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BIRMINGHAM SOUTHERN RAILROAD COMPANY

P O BOX 579
FAIRFIELD, AL 35064



April 7, 2008

Mr Vernon A Williams, Secretary
Surface Transportation Board
1925 K Street NW - Room 700
Washington, D C 20006

**Re: STB No. 192 (Sub - No. 2X) Birmingham Southern Railroad Company
Verified Notice of Exemption for Abandonment and Discontinuance of Service of 0.18 Mile of
Birmingham Southern Railroad Company's "Old Port Branch" Line in Jefferson County,
Alabama**

Dear Mr Williams

Given that the Surface Transportation Board imposed certain conditions on the abandonment of the Old Port Branch line in its decision released on January 27, 2007, it is not clear to me as to the appropriate to file the "Notice of Consummation" as required by 49 C F R § 1152 29 (e) (2) The condition of the line has not changed in any way since the decision was released Please advise me as to what is required of Birmingham Southern Railroad Company at this time to avoid having to institute a new proceeding if the Notice is not filed A copy of the decision and a draft of the "Notice of Consummation" are enclosed for your reference and comment

Please acknowledge receipt of this letter by date stamping a copy of this letter and returning it to me in the enclosed self-addressed, DHL overnight envelope Should you have any further questions concerning this matter, please contact me by calling (205) 783-2515 Thank you for your cooperation

Very truly yours,

Michael M Partain
General Attorney

Enclosures

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Public Record

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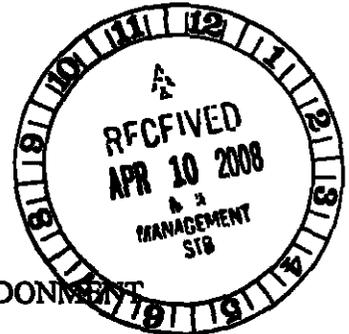
SERVICE DATE – LATE RELEASE JANUARY 22, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-192 (Sub-No. 2X)

BIRMINGHAM SOUTHERN RAILROAD COMPANY—ABANDONMENT
EXEMPTION—IN JEFFERSON COUNTY, AL



Decided: January 22, 2007

Birmingham Southern Railroad Company (BSRC) filed a verified notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 0.18-mile line of railroad known as the Old Port Branch, extending from Survey Station 936+04.07 of Turnout P-63 A, over Trestle 17.9, to a connection with Ergon Terminating, Inc.'s (Ergon) rail line at Survey Station 945+52.55 in Jefferson County, AL. Notice of the exemption was served and published in the Federal Register on December 22, 2006 (71 FR 77095). The exemption is scheduled to become effective on January 23, 2007

The Board's Section of Environmental Analysis (SEA) issued an environmental assessment (EA) in this proceeding on December 29, 2006. In the EA, SEA advised that the Alabama Historical Commission (State Historic Preservation Officer or SHPO) had not yet submitted its comments in response to BSRC's historic report, and pointed out that potential impacts to historic sites or structures would occur only if the line is salvaged. Because BSRC might not salvage the line, SEA recommended that, in the event BSRC does not sell the line for continued rail use and decides to salvage the line, BSRC be required, prior to beginning any salvage activities, to: (a) reinitiate the consultation process pursuant to section 106 of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA), (b) retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or are listed in the National Register of Historic Places until completion of the section 106 process, (c) report back to SEA regarding any consultations with the SHPO and any other section 106 consulting parties that have been identified, and (d) refrain from initiating any salvage activities related to abandonment (including removal of tracks and ties) until the section 106 process has been completed and the Board has removed this condition.

By letter dated January 5, 2007, the Alabama Department of Environmental Management (ADEM) submitted comments on the EA. ADEM recommends that BSRC be required to (1) ensure that all salvage activities associated with the abandonment are in compliance with the permit requirements of the National Pollutant Discharge Elimination System (NPDES) for stormwater discharges, and (2) prior to initiating salvage activities, install Best Management Practices in order to minimize the release of pollutants to surface waters. Therefore, SEA recommends that, prior to commencement of any salvage activities, BSRC be required to consult

DRAFT

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



DOCKET NO. AB 192 (Sub No. 2-X)

**BIRMINGHAM SOUTHERN RAILROAD COMPANY
ABANDONMENT AND DISCONTINUANCE OF SERVICE OVER THE
OLD PORT BRANCH IN JEFFERSON COUNTY, ALABAMA**

NOTICE OF CONSUMMATION

**ENTERED
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Part of
Public Record**

**MICHAEL M PARTAIN
6200 E. J. Oliver Boulevard, Suite 192
Fairfield, Alabama 35064
Counsel for
BIRMINGHAM SOUTHERN
RAILROAD COMPANY**

**BEFORE
THE SURFACE TRANSPORTATION BOARD**

DOCKET NO. AB 192 (Sub No. 2-X)

**BIRMINGHAM SOUTHERN RAILROAD COMPANY
ABANDONMENT AND DISCONTINUANCE OF SERVICE OVER THE OLD PORT
BRANCH
IN JEFFERSON COUNTY, ALABAMA**



NOTICE OF CONSUMMATION

Birmingham Southern Railroad Company, (hereinafter referred to as "Applicant" or "BSRC") herewith gives its Notice of Consummation of the abandonment and discontinuance of rail service over its line of railroad known as the Old Port Branch, extending from point of switch Survey Station 936+04 07 of Turnout P-63 A, and extending from that point over and across the Trestle 17 9 to a rail connection with Ergon Terminaling, Inc 's Survey Station 945+52 55 in the City of Birmingham, Jefferson County, Alabama, a distance of 0 18 miles Trestle 17 9 (FAC# P 18 E) is located at Milepost 17 9 on the Short Creek in Birmingham, Jefferson County, Alabama

Respectfully Submitted,

MICHAEL M PARTAIN
6200 E J Oliver Boulevard, Suite 192
Fairfield, Alabama 35064
(205) 783-2515
Counsel for
**BIRMINGHAM SOUTHERN
RAILROAD COMPANY**

**CERTIFICATE OF SERVICE AND PUBLICATION
PURSUANT TO 49 C.F.R. § 1105.7(c)**

*I hereby certify that I have served the Notice of Consummation upon the State of
Alabama Public Service Commission pursuant to 49 C F R § 1152.29 (e) (2)*

**MICHAEL M PARTAIN
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BIRMINGHAM SOUTHERN
RAILROAD COMPANY**