

# CLARK HILL

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November 2, 2020

301241

## VIA E-FILING

Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street SW  
Washington, DC 20024

ENTERED  
Office of Proceedings  
November 2, 2020  
Part of  
Public Record

Re: York Railway Company – Abandonment Exemption –  
in York County, PA  
Surface Transportation Board Docket No. AB 1307X

Dear Ms. Brown:

Enclosed for e-filing in STB Docket No. AB 1307X on behalf of the York Railway Company (“YRC”) is a verified joint notice of exemption pursuant to the provisions of 49 C.F.R. Part 1152 Subpart F. YRC is filing this notice of exemption jointly with Yorkrail, LLC, docketed as STB Docket No. AB 1308X.

YRC is submitting this joint notice of exemption with a request for waiver of the 20-day service requirement of 49 C.F.R. §§1105.7(b) and 1105.8(c).

The filing fee of \$4,600 was paid using Pay.gov. Please let me know if there are any questions regarding this filing.

Sincerely,



Justin J. Marks  
*Counsel for York Railway Company*

FEE RECEIVED  
November 2, 2020  
SURFACE TRANSPORTATION BOARD

Enclosures

FILED  
November 2, 2020  
SURFACE TRANSPORTATION BOARD

**Before the**  
**SURFACE TRANSPORTATION BOARD**

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STB Docket No. AB 1307X

**YORK RAILWAY COMPANY**  
**- ABANDONMENT EXEMPTION - IN YORK COUNTY, PA**

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STB Docket No. AB 1308X

**YORKRAIL, LLC**  
**- ABANDONMENT EXEMPTION - IN YORK COUNTY, PA**

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**JOINT NOTICE OF EXEMPTION**

*(color copies included)*

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2001 Market St.  
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Philadelphia, PA 19103  
(215) 640-8523  
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*Counsel for York Railway Company  
and Yorkrail, LLC*

Dated: November 2, 2020

**Before the**  
**SURFACE TRANSPORTATION BOARD**

---

STB Docket No. AB 1307X

**YORK RAILWAY COMPANY**  
**- ABANDONMENT EXEMPTION - IN YORK COUNTY, PA**

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STB Docket No. AB 1308X

**YORKRAIL, LLC**  
**- ABANDONMENT EXEMPTION - IN YORK COUNTY, PA**

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**JOINT NOTICE OF EXEMPTION**

York Railway Company (“YRC”) and Yorkrail, LLC (“Yorkrail”) (together referred to herein as “Applicants”) are filing this Joint Notice of Exemption under the Board’s class exemption procedures at 49 C.F.R. Part 1152, Subpart F, seeking exemption authority for the abandonment of two segments of rail line (together, the “Subject Line”):

(1) Between at or near mile post 20.07, in the Village of Bair, PA in West Manchester Township to at or near mile post 23.3, in the Borough of Spring Grove, PA; and

(2) Between at or near mile post 24.10, near Spring Grove, PA in Jackson Township, to at or near mile post 29.46, near Hanover, PA in Heidelberg Township.

YRC owns all of the common carrier operating rights with respect to the Subject Line, while Yorkrail is a carrier by virtue of its ownership of the underlying rail assets comprising the Subject Line. The Subject Line traverses through United States Postal Service ZIP Codes 17362, 17331 and 17408. There are no stations on the Subject Line. A map of the Subject Line is attached as Exhibit A.

There is no overhead freight service over the Subject Line and the last date of local service to or from the Subject Line was approximately September 2004.

This Joint Notice of Exemption is being filed pursuant to the requirements of 49 C.F.R. §1152.50 regarding exemptions for out of service rail lines. In accordance with such requirements, Applicants hereby provide the following information in support of this request for an abandonment exemption:

- 1) The exact names of the Applicants are York Railway Company and Yorkrail, LLC.
- 2) YRC is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, chapter 105. YRC has been a common carrier since 1999 and Yorkrail is a carrier by virtue of its ownership of the underlying rail assets comprising the Subject Line.<sup>1</sup> Genesee & Wyoming Inc. gained control of the two companies in 2002.<sup>2</sup>
- 3) The relief sought by Applicants is an exemption for the abandonment of the two segments of rail (a) extending between at or near mile post 20.07, in the Village of Bair, PA in West Manchester Township to at or near mile post 23.3, in the Borough of Spring Grove, PA; and (b) between at or near mile post 24.10, near Spring Grove, PA in Jackson Township, to at or near mile post 29.46, near Hanover, PA in Heidelberg Township M.P. 2.2.
- 4) A Map of the Subject Line is attached hereto as Exhibit A.
- 5) The representative of Applicants to whom correspondence should be sent is: Eric M. Hocky, Esq., Clark Hill, PLC, Two Commerce Square, 2001 Market St., Suite 2620, Philadelphia, PA 19103; (215) 640-8523; or Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Ave. N.W., Suite 1300 South, Washington, DC 20004; (202) 772-0916.

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<sup>1</sup> *Maryland and Pennsylvania Railroad Company and Yorkrail, Inc. – Intracorporate Family Transaction Exemption*, STB Finance Docket No. 33815 (served Dec. 13, 1999).

<sup>2</sup> *Genesee & Wyoming Inc. – Control Exemption - ETR Acquisition Corporation and Emons Transportation Group, Inc.*, STB Finance Docket No. 34148 (served Feb. 28, 2002).

- 6) The Subject Line traverses through United States Postal Service ZIP Codes 17362, 17331 and 17408.
- 7) Applicants believe that the right-of-way may be suitable for trail use or other public purposes. Applicants intend to sell the Subject Line to the York County Rail Trail Authority (“YCRTA”) for trail use.
- 8) Applicants propose to consummate the abandonment on or after December 22, 2020, 50 days after the filing of this Joint Notice, subject to the grant of the waiver requested below.
- 9) Applicants certify that:
  - a) No local or overhead traffic has moved over the Subject Line since September 2004, a period well in excess of two years. Because the Subject Line is not a “through line,” there is no overhead traffic on the Subject Line.
  - b) No formal complaint by a user of rail service on the Subject Line, or a state or local government entity acting on behalf of such user, regarding cessation of service over the Subject Line either is pending with the Board or any U.S. District Court, or has been decided in favor of the complainant within the past two years.
- 10) Although no employees of the Applicants will be affected by the proposed abandonment, Applicants recognize that its abandonment of the Subject Line will be made subject to the standard employee protective conditions as set forth in *Oregon Short Line Railroad Co. - Abandonment -- Goshen*, 360 I.C.C. 91 (1979).
- 11) Applicants are concurrently filing an Environmental / Historic Report (“EHR”) with the Board.<sup>3</sup>

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<sup>3</sup> As discussed below, Applicants are seeking a waiver of the 20-day advance service requirement of the EHR to facilitate the sale of the Subject Line to YCRTA for trail use.

- 12) Applicants certify that they have complied with the legal (newspaper) notice requirements of 49 C.F.R. §1105.11. Notice of the proposed abandonment was published in the *York Daily Record* on October 30, 2020. A copy of the form of notice and a copy of the proof of publication are attached as Exhibit B.
- 13) Applicants certify that they have complied with the notice requirements of 49 C.F.R. §1152.50(d)(1). A copy of the notice dated October 23, 2020, sent to the required governmental agencies is attached hereto as Exhibit C.

**Request for Waiver of the 20-Day Service Requirement of 49 C.F.R. §§1105.7 and 1105.8**

YRC and Yorkrail respectfully request a waiver of the 20-day advance service requirement for the environmental and historic reports due to a need to complete the sale to YCRTA before year-end in order for YCRTA to take advantage of its grant funding.<sup>4</sup> Under 49 C.F.R. §§1105.7(b) and 1105.8(c), an applicant is required to serve the environmental and historic reports 20 days prior to submitting a notice of exemption. However, the Board has the authority to waive the 20-day requirement. *See The Burlington Northern and Santa Fe Railway Co. – Abandonment of Chicago Area Trackage in Cook County, IL*, STB Docket No. AB-6 (Sub-No. 382X)(served June 23, 1999).

Applicants intend to sell the Subject Line to YCRTA, a political subdivision of the County of York, for the purposes of trail use. Applicants seek a waiver to the 20-day advance service requirement in order to complete this transaction before the end of the year to ensure that YCRTA is able to obtain grant funding for the trail. YCRTA received a local grant of \$50,000 and is anticipating a state grant of \$300,000 to be awarded shortly. These applications and any subsequent awards are based upon YCRTA having “control of the land.” A delay in the

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<sup>4</sup> Applicants are not seeking a waiver of the substantive requirements to file an environmental and historic report and are filing the EHR with the Board concurrently with this Joint Notice.

acquisition of the Subject Line will jeopardize YCTRA's ability to accept such awards. In consideration of the uncertainties in future local and state funding, it is important for YCRTA to receive these grant funds in 2020.

Good cause exists for the Board to grant the requested waiver. The Subject Line has not been used to provide rail service for 16 years, since September 2004. YCTRA has an opportunity to use the Subject Line for a public use as a trail. Waiver of the 20-day period will help ensure that the transaction can be completed this year and will help ensure that YCTRA can utilize the grant funds that have been awarded to it.

Although Applicants seek a waiver of the 20-day advance service requirement, on October 7, 2020, Applicants mailed consultation letters to the relevant federal, state, and local environmental agencies and the SHPO, providing them with advance notice of the proposed abandonments. *See* Exhibit B and Exhibit G of the EHR.

Finally, the Subject Line will remain within the STB's jurisdiction because YCTRA will file with the Board a request for interim trail use.

For these reasons, Applicants respectfully request a waiver of the 20-day advance service requirement and believe that the Board should find that Applicants' proposed abandonment satisfies the exemption requirements of 49 C.F.R. §1152.50, and should issue the appropriate notice with all relevant time periods calculated from today's date of filing.

Respectfully submitted,



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Eric M. Hocky  
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2001 Market St.  
Suite 2620  
Philadelphia, PA 19103  
(215) 640-8523  
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Justin J. Marks  
Clark Hill PLC  
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Suite 1300 South  
Washington, DC 20004  
(202) 772-0916  
jmarks@clarkhill.com

*Counsel for York Railway Company  
and Yorkrail, LLC*

Dated: November 2, 2020

## **VERIFICATION**

I hereby verify on behalf of York Railway Company and Yorkrail, LLC, under penalty of perjury, that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verification.

Executed on November 2, 2020.



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Leonard Wagner, President

## CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing Notice of Exemption was served on the persons shown on the attached list by first class mail, postage prepaid.

Pennsylvania Department of Transportation  
Bureau of Rail Freight, Ports and Waterways  
555 Walnut St. #8  
Harrisburg, PA 17101

National Park Service  
Northeast Region  
1234 Market Street  
20th Floor  
Philadelphia, PA 19107

Pennsylvania Department of Environmental  
Protection  
Southcentral Regional Office  
909 Elmerton Ave.  
Harrisburg, PA 17110

National Park Service  
1849 C Street, NW  
Washington, DC 20240

President Commissioner Julie Wheeler  
Mark E. Derr - Administrator/Chief Clerk  
York County Administrative Center  
28 East Market St.  
York, PA 17401-1588

Natural Resources Conservation Service  
USDA  
Office of the Chief  
1400 Independence Ave., SW  
Room 5105-A  
Washington, DC 20250

[JLWheeler@YorkCountyPA.gov](mailto:JLWheeler@YorkCountyPA.gov)  
[MEDerr@YorkCountyPA.gov](mailto:MEDerr@YorkCountyPA.gov)

U.S. Environmental Protection Agency  
Region 3  
1650 Arch Street  
Philadelphia, PA 19103-2029

Natural Resources Conservation Service  
USDA  
359 East Park Drive  
Harrisburg, PA 17111

U.S. Fish and Wildlife Service  
Northeast Region 5  
Office of the Regional Director  
300 Westgate Center Drive  
Hadley, Massachusetts 01035-9589

Communications and Outreach Branch  
NOAA, N/NGS12  
National Geodetic Survey, SSMC3 #9340  
1315 East-West Highway  
Silver Spring, MD 20910-3282

[ngs.infocenter@noaa.gov](mailto:ngs.infocenter@noaa.gov)

Pennsylvania Department of Conservation and  
Natural Resources  
400 Market Street  
Harrisburg, PA 17105

Pennsylvania Game Commission  
Southcentral Region  
8627 William Penn Highway  
Huntingdon, PA 16652

U.S. Army Corps of Engineers  
North Atlantic Division, Baltimore District  
Regulatory Branch (CENAB-OP-R)  
2 Hopkins Plaza  
Baltimore, MD 21201

[NAB-Regulatory@usace.army.mil](mailto:NAB-Regulatory@usace.army.mil)

Pennsylvania Coastal Resources  
Management Program

[ra-epcoastalzone@pa.gov](mailto:ra-epcoastalzone@pa.gov)

Pennsylvania State Historic Preservation Office  
Eastern Region  
Emma Diehl  
[amdiehl@pa.gov](mailto:amdiehl@pa.gov)

United States Department of the Army  
Military Surface Deployment and  
Distribution Command  
Transportation Engineering Agency  
ATTN: SDTE-SA (Railroads for National  
Defense)  
1 Soldier Way, Building 1900W  
Scott AFB, IL 62225

Office of Chief of Forest Service  
U.S. Department of Agriculture  
1400 Independence Ave., SW  
Washington, DC 20250-1111

Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

U.S. Department of the Interior -  
National Park Service  
RTCA Program  
1849 C Street, NW  
Washington, DC 20240



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Justin J. Marks

Dated: November 2, 2020

# **JOINT NOTICE OF EXEMPTION**

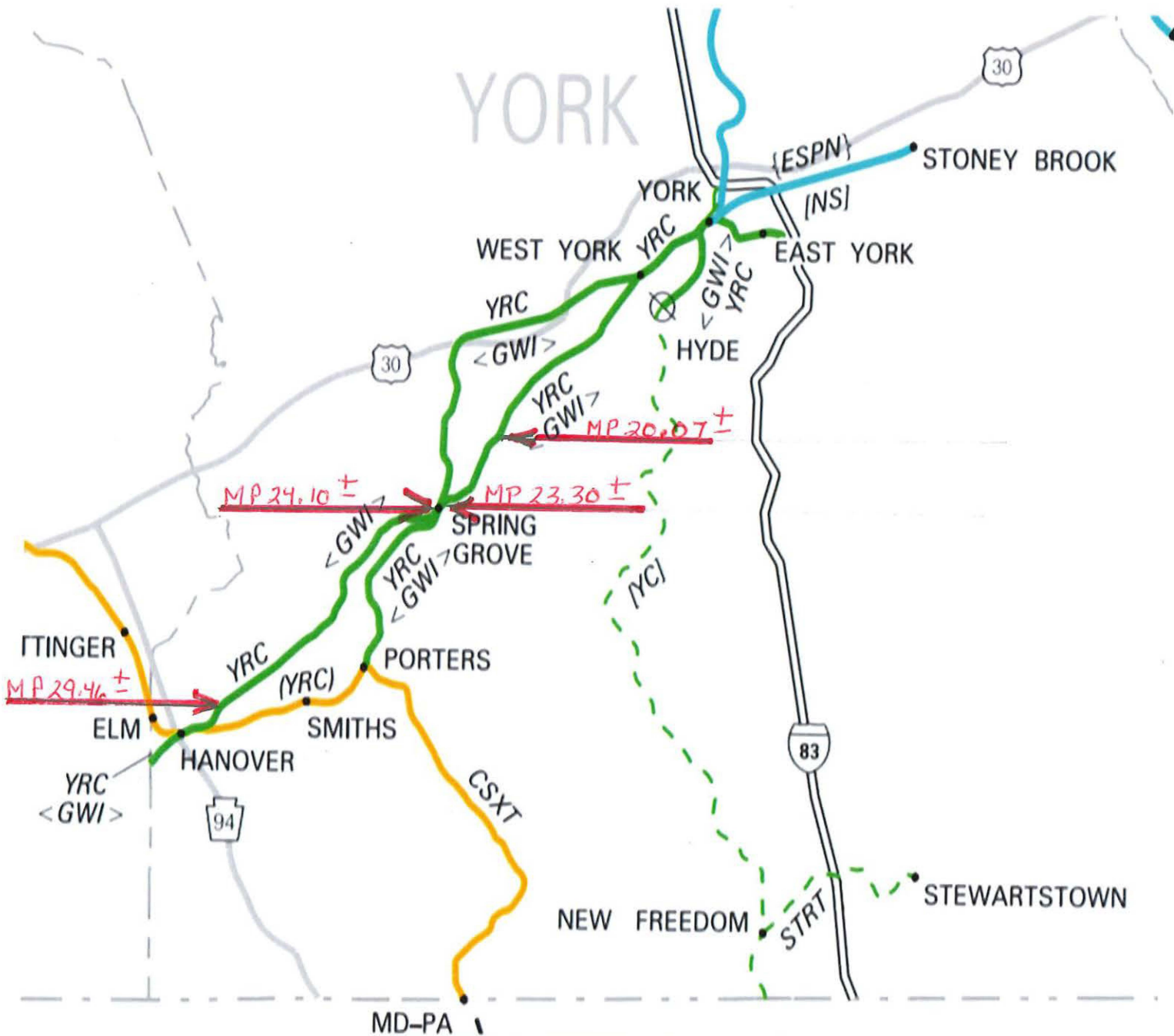
## **EXHIBIT A**

### **MAPS**

(1 of 3)



YRC  
STB FILING EXHIBIT  
ITEM 9  
(2 of 3)



YRC  
STB FILING EXHIBIT  
ITEM 9  
(3 of 3)



**JOINT NOTICE OF EXEMPTION**

**EXHIBIT B**

**NEWSPAPER NOTICE**

# york daily record

PART OF THE USA TODAY NETWORK

CLARK HILL PLC  
1001 PENNSYLVANIA AVE. NW  
  
WASHINGTON, DC 20004

Publication Cost: \$341.00  
Ad No: 0004439949  
Customer No: 2027720916  
PO #:  
# of Affidavits 1

**This is not an invoice**

## Affidavit of Publication

### Proof of Publication State of Pennsylvania

**The York Dispatch/York Sunday News and York Daily Record** is the name of the newspapers(s) of general circulation published continuously for more than six months at its principle place of business, 1891 Loucks Road, York, PA 17408.

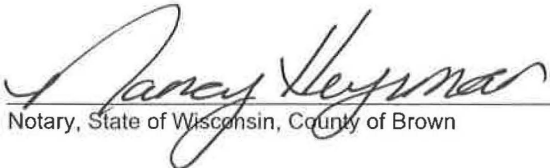
The printed copy of the advertisement hereto attached is a true copy, exactly as printed and published, of an advertisement printed in the regular issues of the said The York Dispatch/York Sunday News and York Daily Record published on the following dates, viz:

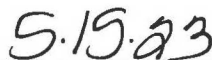
**Date of Publication: 10/30/2020**

I, being first duly sworn upon oath depose and say that I am a legal clerk and employee of The York Dispatch/York Sunday News and York Daily Record and have personal knowledge of the publication of the advertisement mentioned in the foregoing statement as to the time, place and character of publications are true, and that the affiant is not interested in the subject matter of the above mentioned advertisement.

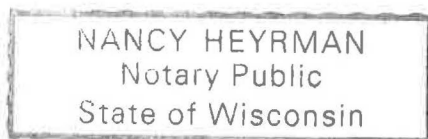


Subscribed and sworn to before on October 30, 2020:

  
Notary, State of Wisconsin, County of Brown



My commission expires



## Notice of Intent to Abandon Rail Service

York Railway Company and Yorkrail LLC give notice that on or about November 2, 2020 they intend to file with the Surface Transportation Board, Washington, DC, a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments permitting the abandonment of two segments of railroad line totaling 8.59 miles between railroad milepost 20.07 in the Village of Bair to milepost 23.3 in the Borough of Spring Grove, and between milepost 24.10 near Spring Grove to milepost 29.46 near Hanover, traversing through United States Postal Service ZIP Codes 17362, 17331, and 17408 in York County, PA. The proceeding has been docketed as No. AB 1307X and AB 1308X.

The Board's Office of Environmental Analysis (OEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Office of Environmental Analysis (OEA), Surface Transportation Board, Washington, DC or by calling that office at (202) 245-0291.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. Any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of Proceedings either via e-filing or addressed to 395 E. Street S.W., Washington, DC 20423-0001 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicants' representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238. Copies of any comments or requests for conditions should be served on the applicant's representative Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Ave. N.W., Suite 1300 South, Washington, DC 20004; jmarks@clarkhill.com.

# **JOINT NOTICE OF EXEMPTION**

## **EXHIBIT C**

### **10-DAY NOTICE LETTERS**

# CLARK HILL

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Justin J. Marks  
T 202.772.0916  
F 202.772.0930  
Email: jmarks@ClarkHill.com

Clark Hill  
1001 Pennsylvania Avenue NW  
Suite 1300  
Washington, DC 20004  
T 202.772.0909  
F 202.772.0919

[clarkhill.com](http://clarkhill.com)

October 23, 2020

## ALL AGENCIES ON THE ATTACHED SERVICE LIST

Re: York Railway Company and Yorkrail LLC – Abandonment Exemption –  
in York County, PA  
Surface Transportation Board Docket No. AB 1307X and AB 1308X

### To Whom it May Concern:

This letter is being sent to you pursuant to the requirements of 49 C.F.R. §1152.50(d), to advise you that York Railway Company (“YRC”) and Yorkrail LLC (Yorkrail) intend to seek authorization from the Surface Transportation Board (“STB”) to abandon rail service over the line of railroad described below, by filing a verified notice of exemption pursuant to the provisions of 49 C.F.R. Part 1152 Subpart F. YRC and Yorkrail expect to file the notice of exemption with the STB on or about November 2, 2020, under STB Docket Nos. AB 1307(X) and AB 1308(X).

YRC and YorkRail will invoke the STB’s exemption procedures to abandon service of the lines of railroad:

- (1) Between at or near mile post 20.07, in the Village of Bair, PA in West Manchester Township to at or near mile post 23.3, in the Borough of Spring Grove, PA; and
- (2) Between at or near mile post 24.10, near Spring Grove, PA in Jackson Township, to at or near mile post 29.46, near Hanover, PA in Heidelberg Township.

YRC owns all of the common carrier operating rights with respect to the Subject Line, while Yorkrail is a carrier by virtue of its ownership of the underlying rail assets comprising the Subject Line. The Subject Line traverses through United States Postal Service ZIP Codes 17362, 17331, 17408.

Maps of the Subject Line are attached.

October 23, 2020

Page 2

Based upon information in YRC's and Yorkrail's possession, the Subject Line does not contain federally granted rights of way. Any documentation in YRC's and Yorkrail's possession will be made available to those requesting it.

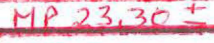
Sincerely,

A handwritten signature in blue ink, reading "Justin J. Marks". The signature is fluid and cursive, with the first name "Justin" and last name "Marks" clearly legible.

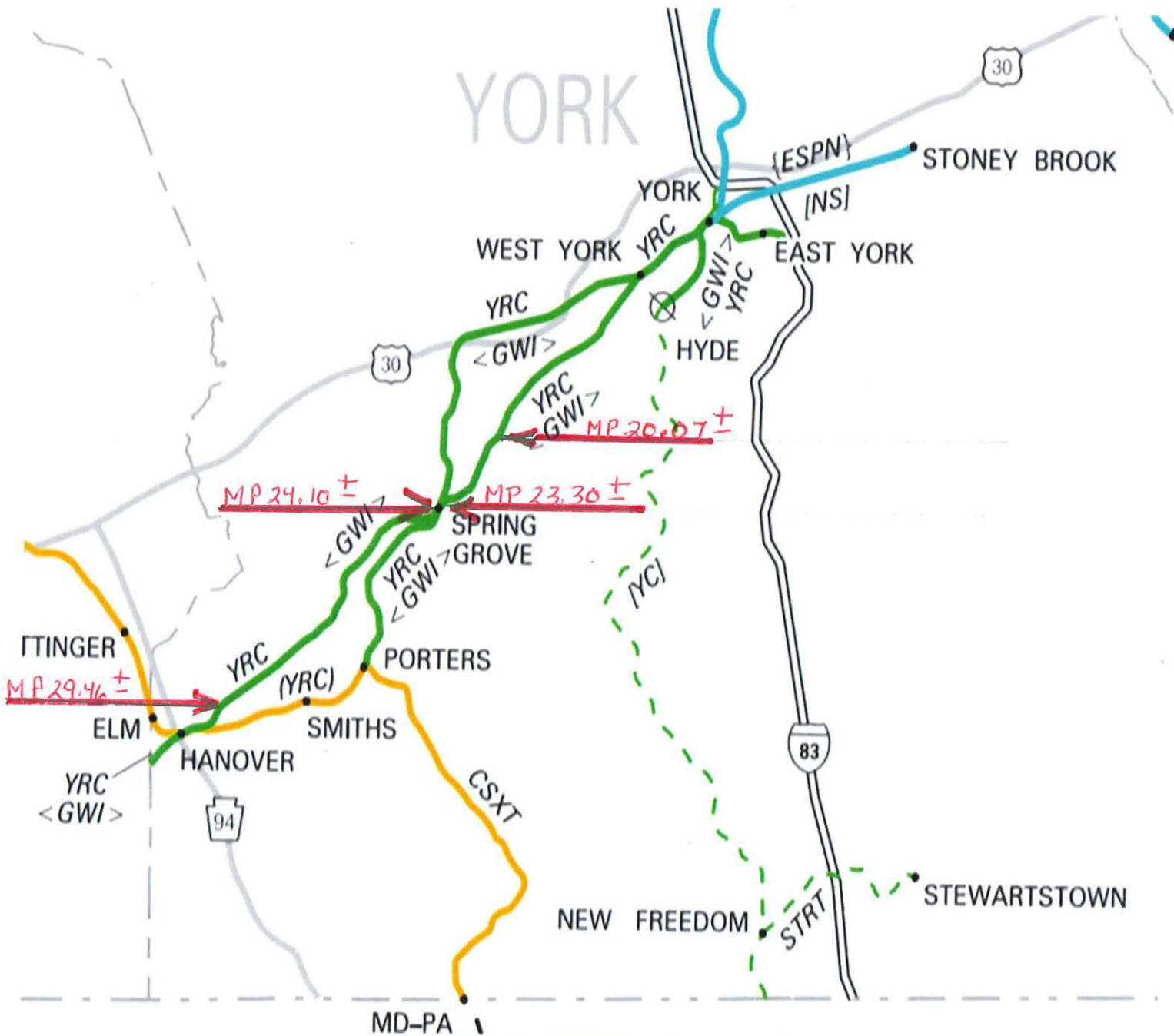
Justin J. Marks  
*Counsel to York Railway Company  
and Yorkrail LLC*

Enclosure

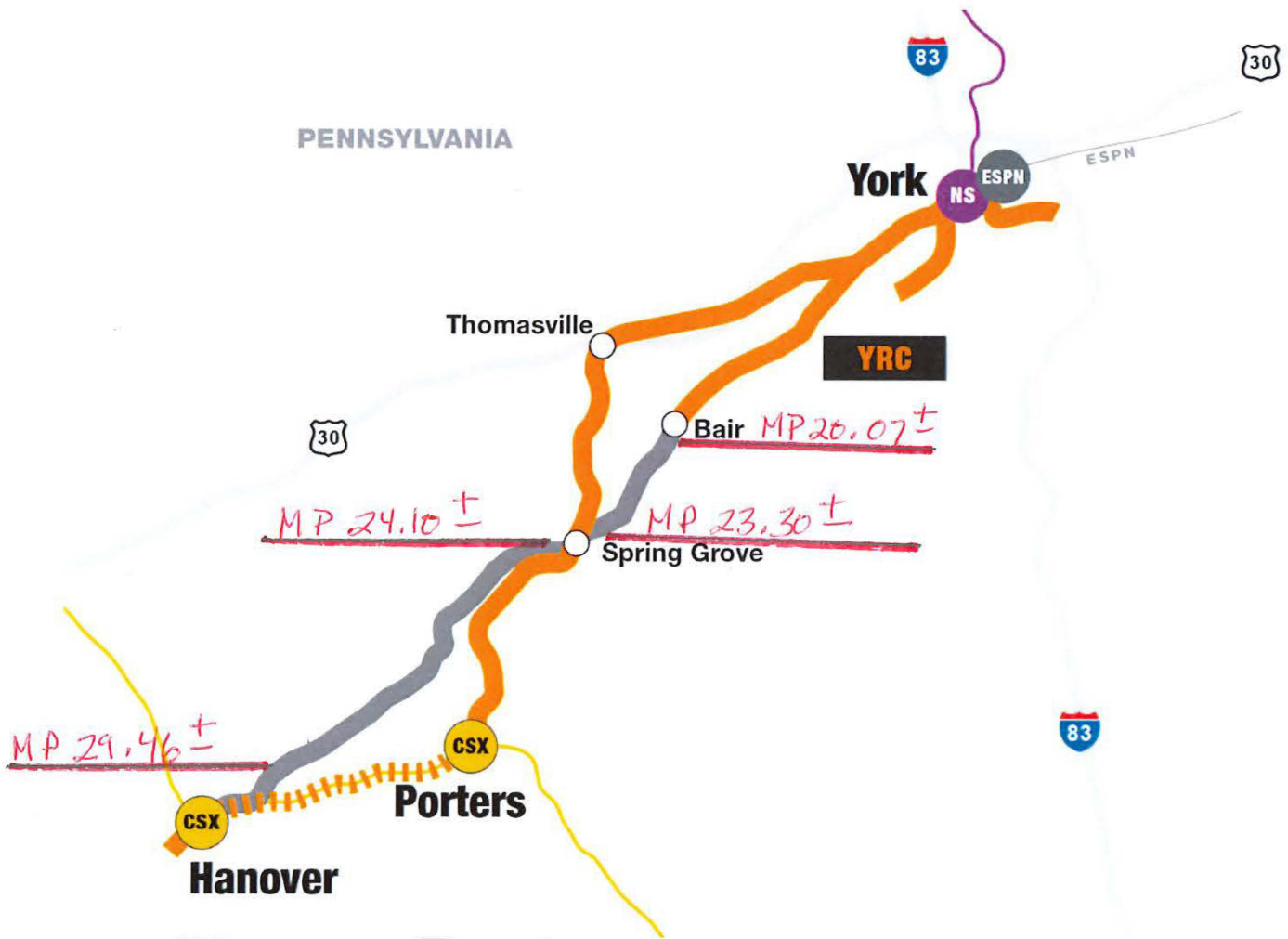
(1 of 3)



YRC  
STB FILING EXHIBIT  
ITEM 9  
(2 of 3)



YRC  
STB FILING EXHIBIT  
ITEM 9  
(3 of 3)



U.S. Department of the Interior -  
National Park Service  
RTCA Program  
1849 C Street, NW  
Washington, DC 20240

United States Department of the Army  
Military Surface Deployment and Distribution  
Command  
Transportation Engineering Agency  
ATTN: SDTE-SA (Railroads for National  
Defense)  
1 Soldier Way, Building 1900W  
Scott AFB, IL 62225

Office of Chief of Forest Service  
U.S. Department of Agriculture  
1400 Independence Ave., SW  
Washington, DC 20250-1111

Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Pennsylvania Department of Transportation  
Bureau of Rail Freight, Ports and  
Waterways  
555 Walnut St. #8  
Harrisburg, PA 17101