

**FILED**

JUL 26 2010

**SURFACE  
TRANSPORTATION BOARD**

**BAKER & MILLER PLLC**

ATTORNEYS and COUNSELLORS  
2401 PENNSYLVANIA AVENUE, NW  
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William A. Mullins  
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227499

Direct Dial: (202) 663-7823

July 26, 2010

ENTERED  
Office of Proceedings  
JUL 26 2010  
Part of  
Public Record

**BY HAND DELIVERY**

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

Re: ***County of Greenville, South Carolina – Acquisition Exemption – Greenville  
Economic Development Corporation  
STB Finance Docket No. 35396***

Dear Section Chief:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of the Verified Notice of Exemption (the "Notice") of the County of Greenville, South Carolina, filed pursuant to 49 CFR 1150.31, et seq. Also included with this filing is the requisite filing fee of \$1,800.

One extra copy of the Notice and this letter also are enclosed. I would request that you date-stamp those items to show receipt of this filing and return them to me in the provided envelope.

If you have any questions regarding this filing, please feel free to contact me. Thank you for your assistance on this matter.

Respectfully submitted,

William A. Mullins  
Attorney for the County of Greenville, South Carolina

Enclosures

\*\*Contains Color Copies

**FEE RECEIVED**

JUL 26 2010

**SURFACE  
TRANSPORTATION BOARD**

227499



**FEE RECEIVED**

JUL 26 2010

**SURFACE  
TRANSPORTATION BOARD**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

\_\_\_\_\_  
**STB Finance Docket No. 35396**  
\_\_\_\_\_

**COUNTY OF GREENVILLE, SOUTH CAROLINA  
- ACQUISITION EXEMPTION -  
GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION**

\_\_\_\_\_  
**VERIFIED NOTICE OF EXEMPTION PURSUANT TO 49 CFR 1150.31**  
\_\_\_\_\_

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**SURFACE  
TRANSPORTATION BOARD**

**William A. Mullins  
Baker & Miller PLLC  
2401 Pennsylvania Ave., N.W.  
Suite 300  
Washington, DC 20037  
Phone: (202) 663-7820  
Facsimile: (202) 663-7849**

**Attorney for the County of Greenville,  
South Carolina**

**Dated: July 26, 2010**  
**\*\*Contains Color Copies**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB Finance Docket No. 35396**

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**COUNTY OF GREENVILLE, SOUTH CAROLINA  
– ACQUISITION EXEMPTION –  
GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION**

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**VERIFIED NOTICE OF EXEMPTION PURSUANT TO 49 CFR 1150.31**

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Pursuant to 49 CFR 1150.31, *et seq.*, the County of Greenville, South Carolina (“Greenville County” or “County”), a non-carrier political subdivision of the State of South Carolina, hereby files this Verified Notice of Exemption to acquire from Greenville County Economic Development Corporation (“GCEDC”) approximately 11.8 miles of railroad right-of-way extending from milepost 0.0 in Greenville, SC, to milepost 11.8 in Travelers Rest, SC (the “Line”), including GCEDC’s residual common carrier obligation over that Line. The Line is currently railbanked in accordance with the National Trails System Act, 16 USC 1247 (d).<sup>1</sup>

In accordance with the requirements of 49 CFR 1150.33, County submits the following information:

**Full name and address of applicant: 49 CFR 1150.33(a)**

County of Greenville, South Carolina  
301 University Ridge  
Suite 2400  
Greenville, SC 29601

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<sup>1</sup> See Greenville County Economic Development Corporation – Abandonment and Discontinuance Exemption – In Greenville County, SC, AB-490 (Sub-No. 1X)(STB served Oct. 12, 2005 and Nov. 13, 2006)(“Greenville Abandonment Decision”).

**Applicant's Representatives: 49 CFR 1150.33(b)**

William A. Mullins  
Baker & Miller PLLC  
2401 Pennsylvania Ave., NW, Ste. 300  
Washington, DC 20037  
(202) 663-7823  
wmullins@bakerandmiller.com

**Statement that an agreement has been reached or details about when an agreement will be reached: 49 CFR 1150.33 (c)**

Greenville County and GCEDC have reached an agreement on the principle terms of the transaction. Attached as Exhibit A are the following documents: (1) a letter from the Chairman of GCEDC evidencing GCEDC's agreement to the transfer of the Line, and its support of the transaction; and (2) a letter from the Director of the Greenville County Recreation Department, the trail owner and user, evidencing its support of the transaction and for the assignment of the trails agreement from GCEDC to the County.

**Operator of the property: 49 C.F.R. 1150.33(d)**

By decision and notice of interim trail use ("NITU") or abandonment in Greenville County Economic Development Corporation – Abandonment and Discontinuance Exemption – In Greenville County, SC, AB-490 (Sub-No. 1X)(STB served Oct. 12, 2005) the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903, the abandonment by GCEDC of the Line that is subject to this transaction (in that proceeding, the Line is referred to as the "Northern Segment") and authorized a 180-day period for Upstate Forever to negotiate an agreement with GCEDC for interim trail use/rail banking for the Line (Northern Segment). In that same decision, the Board authorized the discontinuance of service by GCEDC over 3.29 miles of rail line, extending from milepost AJK 585.34 in East Greenville, SC, to milepost AJK 588.63 in Greenville (that portion of is known as the "Southern Segment"),

Greenville County, SC. On September 26, 2006, GCEDC and the Greenville County Recreation District (“GCRD”)(who had replaced Upstate Forever with respect to the negotiations for trails use) reached a trails agreement whereby GCRD acquired a lease of the right-of-way for trails purposes and agreed to operate, maintain, and otherwise comply with the applicable statutory and regulatory requirements for use of the Line as a trail. As a result, in a decision served November 13, 2006, the Board reopened the proceeding, vacated the NITU that had been issued to Upstate Forever, and issued a replacement NITU to GCRD. In accordance with the November 13, 2006 decision, the Line is currently railbanked with GCRD as the trails operator. GCEDC remains the owner of the right-of-way and holder of the residual common carrier obligation. Given the Line’s status as a trail, there is no active operator of the Line.

**Summary of the proposed transaction: 49 C.F.R. 1150.33(e)**

For various reasons, including for liability and insurance purposes, Greenville County, GCEDC, and GCRD have all determined that GCEDC should no longer own the underlying Line or retain the residual common carrier obligation to restore rail service over the Line. Instead, the parties have determined that Greenville County should be the owner of the Line and holder of the residual common carrier obligation while GCRD will continue to maintain a leasehold interest in the Line solely for trails purposes and will continue as the trail operator.

As a result of the transaction, Greenville County will acquire GCEDC’s interests in the Line, including the residual common carrier obligation. GCEDC will assign its interest in the GCEDC-GCRD trails agreement to Greenville County, and the County will assume all of GCEDC’s rights and responsibilities under that agreement. GCRD will retain its leasehold interest in the Line and will continue to be the trail owner and operator. The end result will be

that all of GCEDC's ownership rights and responsibilities in the Line will be transferred to the County.<sup>2</sup>

**49 C.F.R. 1150.33(e)(1)**

The name and address of the railroad transferring operating interests in the subject property:

Greenville County Economic Development Corporation  
c/o Chairman H.G. (Butch) Kirven, Jr  
7 Ralph Hendricks Drive  
Simpsonville, SC 29611  
Phone: 228-9300  
Fax: 228-9230  
[bkirv@aol.com](mailto:bkirv@aol.com)

**49 C.F.R. 1150.33(e)(2)**

Greenville County anticipates that the subject rail line acquisition transaction will be consummated on or after August 25, 2010.

**49 C.F.R. 1150.33(e)(3) & (4)**

The line consists of approximately 11.8 miles of railroad right-of-way extending from milepost 0.0 in Greenville, SC, to milepost 11.8 in Travelers Rest, SC. There are no branch lines included in the transaction.

**Map: 49 CFR 1150.33(f)**

A Map showing the Line and surrounding area is attached as Exhibit B to this Notice.

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<sup>2</sup> In many respects, the transaction is similar to King County, WA – Acquisition Exemption – BNSF Railway Company, STB Finance Docket No. 35148 (STB served Sept. 17, 2009) where the Board authorized King County, a political subdivision of the State of Washington and a noncarrier, to acquire from BNSF Railway Company (BNSF) the “residual common carrier rights and obligations,” including BNSF’s right to reinstate rail service in the future over approximately 25.45 miles of rail line in King County, WA that had been railbanked.

**Certificate of compliance: 49 CFR 1150.33(g)**

Certification of compliance with the provisions of 49 CFR 1150.33(g) is attached as Exhibit C to this Notice.

**Interchange commitments: 49 CFR 1150.33(h)**

Greenville County's proposed acquisition of the Line will not involve any provision or agreement between GCEDC and the County that would limit future interchange with a third-party connecting carrier.

**Advance Notice (Posting): 49 CFR 1150.32(e)**

The proposed transaction will not result in the creation of a carrier with projected annual operating revenues exceeding \$5 million, and, accordingly, the advance notice requirements of 49 CFR 1150.32(e) are not applicable to this transaction. See Exhibit B.

**Environmental and Historic Prescription Data: 49 CFR 1105**

Under 49 CFR 1105.6(c)(2)(i), Greenville County's proposed acquisition of the Line is exempt from environmental reporting requirements. The proposed acquisition will not result in significant changes in freight carrier operations. *i.e.*, changes that exceed the thresholds established in 49 CFR 1105.7(e)(4) or (5). Accordingly, this action will not significantly affect either the quality of the human environment or energy conservation.

Under 49 CFR 1105.8(b)(1), Greenville County's proposed acquisition of the Line also is exempt from historic preservation reporting requirements. The Line has previously been authorized for abandonment and thus subject to a full environmental and historic review. Salvage of the applicable rail assets in accordance with the conditions imposed in the prior proceeding has already occurred. See e.g. Greenville Abandonment Decision served April 2,

2007 noting completion of, and full compliance with, the environmental conditions imposed in the original Greenville Abandonment Decision.

**Caption Summary: 49 CFR 1150.34**

A caption summary in appropriate form is attached as Exhibit D to this notice.

Respectfully submitted,



William A. Mullins  
Baker & Miller PLLC  
2401 Pennsylvania Ave., N.W.  
Suite 300  
Washington, DC 20037  
(202) 663-7820

Attorney for County of Greenville, South Carolina

Dated: July 26, 2010

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB Finance Docket No. 35396**

---

**COUNTY OF GREENVILLE, SOUTH CAROLINA  
– ACQUISITION EXEMPTION –  
GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION**

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**VERIFIED NOTICE OF EXEMPTION PURSUANT TO 49 CFR 1150.31**

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**EXHIBIT A**

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**LETTERS OF SUPPORT FROM  
GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION  
AND  
GREENVILLE COUNTY RECREATION DISTRICT**

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# GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION

Mailing Address:  
301 University Ridge, Suite 2400  
Greenville, South Carolina 29601  
(864) 467-7409

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**Board of Directors**  
**Herman G. "Butch" Kirven, Jr.**  
Chairman and President  
**Joe Dill**  
**Fred Payne**  
**Ricardo Harris**  
**Peter Strub**  
Treasurer

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

Re: *County of Greenville, South Carolina – Acquisition Exemption –  
Greenville Economic Development Corporation*  
STB Finance Docket No. 35396

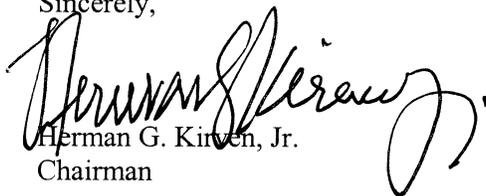
Dear Ms. Brown,

I am the Chairman of the Greenville County Economic Development Corporation ("GCEDC") which is the current property owner of approximately 11.8 miles of railroad right-of-way extending from milepost 0.0 in Greenville, S.C., to milepost 11.8 in Travelers Rest, S.C. (the "Line"). I am also the Chairman of the Greenville County, Council, Greenville County, South Carolina ("County Council"). I write to confirm that GCEDC and the County Council have reached an agreement for the transfer of the Line to the County of Greenville, a local government political subdivision of the State of South Carolina ("County"). The agreement also includes the assignment of the trails agreement between GCEDC and the Greenville County Recreation District ("GCRD") to the County.

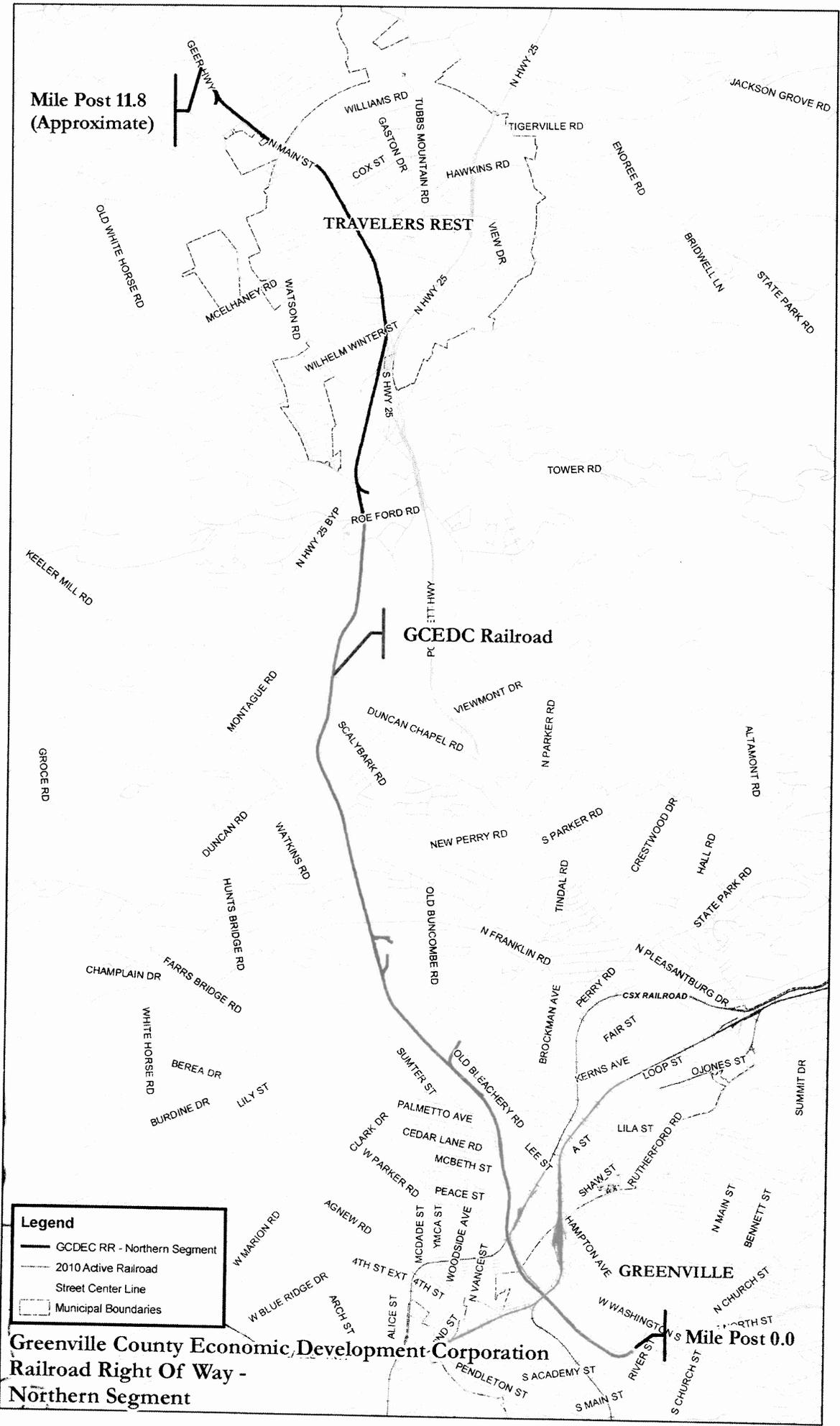
On October 30, 2009, GCEDC met in a duly called meeting and voted to approve the transfer of the Line to the County, including GCEDC's residual common carrier obligation over that Line. Likewise, in 2010, County Council was briefed and supported the acquisition of the Line and assignment of the trails agreement.

The Line is currently railbanked in accordance with the National Trails System Act. This transfer will provide long-term stability and support for this railbanked section and I would respectfully ask for the approval of this request.

Sincerely,



Herman G. Kirven, Jr.  
Chairman



Mile Post 11.8  
(Approximate)

TRAVELERS REST

GCDEC Railroad

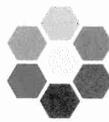
GREENVILLE

Mile Post 0.0

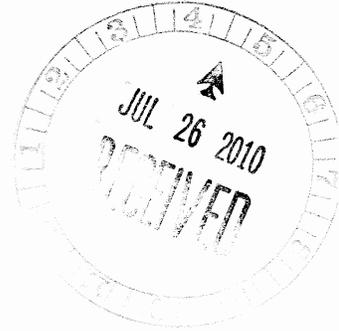
**Legend**

- GCDEC RR - Northern Segment
- 2010 Active Railroad
- Street Center Line
- Municipal Boundaries

Greenville County Economic Development Corporation  
 Railroad Right Of Way -  
 Northern Segment



**Greenville Rec**  
GREENVILLE COUNTY RECREATION DISTRICT



July 20, 2010

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

Re: ***County of Greenville, South Carolina – Acquisition Exemption –  
Greenville Economic Development Corporation  
STB Finance Docket No. 35396***

Dear Ms. Brown,

I am the Executive Director of the Greenville County Recreation District (“GCRD”) which is the operator and user of a trail on approximately 11.8 miles of railroad right-of-way extending from milepost 0.0 in Greenville, S.C., to milepost 11.8 in Travelers Rest, S.C. (the “Line”). The Line is currently owned by the Greenville County Economic Development Corporation (“GCEDC”) as the right-of-way owner and holder of the residual common carrier obligation. GCRD is the trail operator pursuant to an agreement with GCEDC for interim trail use/rail banking.

This letter shall serve as GCRD’s support for the transfer of the Line from GCEDC to the County of Greenville. We also support the assignment of the trail operating agreement from GCEDC to the County of Greenville. Approval of this transfer will further GCRD’s mission as trail operator by allowing us to continue our strong partnership with the County of Greenville for future trail management on the Line.

Sincerely,

Gene Smith,  
Executive Director

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB Finance Docket No. 35396**

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**COUNTY OF GREENVILLE, SOUTH CAROLINA  
- ACQUISITION EXEMPTION -  
GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION**

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**VERIFIED NOTICE OF EXEMPTION PURSUANT TO 49 CFR 1150.31**

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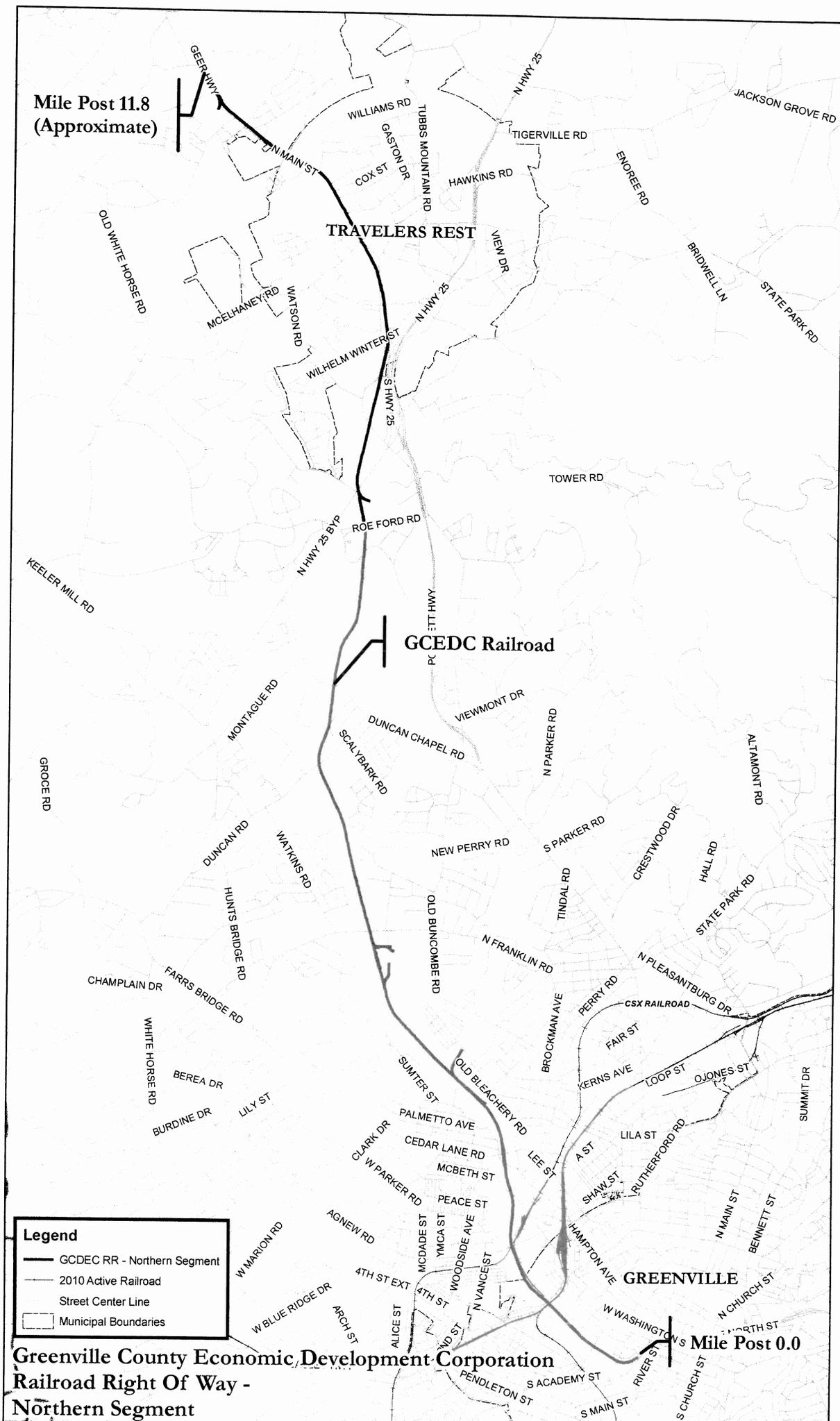
**EXHIBIT B**

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**MAP**

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Mile Post 11.8  
(Approximate)

TRAVELERS REST

GCDEC Railroad

GREENVILLE

Mile Post 0.0

**Legend**

-  GCDEC RR - Northern Segment
-  2010 Active Railroad
-  Street Center Line
-  Municipal Boundaries

**Greenville County Economic Development Corporation  
Railroad Right Of Way -  
Northern Segment**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB Finance Docket No. 35396**

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**COUNTY OF GREENVILLE, SOUTH CAROLINA  
– ACQUISITION EXEMPTION –  
GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION**

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**VERIFIED NOTICE OF EXEMPTION PURSUANT TO 49 CFR 1150.31**

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**EXHIBIT C**

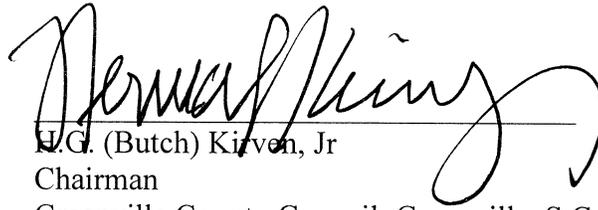
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**49 CFR 1150.33(g) – CERTIFICATION**

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## CERTIFICATION

I, H.G. (Butch) Kirven, Jr, Chairman of the Greenville County Council, Greenville, S.C., hereby certify that Greenville County's projected annual rail revenues resulting from the consummation of the proposed transaction will not exceed \$5 million annually, and will not result in Greenville County becoming a Class I or Class II carrier under the provisions of 49 CFR 1201(1-1).



H.G. (Butch) Kirven, Jr  
Chairman  
Greenville County Council, Greenville, S.C.

July 26, 2010

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB Finance Docket No. 35396**

---

**COUNTY OF GREENVILLE, SOUTH CAROLINA  
– ACQUISITION EXEMPTION –  
GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION**

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**VERIFIED NOTICE OF EXEMPTION PURSUANT TO 49 CFR 1150.31**

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**EXHIBIT D**

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**49 CFR 1150.34 – CAPTION SUMMARY**

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SURFACE TRANSPORTATION BOARD

Notice of Exemption

STB Finance Docket No. 35396

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COUNTY OF GREENVILLE, SOUTH CAROLINA  
– ACQUISITION EXEMPTION –  
GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION



The County of Greenville, South Carolina (“Greenville County” or “County”), a non-carrier political subdivision of the State of South Carolina, has filed a Verified Notice of Exemption to acquire from Greenville County Economic Development Corporation (“GCEDC”) approximately 11.8 miles of railroad right-of-way extending from milepost 0.0 in Greenville, SC, to milepost 11.8 in Travelers Rest, SC (the “Line”), including GCEDC’s residual common carrier obligation over the Line. The Line is currently railbanked in accordance with the National Trails System Act, 16 USC 1247 (d).

Greenville County’s projected annual rail operating revenues relating to this transaction will not exceed \$5 million, and, accordingly, the advance notice requirements of 49 CFR 1150.32(e) are not applicable to this transaction.

Greenville County anticipates that the subject rail line acquisition transaction will be consummated on or after August 25, 2010.

The notice is filed under 49 CR 1150.31. If the notice contains false or misleading information, the exemption is void ab initio. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Stay petitions must be filed by August 18, 2010.

Pursuant to the Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, § 193, 121 Stat. 1844 (2007), nothing in this notice authorizes the following activities at any solid waste rail transfer facility: collecting, storing or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting and shredding). The term “solid waste” is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

All pleadings or comments relating to this transaction must be filed with the Surface Transportation Board, Chief of the Section of Administration, Office of Proceedings, 395 E Street, SW, Washington, DC 20523-0001. In addition, a copy of each pleading must be served on Greenville County’s representative, William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Avenue, N.W., Suite 300, Washington, DC 20037.

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB Finance Docket No. 35396**

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**COUNTY OF GREENVILLE, SOUTH CAROLINA  
– ACQUISITION EXEMPTION –  
GREENVILLE COUNTY ECONOMIC DEVELOPMENT CORPORATION**

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**VERIFIED NOTICE OF EXEMPTION PURSUANT TO 49 CFR 1150.31**

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**EXHIBIT E**

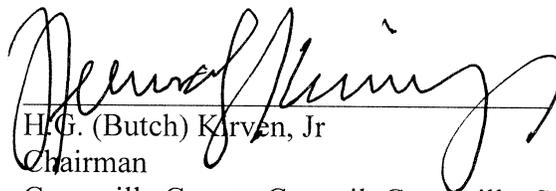
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**VERIFICATION**

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VERIFICATION

Pursuant to 28 U.S.C. 1746, I declare under the penalty of perjury under the laws of the United States that I am authorized to make this verification on behalf of the Greenville County Council, Greenville, S.C., and that the foregoing notice of exemption is true and correct to the best of my knowledge and belief.

A handwritten signature in black ink, appearing to read "H.G. Karven, Jr.", written over a horizontal line.

H.G. (Butch) Karven, Jr  
Chairman

Greenville County Council, Greenville, S.C.

July 26, 2010