



SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

A. REBECCA WILLIAMS

302679

July 2, 2021

ENTERED
Office of Proceedings
July 2, 2021
Part of
Public Record

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

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

Dear Ms. Brown:

Enclosed for e-filing in the above referenced docket, please find the Verified Notice of Exemption for Abandonment (“Notice”), submitted on behalf of The Elk River Railroad, Inc. (“TERRI”) pursuant to 49 C.F.R. § 1152.50. The filing fee has been paid electronically via pay.gov.

Please contact the undersigned if you have any questions regarding this Notice. Thank you for your attention to this matter.

Respectfully submitted,

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

Enclosure

FEE RECEIVED
July 2, 2021
SURFACE
TRANSPORTATION BOARD

FILED
July 2, 2021
SURFACE
TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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

**THE ELK RIVER RAILROAD, INC.
VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1152.50**

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 2, 2021

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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

VERIFIED NOTICE OF EXEMPTION

The Elk River Railroad, Inc. (“TERRI”), a Class III railroad, files this Verified Notice of Exemption pursuant to the class exemption procedures at 49 C.F.R. § 1152.50 for the abandonment of approximately 53.4 miles of rail line between Milepost (“MP”) 96.0 (at or near Clendenin, WV) and MP 43.6 (at or near North Line, south of Duck, WV), including the 0.8 miles extending south from MP 67.2 (at or near Hartland, WV) known as the Middle Creek Spur, in Kanawha and Clay Counties, West Virginia (the “Line”). No local rail traffic has moved over the Line in more than 20 years, and there is no overhead traffic. Based on information in TERRI’s possession, the Line does not contain federally granted rights-of-way. Any documentation in TERRI’s possession will be made available promptly to those requesting it.

Subject to Board authorization, TERRI and the West Virginia State Rail Authority (“WVSRA”) – a governmental instrumentality of the State of West Virginia and a body corporate within the West Virginia Department of Transportation – have negotiated, and intend to enter into, an agreement for interim trail use and railbanking of the Line, pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (“Trails Act”) and 49 C.F.R. § 1152.29, for use of the Line as a pedestrian and bicycle trail. The West Virginia Department of Natural Resources (“WVDNR”) would then operate the Trail as a State Park.

In accordance with the requirements set forth at 49 C.F.R. § 1152.50(d)(2), regarding exemptions for out of service rail lines, TERRI submits the following information:

Proposed Consummation Date: 49 C.F.R. § 1152.50(d)(2).

The proposed consummation date is August 21, 2021.

Certification: 49 C.F.R. § 1152.50(b).

The required certifications are attached hereto as **Exhibit A**.

Information Required by 49 C.F.R. § 1152.22(a)(1)-(4), (7) and (8), and (e)(4).

(a) General.

(1) Exact name of applicants.

The applicant's exact name is The Elk River Railroad, Inc.

(2) Whether applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

TERRI is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.¹

(3) Relief sought.

TERRI seeks to use the class exemption at 49 C.F.R. § 1152.50 to abandon approximately 53.4 miles of rail line between MP 96.0 (at or near Clendenin, WV) and MP 43.6 (North Line, south of Duck, WV), including the 0.8 miles of rail line extending south from MP 67.2 (at or near Hartland, WV) known as the Middle Creek Spur, in Kanawha and Clay Counties, WV. The Line does not serve any customers; it has not seen any local traffic for over 20 years

¹ TERRI became a Class III rail carrier in 1989 when it acquired part of the Line from CSX Transportation, Inc. ("CSXT") between MP 6.2, at or near Gilmer, and MP 67.2, at or near Hartland, in Gilmer, Braxton, and Clay Counties, WV. *See The Elk River R.R., Inc.—Lease, Operation, and Acquis. Exemption—Line of CSX Transp., Inc.* (not printed), FD 31497 (ICC served July 26, 1989), 1989 WL 239035.

and does not handle overhead traffic. Therefore, the proposed action will not result in any change to freight or passenger service on the Line, and no customers will be affected.

The previous owner of the portion of the Line located between MP 96.0 and MP 67.2, CSXT, abandoned the Line in 1979 and subsequently removed all track, crossties, ballast and bridge steel by 1981. No traffic has moved over this portion of the Line in 40 years. Traffic has not moved over the remaining portion of the Line, located between MP 67.2 to MP 43.6, including the Middle Creek Spur, since 1999, and all track and crossties have been removed.

Subject to STB authorization, TERRI and the WVSRA have negotiated, and intend to execute, an agreement whereby TERRI will transfer the Line to WVSRA for railbanking and interim trail use as a pedestrian and bicycle trail, under 16 U.S.C. § 1247(d) of the Trails Act. WVDNR would then operate the Trail as a State Park.

(4) Map.

A map showing the location of the Line in relation to other rail lines, highways, and major roads in the area is attached as **Exhibit B**.

(7) Name, title and address of representative of applicant to whom correspondence should be sent.

The representative to whom correspondence regarding these proceedings should be sent is as follows:

A. Rebecca Williams
Slover & Loftus LLP
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
Tel: (202) 347-7170
Email: arw@sloverandloftus.com

(8) List of all United States Postal Service Zip codes that the line proposed for abandonment traverses.

The Line traverses through United States Postal Service ZIP Codes 25045, 25164, 25043, 25133, 25019, and 25113.

(e) Rural and community impact.

(4) Statement of whether the properties proposed to be abandoned are appropriate for use for other public purposes, including roads or highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the applicant is aware of any restriction on the title to the property, including any reversionary interest, which would affect the transfer of title or the use of property for other than rail purposes, this shall be disclosed.

The right-of-way is suitable for use for other public purposes. TERRI and WVSRA have negotiated, and intend to execute, an agreement to transfer the Line to WVSRA for railbanking and interim trail use as a pedestrian and bicycle trail, under 16 U.S.C. § 1247(d) of the Trails Act. WVDNR would then operate the Trail as a State Park. Accordingly, TERRI anticipates that within ten (10) days after the STB publishes this Notice in the Federal Register, WVSRA will submit a request for notice of interim trail use pursuant to 49 C.F.R. § 1152.29.

The Line may be subject to reversionary interests, which may affect the use of property or transfer of title for other than rail purposes.

Labor Protection.

TERRI agrees that the interests of any railroad employees who may be adversely affected by the proposed abandonment will be adequately protected by the labor protective conditions in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

Certification.

Certificates of compliance with the notice requirements of 49 C.F.R. §§ 1152.50(d)(1), 1105.7(c), and 1105.11, are attached as **Exhibits C, D, and E**, respectively.

Combined Environmental and Historic Report.

The combined Environmental and Historic Report containing information required by 49 C.F.R. §§ 1105.7 and 1105.8 is attached as **Exhibit F**.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "W. Slover", followed by a stylized signature that appears to read "A. Williams".

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

Attorneys for The Elk River
Railroad, Inc.

Dated: July 2, 2021

EXHIBIT A

CERTIFICATION PURSUANT TO 49 C.F.R. § 1152.50(b) AND VERIFICATION

**VERIFICATION AND CERTIFICATION THAT RAIL LINE
MEETS CRITERIA OF 49 C.F.R. SECTION 1152.50(b)**

I, Frank N. Jorgensen, state that I am President for The Elk River Railroad, Inc. ("TERRI"), and verify under penalty of perjury that I have read the foregoing Notice of Exemption ("Notice") and that the facts asserted therein are true and correct. Further, I certify that I am qualified and authorized to make this verification.

I hereby certify that no local traffic has moved over the approximately 53.4 miles of rail line located between Milepost 96.0 (at or near Clendenin, WV) and Milepost 43.6 (at or near North Line, south of Duck, WV), including the 0.8 miles of rail line extending south from Milepost 67.2 (at or near Hartland, WV) known as the Middle Creek Spur, in Kanawha and Clay Counties, WV (the "Line") for at least two years prior to the date hereof and that there is no overhead traffic on the Line. I further certify that no formal complaint filed by a user of rail service on the Line (or a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board or any U.S. District Court or has been decided in favor of the complainant within the two-year period.

The foregoing certification is made on behalf of TERRI by the undersigned after due and careful investigation of the matters herein certified and based on the best of the knowledge, information, and belief of the undersigned.


Frank N. Jorgensen
The Elk River Railroad, Inc.

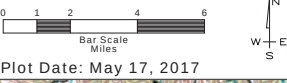
Dated: July 2, 2021

EXHIBIT B

MAP OF LINE

AREA RAILROADS

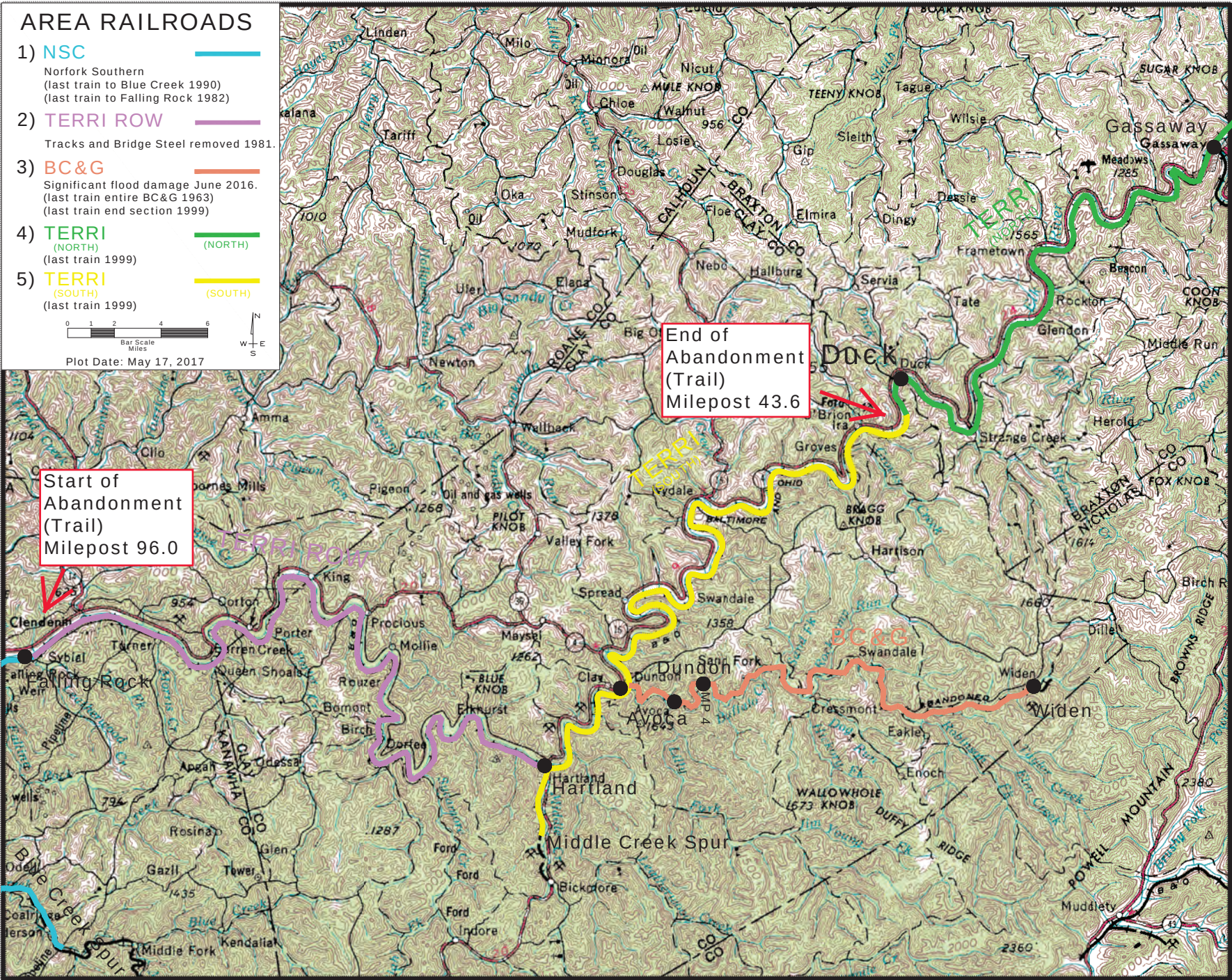
- 1) **NSC**
Norfolk Southern
(last train to Blue Creek 1990)
(last train to Falling Rock 1982)
- 2) **TERRI ROW**
Tracks and Bridge Steel removed 1981.
- 3) **BC&G**
Significant flood damage June 2016.
(last train entire BC&G 1963)
(last train end section 1999)
- 4) **TERRI (NORTH)**
(last train 1999)
- 5) **TERRI (SOUTH)**
(last train 1999)



Plot Date: May 17, 2017

Start of
Abandonment
(Trail)
Milepost 96.0

End of
Abandonment
(Trail)
Milepost 43.6



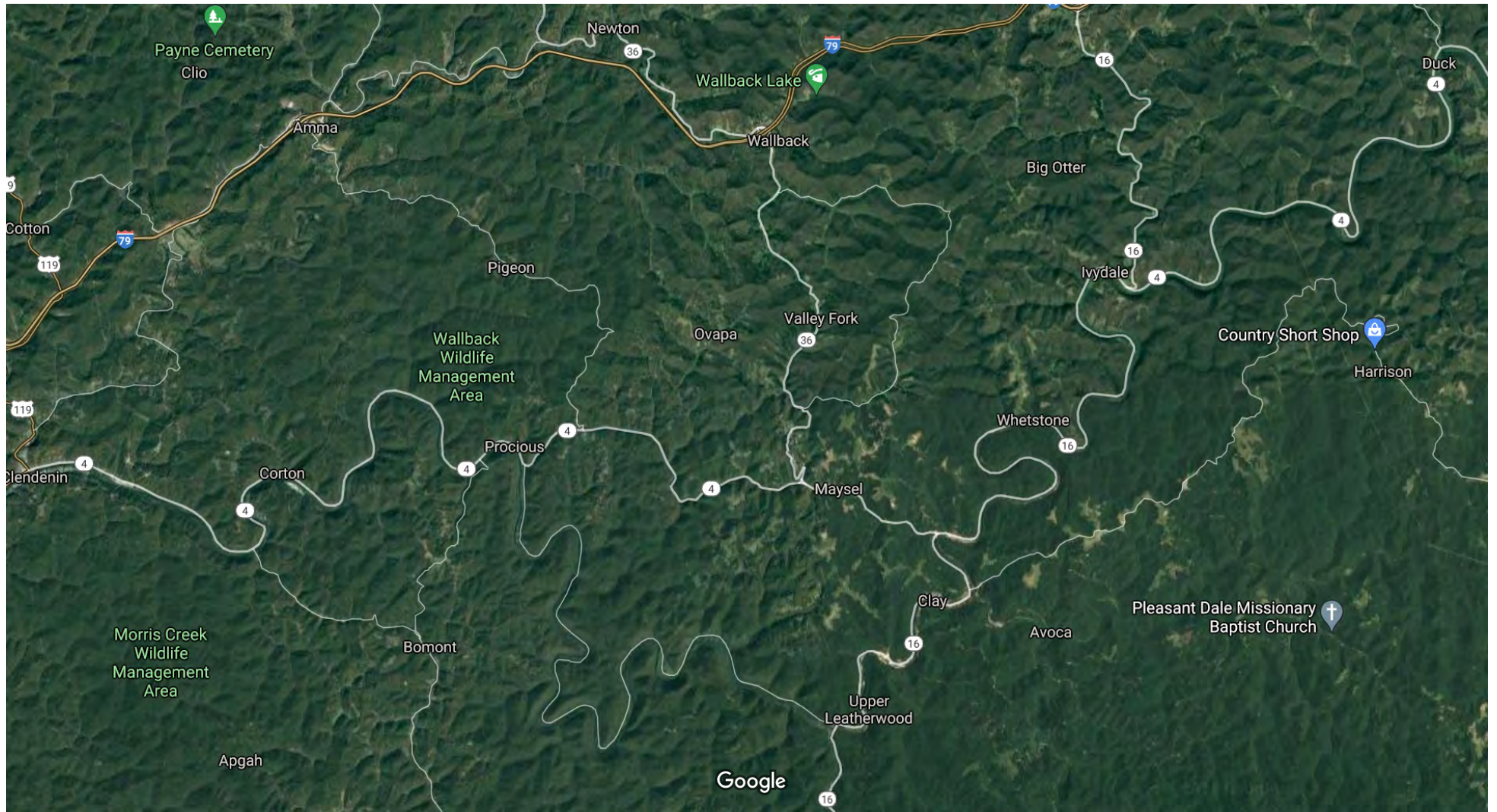


EXHIBIT C

**CERTIFICATE OF SERVICE
PURSUANT TO 49 C.F.R. § 1152.50(d)(1)**

CERTIFICATE OF SERVICE

Pursuant to 49 C.F.R. § 1152.50(d)(1), the undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB 1314X was mailed via first class mail, or more expeditious means, and electronic mail where available, on June 14, 2021, to the following parties:

State Public Service Commission

Public Service Commission of West Virginia
201 Brooks Street
Charleston, WV 25301

Military Traffic Management Command

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
usarmy.scott.sddc.mbx.tea@mail.mil

National Park Service

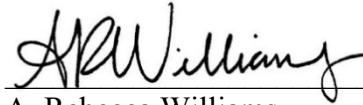
Mr. Bob Ratcliffe,
Division Chief, Conservation and Outdoor Recreation
Rivers, Trails, and Conservation Assistance Program
National Park Service
1849 C Street, N.W.
Washington, D.C. 20240

Ms. Helen Mahan
Program Manager, West Virginia Region
Rivers, Trails, and Conservation Assistance Program
National Park Service
1849 C Street, N.W.
Washington, D.C. 20240

Land Resources Division
National Park Service
1849 C Street, N.W.
Washington, D.C. 20240

U.S. Department of Agriculture

Ms. Vicki Christiansen
Chief of the Forest Service
U.S. Department of Agriculture
1400 Independence Avenue, S.W.
Washington, D.C. 20250-0003

A handwritten signature in black ink, appearing to read "AR Williams", written over a horizontal line.

A. Rebecca Williams

An Attorney for The Elk River Railroad, Inc.

Dated: July 2, 2021

EXHIBIT D

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

CERTIFICATE OF PUBLICATION

Pursuant to 49 C.F.R. § 1105.7(c), the undersigned hereby certifies that notice of the proposed abandonment in Docket No. AB 1314X was published in the following form on June 23, 2021 in *The Charleston Gazette-Mail*, a newspaper of general circulation in Kanawha County, West Virginia, and on June 24, 2021 in the *Clay County Free Press*, a newspaper of general circulation in Clay County, West Virginia:

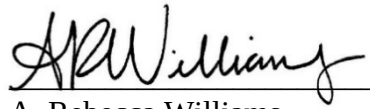
NOTICE OF INTENT TO ABANDON RAIL LINE

The Elk River Railroad, Inc. (“TERRI”) gives notice that on or after June 25, 2021, it intends to file with the Surface Transportation Board (“Board”), Washington, D.C., a notice of exemption under 49 CFR 1152 Subpart F – Exempt Abandonments permitting the abandonment of an approximate 53.4-mile line of railroad between railroad Milepost 96.0, near Clendenin station, and railroad Milepost 43.6, near North Line station (south of Duck), including 0.8-mile of railroad extending south from railroad Milepost 67.2, near Hartland station, known as the Middle Creek Spur, and which traverses through United States Postal Service ZIP Codes 25045, 25164, 25043, 25133, 25019, and 25113 in Kanawha and Clay Counties, WV. The proceeding will be docketed as No. AB 1314X.

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, D.C. or by calling that office at (202) 245-0245.

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. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trail use, public use, and offers of financial assistance) must be filed directly with the Board’s Office of Proceedings, Washington, D.C. [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicant’s 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: Slover & Loftus

LLP, Attn: A. Rebecca Williams, 1224 Seventeenth Street, N.W., Washington,
D.C. 20036, (202) 347-7170.

A handwritten signature in black ink, appearing to read "AR Williams", written over a horizontal line.

A. Rebecca Williams

An Attorney for The Elk River Railroad, Inc.

Date: July 2, 2021

Ad Number 112215

Affidavit of Legal Publication and Posting

STATE OF WEST VIRGINIA

COUNTY OF Kanawha, TO-WIT

I Janice Alston, Classified Advertising

Representative of the The Charleston Gazette-Mail, a newspaper

published in the county of Kanawha, West Virginia, hereby

certify that the annexed publication was inserted in said

newspaper The Charleston Gazette-Mail.

The cost of publishing said annexed advertisement

as aforesaid was \$ 81.78

Commencing On: 06/23/2021

Ending On: 06/23/2021

Given under my hand this day 06/23/2021

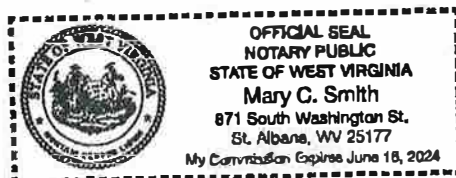
Sworn to and subscribed before me 06/23/2021
at Charleston, Kanawha County, West Virginia

M. Gore

Notary Public of, in and for Kanawha County, West Virginia

MY COMMISSION EXPIRES: 6-16-24

[Signature]



CLAY COUNTY FREE PRESS

136 Main Street Clay, West Virginia 25043
304-587-4250

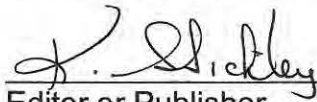
CERTIFICATE OF PUBLICATION

State of West Virginia

County of Clay, SS:

I, **Kathleen Stickley**, one of the Editors or Agents of the **Clay County Free Press**, a weekly newspaper of general circulation published at Clay, WV in the County of Clay, State of West Virginia, do certify that publication of the advertisement or advertisements **Notice of Intent to Abandon Rail Line**, hereto was made in **1 issue(s)** of the newspaper, dated **June 24th, 2021**.

Given under my hand this **24th Day of June 2021**.


Editor or Publisher

\$42.67

Publication fee

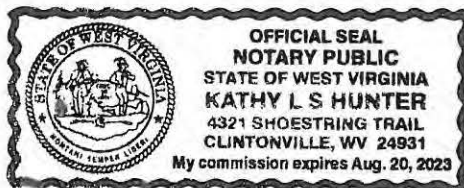
Subscribed and Sworn to before me

This 24 day of June, 20 21

My commission expires: August 20, 2023.

Signature


Notary Public



LEGALS

IN THE FAMILY COURT OF CLAY COUNTY,
WEST VIRGINIA

TO: Magistrate Court Case No.:
Jared J. Billup
1115 Dorsey Place
Plainfield, NJ 07062 Family Court Civil Action No.: 21-DV-19
DOB: 4/30/1985

ORDER OF PUBLICATION
PROTECTIVE ORDER

1. The object of this suit is to obtain protection from the Respondent.
2. The object of this publication by Class II legal advertisement is to notify Respondent of the PROTECTIVE ORDER prohibiting the above-named Respondent from having contact with certain individuals. This Order may affect property and other rights of the Respondent. Violating this Order may subject the Respondent to criminal sanctions. The Respondent is strongly encouraged to obtain a copy of this Protective Order from the Circuit Clerk of the county listed above.

TO THE ABOVE-NAMED RESPONDENT:

It appearing by evidence taken in this action that you could not be found in or that you have left the State of West Virginia, you are hereby notified of the ORDER referenced above, a copy of which may be obtained at the Clay County Circuit Clerks' office. This PROTECTIVE ORDER will remain in effect until December 7, 2021.

The Respondent may appeal this Protective Order pursuant to W.Va. Code § 48-27-510, within 10 days of the date the Order was entered.

Issued this June 10, 2021

Michael W. Aubrey
Clerk

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION
Division of Highways
NOTICE TO CONTRACTORS

Bids will be received electronically by the West Virginia Department of Transportation, Division of Highways through the Bid Express Bidding Service (www.bids.com) and by sealed proposals (only when prequalification is waived) being received at its office in Building 5, Room 843, 1900 Kanawha Boulevard East, Charleston, West Virginia, until August 10, 2021 at 10:00 AM (Eastern Standard Time). The bids will be downloaded and/or opened and read publicly thereafter for the construction of the following project(s):

Call Contract	State Project	Federal Project	Description
004	201500022	S399-RRM/RK-2.00	RCHH-2014(167)D PAVEMENT MARKINGS RR PAVEMENT MARKER SYMBOL PT 2 STATEWIDE COUNTY: STATEWIDE

DBE GOAL: 5% OF CONTRACT BID AMOUNT. BIDDER MUST PROVIDE WRITTEN ASSURANCE OF MEETING GOAL ON FORM IN PROPOSAL.

REMARKS:

Proposals will be received from prequalified and West Virginia licensed contractors only except that on Federal-Aid Projects a contractor's license is not required at time of bid, but will be required before work can begin. Registration is required with the Department of Administration, Division of Purchasing, in accordance with Chapter 5A, Article 3, Section 12 of the West Virginia Code. All contractors submitting bids on project(s) must include one of the following forms properly executed with each proposal: Proposal Guaranty Bond, Cashier's Check, or Certified Check for \$500.00 or 5% of the total bid, whichever is greater.

*These are projects on which any contractor with a Category "W" Prequalification Rating may be eligible to bid.

The West Virginia Department of Transportation, Division of Highways reserves the right to defer, delay or postpone the date for receiving and publicly opening proposals for any project designated in this advertisement, without the necessity of renewing such advertisement. All bidders holding valid bidding proposals will be notified of such deferment, delay or postponement and the date that proposals will be received and publicly opened.

The West Virginia Department of Transportation, Division of Highways hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, religion, sex or national origin in consideration for an award.

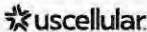
WEST VIRGINIA DEPARTMENT OF TRANSPORTATION
Division of Highways
Ryland W. Musick, Jr., P.E., Ph.D.
Deputy State Highway Engineer
Chief Engineer of Programs

NOTICE OF INTENT TO ABANDON RAIL LINE

The Elk River Railroad, Inc. ("TERRI") gives notice that on or after June 25, 2021, it intends to file with the Surface Transportation Board ("Board"), Washington, DC, a notice of exemption under 49 CFR 1152 Subpart F - Exempt Abandonments permitting the abandonment of an approximate 53.4-mile line of railroad between railroad Milepost 96.0, near Clendenin station, and railroad Milepost 43.6, near North Line station (south of Duck), including 0.8-mile of railroad extending south from railroad Milepost 67.2, near Hartland station, known as the Middle Creek Spur, and which traverses through United States Postal Service ZIP Codes 25045, 25164, 25043, 25133, 25019, and 25113 in Kanawha and Clay Counties, WV. The proceeding will be docketed as No. AB 1314X.

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) 245-0245.

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. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trail use, public use, and offers of financial assistance) must be filed directly with the Board's Office of Proceedings, Washington, DC [See 49 CFR 1104.1 (a) and 1104.3(a)], and one copy must be served on applicant's 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: Slover & Loftus LLP, Attn: A. Rebecca Williams, 1224 Seventeenth street, N.W., Washington, DC 20036, (202) 347-7170.



GET THE NETWORK
— THAT WORKS —
AS HARD AS YOU DO

Our Lifetime Calling Plans only discounted wireless service in participants in certain government-assisted programs.

Visit uscellular.com/lifetime or call 1-800-447-1339 for more information.

Plans starting at
\$34.25
before Lifetime
discount



LG K82

Things we want you to know: Lifetime is a federal government benefit program and only qualified persons may participate. Lifetime service may not be available in any other individual. Applicants must provide documentation of income, income or participation in qualifying program. Lifetime is only available for one phone line per household whether landline or wireless. The Lifetime Calling Plan Lifetime discounts are only available to residents in states where US Cellular or an Eligible Telecommunications Carrier (ETC) is available to service Lifetime. Discounts will be verified annually. Lifetime Calling Plans support all of the federal universal service provided for in 47 USC Sec. 141. Additional terms and conditions apply. One term or condition can be found at www.uscellular.com. © 2021 US Cellular.

IN THE CIRCUIT COURT OF CLAY COUNTY,
WEST VIRGINIA

In The Matter of Petition of Name Change of
Lisa Dawn Murphy Civil Action No. 21-P-13
Current Name Lisa Dawn Murphy Judge Alsop
To
New Name Lisa Dawn Rogers

Legal Notice of Publication
Change of Name

Order of Publication
Circuit Court of Clay County
West Virginia

Notice is hereby given that on the 22nd day of June, 2021, at 11:30 a.m., or as soon thereafter as the matter can be heard, Petitioner Lisa Dawn Murphy will apply by Petition to the Circuit Court of Clay County, West Virginia, for the entry of an order by said court, changing name of Lisa Dawn Murphy to Lisa Dawn Rogers at which time any interested party may appear and be heard, if they so desire.

A copy of said Petition can be obtained from the undersigned Clerk at his office.

Entered by the Clerk of said Court this 12th day of May 2021.

Michael W. Aubrey
Clerk

IN THE JUVENILE COURT OF CLAY COUNTY,
WEST VIRGINIA

THAT BEING THE JUVENILE COURT OF SAID COUNTY

IN RE: State v B.C. Case No. 21-JA-13
In the matter of B.C., Infant, and the unknown whereabouts of Alicia Coulter and Elijah Douglas.

ORDER OF PUBLICATION
And
NOTICE OF ANSWER

To: ALICIA COULTER and ELIJAH DOUGLAS
(The object of this action is to notify the Adult Respondents of an abuse and neglect petition herein filed so that said Adult Respondents may answer the same to protect their interest.)

You are hereby notified that an abuse and neglect and/or abandonment petition has been filed with the Circuit Court of Clay County, West Virginia, on the 28th day of May 2021, and assigned Case Number 21-JA-13, wherein it is alleged that the father of Infant Respondent B.C. (DOB: 05/25/2021) is Elijah Douglas and the Adult Respondent Mother is Alicia Coulter, and that said Infant Respondent be placed in the custody of the West Virginia Department of Health and Human Resources, with said Infant Respondent remaining in the care, custody and control of the said Department since that time in accordance with WV Code §49-6-3. You are hereby notified that you have the right to answer said petition and you have the right to have counsel present at all stages of these proceedings and ALL PROCEEDINGS CAN RESULT IN THE PERMANENT TERMINATION OF CUSTODIAL AND PARENTAL RIGHTS TO SAID INFANT CHILD.

Accordingly, it is ORDERED that the Adult Respondents, Alicia Coulter and Elijah Douglas, shall appear before the Honorable Jack Alsop on the 4th day of August 2021, at 9:00 a.m., at the Clay County Courthouse, 246 Main Street, Clay, West Virginia, otherwise judgment by default will be taken against them at any time thereafter, and termination of your custodial and parental rights may be ordered by the Court.

A copy of said Petition can be obtained from the Office of the Circuit Clerk of Clay County, West Virginia, at the Clay County Courthouse, Clay West Virginia.

STATE OF WEST VIRGINIA AND WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES, CHILD PROTECTIVE SERVICES DIVISION

BY: Jim E. Samples, Prosecuting Attorney Clay County, West Virginia
Entered by the Clerk of said Court on the 15th day of June 2021.

Michael W. Aubrey
Clerk

NOTICE OF FILING AND HEARING

On April 15, 2021, Appalachian Power Company and Wheeling Power Company filed a petition to initiate the 2021 Energy Efficiency and Demand Response (EE/DR) review proceeding. The Companies propose the continuation of their existing programs, with budget increases of \$5,000 to \$30,000 in each, for an overall budget increase of \$75,000. If accepted, the proposal would generate about \$5 million annually in additional revenue and require an increase in the EE/DR rider rates to \$0.001764 per kWh for residential customers and \$0.000495 per kWh for commercial customers effective January 1, 2022.

The Commission set a procedural schedule, including an evidentiary hearing to begin at 9:30 a.m. Monday, August 30, 2021, in the Howard M. Cunningham Hearing Room at the Commission's offices at 201 Brooks Street, Charleston, West Virginia. Anyone desiring to intervene and act as a party in this case should file a Petition to Intervene within ten days following the date of this publication, complying with the rules on intervention set forth in the Commission's Rules of Practice and Procedure. Anyone desiring to protest should file a written protest as soon as possible although protests will be accepted throughout the pendency of this proceeding. All written protests should briefly state the reason for the protest. All protests and Petitions to Intervene should state the case name and number and be addressed to Connie Graley, Executive Secretary, P.O. Box 812, Charleston, West Virginia 25323.

APPALACHIAN POWER COMPANY
& WHEELING POWER COMPANY

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

CASE NO. 21-0043-G-PC
MOUNTAINEER GAS COMPANY
and
UGI CORPORATION,

Joint petition for consent and approval for UGI
Corporation to acquire Mountaineer Gas Company.

NOTICE OF PUBLIC HEARING

On January 26, 2021, Mountaineer Gas Company (Mountaineer) and UGI Corporation (UGI) (jointly, Petitioners) filed with the Public Service Commission of West Virginia (Commission) a joint petition (Joint Petition) for Commission consent and approval of an acquisition transaction pursuant to which UGI would acquire indirectly all of the issued and outstanding common stock of Mountaineer. Petitioners also seek certain related approvals, including authority to assign an existing service agreement from Mountaineer to UGI and to extend and renew an existing liquefied natural gas purchase and sale agreement between Mountaineer and UGI.

Mountaineer provides natural gas utility services under the Commission's jurisdiction to approximately 215,000 customers located throughout 50 counties in West Virginia. UGI is a publicly traded energy holding company incorporated in Pennsylvania and provides natural gas, electric, propane, and comparable fuels to nearly 2.9 million customers throughout the United States and Europe.

Petitioners assert that the transaction will not change the local management, operations, employee levels, service levels, or rates of Mountaineer, and will have no adverse effect on existing Mountaineer customers, other public utilities, or the public in general. Mountaineer will continue to own all its existing gas utility assets and operate its existing gas utility business.

The Joint Petition is on file with and available for public inspection at the Commission, 201 Brooks Street, in Charleston, West Virginia, and is available online at the Commission website (www.psc.state.wv.us).

On March 19, 2021, the Commission issued an Order scheduling a public comment hearing to be held by videoconference only on July 19, 2021, at 9:30 a.m. because of the COVID 19 pandemic. The Commission has held several in-person hearings at its hearing room in the Commission's Charleston West Virginia headquarters since the March 19, 2021 Order. The Commission has determined that in-person hearings can be conducted in a safe manner using COVID protocols such as social distancing and wearing masks. The public comment hearing scheduled for July 19, 2021, will now be held as an in-person hearing on July 20, 2021, beginning at 9:30 a.m. at the Commission's Howard M. Cunningham Hearing Room, Commission Headquarters, 201 Brooks Street, Charleston, West Virginia. Masks and social distancing will be required at the public comment hearing and the evidentiary hearing. The evidentiary hearing will remain an in-person hearing beginning on July 20, 2021, after the public comment hearing.

The Commission will receive written public comments and protests until the beginning of the July 20, 2021 evidentiary hearing. All written comments and protests should state the case name and number and be addressed to Connie Graley, Executive Secretary, P.O. Box 812, Charleston, West Virginia 25323. Public comments may also be filed online at <http://www.psc.state.wv.us/scripts/onlinecomments/default.cfm> by clicking the "Formal Case" link. Interested persons should be able to view the evidentiary hearing via an internet livestream. The Commission website, www.psc.state.wv.us, contains links to "Case Information," "Submit a Comment," and "Commission Webcast."

PUBLIC SERVICE COMMISSION OF WEST VIRGINIA

EXHIBIT E

**CERTIFICATE OF SERVICE
PURSUANT TO 49 C.F.R. § 1105.11**

CERTIFICATE OF SERVICE

Pursuant to 49 C.F.R. § 1105.11, the undersigned hereby certifies that a copy of the Combined Environmental and Historic Report (“CEHR”) in STB Finance Docket No. AB 1314X, was mailed via first class mail, or more expeditious means, and electronic mail where available, on June 2, 2021 to the following parties, as required under 49 C.F.R. §§ 1105.7, 1105.8 and 1105.11:

Clay County Commission
Greg Fitzwater, Commissioner
Jerry Linkinoggor, Commissioner
Fran King, Commissioner
246 Main Street
P.O. Box 190
Clay, WV 25043

Kanawha County Commission
Kent Carper, President
Ben Salango, Commissioner
Lance Wheeler, Commissioner
P.O. Box 3627
Charleston, WV 25336

Communications and Outreach Branch,
NOAA, N/NGS12
National Geodetic Survey, SSMC3 #8716
1315 East-West Highway
Silver Spring, MD 20910-3282
RRAE@noaa.gov

Office of the Governor
State Capitol
1900 Kanawha Boulevard East
Charleston, WV 25305

U.S. Army Corps of Engineers
Huntington District
Regulatory Branch
502 Eighth Street
Huntington, WV 25701

U.S. Department of Agriculture
Natural Resources Conservation Service
Gassaway Service Center (Clay County)
1336 State Street
Gassaway, WV 26624

U.S. Department of Agriculture
Natural Resources Conservation Service
Cross Lanes Service Center
(Kanawha County)
418 Goff Mountain Road
Cross Lanes, WV 25313

U.S. Department of the Interior
National Park Service
Land Resources Division
1849 C Street, N.W.
Washington, D.C. 20240

U.S. Department of the Interior
National Park Service
Northeast Region
1234 Market Street, 20th Floor
Philadelphia, PA 19107

U.S. Fish & Wildlife Service
West Virginia Field Office
Ecological Services
694 Beverly Pike
Elkins, WV 26241

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

West Virginia Department of Transportation
State Rail Authority
Building 5
1900 Kanawha Boulevard East
Charleston, WV 25305

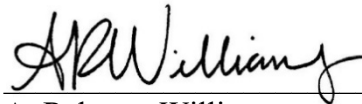
West Virginia Department of
Environmental Protection
Division of Waste and Water Management
601 57th Street, SE
Charleston, WV 25304

Cindy Butler
Executive Director
West Virginia Department of Transportation
State Rail Authority
120 Water Plant Drive
Moorefield, WV 26836

West Virginia Department of Commerce
State Capitol Complex
1900 Kanawha Boulevard East
Building 3, Suite 600
Charleston, WV 25305

West Virginia Division of Natural Resources
324 Fourth Avenue
South Charleston, WV 25303

Susan M. Pierce
Deputy State Historic Preservation Officer
West Virginia Department of Arts, Culture
and History
The Culture Center
Capitol Complex
1900 Kanawha Boulevard East
Charleston, WV 25305-0300

A handwritten signature in black ink, appearing to read "AR Williams", written over a horizontal line.

A. Rebecca Williams

An Attorney for The Elk River Railroad, Inc.

Date: July 2, 2021

EXHIBIT F

COMBINED ENVIRONMENTAL AND HISTORIC REPORT AND AGENCY RESPONSES

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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

COMBINED ENVIRONMENTAL AND HISTORIC REPORT

The Elk River Railroad, Inc. (“TERRI”) hereby submits this Combined Environmental and Historic Report (“CEHR”) pursuant to 49 C.F.R. §§ 1105.7(e) and 1105.8(d).

**ENVIRONMENTAL REPORT
49 C.F.R. § 1105.7(e)**

- (1) **Proposed Action and Alternatives.** *Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.*

Pursuant to the Surface Transportation Board’s (“STB” or “Board”) exemption procedures under 49 C.F.R. § 1152, Subpart F, TERRI proposes to abandon approximately 53.4 miles of rail line between Milepost 96.0 (at or near Clendenin, WV) and Milepost 43.6 (south of Duck, WV), including the 0.8 miles extending south from Milepost 67.2 (near Hartland, WV) known as the Middle Creek Spur, located in Kanawha and Clay Counties, West Virginia (hereinafter referred to as the “Line”). The Line traverses through United States Postal Service ZIP Codes 25045, 25164, 25043, 25133, 25019, and 25113. A map of the Line is attached hereto as **Exhibit 1**.

TERRI and the West Virginia State Rail Authority (“WVSRA”) – a governmental instrumentality of the State of West Virginia and a body corporate within the West Virginia

Department of Transportation – have negotiated an agreement, subject to STB authorization, whereby if abandonment authority is granted, TERRI will transfer the Line to WVSR for railbanking and interim trail use as a pedestrian and bicycle trail, pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (“Trails Act”) and 49 C.F.R. § 1152.29. The West Virginia Department of Natural Resources (“WVDNR”) would then operate the Trail as a State Park.

Milepost 96.0 (at or near Clendenin) to Milepost 67.2 (at or near Hartland)

No traffic has moved over this portion of the Line in 40 years. The previous owner of this portion of the Line, CSX Transportation, Inc. (“CSXT”), abandoned the Line in 1979 and subsequently removed all track, crossties, ballast and bridge steel from the right-of-way between 1979 and 1981. As part of the proposed action, TERRI intends to place a layer of crushed stone within the right-of-way railbed, followed by a layer of compacted limestone sand with a width of 8-feet to create safe walking and biking trail surface. TERRI does not intend to disturb any sub grade or sub grade structures. Any trail related structures, such as bridges, trestles, culverts, tunnels, and signal equipment will not be salvaged – they will remain intact.

Milepost 67.2 (at or near Hartland) to Milepost 43.6 (south of Duck)

No traffic has moved over the portion of the Line extending from Milepost 67.2 (Hartland) to Milepost 43.6 (south of Duck), including the Middle Creek Spur, since 1999 and all track and crossties have been removed. Railbanking the Line will not result in the removal of ballast, as compacted limestone sand has been added on top of the ballast in a width of 8-feet for purposes of creating a safe walking and biking trail. TERRI does not intend to disturb any sub grade or sub grade structures. Any trail related structures, such as bridges, trestles, culverts, tunnels, and signal equipment will not be salvaged.

The Line does not serve any customers; it has had no local traffic for over 20 years and does not handle overhead traffic. Therefore, the proposed action will not result in any change to freight or passenger service on the Line, and no customers will be affected.

Other than the intended trails use, there are no reasonable alternatives to the proposed abandonment, as no traffic has moved over the Line in over 20 years, all track and crossties have been removed from the entirety of the Line, ballast has been removed from a significant portion of the Line, and there is no foreseeable need for rail service. The only alternative to the proposed action would be to not abandon the Line, thereby preventing the WVSRA from efficiently using the right-of-way as a public trail.

- (2) **Transportation System.** *Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.*

No passenger or freight traffic will be diverted to other transportation systems as a result of the proposed action, as no traffic has traveled over the Line for over 20 years and there is no overhead traffic on the Line.

- (3) **Land Use.**

- (i) *Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.*

TERRI considers the proposed action to be consistent with existing land use plans, as TERRI and WVSRA have agreed, subject to STB authorization, that TERRI will transfer the Line to WVSRA for purposes of railbanking and interim trail use as a public pedestrian and bicycle trail, to be operated by the WVDNR as a State Park. On June 2, 2021, TERRI sent letters to the West Virginia Department of Transportation (“DOT”) and the WVSRA regarding

the proposed project and included a copy of the preliminary CEHR (**Exhibit 2**). West Virginia DOT acknowledged receipt of the materials on June 3, 2021 and stated TERRI's request was "forwarded to the appropriate party for investigation." No comments have been received to date.

On June 2, 2021, TERRI also provided notice and a copy of the preliminary CEHR to the following local and state planning agencies and requested their comments on the proposed project: Clay and Kanawha County Commissioners (**Exhibits 3 and 4**, respectively); the Office of the Governor (**Exhibit 5**); and the West Virginia Department of Commerce (**Exhibit 6**). No comments have been received from the Clay County Commissioners, Kanawha County Commissioners, Office of the Governor, or the West Virginia Department of Commerce to date. Advanced notice and a copy of the preliminary CEHR were also sent to the Public Service Commission of West Virginia ("WV PSC"), by letter dated June 14, 2021 (**Exhibit 7**), for information and comment. On June 15, 2021, WV PSC acknowledged receipt of the materials; however, no comments have been received to date.

- (ii) *Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.*

No prime agricultural land that will be affected. By letters dated June 2, 2021, TERRI provided notice and request for comments, along with copies of the preliminary CEHR, to the U.S. Department of Agriculture's Natural Resources Conservation Service ("NRCS") (successor agency to the responsibilities of the Soil Conservation Service) West Virginia Service Centers for Clay and Kanawha Counties. On June 7, 2021, the NRCS submitted a comment stating "[d]espite the soil survey mapping, historical earth moving activities used to construct the rail line and rights-of-way have altered the project area such that it does not meet the definition of prime farmland. Provided that abandonment activities are conducted within the limits defined, no effects to the surrounding unaltered soils will occur." See correspondence at **Exhibit 8**.

- (iii) *If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by § 1105.9.*

The State of West Virginia does not have a Coastal Zone Management Program.

- (iv) *If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. § 10905 and explain why.*

The right-of-way upon which the Line is located is suitable for interim trail use/railbanking, as no traffic has moved over the Line in over 20 years and all track and crossties have been removed. Moreover, TERRI has negotiated an agreement with the WVSRA, whereby, in the event exemption authority is granted, TERRI will transfer the Line to WVSRA for railbanking and interim trail use as a pedestrian and bicycle trail to be operated by the WVDNR as a State Park. By letter dated June 16, 2021, WVDNR stated “[t]he newly proposed 53 mile hiking/biking trail from Clendenin to Hartland will make a good addition to the West Virginia rail trails and our State Park system.” See correspondence attached hereto as **Exhibit 9**.

(4) Energy.

- (i) *Describe the effect of the proposed action on transportation of energy resources.*

The proposed action will have no effect on the transportation of energy resources.

- (ii) *Describe the effect of the proposed action on recyclable commodities.*

The proposed action will not have any effect on the transportation of recyclable commodities.

- (iii) *State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.*

The proposed action will not result in an increase or decrease in overall energy efficiency, as no local traffic has traveled over the Line for over 20 years, and there is no overhead traffic on the Line.

- (iv) *If the proposed action will cause diversions from rail to motor carriage of more than: (A) 1,000 rail carloads a year; or (B) An average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given. To minimize the production of repetitive data, the information on overall energy efficiency in § 1105.7(e)(4)(iii) need not be supplied if the more detailed information in § 1105.7(e)(4)(iv) is required.*

The proposed action will not cause diversions of rail traffic to motor carriers.

(5) Air.

- (i) *If the proposed action will result in either: (A) An increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or (B) An increase in rail yard activity of at least 100 percent (measured by carload activity), or (C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions. For a proposal under 49 U.S.C. 10901 (or 10502) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in subsection (5)(i)(A) will apply.*

The proposed action will not result in meeting or exceeding the specified thresholds in increased rail traffic, rail yard activity, or truck traffic.

- (ii) *If the proposed action affects a class I or nonattainment area under the Clean Air Act, and will result in either: (A) An increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line, (B) An increase in rail yard activity of at least 20 percent (measured by carload activity), or (C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan. However, for a rail construction under 49 U.S.C. 10901 (or 49 U.S.C. 10502), or a case involving the reinstitution of service over a previously abandoned line, only the three train a day threshold in this item shall apply.*

The proposed action will not result in meeting or exceeding the specified thresholds for increased rail or truck traffic.

- (iii) *If transportation of ozone depleting materials (such as nitrogen oxide and freon) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal*

with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

The proposed action does not contemplate transportation of any materials; thus, this item is not applicable.

- (6) **Noise.** *If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause: (i) An incremental increase in noise levels of three decibels Ldn or more; or (ii) An increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area, and quantify the noise increase for these receptors if the thresholds are surpassed.*

This item is not applicable, as none of the thresholds identified in item (5)(i) will be exceeded as a result of the proposed action (no traffic has moved over the Line in over 20 years).

- (7) **Safety.**

- (i) *Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).*

The proposed action will have no adverse impact on public health and safety. Rather, railbanking the Line for interim trail use will enhance public health and safety by converting an inactive right-of-way into a pedestrian and bike trail, which will be managed by the WVDNR as a State Park.

- (ii) *If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.*

No transportation is expected as a result of the proposed action; thus, this item is not applicable.

- (iii) *If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.*

TERRI is not aware of any hazardous waste sites or sites where there have been hazardous material spills on the right-of-way.

(8) Biological Resources.

- (i) *Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.*

By letters dated June 2, 2021, TERRI provided notice and copies of the preliminary CEHR to the U.S. Fish and Wildlife Service (“USFWS”) (**Exhibit 10**) and the West Virginia Division of Natural Resources (“WVDNR”) (**Exhibit 9**) requesting comments.

On June 4, 2021, the USFWS requested TERRI provide the agency with an Official Species List for the project area, as well as a “Species Conclusions Table” (also referred to as “Species Potential Effects Chart”). TERRI provided these materials to USFWS, along with a shapefile of the project area, on June 4, 2021. See correspondence at **Exhibit 10**. Thirteen (13) threatened or endangered species, including one critical habitat, appeared on the Species List for the project area. Based on the Species Conclusions Table, TERRI does not believe the project would have adverse effects on any of the species or designated critical habitat listed, as TERRI’s proposed action does not entail construction, salvage, or similar activities identified on the Species Conclusions Table as having a potential adverse impact. No further comments have been received from USFWS to date.

By letter dated June 16, 2021, WVDNR submitted a comment stating the Elk River is a “section 10 navigable water, a high quality warmwater stream, and a group 2 mussel stream containing federally listed mussels. No instream work should occur prior to mussel clearance by both the WVDNR and the [USFWS]. Impacts related to construction could impact mussel resources.” WVDNR also stated “[n]o wildlife sanctuaries, refuges, national state parks or

forests will be impacted or affected by this project,” and concluded “[t]he newly proposed 53 mile hiking/biking trail from Clendenin to Hartland will make a good addition to the West Virginia rail trails and our State Park system.” See correspondence at **Exhibit 9**.

- (ii) *State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.*

Subject to STB authorization, TERRI and WVSRA intend to enter into an agreement for interim trail use and railbanking of the Line for use as a pedestrian and bike trail, which the WVDNR intends to operate as a State Park. In its letter dated June 16, 2021, WVDNR confirmed that “[n]o wildlife sanctuaries, refuges, national state parks or forests will be impacted or affected by this project,” and concluded “[t]he newly proposed 53 mile hiking/biking trail from Clendenin to Hartland will make a good addition to the West Virginia rail trails and our State Park system.” See correspondence at **Exhibit 9**.

On June 2, 2021, TERRI also provided notice of the proposed project, and a copy of the preliminary CEHR, to the National Park Service, Land Resources Division (**Exhibit 14**) and the National Park Service, Northeast Region (**Exhibit 15**) for information and comment. No comments have been received to date.

(9) Water.

- (i) *Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.*

TERRI believes the proposed action is consistent with applicable water quality standards and will have no discernable effect. By letters dated June 2, 2021, TERRI provided notice and a copy of the preliminary CEHR to the West Virginia Department of Environmental Protection (“WVDEP”), Division of Water and Waste Management (“DWWM”) (**Exhibit 11**) and the U.S.

Environmental Protection Agency Region 3 (“EPA”) (**Exhibit 12**) requesting comments regarding any potential inconsistencies with applicable water quality standards.

The WVDEP responded by letter dated June 4, 2021, stating “the DWWM has no objection to TERRI’s proposed project based on the fact that it will not be a source for water pollution.” See correspondence at **Exhibit 11**. TERRI has not received any comments from the U.S. EPA Region 3 to date.

- (ii) *Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.*

Based on consultation with the U.S. Army Corps of Engineers (the “Corps”), the proposed project does not require a permit under Section 404, and no designated wetlands or 100-year flood plains will be affected. See correspondence at **Exhibit 13**.

All track and crossties have already been removed from the entirety of Line, and TERRI does not intend to remove any additional rail structures or track material from the right-of-way, including any remaining bridges, abutments, piers, or culverts. TERRI does not intend to disturb any of the underlying roadbed and will not be removing any ballast from the right-of-way. The proposed action does not contemplate discharge of dredge or fill material into the navigable waters as described under 33 U.S.C. § 1344, and there will be no construction work in or along the Elk River that could impact water flow.

All ballast and bridge steel were removed from the portion of the Line extending from Milepost 96.0 (Clendenin) to Milepost 67.2 (Hartland) by 1981 by the Line’s previous owner, CSX Transportation, following abandonment in 1979. In the event abandonment authority is granted and the Line is railbanked, TERRI plans to install a layer of crushed stone, followed by compacted limestone sand in a width of 8 feet as the walking and biking surface for the trail.

The bridge piers and abutments on this portion of the Line will remain intact, and TERRI intends to install bridge steel, wooden decking, and handrails sufficient to support 80,000 lb. weight.

Ballast on the remaining portion of the Line, extending from Milepost 67.2 (Hartland) to Milepost 43.6 (south of Duck), has not been removed, and TERRI does not intend to remove the ballast. TERRI has installed wooden decking and handrails sufficient to support 80,000 lb. weight on the bridges where bridge abutments, piers and steel were left in place.

On June 2, 2021, TERRI notified the Corps of the proposed project, included a copy of the preliminary CEHR, and requested comments. The Regulatory Division in the Corps Huntington, West Virginia District inadvertently sent two reply letters, one dated June 24, 2021 and one dated June 25, 2021, requesting additional information. TERRI consulted with the Corps by phone and by email regarding the project, and on June 30, 2021, the Corps sent a “no permit required letter” on June 30, 2021, which stated, in relevant part:

According to the information provided, the proposed project would not involve work over or the discharge of dredged and/or fill material into the Elk River or aquatic features on-site in conjunction with the abandonment work within The Elk River Railroad project boundary. The abandonment work would be located above the ordinary high water mark of the Elk River. As described above, a DA [Department of the Army] permit is not required from this office for this activity.

We have determined the proposed project will not result in discharge of dredged and/or fill material into waters of the United States or involve work in, on, over or under a navigable water of the United States. Therefore, a DA permit is not required from this office for the proposed activity. However, if this determination changes and it becomes necessary perform work in, adjacent to or under navigable waters, or to discharge dredged and/or fill material into waters or navigable waters of the United States, including wetlands, DA authorization would be required.

See correspondence at **Exhibit 13**.

- (iii) *State whether permits under section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required.)*

Comments received by the West Virginia Department of Environmental Protection (“WVDEP”), Division of Waste and Water Management (“DWWM”) confirm TERRI’s belief that a Section 402 permit is not required, as the proposed abandonment does not implicate the discharge of any pollutant, or combination of pollutants, into navigable waters. TERRI provided notice and copies of the preliminary CEHR to the WVDEP, DWWM (**Exhibit 11**), as well as Region 3 of the U.S. EPA (**Exhibit 12**), for comment.

By letter dated June 4, 2021, WVDEP stated “the DWWM has no objection to TERRI’s proposed project based on the fact that it will not be a source for water pollution.” See correspondence at **Exhibit 11**. TERRI has not received any comments from Region 3 of the U.S. EPA to date.

- (10) **Proposed Mitigation.** *Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.*

No adverse environmental impacts were identified, and none are expected, as a result of the proposed abandonment. The project does not involve any instream work; however, in accordance with the WVDNR comment (**Exhibit 9**), should instream work become part of the project, TERRI will alert WVDNR and USFWS prior to performing any instream work to allow WVDNR and USFWS to conduct mussel clearance. TERRI will comply with all State and Federal regulations. In the event the proposed project involves activity different from that which was conveyed to the local, state, and federal agencies consulted in the preparation of this CEHR, TERRI will promptly notify the Board and the appropriate agencies for their comment. Furthermore, TERRI will comply with any mitigation actions required by the Board.

HISTORIC REPORT
49 C.F.R. § 1105.8

- (1) *A U.S.G.S. topographic map (or alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action;*

A topographic map showing the location of the Line and surrounding area is attached hereto as **Exhibit 1**. There are seventeen (17) bridges on the Line that are 50 years old or older and are part of the proposed transaction. Given the number of structures and close proximity between them on the topographic map, a series of Locator Maps have been appended hereto as **Exhibit 16**, which show the exact locations of the structures on the Line.

- (2) *A written description of the right of way (including approximate widths, to the extent known), and the topography and urban and/or rural characteristics of the surrounding area;*

The Line extends between Milepost 96.0 (at or near Clendenin, WV) and Milepost 43.6 (South of Duck, WV), including the 0.8 miles extending south from Milepost 67.2 (at or near Hartland, WV) known as the Middle Creek Spur, in Kanawha and Clay Counties, West Virginia. The Line traverses United States Postal Service ZIP Codes 25045, 25164, 25043, 25133, 25019, and 25113. The Line closely parallels the Elk River and is located primarily in a sparsely populated, forested, hilly rural area. The Line does pass a number of small communities. The width of the right-of-way varies with the minimum width being 33 feet from the center-line of the track (for a total width of 66 feet) to some areas with over 100 feet from the center-line (for a total width of over 200 feet). The average total width of the right-of-way from Milepost 96.0 (Clendenin) to Milepost 43.6 (south of Duck) is approximately 100 feet (50 feet from the center-line). TERRI can provide detailed valuation maps of the Line upon request.

There are seventeen (17) bridges on the Line that are 50 years old or older: ten (10) with varying amounts of piers, steel and ties in place, five (5) stone arch culverts, and two (2) concrete box culverts. An inventory of these track structures is appended hereto as **Exhibit 17**. There are no tunnels on the Line. TERRI does not intend to salvage any of the structures on the Line. In the event the Line is successfully railbanked following abandonment authorization, TERRI plans to transfer all structures to WVSRA as part of the Line for use as part of the anticipated pedestrian and bicycle trail, which will be operated by the West Virginia Division of Natural Resources as a State Park. To aid in the construction of the trail, TERRI has installed wooden decking and handrails sufficient to support 80,000 lb. weight on the five (5) bridges where bridge abutments, piers and steel were left in place, and intends to install bridge steel and wooden decking and handrails sufficient to support 80,000 lb. weight on the remaining five (5) bridges, where the Line's previous owner (Baltimore and Ohio Railroad Company (B&O), later merged into CSX Transportation, Inc. (CSXT)) removed all bridge steel and left bridge piers in place following the abandonment of the line in 1979.

- (3) ***Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years old or older and of the immediately surrounding area;***

Photographs of the seventeen (17) railroad structures are attached hereto as **Exhibit 18**.

- (4) ***The date(s) of construction of the structure(s), and the date(s) and extent of any major alterations, to the extent such information is known;***

Attached hereto as **Exhibit 17** is an inventory of the seventeen (17) identified railroad structures that includes bridge name, Milepost location, current form of structure, and dates of construction and major alterations, to the extent such information is known. This information is also included in the Historic Property Inventory ("HPI") forms TERRI provided to the State Historic Preservation Office – the West Virginia Department of Arts, Culture and History,

(“WVDACH”) – during TERRI’s consultation with the agency regarding the proposed project.

See correspondence at **Exhibit 19**.

- (5) *A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action;*

Narrative History of the Line

The Line (formerly known as the “Elk River Branch”) was constructed in 1895 by the Charleston, Clendenin & Sutton Railroad Company and sold to the Coal & Coke Railway Company (C&C) by deed dated August 11, 1903. Effective December 20, 1933, C&C merged into the Baltimore and Ohio Railroad Company (B&O), which was then merged into the Chesapeake and Ohio Railway Company (C&O), effective April 30, 1987. C&O was then merged into CSX Transportation, Inc. (CSXT), effective September 2, 1987.

In 1989, TERRI purchased from CSXT the portion of the Line extending from south of Duck (MP 43.6) to Hartland (MP 67.2) as part of a larger line acquisition (from Hartland (MP 67.2) to Gilmer, WV (MP 6.2) – a total of 61 miles). This upper portion of the Line had no traffic moving over it, and TERRI had purchased it from CSXT with the goal of rehabilitating the inactive Line and attracting new business, primarily through serving coal mining operations located along the Line. TERRI began operating over the line in early 1996 with minimal traffic. Approximately 50 freight trains transported coal over this portion of the Line each year between 1996 and 1999. No trains have operated over the Line since 1999.

The lower portion of the Elk River Branch, from Hartland (MP 67.2) to Clendenin MP (96.0), was abandoned by B&O (later CSXT) in 1979. B&O (later CSXT) subsequently removed all track, crossties, ballast and bridge steel from this portion of the Line by 1981. No traffic has moved over this portion of the Line since the abandonment (over 40 years).

By petition filed in 1992 with the Interstate Commerce Commission (ICC), TERRI sought an exemption to reconstruct the two (2) abandoned segments on the lower part of the Elk River Branch: the abandoned CSXT right-of-way extending between Hartland (MP 67.2) and Clendenin (MP 96.0); and an additional 1.05-miles of abandoned Consolidated Rail Corporation's (Conrail) right-of-way between Clendenin and Falling Rock, WV. TERRI sought to reconstruct the line to connect TERRI's existing line with Conrail's line at Clendenin with the intention of attracting new traffic and for purposes of providing alternate transportation for prospective shippers mining low sulfur coal from reserves located along TERRI's existing Line.

In 1992, the ICC conditionally granted TERRI an exemption to reconstruct the rail line over the abandoned CSXT right-of-way, subject to environmental review by the ICC's Section of Environmental Analysis (SEA). The SEA's Environmental Impact Statement recommended a number of mitigation measures that the STB then adopted and imposed as conditions on exemption, which became effective on September 15, 1996. Although TERRI had construction and operation authority, TERRI did not reconstruct the rail line as planned, and the track remains as it did when TERRI purchased the Line – with no track, crossties, ballast and bridge steel.¹

No trains have operated over the upper portion of the Line since 1999; no traffic has moved over the lower portion of the Line since CSXT's abandonment in 1979 (over 40 years).

Changes Contemplated as a Result of the Proposed Action

No traffic has moved over the portion of the Line extending from Milepost 67.2 (Hartland) to Milepost 43.6 (south of Duck), including the Middle Creek Spur, since 1999 and all

¹ The 1.05-miles of abandoned Conrail right-of-way was included in TERRI's 1992 petition for construction and operation authority but was never acquired by TERRI. It is not included in the present proposed abandonment and is not subject to the negotiated agreement for interim trail use and railbanking with the WVSRA.

track and crossties have been removed. TERRI installed wooden decking and handrails sufficient to support 80,000 lb. weight over the five (5) bridges on this portion of the Line with bridge abutments, piers and steel in place. Railbanking the Line will not result in the removal of ballast, as compacted limestone sand has been added on top of the ballast in a width of 8-feet for purposes of creating a safe walking and biking trail. TERRI does not intend to disturb any sub grade or sub grade structures. Any trail related structures that may remain on the Line, such as bridges, trestles, culverts, tunnels, and signal equipment, will not be salvaged.

CSXT removed all track, crossties, ballast and bridge steel from the portion of the Line extending from Clendenin (MP 96.0) to Hartland (MP 67.2). As part of the proposed action, TERRI intends to place a layer of crushed stone over the railbed, followed by a layer of compacted limestone sand with a width of 8-feet to create safe walking and biking trail surface. TERRI also intends to install bridge steel and wooden decking and handrails sufficient to support 80,000 lb. weight for the trail. TERRI does not intend to disturb any sub grade or sub grade structures, and any trail related structures that may remain on the Line, such as bridges, trestles, culverts, tunnels, and signal equipment, will not be salvaged.

(6) *A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic;*

TERRI possesses valuation maps of the Line, as well as engineering drawings for the structures listed in **Exhibit 17**, with the exception of the Middle Creek Spur Bridge (MP 0.4).

TERRI has provided the Locator Maps for each of the subject structures in **Exhibit 16**.

(7) *An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 C.F.R. 60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities);*

There may be sufficiently unusual or noteworthy bridges on the Line to be appropriate for inclusion in the National Register of Historic Places. TERRI believes it is unlikely there are any archaeological resources or other previously unknown historic properties within the project area.

When the Environmental Impact Statement was conducted for TERRI's Exemption Petition to Construct and Operate a rail line over CSXT's abandoned right-of-way extending from Clendenin to Hartland, the West Virginia Division of Culture and History "concluded that the proposed construction and operation would not affect cultural resources and that no further consultation on cultural resource impacts is required." EIS.5.8. TERRI believes it is unlikely that there are archeological resources or other previously unknown historic properties in the project area, as they likely would have been discovered during either CSXT's removal of track and bridge materials in 1981 as part of its abandonment, or during the 1995 Environmental and Historic Review process related to TERRI's proposed rail line construction.

However, in the event such resources do exist, TERRI does not believe they will be affected by the abandonment. The limited trail construction activity, as described *supra* in section 5, is unlikely to uncover any archaeological resources or impact any historic properties that may exist, given that TERRI will not be removing any material, but simply installing material within the confines of the right-of-way to create a safe walking and bicycle path.

By letter dated June 2, 2021, TERRI provided notice and a copy of the preliminary CEHR to the West Virginia Department of Arts, Culture and History ("WVDACH") (**Exhibit 19**), and the Communications and Outreach Branch of the National Oceanic and Atmospheric Administration's National Geodetic Survey ("NGS") (**Exhibit 20**) for comment.

On June 24, 2021, NGS submitted a comment confirming "there would be no impact on any existing control marks" along the Line, noting "no further construction or demolition is to be

undertaken as a result of this abandonment,” and that “[s]ince the rails were removed 40 and 20 years ago, any geodetic control along these lines that was disturbed/destroyed would have been done decades ago.” See correspondence at **Exhibit 20**.

On June 16, 2021, WVDACH requested TERRI complete and submit updated Historic Property Inventory (HPI) forms for each of the structures identified on the Line to aid in the agency’s review. TERRI consulted with WVDACH Structural Historian, Mr. Kent Walker, by phone on June 25, 2021 regarding the HPI forms and the proposed project. TERRI emailed the requested materials to the agency on July 1, 2021; Mr. Walker confirmed receipt that day and stated: “I will review these and update our review/documentation accordingly.” See correspondence at **Exhibit 19**. TERRI has received no further comment to date.

- (8) *A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic waste), and the surrounding terrain.***

TERRI’s records do not indicate that any of the above-described conditions exist within the project area.

- (9) *Within 30 days of receipt of the historic report, the State Historic Preservation Officer may request the following additional information regarding specified nonrailroad owned properties or groups of properties immediately adjacent to the railroad right-of-way: photographs of specified properties that can be readily seen from the railroad right-of-way (or other public rights-of-way adjacent to the property) and a written description of any previously discovered archeological sites, identifying the location and type of the site (i.e., prehistoric or native American).***

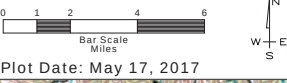
TERRI does not anticipate that WVDACH will need any additional information, as TERRI has consulted with the agency regarding the proposed project and has submitted HPI forms, as requested, for properties identified on the Line. However, in the event WVDACH requests further additional information, TERRI will promptly supply the agency with any requested information in TERRI’s possession.

CEHR EXHIBIT 1

Map of the Line

AREA RAILROADS

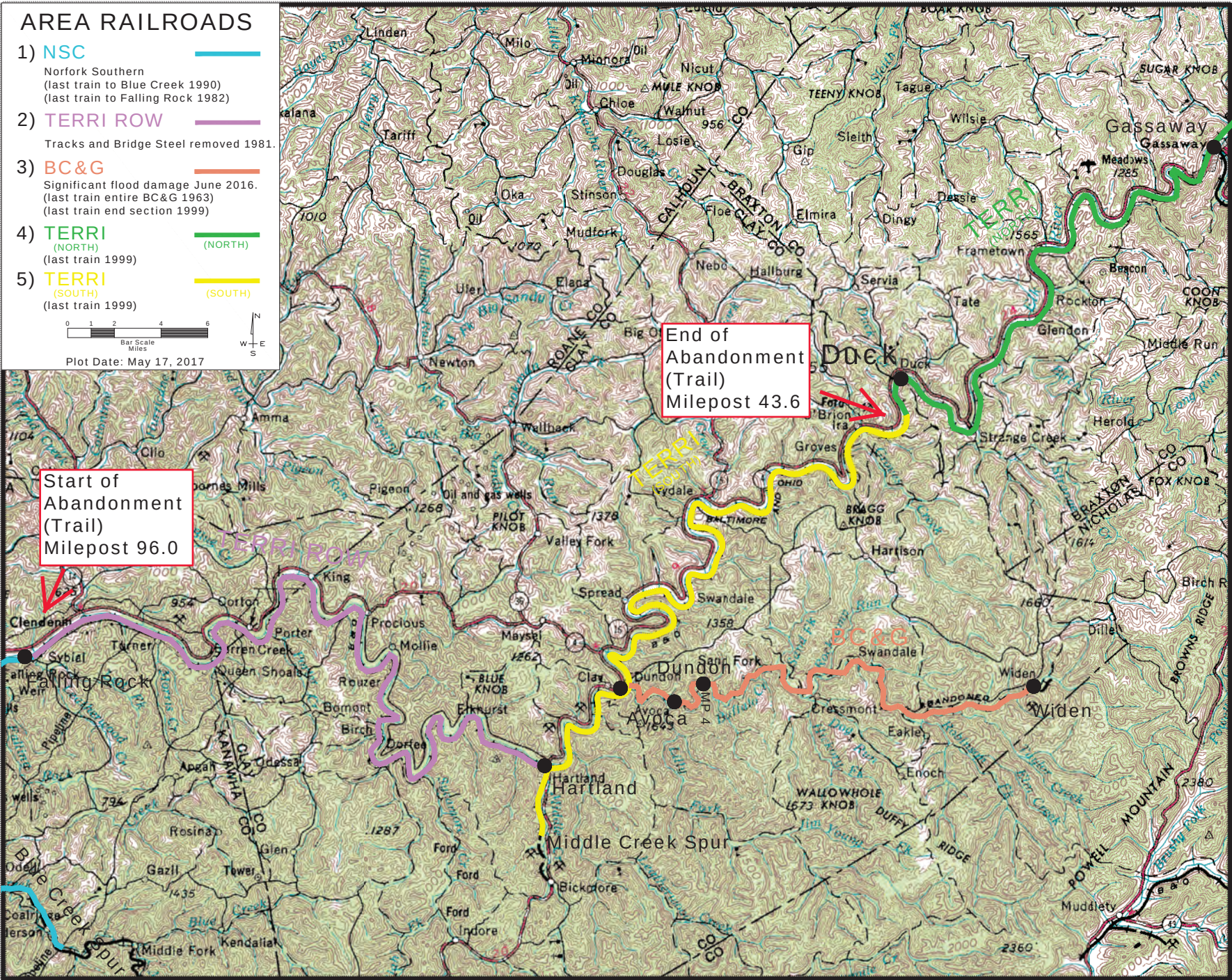
- 1) **NSC**
Norfolk Southern
(last train to Blue Creek 1990)
(last train to Falling Rock 1982)
- 2) **TERRI ROW**
Tracks and Bridge Steel removed 1981.
- 3) **BC&G**
Significant flood damage June 2016.
(last train entire BC&G 1963)
(last train end section 1999)
- 4) **TERRI (NORTH)**
(last train 1999)
- 5) **TERRI (SOUTH)**
(last train 1999)



Plot Date: May 17, 2017

Start of
Abandonment
(Trail)
Milepost 96.0

End of
Abandonment
(Trail)
Milepost 43.6



CEHR EXHIBIT 2

**Letters to West Virginia Department of Transportation and
State Rail Authority (without attachments)**



SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

A. REBECCA WILLIAMS

June 2, 2021

Cindy Butler
Executive Director
West Virginia Department of Transportation
State Rail Authority
120 Water Plant Drive
Moorefield, WV 26836

Re: STB Docket No. AB 1314X, The Elk River Railroad, Inc. –
Abandonment Exemption – in Kanawha and Clay Counties, West Virginia

Dear Director Butler:

The Elk River Railroad, Inc. (“TERRI”) intends to file with the Surface Transportation Board (“STB” or “Board”) a notice of exemption for the abandonment of approximately 53.4 miles of railroad located between Milepost 96.0 (near Clendenin, WV) and Milepost 43.6 (south of Duck, WV), including 0.8 miles extending south from Milepost 67.2 (near Hartland, WV) known as the Middle Creek Spur, in Kanawha and Clay Counties, WV (the “Line”). The notice will be filed pursuant to 49 C.F.R. § 1152.50(b), exempting abandonment of rail lines over which no local traffic has moved during the previous two years.

Subject to Board authorization, TERRI and the West Virginia State Rail Authority (“WVSRA”) have negotiated, and intend to enter into, an agreement for interim trail use and railbanking of the Line pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (“Trails Act”) and 49 C.F.R. § 1152.29. The West Virginia Department of Natural Resources would then operate the Trail as a State Park.

In accordance with STB regulations, 49 C.F.R. 1105.7(c), TERRI is providing this advance notice to afford your agency a reasonable opportunity to provide meaningful input with regard to the environmental and/or historical impacts of the proposed action. TERRI would appreciate your comments regarding current and future land use in relationship to the Line, particularly in regard to whether the proposed action is consistent with existing land use plans.

For your reference, we have enclosed a copy of TERRI’s Preliminary Combined Environmental and Historic Report, which describes the action and any expected effects, a map of the Line, and a distribution list of all parties that have been notified of the proposed action.

WV Department of Transportation
State Rail Authority
June 2, 2021
Page 2 of 2

Please provide any comments to me by email at arw@sloverandloftus.com, or by mail to 1224 Seventeenth Street, NW, Washington, D.C. 20036, within three (3) weeks of the date of this letter so TERRI can review and include your comments in its Final CEHR.

If you have any questions or concerns, please feel free to contact me by email or by phone at (202) 347-7170. Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "AR Williams". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

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

Enclosures as stated.



SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

A. REBECCA WILLIAMS

June 2, 2021

West Virginia Department of Transportation
State Rail Authority
Building 5
1900 Kanawha Boulevard East
Charleston, WV 25305

Re: STB Docket No. AB 1314X, The Elk River Railroad, Inc. –
Abandonment Exemption – in Kanawha and Clay Counties, West Virginia

To Whom it May Concern:

The Elk River Railroad, Inc. (“TERRI”) intends to file with the Surface Transportation Board (“STB” or “Board”) a notice of exemption for the abandonment of approximately 53.4 miles of railroad located between Milepost 96.0 (near Clendenin, WV) and Milepost 43.6 (south of Duck, WV), including 0.8 miles extending south from Milepost 67.2 (near Hartland, WV) known as the Middle Creek Spur, in Kanawha and Clay Counties, WV (the “Line”). The notice will be filed pursuant to 49 C.F.R. § 1152.50(b), exempting abandonment of rail lines over which no local traffic has moved during the previous two years.

Subject to Board authorization, TERRI and the West Virginia State Rail Authority (“WVSRA”) have negotiated, and intend to enter into, an agreement for interim trail use and railbanking of the Line pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (“Trails Act”) and 49 C.F.R. § 1152.29. The West Virginia Department of Natural Resources would then operate the Trail as a State Park.

In accordance with STB regulations, 49 C.F.R. 1105.7(c), TERRI is providing this advance notice to afford your agency a reasonable opportunity to provide meaningful input with regard to the environmental and/or historical impacts of the proposed action. TERRI would appreciate your comments regarding current and future land use in relationship to the Line, particularly in regard to whether the proposed action is consistent with existing land use plans.

For your reference, we have enclosed a copy of TERRI’s Preliminary Combined Environmental and Historic Report, which describes the action and any expected effects, a map of the Line, and a distribution list of all parties that have been notified of the proposed action.

WV Department of Transportation

June 2, 2021

Page 2 of 2

Please provide any comments to me by email at arw@sloverandloftus.com, or by mail to 1224 Seventeenth Street, NW, Washington, D.C. 20036, within three (3) weeks of the date of this letter so TERRI can review and include your comments in its Final CEHR.

If you have any questions or concerns, please feel free to contact me by email or by phone at (202) 347-7170. Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "AR Williams". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

A. Rebecca Williams

An Attorney for The Elk River Railroad, Inc.

Enclosures as stated.

From: [DOT Info](#)
To: [Rebecca Williams](#)
Subject: FW: [External] STB Docket No. AB 1314X, The Elk River Railroad, Inc. – Abandonment Exemption – in Kanawha & Clay Counties, WV
Date: Thursday, June 3, 2021 7:23:30 AM
Attachments: [image001.png](#)
[Letter to WV Dep't of Transp. re STB Docket AB 1314X.pdf](#)
[STB Docket AB 1314X Preliminary CEHR Distribution List.pdf](#)
[STB Docket AB 1314X Preliminary Combined Environmental Historic Report & Exhibits.pdf](#)

Thank you for submitting your concerns to the West Virginia Division of Highways. We have received your request and it has been forwarded to the appropriate party for investigation.

If you have any further questions, please email us at DOT.Info@wv.gov or give us a call at 1-833-WV-ROADS. Our hours of operation are from 7:30 am to 4:00 pm, Monday through Friday (excluding holidays).

Thank you.

From: Rebecca Williams <arw@sloverandloftus.com>
Sent: Thursday, June 3, 2021 2:15 AM
To: DOT Info <DOT.Info@wv.gov>
Subject: [External] STB Docket No. AB 1314X, The Elk River Railroad, Inc. – Abandonment Exemption – in Kanawha & Clay Counties, WV

CAUTION: External email. Do not click links or open attachments unless you verify sender.

To Whom it May Concern:

Please see the attached letter and accompanying enclosures regarding The Elk River Railroad, Inc.'s ("TERRI") proposed abandonment, and intended interim trail use, of a line of railroad located between Clendenin, WV and south of Duck, WV. Hard copies of the attached materials have also been sent to Building 5 of the Charleston office.

Electronic and hard copies have also been sent to State Rail Authority Executive Director, Ms. Cindy Butler. Kindly forward our inquiry to any other appropriate individual(s) and/or department(s) within the West Virginia Department of Transportation, or provide us with contact information for the same.

Sincerely,

Rebecca Williams
An Attorney for TERRI



A. REBECCA WILLIAMS
ARW@SLOVERANDLOFTUS.COM
SLOVER & LOFTUS LLP

DIRECT: (202) 454-4422 | MAIN: (202) 347-7170 | CELL: (202) 870-2797
1224 SEVENTEENTH ST. N.W., WASHINGTON, DC 20036
WWW.SLOVERANDLOFTUS.COM

The information contained in this e-mail may include proprietary information which is confidential and privileged. This e-mail and any attachment is intended solely for the use of the recipient identified. Any disclosure, duplication, dissemination or other use of this document by anyone other than the identified recipient, or his or her agent, is strictly prohibited. If you are not the identified recipient, this e-mail may have been transmitted to you in error. Please contact 202.347.7170 if you believe that you have received this in error.

CEHR EXHIBIT 3

**Letter to Clay County Commissioners
(without attachments)**



SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

A. REBECCA WILLIAMS

June 2, 2021

Clay County Commission
Greg Fitzwater, Commissioner
Jerry Linkinoggor, Commissioner
Fran King, Commissioner
246 Main Street
P.O. Box 190
Clay, WV 25043

Re: STB Docket No. AB 1314X, The Elk River Railroad, Inc. –
Abandonment Exemption – in Kanawha and Clay Counties, West Virginia

Dear Commissioners:

The Elk River Railroad, Inc. (“TERRI”) intends to file with the Surface Transportation Board (“STB” or “Board”) a notice of exemption for the abandonment of approximately 53.4 miles of railroad located between Milepost 96.0 (near Clendenin, WV) and Milepost 43.6 (south of Duck, WV), including 0.8 miles extending south from Milepost 67.2 (near Hartland, WV) known as the Middle Creek Spur, in Kanawha and Clay Counties, WV (the “Line”). The notice will be filed pursuant to 49 C.F.R. § 1152.50(b), exempting abandonment of rail lines over which no local traffic has moved during the previous two years.

Subject to Board authorization, TERRI and the West Virginia State Rail Authority (“WVSRA”) have negotiated, and intend to enter into, an agreement for interim trail use and railbanking of the Line pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (“Trails Act”) and 49 C.F.R. § 1152.29. The West Virginia Department of Natural Resources would then operate the Trail as a State Park.

In accordance with STB regulations requiring environmental and historic review of the proposed action, TERRI would appreciate your comments with regard to the following portion of its Combined Environmental and Historic Report (“CEHR”):

- (3)(i) *Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, please state whether the proposed action is consistent with existing land use plans. Please describe any inconsistencies.*

Clay County Commissioners

June 2, 2021

Page 2 of 2

In light of TERRI's pending agreement with WVSRA, TERRI believes the proposed action to be consistent with existing land use plans. For your reference, we have enclosed a copy of TERRI's Preliminary CEHR, which describes the action and any expected effects, a map of the Line, and a distribution list of all parties who have been notified of the proposed action.

Please provide any comments to me by email at arw@sloverandloftus.com, or by mail to 1224 Seventeenth Street, NW, Washington, D.C. 20036, within three (3) weeks of the date of this letter so TERRI can review and include your comments in its Final CEHR.

If you have any questions or concerns, please feel free to contact me by email or by phone at (202) 347-7170. Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "AR Williams".

A. Rebecca Williams

An Attorney for The Elk River Railroad, Inc.

Enclosures as stated.

CEHR EXHIBIT 4

**Letter to Kanawha County Commissioners
(without attachments)**



SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

A. REBECCA WILLIAMS

June 2, 2021

Kanawha County Commission
Kent Carper, President
Ben Salango, Commissioner
Lance Wheeler, Commissioner
P.O. Box 3627
Charleston, WV 25336

Re: STB Docket No. AB 1314X, The Elk River Railroad, Inc. –
Abandonment Exemption – in Kanawha and Clay Counties, West Virginia

Dear Commissioners:

The Elk River Railroad, Inc. (“TERRI”) intends to file with the Surface Transportation Board (“STB” or “Board”) a notice of exemption for the abandonment of approximately 53.4 miles of railroad located between Milepost 96.0 (near Clendenin, WV) and Milepost 43.6 (south of Duck, WV), including 0.8 miles extending south from Milepost 67.2 (near Hartland, WV) known as the Middle Creek Spur, in Kanawha and Clay Counties, WV (the “Line”). The notice will be filed pursuant to 49 C.F.R. § 1152.50(b), exempting abandonment of rail lines over which no local traffic has moved during the previous two years.

Subject to Board authorization, TERRI and the West Virginia State Rail Authority (“WVSRA”) have negotiated, and intend to enter into, an agreement for interim trail use and railbanking of the Line pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (“Trails Act”) and 49 C.F.R. § 1152.29. The West Virginia Department of Natural Resources would then operate the Trail as a State Park.

In accordance with STB regulations requiring environmental and historic review of the proposed action, TERRI would appreciate your comments with regard to the following portion of its Combined Environmental and Historic Report (“CEHR”):

(3)(i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, please state whether the proposed action is consistent with existing land use plans. Please describe any inconsistencies.

In light of TERRI’s pending agreement with WVSRA, TERRI believes the proposed action to be consistent with existing land use plans. For your reference, we have enclosed a copy of

Kanawha County Commissioners

June 2, 2021

Page 2 of 2

TERRI's Preliminary CEHR, which describes the action and any expected effects, a map of the Line, and a distribution list of all parties who have been notified of the proposed action.

Please provide any comments to me by email at arw@sloverandloftus.com, or by mail to 1224 Seventeenth Street, NW, Washington, D.C. 20036, within three (3) weeks of the date of this letter so TERRI can review and include your comments in its Final CEHR.

If you have any questions or concerns, please feel free to contact me by email or by phone at (202) 347-7170. Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "AR Williams". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

A. Rebecca Williams

An Attorney for The Elk River Railroad, Inc.

Enclosures as stated.

CEHR EXHIBIT 5

**Letter to the Office of the Governor
(without attachments)**



SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

A. REBECCA WILLIAMS

June 2, 2021

Office of the Governor
State Capitol
1900 Kanawha Boulevard East
Charleston, WV 25305

Re: STB Docket No. AB 1314X, The Elk River Railroad, Inc. –
Abandonment Exemption – in Kanawha and Clay Counties, West Virginia

Dear Governor Justice:

The Elk River Railroad, Inc. (“TERRI”) intends to file with the Surface Transportation Board (“STB” or “Board”) a notice of exemption for the abandonment of approximately 53.4 miles of railroad located between Milepost 96.0 (near Clendenin, WV) and Milepost 43.6 (south of Duck, WV), including 0.8 miles extending south from Milepost 67.2 (near Hartland, WV) known as the Middle Creek Spur, in Kanawha and Clay Counties, WV (the “Line”). The notice will be filed pursuant to 49 C.F.R. § 1152.50(b), exempting abandonment of rail lines over which no local traffic has moved during the previous two years.

Subject to Board authorization, TERRI and the West Virginia State Rail Authority (“WVSRA”) have negotiated, and intend to enter into, an agreement for interim trail use and railbanking of the Line pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (“Trails Act”) and 49 C.F.R. § 1152.29. The West Virginia Department of Natural Resources would then operate the Trail as a State Park.

In accordance with STB regulations, 49 C.F.R. 1105.7(c), TERRI is providing this advance notice to afford your agency a reasonable opportunity to provide meaningful input with regard to the proposed action. TERRI would appreciate your comments regarding current and future land use in relationship to the Line.

For your reference, we have enclosed a copy of TERRI’s Preliminary Combined Environmental and Historic Report, which describes the action and any expected effects, a map of the Line, and a distribution list of all parties that have been notified of the proposed action.

Please provide any comments to me by email at arw@sloverandloftus.com, or by mail to 1224 Seventeenth Street, NW, Washington, D.C. 20036, within three (3) weeks of the date of this letter so TERRI can review and include your comments in its Final CEHR.

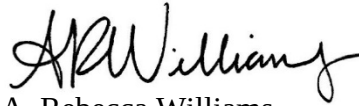
Gov. Jim Justice

June 2, 2021

Page 2 of 2

If you have any questions or concerns, please feel free to contact me by email or by phone at (202) 347-7170. Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "AR Williams". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

A. Rebecca Williams

An Attorney for The Elk River Railroad, Inc.

Enclosures as stated.

CEHR EXHIBIT 6

**Letter to West Virginia Department of Commerce
(without attachments)**



SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

A. REBECCA WILLIAMS

June 2, 2021

West Virginia Department of Commerce
State Capitol Complex
1900 Kanawha Boulevard East
Building 3, Suite 600
Charleston, WV 25305

Re: STB Docket No. AB 1314X, The Elk River Railroad, Inc. –
Abandonment Exemption – in Kanawha and Clay Counties, West Virginia

To Whom it May Concern:

The Elk River Railroad, Inc. (“TERRI”) intends to file with the Surface Transportation Board (“STB” or “Board”) a notice of exemption for the abandonment of approximately 53.4 miles of railroad located between Milepost 96.0 (near Clendenin, WV) and Milepost 43.6 (south of Duck, WV), including 0.8 miles extending south from Milepost 67.2 (near Hartland, WV) known as the Middle Creek Spur, in Kanawha and Clay Counties, WV (the “Line”). The notice will be filed pursuant to 49 C.F.R. § 1152.50(b), exempting abandonment of rail lines over which no local traffic has moved during the previous two years.

Subject to Board authorization, TERRI and the West Virginia State Rail Authority (“WVSRA”) have negotiated, and intend to enter into, an agreement for interim trail use and railbanking of the Line pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (“Trails Act”) and 49 C.F.R. § 1152.29. The West Virginia Department of Natural Resources would then operate the Trail as a State Park.

In accordance with STB regulations, 49 C.F.R. 1105.7(c), TERRI is providing this advance notice to afford your agency a reasonable opportunity to provide meaningful input with regard to the impacts of the proposed action. TERRI would appreciate your comments regarding current and future land use in relationship to the Line.

For your reference, we have enclosed a copy of TERRI’s Preliminary Combined Environmental and Historic Report, which describes the action and any expected effects, a map of the Line, and a distribution list of all parties that have been notified of the proposed action.

WV Department of Commerce

June 2, 2021

Page 2 of 2

Please provide any comments to me by email at arw@sloverandloftus.com, or by mail to 1224 Seventeenth Street, NW, Washington, D.C. 20036, within three (3) weeks of the date of this letter so TERRI can review and include your comments in its Final CEHR.

If you have any questions or concerns, please feel free to contact me by email or by phone at (202) 347-7170. Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "AR Williams". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

A. Rebecca Williams

An Attorney for The Elk River Railroad, Inc.

Enclosures as stated.

CEHR EXHIBIT 7

**Correspondence with the
West Virginia Public Service Commission
(letter without attachments)**



SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

A. REBECCA WILLIAMS

June 14, 2021

Public Service Commission
201 Brooks Street
Charleston, WV 25301

Re: STB Docket No. AB 1314X, The Elk River Railroad, Inc. –
Abandonment Exemption – in Kanawha and Clay Counties, West Virginia

To Whom it May Concern:

Please be advised that on or after June 25, 2021, The Elk River Railroad, Inc. (“TERRI”) shall file with the Surface Transportation Board (“STB” or “Board”) a verified notice of exemption for the abandonment of approximately 53.4 miles of railroad located between Milepost (MP) 96.0 (near Clendenin, WV) and MP 43.6 (south of Duck, WV), including 0.8 miles extending south from MP 67.2 (near Hartland, WV) known as the Middle Creek Spur, in Kanawha and Clay Counties, WV (the “Line”). The Line traverses through U.S. Postal Service ZIP Codes 25045, 25164, 25043, 25133, 25019, and 25113. A map of the Line is attached for your reference.

The notice of exemption will be filed pursuant to 49 C.F.R. § 1152.50(b), as no traffic has moved over the Line for over 20 years. The proceeding will be docketed as No. AB 1314X. Based on information in our possession, the Line does not contain federally granted rights-of-way. Any documentation in TERRI’s possession will be made available promptly to those requesting it.

Subject to Board authorization, TERRI and the West Virginia State Rail Authority have negotiated, and intend to enter into, an agreement for interim trail use and railbanking of the Line pursuant to the National Trails System Act, 16 U.S.C. § 1247(d), and 49 C.F.R. § 1152.29. The West Virginia Department of Natural Resources would then operate the Trail as a State Park.

If you have any questions or concerns, please contact me at arw@sloverandloftus.com or (202) 347-7170, or the Board’s Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238. Thank you in advance for your attention to this matter.

Sincerely,

A. Rebecca Williams

An Attorney for The Elk River Railroad, Inc.

Enclosure as stated.

From: [Sweeney, Laura](#)
To: [Rebecca Williams](#)
Subject: RE: [PSC Employee Contact] NOTICE: STB Docket No. AB 1314X, The Elk River Railroad, Inc. – in Kanawha & Clay Counties
Date: Tuesday, June 15, 2021 10:32:40 AM

I called John Perry, Manager of the WV PSC's Railroad Safety Section, concerning this issue and forwarded your email. I am sure someone from his staff will be in contact with you.

Thank you

From: arw@sloverandloftus.com [mailto:arw@sloverandloftus.com]
Sent: Monday, June 14, 2021 9:18 PM
To: Sweeney, Laura <LSweeney@psc.state.wv.us>
Subject: [PSC Employee Contact] NOTICE: STB Docket No. AB 1314X, The Elk River Railroad, Inc. – in Kanawha & Clay Counties

Rebecca Williams has sent you this message from the PSC Employee Contact Form

Phone: 202-347-7170

Dear Ms. Sweeney,

Please see the below information regarding The Elk River Railroad, Inc.'s ("TERRI") proposed abandonment, and intended interim trail use, of a line of railroad located between Clendenin, WV and south of Duck, WV. A letter containing the below text, along with a printed map of the railroad line in question, were mailed to the Charleston office on June 14, 2021. We would be happy to furnish an electronic copy of these materials, and request that you kindly forward our notice to the most appropriate individual and/or department within the Public Service Commission, or provide us with contact information for the same. Thank you.

To Whom it May Concern:

Please be advised that on or after June 25, 2021, The Elk River Railroad, Inc. ("TERRI") shall file with the Surface Transportation Board ("STB" or "Board") a verified notice of exemption for the abandonment of approximately 53.4 miles of railroad located between Milepost (MP) 96.0 (near Clendenin, WV) and MP 43.6 (south of Duck, WV), including 0.8 miles extending south from MP 67.2 (near Hartland, WV) known as the Middle Creek Spur, in Kanawha and Clay Counties, WV (the "Line"). The Line traverses through U.S. Postal Service ZIP Codes 25045, 25164, 25043, 25133, 25019, and 25113.

The notice of exemption will be filed pursuant to 49 C.F.R. § 1152.50(b), as no traffic has moved over the Line for over 20 years. The proceeding will be docketed as No. AB 1314X. Based on information in our possession, the Line does not contain federally granted

rights-of-way. Any documentation in TERRI's possession will be made available promptly to those requesting it.

Subject to Board authorization, TERRI and the West Virginia State Rail Authority have negotiated, and intend to enter into, an agreement for interim trail use and railbanking of the Line pursuant to the National Trails System Act, 16 U.S.C. § 1247(d), and 49 C.F.R. § 1152.29. The West Virginia Department of Natural Resources would then operate the Trail as a State Park.

If you have any questions or concerns, please contact me at arw@sloverandloftus.com or (202) 347-7170, or the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238. Thank you in advance for your attention to this matter.

Sincerely,
Rebecca Williams
An Attorney for TERRI

CEHR EXHIBIT 8

**Letters to the U.S.D.A. Natural Resources Conservation
Service (without attachments) and Agency Comment**



SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

A. REBECCA WILLIAMS

June 2, 2021

Mr. Andy Sentz, District Conservationist
U.S. Department of Agriculture
Natural Resources Conservation Service
Gassaway Service Center
1336 State Street
Gassaway, WV 26624

Re: STB Docket No. AB 1314X, The Elk River Railroad, Inc. –
Abandonment Exemption – in Kanawha and Clay Counties, West Virginia

Dear Mr. Sentz:

The Elk River Railroad, Inc. (“TERRI”) intends to file with the Surface Transportation Board (“STB” or “Board”) a notice of exemption for the abandonment of approximately 53.4 miles of railroad located between Milepost 96.0 (near Clendenin, WV) and Milepost 43.6 (south of Duck, WV), including 0.8 miles extending south from Milepost 67.2 (near Hartland, WV) known as the Middle Creek Spur, in Kanawha and Clay Counties, WV (the “Line”). The notice will be filed pursuant to 49 C.F.R. § 1152.50(b), exempting abandonment of rail lines over which no local traffic has moved during the previous two years.

Subject to Board authorization, TERRI and the West Virginia State Rail Authority (“WVSRA”) have negotiated, and intend to enter into, an agreement for interim trail use and railbanking of the Line pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (“Trails Act”) and 49 C.F.R. § 1152.29. The West Virginia Department of Natural Resources would then operate the Trail as a State Park.

In accordance with STB regulations requiring environmental and historic review of the proposed action, TERRI would appreciate your comments with regard to the following portions of its Combined Environmental and Historic Report (“CEHR”):

(3)(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.

For your reference, we have enclosed a copy of TERRI’s Preliminary CEHR, which describes the action and any expected effects, a map of the Line, and a distribution list of all parties that have been notified of the proposed action.

USDA – Natural Resources Conservation Service

June 2, 2021

Page 2 of 2

Please provide any comments to me by email at arw@sloverandloftus.com, or by mail to 1224 Seventeenth Street, NW, Washington, D.C. 20036, within three (3) weeks of the date of this letter so TERRI can review and include your comments in its Final CEHR.

If you have any questions or concerns, please feel free to contact me by email or by phone at (202) 347-7170. Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "AR Williams". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

A. Rebecca Williams

An Attorney for The Elk River Railroad, Inc.

Enclosures as stated.



SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

A. REBECCA WILLIAMS

June 2, 2021

Ms. Julie Stutler, District Conservationist
U.S. Department of Agriculture
Natural Resources Conservation Service
Cross Lanes Service Center
418 Goff Mountain Road
Cross Lanes, WV 25313

Re: STB Docket No. AB 1314X, The Elk River Railroad, Inc. –
Abandonment Exemption – in Kanawha and Clay Counties, West Virginia

Dear Ms. Stutler:

The Elk River Railroad, Inc. (“TERRI”) intends to file with the Surface Transportation Board (“STB” or “Board”) a notice of exemption for the abandonment of approximately 53.4 miles of railroad located between Milepost 96.0 (near Clendenin, WV) and Milepost 43.6 (south of Duck, WV), including 0.8 miles extending south from Milepost 67.2 (near Hartland, WV) known as the Middle Creek Spur, in Kanawha and Clay Counties, WV (the “Line”). The notice will be filed pursuant to 49 C.F.R. § 1152.50(b), exempting abandonment of rail lines over which no local traffic has moved during the previous two years.

Subject to Board authorization, TERRI and the West Virginia State Rail Authority (“WVSRA”) have negotiated, and intend to enter into, an agreement for interim trail use and railbanking of the Line pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (“Trails Act”) and 49 C.F.R. § 1152.29. The West Virginia Department of Natural Resources would then operate the Trail as a State Park.

In accordance with STB regulations requiring environmental and historic review of the proposed action, TERRI would appreciate your comments with regard to the following portions of its Combined Environmental and Historic Report (“CEHR”):

(3)(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.

For your reference, we have enclosed a copy of TERRI’s Preliminary CEHR, which describes the action and any expected effects, a map of the Line, and a distribution list of all parties that have been notified of the proposed action.

USDA – Natural Resources Conservation Service

June 2, 2021

Page 2 of 2

Please provide any comments to me by email at arw@sloverandloftus.com, or by mail to 1224 Seventeenth Street, NW, Washington, D.C. 20036, within three (3) weeks of the date of this letter so TERRI can review and include your comments in its Final CEHR.

If you have any questions or concerns, please feel free to contact me by email or by phone at (202) 347-7170. Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "AR Williams". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

A. Rebecca Williams

An Attorney for The Elk River Railroad, Inc.

Enclosures as stated.

From: [Beard, Jared - NRCS, Morgantown, WV](#)
To: [Rebecca Williams](#)
Subject: STB Docket No AB 1314X
Date: Monday, June 7, 2021 6:36:04 AM
Attachments: [2021 Elk River Rail Line Abandonment-Kanawha Co repsonse.pdf](#)

Ms Williams,

Please see attached response to your request.

Let me know if you have any questions.

Jared Beard

State Soil Scientist
1550 Earl Core Rd. Room 200
Morgantown, WV 26505
304-284-7597 office
304-578-9171 cell

USDA is an equal opportunity provider, employer, and lender.

This electronic message contains information generated by the USDA solely for the intended recipients. Any unauthorized interception of this message or the use or disclosure of the information it contains may violate the law and subject the violator to civil or criminal penalties. If you believe you have received this message in error, please notify the sender and delete the email immediately.



United States Department of Agriculture
Natural Resources Conservation Service
1550 Earl Core Road, Suite 200
Morgantown, WV 26505
(304) 284-7540 (Phone)
(855) 857-6448 (Fax)

June 7, 2021

Ms. A. Rebecca Williams
Slover & Loftus LLP
1224 Seventeenth St., NW
Washington, D.C. 20036
arw@sloverandloftus.com

Subject: STB Docket No. AB 1314X, The Elk River Railroad, Inc. –Abandonment
Exemption—in Kanawha and Clay Counties, WV

Ms. Williams,

The Web Soil Survey was utilized as the official source of soil survey information to review the proposed rail line abandonment project area referenced above. The project area as provided in the packet identified above is focused on the rail line and right-of-way access.

Despite the soil survey mapping, historical earth moving activities used to construct the rail line and rights-of-way have altered the project area such that it does not meet the definition of prime farmland. Provided that abandonment activities are conducted within the limits defined, no effects to the surrounding unaltered soils will occur.

If you have any questions about this report please contact me at jared.beard@usda.gov or 304-284-7597.

Sincerely,

JARED BEARD

JARED BEARD
State Soil Scientist

 Digitally signed by JARED BEARD
Date: 2021.06.06 20:23:05 -04'00'

CC: Aron Sattler, NRCS, Resource Soil Scientist, Beckley, WV
Julie Stutler, NRCS, District Conservationist, Cross Lanes, WV



CEHR EXHIBIT 9

**Letter to West Virginia Division of Natural Resources
(without attachments) and Agency Comment**



SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

A. REBECCA WILLIAMS

June 2, 2021

West Virginia Division of Natural Resources
324 Fourth Avenue
South Charleston, WV 25303

Re: STB Docket No. AB 1314X, The Elk River Railroad, Inc. –
Abandonment Exemption – in Kanawha and Clay Counties, West Virginia

To Whom it May Concern:

The Elk River Railroad, Inc. (“TERRI”) intends to file with the Surface Transportation Board (“STB” or “Board”) a notice of exemption for the abandonment of approximately 53.4 miles of railroad located between Milepost 96.0 (near Clendenin, WV) and Milepost 43.6 (south of Duck, WV), including 0.8 miles extending south from Milepost 67.2 (near Hartland, WV) known as the Middle Creek Spur, in Kanawha and Clay Counties, WV (the “Line”). The notice will be filed pursuant to 49 C.F.R. § 1152.50(b), exempting abandonment of rail lines over which no local traffic has moved during the previous two years.

Subject to Board authorization, TERRI and the West Virginia State Rail Authority (“WVSRA”) have negotiated, and intend to enter into, an agreement for interim trail use and railbanking of the Line pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (“Trails Act”) and 49 C.F.R. § 1152.29. The West Virginia Department of Natural Resources would then operate the Trail as a State Park.

In accordance with STB regulations requiring environmental and historic review of the proposed action, TERRI would appreciate your comments with regard to the following portions of its Combined Environmental and Historic Report (“CEHR”):

- (8)(i) *Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.*
- (8)(ii) *State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.*

June 2, 2021

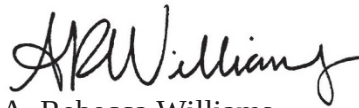
Page 2 of 2

For your reference, we have enclosed a copy of TERRI's Preliminary CEHR, which describes the action and any expected effects, a map of the Line, and a distribution list of all parties that have been notified of the proposed action.

Please provide any comments to me by email at arw@sloverandloftus.com, or by mail to 1224 Seventeenth Street, NW, Washington, D.C. 20036, within three (3) weeks of the date of this letter so TERRI can review and include your comments in its Final CEHR.

If you have any questions or concerns, please feel free to contact me by email or by phone at (202) 347-7170. Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "AR Williams". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

A. Rebecca Williams

An Attorney for The Elk River Railroad, Inc.

Enclosures as stated.

From: [Bennett, Danny A](#)
To: [Rebecca Williams](#)
Subject: DNR response letter - Elk River Railroad Project
Date: Monday, June 28, 2021 2:34:42 PM
Attachments: [SKM_80821062814280.pdf](#)

Ms. Williams,

Attached is DNR's response to comments.

Danny Bennett
WV Division of Natural Resources
Natural Resources Program Manager 1
Coordination Program
304-637-0245 – Office
304-206-7225 - Cell

Rebecca Williams
Slover and Loftus LLP
1224 Seventeenth St. NW
Washington, D.C. 20036

June 16, 2021

Re: Elk River Railroad Abandonment

Dear Ms. Williams,

The West Virginia Division of Natural Resources Wildlife Resources Section has reviewed the Elk River Railroad Abandonment project.

According to the Exhibit B locator maps the railroad crosses the Elk River at least 14 times. The Elk River is a section 10 navigable water, a high quality warmwater stream, and a group 2 mussel stream containing federally listed mussels. No instream work should occur prior to mussel clearance by both the WVDNR and the United States Fish and Wildlife Service (USFWS). Impacts related to construction could impact mussel resources.

No wildlife sanctuaries, refuges, national state parks or forests will be impacted or affected by this project.

The newly proposed 53 mile hiking/biking trail from Clendenin to Hartland will make a good addition to the West Virginia rail trails and our State Park system.

If you have any questions please contact Ms. Anne Wakeford of my staff at the Elkins Operation Center by telephone 304-637-0245 or by email at Anne.M.Wakeford@wv.gov.

Sincerely,

A handwritten signature in dark ink, appearing to read "Danny Bennett", with a long horizontal flourish extending to the right.

Danny A. Bennett, Coordination Supervisor

CEHR EXHIBIT 10

Correspondence with U.S. Fish & Wildlife Service



SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

A. REBECCA WILLIAMS

June 2, 2021

U.S. Fish & Wildlife Service
West Virginia Field Office
Ecological Services
694 Beverly Pike
Elkins, WV 26241

Re: STB Docket No. AB 1314X, The Elk River Railroad, Inc. –
Abandonment Exemption – in Kanawha and Clay Counties, West Virginia

To Whom it May Concern:

The Elk River Railroad, Inc. (“TERRI”) intends to file with the Surface Transportation Board (“STB” or “Board”) a notice of exemption for the abandonment of approximately 53.4 miles of railroad located between Milepost 96.0 (near Clendenin, WV) and Milepost 43.6 (south of Duck, WV), including 0.8 miles extending south from Milepost 67.2 (near Hartland, WV) known as the Middle Creek Spur, in Kanawha and Clay Counties, WV (the “Line”). The notice will be filed pursuant to 49 C.F.R. § 1152.50(b), exempting abandonment of rail lines over which no local traffic has moved during the previous two years.

Subject to Board authorization, TERRI and the West Virginia State Rail Authority (“WVSRA”) have negotiated, and intend to enter into, an agreement for interim trail use and railbanking of the Line pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (“Trails Act”) and 49 C.F.R. § 1152.29. The West Virginia Department of Natural Resources would then operate the Trail as a State Park.

In accordance with STB regulations requiring environmental and historic review of the proposed action, TERRI would appreciate your comments with regard to the following portions of its Combined Environmental and Historic Report (“CEHR”):

- (8)(i) *Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.*
- (8)(ii) *State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.*

U.S. Fish & Wildlife Service

June 2, 2021

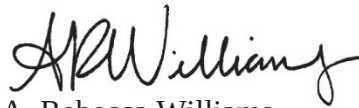
Page 2 of 2

For your reference, we have enclosed a copy of TERRI's Preliminary CEHR, which describes the action and any expected effects, a map of the Line, and a distribution list of all parties that have been notified of the proposed action.

Please provide any comments to me by email at arw@sloverandloftus.com, or by mail to 1224 Seventeenth Street, NW, Washington, D.C. 20036, within three (3) weeks of the date of this letter so TERRI can review and include your comments in its Final CEHR.

If you have any questions or concerns, please feel free to contact me by email or by phone at (202) 347-7170. Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "AR Williams". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

A. Rebecca Williams

An Attorney for The Elk River Railroad, Inc.

Enclosures as stated.

From: [Rebecca Williams](#)
To: FW5_WVFO@fws.gov
Subject: [PROJECT REVIEW REQUEST]: FWS File No. 5E2WV00-2021-SLI-0608
Date: Friday, June 4, 2021 8:24:00 PM
Attachments: [image001.png](#)
[FWS File 5E2WV00-2021-SLI-0608_STB Docket AB 1314X.zip](#)

To Whom it May Concern:

Please see the attached letter and accompanying materials regarding The Elk River Railroad, Inc.'s ("TERRI") proposed abandonment, and intended interim trail use, of a line of railroad located between Clendenin, WV and south of Duck, WV.

Please do not hesitate to contact me should you need any additional information or have any questions or concerns.

Sincerely,

Rebecca Williams
An Attorney for TERRI



A. REBECCA WILLIAMS
ARW@SLOVERANDLOFTUS.COM
SLOVER & LOFTUS LLP

DIRECT: (202) 454-4422 | MAIN: (202) 347-7170 | CELL: (202) 870-2797
1224 SEVENTEENTH ST. N.W., WASHINGTON, D.C. 20036
WWW.SLOVERANDLOFTUS.COM

The information contained in this e-mail may include proprietary information which is confidential and privileged. This e-mail and any attachment is intended solely for the use of the recipient identified. Any disclosure, duplication, dissemination or other use of this document by anyone other than the identified recipient, or his or her agent, is strictly prohibited. If you are not the identified recipient, this e-mail may have been transmitted to you in error. Please contact 202.347.7170 if you believe that you have received this in error.



United States Department of the Interior

FISH AND WILDLIFE SERVICE
West Virginia Ecological Services Field Office
90 Vance Drive
Elkins, WV 26241-9475
Phone: (304) 636-6586 Fax: (304) 636-7824
<http://www.fws.gov/westvirginiafieldoffice/>



In Reply Refer To:

June 04, 2021

Consultation Code: 05E2WV00-2021-SLI-0608

Event Code: 05E2WV00-2021-E-01530

Project Name: STB Docket AB 1314X, The Elk River Railroad, Inc. – Abandonment Exemption

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, and proposed species, designated critical habitat, and candidate species that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*). This list can also be used to determine whether listed species may be present for projects without federal agency involvement.

If the official species list you receive identifies any listed, proposed, or candidate species as potentially occurring in the proposed project area, then further section 7 consultation under the ESA is required with the Fish and Wildlife Service. Please submit a project review request to the West Virginia Field Office. To find out what information needs to be submitted with your project review request go to this link: <http://www.fws.gov/westvirginiafieldoffice/projectreview.html>

Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you should submit to our office.

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the ESA, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC site at regular intervals during project planning and

implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/eagle_guidance.html). For information on bald and golden eagles in your project area please contact the West Virginia Division of Natural Resources, Natural Heritage Program at P.O. Box 67 Elkins, WV 26241, or call 304-637-0245.

Additionally, wind energy projects should follow the Service's wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>; and [http://www.fws.gov/westvirginiafieldoffice/PDF/Communication%20Tower%20Letter%20\(1\).pdf](http://www.fws.gov/westvirginiafieldoffice/PDF/Communication%20Tower%20Letter%20(1).pdf)

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the ESA.

Attachment(s):

- Official Species List

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

West Virginia Ecological Services Field Office

90 Vance Drive

Elkins, WV 26241-9475

(304) 636-6586

Project Summary

Consultation Code: 05E2WV00-2021-SLI-0608

Event Code: 05E2WV00-2021-E-01530

Project Name: STB Docket AB 1314X, The Elk River Railroad, Inc. – Abandonment Exemption

Project Type: TRANSPORTATION

Project Description: The Elk River Railroad, Inc. (“TERRI”) intends to file a verified notice of exemption with the Surface Transportation Board (“STB”) pursuant to 49 C.F.R. § 1152, Subpart F, to abandon approximately 53.4 miles of rail line between Milepost 96.0 (at or near Clendenin, WV) and Milepost 43.6 (south of Duck, WV), including the 0.8 miles extending south from Milepost 67.2 (near Hartland, WV) known as the Middle Creek Spur, located in Kanawha and Clay Counties, West Virginia (the “Line”). The Line traverses through United States Postal Service ZIP Codes 25045, 25164, 25043, 25133, 25019, and 25113.

TERRI and the West Virginia State Rail Authority (“WVSRA”) have negotiated an agreement, subject to STB authorization, whereby if abandonment authority is granted, TERRI will transfer the Line to WVSRA for railbanking and interim trail use as a pedestrian and bicycle trail, pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (“Trails Act”) and 49 C.F.R. § 1152.29. The West Virginia Department of Natural Resources would then operate the Trail as a State Park.

Milepost 96.0 (at or near Clendenin) to Milepost 67.2 (at or near Hartland):

No traffic has moved over this portion of the Line in 40 years. The previous owner of this portion of the Line, CSX Transportation, Inc. (“CSXT”), abandoned the Line in 1979 and subsequently removed all track, crossties, ballast and bridge steel by 1981. As part of the proposed action, TERRI intends to place a layer of crushed stone over the right-of-way railbed, followed by a layer of compacted limestone sand with a width of 8-feet to create safe walking and biking trail surface. TERRI does not intend to disturb any sub grade or sub grade structures. Any trail related structures, such as bridges, trestles, culverts, tunnels, and signal equipment will not be salvaged.

Milepost 67.2 (at or near Hartland) to Milepost 43.6 (south of Duck):

No traffic has moved over the portion of the Line extending from Milepost 67.2 (Hartland) to Milepost 43.6 (south of Duck), including the Middle Creek Spur, since 1999 and all track and crossties have been removed. Railbanking the Line will not result in the removal of ballast, as compacted limestone sand has been added on top of the ballast in a width of 8-feet for purposes of creating a safe walking and biking trail. TERRI

does not intend to disturb any sub grade or sub grade structures. Any trail related structures, such as bridges, trestles, culverts, tunnels, and signal equipment will not be salvaged.

TERRI does not believe that the proposed action is likely to have any adverse effect on endangered or threatened species or areas designated as a critical habitat, as TERRI's proposed action does not entail construction, salvage, or similar activities that would adversely disrupt or impact the area. Instead, the intention of TERRI and WVSRA to enter into an agreement for interim trail use and railbanking of the Line for use as a pedestrian and bike trail will preserve the area. Moreover, the West Virginia Department of Natural Resources is in support of the project and intends to manage the trail as a State Park.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@38.48395945,-81.3131555859926,14z>



Counties: Clay and Kanawha counties, West Virginia

Endangered Species Act Species

There is a total of 13 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Note that 12 of these species should be considered only under certain conditions.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Mammals

NAME	STATUS
Gray Bat <i>Myotis grisescens</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6329	Endangered
Indiana Bat <i>Myotis sodalis</i> There is final critical habitat for this species. The location of the critical habitat is not available. This species only needs to be considered under the following conditions: ▪ All activities in this location should consider potential effects to this species. This project is not within a known-use area, but potentially occupied habitat may exist. Please contact the WVFO for additional consultation. Species profile: https://ecos.fws.gov/ecp/species/5949	Endangered
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: ▪ No known hibernacula or maternity roost trees occur within the action area. Any 'take' that may occur incidental to this project is not prohibited under the final 4(d) rule. Please submit a Streamlined 4(d) Rule Consultation form to the WVFO. Species profile: https://ecos.fws.gov/ecp/species/9045	Threatened

Fishes

NAME	STATUS
Diamond Darter <i>Crystallaria cincotta</i> There is final critical habitat for this species. Your location overlaps the critical habitat. This species only needs to be considered under the following conditions: ▪ This project occurs within a watershed known to support this species. Review the project design guidelines for more information about next steps and contacting the WVFO. ▪ This project is in close proximity of a stream known to support this species; all activities in this location should consider potential effects to the species. Review the project design guidelines for information about next steps and contacting the WVFO. Species profile: https://ecos.fws.gov/ecp/species/6921 General project design guidelines: https://ecos.fws.gov/docs/tess/ipac_project_design_guidelines/doc6457.pdf	Endangered

Clams

NAME	STATUS
Clubshell <i>Pleurobema clava</i> Population: Wherever found; Except where listed as Experimental Populations No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: ▪ This project occurs within a watershed known to support this species. Review the project design guidelines for more information about next steps and contacting the WVFO. ▪ This project is in close proximity of a stream known to support this species; all activities in this location should consider potential effects to the species. Review the project design guidelines for information about next steps and contacting the WVFO. Species profile: https://ecos.fws.gov/ecp/species/3789 General project design guidelines: https://ecos.fws.gov/docs/tess/ipac_project_design_guidelines/doc6454.pdf	Endangered
Fanshell <i>Cyprogenia stegaria</i> No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: ▪ This project occurs within a watershed known to support this species. Review the project design guidelines for more information about next steps and contacting the WVFO. Species profile: https://ecos.fws.gov/ecp/species/4822 General project design guidelines: https://ecos.fws.gov/docs/tess/ipac_project_design_guidelines/doc6470.pdf	Endangered
Northern Riffleshell <i>Epioblasma torulosa rangiana</i> No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: ▪ This project occurs within a watershed known to support this species. Review the project design guidelines for more information about next steps and contacting the WVFO. ▪ This project is in close proximity of a stream known to support this species; all activities in this location should consider potential effects to the species. Review the project design guidelines for information about next steps and contacting the WVFO. Species profile: https://ecos.fws.gov/ecp/species/527 General project design guidelines: https://ecos.fws.gov/docs/tess/ipac_project_design_guidelines/doc6462.pdf	Endangered
Pink Mucket (pearlymussel) <i>Lampsilis abrupta</i> No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: ▪ This project occurs within a watershed known to support this species. Review the project design guidelines for more information about next steps and contacting the WVFO. ▪ This project is in close proximity of a stream known to support this species; all activities in this location should consider potential effects to the species. Review the project design guidelines for information about next steps and contacting the WVFO. Species profile: https://ecos.fws.gov/ecp/species/7829 General project design guidelines: https://ecos.fws.gov/docs/tess/ipac_project_design_guidelines/doc6463.pdf	Endangered
Rayed Bean <i>Villosa fabalis</i> No critical habitat has been designated for this species. This species only needs to be considered under the following conditions:	Endangered

NAME	STATUS
▪ This project occurs within a watershed known to support this species. Review the project design guidelines for more information about next steps and contacting the WVFO. ▪ This project is in close proximity of a stream known to support this species; all activities in this location should consider potential effects to the species. Review the project design guidelines for information about next steps and contacting the WVFO. Species profile: https://ecos.fws.gov/ecp/species/5862 General project design guidelines: https://ecos.fws.gov/docs/tess/ipac_project_design_guidelines/doc6464.pdf	
Sheepnose Mussel <i>Plethobasus cyphus</i> No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: ▪ This project occurs within a watershed known to support this species. Review the project design guidelines for more information about next steps and contacting the WVFO. Species profile: https://ecos.fws.gov/ecp/species/6903 General project design guidelines: https://ecos.fws.gov/docs/tess/ipac_project_design_guidelines/doc6465.pdf	Endangered
Snuffbox Mussel <i>Epioblasma triquetra</i> No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: ▪ This project occurs within a watershed known to support this species. Review the project design guidelines for more information about next steps and contacting the WVFO. ▪ This project is in close proximity of a stream known to support this species; all activities in this location should consider potential effects to the species. Review the project design guidelines for information about next steps and contacting the WVFO. Species profile: https://ecos.fws.gov/ecp/species/4135 General project design guidelines: https://ecos.fws.gov/docs/tess/ipac_project_design_guidelines/doc6466.pdf	Endangered
Spectaclecase (mussel) <i>Cumberlandia monodonta</i> No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: ▪ This project occurs within a watershed known to support this species. Review the project design guidelines for more information about next steps and contacting the WVFO. Species profile: https://ecos.fws.gov/ecp/species/7867 General project design guidelines: https://ecos.fws.gov/docs/tess/ipac_project_design_guidelines/doc6467.pdf	Endangered
Tubercled Blossom (pearlymussel) <i>Epioblasma torulosa torulosa</i> Population: Wherever found; Except where listed as Experimental Populations No critical habitat has been designated for this species. This species only needs to be considered under the following conditions: ▪ This project occurs within a watershed known to support this species. Review the project design guidelines for more information about next steps and contacting the WVFO. Species profile: https://ecos.fws.gov/ecp/species/4126 General project design guidelines: https://ecos.fws.gov/docs/tess/ipac_project_design_guidelines/doc6468.pdf	Endangered

Critical habitats

There is 1 critical habitat wholly or partially within your project area under this office's jurisdiction.

NAME	STATUS
Diamond Darter <i>Crystallaria cincotta</i> https://ecos.fws.gov/ecp/species/6921#crithab	Final

Species Conclusions Table

Project Name: STB Docket AB 1314X, The Elk River Railroad, Inc. – Abandonment Exemption

Project's FWS File Number: 5E2WV00-2021-SLI-0608

Date: June 4, 2021

Point of Contact: A. Rebecca Williams; arw@sloverandloftus.com; (202) 347-7170

Species Name	ESA Determination	Critical Habitat	Notes / Documentation Summary (full rationale)
Gray Bat <i>Myotis grisescens</i>	May affect	No.	Project may affect bridges and/or culverts. Please see TERRI's Preliminary Combined Environmental and Historic Report (CEHR) for additional information regarding the project's anticipated impact on bridges, culverts, and other track materials. There are seventeen (17) bridges on the Line that are 50 years old or older: ten (10) with varying amounts of piers, steel and ties in place, five (5) stone arch culverts, and two (2) concrete box culverts. Locator Maps of the structures are appended to the Preliminary CEHR as Exhibit B; an inventory of the structures is appended as Exhibit C; and photographs are appended as Exhibit D. TERRI does not intend to salvage any of the structures on the Line. In the event the Line is successfully railbanked following abandonment authorization, TERRI plans to transfer all structures to West Virginia State Rail Authority (WVSRA) as part of the Line for use as part of the anticipated pedestrian and bicycle trail, which will be managed by the West Virginia Division of Natural Resources (WVDNR) as a State Park. To aid in the construction of the trail, TERRI has installed wooden decking and handrails sufficient to support 80,000 lb.

			weight on the five (5) bridges where bridge abutments, piers and steel were left in place, and intends to install bridge steel and wooden decking and handrails sufficient to support 80,000 lb. weight on the remaining five (5) bridges, where the Line's previous owner (Baltimore and Ohio Railroad Company (B&O), later merged into CSX Transportation, Inc. (CSXT)) removed all bridge steel and left bridge piers in place following the abandonment of the line in 1979.
Indiana Bat <i>Myotis sodalis</i>	May affect	Yes. There is final critical habitat for this species. Location of the critical habitat is not available. Project is not within a known-use area, but potentially occupied habitat may exist.	Project will not involve any tree trimming or removal, but there are structures present within the project area that could be considered suitable for hibernating or roosting bats. Please see notes for Gray Bat and TERRI's Preliminary CEHR for additional information.
Northern Long-eared Bat <i>Myotis septentrionalis</i>	No effect	No.	No known hibernacula or maternity roost trees occur within the action area. Project does not propose any tree removal.
Diamond Darter <i>Crystallaria cincotta</i>	May effect – no adverse effects expected but project guidelines require more detailed project-specific review.	Yes. There is final critical habitat for this species. Project location overlaps the critical habitat.	Project occurs within a watershed known to support this species. However, the proposed project is contained entirely within an existing right-of-way (i.e., of a small scale) and requires minimal to no earth disturbance, no discharges into waterways, will not increase sedimentation or erosion, does not increase runoff into waterways, and will not divert or alter flows in waterways or create any impoundments. Project is in close proximity of a stream known to support this species. However, the project will not directly affect the streambed; will not involve any drilling underneath the

			stream; will not require erosion and sedimentation control measures within close proximity to the stream; and will not affect fish quantities or water quantity/quality in the stream.
Clubshell Clam <i>Pleurobema clava</i>	May effect – no adverse effects expected but project guidelines require more detailed project-specific review.	No.	Project occurs within a watershed known to support this species. However, the proposed project is contained entirely within an existing right-of-way (<i>i.e.</i>, of a small scale) and requires minimal to no earth disturbance, no discharges into waterways, will not increase sedimentation or erosion, does not increase runoff into waterways, and will not divert or alter flows in waterways or create any impoundments. Project is in close proximity of a stream known to support this species. However, the project will not directly affect the streambed; will not involve any drilling underneath the stream; will not require erosion and sedimentation control measures within close proximity to the stream; and will not affect water quantity/quality in the stream.
Fanshell Clam <i>Cyprogenia stegaria</i>	No effect.	No.	Project occurs within a watershed known to support this species. However, the proposed project is contained entirely within an existing right-of-way (<i>i.e.</i> , of a small scale) and requires minimal to no earth disturbance, no discharges into waterways, will not increase sedimentation or erosion, does not increase runoff into waterways, and will not divert or alter flows in waterways or create any impoundments.
Northern Riffleshell Clam <i>Epioblasma torulosa rangiana</i>	May effect – no adverse effects expected but project guidelines require more detailed	No.	Project occurs within a watershed known to support this species. However, the proposed project is contained entirely within an existing right-of-way (<i>i.e.</i> , of a small scale) and requires minimal to no earth disturbance, no discharges into waterways, will not increase sedimentation or erosion, does not increase runoff into waterways, and

	project-specific review.		will not divert or alter flows in waterways or create any impoundments. Project is in close proximity of a stream known to support this species. However, the project will not directly affect the streambed; will not involve any drilling underneath the stream; will not require erosion and sedimentation control measures within close proximity to the stream; and will not affect water quantity/quality in the stream.
Pink Mucket (pearlymussel) <i>Lampsilis abrupta</i>	May effect – no adverse effects expected but project guidelines require more detailed project-specific review.	No.	Project occurs within a watershed known to support this species. However, the proposed project is contained entirely within an existing right-of-way (<i>i.e.</i>, of a small scale) and requires minimal to no earth disturbance, no discharges into waterways, will not increase sedimentation or erosion, does not increase runoff into waterways, and will not divert or alter flows in waterways or create any impoundments. Project is in close proximity of a stream known to support this species. However, the project will not directly affect the streambed; will not involve any drilling underneath the stream; will not require erosion and sedimentation control measures within close proximity to the stream; and will not affect water quantity/quality in the stream.
Rayed Bean Clam <i>Villosa fabalis</i>	May effect – no adverse effects expected but project guidelines require more detailed project-specific review.	No.	Project occurs within a watershed known to support this species. However, the proposed project is contained entirely within an existing right-of-way (<i>i.e.</i>, of a small scale) and requires minimal to no earth disturbance, no discharges into waterways, will not increase sedimentation or erosion, does not increase runoff into waterways, and will not divert or alter flows in waterways or create any impoundments.

			Project is in close proximity of a stream known to support this species. However, the project will not directly affect the streambed; will not involve any drilling underneath the stream; will not require erosion and sedimentation control measures within close proximity to the stream; and will not affect water quantity/quality in the stream.
Sheepnose Mussel <i>Plethobasus cyphus</i>	No effect.	No.	Project occurs within a watershed known to support this species. However, the proposed project is contained entirely within an existing right-of-way (<i>i.e.</i> , of a small scale) and requires minimal to no earth disturbance, no discharges into waterways, will not increase sedimentation or erosion, does not increase runoff into waterways, and will not divert or alter flows in waterways or create any impoundments.
Snuffbox Mussel <i>Epioblasma triquetra</i>	May effect – no adverse effects expected but project guidelines require more detailed project-specific review.	No.	Project occurs within a watershed known to support this species. However, the proposed project is contained entirely within an existing right-of-way (<i>i.e.</i>, of a small scale) and requires minimal to no earth disturbance, no discharges into waterways, will not increase sedimentation or erosion, does not increase runoff into waterways, and will not divert or alter flows in waterways or create any impoundments. Project is in close proximity of a stream known to support this species. However, the project will not directly affect the streambed; will not involve any drilling underneath the stream; will not require erosion and sedimentation control measures within close proximity to the stream; and will not affect water quantity/quality in the stream.

Spectaclecase (mussel) <i>Cumberlandia monodonta</i>	No effect.	No.	Project occurs within a watershed known to support this species. However, the proposed project is contained entirely within an existing right-of-way (<i>i.e.</i> , of a small scale) and requires minimal to no earth disturbance, no discharges into waterways, will not increase sedimentation or erosion, does not increase runoff into waterways, and will not divert or alter flows in waterways or create any impoundments.
Tubercled Blossom (pearly mussel) <i>Epioblasma torulosa torulosa</i>	No effect.	No.	Project occurs within a watershed known to support this species. However, the proposed project is contained entirely within an existing right-of-way (<i>i.e.</i> , of a small scale) and requires minimal to no earth disturbance, no discharges into waterways, will not increase sedimentation or erosion, does not increase runoff into waterways, and will not divert or alter flows in waterways or create any impoundments.

From: [Rebecca Williams](#)
To: [Norris, Jennifer L](#)
Cc: [West Virginia FO, FW5](#)
Subject: RE: [EXTERNAL] STB Docket No. AB 1314X, The Elk River Railroad, Inc. – Abandonment Exemption – in Kanawha & Clay Counties, WV
Date: Friday, June 4, 2021 5:29:00 AM
Attachments: [image001.png](#)

Jennifer,

Thank you very much for your quick response and guidance. I used the IPaC system to obtain an Official Species List for our project area and have completed the species conclusion table. Based on the species determination chart, our project requires submission to WVFRO for additional assistance and a project-specific review. Prior to receiving your email, I had sent an electronic copy of the project materials to the general email box – I will resubmit the requisite project information and materials in accordance with the agency's instructions, and will include the Official Species List and completed Species Conclusion Table.

Thank you again for your assistance. Please do not hesitate to contact me with any questions or concerns.

Sincerely,
Rebecca

From: Norris, Jennifer L <jennifer_l_norris@fws.gov>
Sent: Friday, June 4, 2021 1:08 AM
To: Rebecca Williams <arw@sloverandloftus.com>
Cc: West Virginia FO, FW5 <FW5_WVFO@fws.gov>
Subject: Re: [EXTERNAL] STB Docket No. AB 1314X, The Elk River Railroad, Inc. – Abandonment Exemption – in Kanawha & Clay Counties, WV

Rebecca,
Thank you for the email. We request that when seeking technical assistance from our office you submit this request to our general email box at: FW5_WVFO@fws.gov. Also, please note that the physical address listed for our office in your letter, is no longer valid, we are now at the below listed address.

Additionally, to assist in making the USFWS's technical assistance under the Endangered Species Act review efficient, we suggest that project proponents follow our instructions detailed at <https://www.fws.gov/westvirginiafieldoffice/projectreview.html>, use the IPaC system (<https://ecos.fws.gov/ipac/>) to obtain a list of federally listed species for your project area, and when possible, utilize the self-certification process (https://www.fws.gov/westvirginiafieldoffice/selfcert_instruct.html). Please note that the Species Potential Effects Chart (step #3 in the self-certification process) weblink is not currently working, therefore we have attached this table for your immediate use. As explained on our website, the federal action agency may make a "no effect" determination and no further coordination is needed with the USFWS.

If the project needs additional technical assistance and reviewed by the USFWS, the West Virginia Office has instructions for project proponents to submit the needed information for our review at <https://www.fws.gov/westvirginiafieldoffice/projectreview.html>. If needed, we request that this information be submitted to our general email box at: FW5_WVFO@fws.gov.

Jennifer L. Norris
West Virginia Field Supervisor
U.S. Fish and Wildlife Service
6263 Appalachian Highway
Davis, West Virginia 26260

<http://www.fws.gov/westvirginiafieldoffice/index.html>

From: Rebecca Williams <arw@sloverandloftus.com>

Sent: Thursday, June 3, 2021 12:27 AM

To: Norris, Jennifer L <jennifer_l_norris@fws.gov>

Subject: [EXTERNAL] STB Docket No. AB 1314X, The Elk River Railroad, Inc. – Abandonment Exemption – in Kanawha & Clay Counties, WV

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Dear Ms. Norris,

Please see the attached letter and accompanying enclosures regarding The Elk River Railroad, Inc.'s ("TERRI") proposed abandonment, and intended interim trail use, of a line of railroad located between Clendenin, WV and south of Duck, WV. Hard copies of the attached materials have also been mailed to your office.

Please do not hesitate to contact me with any questions or concerns, and please let me know if our inquiry should be directed to a different individual and/or department within the West Virginia Field Office of the U.S. Fish & Wildlife Service.

Sincerely,

Rebecca Williams
An Attorney for TERRI



A. REBECCA WILLIAMS
ARW@SLOVERANDLOFTUS.COM
SLOVER & LOFTUS LLP

DIRECT: (202) 454-4422 | MAIN: (202) 347-7170 | CELL: (202) 870-2797
1224 SEVENTEENTH ST. N.W., WASHINGTON, DC 20036
WWW.SLOVERANDLOFTUS.COM

The information contained in this e-mail may include proprietary information which is confidential and privileged. This e-mail and any attachment is intended solely for the use of the recipient identified. Any disclosure, duplication, dissemination or other use of this document by anyone other than the identified recipient, or his or her agent, is strictly prohibited. If you are not the identified recipient, this e-mail may have been transmitted to you in error. Please contact 202.347.7170 if you believe that you have received this in error.

CEHR EXHIBIT 11

**Letter to West Virginia Department of Environmental
Protection Division of Waste and Water Management
(without attachments) and Agency Comment**



SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

A. REBECCA WILLIAMS

June 2, 2021

West Virginia Department of Environmental Protection
Division of Waste and Water Management
601 57th Street, SE
Charleston, WV 25304

Re: STB Docket No. AB 1314X, The Elk River Railroad, Inc. –
Abandonment Exemption – in Kanawha and Clay Counties, West Virginia

To Whom it May Concern:

The Elk River Railroad, Inc. (“TERRI”) intends to file with the Surface Transportation Board (“STB” or “Board”) a notice of exemption for the abandonment of approximately 53.4 miles of railroad located between Milepost 96.0 (near Clendenin, WV) and Milepost 43.6 (south of Duck, WV), including 0.8 miles extending south from Milepost 67.2 (near Hartland, WV) known as the Middle Creek Spur, in Kanawha and Clay Counties, WV (the “Line”). The notice will be filed pursuant to 49 C.F.R. § 1152.50(b), exempting abandonment of rail lines over which no local traffic has moved during the previous two years.

Subject to Board authorization, TERRI and the West Virginia State Rail Authority (“WVSRA”) have negotiated, and intend to enter into, an agreement for interim trail use and railbanking of the Line pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (“Trails Act”) and 49 C.F.R. § 1152.29. The West Virginia Department of Natural Resources would then operate the Trail as a State Park.

In accordance with STB regulations requiring environmental and historic review of the proposed action, TERRI would appreciate your comments with regard to the following portions of its Combined Environmental and Historic Report (“CEHR”):

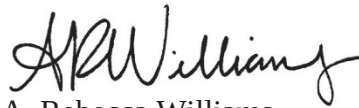
- (9)(i) *Based on consultation with State Water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.*
- (9)(iii) *State whether permits under Section 402 of the Clean Water Act 33 U.S.C. 1342 are required for the proposed action.*

For your reference, we have enclosed a copy of TERRI's Preliminary CEHR, which describes the action and any expected effects, a map of the Line, and a distribution list of all parties that have been notified of the proposed action.

Please provide any comments to me by email at arw@sloverandloftus.com, or by mail to 1224 Seventeenth Street, NW, Washington, D.C. 20036, within three (3) weeks of the date of this letter so TERRI can review and include your comments in its Final CEHR.

If you have any questions or concerns, please feel free to contact me by email or by phone at (202) 347-7170. Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "AR Williams".

A. Rebecca Williams

An Attorney for The Elk River Railroad, Inc.

Enclosures as stated.

From: [Barbery, Albert](#)
To: [Rebecca Williams](#)
Cc: [Anderson, Connie J](#); [Brian L Bridgewater](#)
Subject: Re: [External] STB Docket No. AB 1314X, The Elk River Railroad, Inc. – Abandonment Exemption – in Kanawha & Clay Counties, WV
Date: Thursday, June 10, 2021 1:07:45 PM
Attachments: [TERRI rail abandonment decision letter 06042021.pdf](#)
[STB Docket AB 1314X Preliminary CEHR Distribution List.pdf](#)
[Letter to WV Dep't Environmental Protection re STB Docket AB 1314X.pdf](#)
[STB Docket AB 1314X Preliminary Combined Environmental Historic Report & Exhibits.pdf](#)

Good Afternoon Rebecca Williams,

Attached, please find the WVDEP Division of Water and Waste Management response to your proposed railroad abandonment along with the accompanying files listed as being enclosed. If you have any questions or comments, please reach out to me by email or by phone at the number below.

Kind Regards,

Albert Barbery, Geologist
Groundwater & UIC Programs
WVDEP - DWWM
601 57th Street SE
Charleston, WV 25304
304-926-0499 ext 43769

From: "Rebecca Williams" <arw@sloverandloftus.com>
To: "Anderson, Connie J" <Connie.J.Anderson@wv.gov>
Cc: "De, Sanhita N" <Sanhita.N.De@wv.gov>
Subject: [External] STB Docket No. AB 1314X, The Elk River Railroad, Inc. – Abandonment Exemption – in Kanawha & Clay Counties, WV

CAUTION: External email. Do not click links or open attachments unless you verify sender.

Dear Ms. Anderson,

Please see the attached letter and accompanying enclosures regarding The Elk River Railroad, Inc.'s ("TERRI") proposed abandonment, and intended interim trail use, of a line of railroad located between Clendenin, WV and south of Duck, WV. Hard copies of the attached materials have also been mailed to the Charleston office.

Please do not hesitate to contact me with any questions or concerns, and please let me know if our inquiry should be directed to a different individual and/or department within the West Virginia Department of Environmental Protection.

Sincerely,

Rebecca Williams

An Attorney for TERRI

Email Signature 7-11-18 - ARW



The information contained in this e-mail may include proprietary information which is confidential and privileged. This e-mail and any attachment is intended solely for the use of the recipient identified. Any disclosure, duplication, dissemination or other use of this document by anyone other than the identified recipient, or his or her agent, is strictly prohibited. If you are not the identified recipient, this e-mail may have been transmitted to you in error. Please contact 202.347.7170 if you believe that you have received this in error.



west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, WV, 25304-2345
Phone: 304-926-0495
Fax: 304-926-0496

Harold D. Ward, Cabinet Secretary
dep.wv.gov

June 4th, 2021

A. Rebecca Williams
Slover & Loftus LLP
1224 Seventeenth Street NW
Washington, D.C. 20036

Re: The Elk River Railroad, Inc (TERRI)
Abandonment Exemption Decision
Clay and Kanawha Counties

Dear A. Rebecca Williams,

The West Virginia Department of Environmental Protection (WV DEP) received the proposed abandonment exemption and preliminary Combined Environmental and Historic Report (CEHR) dated June 2nd, 2021 from Slover & Loftus LLP on behalf of The Elk River Railroad, Inc. (TERRI). The Division of Water and Waste Management (DWWM) has reviewed the document with the proposed actions summarized as follows:

- Abandon a stretch of railroad that has been inactive for over 20 years.
- Abandonment should not disturb sub grade or sub grade structures.
- No salvaging of structures such as bridges, trestles, culverts, tunnels, or signal equipment will occur.
- Abandonment does not propose discharge of dredge or fill material and is to be followed by railbanking. Railbanking is to install a layer of crushed stone, followed by compacted limestone sand.
- Following proposed abandonment activities, the area is proposed to be utilized as a pedestrian and bicycle trail & operated as a State Park.

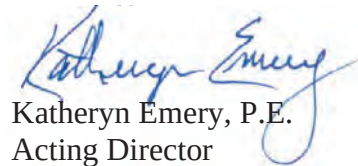
Promoting a healthy environment.

- Other State and Federal Agencies such as the U.S. Army Corps of Engineers were provided a copy of the preliminary CEHR as well and TERRI will address any of their comments in the Final CEHR.

Following review of the preliminary CEHR, the DWWM has no objection to TERRI's proposed project based on the fact that it will not be a source for water pollution.

If you have questions, please contact Albert Barbery of my staff at 304-926-0499 ext. 43769 or by email at albert.barbery@wv.gov.

Sincerely,



Kathryn Emery, P.E.
Acting Director
Division of Water and Waste Management

KDE/amb

enc: Abandonment Exception Letter
Preliminary CEHR
Preliminary CEHR Distribution List

cc: Brian Bridgewater, 401 WQC Program Manager – DWWM
Connie Anderson, Groundwater and UIC Program Manager – DWWM
Albert Barbery, Groundwater and UIC Programs Geologist – DWWM

CEHR EXHIBIT 12

**Letter to U.S. Environmental Protection Agency
(without attachments)**



SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

A. REBECCA WILLIAMS

June 2, 2021

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

Re: STB Docket No. AB 1314X, The Elk River Railroad, Inc. –
Abandonment Exemption – in Kanawha and Clay Counties, West Virginia

To Whom it May Concern:

The Elk River Railroad, Inc. (“TERRI”) intends to file with the Surface Transportation Board (“STB” or “Board”) a notice of exemption for the abandonment of approximately 53.4 miles of railroad located between Milepost 96.0 (near Clendenin, WV) and Milepost 43.6 (south of Duck, WV), including 0.8 miles extending south from Milepost 67.2 (near Hartland, WV) known as the Middle Creek Spur, in Kanawha and Clay Counties, WV (the “Line”). The notice will be filed pursuant to 49 C.F.R. § 1152.50(b), exempting abandonment of rail lines over which no local traffic has moved during the previous two years.

Subject to Board authorization, TERRI and the West Virginia State Rail Authority (“WVSRA”) have negotiated, and intend to enter into, an agreement for interim trail use and railbanking of the Line pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (“Trails Act”) and 49 C.F.R. § 1152.29. The West Virginia Department of Natural Resources would then operate the Trail as a State Park.

In accordance with STB regulations requiring environmental and historic review of the proposed action, TERRI would appreciate your comments with regard to the following portions of its Combined Environmental and Historic Report (“CEHR”):

- (9)(i) *Based on consultation with State Water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.*
- (9)(iii) *State whether permits under Section 402 of the Clean Water Act 33 U.S.C. 1342 are required for the proposed action.*

U.S. Environmental Protection Agency

June 2, 2021

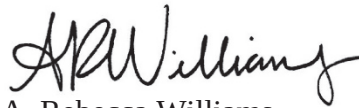
Page 2 of 2

For your reference, we have enclosed a copy of TERRI's Preliminary CEHR, which describes the action and any expected effects, a map of the Line, and a distribution list of all parties that have been notified of the proposed action.

Please provide any comments to me by email at arw@sloverandloftus.com, or by mail to 1224 Seventeenth Street, NW, Washington, D.C. 20036, within three (3) weeks of the date of this letter so TERRI can review and include your comments in its Final CEHR.

If you have any questions or concerns, please feel free to contact me by email or by phone at (202) 347-7170. Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "AR Williams".

A. Rebecca Williams

An Attorney for The Elk River Railroad, Inc.

Enclosures as stated.

From: [Rebecca Williams](#)
To: Beers.Samantha@epa.gov
Subject: STB Docket No. AB 1314X, The Elk River Railroad, Inc. – Abandonment Exemption – in Kanawha & Clay Counties, WV
Date: Wednesday, June 2, 2021 10:54:00 PM
Attachments: [image001.png](#)
[STB Docket No. AB 1314X - Environmental Protection Agency.zip](#)

Dear Ms. Beers,

Please see the attached letter and accompanying enclosures regarding The Elk River Railroad, Inc.'s ("TERRI") proposed abandonment, and intended interim trail use, of a line of railroad located between Clendenin, WV and south of Duck, WV. Hard copies of the attached materials have also been sent to your office.

Please let me know if our inquiry should be directed to a different individual and/or department within Region 3 of the Environmental Protection Agency.

Sincerely,

Rebecca Williams
An Attorney for TERRI



A. REBECCA WILLIAMS
ARW@SLOVERANDLOFTUS.COM
SLOVER & LOFTUS LLP

DIRECT: (202) 454-4422 | MAIN: (202) 347-7170 | CELL: (202) 870-2797
1224 SEVENTEENTH ST. N.W. WASHINGTON, D.C. 20036
WWW.SLOVERANDLOFTUS.COM

The information contained in this e-mail may include proprietary information which is confidential and privileged. This e-mail and any attachment is intended solely for the use of the recipient identified. Any disclosure, duplication, dissemination or other use of this document by anyone other than the identified recipient, or his or her agent, is strictly prohibited. If you are not the identified recipient, this e-mail may have been transmitted to you in error. Please contact 202.347.7170 if you believe that you have received this in error.

CEHR EXHIBIT 13

**Correspondence with U.S. Army Corps of Engineers
(TERRI letter without attachments)**



SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

A. REBECCA WILLIAMS

June 2, 2021

U.S. Army Corps of Engineers
Huntington District
Regulatory Branch
502 Eighth Street
Huntington, WV 25701

Re: STB Docket No. AB 1314X, The Elk River Railroad, Inc. –
Abandonment Exemption – in Kanawha and Clay Counties, West Virginia

To Whom it May Concern:

The Elk River Railroad, Inc. (“TERRI”) intends to file with the Surface Transportation Board (“STB” or “Board”) a notice of exemption for the abandonment of approximately 53.4 miles of railroad located between Milepost 96.0 (near Clendenin, WV) and Milepost 43.6 (south of Duck, WV), including 0.8 miles extending south from Milepost 67.2 (near Hartland, WV) known as the Middle Creek Spur, in Kanawha and Clay Counties, WV (the “Line”). The notice will be filed pursuant to 49 C.F.R. § 1152.50(b), exempting abandonment of rail lines over which no local traffic has moved during the previous two years.

Subject to Board authorization, TERRI and the West Virginia State Rail Authority (“WVSRA”) have negotiated, and intend to enter into, an agreement for interim trail use and railbanking of the Line pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (“Trails Act”) and 49 C.F.R. § 1152.29. The West Virginia Department of Natural Resources would then operate the Trail as a State Park.

In accordance with STB regulations requiring environmental and historic review of the proposed action, TERRI would appreciate your comments with regard to the following portions of its Combined Environmental and Historic Report (“CEHR”):

(9)(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

For your reference, we have enclosed a copy of TERRI’s Preliminary CEHR, which describes the action and any expected effects, a map of the Line, and a distribution list of all parties that have been notified of the proposed action.

U.S. Army Corps of Engineers

June 2, 2021

Page 2 of 2

Please provide any comments to me by email at arw@sloverandloftus.com, or by mail to 1224 Seventeenth Street, NW, Washington, D.C. 20036, within three (3) weeks of the date of this letter so TERRI can review and include your comments in its Final CEHR.

If you have any questions or concerns, please feel free to contact me by email or by phone at (202) 347-7170. Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "AR Williams". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

A. Rebecca Williams

An Attorney for The Elk River Railroad, Inc.

Enclosures as stated.

From: [Pritt, Lauren A CIV USARMY CELRH \(USA\)](#)
To: [Rebecca Williams](#)
Subject: RE: LRH-2021-507-ELK (The Elk River Railroad, Inc. Abandonment; STB Docket No. AB 1314X)--General Information Letter
Date: Wednesday, June 30, 2021 11:00:41 AM
Attachments: [NRP_2021-507-ELK & 2021-519-ELK.pdf](#)

Good morning,

Attached please find the no permit required letter for the proposed abandonment project.

Have a great day!

Thanks,

Lauren

From: Rebecca Williams <arw@sloverandloftus.com>
Sent: Wednesday, June 30, 2021 9:25 AM
To: Pritt, Lauren A CIV USARMY CELRH (USA) <Lauren.A.Pritt@usace.army.mil>
Subject: [Non-DoD Source] RE: LRH-2021-507-ELK (The Elk River Railroad, Inc. Abandonment; STB Docket No. AB 1314X)--General Information Letter

Lauren,

It was a pleasure speaking with you this morning. Thank you again for taking the time to discuss the proposed Elk River Railroad, Inc. abandonment and railbanking project. As discussed, the proposed project would not entail any discharge of dredged or fill material into the Elk River, or construction work in or along the Elk River that could impact water flow.

Please send the "no permit required" letter referenced on the call at your earliest convenience, and please let me know if you have any questions or need any additional information.

Many thanks,
Rebecca Williams

From: Pritt, Lauren A CIV USARMY CELRH (USA) <Lauren.A.Pritt@usace.army.mil>
Sent: Wednesday, June 30, 2021 8:50 AM
To: Rebecca Williams <arw@sloverandloftus.com>
Subject: RE: LRH-2021-507-ELK (The Elk River Railroad, Inc. Abandonment; STB Docket No. AB 1314X)--General Information Letter

Good morning,

I'm sorry I missed your call yesterday afternoon. I left you a message, but I wanted to follow-up by email as well.

So, for any environmental review request like this one, we typically send out our general information letter indicating the proposal "may" include a discharge of dredged and/or fill material under Section 404 and/or work along a Section 10 River (the Elk River).

If there are no proposed discharges of dredged and/or fill material and/or no work on/along the Elk River, and the applicant would like a no permit required letter, please let me know and I can provide that information to you all. I would just need that written confirmation that the abandonment work would not actually include that discharge of dredged/fill material and/or work along the Elk River.

I will include both file numbers in the response to close the loop on those files.

Please let me know if you have any questions!

Thanks,
Lauren

From: Pritt, Lauren A CIV USARMY CELRH (USA)

Sent: Tuesday, June 29, 2021 12:26 PM

To: 'arw@sloverandloftus.com' <arw@sloverandloftus.com>

Subject: RE: LRH-2021-507-ELK (The Elk River Railroad, Inc. Abandonment; STB Docket No. AB 1314X)--General Information Letter

Hi Rebecca,

Thank you so much for reaching out to me about the proposed abandonment project. In looking at our database and it looks like there are indeed two entries for the project (LRH-2021-519-ELK and LRH-2021-507-ELK). I think the project must have been assigned to each of us separately. In any future correspondence, you can just reference both file numbers and we will make a note for the file.

Sorry about any confusion. If you have any questions, feel free to send me an email or give me a call at 740-221-7626.

Thanks
Lauren

From: Pritt, Lauren A CIV USARMY CELRH (USA)

Sent: Monday, June 28, 2021 7:45 AM

To: arw@sloverandloftus.com

Subject: LRH-2021-507-ELK (The Elk River Railroad, Inc. Abandonment; STB Docket No. AB 1314X)--General Information Letter

Good morning, Ms. Williams,

Attached please find our general information letter response for the proposed railroad abandonment project under Corps' file number LRH-2021-507-ELK. Please feel free to reach out to me directly if you all have any questions.

Have a great day!

Thank you,
Lauren Pritt

Regulatory Specialist
South/Transportation Branch
Regulatory Division, USACE-Huntington District
304-399-5275
740-221-7626
Lauren.A.Pritt@usace.army.mil



**DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, HUNTINGTON DISTRICT
502 8TH STREET
HUNTINGTON, WV 25701**

June 30, 2021

Regulatory Division
South/Transportation Branch
LRH-2021-507-ELK
LRH-2021-519-ELK

Ms. A. Rebecca Williams
Slover & Loftus LLP
1224 Seventeenth Street, NW
Washington, D.C., 20036

Dear Ms. Williams:

I refer to the information received in this office on received in this office on June 4, 2021, with additional information received June 30, 2021, regarding the proposed Elk River Railroad, Inc. Abandonment (STB Docket No. AB 1314X) project located between Clendenin, in Kanawha County, West Virginia (latitude 38.492005, longitude -81.343218) and Duck, in Clay County, West Virginia (approximately latitude 38.580646, longitude -80.938638). This project has been assigned file number LRH-2021-507-ELK and LRH-2021-519-ELK. Please reference this file number on all future correspondence related to this specific project.

This project has been reviewed in accordance with Section 404 of the Clean Water Act (Section 404) and Section 10 of the Rivers and Harbors Act of 1899 (Section 10). Under Section 404, the United States Army Corps of Engineers (Corps) regulates the discharge of dredged and/or fill material into waters of the United States, including wetlands. Under Section 10 our responsibility is to regulate any work in, or affecting, navigable waters of the United States. The Elk River is a traditional navigable water, subject to regulation under Section 404 and Section 10.

According to the information provided, the proposed project would not involve work over or the discharge of dredged and/or fill material into the Elk River or aquatic features on-site in conjunction with the abandonment work within The Elk River Railroad project boundary. The abandonment work would be located above the ordinary high water mark of the Elk River. As described above, a DA permit is not required from this office for this activity.

We have determined the proposed project will not result in discharge of dredged and/or fill material into waters of the United States or involve work in, on, over or under a navigable water of the United States. Therefore, a DA permit is not required from this office for the proposed activity. However, if this determination changes and it becomes necessary perform work in, adjacent to or under navigable waters, or to discharge dredged and/or fill material into waters or navigable waters of the United States, including wetlands, DA authorization would be required.

We appreciate your concern for our nation's aquatic resources. If you have any questions concerning the above, please contact Lauren A. Pritt at (304) 399-5275, by mail at the above address or by email at lauren.a.pritt@usace.army.mil.

Sincerely,

A handwritten signature in cursive script, reading "Jeremy Cochenour".

Jeremy D. Cochenour
Regulatory Project Manager
South/Transportation Branch

From: [Pritt, Lauren A CIV USARMY CELRH \(USA\)](#)
To: [Rebecca Williams](#)
Subject: LRH-2021-507-ELK (The Elk River Railroad, Inc. Abandonment; STB Docket No. AB 1314X)--General Information Letter
Date: Monday, June 28, 2021 8:47:31 PM
Attachments: [2021-507-ELK.pdf](#)
[Scanned_ENG 6082_October 2019.pdf](#)

Good morning, Ms. Williams,

Attached please find our general information letter response for the proposed railroad abandonment project under Corps' file number LRH-2021-507-ELK. Please feel free to reach out to me directly if you all have any questions.

Have a great day!

Thank you,
Lauren Pritt

Regulatory Specialist
South/Transportation Branch
Regulatory Division, USACE-Huntington District
304-399-5275
740-221-7626
Lauren.A.Pritt@usace.army.mil



**DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, HUNTINGTON DISTRICT
502 8TH STREET
HUNTINGTON, WV 25701**

June 25, 2021

Regulatory Division
South/Transportation Branch
LRH-2021-507-ELK

Ms. A. Rebecca Williams
Slover & Loftus LLP
1224 Seventeenth Street, NW
Washington, D.C., 20036

Dear Ms. Williams:

I refer to preliminary information received in this office on June 4, 2021, regarding the proposed Elk River Railroad, Inc. Abandonment (STB Docket No. AB 1314X) project located between Clendenin, in Kanawha County, West Virginia (latitude 38.492005, longitude -81.343218) and Duck, in Clay County, West Virginia (approximately latitude 38.580646, longitude -80.938638). This project has been assigned file number LRH-2021-507-ELK. Please refer to this number in any future correspondence regarding this matter.

The United States Army Corps of Engineers' (Corps) authority to regulate waters of the United States is based on the definitions and limits of jurisdiction contained in 33 CFR 328, including the amendment to 33 CFR 328.3 (85 Federal Register 22250), and 33 CFR 329. Section 404 of the Clean Water Act (Section 404) requires a Department of the Army (DA) permit be obtained prior to the discharge of dredged or fill material into waters of the United States, including wetlands. Section 10 of the Rivers and Harbors Act of 1899 requires a DA permit be obtained for any work in, on, over or under navigable water.

Based on your description of the proposed work, and other information available, it appears the project may include the discharge of dredged and/or fill material into waters of the United States. Therefore, under Section 404, a DA authorization may be required. It is the responsibility of the applicant, or the applicant's consultant, to determine the presence and limits of potential waters of the United States, including wetlands, within the project area.

To further evaluate the project additional information is required. Typically, the attached DA preconstruction notification (PCN) form (DA form 6082), completed in accordance with the included instructions, provides the information required to evaluate the proposed project.



If you have any questions regarding DA permit requirements, please contact the South Regulatory Branch at (304) 399-5710.

Sincerely,

A handwritten signature in black ink that reads "Sarah M. Workman". The signature is written in a cursive style with a large initial "S".

Sarah M. Workman
Regulatory Project Manager
South/Transportation Branch

Enclosure(s)

U.S. Army Corps of Engineers (USACE)
NATIONWIDE PERMIT PRE-CONSTRUCTION NOTIFICATION (PCN)
33 CFR 330. The proponent agency is CECW-CO-R.

Form Approved -
OMB No. 0710-0003
Expires: 02-28-2022

DATA REQUIRED BY THE PRIVACY ACT OF 1974

Authority Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Regulatory Program of the Corps of Engineers (Corps); Final Rule 33 CFR 320-332.

Principal Purpose Information provided on this form will be used in evaluating the nationwide permit pre-construction notification.

Routine Uses This information may be shared with the Department of Justice and other federal, state, and local government agencies, and the public and may be made available as part of the agency coordination process.

Disclosure Submission of requested information is voluntary, however, if information is not provided the permit application cannot be evaluated nor can a permit be issued.

The public reporting burden for this collection of information, 0710-0003, is estimated to average 11 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or burden reduction suggestions to the Department of Defense, Washington Headquarters Services, at whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

PLEASE DO NOT RETURN YOUR RESPONSE TO THE ABOVE EMAIL.

One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see *sample drawings and/or instructions*) and be submitted to the district engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.

(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)

1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICATION COMPLETE
--------------------	----------------------	------------------	------------------------------

(ITEMS BELOW TO BE FILLED BY APPLICANT)

5. APPLICANT'S NAME First - Middle - Last - Company - Company Title - E-mail Address -		8. AUTHORIZED AGENT'S NAME AND TITLE (<i>agent is not required</i>) First - Middle - Last - Company - E-mail Address -	
6. APPLICANT'S ADDRESS Address- City - State - Zip - Country -		9. AGENT'S ADDRESS Address- City - State - Zip - Country -	
7. APPLICANT'S PHONE NOs. with AREA CODE a. Residence b. Business c. Fax d. Mobile		10. AGENT'S PHONE NOs. with AREA CODE a. Residence b. Business c. Fax d. Mobile	

STATEMENT OF AUTHORIZATION

11. I hereby authorize, _____ to act in my behalf as my agent in the processing of this nationwide permit pre-construction notification and to furnish, upon request, supplemental information in support of this nationwide permit pre-construction notification.

SIGNATURE OF APPLICANT

DATE

NAME, LOCATION, AND DESCRIPTION OF PROJECT OR ACTIVITY

12. PROJECT NAME or TITLE (*see instructions*)

25. Is any portion of the nationwide permit activity already complete? ☐ Yes ☐ No If Yes, describe the completed work:			
26. List the name(s) of any species listed as endangered or threatened under the Endangered Species Act that might be affected by the proposed NWP activity or utilize the designated critical habitat that might be affected by the proposed NWP activity. (<i>see instructions</i>)			
27. List any historic properties that have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic property or properties. (<i>see instructions</i>)			
28. For a proposed NWP activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, identify the Wild and Scenic River or the "study river":			
29. If the proposed NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, have you submitted a written request for section 408 permission from the Corps district having jurisdiction over that project? ☐ Yes ☐ No If "yes", please provide the date your request was submitted to the Corps district:			
30. If the terms of the NWP(s) you want to use require additional information to be included in the PCN, please include that information in this space or provide it on an additional sheet of paper marked Block 30. (<i>see instructions</i>)			
31. Pre-construction notification is hereby made for one or more nationwide permit(s) to authorize the work described in this notification. I certify that the information in this pre-construction notification is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.			
SIGNATURE OF APPLICANT		DATE	
SIGNATURE OF AGENT		DATE	
The pre-construction notification must be signed by the person who desires to undertake the proposed activity (applicant) and, if the statement in Block 11 has been filled out and signed, the authorized agent.			
18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.			

**Instructions for Preparing a
Department of the Army
Nationwide Permit (NWP) Pre-Construction Notification (PCN)**

Blocks 1 through 4. To be completed by the Corps of Engineers.

Block 5. Applicant's Name. Enter the name and the e-mail address of the responsible party or parties. If the responsible party is an agency, company, corporation, or other organization, indicate the name of the organization and responsible officer and title. If more than one party is associated with the preconstruction notification, please attach a sheet of paper with the necessary information marked Block 5.

Block 6. Address of Applicant. Please provide the full address of the party or parties responsible for the PCN. If more space is needed, attach an extra sheet of paper marked Block 6.

Block 7. Applicant's Telephone Number(s). Please provide the telephone number where you can usually be reached during normal business hours.

Blocks 8 through 11. To be completed, if you choose to have an agent.

Block 8. Authorized Agent's Name and Title. Indicate name of individual or agency, designated by you, to represent you in this process. An agent can be an attorney, builder, contractor, engineer, consultant, or any other person or organization. Note: An agent is not required.

Blocks 9 and 10. Agent's Address and Telephone Number. Please provide the complete mailing address of the agent, along with the telephone number where he / she can be reached during normal business hours.

Block 11. Statement of Authorization. To be completed by the applicant, if an agent is to be employed.

Block 12. Proposed Nationwide Permit Activity Name or Title. Please provide a name identifying the proposed NWP activity, e.g., Windward Marina, Rolling Hills Subdivision, or Smith Commercial Center.

Block 13. Name of Waterbody. Please provide the name (if it has a name) of any stream, lake, marsh, or other waterway to be directly impacted by the NWP activity. If it is a minor (no name) stream, identify the waterbody the minor stream enters.

Block 14. Proposed Activity Street Address. If the proposed NWP activity is located at a site having a street address (not a box number), please enter it in Block 14.

Block 15. Location of Proposed Activity. Enter the latitude and longitude of where the proposed NWP activity is located. Indicate whether the project location provided is the center of the project or whether the project location is provided as the latitude and longitude for each of the "corners" of the project area requiring evaluation. If there are multiple sites, please list the latitude and longitude of each site (center or corners) on a separate sheet of paper and mark as Block 15.

Block 16. Other Location Descriptions. If available, provide the Tax Parcel Identification number of the site, Section, Township, and Range of the site (if known), and / or local Municipality where the site is located.

Block 17. Directions to the Site. Provide directions to the site from a known location or landmark. Include highway and street numbers as well as names. Also provide distances from known locations and any other information that would assist in locating the site. You may also provide a description of the location of the proposed NWP activity, such as lot numbers, tract numbers, or you may choose to locate the proposed NWP activity site from a known point (such as the right descending bank of Smith Creek, one mile downstream from the Highway 14 bridge). If a large river or stream, include the river mile of the proposed NWP activity site if known. If there are multiple locations, please indicate directions to each location on a separate sheet of paper and mark as Block 17.

Block 18. Identify the Specific Nationwide Permit(s) You Propose to Use. List the number(s) of the Nationwide Permit(s) you want to use to authorize the proposed activity (e.g., NWP 29).

Block 19. Description of the Proposed Nationwide Permit Activity. Describe the proposed NWP activity, including the direct and indirect adverse environmental effects the activity would cause. The description of the proposed activity should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal. Identify the materials to be used in construction, as well as the methods by which the work is to be done.

Provide sketches when necessary to show that the proposed NWP activity complies with the terms of the applicable NWP(s). Sketches usually clarify the activity and result in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed NWP activity (e.g., a conceptual plan), but do not need to be detailed engineering plans.

The written descriptions and illustrations are an important part of the application. Please describe, in detail, what you wish to do. If more space is needed, attach an extra sheet of paper marked Block 19.

Block 20. Description of Proposed Mitigation Measures. Describe any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed NWP activity. The description of any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or additional mitigation measures.

Block 21. Purpose of Nationwide Permit Activity. Describe the purpose and need for the proposed NWP activity. What will it be used for and why? Also include a brief description of any related activities associated with the proposed project. Provide the approximate dates you plan to begin and complete all work.

Block 22. Quantity of Wetlands, Streams, or Other Types of Waters Directly Affected by the Proposed Nationwide Permit Activity. For discharges of dredged or fill material into waters of the United States, provide the amount of wetlands, streams, or other types of waters filled, flooded, excavated, or drained by the proposed NWP activity. For structures or work in navigable waters of the United States subject to Section 10 of the Rivers and Harbors Act of 1899, provide the amount of navigable waters filled, dredged, or occupied by one or more structures (e.g., aids to navigation, mooring buoys) by the proposed NWP activity.

For multiple NWPs, or for separate and distant crossings of waters of the United States authorized by NWPs 12 or 14, attach an extra sheet of paper marked Block 21 to provide the quantities of wetlands, streams, or other types of waters filled, flooded, excavated, or drained (or dredged or occupied by structures, if in waters subject to Section 10 of the Rivers and Harbors Act of 1899) for each NWP. For NWPs 12 and 14, include the amount of wetlands, streams, or other types of waters filled, flooded, excavated, or drained for each separate and distant crossing of waters or wetlands. If more space is needed, attach an extra sheet of paper marked Block 22.

Block 23. Identify Any Other Nationwide Permit(s), Regional General Permit(s), or Individual Permit(s) Used to Authorize Any Part of Proposed Activity or Any Related Activity. List any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. For linear projects, list other separate and distant crossings of waters and wetlands authorized by NWPs 12 or 14 that do not require PCNs. If more space is needed, attach an extra sheet of paper marked Block 23.

Block 24. Compensatory Mitigation Statement for Losses of Greater Than 1/10-Acre of Wetlands When Pre-Construction Notification is Required. Paragraph (c) of NWP general condition 23 requires compensatory mitigation at a minimum one-for-one replacement ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation is more environmentally appropriate or the adverse environmental effects of the proposed NWP activity are no more than minimal without compensatory mitigation, and provides an activity-specific waiver of this requirement. Describe the proposed compensatory mitigation for wetland losses greater than 1/10 acre, or provide an explanation of why the district engineer should not require wetland compensatory mitigation for the proposed NWP activity. If more space is needed, attach an extra sheet of paper marked Block 24.

Block 25. Is Any Portion of the Nationwide Permit Activity Already Complete? Describe any work that has already been completed for the NWP activity.

Block 26. List the Name(s) of Any Species Listed As Endangered or Threatened under the Endangered Species Act that Might be Affected by the Nationwide Permit Activity. If you are not a federal agency, and if any listed species or designated critical habitat might be affected or is in the vicinity of the proposed NWP activity, or if the proposed NWP activity is located in designated critical habitat, list the name(s) of those endangered or threatened species that might be affected by the proposed NWP activity or utilize the designated critical habitat that might be affected by the proposed NWP activity. If you are a Federal agency, and the proposed NWP activity requires a PCN, you must provide documentation demonstrating compliance with Section 7 of the Endangered Species Act.

Block 27. List Any Historic Properties that Have the Potential to be Affected by the Nationwide Permit Activity. If you are not a Federal agency, and if any historic properties have the potential to be affected by the proposed NWP activity, list the name(s) of those historic properties that have the potential to be affected by the proposed NWP activity. If you are a Federal agency, and the proposed NWP activity requires a PCN, you must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

Block 28. List the Wild and Scenic River or Congressionally Designated Study River if the Nationwide Permit Activity Would Occur in such a River. If the proposed NWP activity will occur in a river in the National Wild and Scenic River System or in a river officially designated by Congress as a "study river" under the Wild and Scenic Rivers Act, provide the name of the river. For a list of Wild and Scenic Rivers and study rivers, please visit <http://www.rivers.gov/>.

Block 29. Nationwide Permit Activities that also Require Permission from the Corps Under 33 U.S.C. 408. If the proposed NWP activity also requires permission from the Corps under 33 U.S.C. 408 because it will temporarily or permanently alter, occupy, or use a Corps federal authorized civil works project, indicate whether you have submitted a written request for section 408 permission from the Corps district having jurisdiction over that project.

Block 30. Other Information Required For Nationwide Permit Pre-Construction Notifications. The terms of some of the Nationwide Permits include additional information requirements for preconstruction notifications:

- * NWP 3, Maintenance –information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals.
- * NWP 31, Maintenance of Existing Flood Control Facilities –a description of the maintenance baseline and the dredged material disposal site.
- * NWP 33, Temporary Construction, Access, and Dewatering –a restoration plan showing how all temporary fills and structures will be removed and the area restored to pre-project conditions.
- * NWP 44, Mining Activities –if reclamation is required by other statutes, then a copy of the final reclamation plan must be submitted with the pre-construction notification.
- * NWP 45, Repair of Uplands Damaged by Discrete Events –documentation, such as a recent topographic survey or photographs, to justify the extent of the proposed restoration.
- * NWP 48, Commercial Shellfish Aquaculture Activities –(1) a map showing the boundaries of the project area, with latitude and longitude coordinates for each corner of the project area; (2) the name(s) of the species that will be cultivated during the period this NWP is in effect; (3) whether canopy predator nets will be used; (4) whether suspended cultivation techniques will be used; and (5) general water depths in the project area (a detailed survey is not required).
- * NWP 49, Coal Remining Activities –a document describing how the overall mining plan will result in a net increase in aquatic resource functions must be submitted to the district engineer and receive written authorization prior to commencing the activity.
- * NWP 50, Underground Coal Mining Activities –if reclamation is required by other statutes, then a copy of the reclamation plan must be submitted with the pre-construction notification.

If more space is needed, attach an extra sheet of paper marked Block 30.

Block 31. Signature of Applicant or Agent. The PCN must be signed by the person proposing to undertake the NWP activity, and if applicable, the authorized party (agent) that prepared the PCN. The signature of the person proposing to undertake the NWP activity shall be an affirmation that the party submitting the PCN possesses the requisite property rights to undertake the NWP activity (including compliance with special conditions, mitigation, etc.).

DELINEATION OF WETLANDS, OTHER SPECIAL AQUATIC SITES, AND OTHER WATERS

Each PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current wetland delineation manual and regional supplement published by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. The 45 day PCN review period will not start until the delineation is submitted or has been completed by the Corps.

DRAWINGS AND ILLUSTRATIONS

General Information.

Three types of illustrations are needed to properly depict the work to be undertaken. These illustrations or drawings are identified as a Vicinity Map, a Plan View or a Typical Cross-Section Map. Identify each illustration with a figure or attachment number. For linear projects (e.g. roads, subsurface utility lines, etc.) gradient drawings should also be included. Please submit one original, or good quality copy, of all drawings on 8½x11 inch plain white paper (electronic media may be substituted). Use the fewest number of sheets necessary for your drawings or illustrations. Each illustration should identify the project, the applicant, and the type of illustration (vicinity map, plan view, or cross-section). While illustrations need not be professional (many small, private project illustrations are prepared by hand), they should be clear, accurate, and contain all necessary information.

ADDITIONAL INFORMATION AND REQUIREMENTS

For proposed NWP activities that involve discharges into waters of the United States, water quality certification from the State, Tribe, or EPA must be obtained or waived (see NWP general condition 25). Some States, Tribes, or EPA have issued water quality certification for one or more NWPs. Please check the appropriate Corps district web site to see if water quality certification has already been issued for the NWP(s) you wish to use. For proposed NWP activities in coastal states, state Coastal Zone Management Act consistency concurrence must be obtained, or a presumption of concurrence must occur (see NWP general condition 26). Some States have issued Coastal Zone Management Act consistency concurrences for one or more NWPs. Please check the appropriate Corps district web site to see if Coastal Zone Management Act consistency concurrence has already been issued for the NWP(s) you wish to use.

From: [McComas, Dalton S CIV USARMY CELRH \(USA\)](#)
To: [Rebecca Williams](#)
Subject: USACE Response to STB Docket No. AB 1314X, The Elk River Railroad, Inc.
Date: Thursday, June 24, 2021 1:52:13 PM
Attachments: [2021-519-ELK.pdf](#)

Good afternoon,

Please find our response to the subject attached.

Feel free to email or call me if you have any questions.

Thanks,

Dalton McComas
US Army Corps of Engineers
Regulatory
Phone: 304-399-5993
Dalton.S.Mccomas@usace.army.mil



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, HUNTINGTON DISTRICT
502 8TH STREET
HUNTINGTON, WV 25701

June 24, 2021

Regulatory Division
South/Transportation Branch
LRH-2021-519-ELK

Ms. A. Rebecca Williams
Slover & Loftus LLP
1224 17th Street, NW
Washington, DC 20036

Dear Ms. Williams:

I refer to your June 2, 2021 letter regarding the proposed Elk River Railroad, Inc. Abandonment Exemption (STB Docket No. AB 1314X) project. The project involves the abandonment of approximately 53.4 miles of railroad located between Milepost 96.0 (near Clendenin, WV) and Milepost 43.6 (south of Duck, WV), in Kanawha and Clay Counties, WV. This project has been assigned file number LRH-2021-519-ELK. Please refer to this number in any future correspondence regarding this matter.

The United States Army Corps of Engineers' (Corps) authority to regulate waters of the United States is based on the definitions and limits of jurisdiction contained in 33 CFR 328 and 33 CFR 329. Section 404 of the Clean Water Act (Section 404) requires a Department of the Army (DA) permit be obtained prior to discharging dredged and/or fill material into waters of the United States, including wetlands. Section 10 of the Rivers and Harbors Act of 1899 (Section 10) requires a DA permit be obtained for any work in, on, over or under a navigable water.

The Combined Environmental and Historical Report (CEHR) submitted with your letter indicates The Elk River Railroad, Inc. (TERRI) believes no permits under Section 404 are required for the proposed project. Additional information would be required before the Corps can formally determine permit requirements for this specific project. Specifically, a report identifying potential waters of the United States within the project area would need to be submitted to the Corps for review and approval, along with a description of any proposed discharge of dredged and/or fill material below the ordinary high water mark of the identified resources.

Upon receipt of this information, the Corps will evaluate the information and determine the permit requirements for this project. If you have any questions regarding the information above, please contact Mr. Dalton McComas at (304) 399-5993 or Dalton.M.McComas@usace.army.mil.

Sincerely,

A handwritten signature in dark ink that reads "Susan A. Porter". The script is cursive and fluid, with the first name "Susan" being the most prominent part of the signature.

Susan A. Porter
Chief, South/Transportation Branch

CEHR EXHIBIT 14

**Letter to National Park Service Land Resources Division
(without attachments)**



SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

A. REBECCA WILLIAMS

June 2, 2021

U.S. Department of the Interior
National Park Service
Land Resources Division
1849 C Street, N.W.
Washington, D.C. 20240

Re: STB Docket No. AB 1314X, The Elk River Railroad, Inc. –
Abandonment Exemption – in Kanawha and Clay Counties, West Virginia

To Whom it May Concern:

The Elk River Railroad, Inc. (“TERRI”) intends to file with the Surface Transportation Board (“STB” or “Board”) a notice of exemption for the abandonment of approximately 53.4 miles of railroad located between Milepost 96.0 (near Clendenin, WV) and Milepost 43.6 (south of Duck, WV), including 0.8 miles extending south from Milepost 67.2 (near Hartland, WV) known as the Middle Creek Spur, in Kanawha and Clay Counties, WV (the “Line”). The notice will be filed pursuant to 49 C.F.R. § 1152.50(b), exempting abandonment of rail lines over which no local traffic has moved during the previous two years.

Subject to Board authorization, TERRI and the West Virginia State Rail Authority (“WVSRA”) have negotiated, and intend to enter into, an agreement for interim trail use and railbanking of the Line pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (“Trails Act”) and 49 C.F.R. § 1152.29. The West Virginia Department of Natural Resources would then operate the Trail as a State Park.

In accordance with STB regulations, 49 C.F.R. 1105.7(c), TERRI is providing this advance notice to afford your agency a reasonable opportunity to provide meaningful input with regard to the environmental and/or historical impacts of the proposed action. TERRI would appreciate your comments regarding current and future land use in relationship to the Line.

For your reference, we have enclosed a copy of TERRI’s Preliminary Combined Environmental and Historic Report, which describes the action and any expected effects, a map of the Line, and a distribution list of all parties that have been notified of the proposed action.

National Park Service

June 2, 2021

Page 2 of 2

Please provide any comments to me by email at arw@sloverandloftus.com, or by mail to 1224 Seventeenth Street, NW, Washington, D.C. 20036, within three (3) weeks of the date of this letter so TERRI can review and include your comments in its Final CEHR.

If you have any questions or concerns, please feel free to contact me by email or by phone at (202) 347-7170. Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "AR Williams". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

A. Rebecca Williams

An Attorney for The Elk River Railroad, Inc.

Enclosures as stated.

CEHR EXHIBIT 15

**Letter to National Park Service Northeast Region
(without attachments)**



SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

A. REBECCA WILLIAMS

June 2, 2021

U.S. Department of the Interior
National Park Service
Northeast Region
1234 Market Street, 20th Floor
Philadelphia, PA 19107

Re: STB Docket No. AB 1314X, The Elk River Railroad, Inc. –
Abandonment Exemption – in Kanawha and Clay Counties, West Virginia

To Whom it May Concern:

The Elk River Railroad, Inc. (“TERRI”) intends to file with the Surface Transportation Board (“STB” or “Board”) a notice of exemption for the abandonment of approximately 53.4 miles of railroad located between Milepost 96.0 (near Clendenin, WV) and Milepost 43.6 (south of Duck, WV), including 0.8 miles extending south from Milepost 67.2 (near Hartland, WV) known as the Middle Creek Spur, in Kanawha and Clay Counties, WV (the “Line”). The notice will be filed pursuant to 49 C.F.R. § 1152.50(b), exempting abandonment of rail lines over which no local traffic has moved during the previous two years.

Subject to Board authorization, TERRI and the West Virginia State Rail Authority (“WVSRA”) have negotiated, and intend to enter into, an agreement for interim trail use and railbanking of the Line pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (“Trails Act”) and 49 C.F.R. § 1152.29. The West Virginia Department of Natural Resources would then operate the Trail as a State Park.

In accordance with STB regulations, 49 C.F.R. 1105.7(c), TERRI is providing this advance notice to afford your agency a reasonable opportunity to provide meaningful input with regard to the environmental and/or historical impacts of the proposed action. TERRI would appreciate your comments regarding current and future land use in relationship to the Line.

For your reference, we have enclosed a copy of TERRI’s Preliminary Combined Environmental and Historic Report, which describes the action and any expected effects, a map of the Line, and a distribution list of all parties that have been notified of the proposed action.

National Park Service

June 2, 2021

Page 2 of 2

Please provide any comments to me by email at arw@sloverandloftus.com, or by mail to 1224 Seventeenth Street, NW, Washington, D.C. 20036, within three (3) weeks of the date of this letter so TERRI can review and include your comments in its Final CEHR.

If you have any questions or concerns, please feel free to contact me by email or by phone at (202) 347-7170. Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "AR Williams". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

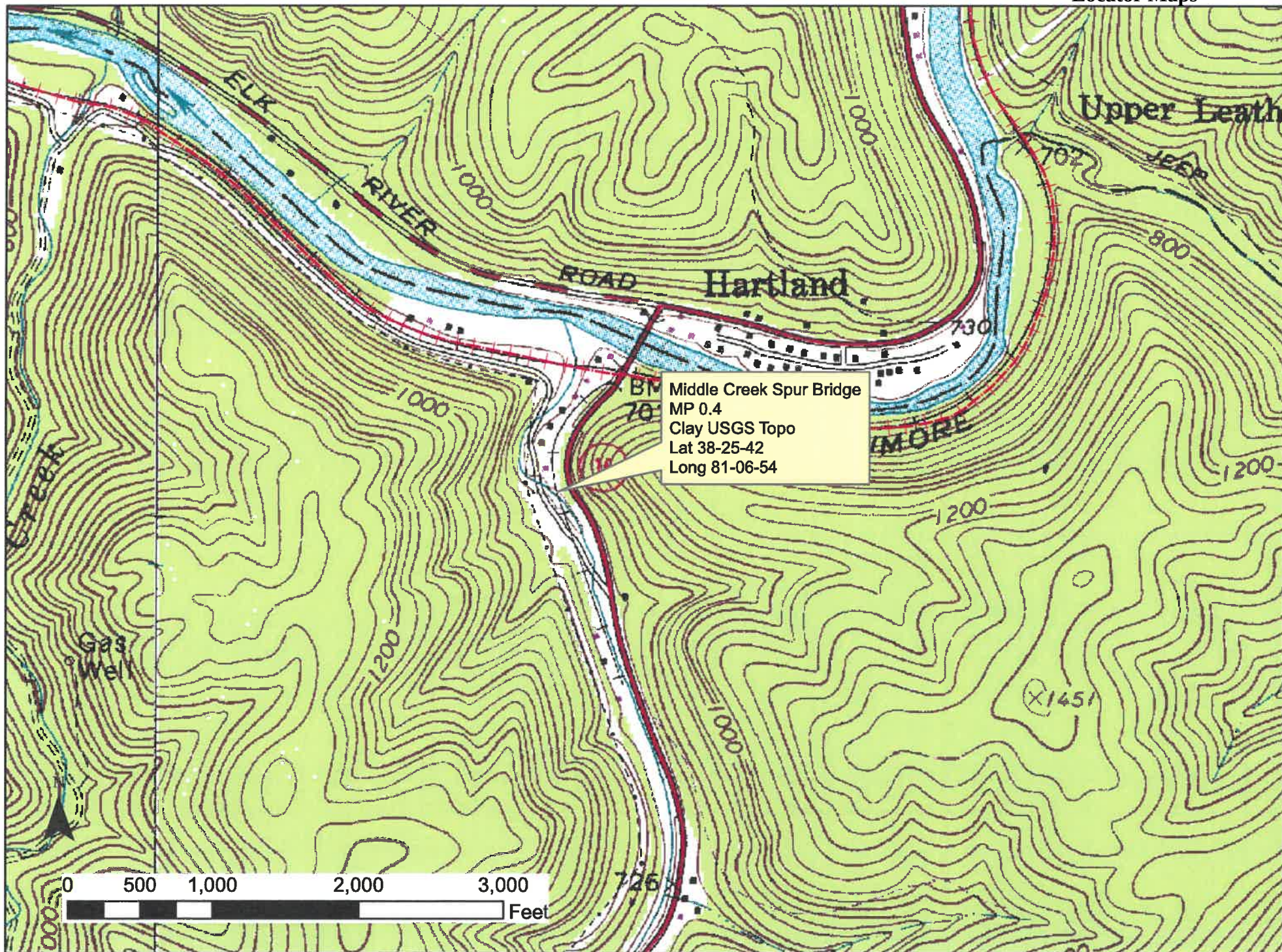
A. Rebecca Williams

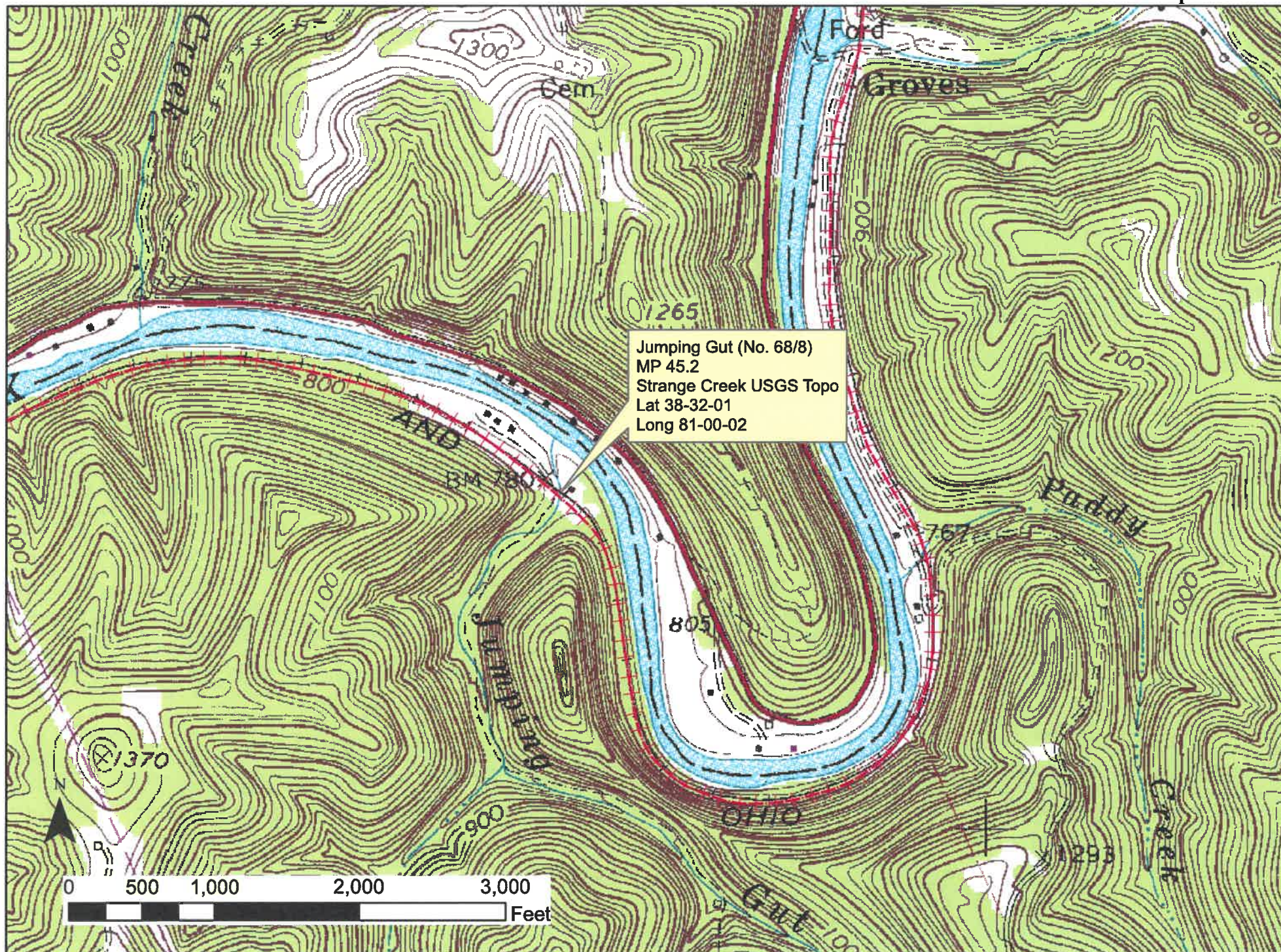
An Attorney for The Elk River Railroad, Inc.

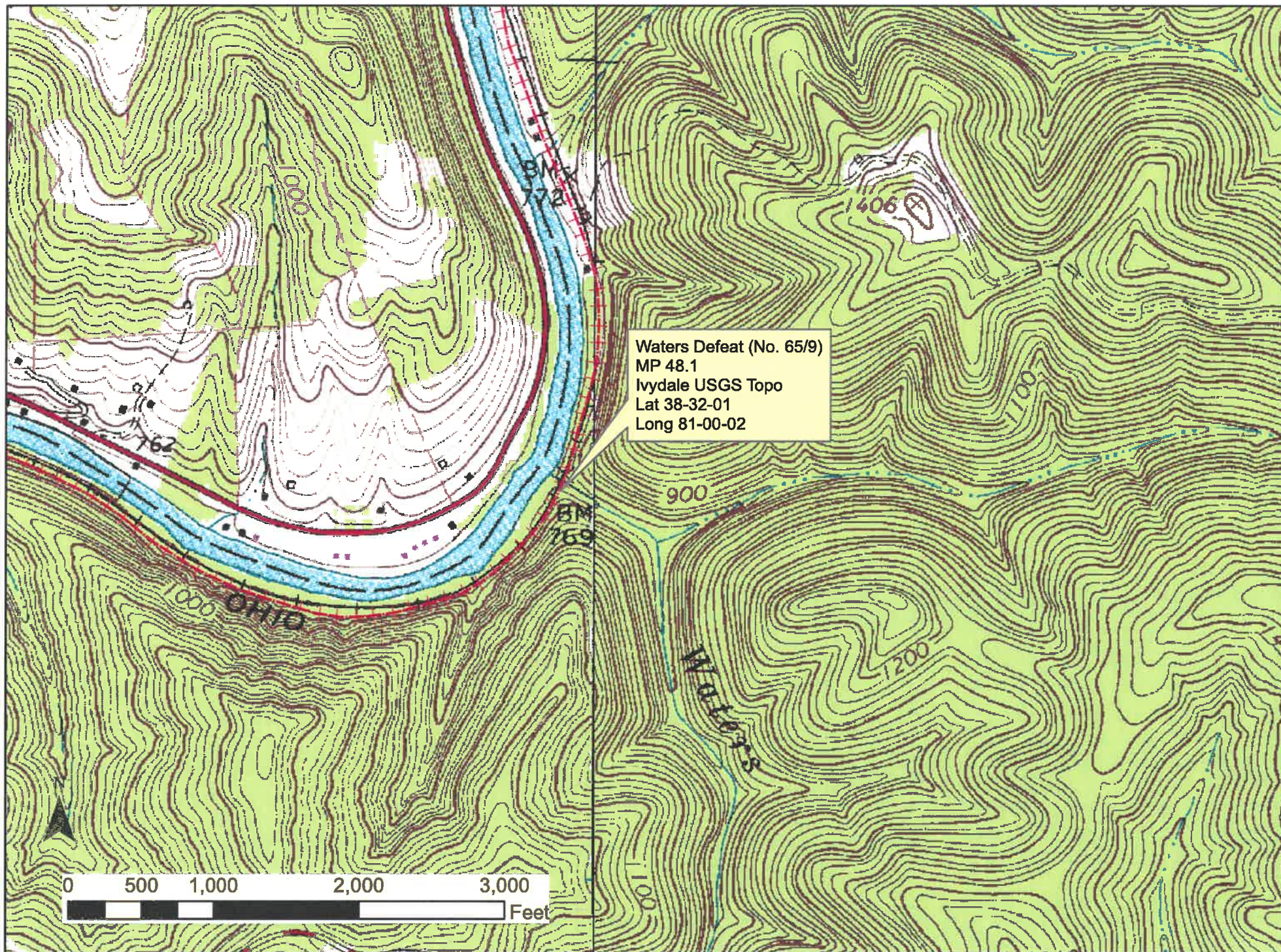
Enclosures as stated.

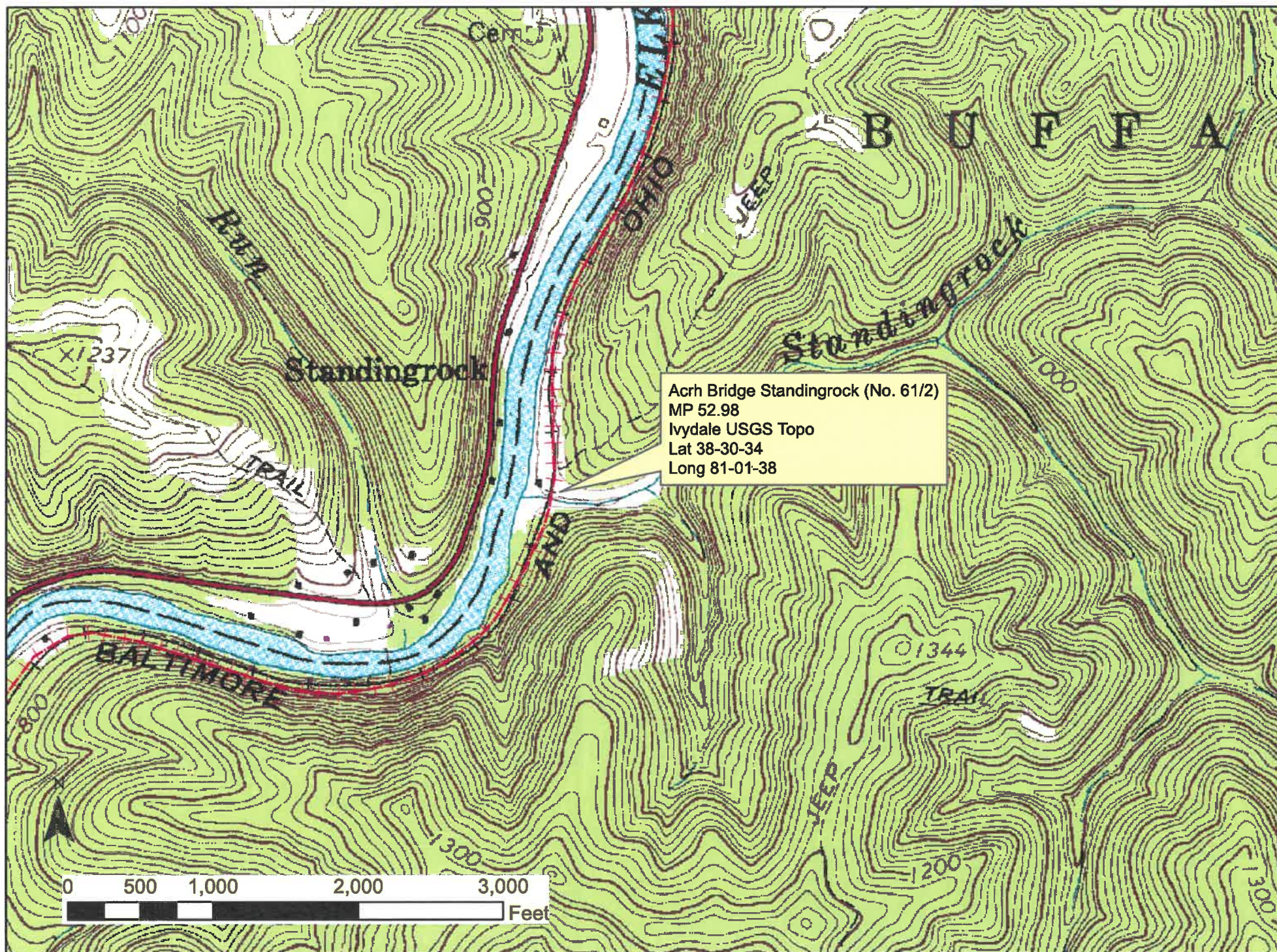
CEHR EXHIBIT 16

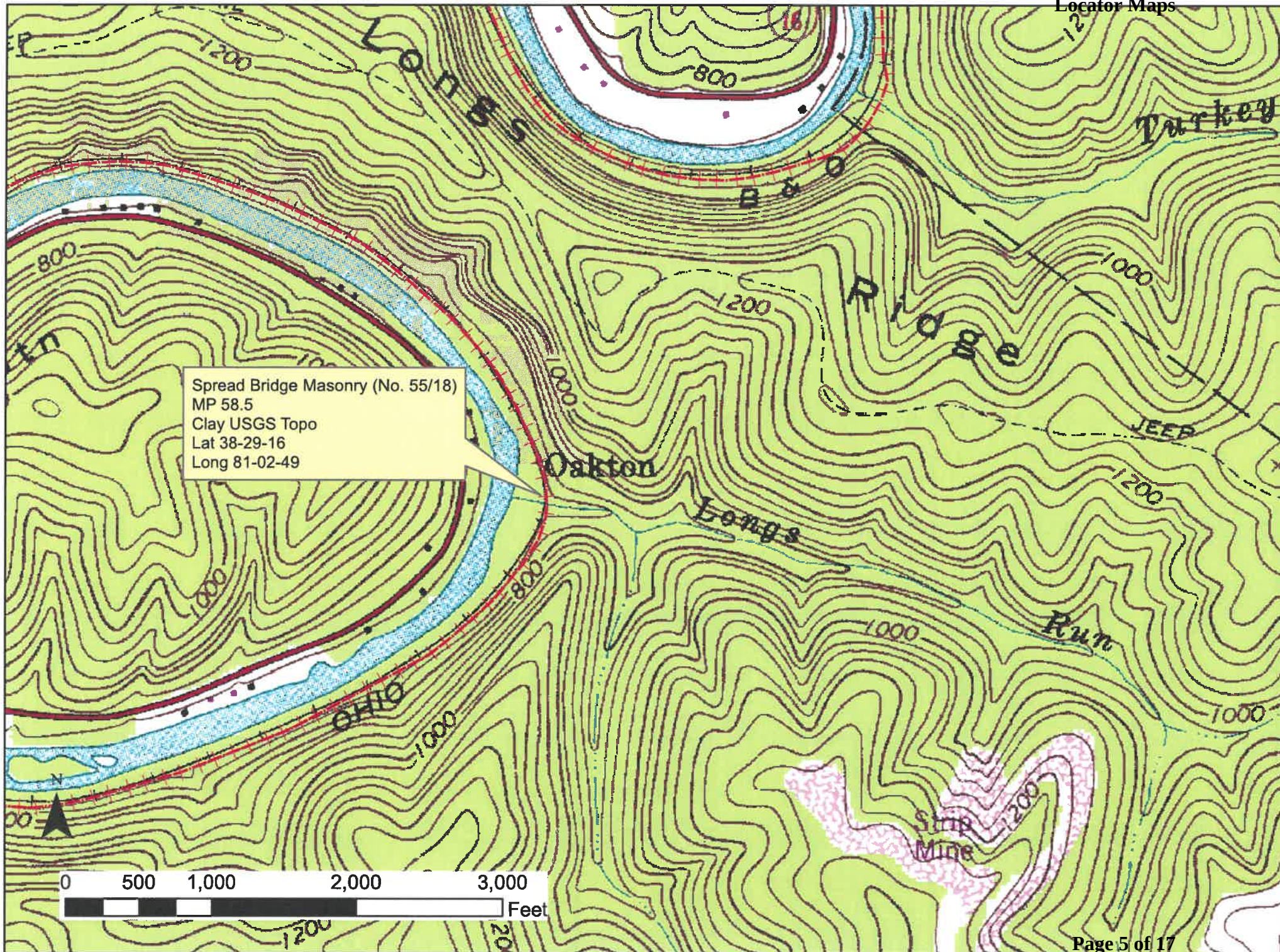
Locator Maps of Structures

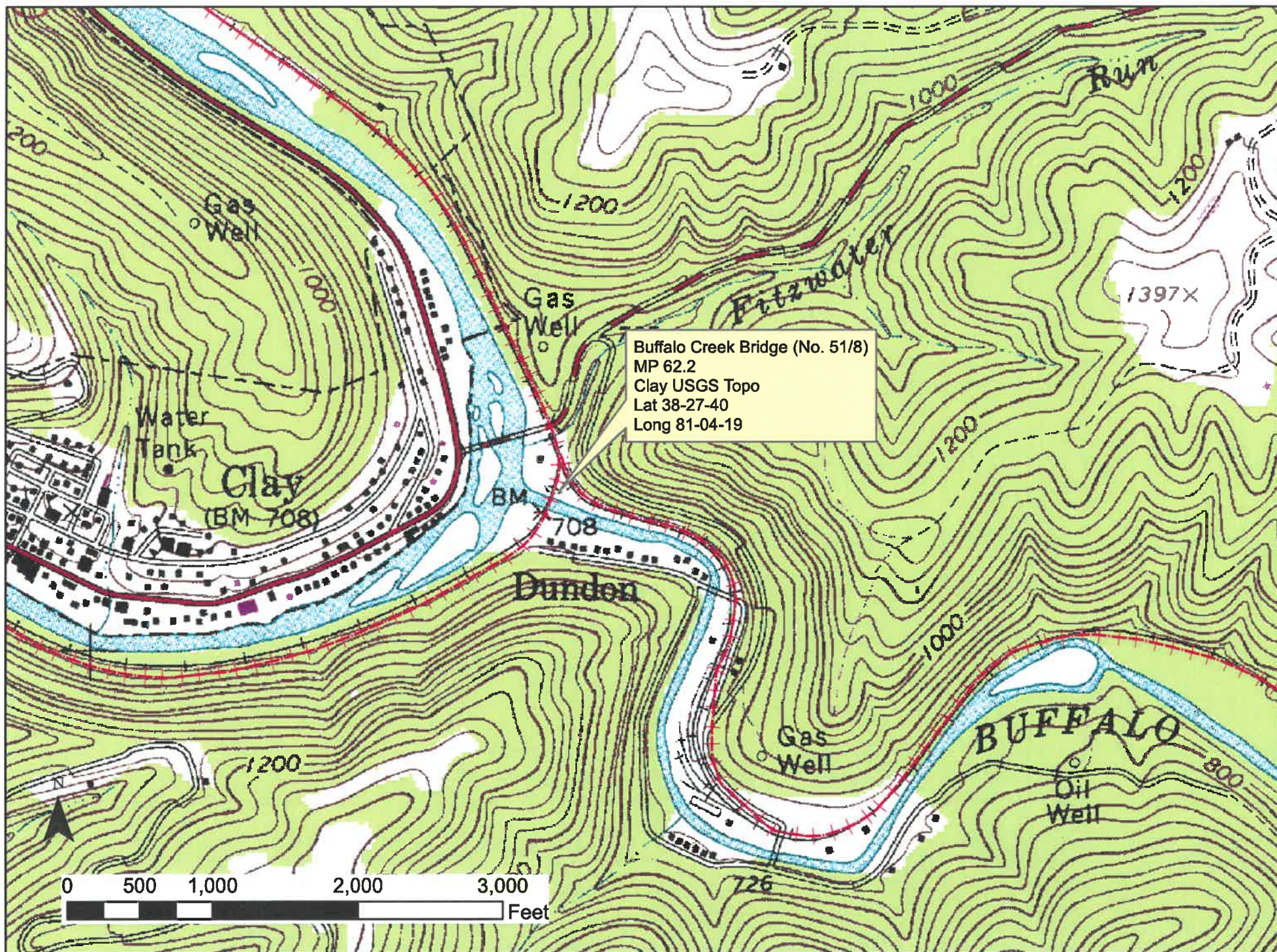


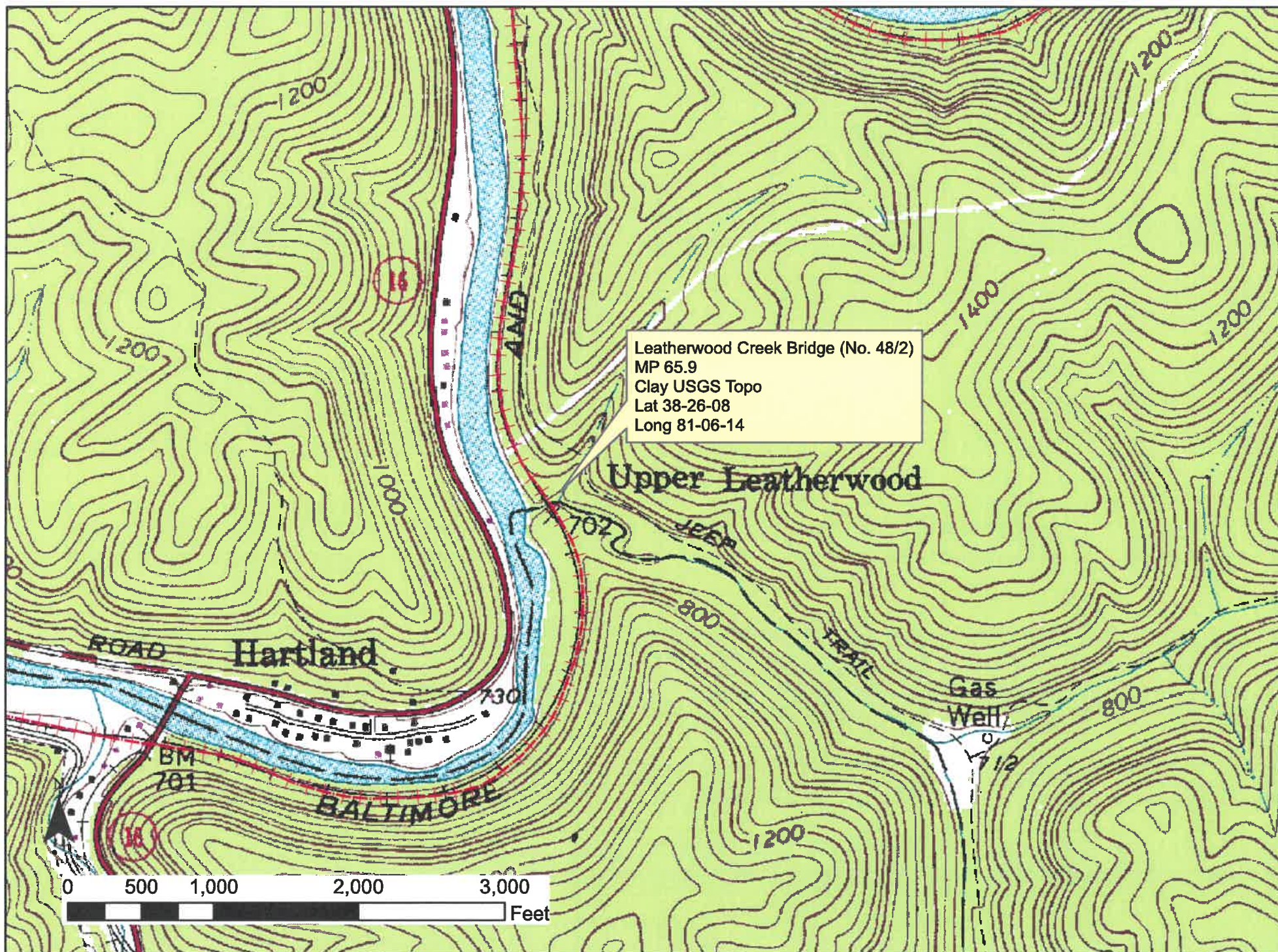


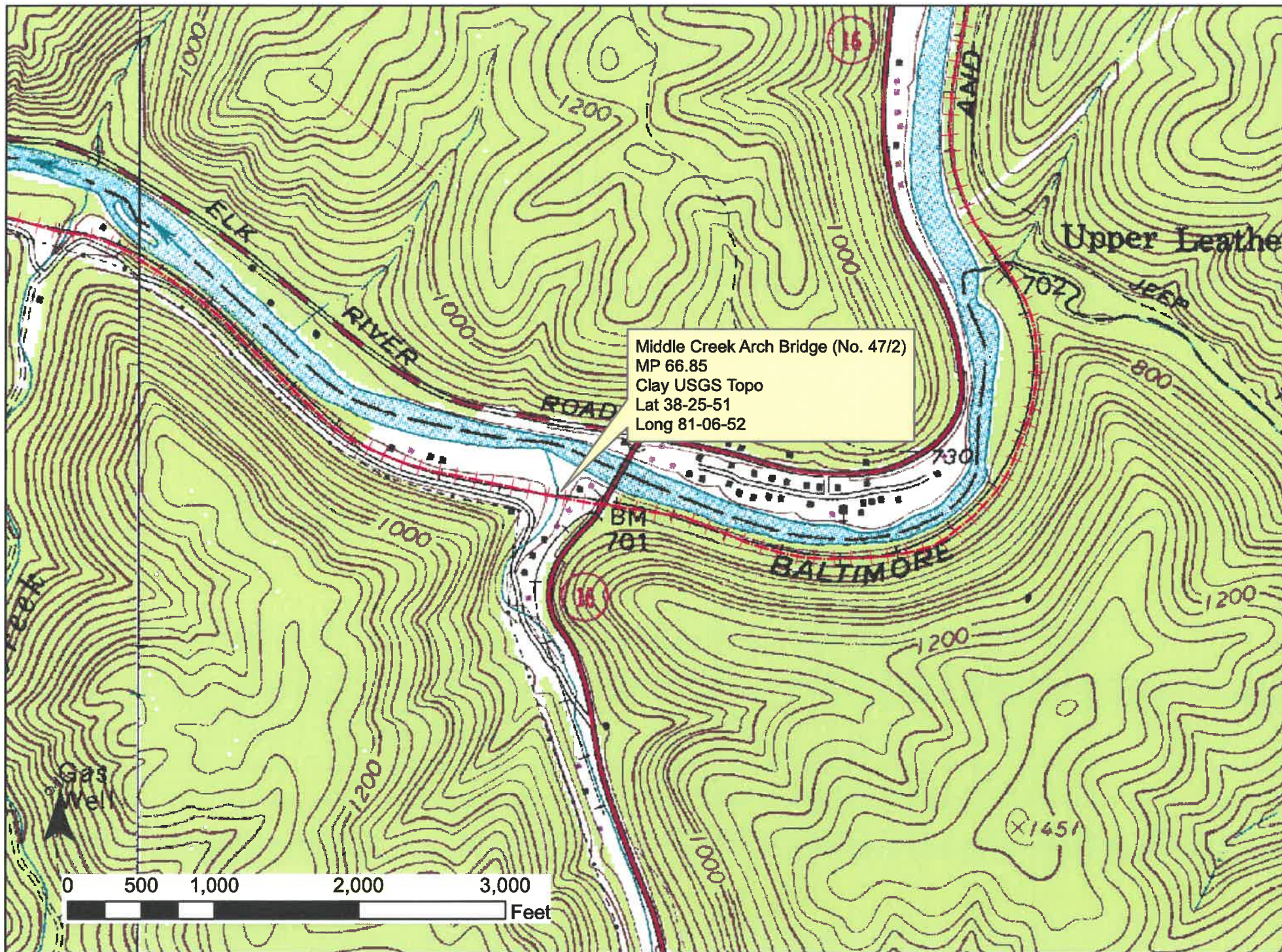


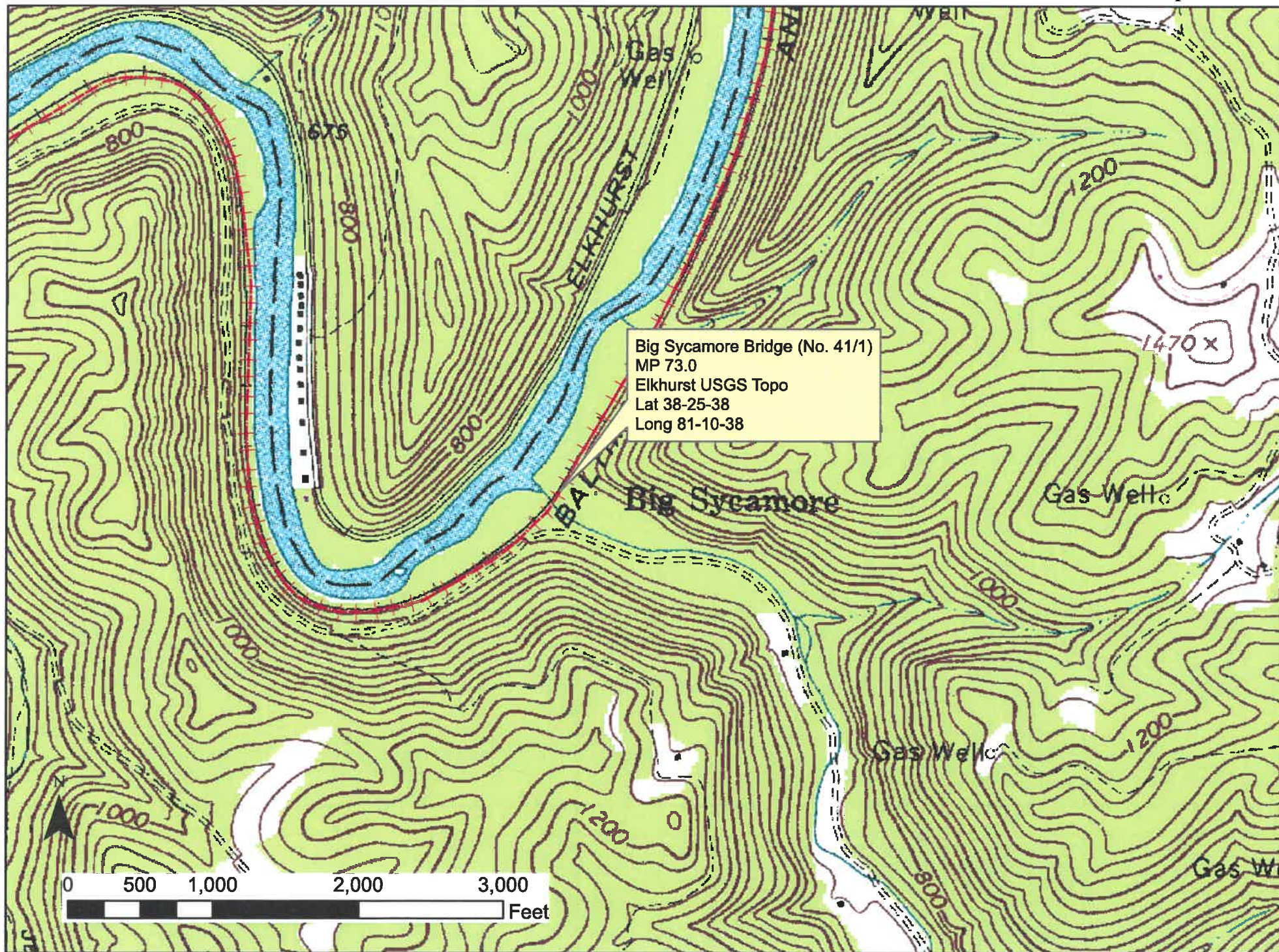


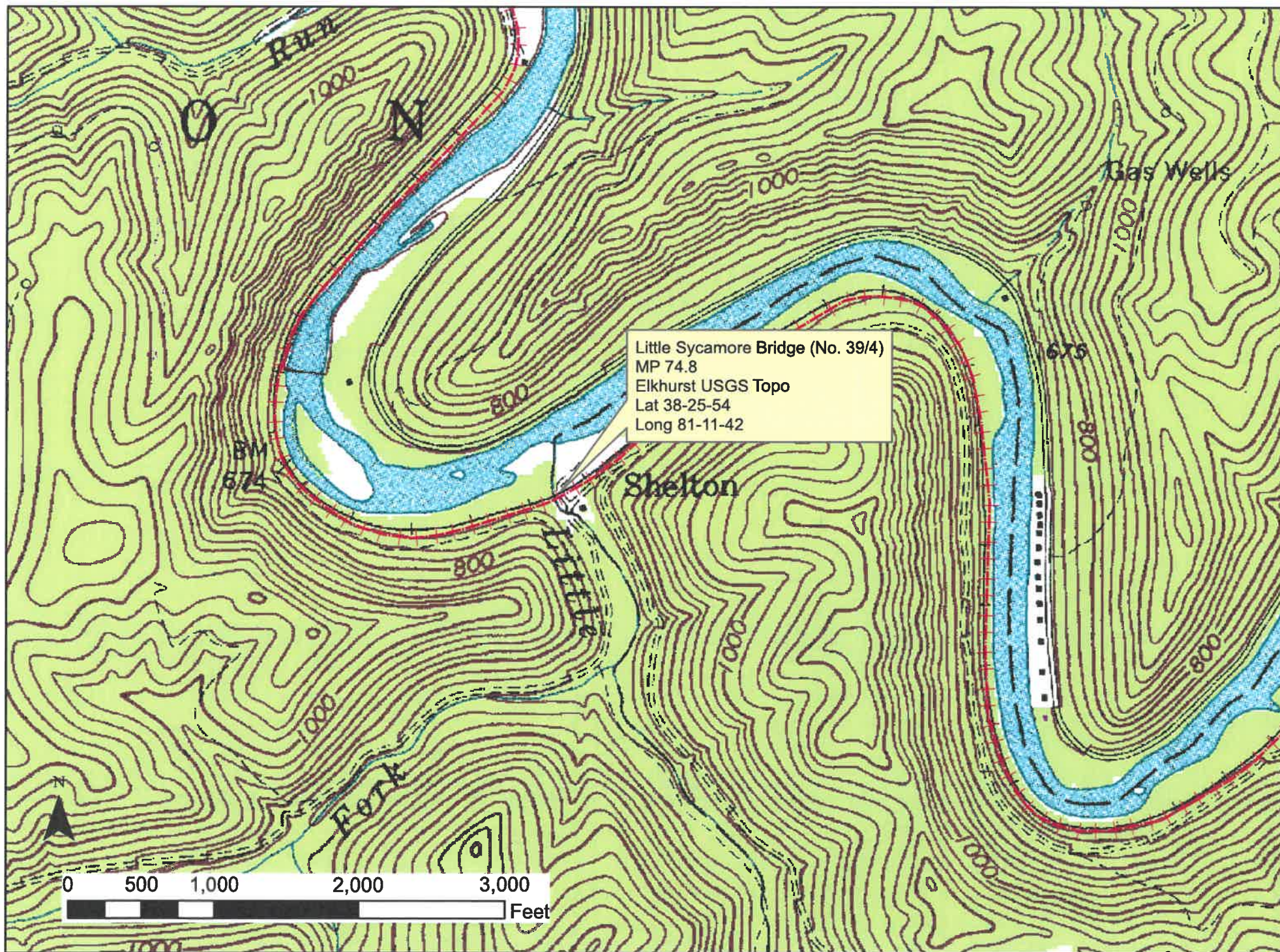


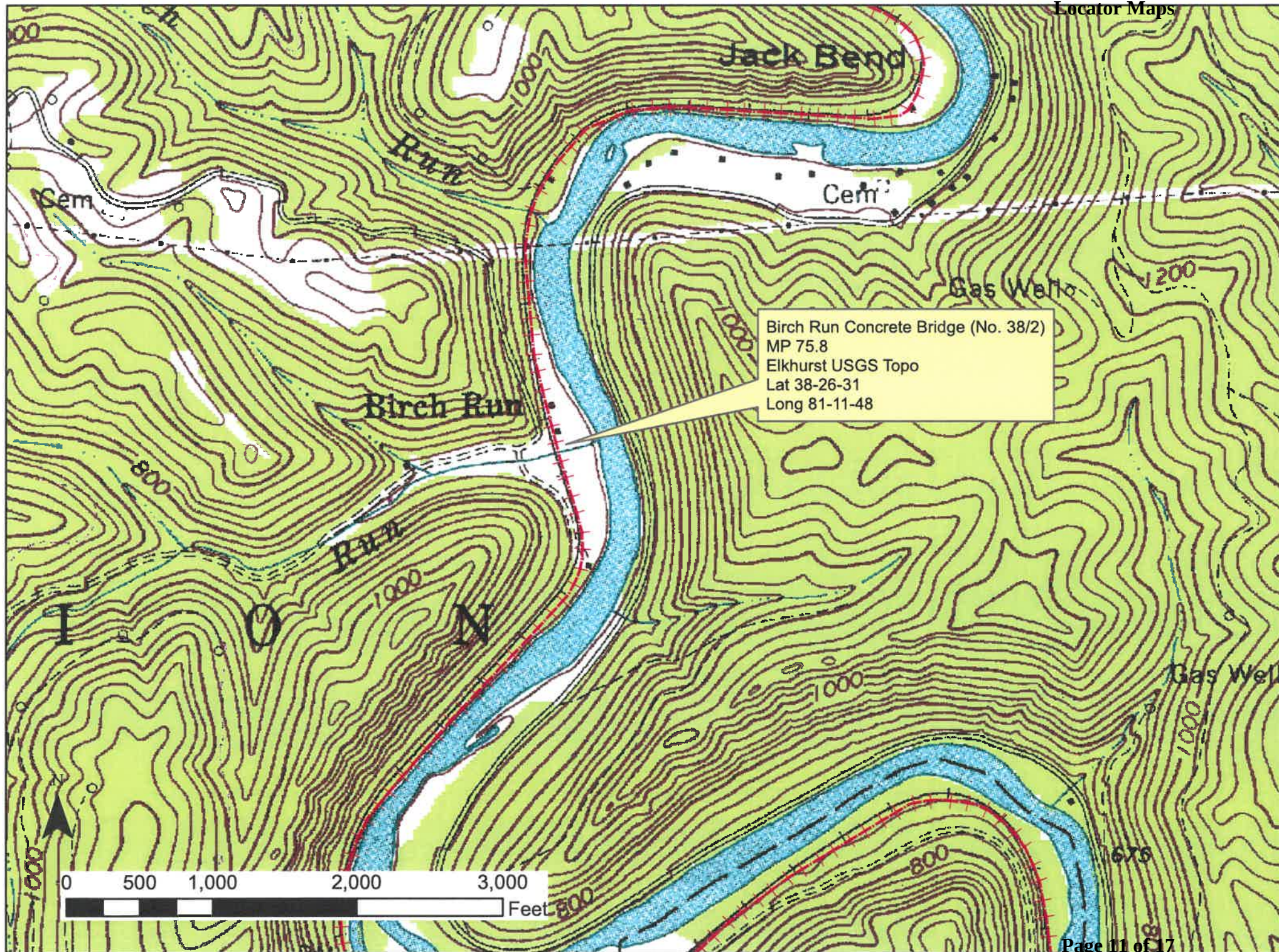


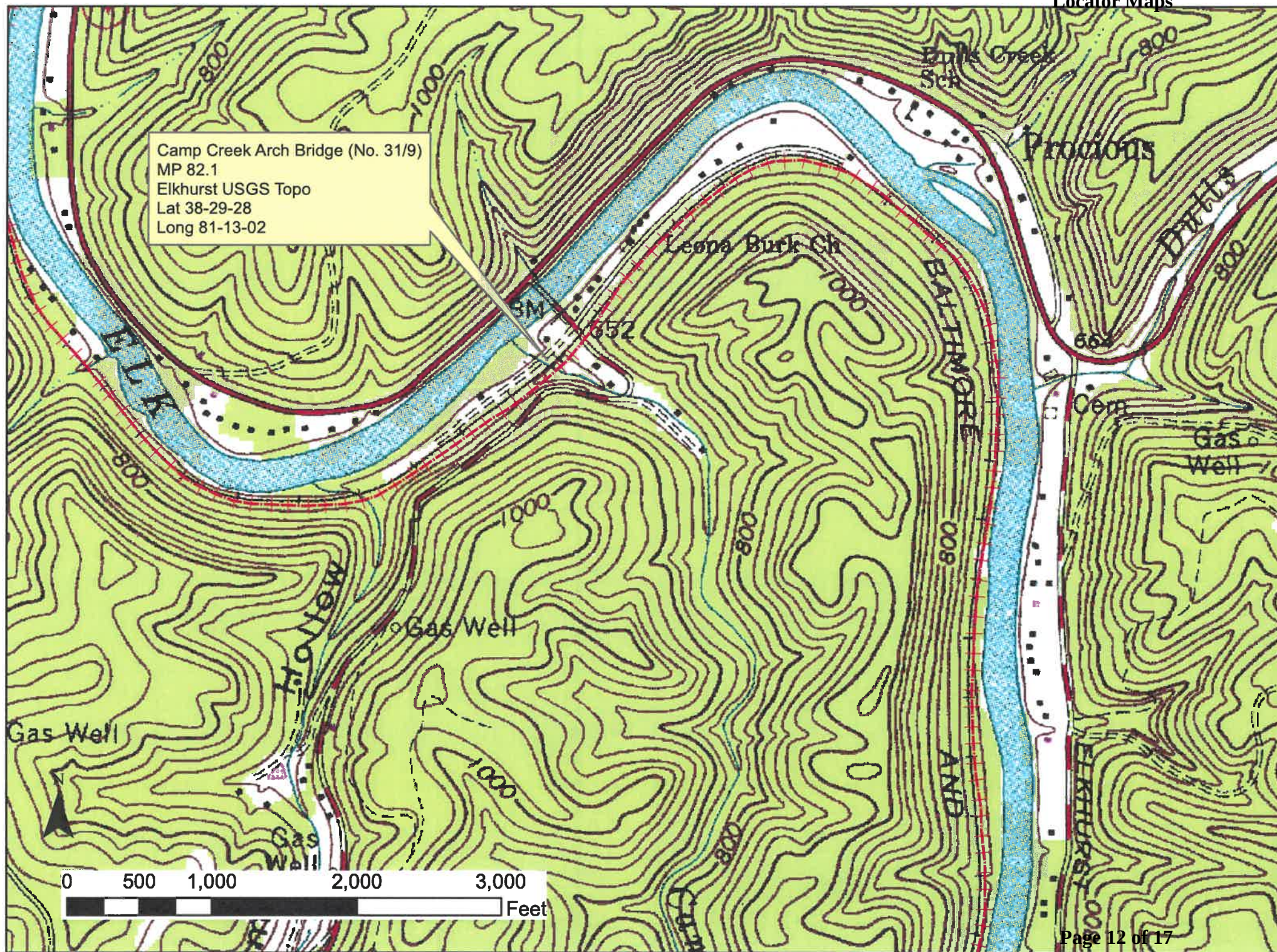


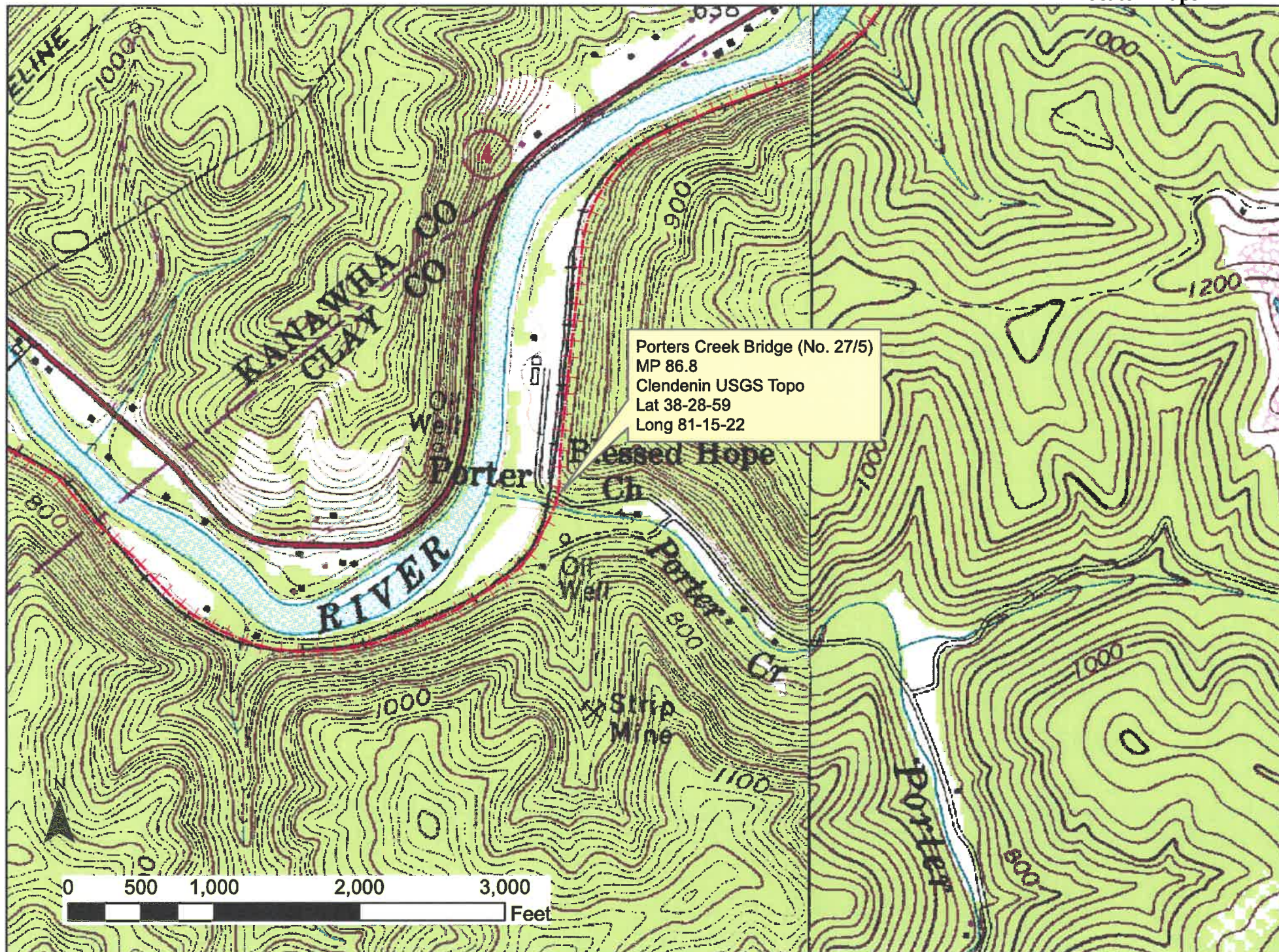


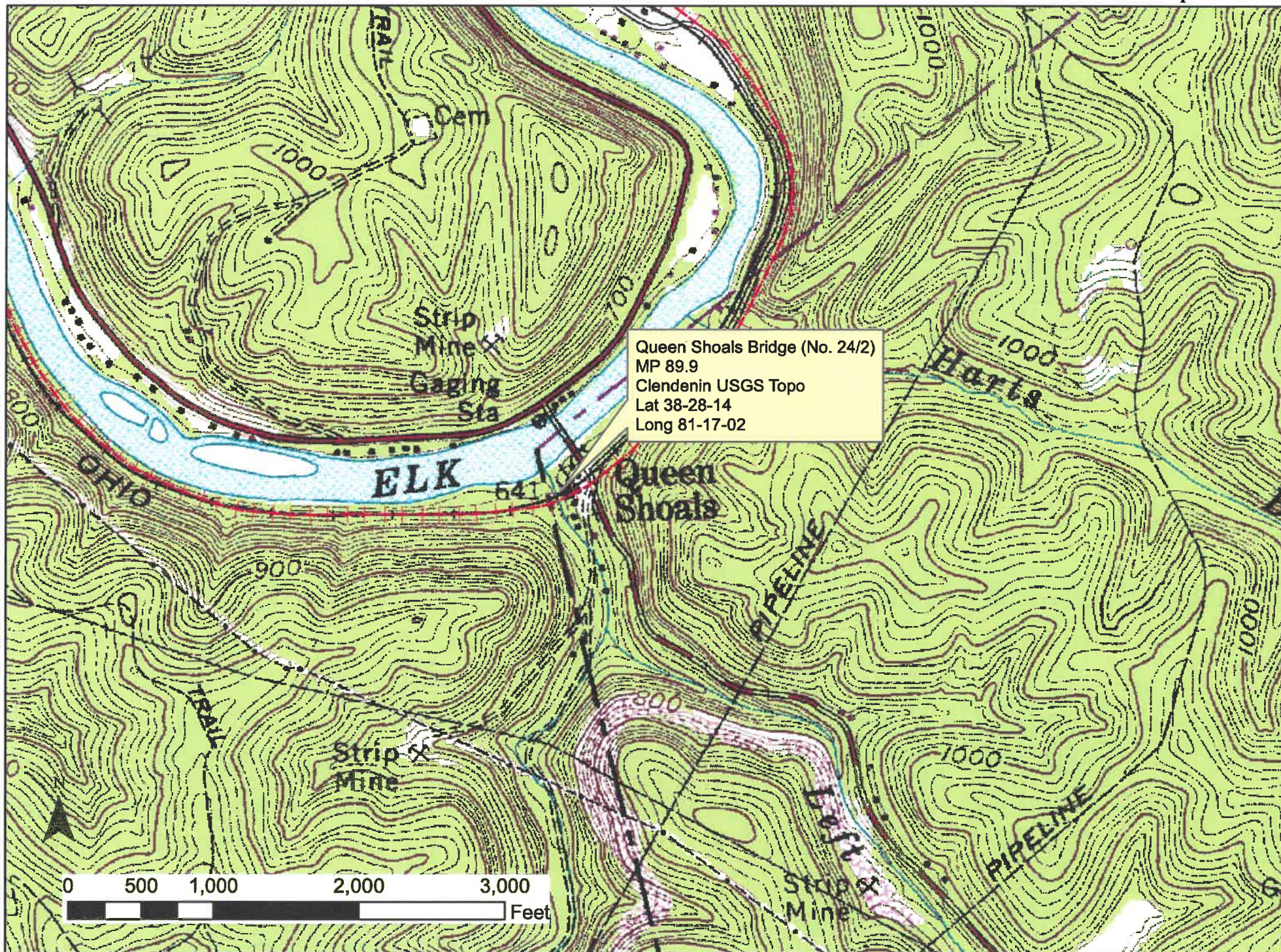


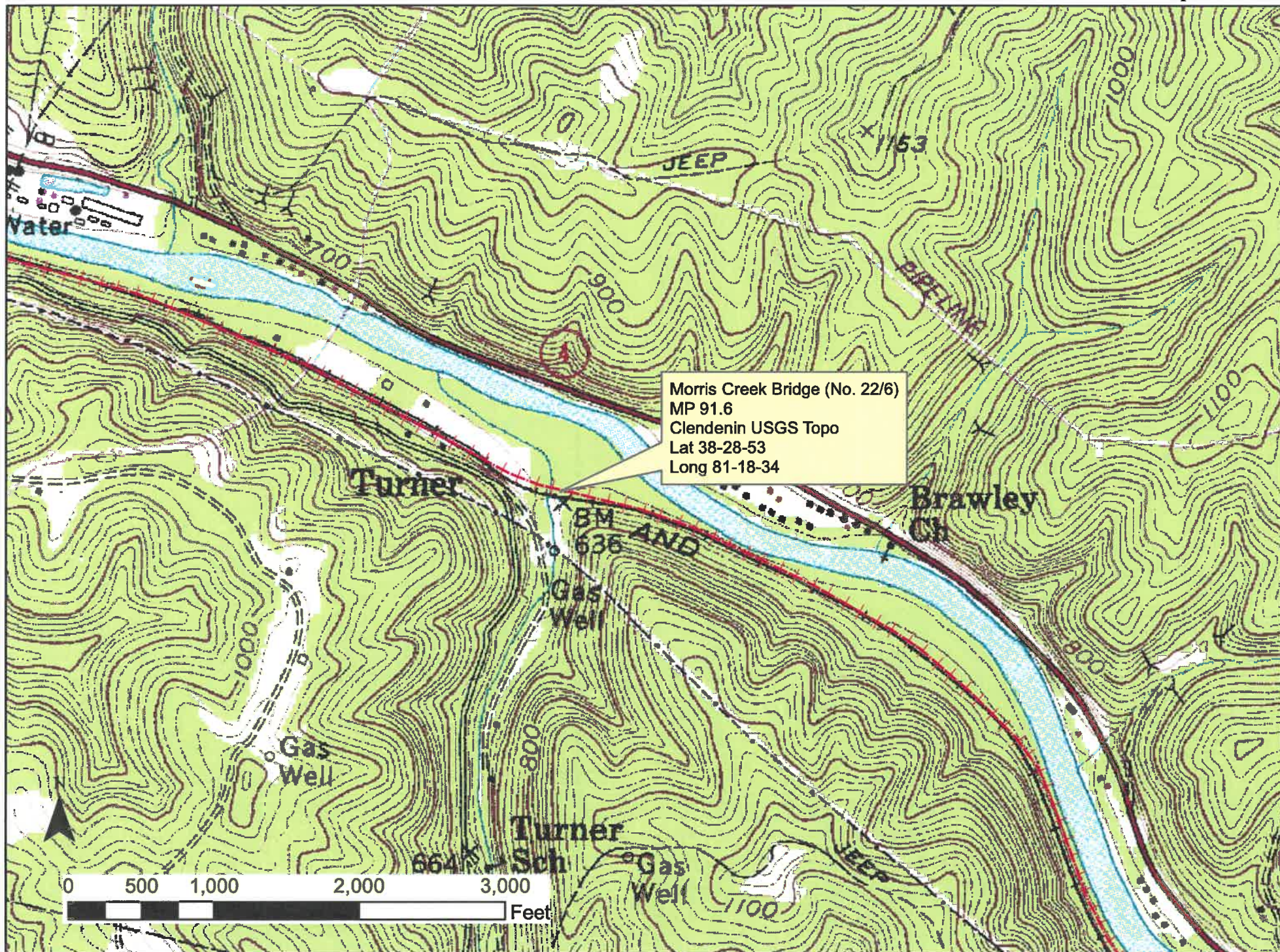


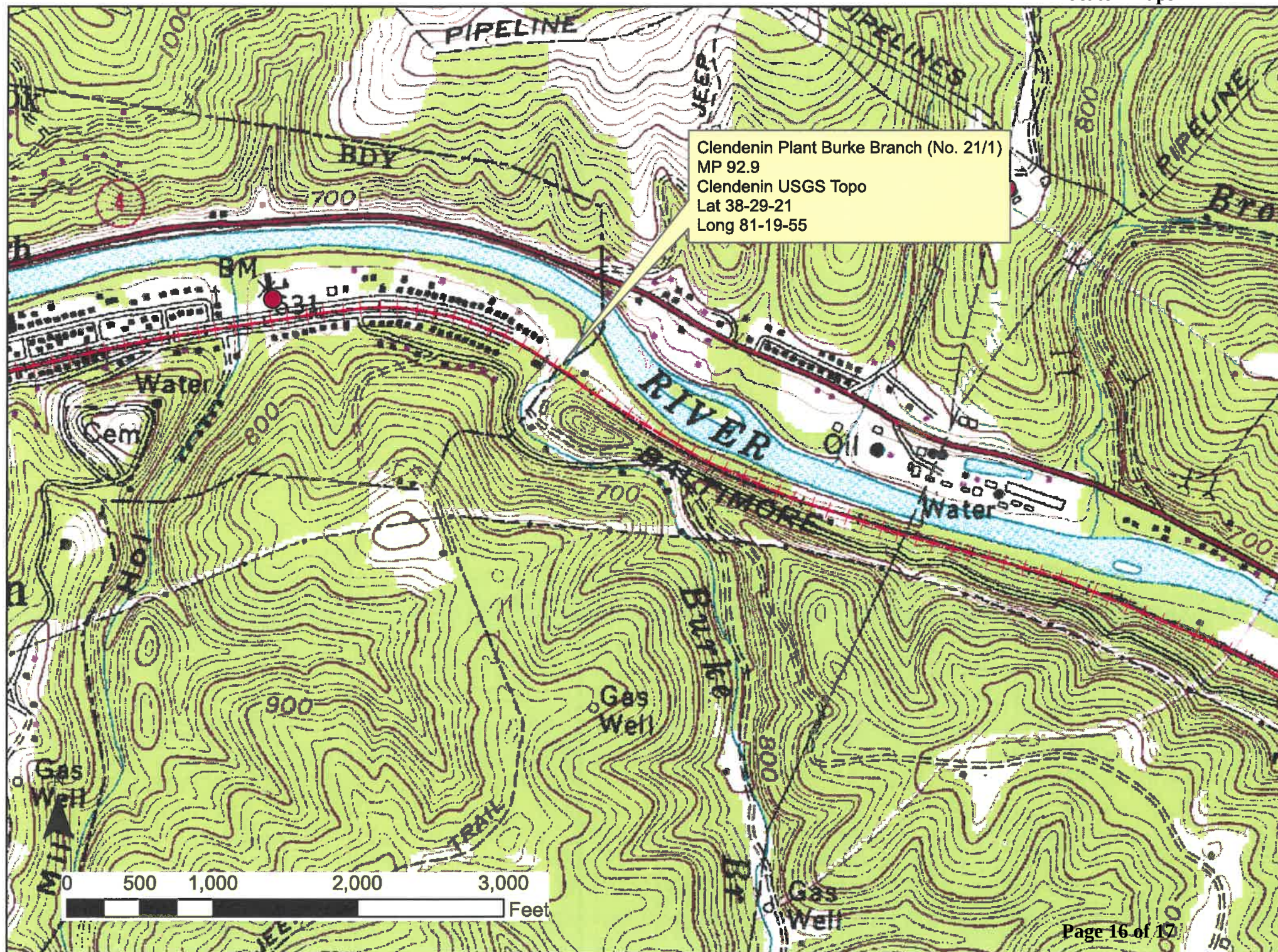


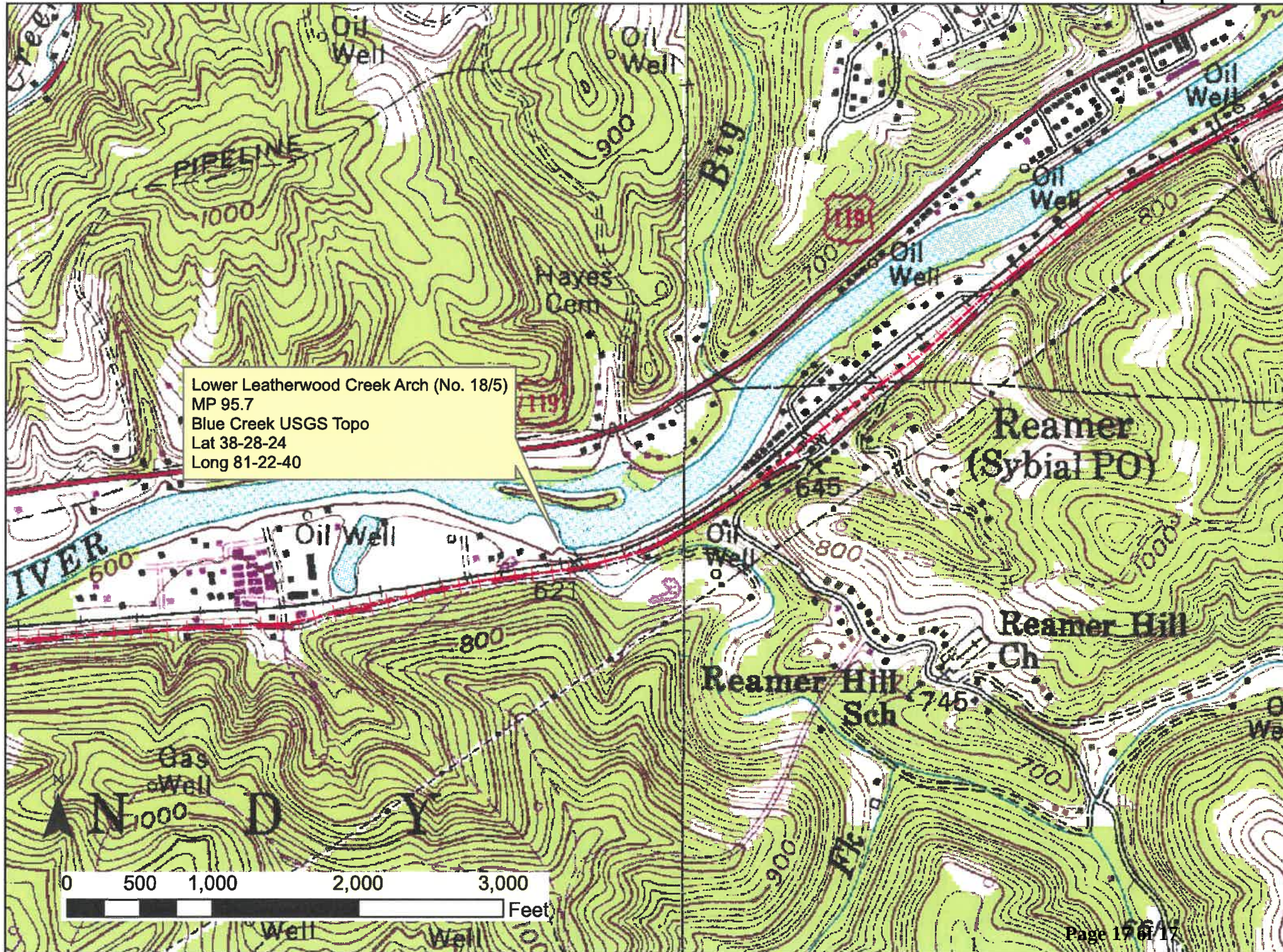












CEHR EXHIBIT 17

Rail Structure Inventory

INVENTORY OF RAILROAD STRUCTURES
50 YEARS OLD OR OLDER

Milepost (MP)	Structure Name	Crossing	Structure Details	Construction and Major Alteration(s)
MP 0.4	Bridge MP 0.4	Middle Creek Spur	45-ft. long double-track bridge; bridge abutments, piers and steel in place	Construction and alteration information unknown; last traffic over bridge in 1951; in 2020, TERRI installed wooden decking and handrails sufficient to support 80,000 lb. weight
MP 45.2	Bridge No. 68/8	Jumping Gut Run	44-ft. long bridge; bridge abutments, piers and steel in place	Built in 1903 by Penn Steel; in 2020, TERRI installed wooden decking and handrails sufficient to support 80,000 lb. weight
MP 48.1	Bridge No. 65/9	Waters Defeat River	38-ft. long bridge; bridge abutments, piers and steel in place	Built in 1903 by Penn Steel; in 2020, TERRI installed wooden decking and handrails sufficient to support 80,000 lb. weight
MP 52.98	Bridge No. 61/2	Standingrock Stream	Stone Arch Bridge Culverts	Revisions made in 1933 (Coal & Coke Railway Co. (C&C); later Baltimore & Ohio Railroad Co. (B&O)
MP 58.5	Bridge No. 55/18		Concrete Box Bridge Culverts	B&O made masonry repairs in 1946 (concrete with reinforced steel)
MP 62.2	Bridge No. 51/8	Big Buffalo Creek	177-ft. long bridge; bridge abutments, piers and steel in place	Built in 1896 by Pencoyd Iron Works; in 2020, TERRI installed wooden decking and handrails sufficient to support 80,000 lb. weight
MP 65.9	Bridge No. 48/2	Leatherwood Creek	155-ft. long bridge; bridge abutments, piers and steel in place	Built in 1943 by B&O; some steel parts from 1907; in 2020, TERRI installed wooden decking and handrails sufficient to support 80,000 lb. weight

MP 66.85	Bridge No. 47/2	Middle Creek	Stone Arch Bridge Culverts	Built in 1918; altered by C&C (later B&O) in 1929
MP 73.0	Bridge No. 41/1	Big Sycamore Creek	194-ft bridge; piers left in place	B&O re-built in 1943 by C.F.Englehart Contractor; B&O/CSXT removed the bridge steel after abandoning the line in 1979; TERRI intends to install bridge steel and wooden decking and handrails sufficient to support 80,000 lb. weight
MP 74.8	Bridge No. 39/4	Little Sycamore Creek	110-ft. bridge; piers left in place	B&O re-built in 1945; B&O/CSXT removed the bridge steel after abandoning the line in 1979; TERRI intends to install bridge steel and wooden decking and handrails sufficient to support 80,000 lb. weight
MP 75.8	Bridge No. 38/2	Birch Run Stream	10-ft. Concrete Box Culverts	Built in 1928
MP 82.1	Bridge No. 31/9	Camp Creek	20-ft. Stone Arch Bridge Culverts	Built in 1918
MP 86.8	Bridge No. 27/5	Porters Creek	130-ft. long steel and concrete bridge; bridge piers left in place	B&O re-built in 1945 (masonry reconstruction and steel repairs); B&O/CSXT removed the bridge steel after abandoning the line in 1979; TERRI intends to install bridge steel and wooden decking and handrails sufficient to support 80,000 lb. weight
MP 89.9	Bridge No. 24/2	Queen Shoals Creek	120-ft. steel, concrete and stone bridge; bridge piers left in place	B&O re-built in 1947; B&O/CSXT removed the bridge steel after abandoning the line in 1979; TERRI intends to install bridge steel and wooden decking and handrails sufficient to support 80,000 lb. weight

MP 91.6	Bridge No. 22/6	Morris Creek	110-ft. steel bridge; bridge piers left in place	B&O re-built in 1945 (masonry reconstruction and steel alterations, repairs, and erection); B&O/CSXT removed the bridge steel after abandoning the line in 1979; TERRI intends to install bridge steel and wooden decking and handrails sufficient to support 80,000 lb. weight
MP 92.9	Bridge No. 21/1	Birch Run	20-ft. Stone Arch Bridge Culverts	Built in 1918
MP 95.7	Bridge No. 18/5	Lower Leatherwood Creek	Two (2) 24-ft. Stone Arches	Built in 1918; repaired in 1920

CEHR EXHIBIT 18

Rail Structure Photographs

Bridge MP 0.4
Middle Creek Bridge



Bridge MP 0.4
Middle Creek Bridge



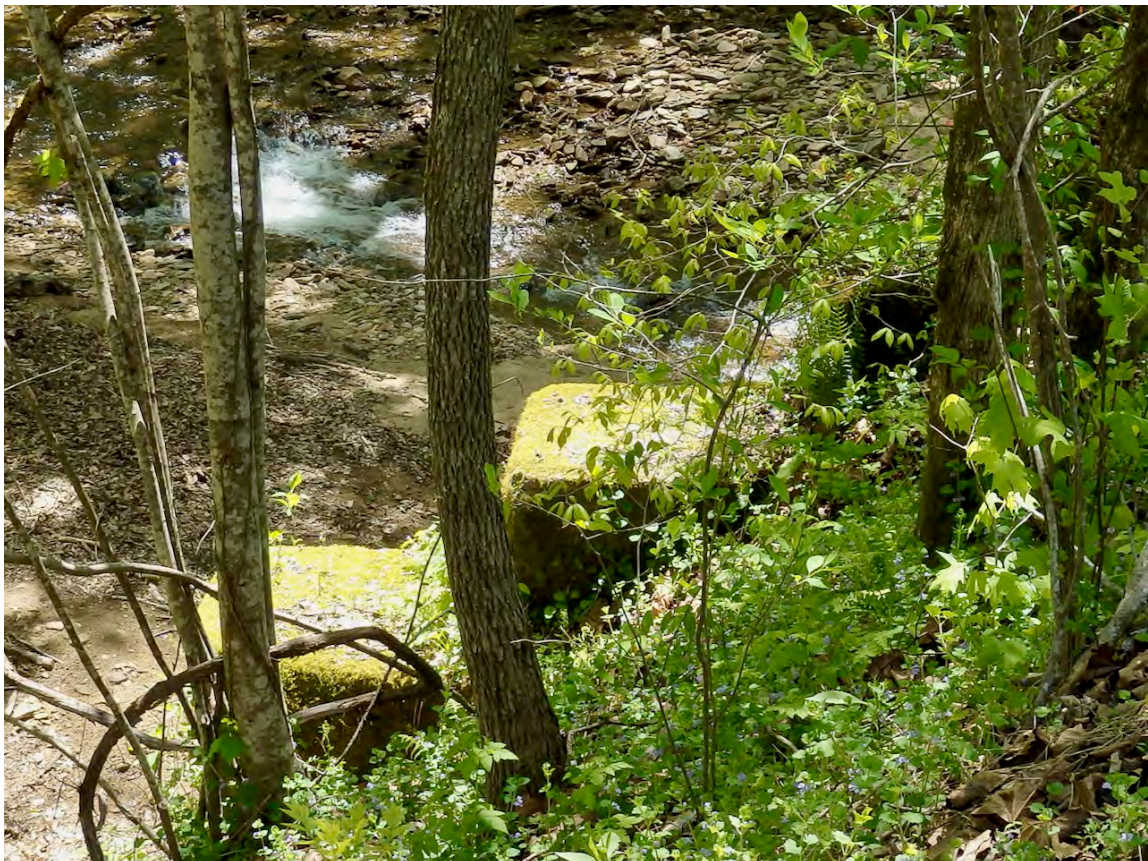
Bridge No. 68/8
Jumping Gut Run (MP 45.2)



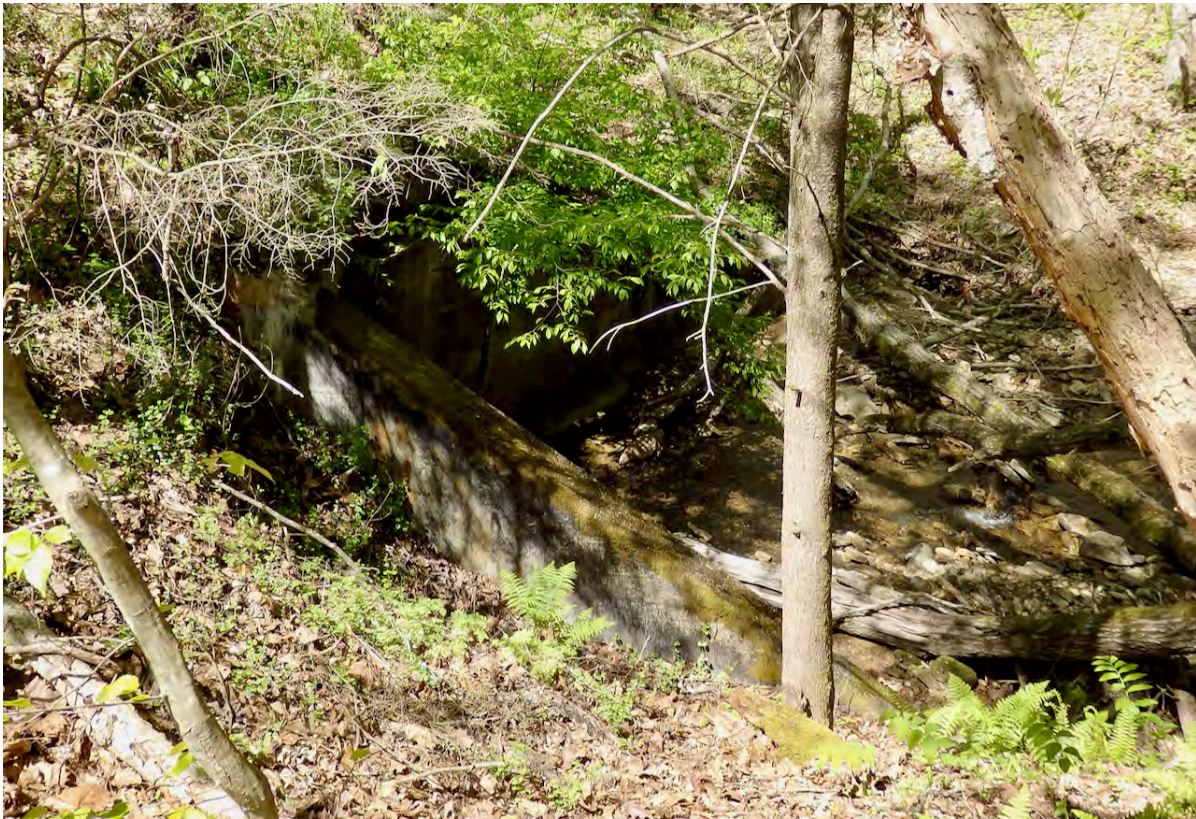
Bridge No. 65/9
Waters Defeat River (MP 48.1)



Bridge No. 61/2
Standingrock Stream (MP 52.98)



Bridge No. 55/18
Concrete Box Bridge Culverts (MP 58.5)



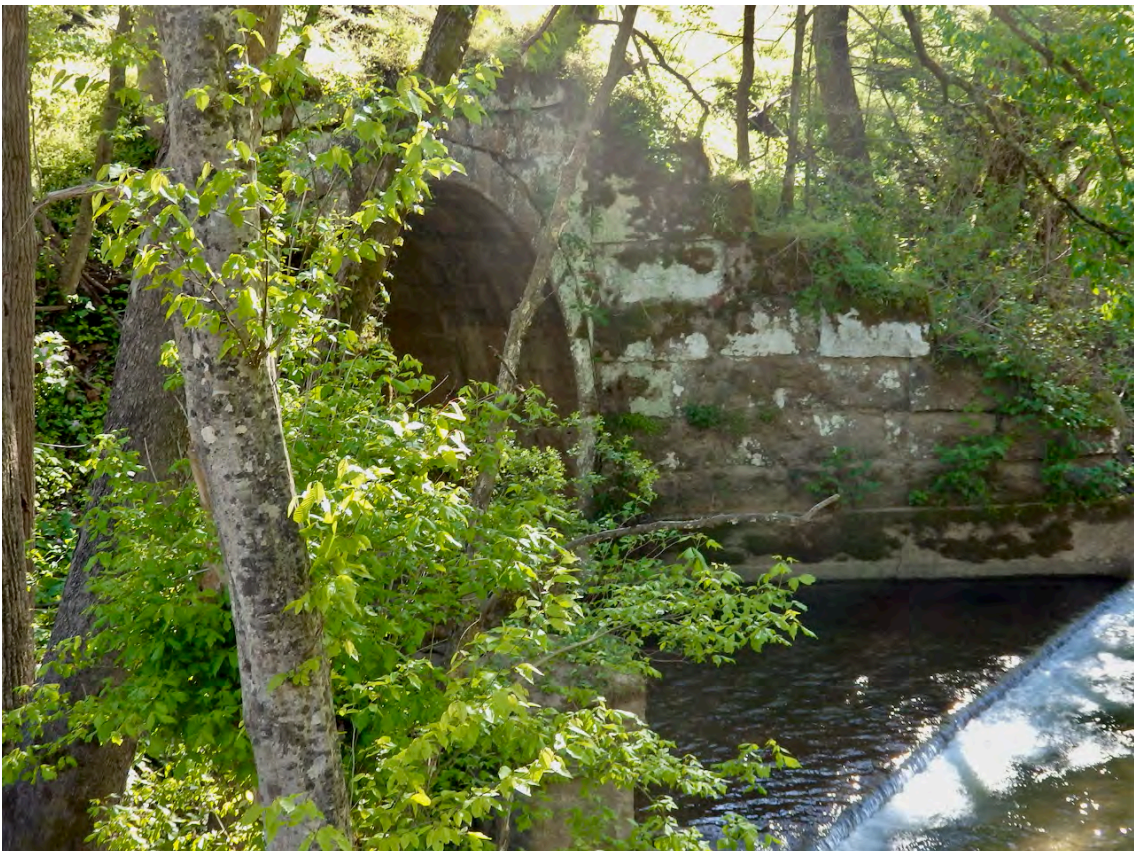
Bridge No. 51/8
Big Buffalo Creek (MP 62.2)



Bridge No. 48/2
Leatherwood Creek (MP 65.9)



Bridge No. 47/2
Middle Creek (MP 66.85)



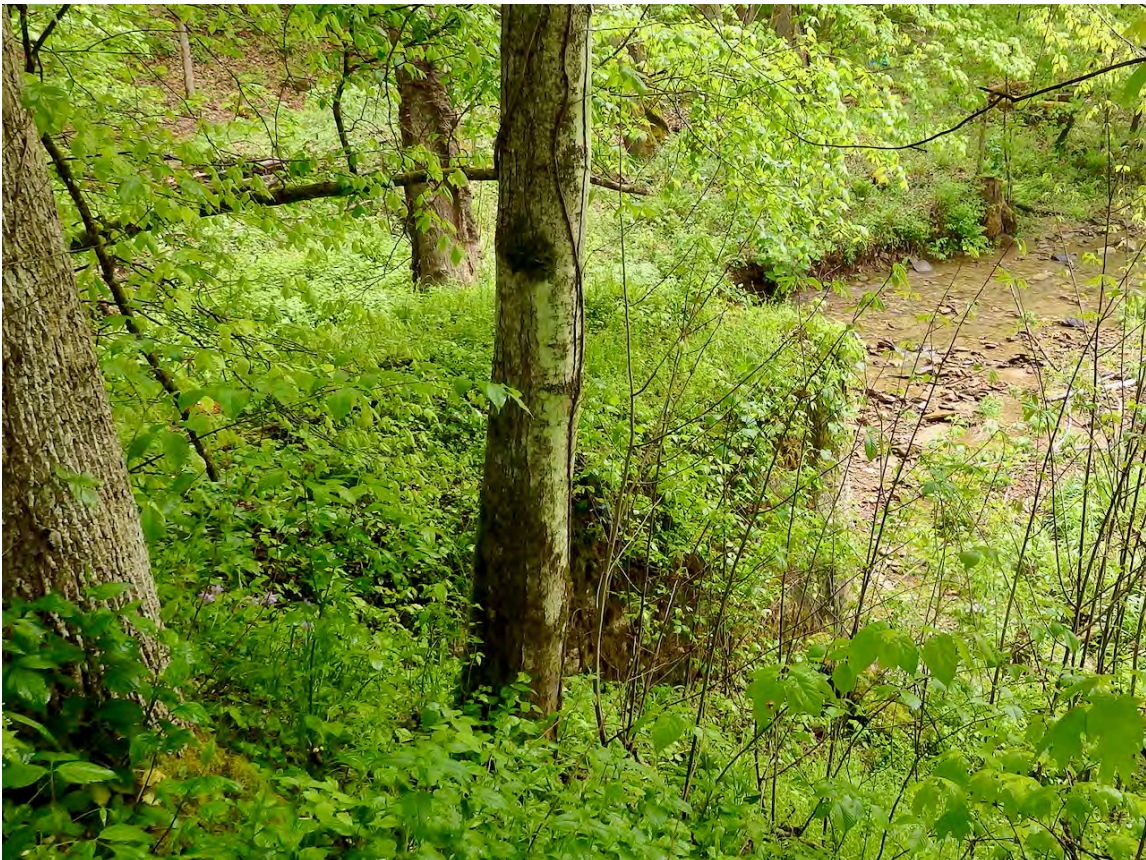
Bridge No. 41/1
Big Sycamore Creek (MP 73.0)



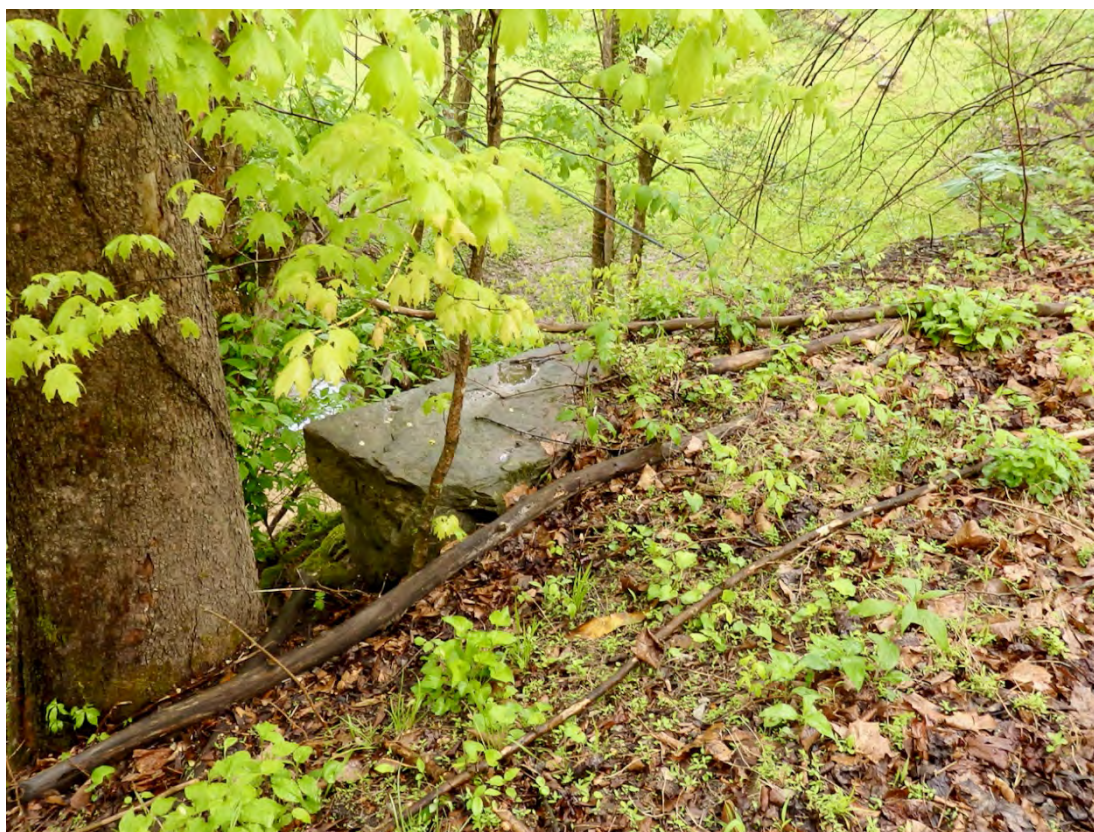
Bridge No. 39/4
Little Sycamore Creek (MP 74.8)



Bridge No. 38/2
Birch Run Stream (MP 75.8)



Bridge No. 31/9
Camp Creek (MP 82.1)



Bridge No. 27/5
Porters Creek (MP 86.8)



Bridge No. 24/2
Queen Shoals Creek (MP 89.9)



Bridge No. 22/6
Morris Creek (MP 91.6)



Bridge No. 21/1
Birch Run (MP 92.9)



Bridge No. 18/5
Lower Leatherwood Creek (MP 95.7)



CEHR EXHIBIT 19

**Correspondence with West Virginia
Department of Arts, Culture and History
(TERRI letter without attachments)**



SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

A. REBECCA WILLIAMS

June 2, 2021

Susan M. Pierce
Deputy State Historic Preservation Officer
West Virginia Department of Arts, Culture and History
The Culture Center
Capitol Complex
1900 Kanawha Boulevard East
Charleston, WV 25305-0300

Re: STB Docket No. AB 1314X, The Elk River Railroad, Inc. –
Abandonment Exemption – in Kanawha and Clay Counties, West Virginia

Dear Ms. Pierce:

The Elk River Railroad, Inc. (“TERRI”) intends to file with the Surface Transportation Board (“STB” or “Board”) a notice of exemption for the abandonment of approximately 53.4 miles of railroad located between Milepost 96.0 (near Clendenin, WV) and Milepost 43.6 (south of Duck, WV), including 0.8 miles extending south from Milepost 67.2 (near Hartland, WV) known as the Middle Creek Spur, in Kanawha and Clay Counties, WV (the “Line”). The notice will be filed pursuant to 49 C.F.R. § 1152.50(b), exempting abandonment of rail lines over which no local traffic has moved during the previous two years.

Subject to Board authorization, TERRI and the West Virginia State Rail Authority (“WVSRA”) have negotiated, and intend to enter into, an agreement for interim trail use and railbanking of the Line pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (“Trails Act”) and 49 C.F.R. § 1152.29. The West Virginia Department of Natural Resources would then operate the Trail as a State Park.

This proposed action requires Board environmental and historic review. In accordance with STB regulations, 49 C.F.R. § 1105.8, TERRI is providing notice of the proposed action and a copy of its Preliminary Combined Environmental and Historic Report (“CEHR”). TERRI would appreciate your assistance in determining the effects of the proposed action to cultural resources.

In addition to TERRI’s Preliminary CEHR, which describes the action and any expected effects, we have also enclosed a map of the Line and a distribution list of all parties that have been notified of the proposed action.

WV Historic Preservation Office

June 2, 2021

Page 2 of 2

Please provide any comments to me by email at arw@sloverandloftus.com, or by mail to 1224 Seventeenth Street, NW, Washington, D.C. 20036, within three (3) weeks of the date of this letter so TERRI can review and include your comments in its Final CEHR.

If you have any questions or concerns, please feel free to contact me by email or by phone at (202) 347-7170. Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "AR Williams". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

A. Rebecca Williams

An Attorney for The Elk River Railroad, Inc.

Enclosures as stated.

From: [Walker, Kent C](#)
To: [Rebecca Williams](#)
Cc: [Pierce, Susan M](#)
Subject: RE: [External] RE: STB Docket No. AB 1314X, The Elk River Railroad, Inc. - Abandonment Exemption - in Kanawha and Clay Counties, West Virginia (21-713-MULTI)
Date: Thursday, July 1, 2021 10:13:05 PM
Attachments: [image001.png](#)

Ms. Williams,

It was a pleasure speaking with you, as well. I will review these and update our review/documentation accordingly. This is also to confirm the receipt of two (2) emails containing a total of seventeen (17) updated Historic Property Inventory (HPI) forms. Thank you for your time and consideration!

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

From: Rebecca Williams <arw@sloverandloftus.com>
Sent: Thursday, July 1, 2021 5:09 AM
To: Walker, Kent C <Kent.C.Walker@wv.gov>
Cc: Pierce, Susan M <Susan.M.Pierce@wv.gov>
Subject: [External] RE: STB Docket No. AB 1314X, The Elk River Railroad, Inc. - Abandonment Exemption - in Kanawha and Clay Counties, West Virginia (21-713-MULTI)

CAUTION: External email. Do not click links or open attachments unless you verify sender.

Attached please find the second set of updated Historic Property Inventory forms (8 forms). Please confirm receipt of all 17 forms, and please let me know if you need anything else.

Sincerely,
Rebecca Williams

From: Rebecca Williams
Sent: Thursday, July 1, 2021 5:05 AM
To: kent.c.walker@wv.gov
Cc: susan.m.pierce@wv.gov
Subject: STB Docket No. AB 1314X, The Elk River Railroad, Inc. - Abandonment Exemption - in

Kanawha and Clay Counties, West Virginia (21-713-MULTI)

Good morning Mr. Walker,

It was a pleasure speaking with you on Friday regarding the Elk River Railroad, Inc. (TERRI) proposed abandonment and railbanking project. Per our discussion, I am sending seventeen (17) updated Historic Property Inventory forms for the structures identified on the line. Due to the amount and size of the files, I will be sending the forms in two sets: attached please find the first set (9 forms). As we discussed, the project will not involve removal of any of the identified resources.

Please confirm receipt, and please let me know if you have any questions or need additional information. Thank you again for your assistance.

Sincerely,

Rebecca Williams
An Attorney for TERRI



A. REBECCA WILLIAMS
ARW@SLOVERANDLOFTUS.COM
SLOVER & LOFTUS LLP

DIRECT: (202) 454-4422 | MAIN: (202) 347-7170 | CELL: (202) 870-2797
1224 SEVENTEENTH ST. N.W., WASHINGTON, D.C. 20036
WWW.SLOVERANDLOFTUS.COM

The information contained in this e-mail may include proprietary information which is confidential and privileged. This e-mail and any attachment is intended solely for the use of the recipient identified. Any disclosure, duplication, dissemination or other use of this document by anyone other than the identified recipient, or his or her agent, is strictly prohibited. If you are not the identified recipient, this e-mail may have been transmitted to you in error. Please contact 202.347.7170 if you believe that you have received this in error.

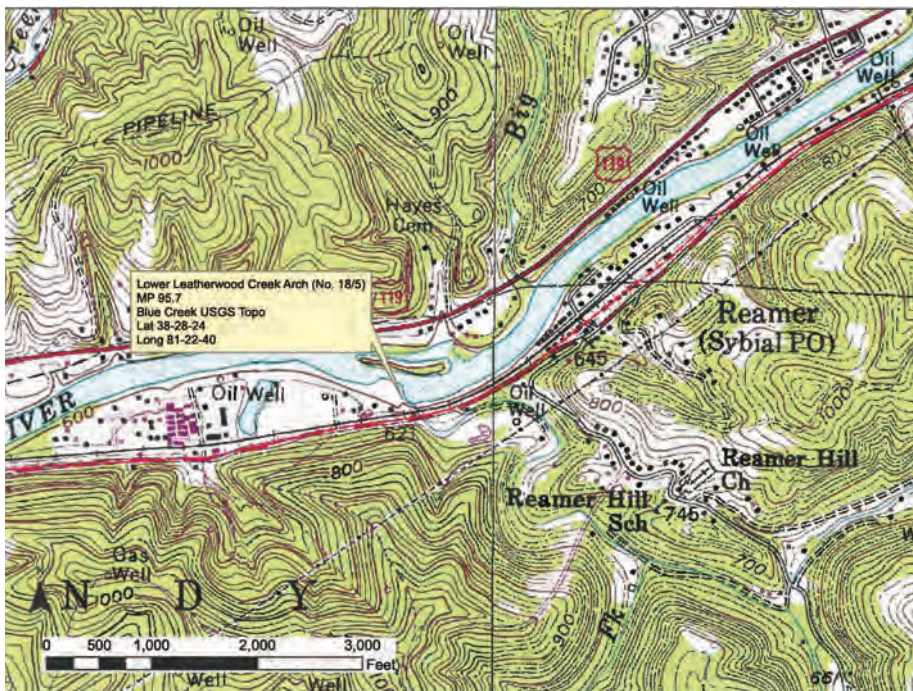


Internal Rating: _____

WEST VIRGINIA HISTORIC PROPERTY INVENTORY FORM

Street Address Elk River R.R. MP 95.7 ex-Baltimore & Ohio R.R. Hartland-Falling Rock, WV	Common/Historic Name/Both ○ ○ ⊙ B&O RR Bridge No. 18/5; Lower Leatherwood Creek	Field Survey #	Site # (SHPO Only)
Town or Community Clendenin; Reamer Sta., WV	County Kanawha	Negative No.	NR Listed Date
Architect/Builder B&O Railroad	Date of Construction 1918	Style	
Exterior Siding/Materials Stone arch	Roofing Material N/A	Foundation Stone	
Property Use or Function Residence ○ Commercial ○ Other ⊙	UTM# Zone 17N E: 467046 N: 4258402		
Survey Organization & Date Elk River Railroad, Inc. June 2021	Quadrangle Name Blue Creek		
	Part of What Survey/FR# FR: 21-713-MULTI		

Sketch Map of Property
Or Attach Copy of USGS Map



Site No.

Present Owners Elk River Railroad, Inc. ("TERRI") Phone #	Owners Mailing Address 200 Greenbrier Road, PO Box 460 Summerville, WV 26651
Describe Setting Located in Clendenin (formerly Reamer Station) in the railroad right-of-way. The resource is situated within a rural, forested, area on the south side of Elk River, and crosses over Lower Leatherwood Creek. _____ Acres ☐ Archaeological Artifacts Present	
Description of Building or Site (Original and Present) _____ Stories _____ Front Bays Two (2) 24-foot stone arches in railroad right-of-way. Railroad bridge was used to carry rail traffic over Lower Leatherwood Creek as part of the B&O R.R. <i>(Use Continuation Sheets)</i>	
Alterations ☒ Yes ☐ No If yes, describe Repairs made in 1920; west abut underpinned in 1947; B&O removed all track 1979-1981.	
Additions ☐ Yes ☒ No If yes, describe	
Describe All Outbuildings N/A <i>(Use Continuation Sheets)</i>	
Statement of Significance This bridge was part of the ex-Baltimore & Ohio Railroad (formally known as a section of the Charleston Division, and later Elk Subdivision of the Monongah Division); previously Coal & Coke Railway (B&O purchased in 1917 and took over operating the line; railroad and title ownership passed to B&O outright in 1933). B&O abandoned the line in 1979, and had removed all track, crossties and bridge steel from the line by 1981. <i>(Use Continuation Sheets)</i>	
Bibliographical References "Elk River Railroad," American-Rails, https://www.american-rails.com/elk.html (June 20, 2021). USGS Topographic Maps; B&O Engineer Drawings (available upon request or at The Elk River Railroad offices). "B&O Charleston Division part i - Charleston to Queen Shoals," Dan Robie, http://www.wvncrails.org/bo-charleston-division-part-i--charleston-to-queen-shoals.html (accessed June 20, 2021). <i>(Use Continuation Sheets)</i>	
Form Prepared By: _____ Date: June 23, 2021 Name/Organization: Elk River Railroad, Inc. Address: 200 Greenbrier Road, PO Box 460 Summerville, WV 26651 Phone #: 304-872-3000	



West Virginia Division of Culture and History
State Historic Preservation Office

WEST VIRGINIA HISTORIC PROPERTY FORM CONTINUATION SHEET

NAME B&O RR Bridge No. 18/5; Lower Leatherwood Creek

SITE# _____



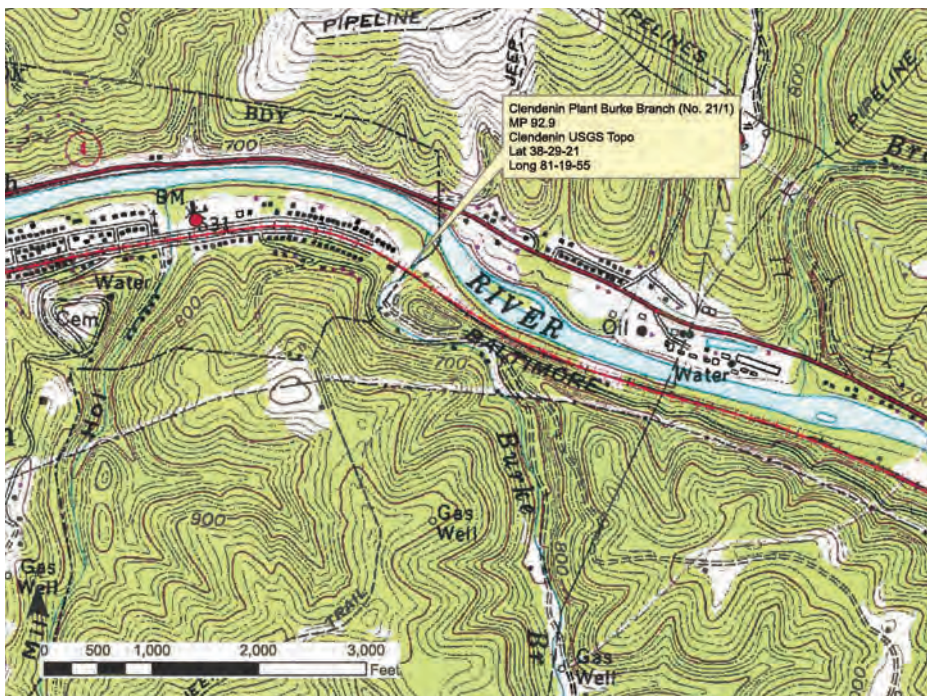


Internal Rating: _____

WEST VIRGINIA HISTORIC PROPERTY INVENTORY FORM

Street Address Elk River R.R. MP 92.9 ex-Baltimore & Ohio R.R. Hartland-Falling Rock, WV	Common/Historic Name/Both ○ ○ ⊙ B&O RR Bridge No. 21/1	Field Survey #	Site # (SHPO Only)
Town or Community Clendenin; Clendenin Plant Burke Branch	County Kanawha	Negative No.	NR Listed Date
Architect/Builder B&O Railroad	Date of Construction 1918	Style	
Exterior Siding/Materials Stone arch	Roofing Material N/A	Foundation Stone	
Property Use or Function Residence ○ Commercial ○ Other ⊙	UTM# Zone 17N E: 471051 N: 4260144		
Survey Organization & Date Elk River Railroad, Inc. June 2021	Quadrangle Name Clendenin		
Part of What Survey/FR# FR: 21-713-MULTI			

Sketch Map of Property
Or Attach Copy of USGS Map

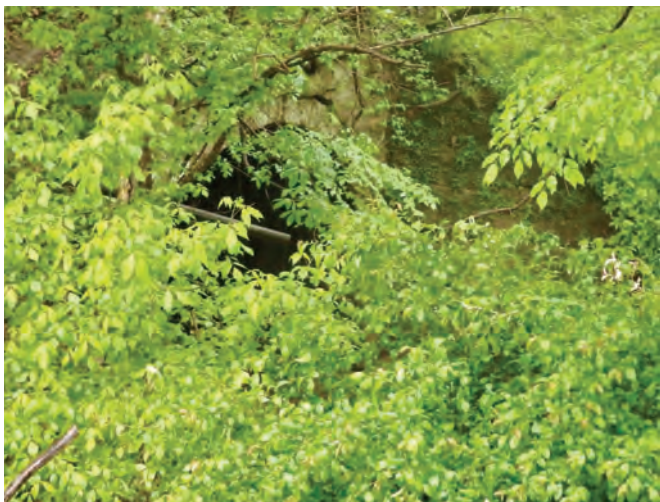


Site No.

WEST VIRGINIA HISTORIC PROPERTY FORM CONTINUATION SHEET

NAME B&O RR Bridge No. 21/1

SITE# _____



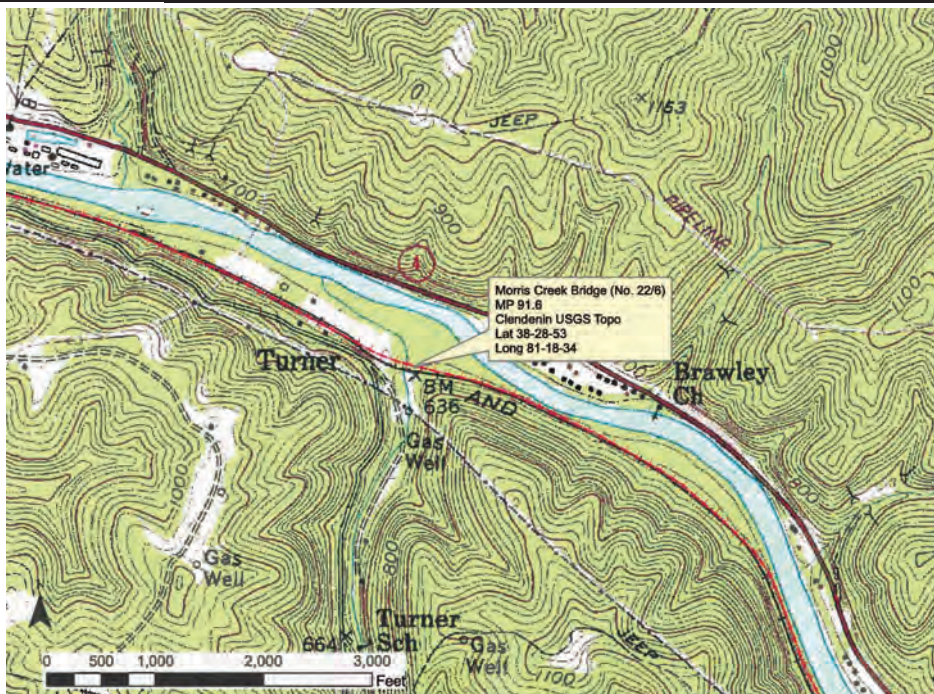


Internal Rating: _____

WEST VIRGINIA HISTORIC PROPERTY INVENTORY FORM

Street Address Elk River R.R. MP 91.6 ex-Baltimore & Ohio R.R. Hartland-Falling Rock, WV	Common/Historic Name/Both ○ ○ ⊙ B&O RR Bridge No. 22/6; Morris Creek Bridge	Field Survey #	Site # (SHPO Only)
Town or Community Turner	County Kanawha	Negative No.	NR Listed Date
Architect/Builder B&O Railroad	Date of Construction Re-built in 1945	Style	
Exterior Siding/Materials Steel girders (removed 1981)	Roofing Material N/A	Foundation Stone piers	
Property Use or Function Residence ○ Commercial ○ Other ⊙	UTM# Zone 17N E: 473010 N: 4259274		
Survey Organization & Date Elk River Railroad, Inc. June 2021	Quadrangle Name Clendenin		
Part of What Survey/FR# FR: 21-713-MULTI			

Sketch Map of Property
Or Attach Copy of USGS Map



N



Site No.

Present Owners Elk River Railroad, Inc. ("TERRI") Phone #	Owners Mailing Address 200 Greenbrier Road, PO Box 460 Summerville, WV 26651
Describe Setting The resource is situated within a rural, forested, area on the south side of Elk River. Located in the railroad right-of-way crossing over Morris Creek. _____ Acres ☐ Archaeological Artifacts Present	
Description of Building or Site (Original and Present) _____ Stories _____ Front Bays Originally 110-ft steel bridge in railroad right-of-way. Railroad bridge was used to carry rail traffic over Morris Creek as part of the B&O R.R. B&O removed the bridge steel and track in 1981 after abandoning the line in 1979; stone piers left in place. (Use Continuation Sheets)	
Alterations ☒ Yes ☐ No If yes, describe B&O rebuilt the bridge in 1945 (masonry reconstruction and steel alterations, repairs, and erection); B&O removed all track and bridge steel in 1981.	
Additions ☐ Yes ☒ No If yes, describe	
Describe All Outbuildings N/A (Use Continuation Sheets)	
Statement of Significance This bridge was part of the ex-Baltimore & Ohio Railroad (formally known as a section of the Charleston Division, and later Elk Subdivision of the Monongah Division); previously Coal & Coke Railway (B&O purchased in 1917 and took over operating the line; railroad and title ownership passed to B&O outright in 1933). B&O abandoned the line in 1979, and had removed all track, crossties and bridge steel from the line by 1981. (Use Continuation Sheets)	
Bibliographical References "Elk River Railroad," American-Rails, https://www.american-rails.com/elk.html (June 20, 2021). USGS Topographic Maps; B&O Engineer Drawings (available upon request or at The Elk River Railroad offices). "B&O Charleston Division part i - Charleston to Queen Shoals," Dan Robie, http://www.wvncrails.org/bo-charleston-division-part-i--charleston-to-queen-shoals.html (accessed June 20, 2021). (Use Continuation Sheets)	
Form Prepared By: _____ Date: June 23, 2021 Name/Organization: Elk River Railroad, Inc. Address: 200 Greenbrier Road, PO Box 460 Summerville, WV 26651 Phone #: 304-872-3000	



West Virginia Division of Culture and History
State Historic Preservation Office

WEST VIRGINIA HISTORIC PROPERTY FORM CONTINUATION SHEET

NAME B&O RR Bridge No. 22/6; Morris Creek Bridge

SITE# _____



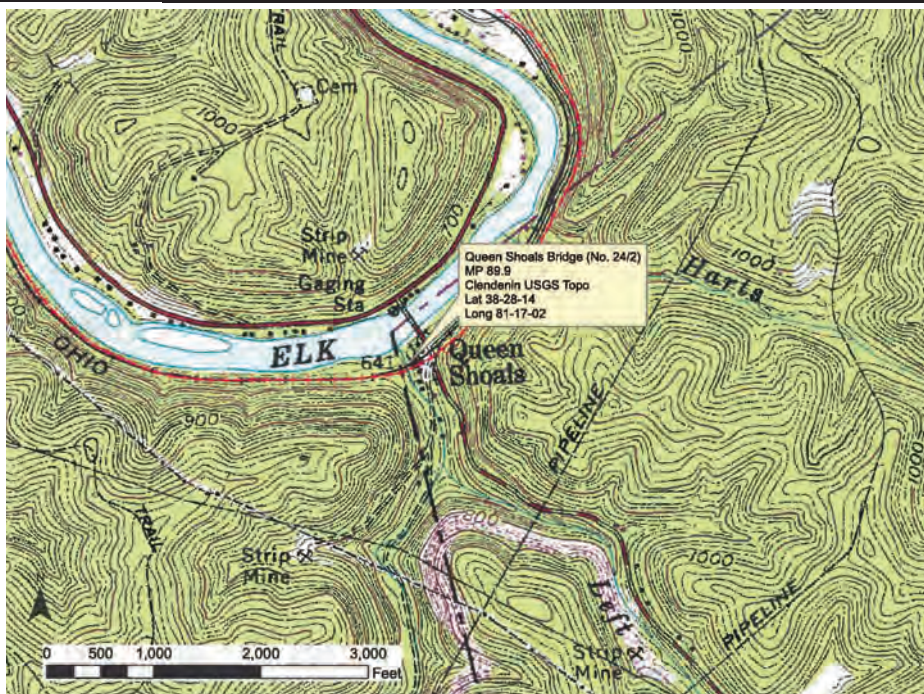


Internal Rating: _____

WEST VIRGINIA HISTORIC PROPERTY INVENTORY FORM

Street Address Elk River R.R. MP 89.9 (Val. Sta. 7922+65.2) ex-Baltimore & Ohio R.R. Hartland-Falling Rock, WV	Common/Historic Name/Both ☐ ☐ ☒ B&O RR Bridge No. 24/2; Queen Shoals Bridge	Field Survey #	Site # (SHPO Only)
Town or Community Queen Shoals	County Clay	Negative No.	NR Listed Date
Architect/Builder B&O Railroad	Date of Construction Re-built in 1947	Style	
Exterior Siding/Materials Steel girder (removed in 1979)	Roofing Material N/A	Foundation Concrete and stone	
Property Use or Function Residence ☐ Commercial ☐ Other ☒	UTM# Zone 17N E: 475235 N: 4258064		
Survey Organization & Date Elk River Railroad, Inc. June 2021	Quadrangle Name Clendenin		
	Part of What Survey/FR# FR: 21-713-MULTI		

Sketch Map of Property
Or Attach Copy of USGS Map



Site No.

Present Owners Elk River Railroad, Inc. ("TERRI") Phone #	Owners Mailing Address 200 Greenbrier Road, PO Box 460 Summerville, WV 26651			
Describe Setting The resource is situated within a rural, forested, area on the south side of Elk River. Located in the railroad right-of-way crossing over Queen Shoals Creek. West of Queen Road. _____ Acres ☐ Archaeological Artifacts Present				
Description of Building or Site (Original and Present) _____ Stories _____ Front Bays Originally 120-ft steel girder bridge (concrete and stone) in railroad right-of-way. Railroad bridge used to carry rail traffic over Queen Shoals Creek as part of the B&O R.R. B&O removed the bridge steel and track in 1981 after abandoning the line in 1979; stone and concrete piers left in place. (Use Continuation Sheets)				
<table style="width: 100%; border: none;"> <tr> <td style="width: 15%; vertical-align: top;">Alterations</td> <td style="width: 10%; text-align: center;"> ☒ Yes ☐ No </td> <td style="width: 75%; vertical-align: top;"> If yes, describe B&O rebuilt the bridge in 1947; B&O removed all track and bridge steel in 1981. </td> </tr> </table>		Alterations	☒ Yes ☐ No	If yes, describe B&O rebuilt the bridge in 1947; B&O removed all track and bridge steel in 1981.
Alterations	☒ Yes ☐ No	If yes, describe B&O rebuilt the bridge in 1947; B&O removed all track and bridge steel in 1981.		
<table style="width: 100%; border: none;"> <tr> <td style="width: 15%; vertical-align: top;">Additions</td> <td style="width: 10%; text-align: center;"> ☐ Yes ☒ No </td> <td style="width: 75%; vertical-align: top;"> If yes, describe </td> </tr> </table>		Additions	☐ Yes ☒ No	If yes, describe
Additions	☐ Yes ☒ No	If yes, describe		
Describe All Outbuildings N/A (Use Continuation Sheets)				
Statement of Significance This bridge was part of the ex-Baltimore & Ohio Railroad (formally known as a section of the Charleston Division, and later Elk Subdivision of the Monongah Division); previously Coal & Coke Railway (B&O purchased in 1917 and took over operating the line; railroad and title ownership passed to B&O outright in 1933). B&O abandoned the line in 1979, and removed all track, crossties and bridge steel from the line by 1981. (Use Continuation Sheets)				
Bibliographical References "Elk River Railroad," American-Rails, https://www.american-rails.com/elk.html (June 20, 2021). USGS Topographic Maps; B&O Engineer Drawings (available upon request or at The Elk River Railroad offices). "B&O Charleston Division part i - Charleston to Queen Shoals," Dan Robie, http://www.wvncrails.org/bo-charleston-division-part-i--charleston-to-queen-shoals.html (accessed June 20, 2021). (Use Continuation Sheets)				
<table style="width: 100%; border: none;"> <tr> <td style="width: 60%;">Form Prepared By:</td> <td style="width: 40%;">Date: June 23, 2021</td> </tr> </table> Name/Organization: Elk River Railroad, Inc. Address: 200 Greenbrier Road, PO Box 460 Summerville, WV 26651 Phone #: 304-872-3000		Form Prepared By:	Date: June 23, 2021	
Form Prepared By:	Date: June 23, 2021			



West Virginia Division of Culture and History
State Historic Preservation Office

WEST VIRGINIA HISTORIC PROPERTY FORM CONTINUATION SHEET

NAME B&O RR Bridge No. 24/2; Queen Shoals Bridge

SITE# _____



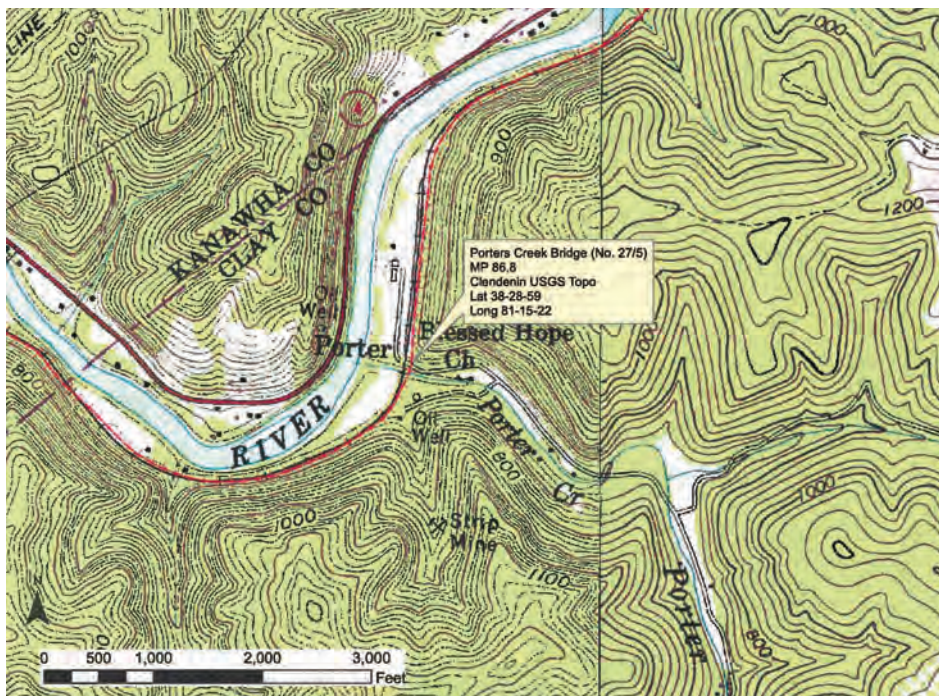


Internal Rating: _____

WEST VIRGINIA HISTORIC PROPERTY INVENTORY FORM

Street Address Elk River R.R. MP 86.8 (Val. Sta. 7756+17) ex-Baltimore & Ohio R.R. Hartland-Falling Rock, WV	Common/Historic Name/Both ☐ ☐ ☒ B&O RR Bridge No. 27/5; Porters Creek Bridge	Field Survey #	Site # (SHPO Only)	
Town or Community Porters	County Clay	Negative No.	NR Listed Date	
Architect/Builder B&O Railroad	Date of Construction Re-built in 1945	Style		
Exterior Siding/Materials Steel girder (removed in 1979)	Roofing Material N/A	Foundation Concrete		
Property Use or Function Residence ☐ Commercial ☐ Other ☒ UTM# Zone 17N E: 477662 N: 4259444				
Survey Organization & Date Elk River Railroad, Inc. June 2021				Quadrangle Name Clendenin
Part of What Survey/FR# FR: 21-713-MULTI				

Sketch Map of Property
Or Attach Copy of USGS Map



Site No.

Present Owners Elk River Railroad, Inc. ("TERRI") Phone #	Owners Mailing Address 200 Greenbrier Road, PO Box 460 Summerville, WV 26651
Describe Setting The resource is situated within a rural, forested, area on the east side of Elk River. _____ Acres Located in the railroad right-of-way crossing over Porters Creek. Not located in or around residential area. ☐ Archaeological Artifacts Present	
Description of Building or Site (Original and Present) _____ Stories _____ Front Bays Originally 130-ft steel girder and concrete bridge in railroad right-of-way. Railroad bridge was used to carry rail traffic over Porters Creek as part of the B&O R.R. B&O removed the bridge steel and track in 1981 after abandoning the line in 1979; concrete piers left in place. <i>(Use Continuation Sheets)</i>	
Alterations If yes, describe ☒ Yes ☐ No B&O rebuilt the bridge in 1945 (masonry reconstruction and steel repairs); B&O removed all track and bridge steel by 1981.	
Additions If yes, describe ☐ Yes ☒ No	
Describe All Outbuildings N/A <i>(Use Continuation Sheets)</i>	
Statement of Significance This bridge was part of the ex-Baltimore & Ohio Railroad (formally known as a section of the Charleston Division, and later Elk Subdivision of the Monongah Division); previously Coal & Coke Railway (B&O purchased in 1917 and took over operating the line; railroad and title ownership passed to B&O outright in 1933). B&O abandoned the line in 1979, and had removed all track, crossties and bridge steel from the line by 1981. <i>(Use Continuation Sheets)</i>	
Bibliographical References "Elk River Railroad," American-Rails, https://www.american-rails.com/elk.html (June 20, 2021). USGS Topographic Maps; B&O Engineer Drawings (available upon request or at The Elk River Railroad offices). "B&O Charleston Division part i - Charleston to Queen Shoals," Dan Robie, http://www.wvncrails.org/bo-charleston-division-part-i--charleston-to-queen-shoals.html (accessed June 20, 2021). <i>(Use Continuation Sheets)</i>	
Form Prepared By: _____ Date: June 23, 2021 Name/Organization: Elk River Railroad, Inc. Address: 200 Greenbrier Road, PO Box 460 Summerville, WV 26651 Phone #: 304-872-3000	



West Virginia Division of Culture and History
State Historic Preservation Office

WEST VIRGINIA HISTORIC PROPERTY FORM CONTINUATION SHEET

NAME B&O RR Bridge No. 27/5; Porters Creek Bridge

SITE#





Internal Rating: _____

WEST VIRGINIA HISTORIC PROPERTY INVENTORY FORM

Street Address Elk River R.R. MP 82.1 ex-Baltimore & Ohio R.R. Hartland-Falling Rock, WV	Common/Historic Name/Both ☐ ☐ ☒ B&O RR Bridge No. 31/9; Camp Creek Arch Bridge	Field Survey #	Site # (SHPO Only)	
Town or Community Camp	County Clay	Negative No.	NR Listed Date	
Architect/Builder B&O Railroad	Date of Construction c. 1918	Style		
Exterior Siding/Materials Stone	Roofing Material N/A	Foundation Stone		
Property Use or Function Residence ☐ Commercial ☐ Other ☒ UTM# Zone 17N E: 481056 N: 4260329				
Survey Organization & Date Elk River Railroad, Inc. June 2021				Quadrangle Name Elkhurst
Part of What Survey/FR# FR: 21-713-MULTI				

Sketch Map of Property
Or Attach Copy of USGS Map



Site No.

WEST VIRGINIA HISTORIC PROPERTY FORM CONTINUATION SHEET

NAME B&O RR Bridge No. 31/9; Camp Creek Arch Bridge

SITE#



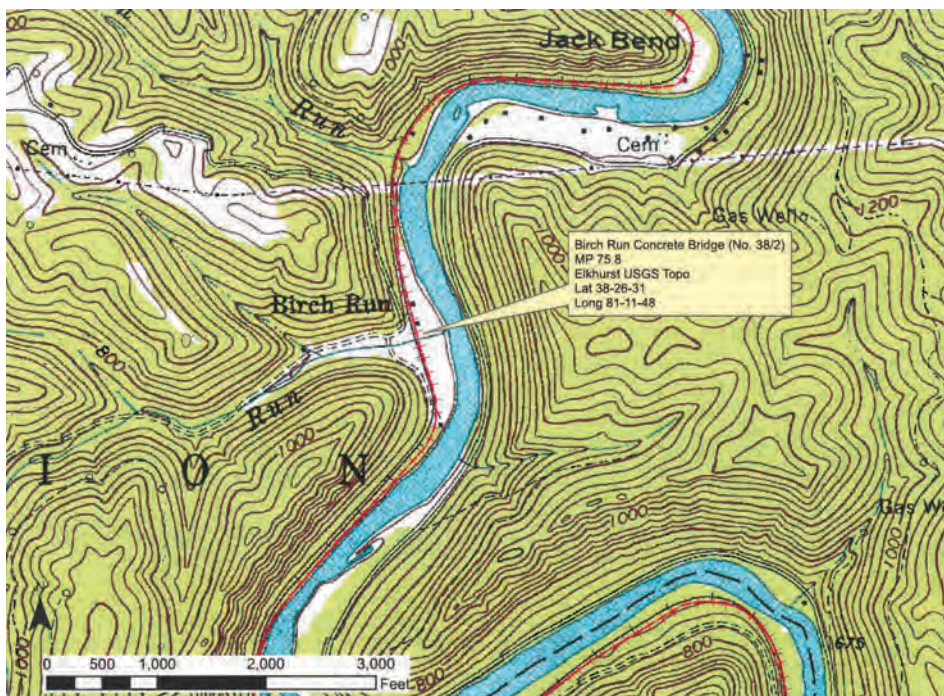


Internal Rating: _____

WEST VIRGINIA HISTORIC PROPERTY INVENTORY FORM

Street Address Elk River R.R. MP 75.8 (Sta. 7186+46) ex-Baltimore & Ohio R.R. Hartland-Falling Rock, WV	Common/Historic Name/Both ☐ ☐ ☒ B&O RR Bridge No. 38/2; Birch Run Bridge	Field Survey #	Site # (SHPO Only)
Town or Community Birch Run	County Clay	Negative No.	NR Listed Date
Architect/Builder Coal & Coke Railroad; B&O Railroad	Date of Construction 1928	Style	
Exterior Siding/Materials Concrete & steel (steel removed by 1981)	Roofing Material N/A	Foundation Stone	
Property Use or Function Residence ☐ Commercial ☐ Other ☒	UTM# Zone 17N E: 482837 N: 4254870		
Survey Organization & Date Elk River Railroad, Inc. June 2021	Quadrangle Name Elkhurst Part of What Survey/FR# FR: 21-713-MULTI		

Sketch Map of Property
Or Attach Copy of USGS Map



Site No.

Present Owners Elk River Railroad, Inc. ("TERRI") Phone #	Owners Mailing Address 200 Greenbrier Road, PO Box 460 Summerville, WV 26651
Describe Setting The resource is situated within a rural, forested area on the west side of Elk River. _____ Acres Located in the railroad right-of-way crossing over Birch Run. ☐ Archaeological Artifacts Present	
Description of Building or Site (Original and Present) _____ Stories _____ Front Bays 10-ft. concrete box culverts in railroad right-of-way. Railroad bridge was used to carry rail traffic over Birch Run as part of the B&O R.R. B&O removed all track and bridge steel from the line in 1981 after abandoning the line in 1979. <i>(Use Continuation Sheets)</i>	
Alterations ☒ Yes ☐ No If yes, describe B&O removed all track and bridge steel by 1981.	
Additions ☐ Yes ☒ No If yes, describe	
Describe All Outbuildings N/A <i>(Use Continuation Sheets)</i>	
Statement of Significance This bridge was part of the ex-Baltimore & Ohio Railroad (formally known as a section of the Charleston Division, and later Elk Subdivision of the Monongah Division); previously Coal & Coke Railway (B&O purchased in 1917 and took over operating the line; railroad and title ownership passed to B&O outright in 1933). B&O abandoned the line in 1979, and had removed all track, crossties and bridge steel from the line by 1981. <i>(Use Continuation Sheets)</i>	
Bibliographical References "Elk River Railroad," American-Rails, https://www.american-rails.com/elk.html (June 20, 2021). USGS Topographic Maps; B&O Engineer Drawings (available upon request or at The Elk River Railroad offices). "B&O Charleston Division part i - Charleston to Queen Shoals," Dan Robie, http://www.wvncrails.org/bo-charleston-division-part-i--charleston-to-queen-shoals.html (accessed June 20, 2021). <i>(Use Continuation Sheets)</i>	
Form Prepared By: _____ Date: June 23, 2021 Name/Organization: Elk River Railroad, Inc. Address: 200 Greenbrier Road, PO Box 460 Summerville, WV 26651 Phone #: 304-872-3000	



West Virginia Division of Culture and History
State Historic Preservation Office

WEST VIRGINIA HISTORIC PROPERTY FORM CONTINUATION SHEET

NAME B&O RR Bridge No. 38/2; Birch Run Bridge

SITE#



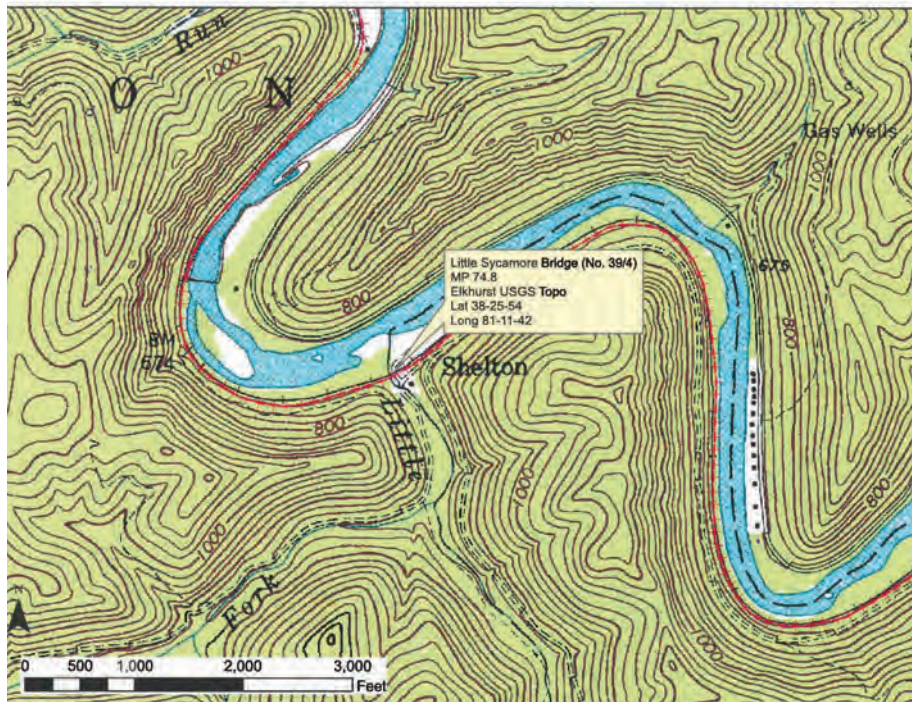


Internal Rating: _____

WEST VIRGINIA HISTORIC PROPERTY INVENTORY FORM

Street Address Elk River R.R. MP 74.8 (Sta. 7124+41) ex-Baltimore & Ohio R.R. Hartland-Falling Rock, WV	Common/Historic Name/Both ☐ ☐ ☒ B&O RR Bridge No. 39/4; Little Sycamore Bridge	Field Survey #	Site # (SHPO Only)
Town or Community Shelton	County Clay	Negative No.	NR Listed Date
Architect/Builder B&O Railroad	Date of Construction Re-built in 1945	Style	
Exterior Siding/Materials Stone	Roofing Material N/A	Foundation Concrete	
Property Use or Function Residence ☐ Commercial ☐ Other ☒	UTM# Zone 17N E: 482980 N: 4253729		
Survey Organization & Date Elk River Railroad, Inc. June 2021	Quadrangle Name Elkhurst		
Part of What Survey/FR# FR: 21-713-MULTI			

Sketch Map of Property
Or Attach Copy of USGS Map



Site No.

Present Owners Elk River Railroad, Inc. ("TERRI") Phone #	Owners Mailing Address 200 Greenbrier Road, PO Box 460 Summerville, WV 26651								
Describe Setting The resource is situated within a rural, forested area on the south side of Elk River _____ Acres in a non-residential/non-commercial area. Located in the railroad right-of-way crossing over Little Sycamore Creek. ☐ Archaeological Artifacts Present									
Description of Building or Site (Original and Present) _____ Stories _____ Front Bays Originally 110-ft. stone, concrete and steel railroad bridge in railroad right-of-way. Railroad bridge was used to carry rail traffic over Little Sycamore Creek as part of the B&O R.R. B&O removed all track and bridge steel in 1981 after abandoning the line in 1979; piers left in place. (Use Continuation Sheets)									
<table style="width: 100%;"> <tr> <td style="width: 20%;">Alterations</td> <td style="width: 10%;"> ☒ Yes ☐ No </td> <td style="width: 70%;"> If yes, describe B&O re-built in 1945 (masonry repairs [removed old masonry, recapped, stone masonry retaining walls], steel repairs [reinforced], waterproofing, backfill, reinforced concrete piers, etc.); B&O removed all track and bridge steel by 1981. </td> </tr> </table>		Alterations	☒ Yes ☐ No	If yes, describe B&O re-built in 1945 (masonry repairs [removed old masonry, recapped, stone masonry retaining walls], steel repairs [reinforced], waterproofing, backfill, reinforced concrete piers, etc.); B&O removed all track and bridge steel by 1981.					
Alterations	☒ Yes ☐ No	If yes, describe B&O re-built in 1945 (masonry repairs [removed old masonry, recapped, stone masonry retaining walls], steel repairs [reinforced], waterproofing, backfill, reinforced concrete piers, etc.); B&O removed all track and bridge steel by 1981.							
<table style="width: 100%;"> <tr> <td style="width: 20%;">Additions</td> <td style="width: 10%;"> ☐ Yes ☒ No </td> <td style="width: 70%;"> If yes, describe </td> </tr> </table>		Additions	☐ Yes ☒ No	If yes, describe					
Additions	☐ Yes ☒ No	If yes, describe							
Describe All Outbuildings N/A (Use Continuation Sheets)									
Statement of Significance This bridge was part of the ex-Baltimore & Ohio Railroad (formally known as a section of the Charleston Division, and later Elk Subdivision of the Monongah Division); previously Coal & Coke Railway (B&O purchased in 1917 and took over operating the line; railroad and title ownership passed to B&O outright in 1933). B&O abandoned the line in 1979, and had removed all track, crossties and bridge steel from the line by 1981. (Use Continuation Sheets)									
Bibliographical References "Elk River Railroad," American-Rails, https://www.american-rails.com/elk.html (June 20, 2021). USGS Topographic Maps; B&O Engineer Drawings (available upon request or at The Elk River Railroad offices). "B&O Charleston Division part i - Charleston to Queen Shoals," Dan Robie, http://www.wvncrails.org/bo-charleston-division-part-i--charleston-to-queen-shoals.html (accessed June 20, 2021). (Use Continuation Sheets)									
<table style="width: 100%;"> <tr> <td style="width: 60%;"> Form Prepared By: </td> <td style="width: 40%;"> Date: June 23, 2021 </td> </tr> <tr> <td colspan="2"> Name/Organization: Elk River Railroad, Inc. </td> </tr> <tr> <td colspan="2"> Address: 200 Greenbrier Road, PO Box 460 Summerville, WV 26651 </td> </tr> <tr> <td colspan="2"> Phone #: 304-872-3000 </td> </tr> </table>		Form Prepared By:	Date: June 23, 2021	Name/Organization: Elk River Railroad, Inc.		Address: 200 Greenbrier Road, PO Box 460 Summerville, WV 26651		Phone #: 304-872-3000	
Form Prepared By:	Date: June 23, 2021								
Name/Organization: Elk River Railroad, Inc.									
Address: 200 Greenbrier Road, PO Box 460 Summerville, WV 26651									
Phone #: 304-872-3000									



West Virginia Division of Culture and History
State Historic Preservation Office

WEST VIRGINIA HISTORIC PROPERTY FORM CONTINUATION SHEET

NAME B&O RR Bridge No. 39/4; Little Sycamore Bridge

SITE#



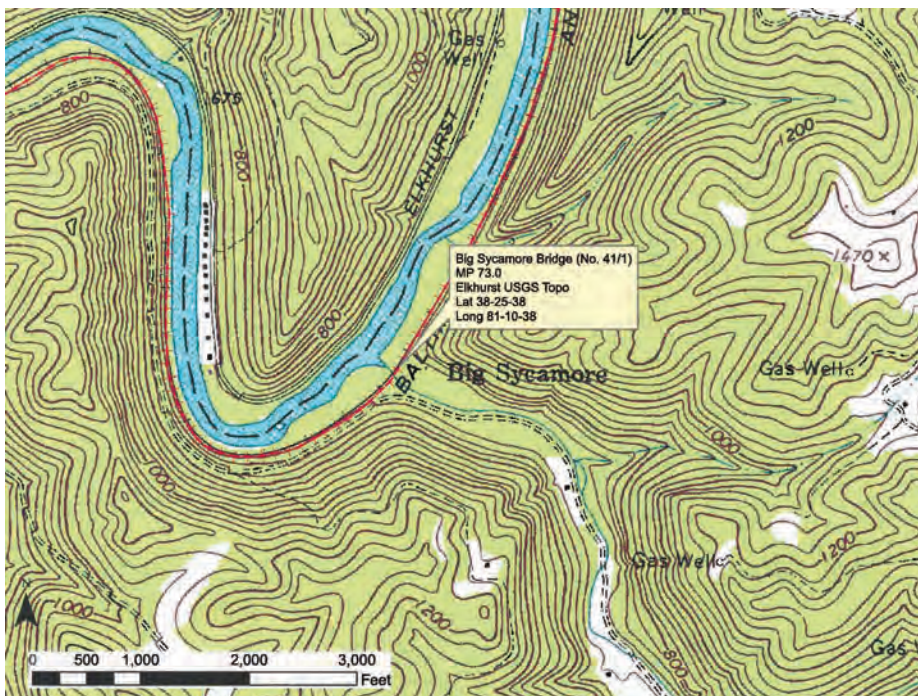


Internal Rating: _____

WEST VIRGINIA HISTORIC PROPERTY INVENTORY FORM

Street Address Elk River R.R. MP 73.0 ex-Baltimore & Ohio R.R. Hartland-Falling Rock, WV	Common/Historic Name/Both ☐ ☐ ☒ B&O RR Bridge No. 41/1; Big Sycamore Bridge	Field Survey #	Site # (SHPO Only)
Town or Community Ray (Val. Sta. 7036+02)	County Clay	Negative No.	NR Listed Date
Architect/Builder B&O Railroad	Date of Construction Re-built in 1943	Style	
Exterior Siding/Materials Concrete, structural steel & timber (steel & timber removed 1981)	Roofing Material N/A	Foundation Concrete	
Property Use or Function Residence ☐ Commercial ☐ Other ☒	UTM# Zone 17N E: 484531 N: 4253233		
Survey Organization & Date Elk River Railroad, Inc. June 2021	Quadrangle Name Elkhurst		
	Part of What Survey/FR# FR: 21-713-MULTI		

Sketch Map of Property
Or Attach Copy of USGS Map



Site No.

Present Owners Elk River Railroad, Inc. ("TERRI") Phone #	Owners Mailing Address 200 Greenbrier Road, PO Box 460 Summerville, WV 26651
Describe Setting The resource is situated within a rural, forested area on the east side of Elk River in a non-residential/non-commercial area. Located in the railroad right-of-way crossing over Big Sycamore Creek. _____ Acres ☐ Archaeological Artifacts Present	
Description of Building or Site (Original and Present) _____ Stories _____ Front Bays Originally 194-ft. concrete, structural steel, & timber railroad bridge in railroad right-of-way. Railroad bridge was used to carry rail traffic over Big Sycamore Creek as part of the B&O R.R. B&O removed all track and bridge steel in 1981 after abandoning the line in 1979; piers left in place. (Use Continuation Sheets)	
Alterations ☒ Yes ☐ No If yes, describe B&O re-built in 1945; B&O removed all track and bridge steel by 1981.	
Additions ☐ Yes ☒ No If yes, describe	
Describe All Outbuildings N/A (Use Continuation Sheets)	
Statement of Significance This bridge was part of the ex-Baltimore & Ohio Railroad (formally known as a section of the Charleston Division, and later Elk Subdivision of the Monongah Division); previously Coal & Coke Railway (B&O purchased in 1917 and took over operating the line; railroad and title ownership passed to B&O outright in 1933). B&O abandoned the line in 1979, and had removed all track, crossties and bridge steel from the line by 1981. (Use Continuation Sheets)	
Bibliographical References "Elk River Railroad," American-Rails, https://www.american-rails.com/elk.html (June 20, 2021). USGS Topographic Maps; B&O Engineer Drawings (available upon request or at The Elk River Railroad offices). "B&O Charleston Division part i - Charleston to Queen Shoals," Dan Robie, http://www.wvncrails.org/bo-charleston-division-part-i--charleston-to-queen-shoals.html (accessed June 20, 2021). (Use Continuation Sheets)	
Form Prepared By: _____ Date: June 23, 2021 Name/Organization: Elk River Railroad, Inc. Address: 200 Greenbrier Road, PO Box 460 Summerville, WV 26651 Phone #: 304-872-3000	



West Virginia Division of Culture and History
State Historic Preservation Office

WEST VIRGINIA HISTORIC PROPERTY FORM

CONTINUATION SHEET

NAME B&O RR Bridge No. 41/1; Big Sycamore Bridge

SITE#



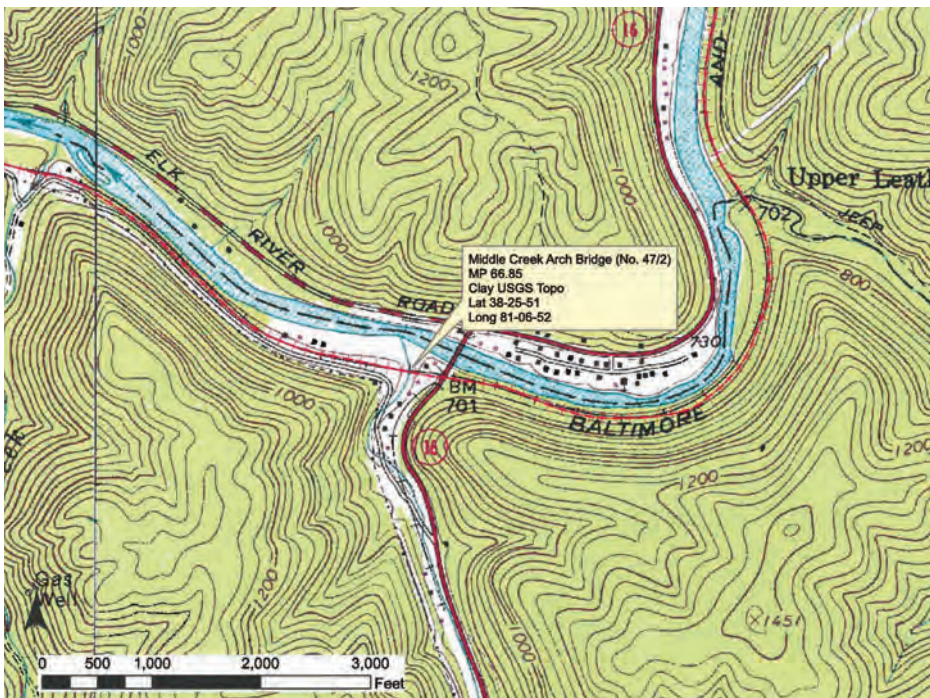


Internal Rating: _____

WEST VIRGINIA HISTORIC PROPERTY INVENTORY FORM

Street Address Elk River R.R. MP 66.85 ex-Baltimore & Ohio R.R. Hartland-Falling Rock, WV	Common/Historic Name/Both ☐ ☐ ☒ B&O RR Bridge No. 47.2; Middle Creek Bridge	Field Survey #	Site # (SHPO Only)
Town or Community Hartland	County Clay	Negative No.	NR Listed Date
Architect/Builder Likely constructed during ownership by Coal & Coke Ry.	Date of Construction c. 1918	Style	
Exterior Siding/Materials Stone	Roofing Material N/A	Foundation Stone	
Property Use or Function Residence ☐ Commercial ☐ Other ☒	UTM# Zone 17N E: 490011 N: 4253625		
Survey Organization & Date Elk River Railroad, Inc. June 2021	Quadrangle Name Elkhurst		
Part of What Survey/FR# FR: 21-713-MULTI			

Sketch Map of Property
Or Attach Copy of USGS Map



Site No.

Present Owners Elk River Railroad, Inc. ("TERRI") Phone #	Owners Mailing Address 200 Greenbrier Road, PO Box 460 Summerville, WV 26651
Describe Setting The resource is situated within a rural, forested area on the south side of Elk River. _____ Acres Located in the railroad right-of-way crossing over Middle Creek on the ex-B&O mainline. ☐ Archaeological Artifacts Present	
Description of Building or Site (Original and Present) _____ Stories _____ Front Bays Stone arch bridge culverts in railroad right-of-way. Originally used to carry rail traffic over Middle Creek as part of the B&O R.R. B&O removed all track from Falling Rock-Hartland in 1981 after abandoning the line in 1979. <i>(Use Continuation Sheets)</i>	
Alterations ☒ Yes ☐ No If yes, describe B&O altered in 1929 (unknown alterations).	
Additions ☐ Yes ☒ No If yes, describe	
Describe All Outbuildings N/A <i>(Use Continuation Sheets)</i>	
Statement of Significance This bridge was part of the ex-Baltimore & Ohio Railroad (formally known as a section of the Charleston Division, and later Elk Subdivision of the Monongah Division); previously Coal & Coke Railway (B&O purchased in 1917 and took over operating the line; railroad and title ownership passed to B&O outright in 1933). B&O abandoned the line in 1979, and had removed all track, crossties and bridge steel from the line by 1981. <i>(Use Continuation Sheets)</i>	
Bibliographical References "Elk River Railroad," American-Rails, https://www.american-rails.com/elk.html (June 20, 2021). USGS Topographic Maps; B&O Engineer Drawings (available upon request or at The Elk River Railroad offices). "B&O Charleston Division part i - Charleston to Queen Shoals," Dan Robie, http://www.wvncrails.org/bo-charleston-division-part-i--charleston-to-queen-shoals.html (accessed June 20, 2021). <i>(Use Continuation Sheets)</i>	
Form Prepared By: _____ Date: June 23, 2021 Name/Organization: Elk River Railroad, Inc. Address: 200 Greenbrier Road, PO Box 460 Summerville, WV 26651 Phone #: 304-872-3000	

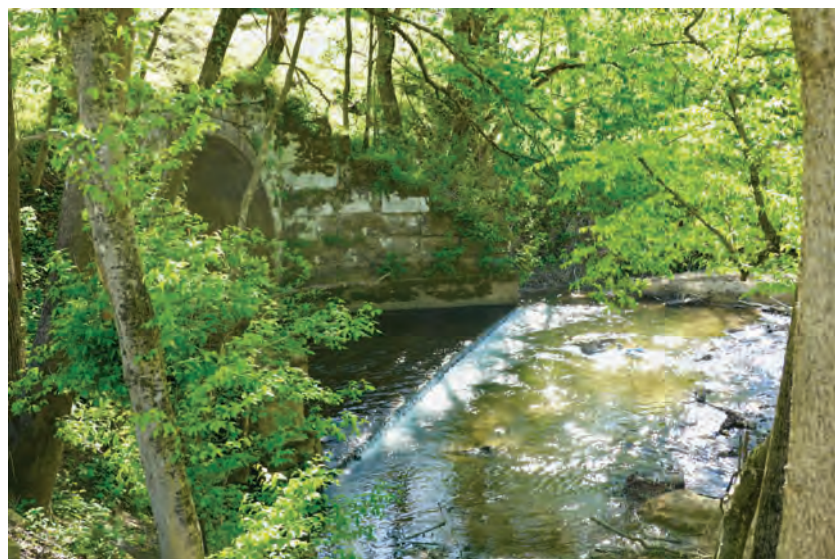
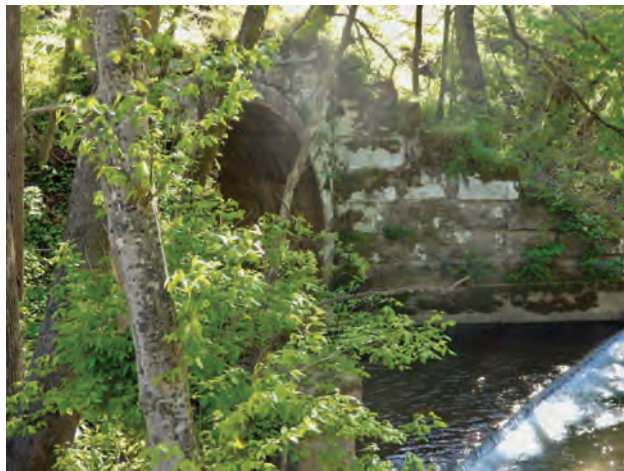


West Virginia Division of Culture and History
State Historic Preservation Office

WEST VIRGINIA HISTORIC PROPERTY FORM CONTINUATION SHEET

NAME B&O RR Bridge No. 47.2; Middle Creek Bridge

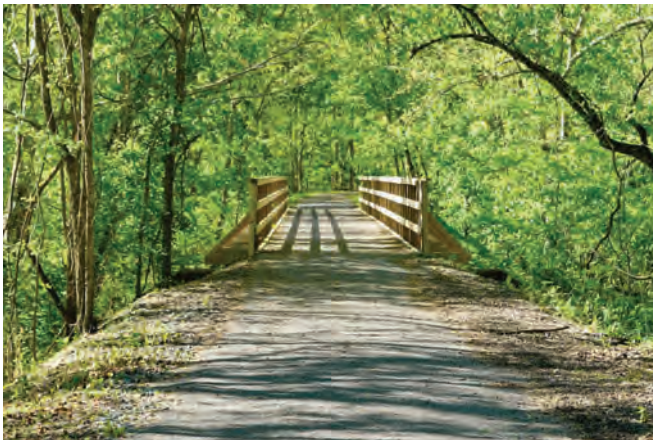
SITE#



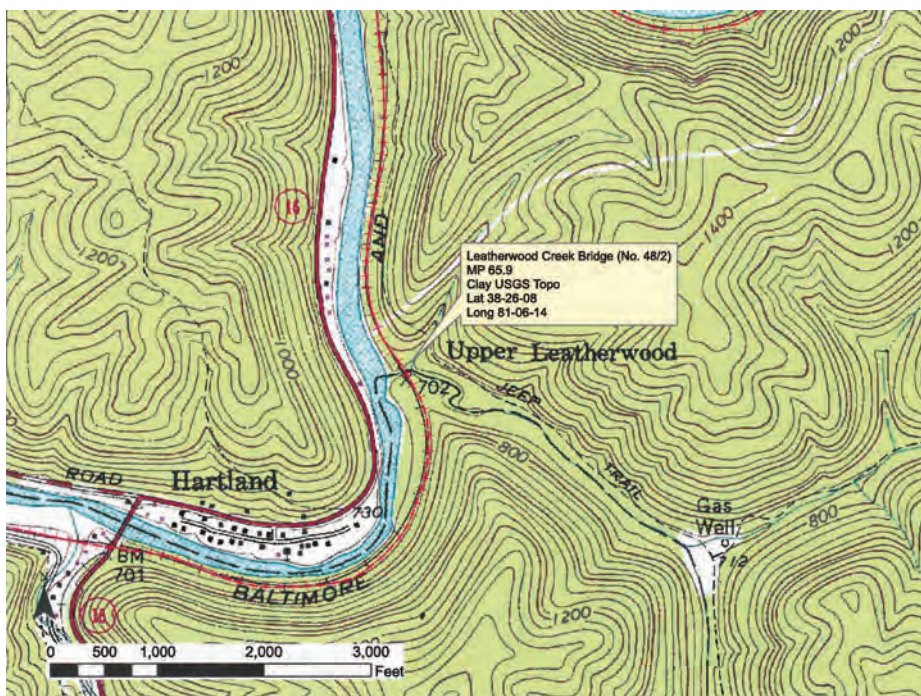


Internal Rating: _____

WEST VIRGINIA HISTORIC PROPERTY INVENTORY FORM

Street Address Elk River R.R. MP 65.9 ex-Baltimore & Ohio R.R. Hartland-Gilmer, WV	Common/Historic Name/Both ○ ○ ⊙ B&O RR Bridge No. 48/2; Leatherwood Creek Bridge	Field Survey #	Site # (SHPO Only)
Town or Community Upper Leatherwood (Val. Sta. 6663+00)	County Clay	Negative No.	NR Listed Date
Architect/Builder B&O Railroad	Date of Construction 1943	Style	
Exterior Siding/Materials Concrete, steel & timber	Roofing Material Wooden decking and handrails	Foundation Concrete	
Property Use or Function Residence ○ Commercial ○ Other ⊙	UTM# Zone 17N E: 490933 N: 4254148		
Survey Organization & Date Elk River Railroad, Inc. June 2021	Quadrangle Name Clay		
Part of What Survey/FR# FR: 21-713-MULTI			

Sketch Map of Property
Or Attach Copy of USGS Map



Site No.

Present Owners Elk River Railroad, Inc. ("TERRI") Phone #	Owners Mailing Address 200 Greenbrier Road, PO Box 460 Summerville, WV 26651			
Describe Setting The resource is situated within a rural, forested, area on the east side of Elk River. _____ Acres Located in the railroad right-of-way crossing over Leatherwood Creek. ☐ Archaeological Artifacts Present				
Description of Building or Site (Original and Present) _____ Stories _____ Front Bays 155-ft. long concrete, steel and timber bridge; original bridge abutments, piers and steel in place; wooden decking and handrails added in 2020. Originally, railroad bridge was used to carry rail traffic over Leatherwood Creek as part of the B&O R.R. (Use Continuation Sheets)				
<table style="width: 100%; border: none;"> <tr> <td style="width: 20%;">Alterations</td> <td style="width: 10%; text-align: center;"> ☒ Yes ☐ No </td> <td style="width: 70%;"> If yes, describe In 2020, TERRI removed bridge ties and installed wooden decking and handrails sufficient to support 80,000 lb weight. </td> </tr> </table>		Alterations	☒ Yes ☐ No	If yes, describe In 2020, TERRI removed bridge ties and installed wooden decking and handrails sufficient to support 80,000 lb weight.
Alterations	☒ Yes ☐ No	If yes, describe In 2020, TERRI removed bridge ties and installed wooden decking and handrails sufficient to support 80,000 lb weight.		
<table style="width: 100%; border: none;"> <tr> <td style="width: 20%;">Additions</td> <td style="width: 10%; text-align: center;"> ☐ Yes ☒ No </td> <td style="width: 70%;"> If yes, describe </td> </tr> </table>		Additions	☐ Yes ☒ No	If yes, describe
Additions	☐ Yes ☒ No	If yes, describe		
Describe All Outbuildings N/A (Use Continuation Sheets)				
Statement of Significance This bridge was part of the ex-B&O (Charleston Division, ultimately absorbed into Monongah Division); previously Coal & Coke Railway (B&O purchased and began operating in 1917; railroad and title ownership passed to B&O outright in 1933). B&O was absorbed into the Chesapeake & Ohio Ry., which was merged into CSX in 1987. In 1989, TERRI purchased former B&O from Gilmer to Hartland with the goal of rehabilitating the inactive Line and attracting new business, primarily through serving coal mining operations located along the line. TERRI began operating over the line from in early 1996 with minimal traffic. Approx. 50 freight trains transported coal over this portion of the line each year between 1996 and 1999. No trains have operated over the Line since 1999. (Use Continuation Sheets)				
Bibliographical References "Elk River Railroad," American-Rails, https://www.american-rails.com/elk.html (June 20, 2021). USGS Topographic Maps; B&O Engineer Drawings (available upon request or at The Elk River Railroad offices). "B&O Charleston Division part ii - Clay County to Gassaway," Dan Robie, http://www.wvncrails.org/bo-charleston-division-part-ii-clay-county-to-gassaway.html (accessed June 22, 2021). (Use Continuation Sheets)				
Form Prepared By: _____ Date: June 23, 2021 Name/Organization: Elk River Railroad, Inc. Address: 200 Greenbrier Road, PO Box 460 Summerville, WV 26651 Phone #: 304-872-3000				



West Virginia Division of Culture and History
State Historic Preservation Office

WEST VIRGINIA HISTORIC PROPERTY FORM CONTINUATION SHEET

NAME B&O RR Bridge No. 48/2; Leatherwood Creek Bridge

SITE#



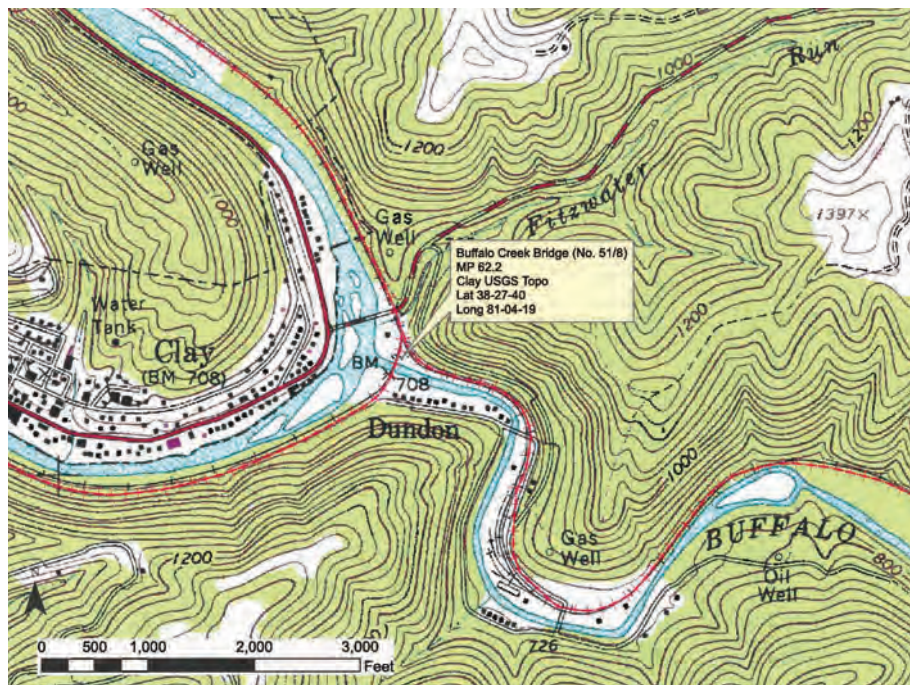


Internal Rating: _____

WEST VIRGINIA HISTORIC PROPERTY INVENTORY FORM

Street Address Elk River R.R. MP 62.2 ex-Baltimore & Ohio R.R. Hartland-Gilmer, WV	Common/Historic Name/Both ☐ ☐ ☒ B&O RR Bridge No. 51/8; Buffalo Creek Bridge	Field Survey #	Site # (SHPO Only)	
Town or Community Dundon	County Clay	Negative No.	NR Listed Date	
Architect/Builder Pencoyd Iron Works	Date of Construction 1896	Style		
Exterior Siding/Materials Steel	Roofing Material Wooden decking and handrails	Foundation Concrete		
Property Use or Function Residence ☐ Commercial ☐ Other ☒ UTM# Zone 17N E: 493723 N: 4256981				
Survey Organization & Date Elk River Railroad, Inc. June 2021				Quadrangle Name Clay
Part of What Survey/FR# FR: 21-713-MULTI				

Sketch Map of Property
Or Attach Copy of USGS Map



Site No.



Present Owners Elk River Railroad, Inc. ("TERRI") Phone #	Owners Mailing Address 200 Greenbrier Road, PO Box 460 Summerville, WV 26651			
Describe Setting The resource is situated within a rural, forested, area on the east side of Elk River. _____ Acres Located in the railroad right-of-way crossing over Buffalo Creek at the beginning of the Buffalo Creek & Gauley Railroad (BC&G). ☐ Archaeological Artifacts Present				
Description of Building or Site (Original and Present) _____ Stories _____ Front Bays 177-ft. long railroad bridge; original bridge abutments, piers and steel in place; wooden decking and handrails added in 2020. Originally, railroad bridge was used to carry rail traffic over Buffalo Creek as part of the B&O R.R. <i>(Use Continuation Sheets)</i>				
<table style="width: 100%; border: none;"> <tr> <td style="width: 15%;">Alterations</td> <td style="width: 10%;"> ☒ Yes ☐ No </td> <td style="width: 75%;"> If yes, describe B&O treated deck in 1927; in 2020, TERRI installed wooden decking and handrails sufficient to support 80,000 lb weight. </td> </tr> </table>		Alterations	☒ Yes ☐ No	If yes, describe B&O treated deck in 1927; in 2020, TERRI installed wooden decking and handrails sufficient to support 80,000 lb weight.
Alterations	☒ Yes ☐ No	If yes, describe B&O treated deck in 1927; in 2020, TERRI installed wooden decking and handrails sufficient to support 80,000 lb weight.		
<table style="width: 100%; border: none;"> <tr> <td style="width: 15%;">Additions</td> <td style="width: 10%;"> ☐ Yes ☒ No </td> <td style="width: 75%;"> If yes, describe </td> </tr> </table>		Additions	☐ Yes ☒ No	If yes, describe
Additions	☐ Yes ☒ No	If yes, describe		
Describe All Outbuildings N/A <i>(Use Continuation Sheets)</i>				
Statement of Significance This bridge was part of the ex-B&O (Charleston Division, ultimately absorbed into Monongah Division); previously Coal & Coke Railway (B&O purchased and began operating in 1917; railroad and title ownership passed to B&O outright in 1933). B&O was absorbed into the Chesapeake & Ohio Ry., which was merged into CSX in 1987. In 1989, TERRI purchased former B&O from Gilmer to Hartland with the goal of rehabilitating the inactive Line and attracting new business, primarily through serving coal mining operations located along the line. TERRI began operating over the line from in early 1996 with minimal traffic. Approx. 50 freight trains transported coal over this portion of the line each year between 1996 and 1999. No trains have operated over the Line since 1999. <i>(Use Continuation Sheets)</i>				
Bibliographical References "Elk River Railroad," American-Rails, https://www.american-rails.com/elk.html (June 20, 2021). USGS Topographic Maps; B&O Engineer Drawings (available upon request or at The Elk River Railroad offices). "B&O Charleston Division part ii - Clay County to Gassaway," Dan Robie, http://www.wvncrails.org/bo-charleston-division-part-ii-clay-county-to-gassaway.html (accessed June 22, 2021). <i>(Use Continuation Sheets)</i>				
<table style="width: 100%; border: none;"> <tr> <td style="width: 60%;">Form Prepared By:</td> <td style="width: 40%;">Date: June 23, 2021</td> </tr> </table>		Form Prepared By:	Date: June 23, 2021	
Form Prepared By:	Date: June 23, 2021			
Name/Organization: Elk River Railroad, Inc. Address: 200 Greenbrier Road, PO Box 460 Summerville, WV 26651 Phone #: 304-872-3000				



West Virginia Division of Culture and History
State Historic Preservation Office

WEST VIRGINIA HISTORIC PROPERTY FORM CONTINUATION SHEET

NAME B&O RR Bridge No. 51/8; Buffalo Creek Bridge

SITE#



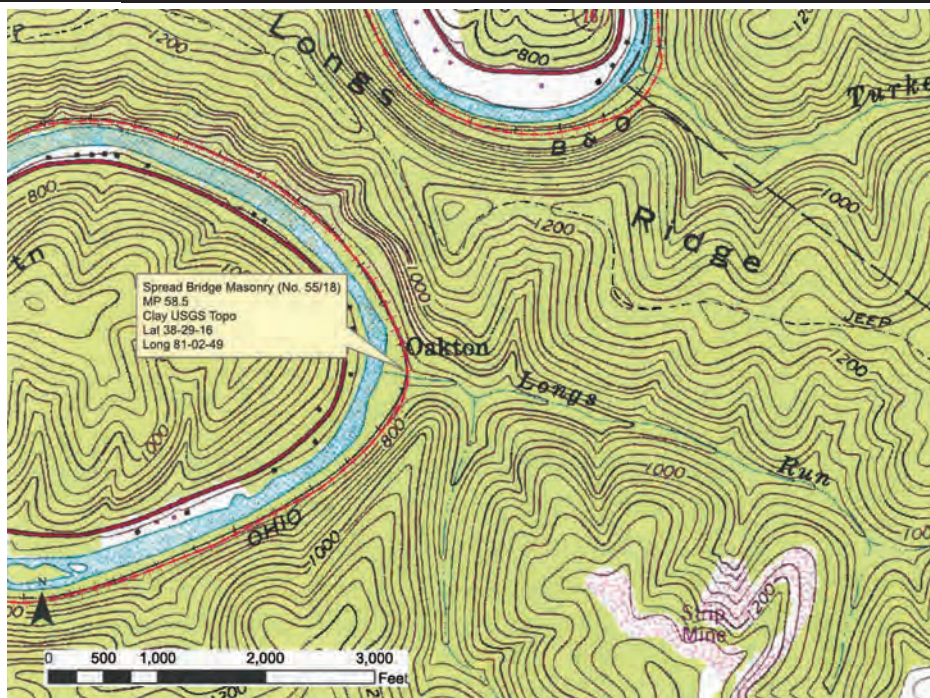


Internal Rating: _____

WEST VIRGINIA HISTORIC PROPERTY INVENTORY FORM

Street Address Elk River R.R. MP 58.5 ex-Baltimore & Ohio R.R. Hartland-Gilmer, WV	Common/Historic Name/Both ☐ ☐ ☒ Bridge No. 55/18	Field Survey #	Site # (SHPO Only)
Town or Community Oakton	County Clay	Negative No.	NR Listed Date
Architect/Builder Likely constructed during ownership by Coal & Coke Railway	Date of Construction c. 1900	Style	
Exterior Siding/Materials n/a	Roofing Material n/a	Foundation Concrete box bridge culverts	
Property Use or Function Residence ☐ Commercial ☐ Other ☒ UTM# Zone 17N E: 495906 N: 4259938			
Survey Organization & Date Elk River Railroad, Inc. June 2021			

Sketch Map of Property
Or Attach Copy of USGS Map



Site No.

Present Owners Elk River Railroad, Inc. ("TERRI") Phone # 304-872-3000	Owners Mailing Address 200 Greenbrier Road, PO Box 460 Summerville, WV 26651
Describe Setting The resource is situated within a rural, forested, area on the east side of Elk River. _____ Acres Located in the railroad right-of-way at Longs Run. ☐ Archaeological Artifacts Present	
Description of Building or Site (Original and Present) _____ Stories _____ Front Bays Concrete box bridge culverts. (Use Continuation Sheets)	
Alterations ☒ Yes ☐ No If yes, describe B&O made masonry repairs in 1946 (concrete with reinforced steel)	
Additions ☐ Yes ☒ No If yes, describe	
Describe All Outbuildings N/A (Use Continuation Sheets)	
Statement of Significance This bridge was part of the ex-B&O (Charleston Division, ultimately absorbed into Monongah Division); previously Coal & Coke Railway (B&O purchased and began operating in 1917; railroad and title ownership passed to B&O outright in 1933). B&O was absorbed into the Chesapeake & Ohio Ry., which was merged into CSX in 1987. In 1989, TERRI purchased former B&O from Gilmer to Hartland with the goal of rehabilitating the inactive Line and attracting new business, primarily through serving coal mining operations located along the line. TERRI began operating over the line from in early 1996 with minimal traffic. Approx. 50 freight trains transported coal over this portion of the line each year between 1996 and 1999. No trains have operated over the Line since 1999. (Use Continuation Sheets)	
Bibliographical References "Elk River Railroad," American-Rails, https://www.american-rails.com/elk.html (June 20, 2021). USGS Topographic Maps; B&O Engineer Drawings (available upon request or at The Elk River Railroad offices). "B&O Charleston Division part ii - Clay County to Gassaway," Dan Robie, http://www.wvncrails.org/bo-charleston-division-part-ii-clay-county-to-gassaway.html (accessed June 22, 2021). (Use Continuation Sheets)	
Form Prepared By: _____ Date: June 23, 2021 Name/Organization: Elk River Railroad, Inc. Address: 200 Greenbrier Road, PO Box 460 Summerville, WV 26651 Phone #: 304-872-3000	



West Virginia Division of Culture and History
State Historic Preservation Office

WEST VIRGINIA HISTORIC PROPERTY FORM CONTINUATION SHEET

NAME Bridge No. 55/18

SITE#



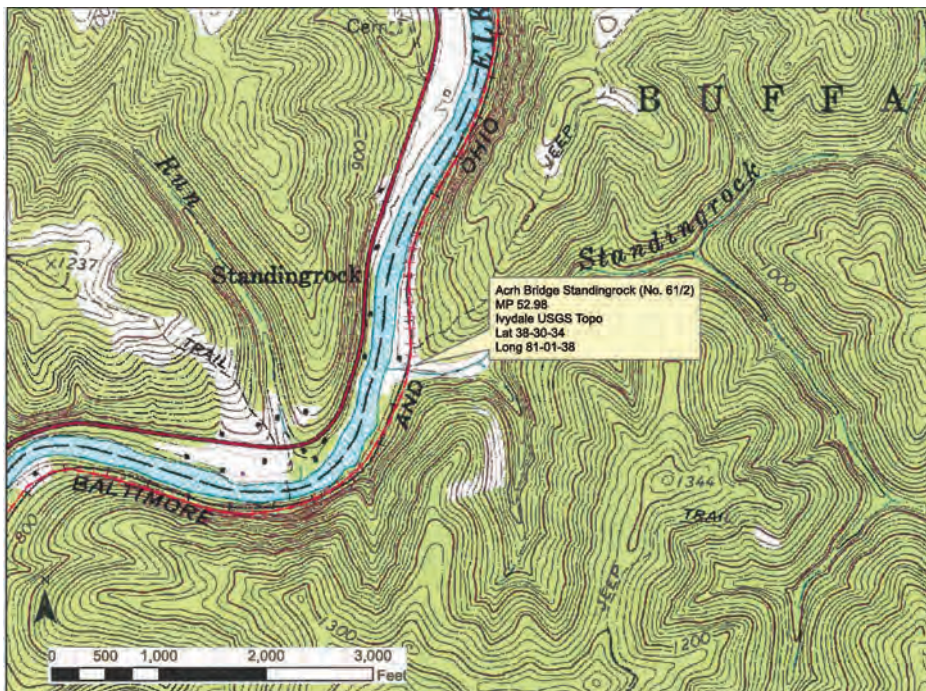


Internal Rating: _____

WEST VIRGINIA HISTORIC PROPERTY INVENTORY FORM

Street Address Elk River R.R. MP 52.98 ex-Baltimore & Ohio R.R. Hartland-Gilmer, WV	Common/Historic Name/Both ○ ○ ⊙ B&O RR Bridge No. 61/2; Standingrock	Field Survey #	Site # (SHPO Only)
Town or Community Otter (Val. Sta. 5979+85.4)	County Clay	Negative No.	NR Listed Date
Architect/Builder Likely constructed during ownership by Coal & Coke Ry.	Date of Construction c. 1900	Style	
Exterior Siding/Materials Stone	Roofing Material Concrete	Foundation Stone arch bridge culverts	
Property Use or Function Residence ○ Commercial ○ Other ⊙	UTM# Zone 17N E: 497627 N: 4262342		
Survey Organization & Date Elk River Railroad, Inc. June 2021	Quadrangle Name Ivydale		
Part of What Survey/FR# FR: 21-713-MULTI			

Sketch Map of Property
Or Attach Copy of USGS Map



Site No.

Present Owners Elk River Railroad, Inc. ("TERRI") Phone #	Owners Mailing Address 200 Greenbrier Road, PO Box 460 Summerville, WV 26651
Describe Setting The resource is situated within a rural, forested, area on the east side of Elk River. _____ Acres It is not in, or located near, a residential or commercial area. Located in the railroad right-of-way crossing over Standingrock Run ☐ Archaeological Artifacts Present	
Description of Building or Site (Original and Present) _____ Stories _____ Front Bays Stone arch bridge culverts. <i>(Use Continuation Sheets)</i>	
Alterations If yes, describe ☒ Yes ☐ No B&O made revisions in 1933.	
Additions If yes, describe ☐ Yes ☒ No	
Describe All Outbuildings N/A <i>(Use Continuation Sheets)</i>	
Statement of Significance This bridge was part of the ex-B&O (Charleston Division, ultimately absorbed into Monongah Division); previously Coal & Coke Railway (B&O purchased and began operating in 1917; railroad and title ownership passed to B&O outright in 1933). B&O was absorbed into the Chesapeake & Ohio Ry., which was merged into CSX in 1987. In 1989, TERRI purchased former B&O from Gilmer to Hartland with the goal of rehabilitating the inactive Line and attracting new business, primarily through serving coal mining operations located along the line. TERRI began operating over the line from in early 1996 with minimal traffic. Approx. 50 freight trains transported coal over this portion of the line each year between 1996 and 1999. No trains have operated over the Line since 1999. <i>(Use Continuation Sheets)</i>	
Bibliographical References "Elk River Railroad," American-Rails, https://www.american-rails.com/elk.html (June 20, 2021). USGS Topographic Maps; B&O Engineer Drawings (available upon request or at The Elk River Railroad offices). "B&O Charleston Division part ii - Clay County to Gassaway," Dan Robie, http://www.wvncrails.org/bo-charleston-division-part-ii-clay-county-to-gassaway.html (accessed June 22, 2021). <i>(Use Continuation Sheets)</i>	
Form Prepared By: _____ Date: June 23, 2021 Name/Organization: Elk River Railroad, Inc. Address: 200 Greenbrier Road, PO Box 460 Summerville, WV 26651 Phone #: 304-872-3000	



West Virginia Division of Culture and History
State Historic Preservation Office

WEST VIRGINIA HISTORIC PROPERTY FORM CONTINUATION SHEET

NAME B&O RR Bridge No. 61/2; Standingrock

SITE#



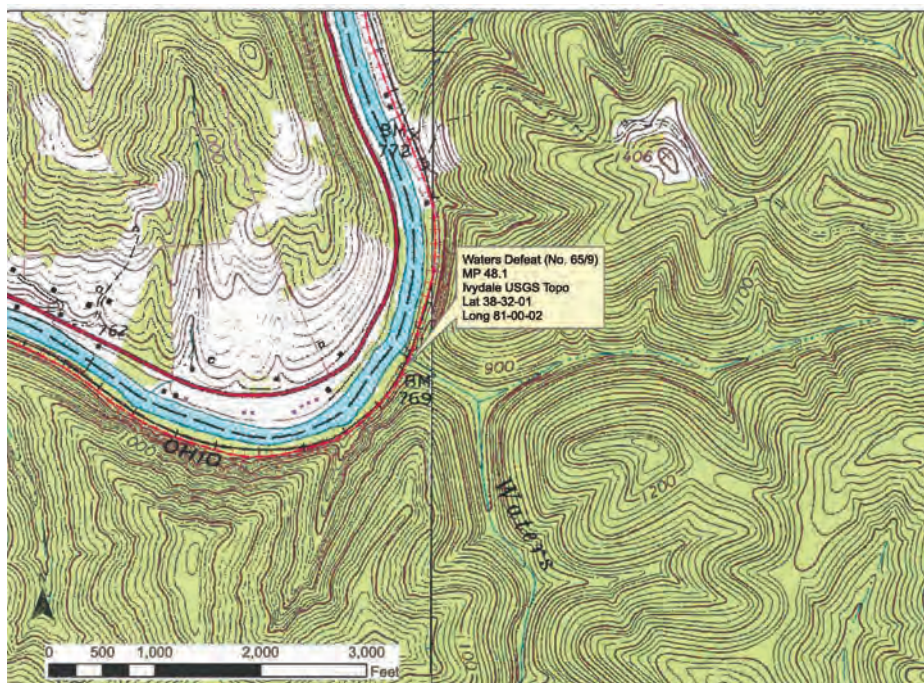


Internal Rating: _____

WEST VIRGINIA HISTORIC PROPERTY INVENTORY FORM

Street Address Elk River R.R. MP 48.1 ex-Baltimore & Ohio R.R. Hartland-Gilmer, WV	Common/Historic Name/Both ☐ ☐ ☒ B&O RR Bridge No. 65/9; Waters Defeat	Field Survey #	Site # (SHPO Only)
Town or Community Otter	County Clay	Negative No.	NR Listed Date
Architect/Builder Penn Steel Co. (Builder)	Date of Construction 1903	Style 38-ft. long bridge; bridge abutments, piers and steel in place	
Exterior Siding/Materials Steel beams	Roofing Material Currently wood decking	Foundation Stone/concrete	
Property Use or Function Residence ☐ Commercial ☐ Other ☒	UTM# Zone 17N E: 499952 N: 4265023		
Survey Organization & Date Elk River Railroad, Inc. June 2021	Quadrangle Name Ivydale		
Part of What Survey/FR# FR: 21-713-MULTI			

Sketch Map of Property
Or Attach Copy of USGS Map



Site No.

Present Owners Elk River Railroad, Inc. ("TERRI") Phone #	Owners Mailing Address 200 Greenbrier Road, PO Box 460 Summerville, WV 26651
Describe Setting The resource is situated within a rural, forested, area on the east side of Elk River. _____ Acres Located in the railroad right-of-way crossing over Waters Defeat River. ☐ Archaeological Artifacts Present	
Description of Building or Site (Original and Present) _____ Stories _____ Front Bays 38-ft. long railroad bridge; original bridge abutments, piers and steel in place; wooden decking and handrails added in 2020. Originally, railroad bridge was used to carry rail traffic over Waters Defeat as part of the B&O R.R. (Use Continuation Sheets)	
Alterations If yes, describe ☐ Yes ☒ No	
Additions If yes, describe ☒ Yes ☐ No In 2020, TERRI installed wooden decking and handrails over the bridge to support 80,000 lb. weight.	
Describe All Outbuildings N/A (Use Continuation Sheets)	
Statement of Significance This bridge was part of the ex-B&O (Charleston Division, ultimately absorbed into Monangah Division); previously Coal & Coke Railway (B&O purchased and began operating in 1917; railroad and title ownership passed to B&O outright in 1933). B&O was absorbed into the Chesapeake & Ohio Ry., which was merged into CSX in 1987. In 1989, TERRI purchased former B&O from Gilmer to Hartland with the goal of rehabilitating the inactive Line and attracting new business, primarily through serving coal mining operations located along the line. TERRI began operating over the line from in early 1996 with minimal traffic. Approx. 50 freight trains transported coal over this portion of the line each year between 1996 and 1999. No trains have operated over the Line since 1999. (Use Continuation Sheets)	
Bibliographical References "Elk River Railroad," American-Rails, https://www.american-rails.com/elk.html (June 20, 2021). USGS Topographic Maps; B&O Engineer Drawings (available upon request or at The Elk River Railroad offices). "B&O Charleston Division part ii - Clay County to Gassaway," Dan Robie, http://www.wvncrails.org/bo-charleston-division-part-ii-clay-county-to-gassaway.html (accessed June 22, 2021). (Use Continuation Sheets)	
Form Prepared By: _____ Date: June 23, 2021 Name/Organization: Elk River Railroad, Inc. Address: 200 Greenbrier Road, PO Box 460 Summerville, WV 26651 Phone #: 304-872-3000	

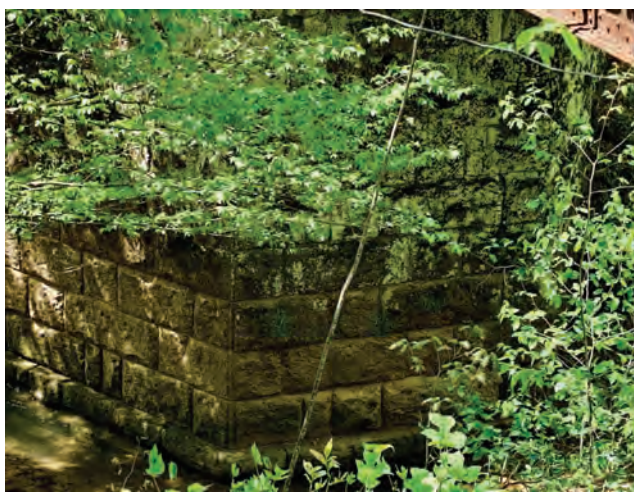


West Virginia Division of Culture and History
State Historic Preservation Office

WEST VIRGINIA HISTORIC PROPERTY FORM CONTINUATION SHEET

NAME B&O RR Bridge No. 65/9; Waters Defeat

SITE#



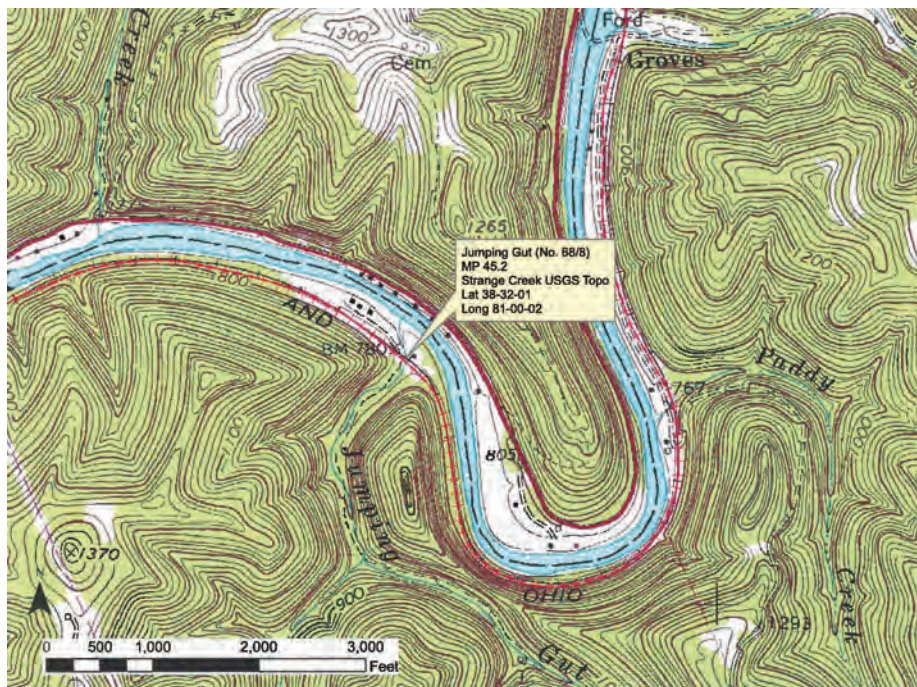


Internal Rating: _____

WEST VIRGINIA HISTORIC PROPERTY INVENTORY FORM

Street Address EEIk River R.R. MP 45.2 ex-Baltimore & Ohio R.R. Hartland-Gilmer, WV	Common/Historic Name/Both ○ ○ ⊙ B&O RR Bridge No. 68/8; Jumping Gut Run	Field Survey #	Site # (SHPO Only)
Town or Community Blue Ridge Sta.	County Clay	Negative No.	NR Listed Date
Architect/Builder Penn Steel Co. (Builder)	Date of Construction 1903	Style	
Exterior Siding/Materials Steel beams	Roofing Material Currently wood decking	Foundation Stone/concrete	
Property Use or Function Residence ○ Commercial ○ Other ⊙	UTM# Zone 17N E: 502759 N: 4266626		
Survey Organization & Date Elk River Railroad, Inc. June 2021	Quadrangle Name Strange Creek		
Part of What Survey/FR# FR: 21-713-MULTI			

Sketch Map of Property
Or Attach Copy of USGS Map

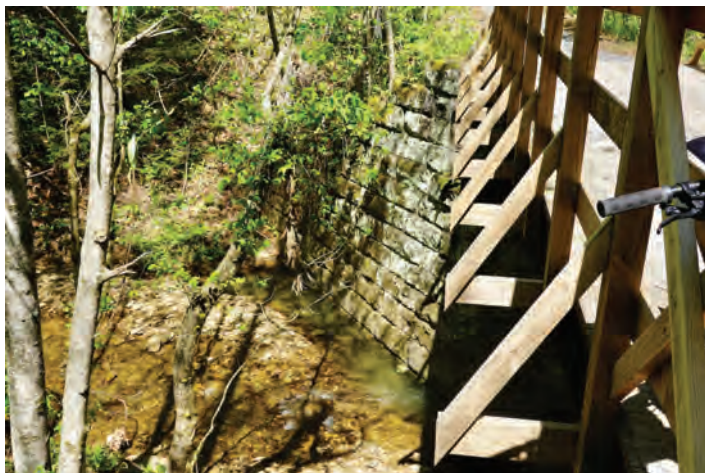


Site No.

WEST VIRGINIA HISTORIC PROPERTY FORM CONTINUATION SHEET

NAME B&O RR Bridge No. 68/8; Jumping Gut Run

SITE# _____



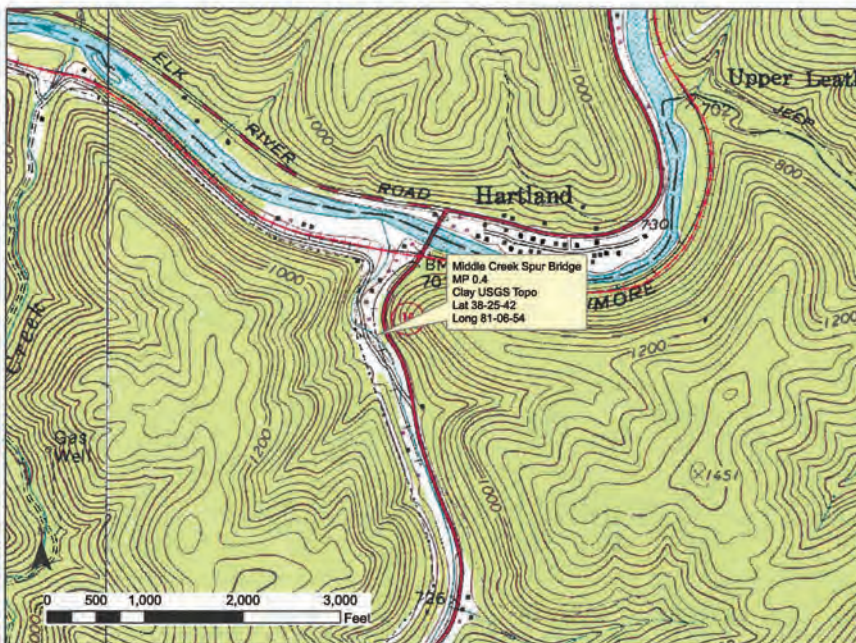


Internal Rating: _____

WEST VIRGINIA HISTORIC PROPERTY INVENTORY FORM

Street Address Elk River R.R. MP 0.4 Middle Creek Spur	Common/Historic Name/Both ☒ ☐ ☐ Middle Creek Spur Bridge	Field Survey #	Site # (SHPO Only)
Town or Community Hartland	County Clay	Negative No.	NR Listed Date
Architect/Builder Middle Creek Railroad	Date of Construction c. 1920	Style	
Exterior Siding/Materials Steel beams	Roofing Material Currently wood decking	Foundation Stone/concrete	
Property Use or Function Residence ☐ Commercial ☐ Other ☒	UTM# Zone 17N E: 489962 N: 4253347		
Survey Organization & Date Elk River Railroad, Inc. June 2021	Quadrangle Name Clay Part of What Survey/FR# FR: 21-713-MULTI		

Sketch Map of Property
Or Attach Copy of USGS Map



Site No.

Present Owners Elk River Railroad, Inc. ("TERRI") Phone #	Owners Mailing Address 200 Greenbrier Road, PO Box 460 Summerville, WV 26651
Describe Setting The resource is situated within a rural, forested, area located south of Elk River, within the railroad right-of-way of the Middle Creek Spur crossing over Middle Creek. _____ Acres ☐ Archaeological Artifacts Present	
Description of Building or Site (Original and Present) _____ Stories _____ Front Bays 45-ft. long double-track railroad bridge; original bridge abutments, piers and steel in place; wooden decking and handrails added in 2020. Originally, railroad bridge was used to carry coal traffic over the Middle Creek to connect with the B&O at Hartland. (Use Continuation Sheets)	
Alterations ☒ Yes ☐ No If yes, describe In 2020, TERRI installed wooden decking and handrails over the bridge to support 80,000 lb. weight.	
Additions ☐ Yes ☒ No If yes, describe	
Describe All Outbuildings N/A (Use Continuation Sheets)	
Statement of Significance This spur track was previously part of the Middle Creek Railroad - a five-mile short line railroad that connected with the Coal & Coke (then B&O) mainline at Hartland and traveled parallel to the creek, south to Bickmore. The Middle Creek Railroad began operating in 1925 and was created to serve the four coal mines operated by the Middle Creek Coal Company. The short line railroad generated coal traffic for the B&O until three of the mines closed in 1951. The B&O continued to serve the one remaining mine, until the Middle Creek RR was officially abandoned in 1965. Track was abandoned and removed circa 1979-1981. (Use Continuation Sheets)	
Bibliographical References USGS Topographic Maps; B&O Engineer Drawings (available upon request or at The Elk River Railroad offices). "B&O Charleston Division part ii - Clay County to Gassaway," Dan Robie, http://www.wvncrails.org/bo-charleston-division-part-ii-clay-county-to-gassaway.html (accessed June 22, 2021). (Use Continuation Sheets)	
Form Prepared By: _____ Date: June 23, 2021	
Name/Organization: Elk River Railroad, Inc. Address: 200 Greenbrier Road, PO Box 460 Summerville, WV 26651 Phone #: 304-872-3000	



West Virginia Division of Culture and History
State Historic Preservation Office

WEST VIRGINIA HISTORIC PROPERTY FORM CONTINUATION SHEET

NAME Middle Creek Spur Bridge

SITE# _____



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-MULTI)
Date: Wednesday, June 16, 2021 2:41:09 PM
Attachments: [21-713-MULTI.pdf](#)

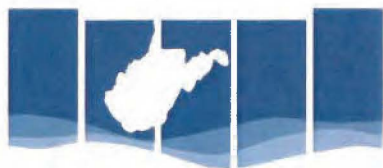
Ms. Williams,

Please find attached our 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-MULTI). 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
Fax 304.558.2779 • TDD 304.558.3562
EEO/AA Employer

June 15, 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

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

Dear Ms. Williams:

We have reviewed 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. Trackwork has been removed from this section of railroad and crushed limestone surfacing material has been placed on the roadbed.

Architectural Resources:

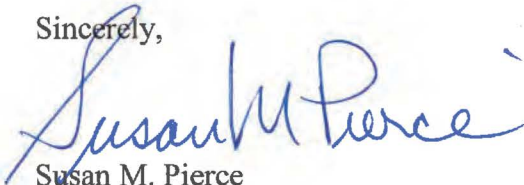
We cannot complete our review with the information submitted. Based on the provided documentation, The Elk River Railroad corridor between Clendenin (MP 96.0), Kanawha County, and Duck (MP 43.6), Braxton County, may be eligible for inclusion in the National Register of Historic Places. While several resources have previously been identified and documented, including the Coal & Coke Railway (CY-0219), Charleston, Sutton & Clendenin Railroad (CY-0027), Box Culvert at Beechy Creek (CY-0001), Bridge 41.1 Big Sycamore Creek (CY-0018), Bridge 39.4 Piers Little Sycamore Creek (CY-0006), Bridge 38.2 9.5' x 10.0' Birch Run (CY-0002), Camp Creek Truss (CY-0188), "Two-Holer" or Timber Pit Chutes (CY-0003), and Charleston, Clendenin & Sutton Railroad Sandstone Bridge (KA-7673), most information was collected over five (5) years ago. Because of this, we are unable to verify documented resources that may still be extant or potentially impacted by the proposed project.

June 15, 2021
Mr. Johnson
FR# 21-713-MULTI
Page 2

At this time, we request that updated Historic Property Inventory (HPI) forms be completed and submitted to our office with color photographs. The HPI form is available, along with instructions to fill it out, at www.wvculture.org/shpo/forms.html. Please be sure to indicate the original date of construction as well as details about any changes, additions, and/or alterations the railroad and associated structures and buildings have experienced. Your photographs need to be keyed to a USGS topographic or aerial map and should accurately depict from various angles any architectural resources, building or structural details, and outbuildings. Your photographs also need to document the project area by showing general views, known disturbances, and any rock outcrops. Panoramic shots of surrounding landscapes and viewsheds are also necessary for us to complete our review. Be sure to include images of the proposed project area from the position of the individual properties. If buildings or structures are at least forty-five (45) years old and will not be within the line-of-sight of the proposed project, please confirm in writing. Also, all resources need a determination of eligibility for the National Register by a qualified professional meeting the *Secretary of the Interior's Historic Preservation Professional Qualification Standards*. We will provide additional comments upon receipt of the requested information.

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

From: [Pierce, Susan M](#)
To: [Rebecca Williams](#)
Cc: [Lamarre, Lora A](#); [Gray, Belinda D](#)
Subject: RE: [External] STB Docket No. AB 1314X, The Elk River Railroad, Inc. – Abandonment Exemption – in Kanawha & Clay Counties, WV
Date: Thursday, June 3, 2021 9:47:43 AM
Attachments: [image001.png](#)

Dear Ms. Williams

Your submission has been forwarded to my staff. IF you have questions, please contact Lora Lamarre-DeMott or Belinda Gray.

Sincerely,

Susan M. Pierce
Deputy State Historic Preservation Officer
WV Dept. of Arts, Culture and History
1900 Kanawha Boulevard East
Charleston, WV 25305
(304) 558-0240

From: Rebecca Williams <arw@sloverandloftus.com>
Sent: Thursday, June 3, 2021 2:06 AM
To: Pierce, Susan M <Susan.M.Pierce@wv.gov>
Subject: [External] STB Docket No. AB 1314X, The Elk River Railroad, Inc. – Abandonment Exemption – in Kanawha & Clay Counties, WV

CAUTION: External email. Do not click links or open attachments unless you verify sender.

Dear Officer Pierce,

Please see the attached letter and accompanying materials regarding The Elk River Railroad, Inc.'s ("TERRI") proposed abandonment, and intended interim trail use, of a line of railroad located between Clendenin, WV and south of Duck, WV. Hard copies of the attached materials have also been sent to your office.

Please do not hesitate to contact me with any questions or concerns.

Sincerely,

Rebecca Williams
An Attorney for TERRI



A. REBECCA WILLIAMS
ARW@SLOVERANDLOFTUS.COM
SLOVER & LOFTUS LLP

DIRECT: (202) 454-4422 | MAIN: (202) 347-7170 | CELL: (202) 870-2797
1224 SEVENTEENTH ST. N.W., WASHINGTON, D.C. 20036
WWW.SLOVERANDLOFTUS.COM

The information contained in this e-mail may include proprietary information which is confidential and privileged. This e-mail and any attachment is intended solely for the use of the recipient identified. Any disclosure, duplication, dissemination or other use of this document by anyone other than the identified recipient, or his or her agent, is strictly prohibited. If you are not the identified recipient, this e-mail may have been transmitted to you in error. Please contact 202.347.7170 if you believe that you have received this in error.

CEHR EXHIBIT 20

**Correspondence with NOAA National Geodetic Survey
(letter without attachments)**



SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

A. REBECCA WILLIAMS

June 2, 2021

Communications and Outreach Branch, NOAA, N/NGS12
National Geodetic Survey, SSMC3 #8716
1315 East-West Highway
Silver Spring, MD 20910-3282

Re: STB Docket No. AB 1314X, The Elk River Railroad, Inc. –
Abandonment Exemption – in Kanawha and Clay Counties, West Virginia

To Whom it May Concern:

The Elk River Railroad, Inc. (“TERRI”) intends to file with the Surface Transportation Board (“STB” or “Board”) a notice of exemption for the abandonment of approximately 53.4 miles of railroad located between Milepost 96.0 (near Clendenin, WV) and Milepost 43.6 (south of Duck, WV), including 0.8 miles extending south from Milepost 67.2 (near Hartland, WV) known as the Middle Creek Spur, in Kanawha and Clay Counties, WV (the “Line”). The notice will be filed pursuant to 49 C.F.R. § 1152.50(b), exempting abandonment of rail lines over which no local traffic has moved during the previous two years.

Subject to Board authorization, TERRI and the West Virginia State Rail Authority (“WVSRA”) have negotiated, and intend to enter into, an agreement for interim trail use and railbanking of the Line pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (“Trails Act”) and 49 C.F.R. § 1152.29. The West Virginia Department of Natural Resources would then operate the Trail as a State Park.

In accordance with STB regulations, 49 C.F.R. 1105.7(c), TERRI is providing this advance notice to afford your agency a reasonable opportunity to provide meaningful input with regard to the proposed action. Please advise whether there are any geodetic markers that could be affected by the proposed action.

For your reference, we have enclosed a copy of TERRI’s Preliminary Combined Environmental and Historic Report, which describes the action and any expected effects, a map of the Line, and a distribution list of all parties that have been notified of the proposed action.

Please provide any comments to me by email at arw@sloverandloftus.com, or by mail to 1224 Seventeenth Street, NW, Washington, D.C. 20036, within three (3) weeks of the date of this letter so TERRI can review and include your comments in its Final CEHR.

National Geodetic Survey

June 2, 2021

Page 2 of 2

If you have any questions or concerns, please feel free to contact me by email or by phone at (202) 347-7170. Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "AR Williams". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

A. Rebecca Williams

An Attorney for The Elk River Railroad, Inc.

Enclosures as stated.

From: [deborah.brooks](mailto:deborah.brooks@noaa.gov)
To: [Rebecca Williams](mailto:Rebecca.Williams@noaa.gov)
Subject: [JIRA] (IMOV-8094) EMAIL 1/3: STB Docket No. AB 1314X, The Elk River Railroad, Inc. - Abandonment Exemption - in Kanawha & Clay Counties, WV
Date: Thursday, June 24, 2021 4:49:06 PM

A comment is added on your issue:

Re: EMAIL 1/3: STB Docket No. AB 1314X, The Elk River Railroad, Inc. - Abandonment Exemption - in Kanawha & Clay Counties, WV

Good Afternoon Atty. Williams,

The two portions of line described in this submittal, have had the rails removed many years ago:

Milepost 96.0 (at or near Clendenin) to Milepost 67.2 (at or near Hartland)

- Rails removed by 1981

Milepost 67.2 (at or near Hartland) to Milepost 43.6 (south of Duck)

- Rails removed by 1999

Since the rails were removed 40 and 20 years ago, any geodetic control along these lines that was disturbed/destroyed would have been done decades ago. In noting that no further construction or demolition is to be undertaken as a result of this abandonment, there would be no impact on any existing control marks set along these rail line segments.

Regards,

Deborah Brooks
Communications Specialist
NGS Infocenter
301-713-3242

,

From: [Rebecca Williams](#)
To: RRAE@noaa.gov
Cc: [Deborah Brooks - NOAA Federal](#)
Subject: EMAIL 3/3: STB Docket No. AB 1314X, The Elk River Railroad, Inc. – Abandonment Exemption – in Kanawha & Clay Counties, WV
Date: Thursday, June 10, 2021 5:43:00 AM
Attachments: [\(PART 2 OF 2\) STB Docket AB 1314X Preliminary CEHR & Exhibits.pdf](#)
[image001.png](#)

Please see attached for Part II of II of the Preliminary Combined Environmental and Historic Report. Part II contains the Exhibits C (inventory of railroad structures on the line) and D (photographs of structures on the line).

From: Deborah Brooks - NOAA Federal <Deborah.Brooks@noaa.gov>
Sent: Thursday, June 10, 2021 7:34 AM
To: Rebecca Williams <arw@sloverandloftus.com>
Subject: Re: STB Docket No. AB 1314X, The Elk River Railroad, Inc. – Abandonment Exemption – in Kanawha & Clay Counties, WV

Good Evening, Atty. Wiliams,

I received your files. Unfortunately, the Combined Environmental and Historic Report (CEHR) file you provided exceeds the maximum **10.00 MB** limit for our system, and I must ask you to resubmit it, preferably separating it into smaller files .

Also, since the system also does not accept *.zip files, it would be very helpful to resubmit all files to RRAE@oaa.gov. (including those newly created from breaking up the CEHR) in the non-zipped format and no file is larger than 10 MB in size.

Thank you for your cooperation.

Deborah Brooks
Communications Specialist
NGS Infocenter
301-713-3242

On Wed, Jun 9, 2021 at 2:08 PM Deborah Brooks - NOAA Federal <Deborah.Brooks@noaa.gov> wrote:

----- Forwarded message -----

From: **Rebecca Williams** <arw@sloverandloftus.com>
Date: Tue, Jun 8, 2021 at 8:59 PM
Subject: STB Docket No. AB 1314X, The Elk River Railroad, Inc. – Abandonment Exemption – in Kanawha & Clay Counties, WV
To: RRAE@noaa.gov <RRAE@noaa.gov>

Cc: Deborah.Brooks@noaa.gov <Deborah.Brooks@noaa.gov>

Good Evening,

Please see the attached letter and accompanying enclosures regarding the Elk River Railroad, Inc.'s ("TERRI") proposed abandonment, and intended trail use, of a line of railroad located between Clendenin, WV and south of Duck, WV. Hard copies of these materials were mailed to the Silver Spring office on June 2, 2021; earlier this afternoon, we received a call from Ms. Deborah Brooks requesting that digital copies of the materials be sent to this email address.

Please confirm receipt of the attached materials, and please do not hesitate to contact me with any questions or concerns.

Sincerely,

Rebecca Williams

An Attorney for TERRI



A. REBECCA WILLIAMS
ARW@SLOVERANDLOFTUS.COM
SLOVER & LOFTUS LLP

DIRECT: (202) 454-4422 | MAIN: (202) 347-7170 | CELL: (202) 870-2797
1224 SEVENTEENTH ST. N.W., WASHINGTON, DC 20036
WWW.SLOVERANDLOFTUS.COM

The information contained in this e-mail may include proprietary information which is confidential and privileged. This e-mail and any attachment is intended solely for the use of the recipient identified. Any disclosure, duplication, dissemination or other use of this document by anyone other than the identified recipient, or his or her agent, is strictly prohibited. If you are not the identified recipient, this e-mail may have been transmitted to you in error. Please contact 202.347.7170 if you believe that you have received this in error.

From: [Rebecca Williams](#)
To: RRAE@noaa.gov
Cc: [Deborah Brooks - NOAA Federal](#)
Subject: EMAIL 2/3: STB Docket No. AB 1314X, The Elk River Railroad, Inc. – Abandonment Exemption – in Kanawha & Clay Counties, WV
Date: Thursday, June 10, 2021 5:40:00 AM
Attachments: [image001.png](#)
[\(PART 1 OF 2\) STB Docket AB 1314X Preliminary CEHR & Exhibits.pdf](#)

Please see attached for Part I of II of the Preliminary Combined Environmental and Historic Report. Part I contains the Report and Exhibits A (map of line) and B (locator maps of structures on line).

From: Deborah Brooks - NOAA Federal <Deborah.Brooks@noaa.gov>
Sent: Thursday, June 10, 2021 7:34 AM
To: Rebecca Williams <arw@sloverandloftus.com>
Subject: Re: STB Docket No. AB 1314X, The Elk River Railroad, Inc. – Abandonment Exemption – in Kanawha & Clay Counties, WV

Good Evening, Atty. Williams,

I received your files. Unfortunately, the Combined Environmental and Historic Report (CEHR) file you provided exceeds the maximum **10.00 MB** limit for our system, and I must ask you to resubmit it, preferably separating it into smaller files .

Also, since the system also does not accept *.zip files, it would be very helpful to resubmit all files to RRAE@noaa.gov. (including those newly created from breaking up the CEHR) in the non-zipped format and no file is larger than 10 MB in size.

Thank you for your cooperation.

Deborah Brooks
Communications Specialist
NGS Infocenter
301-713-3242

On Wed, Jun 9, 2021 at 2:08 PM Deborah Brooks - NOAA Federal <Deborah.Brooks@noaa.gov> wrote:

----- Forwarded message -----

From: **Rebecca Williams** <arw@sloverandloftus.com>
Date: Tue, Jun 8, 2021 at 8:59 PM
Subject: STB Docket No. AB 1314X, The Elk River Railroad, Inc. – Abandonment Exemption – in Kanawha & Clay Counties, WV
To: RRAE@noaa.gov <RRAE@noaa.gov>
Cc: Deborah.Brooks@noaa.gov <Deborah.Brooks@noaa.gov>

Good Evening,

Please see the attached letter and accompanying enclosures regarding the Elk River Railroad, Inc.'s ("TERRI") proposed abandonment, and intended trail use, of a line of railroad located between Clendenin, WV and south of Duck, WV. Hard copies of these materials were mailed to the Silver Spring office on June 2, 2021; earlier this afternoon, we received a call from Ms. Deborah Brooks requesting that digital copies of the materials be sent to this email address.

Please confirm receipt of the attached materials, and please do not hesitate to contact me with any questions or concerns.

Sincerely,

Rebecca Williams

An Attorney for TERRI



A. REBECCA WILLIAMS
ARW@SLOVERANDLOFTUS.COM
SLOVER & LOFTUS LLP

DIRECT: (202) 454-4422 | MAIN: (202) 347-7170 | CELL: (202) 870-2797
1224 SEVENTEENTH ST. N.W., WASHINGTON, D.C. 20036
WWW.SLOVERANDLOFTUS.COM

The information contained in this e-mail may include proprietary information which is confidential and privileged. This e-mail and any attachment is intended solely for the use of the recipient identified. Any disclosure, duplication, dissemination or other use of this document by anyone other than the identified recipient, or his or her agent, is strictly prohibited. If you are not the identified recipient, this e-mail may have been transmitted to you in error. Please contact 202.347.7170 if you believe that you have received this in error.

From: [Rebecca Williams](#)
To: [Deborah Brooks - NOAA Federal](#); RRAE@noaa.gov
Subject: EMAIL 1/3: STB Docket No. AB 1314X, The Elk River Railroad, Inc. – Abandonment Exemption – in Kanawha & Clay Counties, WV
Date: Thursday, June 10, 2021 5:36:00 AM
Attachments: [image001.png](#)
[Letter to National Geodetic Survey re STB Docket AB 1314X.pdf](#)
[STB Docket AB 1314X Preliminary CEHR Distribution List.pdf](#)

Ms. Brooks,

Thank you for your note. Attached please find the non-zipped versions of two of the three sets of materials previously submitted. To conform with the size limitation, I have split the third – the Combined Environmental and Historic Report – into two parts and will send under separate covers. Please confirm receipt of all materials, and please let me know if there is anything else you need.

Sincerely,
Rebecca Williams

From: Deborah Brooks - NOAA Federal <Deborah.Brooks@noaa.gov>
Sent: Thursday, June 10, 2021 7:34 AM
To: Rebecca Williams <arw@sloverandloftus.com>
Subject: Re: STB Docket No. AB 1314X, The Elk River Railroad, Inc. – Abandonment Exemption – in Kanawha & Clay Counties, WV

Good Evening, Atty. Williams,

I received your files. Unfortunately, the Combined Environmental and Historic Report (CEHR) file you provided exceeds the maximum **10.00 MB** limit for our system, and I must ask you to resubmit it, preferably separating it into smaller files .

Also, since the system also does not accept ***.zip** files, it would be very helpful to resubmit all files to RRAE@noaa.gov. (including those newly created from breaking up the CEHR) in the non-zipped format and no file is larger than 10 MB in size.

Thank you for your cooperation.

Deborah Brooks
Communications Specialist
NGS Infocenter
301-713-3242

On Wed, Jun 9, 2021 at 2:08 PM Deborah Brooks - NOAA Federal <Deborah.Brooks@noaa.gov> wrote:

----- Forwarded message -----

From: **Rebecca Williams** <arw@sloverandloftus.com>

Date: Tue, Jun 8, 2021 at 8:59 PM

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

To: RRAE@noaa.gov <RRAE@noaa.gov>

Cc: Deborah.Brooks@noaa.gov <Deborah.Brooks@noaa.gov>

Good Evening,

Please see the attached letter and accompanying enclosures regarding the Elk River Railroad, Inc.'s ("TERRI") proposed abandonment, and intended trail use, of a line of railroad located between Clendenin, WV and south of Duck, WV. Hard copies of these materials were mailed to the Silver Spring office on June 2, 2021; earlier this afternoon, we received a call from Ms. Deborah Brooks requesting that digital copies of the materials be sent to this email address.

Please confirm receipt of the attached materials, and please do not hesitate to contact me with any questions or concerns.

Sincerely,

Rebecca Williams

An Attorney for TERRI



A. REBECCA WILLIAMS
ARW@SLOVERANDLOFTUS.COM
SLOVER & LOFTUS LLP

DIRECT: (202) 454-4422 | MAIN: (202) 347-7170 | CELL: (202) 870-2797
1224 SEVENTEENTH ST. NW, WASHINGTON, D.C. 20036
WWW.SLOVERANDLOFTUS.COM

The information contained in this e-mail may include proprietary information which is confidential and privileged. This e-mail and any attachment is intended solely for the use of the recipient identified. Any disclosure, duplication, dissemination or other use of this document by anyone other than the identified recipient, or his or her agent, is strictly prohibited. If you are not the identified recipient, this e-mail may have been transmitted to you in error. Please contact 202.347.7170 if you believe that you have received this in error.