



Fw: Botetourt County Abandonment - Archival Research Request - Baker & Miller PLLC
on Behalf of Norfolk Southern Railway Company
RWimbish
to:
Joshua.Wayland
02/21/2014 01:48 PM
Hide Details
From: RWimbish@bakerandmiller.com

To: Joshua.Wayland@stb.dot.gov

9 Attachments

Archives Search Request Form.pdf Conditions for Use, DHR Data.pdf Cloverdale_Lonestar.dbf
Cloverdale_Lonestar.prj Cloverdale_Lonestar.sbn Cloverdale_Lonestar.sbx Cloverdale_Lonestar.shp
Cloverdale_Lonestar.shp.xml Cloverdale_Lonestar.shx

Josh -

I was out of town on the day this occurred, but you will see from the email below that my office, on behalf of NSR, submitted its required paperwork (the obligatory request form and shape file) to VA-DHR for Botetourt County on Wednesday, January 29, 2013. I cannot explain why it took the VA-DHR intake people more than a week to deliver the materials to Andrea. But I believe that we followed Andrea's instructions about how we were to submit this information to her agency.

It sounds to me like Andrea's comment to you that she had not "received the requested information FROM NSR" until January 7 is misleading.

In any event, I have been informed that VA-DHR expects to issue its determination next Thursday, the 27th. I will let you know as soon as I have it.

I will send you another email in a minute regarding VA-DHR's latest, involving the proposed abandonment of roughly one mile of out-of-service rail line in Prince Edward county for purposes of extending an existing rail trail. In a nutshell, I was prepared to have to go through the archives request and shape file process again (and we will), but now Andrea is saying that she wants "several photographs" of the area surrounding the APE. Andrea didn't demand such photographs last time, so this is brand new. As I told Vicki, this seems to me to be nothing more than piling on, and I don't see the need for such information, given readily-available online mapping sources (along with our topographic maps) that can give an adequate perspective on the surrounding area.

Stay tuned.

- Rob

Robert A. ("Rob") Wimbish
Attorney at Law
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----- Forwarded by Robert Wimbish/bakermiller on 02/21/2014 01:38 PM -----

From: Crystal Zorbaugh/bakermiller
To: quatro.hubbard@dhr.virginia.gov,
Cc: Robert.Wimbish/bakermiller@bakermiller
Date: 01/29/2014 02:47 PM
Subject: Botetourt County Abandonment - Archival Research Request - Baker & Miller PLLC on Behalf of Norfolk Southern Railway Company

Hello! My name is Crystal M. Zorbaugh. I am writing you on behalf of Norfolk Southern Railway Company to request that you perform Archival Research. Robert Wimbish of our office has been in contact with Lauren Leake. Lauren has requested that we submit an Archival Research Request on behalf of our client, Norfolk Southern Railway Company. Accordingly, please find attached the two required forms to begin archival research: Conditions for Use, DHR Data and the Archival Search Request Form.

Also attached is a shape file (.shp) for the Botetourt County Abandonment, as well as associated files used to create the shape file. I did not personally create the files; thus, if anyone in your office has any questions about the shape file or documents used to create the shape files, please contact Sarah Morris of Norfolk Southern via telephone at 757-629-2609 or via e-mail Sarah.Morris@nscorp.com.

If you have any questions concerning my request, please contact me at 202-663-7831.

Thank you in advance,

Crystal M. Zorbaugh
Law Clerk

Archives Search Request Form

Name: Robert A. Wimbish

Company Name: Baker & Miller PLLC (on behalf of Norfolk Southern Railway Company)

FED ID #/: 521888690

Street or Mailing Address: 2401 Pennsylvania Ave., NW, Suite 300

City: Washington State: D.C. Zip Code: 20037

Telephone: 202-663-7824 Fax: 202-663-7849 E-mail: rwimbish@bakerandmiller.com

Project Location:

Project Name: Abandonment of 0.71 miles of Norfolk Southern rail line in or near Troutville, Botetourt County, VA

Name of Quadrangle(s): XXXXXX

Name of County: Botetourt

Street Address, if known: No established address – APE is rail line right-of-way

City: Troutville State: VA Zip Code: 24175

DHR Project Review File Number, if known: 2013-1444

Search Type:

- ☒ ORC Project Review – federal Section 106, FCC cell tower, state environmental review, NEPA
Submit a shapefile (or map) of the APE
Or Select Range for Height of Proposed Cell Tower: < 199 feet 200 - 400 feet > 400 feet
Name of primary agency funding, licensing or permitting the project: United States Surface
Transportation Board

- ☐ General Planning/Research Query
Specify search radius: _____ mile(s)

Additional/Supplemental Information:

- ☐ Phase I Archaeological Survey Report Search
☐ Custom Geospatial Query

Shipping Options:

- ☐ Digital Files – sent from VITAShare FTP site, no cost
☐ Digital Files – sent on CD by U.S. Postal Service Standard Delivery, \$5 cost per CD
☐ Paper – sent U.S. Postal Service Standard Delivery, shipping cost
☐ Paper and/or CD – customer provided account number
Federal Express _____ UPS _____

Additional Fees:

- ☐ Expedite search in three business days, \$150 cost

DHR requires a signed “Conditions for Use” agreement before requested search is conducted.

Conditions for Use, DHR Data

The mission of the Virginia Department of Historic Resources (Virginia's State Historic Preservation Office) is to identify, evaluate, register, and help communities and citizens preserve, interpret, and use Virginia's rich historic assets for the economic, educational and cultural benefit of all.

From the Code of Virginia, the following FOIA exemption applies to data distributed by the Department of Historic Resources.

Code of Virginia
§2.2-3705.7 (10)

"Records containing information on the site specific location of rare, threatened, endangered or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body that has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exemption shall not apply to requests from the owner of the land upon which the resource is located."

The term "User" applies to the party agreeing to the conditions herein. Any User with whom DHR shares data of the location of significant historic and archaeological sites assumes the responsibility for the information as stated in §2.2-3705.7 (10) and agrees to the following conditions:

Use of this data is subject to the following:

1. User understands and acknowledges that release of precise locations may threaten archaeological and historical resources. User shall take reasonable precautions to ensure the security of site locations.
2. User will identify "Virginia Department of Historic Resources" as data source on any map or publication using DHR locational data. User will also include the date that data was obtained from DHR.
3. Photographs may only be reproduced in commercial publications if specific permission is granted by DHR.
4. User understands and acknowledges that the accuracy of these data is time-limited. User agrees to use DHR-provided data only for the term specified by DHR, and to incorporate all updates provided by DHR. Under no circumstances shall User continue using DHR-provided historic resource data for more than six months following its generation.
5. User will provide DHR with two copies of any reports prepared using Virginia Department of Historic Resources data if requested by DHR.
6. Although DHR maintains high standards of data quality control, data is supplied "as is". DHR makes no warranty that the data are necessarily accurate or complete.
7. Obtaining information on previously recorded historic properties does not constitute review under Section 106 of the National Historic Preservation Act. If a project is federally funded, licensed, or assisted, the federal agency may require you to obtain DHR comment under Section 106. If you are also requesting a review of your project on behalf of a federal agency, you may download a Project Review Form from our web site at www.dhr.virginia.gov.
8. If there are charges, User shall pay agreed charges within 30 days of being billed by DHR.
9. User will indemnify and hold DHR and its officers and employees harmless against any claims by third parties arising out of the use by User of the data provided hereunder.
10. This Agreement is the entire agreement between the parties with respect to the subject matter hereof. It shall be construed in accordance with the law of the Commonwealth of Virginia and may be amended only in writing signed by both parties.

By accepting the DHR data, User agrees to abide by all of the above conditions.

User Signature R. A. Wimbish Printed Name Robert A. Wimbish

User Title and Affiliation Attorney for Norfolk Southern Ry. Co. Date Jan. , 2014