, frequencies, and decoration of these objects occur in distinctive local clusters, suggestive of local social groups. Use of these objects continued to some extent after the introduction of pottery which marks the beginning of the Early Woodland period.

The Early Woodland cultural period in the area appears to have lasted from about 400 BC to about AD 100. The initial ceramic styles were drawn from the Tchula tradition of northwestern Mississippi, with local variation suggesting continuation of the previous Poverty Point derived local groups. However, by the end of the period, Adena projectile points derived from the Ohio River Valley and sand tempered cordmarked and fabric impressed ceramics derived from the Hatchie-Tombigbee-Yalobusha headwaters area had become common.

During the Middle Woodland period of about AD 100 to 400, western Tennessee was included in the vast trade network shared by the Marksville culture of the lower Mississippi River valley, Hopewell in the Ohio and upper Mississippi valleys, Miller in the Hatchie-Tombigbee-Yalobusha headwaters, and others along the coast of the Gulf of Mexico. The Pinson site near Jackson on the South Fork of Forked Deer River (Mainfort 1986) is the primary center for the western Tennessee area at this time. Baldwin series sand tempered ceramics, primarily with plain and cordmarked surface finishes, are the most common marker for the period. The lack of variability in this ware has so far precluded any effort to use it for defining local groups.

Late Woodland sites of the approximate AD 400 to 1000 period are common in the Mississippi delta portions of westernmost Tennessee and Kentucky, but are rare in the uplands. The few known upland sites of the period are mostly on the main stem and North Fork of Obion River and appear to be small special purpose camps rather than permanent occupations. Ceramics are of clay grog tempered ware and have plain, cordmarked, or occasionally check stamped surfaces. Projectile points are generally small notched or triangular forms apparently meant for use on arrows rather than spear thrower darts.

The Mississippian cultural period of about AD1000 to 1550 is the era of large town and ceremonial centers in the southeastern and midwestern United States. Agriculture, fishing, and hunting provided the food supply for a large and growing population. Large towns, usually fortified, were up to 100 acres or more of dense occupation with a central plaza. Pyramidal earthen platform mounds were the homes of most of the population of the Mississippi River flood plain and bluffs below the Ohio River. Hunting camps and hamlets are scattered up the lower 20 miles or so of the tributary streams, but the incipient Mississippian Obion site (Garland) on the upper North Fork of Obion River is the only known large upland center in the area.

Numerous local area cultural units have been defined throughout the area, including one centered in the Reelfoot Lake area and another in far western Kentucky north of Reelfoot Lake.

Mississippian ceramics include a wide variety of vessel forms, mainly jars, bottles, and bowls and a wide variety of punctuated, painted, decorated, incised, and engraved decoration as well as plainware and effigy vessels of all kinds. Stone items primarily include small triangular and lanceolate arrow points along with chipped and ground stone axes and chisels.

Arrival of the DeSoto expedition in 1541 at once provided a glimpse of Mississippian culture at its peak of powerful chiefdoms, extensive agriculture, and elaborate arts and crafts, and brought its demise through Old World epidemic diseases which killed nearly everyone. Accounts written by survivors of this expedition provide virtually our only non-archaeological information about this culture until the eighteenth century French accounts of the Natchez and their neighbors.

### ***History: Regional Settlement***

After the DeSoto expedition there were no further recorded European activities in the lower Mississippi River valley until the Marquette and Jolliet expedition of 1673, when they descended the Mississippi to the vicinity of the mouth of the Arkansas River. They found no trace of the populous provinces reported by the Spanish until they reached the Quapaw at the mouth of the Arkansas. By this time the Quapaw already had European trade goods, an expectable state of affairs given the flood of trade goods pouring into Cherokee, Creek, Choctaw, and Chickasaw territory by this time as a result of the deerskin trade with Virginia and South Carolina. French activity in the Mississippi valley grew gradually, but resulted in regular travel by the early 1700's with the establishment of New Orleans, Natchez, Arkansas Post, Kaskaskia, and points to the north which relied upon the river system for the transportation of supplies and exports.

British claim to the territory between the Tennessee and Mississippi Rivers was solidified with the capture of French Canada, and was passed to the United States at the end of the Revolutionary War. Actual control of the area, however, rested with whichever adjacent tribal claimant could evict intruders first, with the Chickasaw and Shawnee as primary contenders, and

the Cherokee and Choctaw were also occasionally involved. In 1793, the Chickasaw sold Spain a tract on the Fourth Chickasaw Bluff of the Mississippi River for Fort San Fernando and its associated settlement and trading facilities. This grant was assumed by the United States in 1798, with the existing Fort San Fernando being replaced by a new fort and trading facilities to the south near the present railroad and highway bridges. North Carolina was particularly energetic in providing land grants in the area to Revolutionary War veterans. These grants often overlapped and became the subjects of rampant land speculation and decades of lawsuits rather than being settled by their nominal owners. Non-tribal settlement of these lands was considered illegal until after the Jackson Purchase of the area from the Chickasaws in 1818. Squatter occupation of the area appears to have been rare in most of the area until then.

After the Jackson Purchase the area filled rapidly, with most of the key towns and major routes of travel established by the 1830's. Towns were generally established along the main rivers and were served by keelboats and small steamboats for primary transportation. Roads were both in poor condition and of only seasonal utility. Settlement of the upland areas was mainly by small scale subsistence farmers, with large commercial plantations operated by slave labor found mainly in the river bottom areas. By the 1840's cotton was the cash crop for all, with grains and general food crops raised only to the extent necessary to provide for the draft animals and local human population. Effective rail transportation in most of the area was not established until just before the Civil War, during which most of it was destroyed.

Large troop operations in the area were virtually over by the middle of 1862. After that the main activities were small units of the regular armies, mainly raids and recruiting trips by Confederate cavalry and pursuit by Union occupation troops. Irregular and guerrilla group attacks against both military and civilian facilities were also frequent. While local damage was often severe, the project area was spared the wholesale destruction visited on such areas as northern Virginia or the Chattanooga-Atlanta-Charleston corridor.

After the Civil War the end of the plantation-slavery agricultural system required formation of new working relationships between the large landowners and their now free former slaves in order for all to survive. Tenant farming became the dominant system, in which the tenant provides the labor and the landowner provides the rest of the resources necessary to produce a crop whose proceeds are then shared. Formerly tightly nucleated plantation headquarters

communities became dispersed as tenant farmers were scattered along roads and bayous on the 20 to 60 acre tracts each family was now responsible for farming.

Settlement of lowland areas was severely hampered by repeated flooding, which restricted most occupation either to rarely flooded natural levee ridges, terraces, or the adjacent uplands until stream channelization and effective levee construction during the first half of the twentieth century. Southern timber became a more valued commodity by the 1880's with the exhaustion of the great northern forests, and commercial clearing of previously uncultivated areas began in earnest. Logging railroads and ephemeral/portable sawmills abounded until most of the major stands of timber were cut by the end of the 1930's. The introduction of soybeans, capable of growing well on land too wet for other commercial crops of the area, spurred the clearing of most of the surviving tracts of lowland timber during the mid-1900's. The modern post-tenancy era emphasizes diversified wheat, soybean, rice, and sorghum/milo production which is conducted with heavy farm equipment requiring only a fraction of the previously necessary labor force. By the 1950's most of the rural population was moving in to the nearby towns and cities in search of new employment. Lowland areas once characterized by large plantation operations now only have a few families and most of the once ubiquitous small sawmill/cotton gin towns are now gone.

### ***Local Archaeology and History***

Human occupation of the Reelfoot area is known to have occurred since the Late Pleistocene Pleo Indian hunter-gatherers visited the loess covered uplands overlooking the modern Mississippi River flood plain (Mainfort 1996:80), followed by evidence of Archaic Period activity (Smith 1979 and Mainfort 1996) in the uplands and Early to Middle Woodland occupations in the adjacent upland drainages and a few sites in the flood plain itself. The Woodland materials include Tchula related Early Woodland and sand tempered ceramics apparently related to Middle Woodland materials better known from the Pinson and related sites in western Tennessee and the LaPlant site in southeastern Missouri.

Several large Late Woodland sites have been recorded along and near the base of the bluffs forming the eastern margin of the Reelfoot Basin. These are part of the extensive Late

Woodland tradition of the northern Mississippi delta and the Mississippi River valley northward to the vicinity of St. Louis at the mouth of the Missouri River. Ceramics of the period are primarily grog tempered Mulberry Creek Cordmarked and Baytown Plain with small amounts of Wheeler Check Stamped, Kimmswick Fabric Impressed, Larto Red, Kersey Incised, and Wickliffe Thick. Mill Creek chert hoe flakes, produced by sharpening hoes imported from southern Illinois, are frequent on these sites. Particularly large sites include 40OB98, 40OB128, 40LK6, 15FU18, and 15FU19, all on old natural levees of the Mississippi River. This complex is dated to the approximate AD 700 to 950 time span (Mainfort 1996:84).

The Emergent Mississippian Period of approximately AD 950 to 1050 is represented by a group of sites near Samburg which are characterized by a high frequency of Mulberry Creek Cordmarked, Baytown Plain, Mississippi Plain, and Varney Red Filmed ceramics with Mississippian vessel forms, apparently related to the similar Malden Plain complex of southeastern Missouri and northeastern Arkansas. Sites 40OB1, 40OB6, 40OB122, and 40OB123 are part of this group. Site 40LK10 in the central part of Reelfoot Lake and 40LK5 at the southwestern end of the lake also appear to be related, but distinctive sites of this period. Later Mississippian sites related to the Cairo Lowland sites of southeastern Missouri and similar sites in western Kentucky are present in the area, particularly 40LK1, 40LK2, 40LK3, 40LK33, and the major mound center at 15FU3. There is also a complex of approximate early to mid-seventeenth century date at 40LK4, 15FU119 in particular, characterized by snub nosed end scrapers, Nodena and large triangular projectile points, and jars with closely spaced vertical applique strips on their necks. This complex is also represented at the Campbell site in Pemiscott County, Missouri and others near it. Also present are three fragments of iron and a brass tinkler from 40LK4, which have carbon dates indicating occupation around AD 1650 (Mainfort 1996:94).

Although there was early French activity on the Mississippi River near the study area, there is no evidence of local French occupation. By the mid eighteenth century French travelers were using a small river east of the study area, which they called Bayou du Chein. There was some trading with local Indians along this stream, but little is known about it. The Chickasaws were the main claimants of the area by this time.

In 1775, J. F. D. Smyth, an English traveler on the Mississippi, noted a river he called the

Kiskinopa, which seems to have been Bayou du Chein (Williams 1930:30-31). The first systematic exploration of the area was undertaken in June 1785. This was done by a party consisting of Henry Rutherford, James Robertson, Edward Harris, and two assistants, who explored much of western Tennessee. They found a small Indian settlement near Bayou du Chein, which they called "Reelfoot" after their name for the headman of the community. In remarking on the local terrain they noted that there were no hills and little rolling land between the Mississippi River and the Reelfoot cliffs. Most was essentially first or second bottoms - ideal for agriculture but not for permanent settlement due to flooding.

The Rutherford survey attracted some interest in the study area, but the continued Chickasaw presence was enough to discourage white settlement into the nineteenth century. By this time New Madrid had been established on the west bank of the Mississippi. This community had been established by Colonel George Morgan, a prominent veteran of the American Revolution, on land he purchased from the Spanish (Penwick 1976:16-31). New Madrid became famous as a result of the massive earthquakes of 1811-1812. These earthquakes began in December 1811 and continued into January 1812. The land along the Reelfoot Cliffs sank from one to fifteen feet and up to twenty feet just east of the study area. The Mississippi River is said to have run backwards for 48 hours as it flooded the new great depression now known as Reelfoot Lake (Fuller 1912:9-11, Penwick 1976:43-81).

Andrew Jackson and Isaac Shelby negotiated the Jackson Purchase treaty of 1818, which extinguished the Chickasaw title to West Tennessee and opened the area to white settlement. The area was rapidly settled, with George W. L. Marr, a war of 1812 veteran and friend of Andrew Jackson, as a prominent local settler. He claimed Island No. 10 in the Mississippi in 1823 (Henley 1962:6-7) and the Meriwether family established Silver Top plantation just above the present location of Tiptonville in 1826. In 1856 William Tipton moved from Kentucky and built a house and store on the Mississippi River about a mile and a half below Silver Top plantation on land purchased from James Reeves. Tiptonville then grew up around his store (Goodspeed 1887: 734).

Tiptonville served as the shipping point and mercantile center for the surrounding area, where cotton was the main cash crop. Grain was initially ground with horse-powered mills, but a steam powered mill was established in the area in 1845. By 1860 the study area had developed a

typical slave labor based cotton economy. Although still part of Obion County, the county held separate courts west of Reelfoot Lake due to the difficulties of travel to the rest of the county.

At the beginning of the Civil War, the white residents of the Tiptonville area were nearly unanimous in support of the Confederacy and provided four companies of troops for the Confederate Army. Island No. 10 was regarded as crucial to the defense of the Mississippi valley and was the next point of defense between Memphis and the fortifications at Columbus, Kentucky. There were five batteries of artillery on the island, five batteries on the Tennessee bank, two earthwork forts at New Madrid, a battery of six heavy guns above the New Madrid bend, and a 16-gun floating battery moored at the island. The garrison approximated 7,000 troops. (Henley *et al*: 1962:4)

Early in 1862, Grant's capture of Forts Henry and Donelson opened both the Tennessee and Cumberland Rivers to the Union navy and outflanked the fortifications at Columbus. The guns from there were sent to strengthen the defenses at Island No. 10. On March 3, 1862, the earthwork forts on the Missouri side of the river were overcome from the rear, and only part of the garrisons and artillery could be evacuated to Tiptonville. (Melton 1979:8).

The next Union move, an attack by seven ironclads, was beaten off by the floating battery, so the Union forces under Pope awaited the arrival of their ten mortar rafts. Heavy rains and flooding complicated efforts by both sides and forced abandonment of the Confederate works above the island. Before daylight on April 6, 1862, two ironclads fought past the island to provide artillery cover for a Union crossing of the river from New Madrid. The Confederate Army was then forced to fall back from the island, but was trapped between Reelfoot Lake and the Mississippi River at Tiptonville, and surrendered April 7 (Melton 1979:46; Henley 1962:5-6). This essentially ended the war in the area, except in Tiptonville, as a known center of support for the Confederacy, was shelled by Union gunboats and completely burned out.

No effort was made to rebuild Tiptonville until 1865 when J. C. Harris and W. H. Shelton were instrumental in its restoration. In 1870 the state legislature created Lake County with Tiptonville as its county seat. Cotton remained the economic base of the area and Tiptonville was its main shipping point. A major ferry crossing was established by Robert Nall about a mile above Tiptonville.

In 1880, a fire destroyed much of Tiptonville, and then in 1891 the Mississippi River shifted its course about a quarter mile eastward and destroyed the rest of the original 1865 town area. By 1902, the river had moved another half mile eastward, and by 1905 began shifting back westward to its 1891 course. Another major fire in 1905 destroyed most of the town as it existed at that time. Arrival of the railroad in 1907 provided rail transport to Dyersburg, which was extended to Hickman, Kentucky by 1910. In 1885 the Keystone Lumber Company built a railroad from Reelfoot Lake to the river and began cutting large quantities of cypress, oak, and walnut. Their operations also included the removal of large quantities of sunken timber from Reelfoot Lake itself.

Even as late as the 1880's, most settlement in Lake County was restricted to the high ground from Tiptonville northward to the Mississippi River at Cates Landing. Goodspeed (1887:854) notes that the only approximation of a village in the county was the community of Cronanville. It then consisted of a store, cotton gin, and gristmill owned by James Cronan along with a few houses. Cronan had built a blacksmith shop and saloon there after the Civil War and continued operations there. The area seems to have been a center of activities in the area well before the Civil War; Emmet Lewis (personal communication) notes that the first burial in the Cronanville cemetery took place in 1838 and a Cumberland Presbyterian church was built near the northwest corner of the cemetery in 1852 or 1853. The 1890 Mississippi River Commission map of the area shows several structures in the area, some of which seem to have survived to appear on the 1965 aerial photographs used as the base for the Lake County soil map of 1969 (Brown *et al*: 1969).

Historic period sites noted in the area include late nineteenth century through twentieth century tenant occupation sites in Fulton County, Kentucky, and Lake County, Tennessee, recorded by Gerald Smith (1993), and sites near Grays Camp in Lake County, Tennessee, recorded by Guy Weaver (2008). The late nineteenth century through mid-twentieth century rural center of Cronanville was recorded by Gerald Smith (1993) and revisited by Smith and Smith (2013) in connection with the survey done for the Lake County Intermodal Industrial Park. The earliest local sites include the mid nineteenth century cemetery at Cronanville (Smith 1993) and also 40LK121 (Smith and Smith 2013: 11-12) containing mid nineteenth century residential scatter in the eastern edge of the industrial park tract. This area probably represents the western

edge of a site centered to the rim fields outside the present survey areas and too densely covered in standing crops for effective investigation.

The industrial park survey of 2013 covered the industrial park under bare ground conditions and included investigation of a late nineteenth through late twentieth century farmstead noted in 1993 as an active farm headquarters. By 2013 it had been completely demolished and the remains were hauled away, leaving a clean field in its place. The northeastern margin of the tract included scattered mid-20th century debris from a series of structures noted on the 1940's and 1950's topographic maps, but there were no definable concentrations and no indication of pre 1935 occupation. The rest of the area was devoid of evidence of human occupation. Whatever additional settlement activity was associated with Cronanville, it was apparently as scattered farmsteads such as 40LK121 whose apparent occupation span is within the use period of the Cronanville cemetery. Adjacent settlement in the area to the northeast of the industrial park tract is indicated on the late nineteenth century Mississippi River Commission maps as present on Mississippi River natural levee areas.

Materials recovered from 40LK121 range in approximate date from about 1840 to 1875. These include:

|  |   |
|--|---|
| Aqua blown-in-mold rectilinear bottle fragments with beveled corners                                 | 2 |
| Aqua paneled apothecary bottle fragment with lettered panel  | 1 |
| Very dark green bottle glass, 1 applied/turned lip and<br>1 embossed rectilinear mold blown fragment | 2 |
| Very dark amber bottle glass: rectilinear base, blown in snap mold                                   | 1 |
| Plain whiteware  | 4 |
| Blue sponge decorated whiteware  | 1 |
| Blue edge painted/embossed whiteware   | 1 |
| Botanic embossed whiteware   | 1 |
| Salt glazed exterior/reddish brown interior stoneware  | 1 |
| Salt glazed exterior/black interior glazed stoneware   | 1 |
| Dark reddish brown glazed stoneware  | 1 |
| Cast iron fragments, approximately 1/8 inch thick, slightly curved                                   | 2 |

The "very dark" glass semiopaque items fall within the "black glass" category generally used for wine, liquor, and a wide variety other items considered to need protection from sunlight, commonly used from at least the 1500's into the mid 1800's, and still in use for some goods. The applied/turned lip finish is noted by Weaver (1993: 197) as having been in use from the late 1820's into the early 1870's when improved lipping tools came into general use. Blue edge painted/embossed whiteware appeared by the 1780's and continued into the 1850's; the specimen from 40LK121 appears to be relatively late in the sequence. The cast iron fragments could easily have come from simple flared-wall skillet, kettle, or Dutch oven-like cooking vessels.

### ***FIELD METHODS***

The railroad right of way was all under cultivation except for a paved road crossing it at a right angle, with good visibility under the standing crops. A drainage ditch forms the eastern edge of the central third of the right of way, with lateral drainage ditches entering the main ditch from the adjacent fields and the county road. The southern three quarters of the right of way is in swampy Mississippi river channel fill soils, primarily Bowdre silty clay, Iberia silt loam, Iberia silty clay loam, and Sharkey clay. The northern quarter is Adler silt loam on the backslope of a Mississippi River natural levee. There were no sites recorded in the survey area in the state site files and no structures visible on extant aerial photographs or topographic maps.

Field surveys were carried out along the main line route as longitudinal pedestrian transects covering the entire route at 30 foot intervals, proceeding outbound from the local parking spot outbound along one side of the right of way and returning along the other half. The fan shaped area at the connection with the main line was covered at approximate 50 foot intervals in parallel pedestrian transects. Lateral drain banks were examined for evidence of buried cultural horizons, with such exposures present at irregular intervals rarely exceeding 200 feet.

There were no cultural remains found during the survey. Examination of the lateral drains across the right of way into main ditches revealed only sterile channel fill without buried soil horizons. Soil visibility was excellent over most of the area and soil disturbances consisted of plowing fields for farming and excavation of drainage ways to prevent ponding of water in the fields, both activities that tend to expose rather than conceal sites. The right of way over most of

the area passes through channel fill deposits which formed in relict lake/swamp bottoms and thus should not have been suitable for human occupation. This would also be consistent with local flood plain settlement patterns which emphasize settlement on natural levee crests adjacent to rather than within lacustrine habitats.

Ditch profile logs are as follow:

1. South edge of industrial park; Plat Sheet 5
  - 0 - 16 cm PZ 10YR5/3 sandy silt loam
  - 16 - 39 cm 10YR4/3 silt loam
  
2. Lateral ditch about 3400 feet south of industrial park; Plat Sheet 4
  - 0 - 112 cm 10YR4/2 clay
  
3. TN SR 212 south road ditch; Plat Sheet 4
  - 0 - 20 cm road fill
  - 20 - 67 cm 10YR4/2 silty clay
  - 67 - 126 cm 10YR3/2 silty to sandy loam
  
4. Lateral ditch about 1600 feet south of SR212; Plat Sheet 3
  - 0 - 37 cm 10YR3/1 silty clay
  - 37 - 43 cm 10YR4/1 clay
  
5. Lateral ditch about 1400 feet south of location 4; Plat Sheet 3
  - 0 - 41 cm 10YR3/1 clay
  
6. North side of main ditch at corner, upper part of 3 to 4 meter deep ditch with vertical sides; Plat Sheet 2
  - 0 - 90+ cm 10YR4/1 clay
  
7. West side east property line ditch, about 1300 feet S of corner in main ditch; Plat Sheet 2
  - 0 - 115+ cm 10YR4/1 clay
  
8. Edge of current railroad ditch; Plat Sheet 1
  - 0 - 41 cm 10YR3/1 sandy to silty loam

## ***RESULTS AND RECOMMENDATIONS***

No cultural remains were recorded or reported. Therefore, no further investigation of the project area is recommended.

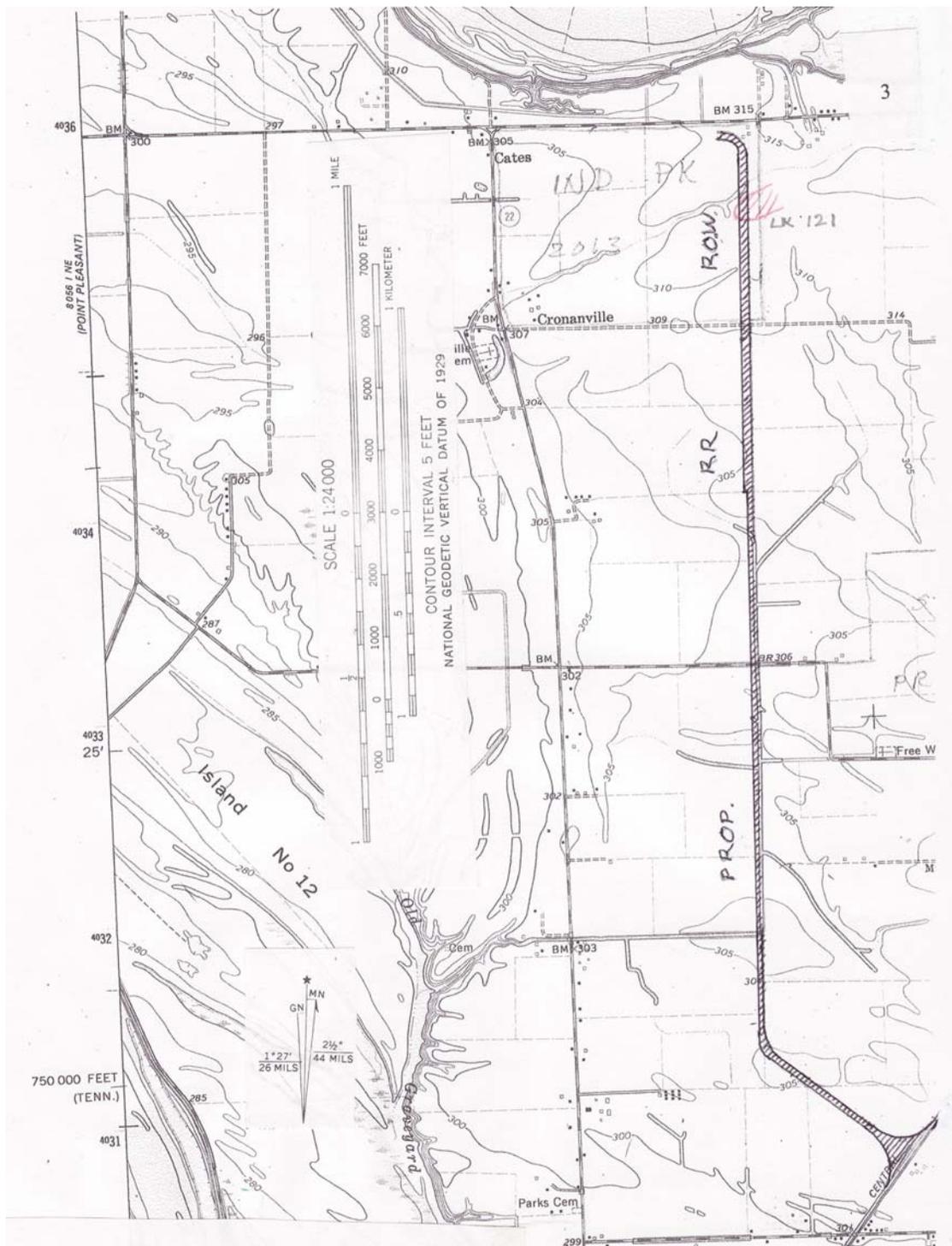


Figure 2. Project area location showing railroad right of way.



**Figure 3. View southward along right of way from southeastern corner of industrial park.**



**Figure 4. View eastward across right of way toward Northwest Correctional Center.**

Right of way is marked by tree line at eastern edge of cornfield and dry grass strip along eastern edge of soybean field.



**Figure 5. View northwest along right of way from main line railroad.**

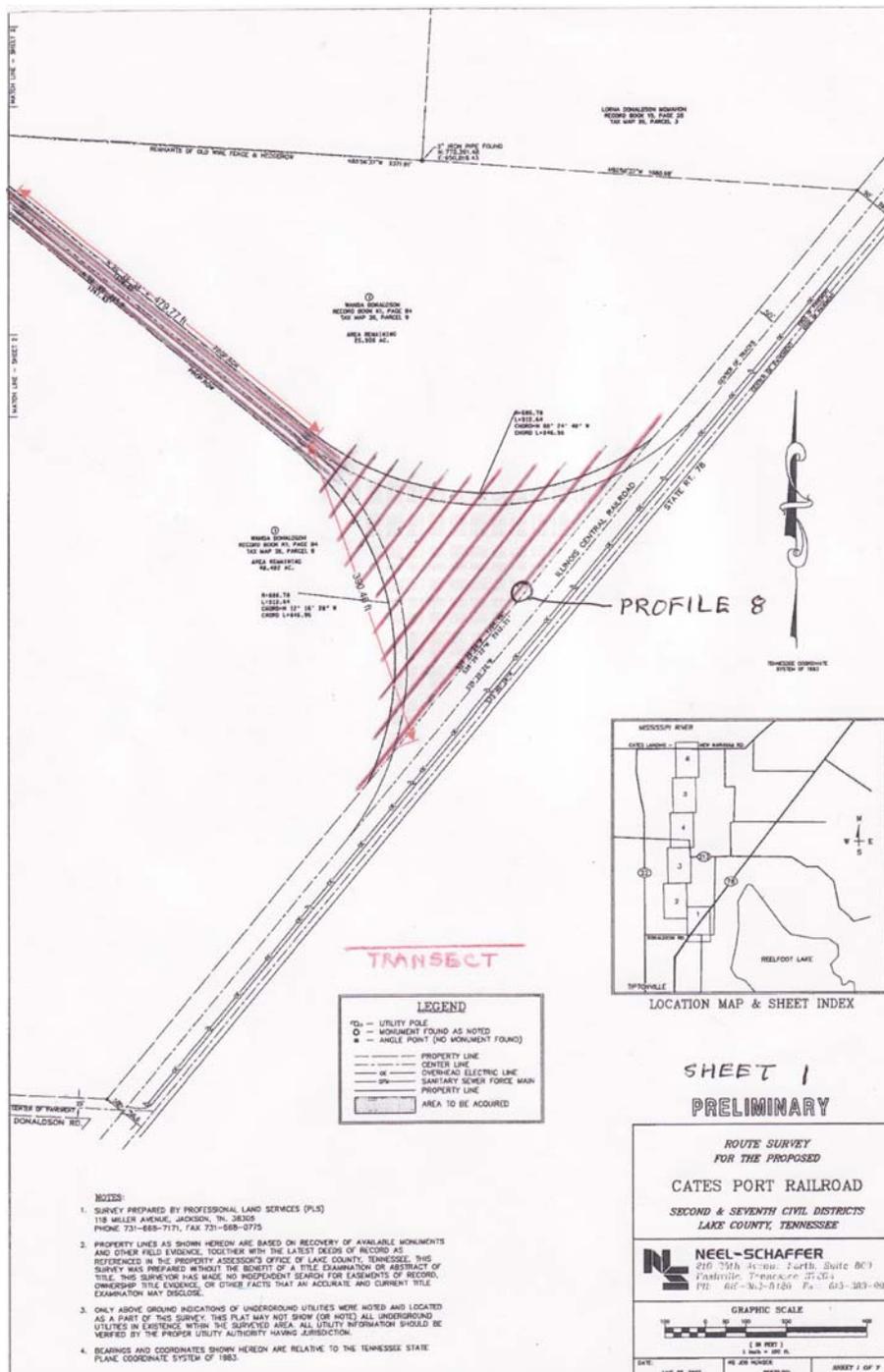


Figure 6. Transect locations, Sheet 1 of 6.

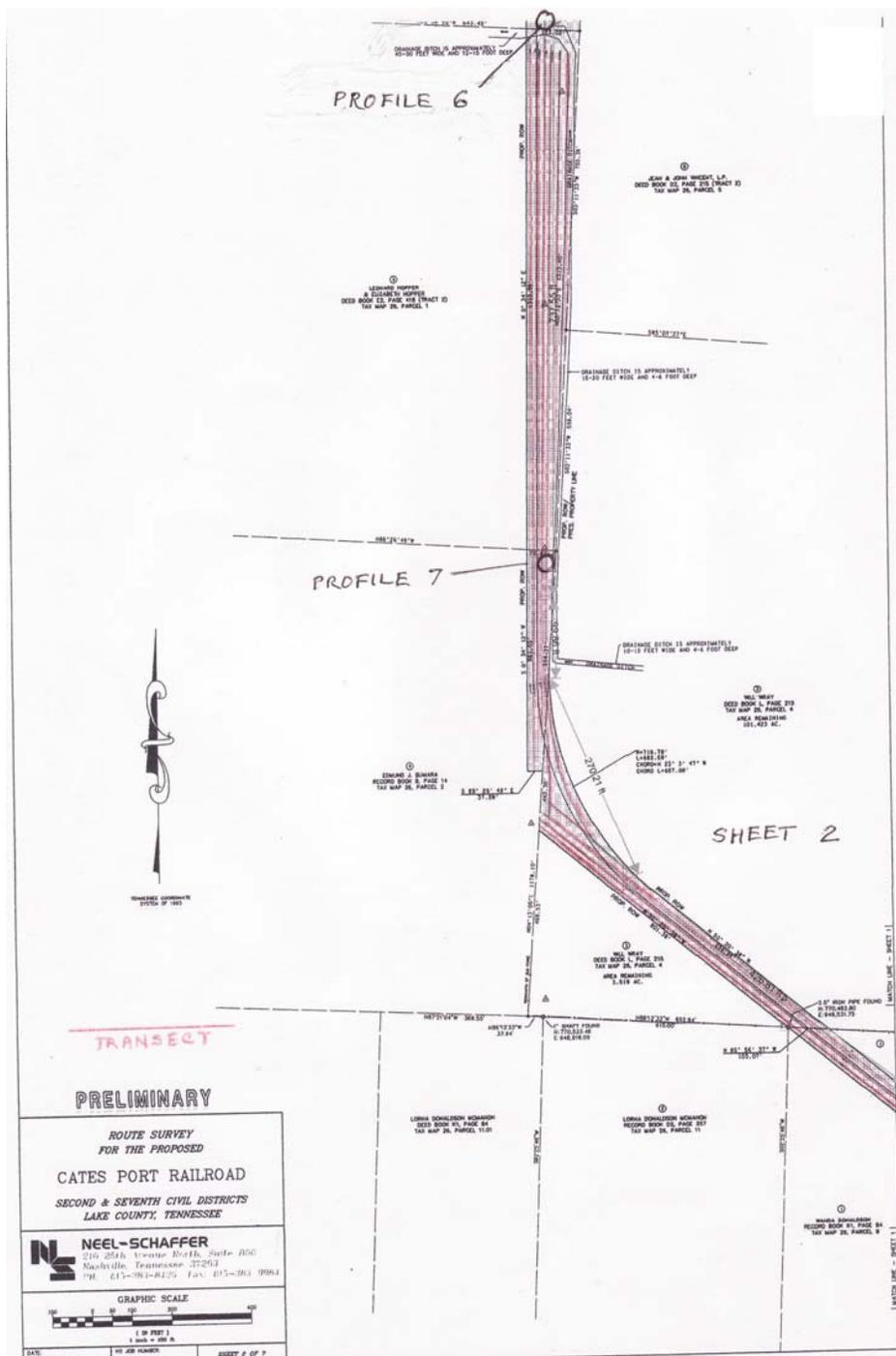


Figure 7. Transect locations, Sheet 2 of 6

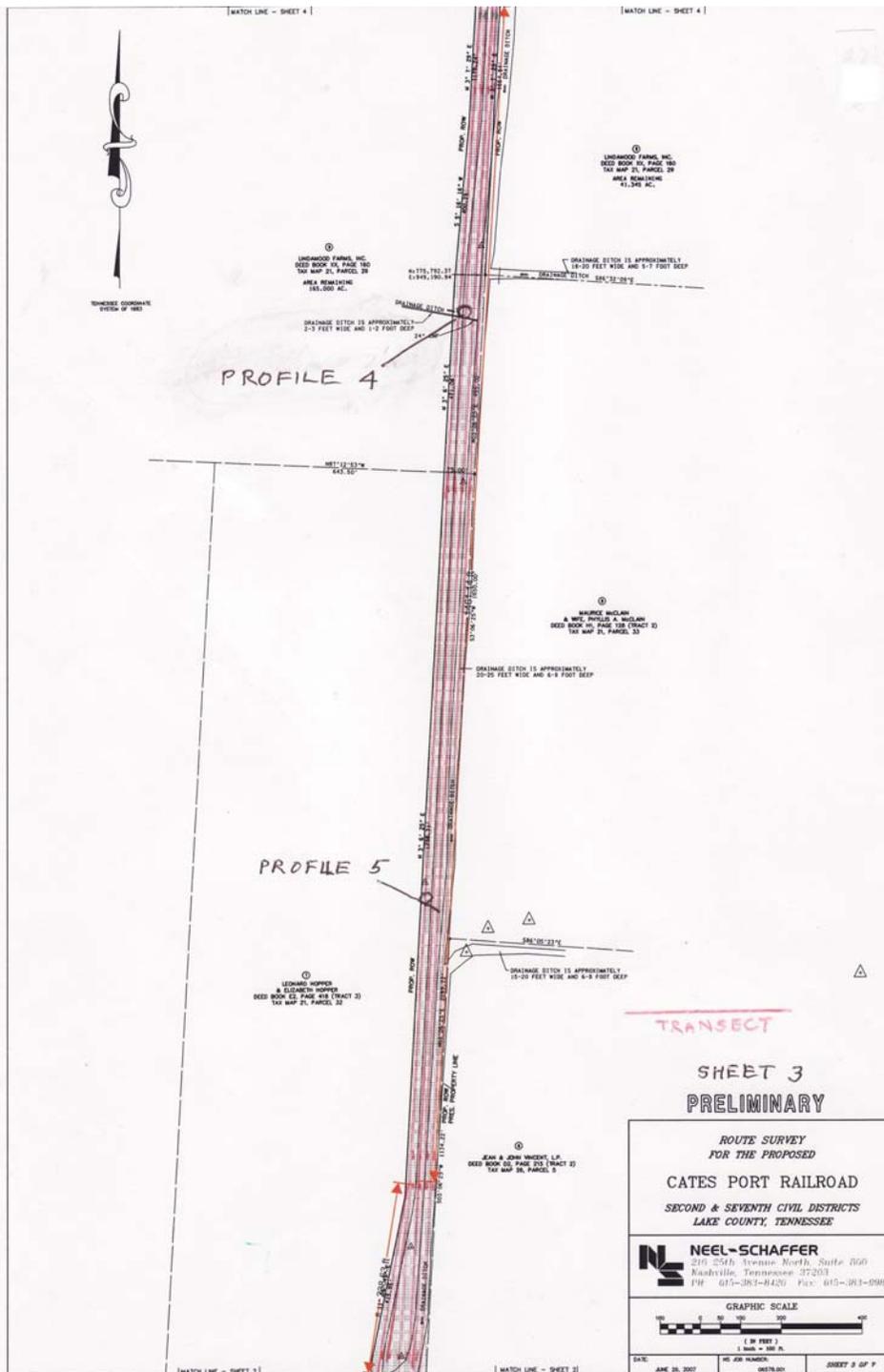


Figure 8. Transect locations, Sheet 3 of 6.

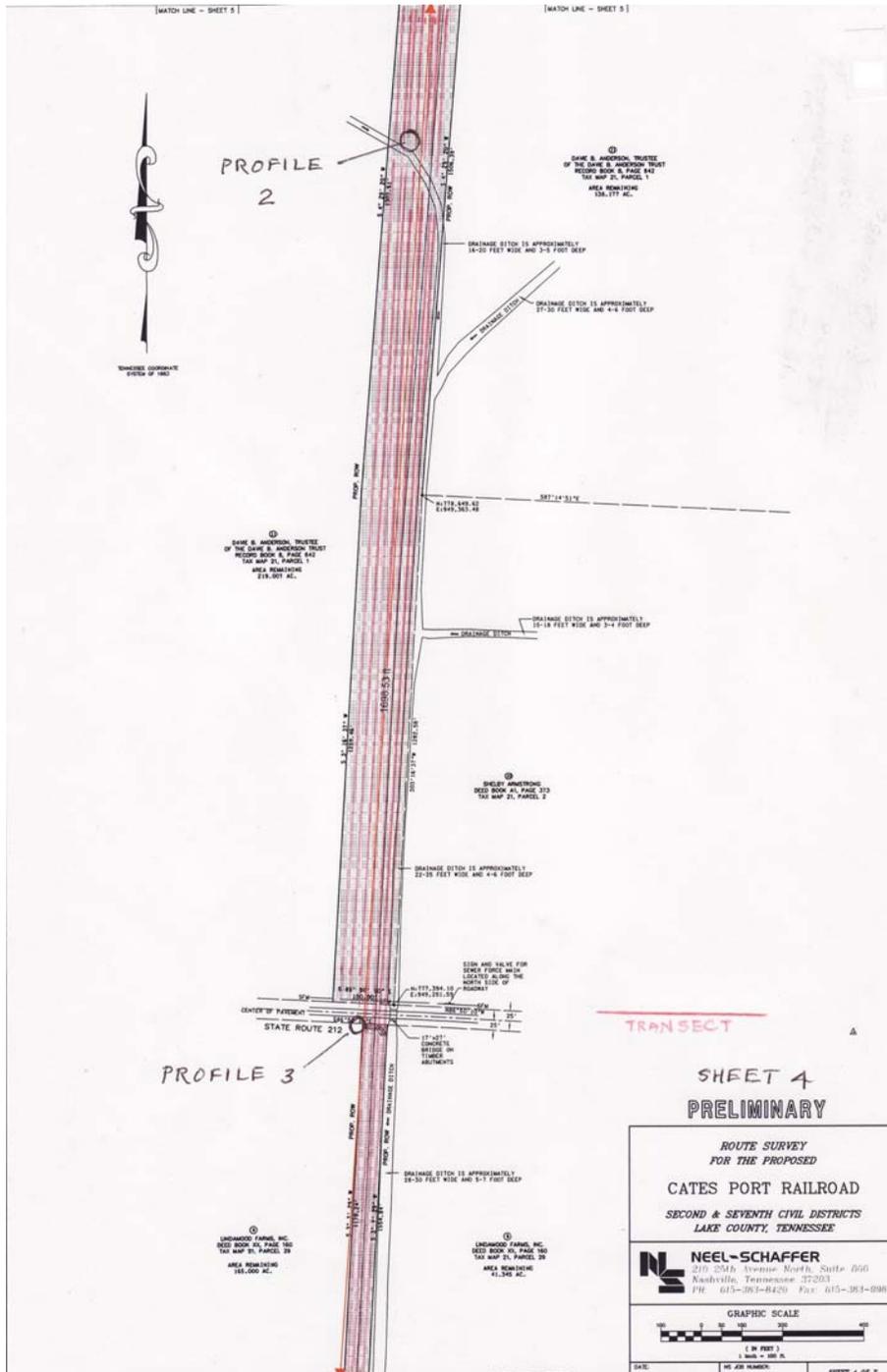


Figure 9. Transect locations, Sheet 4 of 6.



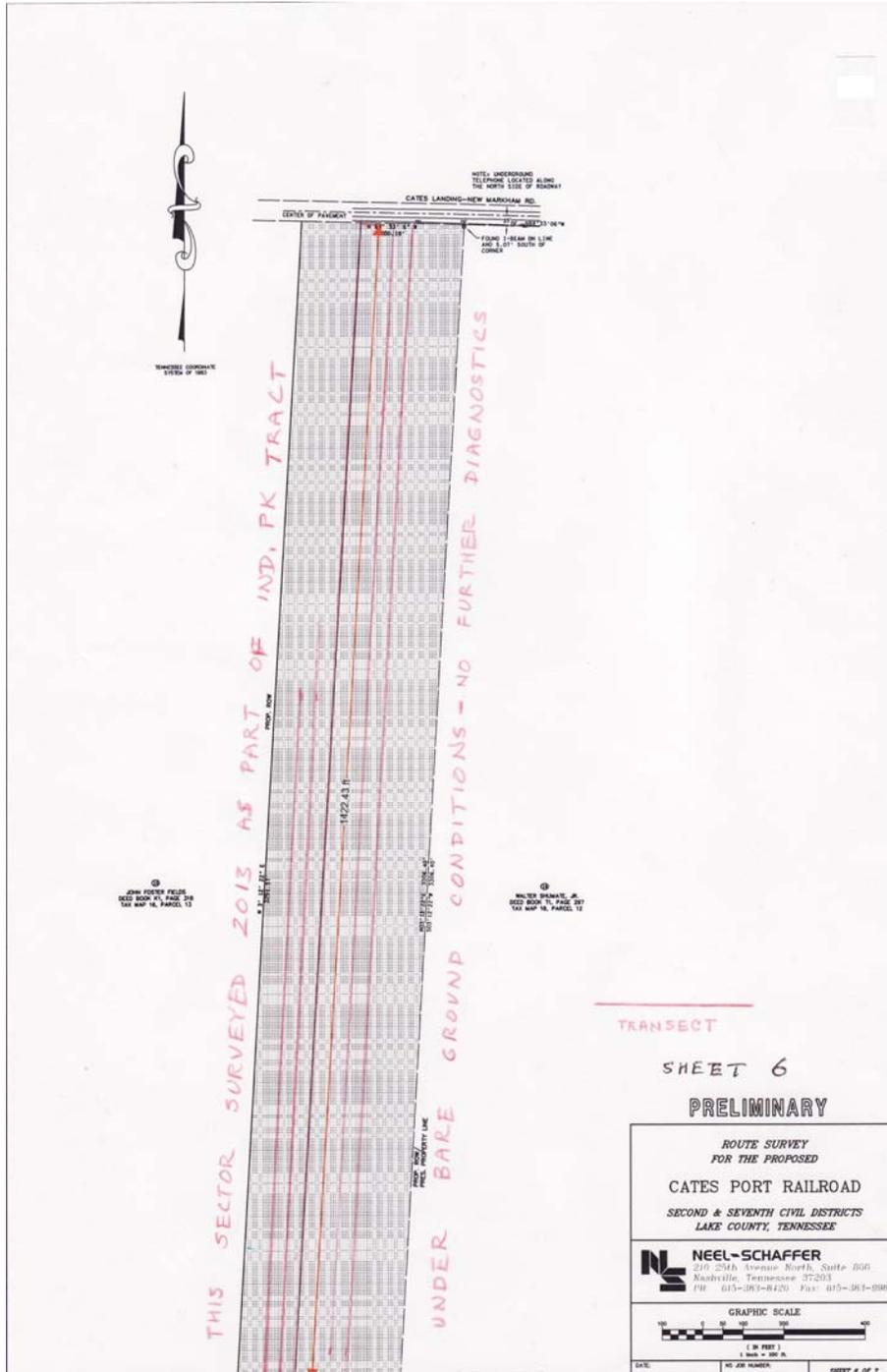


Figure 11. Transect locations, Sheet 6 of 6.

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**Exhibit 2**  
**Correspondence with Tennessee Historical Commission**



EI-20710

**TENNESSEE HISTORICAL COMMISSION**

STATE HISTORIC PRESERVATION OFFICE

2941 LEBANON ROAD

NASHVILLE, TENNESSEE 37214

OFFICE: (615) 532-1550

[www.tnhistoricalcommission.org](http://www.tnhistoricalcommission.org)

August 1, 2014

Ms. Victoria Rutson  
Office of Environmental Analysis  
Surface Transportation Bd.  
Washington, D. C., 20423

RE: STB, 5.5 MILE RAIL LINE/35802, UNINCORPORATED, LAKE COUNTY

Dear Ms. Rutson

In response to your request, received on Tuesday, July 29, 2014, we have reviewed the documents you submitted regarding your proposed undertaking. Our review of and comment on your proposed undertaking are among the requirements of Section 106 of the National Historic Preservation Act. This Act requires federal agencies or applicant for federal assistance to consult with the appropriate State Historic Preservation Office before they carry out their proposed undertakings. The Advisory Council on Historic Preservation has codified procedures for carrying out Section 106 review in 36 CFR 800. You may wish to familiarize yourself with these procedures (Federal Register, December 12, 2000, pages 77698-77739) if you are unsure about the Section 106 process.

To complete our review of this undertaking, this office will need to receive from you a DETAILED AND CLEARLY MARKED hard copy of a USGS topographic 7.5 minute series 1:24000 map to scale plus the name of the quadrant map indicating the exact location of every specific project activity and a clear project narrative. You may obtain the appropriate USGS maps through the Department of Environment and Conservation, Division of Geology, Maps and Publications Sales Office at (615) 532-1516. Please be sure to give us the name of the quad map.

Upon receipt of the additional information, we will complete our review of this undertaking as expeditiously as possible. Until this office has rendered a final comment on this project, your Section 106 obligation under federal law has not been met. Please inform us if this project is not funded or canceled by the federal agency. Questions and comments may be directed to Joe Garrison (615) 770-1092.

Your cooperation is appreciated.

Sincerely,

E. Patrick McIntyre, Jr.  
Executive Director and  
State Historic Preservation Officer

EPM/jyg



**TENNESSEE HISTORICAL COMMISSION**  
2941 LEBANON ROAD  
NASHVILLE, TENNESSEE 37243-0442  
OFFICE: (615) 532-1550  
[www.tnhistoricalcommission.org](http://www.tnhistoricalcommission.org)

June 15, 2015

Mr. Joshua Wayland  
Surface Transportation Board  
Office of Environmental Analysis  
395 E. Street, SW  
Washington, DC 20423-0001

RE: STB, ARCHAEOLOGICAL ASSESSMENT, CATES LANDING RAILROAD,  
UNINCORPORATED, LAKE COUNTY

Dear Mr. Wayland:

At your request, our office has reviewed the above-referenced archaeological survey final report in accordance with regulations codified at 36 CFR 800 (Federal Register, December 12, 2000, 77698-77739). We find that the report meets the Tennessee SHPO Standards and Guidelines For Archaeological Resource Management Studies.

If project plans are changed or archaeological remains are discovered during construction, please contact this office to determine what further action, if any, will be necessary to comply with Section 106 of the National Historic Preservation Act.

Your continued cooperation is appreciated.

Sincerely,

E. Patrick McIntyre, Jr.  
Executive Director and  
State Historic Preservation Officer

EPM/jmb



***SURFACE TRANSPORTATION BOARD***  
***Washington, DC 20423***

*Office of Environmental Analysis*

July 10, 2015

E. Patrick McIntyre, Jr.  
Executive Director  
Tennessee Historical Commission

RE: STB Finance Docket No. 35802, Northwest Tennessee Regional Port Authority—Rail Construction and Operation—in Lake County, Tennessee:  
**Finding of No Historic Properties Affected**

Dear Mr. McIntyre,

I am in receipt of your letter, dated June 15, 2015, regarding the proposal of the Northwest Tennessee Regional Port Authority (NWTRPA) to construct and operate an approximately 5.5 mile rail line in Lake County, Tennessee. Your letter indicates that the Tennessee Historical Commission has determined that the archaeological survey report submitted to your office for this project meets the Tennessee SHPO Standards and Guideline For Archaeological Resource Management Studies. I want to thank you for your timely review of this report and for your continued support during the Surface Transportation Board's (the Board) historic review process of NWTRPA's proposal.

With this letter we are notifying you that we have made a finding of "No Historic Properties Affected" pursuant to 36 C.F.R. 800.4(d)(1), based on our independent review of the available information, including the archeological survey submitted to your office, which indicated that there are no historic properties impacted within Area of Potential Effect. The documentation for this finding include the archeological survey report, all relevant correspondences, and this letter, which have been made publically available on the Board's website at [www.stb.dot.gov](http://www.stb.dot.gov).

The Board's Office of Environmental Analysis (OEA) is currently preparing an Environmental Assessment (EA) that analyzes the potential impacts of the proposed rail line on the human and natural environment, including cultural and historic resources. In the EA, OEA will recommend that the Board impose a condition on any decision granting approval for NWTRPA's proposal that will require NWTRPA to consult with OEA and the Tennessee Historical Commission if NWTRPA's project plans are changed or in the event that archeological remains are discovered during construction activities in order to determine what further action would be necessary to comply with the Board's Section 106 responsibilities.

In accordance with 36 C.F.R 800.4(d)(i), your office has thirty days to object to

this finding. Please respond within this timeframe, otherwise we will assume that you concur with our finding.

Thank you for your assistance with this project. If you have any questions, please do not hesitate to contact Josh Wayland of my staff at (202) 245-0330 (email: waylandj@stb.dot.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria Rutson". The signature is written in a cursive style with a large initial "V" and "R".

Victoria Rutson  
Director  
Office of Environmental Analysis



**RE: Railroad Construction in Lake County , TN**  
**Joseph Garrison** to: Joshua.Wayland@stb.dot.gov

10/02/2015 09:21 AM

History: This message has been replied to.

Mr. Wayland,

Thank you for your recent email. You are correct. The Tennessee State Historic Preservation Office has concurred that no Historic Properties will be affected by this Federal undertaking. We appreciate the discernment and diligence that prompted your inquiry.

Best,

Joseph Y. Garrison, PhD  
Review and Compliance Coordinator  
Tennessee State Historic Preservation Office  
Tennessee Historical Commission  
2941 Lebanon Road  
Nashville, Tennessee 37243-0442

Joseph.Garrison@tn.gov

(615)770-1092

"I can explain it to you, but I can't understand it for you"

CONFIDENTIALITY NOTICE: This electronic message is legally privileged. This information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or action taken in reliance on the contents of these documents is strictly prohibited.

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From: Joshua.Wayland@stb.dot.gov [Joshua.Wayland@stb.dot.gov]  
Sent: Thursday, October 01, 2015 11:08 AM  
To: Joseph Garrison  
Subject: Railroad Construction in Lake County, TN

\*\*\* This is an EXTERNAL email. Please exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email - OIR-Security. \*\*\*

Dr. Garrison,

I am following up regarding a proposed rail line construction at Cates Landing in Lake County, TN by the Northwest Tennessee Regional Port Authority. My agency is in the process of finalizing the environmental and historic review for this project. Before we publish the Environmental Assessment, I wanted to follow up your your office once again regarding the Section 106 review. The last communication we received from the Historical Commission was on June 15, 2015 and is attached to this email. In response, we sent a letter dated July 10, 2015 to document our finding of no historic properties affected (also attached). Can you confirm that the Tennessee

Historical Commission still does not have any concerns regarding this proposed project? Please feel free to call me at the number below.

(See attached file: EI-21020.pdf)(See attached file: EO-2605.pdf)

Thank you for your assistance,

Josh Wayland  
Environmental Protection Specialist  
Office of Environmental Analysis  
Surface Transportation Board  
Tel: (202) 245-0330

**Exhibit 3**  
**Tribal Consultation**

**Recipient List**

Choctaw Nation of Oklahoma  
P.O. Box 1210  
Durant, OK 74702-1210

Eastern Shawnee Tribe of Oklahoma  
12705 E. 705 Road  
Wyandotte, OK 74370

Mississippi Band of Choctaw Indians  
P.O. Box 6257  
Choctaw, MS 39350

Quapaw Tribe  
5681 S. 630 Rd.  
Quapaw, OK 74363

Chickasaw Nation  
P.O. Box 1548  
Ada, OK 74821

Tunica-Biloxi Indians of Louisiana  
P.O. Box 1589  
Marksville, LA 71351



***SURFACE TRANSPORTATION BOARD***  
***Washington, DC 20423***

*Office of Environmental Analysis*

June 2, 2015

Jefferson Keel  
Tribal Historic Preservation Officer  
Chickasaw Nation

**RE: STB Finance Docket No. 35802, Northwest Tennessee Regional Port Authority—Rail Construction and Operation—in Lake County, Tennessee:  
Request for Information and Comments on Proposed 5.5 Mile Rail Line to serve the Port of Cates Landing**

Dear Mr. Keel,

I am writing you to request your comments regarding the proposed construction and operation of a new line of railroad in Lake County, Tennessee. The Northwest Tennessee Regional Port Authority (NWTRPA) has filed a petition before the Surface Transportation Board (the Board) to construct and operate approximately 5.5 miles of rail line near the recently constructed Port of Cates Landing on the Mississippi, north of Tiptonville, Tennessee. The Board is an independent agency within the United States Department of Transportation that has jurisdiction over railroad construction and operations. As part of its licensing process, the Board is conducting an environmental review under the National Environmental Policy Act (NEPA) and an historic review under Section 106 of the National Historic Preservation Act. Our research indicates that the Chickasaw Nation may have historical connections to the project area and may have knowledge regarding properties of traditional, religious, and cultural significance in the Area of Potential Effect.

Pursuant to NEPA, Section 106 of the National Historical Preservation Act, and the Board's environmental rules (49 CFR 1105), the Board's Office of Environmental Analysis (OEA) is preparing an environmental document that evaluates the potential environmental impacts of the proposed rail construction project and the reasonable and feasible alternatives to the proposal.

Description of the Proposed Rail Project

NWTRPA is a political subdivision that has been established by the counties of Dyer, Lake, and Obion in northwest Tennessee for the purpose of owning, constructing, and operating a regional river port facility in Lake County, Tennessee. On June 27, 2014, NWTRPA filed a petition with the Board, pursuant to 49 U.S.C. 10502, for authority to construct approximately 5.5 miles of new railroad line that would connect an existing rail line near Tiptonville, Tennessee to the site of a newly constructed port facility on the Mississippi River at Cates Landing (see the attached map which shows the location of the proposed rail line as proposed by NWTRPA). If the proposed rail line is constructed, NWTRPA intends to enter into a contract with an existing short line railroad to provide common carrier service to customers located at the port and at an adjacent

industrial park currently under development in conjunction with the port.

The proposed rail line would begin at an intersection with the existing Tennken Railroad near Tiptonville, Tennessee and would extend to the northwest in the direction of the port. Approximately three miles from the connection with the existing railroad, the proposed rail line would bisect the proposed Lake County Industrial Park. Approximately 2.5 miles northwest of the Industrial Park, the line would enter the campus of the Port of Cates Landing and would parallel the port's slack water harbor to the main dock facility. The rail right-of-way would primarily cross open farm land and could cross as many as two public roads.

The proposed rail line would be used to transport shipments of agricultural products, as well as industrial and energy commodities and products. Once the port facility and the adjacent industrial park are fully developed, NWTRPA anticipates that the rail line would also transport raw materials for industrial products, finished manufactured goods, agricultural commodities and products, and special cargoes. NWTRPA predicts that rail traffic on the line would initially consist of fewer than 1,000 carloads annually, but would eventually increase to more than 1,000 carloads annually as the port facility and industrial park becomes fully developed.

#### Request for Comments

At this time, I request your preliminary comments regarding the proposed rail project. Any information you provide will assist OEA in making its final recommendations to the Board. We expect that the Draft EA will be made available to the public in July 2015. If you are interested in receiving a hard copy of the Draft EA, please contact Josh Wayland of my staff at 202-245-0330 (email: waylandj@stb.dot.gov) or Brian Yates of EnSafe, Inc., OEA's independent third party contractor in this case, at 901-372-7962 (email: byates@ensafe.com). You can also submit comments and responses by mail to the following address:

EnSafe, Inc.  
Attn: Brian Yates  
5724 Summer Trees Drive  
Memphis, Tennessee 38134

I appreciate your assistance on this project. If you have any questions, please do not hesitate to contact Josh Wayland at the number above. Thank you for your assistance.

Sincerely,



Victoria Rutson  
Director  
Office of Environmental Analysis

EI-21018



STB Finance Docket No. 35802, Northwest TN Regional Port Authority - Rail Construction  
and Operation - Leake Co., TN

Carleton, Ken

to:

waylandj@stb.dot.gov

06/04/2015 12:22 PM

Hide Details

From: "Carleton, Ken" <KCarleton@choctaw.org>

To: "waylandj@stb.dot.gov" <waylandj@stb.dot.gov>

Dear Mr. Wayland:

I am in receipt of a letter dated May 29, 2015, concerning the above reference project. The Mississippi Band of Choctaw Indians has no interest in being consulted concerning any project in the state of Tennessee, except for Lauderdale County in which the tribe has Trust Land/Reservation. For future reference, I am attaching a map of the areas in which the Mississippi Band of Choctaw Indians should be consulted.

**Kenneth H. Carleton**

THPO/Archaeologist

Mississippi Band of Choctaw Indians

P.O. Box 6257

Choctaw, MS 39350

601.650.7316



EI-21021



RE: STB Finance Docket No. 35802, Northwest Tennessee Regional Port Authority---Rail Construction and Operation---in Lake County, Tennessee: Request for Information and Comments on Proposed 5.5 Mile Rail Line to serve the Port of Cates Landing  
Daniel R. Ragle

to:

waylandj@stb.dot.gov

06/18/2015 01:50 PM

Cc:

"byates@ensafe.com"

Hide Details

From: "Daniel R. Ragle" <dragle@choctawnation.com>

To: "waylandj@stb.dot.gov" <waylandj@stb.dot.gov>

Cc: "byates@ensafe.com" <byates@ensafe.com>

History: This message has been replied to.

Mr. Wayland,

The Choctaw Nation of Oklahoma thanks you for the correspondence regarding the above referenced project. Lake County, Tennessee lies outside of the Choctaw Nation of Oklahoma's area of historic interest. The Choctaw Nation of Oklahoma respectfully defers to the other Tribes that have been contacted. If you have any questions, please contact me by email.

Thank You,

Daniel Ragle  
NHPA Section 106 Reviewer  
Choctaw Nation of Oklahoma  
Historic Preservation Department  
P.O. Box 1210  
Durant, OK 74702  
(580)924-8280 ext. 2727  
[dragle@choctawnation.com](mailto:dragle@choctawnation.com)

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This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure. If you have received this message in error, you are hereby notified that we do not consent to any reading, dissemination, distribution or copying of this message. If you have received this communication in error, please notify the sender immediately and destroy the transmitted information. Please note that any view or opinions presented in this email are solely those of the author and do not necessarily represent those of the Choctaw Nation.



*the*  
**Chickasaw**  
**Nation** HEADQUARTERS

*Arlington at Mississippi / Box 1548 / Ada, OK 74821-1548 / (580) 436-2603*

*Bill Anoatubby*  
Governor

*Jefferson Keel*  
Lieutenant  
Governor

August 24, 2007

Mr. Gerald Kline  
Tennessee Department of Transportation  
Suite 900, James K. Polk Bldg.  
505 Deaderick St.  
Nashville, TN 37243-0334

Dear Mr. Kline:

Thank you for your letter of notification regarding the Tennessee Department of Transportation's project for the proposed State Route 22 from State Route 21 to Cates Landing Road in Lake County, Tennessee.

We wish to participate as a consulting party on this project and receive copies of the cultural assessment reports that identify Native American related properties. We are unaware of any specific historic properties or traditional cultural, religious and/or sacred sites at this time. However, in the event of inadvertent discoveries, we expect all construction activities to cease and we be notified according to all applicable state and federal laws.

If you have any questions, please contact Ms. Giny Nail, historic preservation officer, at (580) 332-8685.

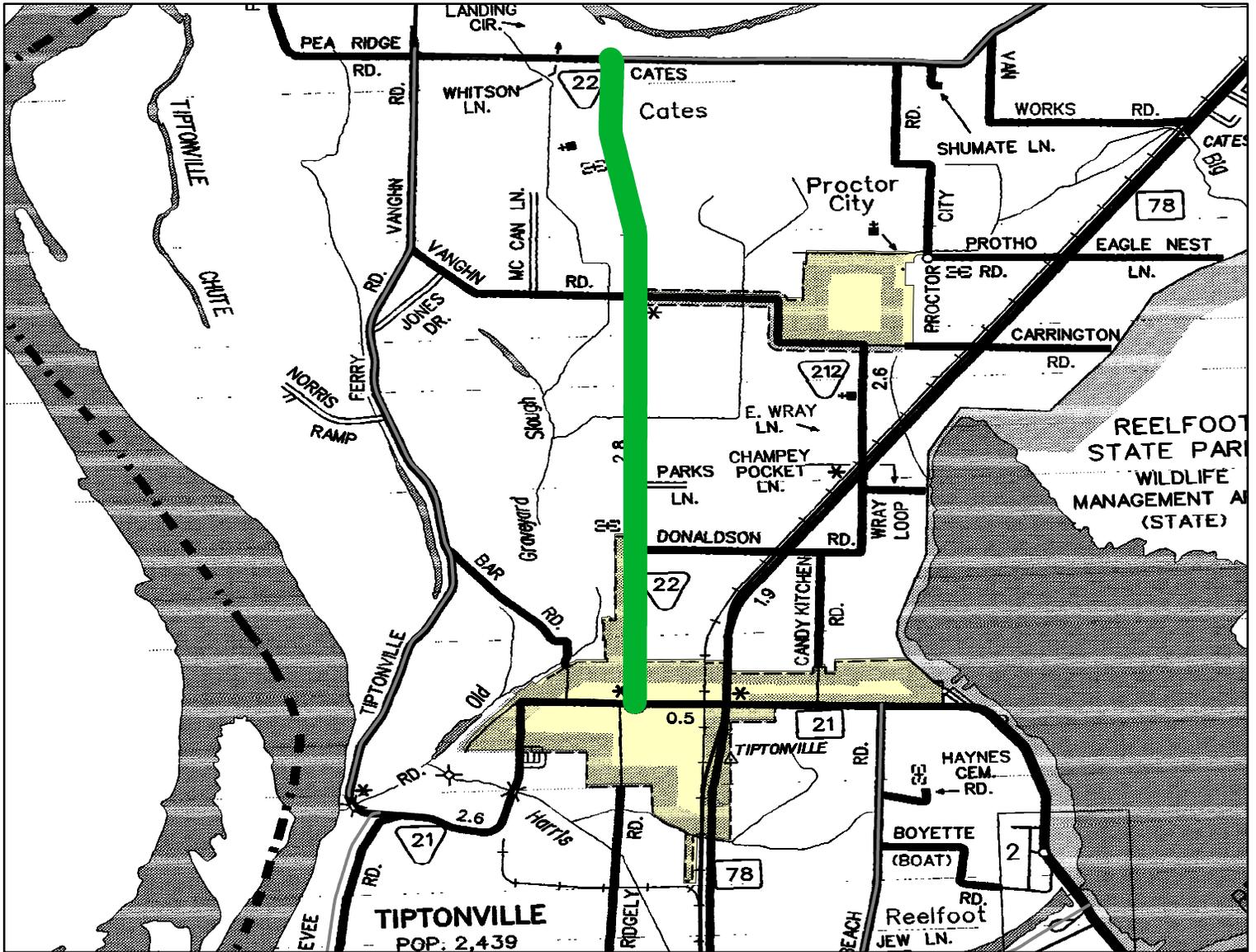
Sincerely,

Jefferson Keel, Lt. Governor  
The Chickasaw Nation



**God Bless America!**

# LAKE COUNTY



## SR-22 (From SR-21 to Lake County Port) L.M. 0.00 - L.M. 4.50

### Legend

-  Active TPR (Roads)
-  City



**Appendix C**  
**Board and NWTRPA Correspondence**

**Appendix C**  
**Board and NWTRPA Correspondence**

- Exhibit 1      NWTRPA’s Request for Waiver of Six-Month Pre-filing Notice
- Exhibit 2      NWTRPA’s Request for Retention of EnSafe Inc. as the Third Party Consultant
- Exhibit 3      Board’s Response to NWTRPA’s Request for Waiver of Six-Month Pre-filing Notice
- Exhibit 4      Board’s Response to NWTRPA’s Request for Retention of EnSafe Inc. as the Third Party Consultant
- Exhibit 5      Financial Disclosure Statement Signed by EnSafe Inc.
- Exhibit 6      Memorandum of Understanding among NWTRPA, EnSafe Inc., and the Board
- Exhibit 7      NWTRPA’s Request for Waiver of Environmental Impact Statement Requirements
- Exhibit 8      Board’s Response to NWTRPA’s Request for Waiver of Environmental Impact Statement Requirements
- Exhibit 9      Other Communications between NWTRPA and the Board

**Exhibit 1**  
**NWTRPA's Request for Waiver of Six-Month Pre-filing Notice**

January 14, 2014

JOHN D. HEFFNER  
(202) 742-8607  
Direct Fax (202) 742-8697  
John.Heffner@strasburger.com

Mr. Josh Wayland  
Office of Environmental Assessment  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423

**RE: Northwest Tennessee Regional Port Authority-Construction and  
Operation of Line of Railroad**

Dear Mr. Wayland:

Pursuant to 49 CFR §1105.10(c)(2), I am writing on behalf of the Northwest Tennessee Regional Port Authority (hereafter "NWTRPA") to request a waiver of the six months' pre-filing notice required by the Board's environmental regulations at 49 CFR §1105.10(a)(1). Within the next several months NWTRPA plans to petition the Board for an individual exemption under 49 U.S.C. §10901 to permit it to construct and operate approximately 5 miles of new common carrier railroad trackage ("the Line"). NWTRPA submits that a waiver of the 6 months' advance notice requirement is consistent with the regulations of the Office of Environmental Assessment ("OEA") and the Board's policies.

For your information, NWTRPA is a public agency and political subdivision of the State of Tennessee that in 2013 completed the construction of a new port facility at a point called Cates Landing, located at mile marker 900L on the Mississippi River in Lake County, Tennessee. This facility is significant insofar as it is located on a plain of 5,000 acres at the highest point on the east bank of the Mississippi River between the confluence of the Mississippi and Ohio Rivers on the north and Baton Rouge, LA on the south. This elevated location requires no levee protection from flooding and in combination with the Port's 9,000 foot water harbor, enables year round intermodal port operation.

Strasburger & Price, LLP

1025 Connecticut Ave., N.W. Suite 717 | Washington, DC 20036 | 202.742.8600 tel | 202.742.8699 fax | www.strasburger.com  
Austin | Collin County | Dallas | Houston | San Antonio | New York, N.Y. | Washington, D.C. | Mexico City - Strasburger & Price, SC

The Line will extend from its junction with an existing line of the Tenneken Railroad near Tiptonville, in Lake County, TN, to the port facility on the Mississippi River. The Line will also serve a new industrial park to be constructed roughly half way between the Line's origin and destination points. As noted in the "briefing book" provided the OEA staff, the Line will serve a very lightly settled, economically depressed, agricultural area in northwest Tennessee near the Kentucky and Missouri borders. There are no tourist attractions, shopping areas, schools or hospitals along or near the line. The nearest population sources consist of a State prison east of the Line and a small rural settlement south of the Port facility. NWTRPA believes the Line will be extremely important in enabling the port to attain its full potential as well as an important asset in attracting industry and therefore jobs to the area.

Once constructed, NWTRPA anticipates contracting with a short line railroad to provide operations over the Line. Nevertheless, it seeks operating as well as construction authority from the Board and will have a "residual" common carrier obligation over the Line once that authority is consummated.

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

In response to these inquiries, NWTRPA believes the environmental effects of the proposed construction project will be minimal. Regarding the questions identified above, the subject area is an attainment area. Because the Port is not yet operational, precise estimates of cargo types and volumes likely to move over the Line are speculative. However, anticipated cargoes will include freight of all kinds, including agricultural and other, diverse commodities. NWTRPA does not expect traffic over the Line to exceed the traffic threshold of 8 trips per day for an attainment area as per 49 CFR §1105.7(e) (5) and (6). All of this traffic represents new business.

Regarding environmental impacts, the "briefing book" included an Environmental Assessment (EA) prepared by the Army Corps of Engineers for

Mr. Josh Wayland  
January 14, 2014  
Page 3

construction of the port facility on the river. Currently the port facility is generating no traffic as there are no current operations. Once operations do commence, movement of freight by rail instead of truck will be very beneficial due to reduced highway congestion and associated air and noise pollution and energy consumption. The Line will be built on land owned or to be acquired by NWTRPA. There will be only two highway crossings, one near the state prison and one at a county road which connects the Port facility to the planned industrial park.

The EA concluded that the project would have no adverse environmental impacts and includes a FONSI to that effect. As to wetland impacts, the EA identified farm wetlands east and west of the rail corridor. However, none would appear to be affected by the Line. Aside from some small streams and a drainage channel, the Line will not cross any bodies of water. Nor did the EA find any active or inactive hazardous waste sites.

While the EA notes the presence of bald eagles and interior least terns as endangered species in Lake County, the associated Biological Assessment did not identify any such species within the proposed harbor areas or along the rail corridor. Because the environmental effects of this project are negligible, NWTRPA does not believe that an environmental impact statement would be necessary. Accordingly, the six months' lead time is unnecessary and should be waived.

Please date stamp and return one copy of this letter.

Sincerely yours,



John D. Heffner

cc: Victoria Rutson, Esq.  
John M. Lammon, Esq.

**Exhibit 2**  
**NWTRPA's Request for Retention of EnSafe Inc. as the**  
**Third Party Consultant**

January 17, 2014

JOHN D. HEFFNER  
(202) 742-8607  
Direct Fax (202) 742-8697  
John.Heffner@strasburger.com

**VIA EMAIL**

Mr. Josh Wayland  
Office of Environmental Assessment  
Surface Transportation Board  
395 E Street, N.W.  
Washington, D.C. 20423

RE: Northwest Tennessee Regional Port Authority

Dear Mr. Wayland:

I am writing on behalf of the Northwest Tennessee Regional Port Authority (“NWTRPA”) to request your formal approval, in accordance with 49 CFR §1105.10(d), of an independent third-party consultant to work with your office to prepare the necessary environmental documentation associated with NWTRPA’s proposed construction and operation of a new rail line (“the Line”). The Line will extend from its junction with an existing line of the Tenneken Railroad near Tiptonville, in Lake County, TN, to NWTRPA’s port facility on the Mississippi River, a distance of approximately 5.5 miles. The Line will also serve a new industrial park to be constructed roughly half way between the Line’s origin and destination points.

Within the next few weeks NWTRPA anticipates filing an individual Petition for Exemption under 49 U.S.C. §10502 from the provisions of §10901 to permit it to construct and operate the Line.

NWTRPA proposes that the environmental consulting firm, ENSAFE, be retained as the Office of Environmental Analysis’s (“OEA’s”) third-party consultant. We know that ENSAFE has been identified by the OEA as an entity that is qualified to serve as a third-party consultant for railroad-related projects.

5601554.3/SP/31452/0101/011714

Mr. Josh Wayland  
January 17, 2014  
Page 2

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Mr. Danny Adams is expected to lead the ENSAFE team. The contact information for Mr. Adams is:

Mr. Danny Adams, QHP  
ENSAFE  
Ecology Program Manager  
5724 Summer Trees Drive,  
Memphis, TN 38134  
Work Tel: 901-372-7962  
Cell: 901-489-8374  
Email: [dadams@Ensafecom](mailto:dadams@Ensafecom)

We expect ENSAFE's work to be performed under the OEA's direction, supervision, and control pursuant to 49 CFR §1105.(d). Further, we expect ENSAFE to undertake this project in accordance with the OEA's requirements for disclosure and pursuant to the memorandum of understanding entered among OEA, ENSAFE, and NWTRPA.

We look forward to your response and to answering any questions you might have.

Sincerely yours,



John D. Heffner

cc: Victoria Rutson, Esq.  
John Lannom, Esq.

**Exhibit 3**  
**Board's Response to NWTRPA's Request for Waiver of Six-Month**  
**Pre-filing Notice**



**SURFACE TRANSPORTATION BOARD**  
**Washington, DC 20423**

*Office of Environmental Analysis*

January 29, 2014

Mr. John D. Heffner, Esq.  
Strasburger & Price, LLP  
1025 Connecticut Ave., N.W., Suite 717  
Washington, DC 20036

Re: Northwest Tennessee Regional Port Authority- Lake County, Tennessee; Waiver  
of Six-Month Prefiling Notice

Dear Mr. Heffner:

Pursuant to 49 CFR 1105.10(c), we are granting your request of January 14, 2014, for waiver of the six-month prefiling notice generally required for construction projects under 49 CFR 1105.10 (a)(1).

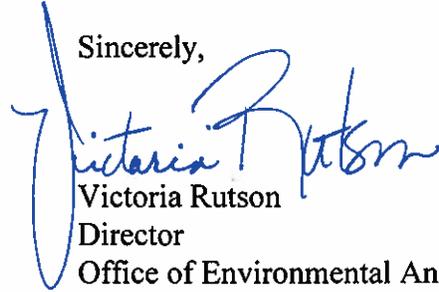
The Surface Transportation Board's Office of Environmental Analysis (OEA) has met and consulted with the Northwest Tennessee Regional Port Authority (NWTRPA) representatives regarding the proposed environmental impacts associated with the construction and operation of a new rail line in Lake County, Tennessee. At a meeting on December 19, 2013, NWTRPA's representatives provided OEA with an overview of the project. Additionally, you supplied additional information on behalf of NWTRPA regarding the proposed project and its potential environmental consequences.

NWTRPA is a public agency and political subdivision established under Tennessee law to develop, construct, and operate a port facility located on the Mississippi River in Lake County, Tennessee. The port facility, which was completed in 2013, is located in the vicinity of Cates Landing, on the left descending bank of the Mississippi River at approximately River Mile 900 near Tiptonville, Tennessee. The Cates Landing site is unique in being the only site in Tennessee, apart from Memphis, that is located directly on the Mississippi River but above the 100-year floodplain. The port facility was the subject of an Environmental Assessment by the U.S. Army Corps of Engineers, which found no significant environmental impacts. NWTRPA proposes to construct a rail line approximately 5.5 miles in length to connect the port facility with the existing Tennken Railroad. The railroad would also serve a new industrial park located near the port facility.

The preceding information provided by NWTRPA, and the fact that members of OEA have explained in detail the Surface Transportation Board's environmental review process to NWTRPA's representatives, lead OEA to believe that it has adequate information, and that NWTRPA is sufficiently aware of the environmental review process, to grant this request.

If we can be of further assistance, please contact me or Joshua Wayland of my staff at (202) 245-0330.

Sincerely,

A handwritten signature in blue ink, appearing to read "Victoria Rutson". The signature is stylized and written over the printed name and title.

Victoria Rutson

Director

Office of Environmental Analysis

**Exhibit 4**  
**Board's Response to NWTRPA's Request for Retention of**  
**EnSafe Inc. as the Third Party Consultant**



**SURFACE TRANSPORTATION BOARD**  
**Washington, DC 20423**

*Office of Environmental Analysis*

January 29, 2014

Mr. John D. Heffner, Esq.  
Strasburger & Price, LLP  
1025 Connecticut Ave., N.W., Suite 717  
Washington, DC 20036

Re: Northwest Tennessee Regional Port Authority- Lake County, Tennessee;  
Approval of Third-Party Consultant

Dear Mr. Heffner:

Your request for approval under 49 CFR 1105.10(d) and 40 CFR 1506.5 for retention of ENSAFE as an independent third-party consultant for the above referenced project is approved. ENSAFE will prepare the appropriate environmental document on behalf of the Surface Transportation Board (Board) in connection with a proposed project by the Northwest Tennessee Regional Port Authority (NWTRPA) to construct a rail line of approximately 5.5 miles in length to serve NWTRPA's port facility on the Mississippi River and an adjacent industrial park.

We have attached a disclosure statement that we ask you to forward to ENSAFE to complete. Once the statement is signed by ENSAFE, we request that ENSAFE send it directly to us. As we discussed in our meeting in December 2013, the Board's Office of Environmental Analysis will directly supervise, review, and approve all environmental documents prepared by the independent third-party contractor.

If we can be of further assistance, please do not hesitate to contact me or Joshua Wayland of my staff at (202) 245-0330.

Sincerely,

Victoria Rutson  
Director

Office of Environmental Analysis

Enclosure

**Exhibit 5**  
**Financial Disclosure Statement Signed by EnSafe Inc.**

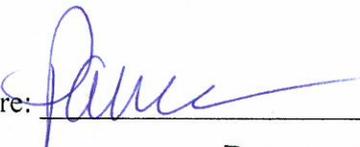
**SURFACE TRANSPORTATION BOARD**

**DISCLOSURE STATEMENT**

On behalf of EnSafe Inc., I certify that EnSafe Inc. has  
(name of contractor) (name of contractor)

no financial or other interests in the outcome of the prospective petition of the

Northwest Tennessee Regional Port Authority to construct a rail line in part of Cateshawing Lake County, TN  
(name of petitioner) (location of proposed rail line)

Signature: 

Printed Name: **Pamela Skelton**  
**Vice President**  
Title: **Legal and Corporate Transactions**

Date 2-10-2014

**Exhibit 6**  
**Memorandum of Understanding among NWTRPA, EnSafe Inc., and**  
**the Board**

MEMORANDUM OF UNDERSTANDING  
AMONG  
SURFACE TRANSPORTATION BOARD, NORTHWEST TENNESSEE REGIONAL PORT  
AUTHORITY, AND ENSAFE

RE: ENVIRONMENTAL ANALYSIS AND PREPARATION OF APPROPRIATE ENVIRONMENTAL DOCUMENTS RELATING TO THE CONSTRUCTION AND OPERATION OF A PROPOSED RAIL LINE BY THE NORTHWEST TENNESSEE REGIONAL PORT AUTHORITY IN LAKE COUNTY, TENNESSEE

I. Introduction and Purpose

- A. The Northwest Tennessee Regional Port Authority (NWTRPA or the Petitioner) intends to file a petition in Finance Docket No. 35802 seeking authorization from the Surface Transportation Board (Board) to construct and operate an approximately 5.5 mile rail line that would extend between a newly constructed port facility on the Mississippi River at Cates Landing, Lake County, Tennessee, and an existing line of railroad owned and operated by the Tennessean Railroad and located near Tiptonville, Lake County, Tennessee.
- B. In considering the petition, the Board will consider the potential environmental impacts resulting from construction and operation of the rail line and any rail-related alternatives. The Board will be the lead agency for preparing the environmental documentation required for the project, either an Environmental Impact Statement (EIS) or Environmental Assessment (EA), as required by the National Environmental Policy Act of 1968 (NEPA). Pursuant to 40 C.F.R. 1506.5(c), 49 C.F.R. 1105.4(j), and 1105.10(d), the Board, through its Office of Environmental Analysis (OEA), has selected and the Petitioner has agreed to engage, at the Petitioner's expense, EnSafe, a Tennessee corporation (the Contractor) as the Independent Third Party Contractor for this proposal. The Contractor shall assist OEA in conducting the environmental review and preparing the environmental documentation<sup>1</sup> related to the Petitioner's proposal. The Contractor's scope of work, approach, and activities shall be under the sole supervision, direction, and control of OEA.
- C. This Memorandum of Understanding (MOU) summarizes the relationship among the Contractor, the Petitioner, and OEA, as forth in applicable regulations and Board policy, regarding the conditions and procedures each party must follow in preparing all environmental documentation. The MOU does not supersede or amend, and is made expressly subject to, the requirements of NEPA, and, to the extent applicable, related environmental laws, and 49 C.F.R. Part 1105 and 40 C.F.R. Part 1500.
- D. The Petitioner, the Contractor, and OEA agree to work within the framework of this MOU to develop an efficient method to complete the environmental review for the proposed application. OEA shall maintain overall responsibility for the documentation,

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<sup>1</sup> The terms "environmental documentation" and "environmental document(s)" embrace draft, supplemental, and final EAs, EISs, and any other reports, studies, surveys, or related documents.

analysis, methodology, consultation, and mitigation related to the environmental review process. OEA shall direct, evaluate, oversee, and approve the environmental review process.

## II. Document Process

OEA will prepare, on behalf of the Board, the draft environmental document (EA or EIS) for agency and public review. OEA will independently draft mitigation, based on its review of potential environmental impacts of the project.

## III. Agreement between the Petitioner and the Contractor

- A. Any contract between the Petitioner and the Contractor, and any subcontracts, shall be consistent with the provisions of the MOU.
- B. The terms of the MOU shall override any contradictory or conflicting terms regarding the scope and performance of any work to be conducted under any contract entered into between the Petitioner and the Contractor; provided, however, that the foregoing shall not limit the rights of the Petitioner and the Contractor to contract on terms which require the work to be performed cost-effectively.
- C. The contract between the Contractor and the Petitioner shall specifically provide, and the Contractor shall represent, that (1) the Contractor and any subcontractors do not and shall not have any financial or economic interest in the Petitioner or any entity or person directly or otherwise affiliated with the Petitioner except for payment for services rendered in connection with the preparation of all required environmental documentation, and except for services rendered pursuant to other agreements not prohibited by the MOU, and (2) there is no agreement between the Petitioner, or any other person or entity and the Contractor regarding future employment that is contingent upon the Contractor's performance under this contract. The Contractor shall concurrently execute a disclosure statement as mandated by the regulations of the Council on Environmental Quality (CEQ) (40 C.F.R. 1506.5(c)) and submit it to both OEA and the Petitioner, before beginning any work under OEA's direction. It is understood that the Contractor and any subcontractors have not been employed to conduct any environmental analysis related to the petition for the Petitioner, or for any other person or entity, and, therefore, can be retained as independent third party contractor(s).
- D. Restrictions on other work:
  - (1) No employee of the Contractor or employees of any subcontractor, who is a part of the Contractor's core team committed to the environmental review process for the application, shall engage in (a) other work for the Petitioner or any entity or person directly or otherwise affiliated with the Petitioner or (b) any work, relating to the petition, for any other party to this proceeding during the course of the proceeding; and

- (2) No other employee of the Contractor or other employee of any subcontractor shall, unless OEA is provided prior notice of and approves such work, engage in (a) other work for the Petitioner or any entity or person directly or otherwise affiliated with the Petitioner, or (b) any work, relating to the petition before the Board, or any cooperating agencies that may elect to participate in this process, or any other party to this proceeding during the course of this proceeding.
- E. The Petitioner shall bear the costs incurred by the Contractor, and by any subcontractor approved by OEA in accordance with Section III.A, in preparing the required environmental documentation to implement NEPA and related environmental laws under the direction of OEA. The Petitioner agrees to hold harmless and indemnify the United States of America and the Board with respect to any and all claims, demands, causes of action, and the like, which may arise in performing the work under the contract between the Contractor and the Petitioner.
  - F. Any contract between the Contractor and the Petitioner shall specifically limit any remedies available to the Contractor and subcontractors upon termination of the contract to affirmatively relieve the United States of America, the Board, and any officer, agent, or employee, from any liability from terminating the contract.

#### IV. Contractor Responsibilities

- A. The Contractor may engage subcontractors to perform work related to environmental review of the petition, subject to the provisions of Section III.C and Section III.D. All work performed by the Contractor or any subcontractors shall be under the sole direction, control, supervision, and final approval of OEA. Contractor and subcontractors, if any, will act as the agent(s) of the Board, not the Petitioner, in performing its/their duties.
- B. The Contractor shall provide:
  - (1) Appropriate expertise in the areas of environmental concern (including, but not limited to, air quality, wetlands, biological resources, geotechnical resources, hydrology, land use, safety, noise, social and economic, and cultural/historic resources);
  - (2) A good working knowledge of environmental laws, applicable laws and regulations (including environmental regulations) administered or promulgated by the Board, CEQ regulations and guidelines, other applicable federal regulations, state laws and regulations, and applicable local ordinances and regulations;
  - (3) The capacity to perform environmental impact analysis and prepare appropriate environmental documentation;
  - (4) Thorough, readable, technically sound, and informative environmental documents, as well as related charts, maps, diagrams, etc.;

- (5) Representatives to attend and/or facilitate meetings with federal, state, regional, and local agencies, other interested parties, and the Petitioner for the purpose of exchanging and obtaining information, explaining the petition and related environmental concerns and impacts, and receiving comments in preparing the required environmental documentation;
  - (6) Expertise in data management; and
  - (7) Assistance to OEA in ensuring that the data collection, analyses, and methodologies for the environmental documents are complete, accurate, and relevant to OEA's needs for the environmental review of the petition under NEPA.
- C. The Contractor shall maintain and provide OEA upon request:
- (1) Adequate record-keeping and reporting systems to assure preservation of all data gathered, including surveys, studies, etc.;
  - (2) Logs summarizing all telephone calls, meetings, document reviews, and other substantive communications with OEA, the Petitioner, local governments, governmental agencies, citizens' groups, and any other interested parties; and
  - (3) Lists of all agencies, other railroads, citizens' groups, organizations, and individuals (including their respective addresses and telephone numbers) contacted in preparing the environmental documentation.
- D. The Contractor shall perform the work in a timely, responsive, satisfactory, and cost-effective manner, pursuant to a work schedule developed with OEA in coordination with the Petitioner and approved by OEA.
- E. The Contractor shall assist OEA in coordinating the exchange of all relevant environmental information and technical data/studies related to the petition and all required environmental documentation among OEA staff, the Petitioner's staff and representatives, the Contractor, and any subcontractors.
- F. The Contractor will submit directly to OEA any and all work the Contractor performs in preparing all required environmental documentation, studies, surveys, etc. The Contractor, and any subcontractors, shall not disclose the results of their work nor release any of the underlying work papers, drafts, or other materials prepared under the contract to anyone, including the Petitioner, without OEA's express authorization. In no case shall the Petitioner be provided the opportunity to modify or edit the Contractor's work prior to submission to OEA, without OEA's express authorization.
- G. The Contractor shall follow the directions and instructions of OEA, and incorporate them into the environmental document(s) in a timely and responsive manner. The Contractor shall submit preliminary and final drafts of any documents to OEA for final review and approval.

- H. The Contractor shall provide OEA access to and the right to review all procedures and underlying data used in the Contractor's development and preparation of any and all environmental documents. This includes, but is not limited to, field reports/surveys, technical studies and analyses, subcontractor reports, and interviews with concerned private and public parties, whether or not such information may be reflected in draft, supplemental, or final environmental documents submitted to OEA.
- I. The Contractor, and any approved subcontractors, shall cooperate fully with OEA in organizing, participating in, and conducting any public workshops, informational meetings, and other meetings, as OEA determines are necessary, to foster public understanding of and/or participation in the environmental review process, and to assess potential environmental impacts and develop mitigation measures related to the petition.
- J. The Contractor will assist OEA in reviewing comments received during the environmental review process, will draft a summary of rail-related comments, and will coordinate analysis of these comments with OEA.
- K. The Contractor shall assist OEA in preparing the required environmental documentation, environmental recommendations, selection of alternatives, and development of mitigation measures.
- L. The Contractor's Project Director, Project Manager, other technical experts, as appropriate, shall be available to attend all meetings, briefings, consultations, and site visits as OEA deems necessary. The Project Director and the Project Manager shall devote as much time to environmental review of the petition as is necessary to assure the Contractor's performance of its responsibilities under this MOU. This work commitment will extend for the entire time necessary to complete the environmental review for the petition.
- M. Except as specifically authorized by OEA, the Contractor and any of its subcontractors shall refer all media/press inquiries directly to OEA.
- N. As needed, the Contractor will provide technical expertise and administrative support to OEA during preparation of the Board's decision and in addressing any environmental issues arising in the Board's consideration of this proceeding. In the event of any appeal from a Board decision in this proceeding, the parties hereto shall at that time determine the need for and terms of the Contractor's services in connection with judicial review of that decision.
- O. The Contractor shall provide any administrative and technical support that may be needed to assist OEA in reviewing, summarizing, and responding to environmental issues arising after issuance of the final environmental documentation, including in connection with Board decisions, correspondence, filing before the Board and by the Board in court in connection with any judicial review of the Board's decisions, and other inquiries involving environmental issues associated with the Petitioner's proposal.

V. Petitioner Responsibilities

- A. The Petitioner shall retain the Contractor to assist OEA in preparing all required environmental documentation and services, as that assistance and its costs are defined by a contract to be negotiated and executed by the Petitioner and the Contractor, and in the Work Plan described in Section VIII.
- B. The Petitioner, including its staff and representatives, shall provide to OEA and the Contractor any requested supportive expertise, resources, data, and technical capabilities necessary to undertake the environmental analysis, subject to the right of the Petitioner to advise OEA of any request received from OEA of the Contractor that the Petitioner believes either is not germane to matters appropriately reviewed in the environmental review process, is contrary to applicable statutes and regulations, would impose an extraordinary burden on the Petitioner, or is subject to the right of the Petitioner to maintain confidentiality as to proprietary, privileged, or other information which is not otherwise subject to disclosure. In the event that the Petitioner so advises OEA, OEA shall determine whether the request is appropriate and shall so advise the Petitioner and the Contractor of its determination. OEA shall, to the extent possible, maintain the confidentiality of any information if so requested by the Petitioner.
- C. The Petitioner shall cooperate fully with OEA in organizing and participating in any public workshops, hearings, and meetings, as OEA determines are necessary to (1) foster public understanding and/or participation in the environmental review process, and (2) assess potential environmental impacts and mitigation measures related to the petition.
- D. With respect to all reports, analyses, and documents, including drafts, supplements, and final copies of the environmental documents, the Petitioner shall be responsible for the Contractor's administrative and clerical costs, as well as the costs of graphics, maps, layouts, mailing, and printing, as those costs are defined by a contract to be negotiated and executed by the Petitioner and the Contractor. The Petitioner shall, however, have the option of directing that the printing of the environmental documentation be performed by a private entity, rather than OEA. The Petitioner shall be solely responsible for the cost of preparing and providing to OEA the appropriate number of copies of all required environmental documentation.
- E. The Petitioner shall provide complete, accurate, relevant, and timely responses to all reasonable requests for information pertaining to the petition to the Board, the Operating Plan, and the environmental aspects and effects of the proposed rail construction and operation.
- F. In the event of any litigation resulting from the environmental analysis in this proceeding, OEA shall at that time determine the need for and terms of the Contractor's services in connection with any litigation.

VI. Board/OEA Responsibilities

- A. The Board is responsible for ensuring compliance with the requirements of NEPA and other applicable environmental statutes and regulations by preparing appropriate environmental documentation.
- B. OEA shall:
  - (1) Direct, review, and approve all phases of preparing all required environmental documentation, including the work of the Contractor, using OEA's best efforts to ensure that the work is reasonably necessary to conduct the environmental review process regarding the proceeding and the work is within the scope of NEPA requirements. For example, OEA shall ensure that the Contractor considers existing data and environmental analyses available from the Petitioner, OEA, and other sources, and that the Contractor does not duplicate work already done, unless OEA determines that the existing data are not adequate for use in preparing the environmental documentation;
  - (2) Designate appropriate staff to review and approve all work as it is developed and completed;
  - (3) Ensure that its representatives attend meetings, as needed, with federal, state, regional, and local agencies, and other interested parties, as well as any public hearings or meetings, to exchange information, explain the petition and related environmental concerns and impacts, obtain technical input, and receive comments in preparing all required environmental documentation; and
  - (4) Coordinate, with the Contractor's assistance, the exchange of information among any planning, design, or construction engineers or technical staff employed by the Petitioner and the Contractor.
- C. OEA will periodically review the work of the Contractor to ensure that the Board's responsibilities under NEPA and related environmental laws and regulations are being satisfied. As each portion of any draft or final document is completed, OEA staff shall review and approve that portion and those tasks completed, and/or direct further work with regard to that portion or task.
- D. OEA will monitor the Contractor to ensure that the Contractor is making adequate progress toward meeting specific time frames established in the Work Plan described in Section VII. If OEA determines these commitments are not being met, it will notify the Petitioner of its findings. It will be the responsibility of OEA to recommend any necessary corrective action to be taken under this MOU.
- E. In all instances involving questions concerning the content or relevance of any material (including all data, analyses, charts, and conclusions) prepared by the Contractor, OEA shall make the final determination on including, deleting, or revising any such material in the environmental documents.
- F. To coordinate the preparation of all required environmental documentation, and to verify petition-related data, OEA may hold joint meetings with the Petitioner and the Contractor. As necessary, OEA may exclude the Petitioner from participation. OEA may also consult directly with appropriate federal, state, and local officials, and other interested parties. The Petitioner shall provide complete, accurate, relevant, and timely responses to all reasonable requests for information pertaining to the petition to the Board and the environmental aspects and effects of the proposed rail construction and operation.

- G. OEA, with the assistance of the Contractor, will be responsible for organizing and conducting any public workshops or meetings that may be necessary in preparing environmental documents during the environmental review process.
- H. OEA, with the assistance of the Contractor, will receive all relevant comments submitted during the environmental review process and comment period. At the close of any public review and comment period, OEA, in consultation with the Contractor, shall identify the issues and comments that will require a response from the Board. OEA may direct these comments to the Petitioner and to the Contractor, as appropriate, to be included in the final environmental document. OEA may modify these responses as appropriate.
- I. OEA, with the assistance of the Contractor, shall prepare final recommendations for the Board.
- J. OEA shall retain responsibility for deciding the environmentally preferable alternative, and any mitigation measures to be included in the final environmental document.

## VII. Work Plan

- A. The Contractor, in consultation with OEA and the Petitioner, shall submit a draft Work Plan to OEA for preparing the required environmental documentation within thirty (30) days after all parties have signed this MOU. The draft Work Plan shall contain at least the following elements:
  - (1) A description of all work to be performed (including preparing and sending consultation letters; participating in public and agency meetings; outlining and drafting environmental documents; reviewing, analyzing, and summarizing public comments, conducting analyses, etc.);
  - (2) The projected schedule for completing the various tasks described;
  - (3) Identification of the Contractor's staff members who will be responsible for preparing, analyzing, and reviewing the work; and
  - (4) An outline of the environmental analysis.
- B. Following receipt of the draft Work Plan, OEA, in consultation with the Contractor and the Petitioner, shall finalize the Work Plan in a timely manner.
- C. Subsequent to consultation with the Contractor and the Petitioner, OEA may amend the Work Plan from time to time as the environmental review of the petition may necessitate. The parties hereto shall consult at least once every two weeks to confirm that the work is being performed in the most efficient and cost-effective manner and to consider possible measures to improve the efficiency and cost-effectiveness of the work.

## VIII. Disputes

Disputes between the parties may arise regarding the environmental review process, including approach, methods, analysis, conclusions, and performance of the obligations of the parties to this MOU. The parties agree to seek resolution of disputes among the individuals or parties directly involved. In the event that resolution is not achieved, the parties agree to mark further attempts at resolution before bringing the dispute to the next supervisory level, and all individuals or parties directly involved shall be notified in the case of such a referral to the next supervisory level. In addition, the parties may seek independent facilitation or mediation to assist in resolving disputes in the event that resolution is not achieved.

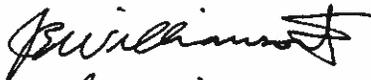
IX. Nonperformance and Termination

- A. The Petitioner or the Contractor shall notify OEA of any concerns either party might have with respect to the other party's performance under the contract between the Petitioner and the Contractor or this MOU. All parties will attempt to resolve, in good faith, any disputes or disagreements.
- B. If OEA determines that either the Contractor or the Petitioner is not adequately performing its responsibilities and duties in accordance with this MOU, OEA will discuss its concerns with the Contractor and the Petitioner. If OEA's concerns cannot be satisfactorily resolved, OEA will notify the Petitioner that OEA is removing the Contractor for cause, or direct the Petitioner to comply with the MOU. Upon removal of the Contractor, OEA shall endeavor to replace the Contractor with another qualified contractor as soon as practicable.
- C. Both the Petitioner and the Contractor shall immediately notify OEA of any attempt by either party to modify or terminate the contract between the Petitioner and the Contractor. Termination of the contract shall be subject to OEA's prior approval, after consultation with the Petitioner and the Contractor. Upon approving termination of the contract, OEA shall endeavor to replace the Contractor with another qualified contractor as soon as practicable. Notwithstanding the foregoing, the Petitioner may terminate the contract without OEA's approval in the event that it withdraws notice of intent or petition.

X. Modification

This MOU may be modified only by written amendment executed by OEA, the Petitioner, and the Contractor.

NORTHWEST TENNESSEE REGIONAL PORT AUTHORITY

By:   
Title: *Chairman*  
Date: *5/24/14*

SURFACE TRANSPORTATION BOARD  
By:   
Title: *Director, OEA*  
Date: *June 2, 2014*

ENSAFE  
By:   
Title: **Pamela Skelton  
Vice President  
Legal and Corporate Transactions**  
Date: *4-29-2014*

**Exhibit 7**  
**NWTRPA's Request for Waiver of**  
**Environmental Impact Statement Requirements**



EI-20709

July 16, 2014

JOHN D. HEFFNER  
(202) 742-8607  
Direct Fax (202) 742-8697  
John.Heffner@strasburger.com

Mr. Josh Wayland  
Office of Environmental Assessment  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20324

**RE: FD 35802, Northwest Tennessee Regional Port Authority-Construction and Operation of a Line of Railroad**

Dear Mr. Wayland:

I am writing on behalf of the Northwest Tennessee Regional Port Authority (“NWTRPA”), Petitioner in the above-captioned proceeding, for a waiver of the requirements of 49 CFR §1105.6(a) pertaining to the preparation of an Environmental Impact Statement for railroad construction transactions. For the reasons stated below, NWTRPA believes that an Environmental Assessment (EA) should be adequate to address the impacts of the proposed construction.

As you will recall, NWTRPA is a political subdivision and noncarrier that is seeking Board authority to construct and operate an approximately 5.5 mile-long rail line extending from the NWTRPA’s newly constructed port facility on the Mississippi River at the Port of Cates Landing to the connection with the national rail system at Tiptonville, TN.

In support of its request, NWTRPA or its representatives have met with members of the Office of Environmental Assessment (“OEA”) staff including you in late 2013 or early 2014 to discuss the proposed construction. Subsequently, NWTRPA sought and obtained a waiver of the six months’ advance notice requirement under 49 CFR §1105.10(a)(1) and OEA approval to engage EnSafe,

6056865.3/SP/31452/0101/071114

Strasburger & Price, LLP

1025 Connecticut Ave., N.W. Suite 717 | Washington, DC 20036 | 202.742.8600 tel | 202.742.8699 fax | www.strasburger.com  
Austin | Collin County | Dallas | Houston | San Antonio | New York, N.Y. | Washington, D.C. | Mexico City - Strasburger & Price, SC

Mr. Josh Wayland

July 16, 2014

Page 2

Inc., as a third party independent environmental consulting firm. Thereafter, you and EnSafe's Paul Stoddard conducted a site visit in May 2014.

On June 2, 2014, NWTRPA, EnSafe, and the OEA executed a Memorandum of Understanding for handling the environmental and historic issues presented by this construction case. EnSafe under the OEA's supervision will coordinate the National Historic Preservation Act Section 106 consultation with the Tennessee State Historic Preservation Office (SHPO) and the Endangered Species Act Section 7 consultation with the US Fish and Wildlife Service. EnSafe under the OEA's supervision will conduct a field survey of the region that would be affected by the proposed rail project, including in particular the routing that is preferred by NWTRPA and will most likely be presented as the proposed route for the new line.

Subsequently, on June 27, 2014, NWTRPA filed its Petition for Exemption under 49 U.S.C. §10901 for construction and operation authority. To the best of my knowledge, no consultation letters have been sent out or other actions taken by EnSafe or the OEA.

The Board's regulations provide that an EIS normally is prepared in connection with a rail construction project. *See*, 49 CFR §1105.6(a). However, 49 CFR §1105.6(d) provides for flexible exceptions to the general rule:

The Board may reclassify or modify these requirements for individual proceedings...[I]n a rail construction case, an applicant can seek to demonstrate (with supporting information addressing the pertinent aspects of 49 CFR §1105.7(e)) that an EA, rather than an EIS, will be sufficient because the particular proposal is not likely to have a significant environmental impact.

NWTRPA respectfully submits that an EA is sufficient in this case under the standards of 49 CFR §1105.6(d), because the subject construction project is not likely to have a significant environmental impact. Moreover, the port facility was the subject of a previous environmental review and a Finding of No Environmental Significance by the US Army Corps of Engineers ("the Corps") back in 2004.

Mr. Josh Wayland

July 16, 2014

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generate. Because the Port of Cates Landing and the Lake County Industrial Park both represent new sources of traffic, there will be no diversion of existing freight or passenger traffic either to or from other transportation systems or modes as all traffic would be new.

### (3) Land Use

Much of the land adjacent to the proposed right-of-way is undeveloped agricultural land and woodland. The major uses of the developed adjacent lands are for agricultural purposes and for a state prison. The proposed action is not expected to adversely affect or conflict with existing land use plans.

Between 60 and 80 acres of land would be required for the right-of-way. The right-of-way width is anticipated to be at least 150 feet.

### (4) Energy

The proposed action will result in new rail traffic and, thus, a modest net increase in energy use for train operations. Based upon an average one roundtrip per day, seven days per week, it is estimated that 350 trains would operate over the proposed line each year. The proposed action will have no adverse effect on recyclable commodities, and may have a positive impact if recycled rail or crossties are used in the construction process. No diversions of existing traffic from rail to motor carriage are expected to occur.

### (5) Air

No significant impact to local or regional air quality is expected. According to 40 CFR §81.344 and the Tennessee Department of Environment and Conservation, Lake County and the region encompassing the proposed line currently are in attainment under the Clean air Act.

### (6) Noise

Mr. Josh Wayland

July 16, 2014

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Anticipated traffic volume can be expected to lead to a corresponding increase in noise levels. However, there do not appear to be any sensitive noise receptors located in areas immediately adjacent to the proposed rail line.

(7) Safety

As noted above, the proposed right-of-way will cross only two lightly travelled roads and the area it traverses is very sparsely settled. Consequently, safety impacts are not a major consideration.

(8) Biological resources

The majority of the land affected by the proposed action is either undeveloped agricultural land or woodlands. A review of National Wetland Inventory (NWI) maps identified only minimal mapped wetlands that could be affected by NWTRPA's proposed alignment. Although the proposed right-of-way does not cross any navigable waters, OEA will coordinate with the Corps to address any Clean Water Act permitting issues and NWTRPA will pursue and secure any permit(s) that may be needed (see water resources below).

There are no wildlife sanctuaries or refuges, national or state parks or forests that would be affected by the proposed action. While the EA prepared by the Corps back in 2004 identified certain endangered species in Lake County, the associated Biological Assessment did not identify any such species within the proposed harbor areas or along the rail corridor. The area is not a designated critical habitat for any wildlife species. If and to the extent any sensitive species are found along the rail alignment and would be adversely affected by the proposed action, mitigation measures will be developed in coordination with the US Fish and Wildlife Service and the Tennessee Department of Environment and Conservation.

No rare or sensitive native habitats were shown by preliminary review to be significantly affected by the proposed action.

(9) Water resources

Mr. Josh Wayland

July 16, 2014

Page 6

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The proposed line crosses no traditional navigational waters or relatively permanent waters and the only potential impact to Waters of the U.S. could be minimal wetlands affected by the proposed project.

(10) Cultural resources

The lands adjacent to the right-of-way do not contain any known Native American cultural artifacts or other resources. Additionally, there are no historic structures or other potential historic or archeological resources on or along the proposed right-of-way. OEA will consult with the Tennessee SHPO to seek concurrence on appropriate measures to avoid or minimize potential project impacts to any cultural resources that may be discovered during project construction.

(11) Geology and Soils

In preliminary geotechnical evaluations undertaken by the Corps, the Project area was found not to include potential geologic hazards, such as areas of subsidence, giant desiccation cracks, landslides, or surface faults. The Project will incorporate features and measures to mitigate for potential seismic activity that is possible in the region.

We believe that the foregoing information should be sufficient under 49 CFR §1105.6(d) to justify reclassification of the NWTRPA rail project as one requiring only an EA. However, if your office believes that any additional information is needed in order to make that determination, please contact the undersigned.

Respectfully submitted,

John D. Heffner

cc: Paul Stoddard  
John Lannom, Esq.

**Exhibit 8**  
**Board's Response to NWTRPA's Request for Waiver of**  
**Environmental Impact Statement Requirements**



**SURFACE TRANSPORTATION BOARD**  
**Washington, DC 20423**

*Office of Environmental Analysis*

September 26, 2014

John D. Heffner, Esq.  
Strasburger & Price, LLP  
1025 Connecticut Ave., NW  
Suite 717  
Washington, DC 20036

Re: FD 35802, Northwest Tennessee Regional Port Authority—Construction and Operation of a Line of Railroad—In Lake County, TN; Approval of EIS Waiver Request

Dear Mr. Heffner:

Pursuant to 49 C.F.R. § 1105.6(d), the Surface Transportation Board's (Board) Office of Environmental Analysis (OEA) is granting your July 16, 2014 request for a waiver from the requirements of 49 C.F.R. § 1105.6(a), which generally provide for the preparation of an Environmental Impact Statement (EIS) for a rail construction and operation proposal. OEA is granting the requested waiver based on available information gathered to date, including materials submitted by the petitioner, OEA's consultation with federal, state, and local agencies, and a site visit on May 13, 2014 to the project area.

On June 27, 2014, the Northwest Tennessee Regional Port Authority (NWTRPA) submitted a petition seeking exemption from the prior approval requirements of 49 U.S.C § 10901 for the construction and operation of approximately 5.5 miles of rail line that would extend between the Port of Cates Landing on the Mississippi River and the existing TennKenn Railroad near Tiptonville, Tennessee. The new rail line would serve the port, as well as the adjacent Lake County Industrial Park.

OEA understands that the projected traffic level once the port and the industrial park are completed would be an average of one train per day, or approximately 350 trains per year. The volume and type of freight to be moved on the line would depend on market conditions, but are anticipated to include agricultural products, industrial raw materials, industrial products, manufactured goods, energy commodities, and special cargoes.

Based on the information available to date, OEA believes that the proposed action would not result in significant environmental impacts and that any impacts could be addressed through appropriate mitigation measures. OEA's opinion is based on the reasons outlined below:

- The U.S. Army Corps of Engineers (the Corps) conducted an Environmental Assessment (EA) in 2004 in connection with the construction of the harbor at the Port of Cates Landing. The EA evaluated potential impacts of the harbor construction and related activities, including the construction of the port facility and industrial park, on the environment. The EA concluded that, with the implementation of appropriate mitigation activities, the project would not result in significant impacts. Because the EA analyzed the same general project area that will be considered in OEA's environmental review, OEA believes that it is unlikely that any potentially significant impacts will be identified in its analysis of the present action.
- On July 24, 2014, OEA sent out agency consultation letters to various federal, state, and local agencies. To date, OEA has received responses from the Tennessee Historical Commission (the State Historic Preservation Officer or SHPO); the Natural Resources Conservation Service (NRCS); the City of Tiptonville, Tennessee; the Tennessee Department of Environment and Conservation, Division of Water Resources (TDEC); the Northwest Tennessee Development District; the United States Fish and Wildlife Service (USFWS); and the Tennessee Wildlife Resources Agency (TWRA). The only environmental issue identified in these comments is the potential impact on stream and wetlands. Specifically, TWRA requests that, if streams or wetlands are delineated within the project area, mitigation for the impacts be implemented. In their comments, TDEC and USFWS indicate that, based on their records, no wetlands or water sources are likely to be impacted by the project. During the course of the environmental review, OEA will conduct a delineation of wetlands and streams in the project area and, should any be identified, will recommend appropriate mitigation for potential impacts.
- NRCS and the SHPO have requested additional information regarding the proposed project in order to assess potential impacts. OEA will provide the requested information to these agencies during the environmental review process.
- On May 13, 2014, OEA and EnSafe, Inc., OEA's third-party contractor, conducted a site inspection of the proposed project area. The proposed rail line would cross primarily agricultural land. In addition to the port facility, there are several residences and a state prison in the general project area. The line would cross two lightly-traveled public roads and an agricultural drainage ditch. There do not appear to be any homes or other structures located on or immediately adjacent to the proposed route.
- Also on May 13, 2014, OEA and EnSafe met with representatives of the local government of Lake County, Tennessee. No potential environmental issues were raised during this meeting.

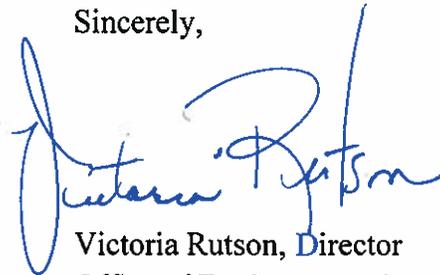
- Information collected to date indicates that there would be no significant impacts to transportation systems, land use, energy, air quality, noise, safety, biological resources, or surface or groundwater resources. Nor does OEA anticipate that there would be significant impacts on minority or low-income populations, based on initial site reconnaissance.

After the EA is prepared, OEA will make the document available for a 30-day public review and comment period. Once the comment period ends, OEA will prepare a Final EA that discusses the comments received and includes any additional analysis or appropriate modifications to its analysis. The Final EA will also set forth OEA's recommended mitigation measures for the Board. The Board will then consider the EA, the public comments, and the Final EA recommendations before making its final decision in this proceeding.

If during the environmental review process it becomes clear that potentially significant adverse environmental impacts would result from the project and that these impacts could not be adequately mitigated, OEA would then prepare a more detailed EIS, as required by the Council on Environmental Quality's regulations and the Board's environmental rules at 49 C.F.R. § 1105.6(a).

If you have any questions or would like to discuss this matter further, please contact Josh Wayland of my staff at (202) 245-0330 or email at [waylandj@stb.dot.gov](mailto:waylandj@stb.dot.gov).

Sincerely,



Victoria Rutson, Director  
Office of Environmental Analysis

**Exhibit 9**  
**Other Communications between NWTRPA and the Board**



***SURFACE TRANSPORTATION BOARD***  
***Washington, DC 20423***

*Office of Environmental Analysis*

January 29, 2015

John D. Heffner, Esq.  
Strasburger & Price, LLP  
1025 Connecticut Ave., NW, Suite 717  
Washington, DC 20036

Re: STB Docket No. FD 35802, Northwest Tennessee Regional Port Authority—Rail  
Construction and Operation—in Lake County, Tennessee;  
Information Request #1

Dear Mr. Heffner:

Pursuant to 40 C.F.R. § 1506.5(a), the Surface Transportation Board's Office of Environmental Analysis (OEA) is requesting that you provide the information described below on behalf of the Northwest Tennessee Regional Port Authority, the project petitioner in the above referenced proceeding:

1. A description, based on available preliminary engineering or design plans, of the right-of-way width for the proposed rail line, including the maximum right-of-way width;
2. A description and any available design information of any structures, such as culverts or bridges across streams or wetlands, that would be constructed as part of the proposed rail line, including the lengths of any such structures; and
3. A description and any available design information for proposed road crossings, including the number of crossings proposed and any proposed safety features for these crossings (warning lights, cross bars, etc.).

This information is necessary for OEA's environmental review of the proposed project and we would appreciate as prompt a reply as possible to allow us to continue moving forward with the environmental analysis. Please provide a copy of your response to Mr. Josh Wayland of my staff at 395 E Street, SW, Washington, DC, 20423 (phone: 202-245-0330; e-mail address: Joshua.Wayland@stb.dot.gov).

Please feel free to contact me or Mr. Wayland if you have any questions. Thank you for your assistance.

Sincerely,

A handwritten signature in black ink that reads "Victoria Rutson". The signature is written in a cursive style with a large initial 'V'.

Victoria Rutson

Director

Office of Environmental Analysis

EI-21013



RE: Cates Landing  
Randall Rhodes

to:  
Brian Yates  
02/10/2015 02:25 PM

Cc:  
"Joshua.Wayland@stb.dot.gov", John Lannom, "jimmy\_williamson@att.net"

Hide Details

From: Randall Rhodes <rrhodes@flcmail.com>

To: Brian Yates <byates@Ensaf.com>

Cc: "Joshua.Wayland@stb.dot.gov" <Joshua.Wayland@stb.dot.gov>, John Lannom <jlannom@lannomcoronado.com>, "jimmy\_williamson@att.net" <jimmy\_williamson@att.net>

## 2 Attachments



Railroad R.O.W - RR1.1.pdf Railroad R.O.W - RR1.2.pdf

Brian,

Per your email below....I have attached above two maps in PDF format and below is a written response to the information I think that you are looking for:

### 1. The likely width of right of way (minimum and maximum)

**Answer:** The first attachment labeled "Railroad R.O.W. – RR1.1" indicates the proposed R.O.W. shaded in RED. The R.O.W. width is indicated by blue dimensions and is typically 150 feet wide (minimum) but varies to a maximum of 227.50 feet where the proposed rail would cross the main drainage ditch. The R.O.W. would also include all the land inside of the delta (see map) at the existing short-line railroad connection due to the impact to the landowner's property.

### 2. Any available information about culverts, bridges, or other structures

**Answer:** The first attachment "Railroad R.O.W. – RR1.1" indicates by text and symbol the location of the foreseen culverts (called out drain pipes). A box culvert may be required at the crossing of State Hwy 212 where an existing concrete bridge over ditch exists (noted on the map). This ditch parallels the proposed rail line and would not be crossed, but a smaller feeder ditch will be crossed by the proposed rail line at this location. As to rail bridge there would likely be one required at the wider R.O.W. portion where the main drainage ditch is being crossed.

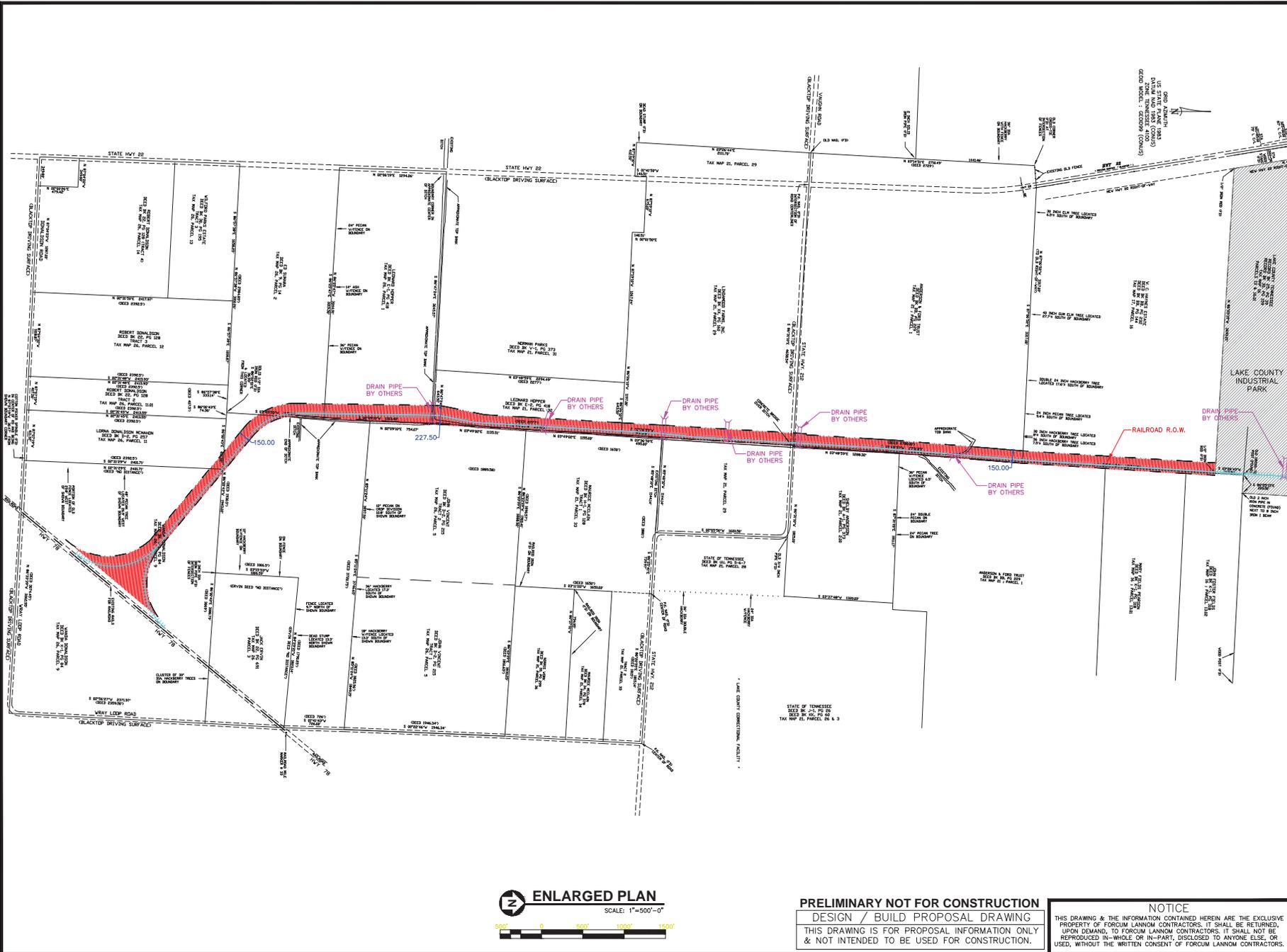
### 3. Information about proposed road crossings including any required safety features or anything that the applicant is proposing.

**Answer:** The second attachment labeled "Railroad R.O.W. – RR1.2" indicates two road crossings proposed. One is the State Hwy 212 in the center of the map labeled "State Hwy Crossing" and the second is a county road at the north end of the Lake County Industrial Park and is labeled "County Road Crossing". We proposed to provide the safety features for these two crossings as deemed proper by the Department of Transportation for the location and proposed application.

Look forward to our conference call on Tuesday February 17<sup>th</sup> at 3:00 PM Central Time.

All the best,  
Randall

Randall W. Rhodes, PE



**ENLARGED PLAN**  
 SCALE: 1"=500'-0"  
 500' 0 500' 1000' 1500'

**PRELIMINARY NOT FOR CONSTRUCTION**  
 DESIGN / BUILD PROPOSAL DRAWING  
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| PROJECT NO.   | ?                 |
| DRAWN BY      | ?                 |
| DESIGN LEADER | ?                 |
| CHECKED BY    |                   |
| REVIEWED BY   | (PROJECT MANAGER) |

**PRELIMINARY NOT FOR CONSTRUCTION**

RAIL ROAD RIGHT OF WAY  
 NORTHWEST TENNESSEE REGIONAL PORT AUTHORITY  
 CATES LANDING, TENNESSEE

**FORCUM LANNOM**  
 CONTRACTORS, LLC  
 4901 GARDNER BLVD.  
 MEMPHIS, TENNESSEE 38124  
 PH: (901) 527-4700

DATE: 02-02-15  
 SHEET: RR.1.1



**OVERALL VIEW**

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RAIL ROAD RIGHT OF WAY  
 NORTHWEST TENNESSEE REGIONAL PORT AUTHORITY  
 CATES LANDING, TENNESSEE  
**FORUM LANNON**  
 CONTRACTORS, LLC  
 350 US Hwy, 51 Bypass S, Dyerburg, Tennessee 38024 PH: (731) 287-4700

PROJECT NO. 11127L  
 DRAWN BY: CM  
 DESIGN LEADER: RMR  
 CHECKED BY:  
 REVIEWED BY: (PROJECT MANAGER)

**PRELIMINARY NOT FOR CONSTRUCTION**

| NO. | DATE | REVISION |
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DATE 02-02-15  
 SHEET RR1.2

**voluntary mitigation measures****Heffner, John D.** to: Joshua.Wayland@stb.dot.gov

04/28/2015 04:36 PM

Cc: "jlannom@lannomcoronado.com", "cateslanding@dyerchamber.com"...

[Show Details](#)

History: This message has been replied to.

This email will memorialize our conversation about Petitioner's voluntary mitigation measures. Josh, please supply me with language regarding historic-related impacts.

1. Petitioner will use best practices in its construction methods
2. Petitioner's construction will be within the existing right of way owned or to be acquired by petitioner
3. Petitioner will abide by mitigation measures recommended by the Army Corps in its 2004 environmental assessment for the port construction
4. Petitioner will consult with Tennessee DOT and other affected state and local agencies on the construction and operation of the line

Please advise if there is anything else you need. Also Brian please forward to your colleague who was on this call.

**Strasburger**

ATTORNEYS AT LAW

**John Heffner** • Strasburger & Price, LLP  
1025 Connecticut Avenue, N.W., Suite 717, Washington, D.C. 20036  
202.742.8607 • Fax 202.742.8697 • [Strasburger.com](http://Strasburger.com)

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