



# SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

A. REBECCA WILLIAMS

July 12, 2021

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**VIA ELECTRONIC FILING**

Ms. Cynthia T. Brown, Chief  
Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423

ENTERED  
Office of Proceedings  
July 12, 2021  
Part of  
Public Record

Re: Docket No. AB 1314X, The Elk River Railroad, Inc. –  
Abandonment Exemption – In Kanawha & Clay Counties, WV

Dear Ms. Brown:

Enclosed for filing on behalf of The Elk River Railroad, Inc. (“TERRI”) in the above referenced docket, please find a supplement to TERRI’s Verified Notice of Exemption for Abandonment Exhibit F, “Combined Environmental and Historic Report and Agency Responses” (CEHR).

The enclosed materials supplement CEHR Exhibit 19, “Correspondence with West Virginia Department of Arts, Culture and History” (WVDACH), and include a letter providing that the WVDACH has determined the proposed project “has *no adverse effect* on the current or future eligibility of The Elk River Railroad corridor for listing in the National Register of Historic Places,” and “[n]o further consultation is necessary regarding architectural resources . . . .” (Letter at 2) (emphasis in original).

Please contact me if you have any questions regarding this Supplement to CEHR Exhibit 19. Thank you for your attention to this matter.

Respectfully submitted,

A. Rebecca Williams  
An Attorney for The Elk River Railroad, Inc.

Enclosure

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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|--------------------------------------|---|---------------------|
| THE ELK RIVER RAILROAD, INC. –       | ) |                     |
| Abandonment Exemption – In Kanawha & | ) |                     |
| Clay Counties, WV                    | ) | Docket No. AB 1314X |
|                                      | ) |                     |

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**SUPPLEMENT TO EXHIBIT 19 OF THE  
COMBINED ENVIRONMENTAL AND HISTORIC REPORT  
(EXHIBIT F TO THE VERIFIED NOTICE OF EXEMPTION)**

THE ELK RIVER RAILROAD, INC.

William L. Slover  
A. Rebecca Williams  
SLOVER & LOFTUS LLP  
1224 Seventeenth Street, N.W.  
Washington, D.C. 20036  
Phone: (202) 347-7170  
wls@sloverandloftus.com  
arw@sloverandloftus.com

Its Attorneys

Dated: July 12, 2021

**From:** [Walker, Kent C](#)  
**To:** [Rebecca Williams](#)  
**Cc:** [Pierce, Susan M](#)  
**Subject:** STB Docket No. AB 1314X, The Elk River Railroad, Inc. - Abandonment Exemption - in Kanawha and Clay Counties, West Virginia (21-713-MU-1)  
**Date:** Tuesday, July 6, 2021 2:40:41 PM  
**Attachments:** [21-713-MU-1.pdf](#)

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Ms. Williams,

Thank you for the prompt reply and Historic Property Inventory (HPI) form submissions in response to our last correspondence! Please find attached our review letter concerning the Abandonment Exemption for The Elk River Railroad, Inc. of 53.4 miles of track in Kanawha and Clay Counties, West Virginia (21-713-MU-1). Please feel free to contact me if you have any concerns or questions regarding the letter.

Sincerely,

Kent

Kent C. Walker  
Structural Historian  
Department of Arts, Culture and History  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305  
Phone: 304-558-0240



West Virginia Department of  
**ARTS, CULTURE  
AND HISTORY**

The Culture Center  
1900 Kanawha Blvd., E.  
Charleston, WV 25305-0300

**Randall Reid-Smith, Curator**  
Phone 304.558.0220 • [www.wvculture.org](http://www.wvculture.org)  
Fax 304.558.2779 • TDD 304.558.3562  
EEO/AA Employer

July 6, 2021

A. Rebecca Williams  
Attorney  
The Elk River Railroad, Inc.  
c/o Slover & Loftus LLP  
1224 Seventeenth Street, NW  
Washington, D.C. 20036  
Via email: [arw@sloverandloftus.com](mailto:arw@sloverandloftus.com)

RE: STB Docket No. AB 1314X, The Elk River Railroad, Inc. – Abandonment Exemption  
– in Kanawha and Clay Counties, West Virginia  
FR#: 21-713-MU-1

Dear Ms. Williams:

We have reviewed the additional information that you submitted per our request in the previous letter, dated June 15, 2021, on the above-referenced project to determine potential effects on cultural resources. As required by Section 106 of the National Historic Preservation Act, as amended, and its implementing regulations, 36 CFR 800: "Protection of Historic Properties," we submit our comments.

According to the submitted information, The Elk River Railroad, Inc. intends to abandon and transfer to the West Virginia State Rail Authority approximately 53.4 miles of railroad between Clendenin, Kanawha County, and Duck, Braxton County, West Virginia. The Elk River Railroad, Inc. further intends to railbank and make necessary repairs and renovations for conversion of this corridor into a recreational trail. The Elk River Railroad, Inc. intends to replace steel components on existing bridge piers and abutments and surface with wood decking and handrails suitable to handle up to 80,000 pounds. Trackwork has been removed from this section of railroad and crushed limestone surfacing material has been placed on the roadbed. Seventeen (17) structures have been documented on Historic Preservation Inventory (HPI) Forms and recorded with our office, per our request.

Architectural Resources:

Thank you for the updated HPI Forms for seventeen (17) extant structures within the right-of-way of the proposed abandonment exemption. Based on the provided documentation, The Elk River Railroad corridor between Clendenin (MP 96.0), Kanawha County, and Duck (MP 43.6), Braxton County, may be eligible for inclusion in the National Register of Historic Places. More research and documentation is required before a

determination of eligibility can be made, for listing either individually or as a contributing resource to a potential historic district.

The submitted information indicates that the corridor has several structures, such as the 1896 steel thru truss trestle, which demonstrate eligibility under Criterion A for their association with "broad patterns in the history" of transportation and regional development, as well as Criterion B for their association with predecessor railroad Coal & Coke Railway which is significantly associated with the life of Senator Henry Gassaway Davis. Finally, some of these structures may also be eligible under Criterion C, notably the cut stone and concrete structures, for their "distinctive characteristics of a type, period, method of construction" or as representative of "the work of a master." However, we are unable to complete a determination of eligibility from the submitted information.

While we cannot make a determination of eligibility with the information provided, we are considering this section of The Elk River Railroad eligible for listing in the National Register of Historic Places for the purposes of this review. Based on the information submitted, the railroad's intention to restore structures to a functional status for the purposes of developing a recreational trail on the existing right-of-way entails an approximate in-kind replacement of missing steel structural members and the addition of wood decking material. These improvements are undertaken to provide for public safety and restore continuity of the right-of-way for a contiguous recreational trail system. While this is an alteration to the present condition of these structures, it does not rise to the level of an adverse effect on the future eligibility of The Elk River Railroad corridor as a historic resource. Therefore, we find that this project has *no adverse effect* on the current or future eligibility of the The Elk River Railroad corridor for listing in the National Register of Historic Places, either individually or as a contributing resource to a district. No further consultation is necessary regarding architectural resources; however, we ask that you contact our office if your project should change.

We appreciate the opportunity to be of service. *If you have questions regarding our comments or the Section 106 process, please contact Kent C. Walker, Structural Historian, at (304) 558-0240.*

Sincerely,



Susan M. Pierce  
Deputy State Historic Preservation Officer

SMP/KCW