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ENTERED
Office of Proceedings
October 5, 2021
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Public Record

Justin J. Marks
T (202) 772-0916
F +12027720919
Email:jjmarks@ClarkHill.com

Clark Hill
1001 Pennsylvania Avenue N.W.
Suite 1300 South
Washington, DC 20004
T (202) 772-0909
F (202) 772-0919

October 5, 2021

VIA E-FILING

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

Re: Atlantic and Western Railway, Limited Partnership – Abandonment Exemption –
in Lee County, NC
Surface Transportation Board Docket No. AB 646 (Sub-No. 1X)

Dear Ms. Brown:

Enclosed for filing in the above referenced docket is a notice of exempt abandonment being filed on behalf of Atlantic and Western Railway, Limited Partnership. The filing fee has been paid via pay.gov.

If you have any questions related to this filing, please let me know.

Sincerely,

A handwritten signature in blue ink that reads 'Justin J. Marks'.

Justin J. Marks
Counsel for Atlantic and Western Railway,
Limited Partnership

Enclosure

FEE RECEIVED
October 5, 2021
SURFACE
TRANSPORTATION BOARD

FILED
October 5, 2021
SURFACE
TRANSPORTATION BOARD

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. AB 646 (Sub-No. 1X)

ATLANTIC AND WESTERN RAILWAY, LIMITED PARTNERSHIP
- ABANDONMENT EXEMPTION –
IN LEE COUNTY, NC

NOTICE OF EXEMPTION

Eric M. Hocky
Clark Hill PLC
Two Commerce Square
2001 Market St.
Suite 2620
Philadelphia, PA 19103
(215) 640-8523
ehocky@clarkhill.com

Justin J. Marks
Clark Hill PLC
1001 Pennsylvania Ave. N.W.
Suite 1300 South
Washington, DC 20004
(202) 772-0916
jmarks@clarkhill.com

*Counsel for Atlantic and Western Railway,
Limited Partnership*

Dated: October 5, 2021

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. AB 646 (Sub-No. 1X)

ATLANTIC AND WESTERN RAILWAY, LIMITED PARTNERSHIP
- ABANDONMENT EXEMPTION –
IN LEE COUNTY, NC

NOTICE OF EXEMPTION

Atlantic and Western Railway, Limited Partnership (“ATW”) is filing this Notice of Exemption under the Board’s class exemption procedures at 49 C.F.R. Part 1152, Subpart F, seeking exemption authority for its abandonment of a line of railroad between approximately milepost 2.71 and milepost 3.76 in Sanford, NC. There are no stations on the Subject Line. A map of the Subject Line is attached as Exhibit A.

No local service has been provided since 2016, and there is no overhead traffic on the Subject Line (the adjoining segment beginning at milepost 3.76 having previously been abandoned).¹ Following the abandonment, ATW plans to transfer the Subject Line to NCDOT to be rail banked for public use. Further, ATW intends to salvage a portion of the Subject Line and leave another portion in place. ATW will remove all of the track and associated track materials between MP 2.71 and MP 2.91. It will salvage and reuse the materials with the exception of the cross ties and ballast. ATW will leave in place the track and materials on the segment between MP 2.91 and MP 3.76.

¹ *Atlantic and Western Railway, L.P. – Abandonment Exemption – in Lee County, NC*, STB Docket No. AB-646X (served May 13, 2005).

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

- 1) The exact name of the Applicant is Atlantic and Western Railway, Limited Partnership.
- 2) ATW is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, chapter 105.
- 3) The relief sought by ATW is an exemption for the abandonment of the line of railroad extending between approximately milepost 2.71 and milepost 3.76 in Sanford, NC.
- 4) A map of the Subject Line is attached hereto as Exhibit A.
- 5) The representative of ATW to whom correspondence should be sent is: Eric M. Hocky, Clark Hill, PLC, Two Commerce Square, 2001 Market St., Suite 2620, Philadelphia, PA 19103; (215) 640-8523; ehocky@clarkhill.com; or Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Ave. N.W., Suite 1300 South, Washington, DC 20004; (202) 772-0916; jmarks@clarkhill.com.
- 6) The Subject Line traverses through United States Postal Service ZIP Codes 27330 and 27332.
- 7) ATW understands that portions of the Subject Line may be suitable for other public purposes, and intends to transfer the Subject Line to NCDOT in furtherance of such purposes.
- 8) ATW proposes to consummate the abandonment on or after November 25, 2021.
- 9) ATW certifies that:
 - a) No local traffic has moved over the Subject Line since 2016. Because the Subject Line is not a “through line,” there is no overhead traffic.

- b) No formal complaint by a user of rail service on the Subject Line, or a state or local government entity acting on behalf of such user, regarding cessation of service over the Subject Line either is pending with the Board or any U.S. District Court, or has been decided in favor of the complainant within the two year period.
- 10) Although no employees of ATW will be affected by the proposed abandonment, ATW recognizes that its abandonment of the Subject Line will be made subject to the standard employee protective conditions as set forth in *Oregon Short Line Railroad Co.- Abandonment -- Goshen*, 360 I.C.C. 91 (1979).
- 11) ATW filed an Environmental / Historic Report (“EHR”) with the Board, and served the agencies identified in 49 C.F.R. §1105.7(b) and the North Carolina Historic Preservation Office, on September 13, 2021, more than twenty days prior to this filing.
- 12) ATW certifies that it has complied with the legal (newspaper) notice requirements of 49 C.F.R. §1105.11. Notice of the proposed abandonment was published in the *Raleigh News and Observer* on August 1, 2021. A copy of the form of notice and a copy of the proof of publication are attached as Exhibit B.
- 13) ATW certifies that it has complied with the notice requirements of 49 C.F.R. §1152.50(d)(1). A copy of the notice dated September 15, 2021, sent to the required governmental agencies is attached hereto as Exhibit C.

For the reasons set forth above, the Board should find that ATW's proposed abandonment satisfies the exemption requirements of 49 C.F.R. §1152.50 and should issue the appropriate notice.

Respectfully submitted,



Eric M. Hocky
Clark Hill PLC
Two Commerce Square
2001 Market St.
Suite 2620
Philadelphia, PA 19103
(215) 640-8523
ehocky@clarkhill.com

Justin J. Marks
Clark Hill PLC
1001 Pennsylvania Ave. N.W.
Suite 1300 South
Washington, DC 20004
(202) 772-0916
jmarks@clarkhill.com

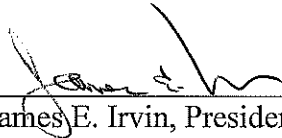
*Counsel for Atlantic and Western
Railway, Limited Partnership*

Dated: October 5, 2021

VERIFICATION

I hereby verify on behalf of Atlantic and Western Railway, Limited Partnership, under penalty of perjury, that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verification.

Executed on October 5, 2021.



James E. Irvin, President

CERTIFICATE OF SERVICE

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

Barry Ward, Acting State Conservationist USDA Natural Resources Conservation Service 4407 Bland Road, Suite 117 Raleigh, NC 27609 Barry.ward@usda.gov	John Blevins, Acting Regional Administrator Office of the Regional Administrator US EPA Region 4 Atlanta Federal Center 61 Forsyth Street SW Atlanta, GA 30303-8960 Blevins.John@epa.gov
United States Department of Agriculture Natural Resources Conservation Service Office of the Chief 1400 Independence Ave., SW Room 5105-A Washington, DC 20250	U.S. Army Corp of Engineers Wilmington District Raleigh Regulatory Field Office 3331 Heritage Trade Drive, Suite 105 Wake Forest, NC 27587 RaleighNCREG@usace.army.mil
National Park Service 1849 C Street, NW Washington, DC 20240	Stan Austin, Regional Director Region 2 South Atlantic-Gulf National Park Service 100 Alabama Street, SW 1924 Building Atlanta, GA 30303
Mr. Leopoldo Miranda United States Fish & Wildlife Service Southeast Region 4 1875 Century Boulevard Suite 400 Atlanta, GA 30345	National Geodetic Survey ngs.infocenter@noaa.gov
North Carolina Department of Environmental Quality Raleigh Regional Office 3800 Barrett Drive Raleigh, NC 27609	Meredith McLamb Surface and Encroachments Manager NCDOT Rail Division 1556 Mail Service Center Raleigh, NC 27699-1556 mmclamb@ncdot.gov

Ms. Ramona Bartos Deputy State Historic Preservation Officer North Carolina Historic Preservation Office 4617 Mail Service Center Raleigh, NC 27699-4617 ramona.bartos@ncdcr.gov	John Crumpton Lee County Manager 408 Summit Drive Sanford, NC 27330 jcrumpton@leecountync.gov
The Honorable T. Chet Mann 225 E Weatherspoon Street P.O. BOX 3729 Sanford, NC 27331 chet.mann@sanfordnc.net	North Carolina Department of Administration State Environmental Review Clearinghouse 1301 Mail Service Center Raleigh, NC 27699-1301 state.clearinghouse@doa.nc.gov
Cathy Brittingham Transportation Project Coordinator North Carolina Division of Coastal Management c/o DWR Transportation Permitting Unit 1617 Mail Service Center Raleigh, NC 27699-1617 cathy.brittingham@ncdenr.gov	United States Department of the Army Military Surface Deployment and Distribution Command Transportation Engineering Agency ATTN: SDTE-SA (Railroads for National Defense) 1 Soldier Way, Building 1900W Scott AFB, IL 62225
U.S. Department of the Interior - National Park Service RTCA Program 1849 C Street, NW Washington, DC 20240	Office of Chief of Forest Service U.S. Department of Agriculture 1400 Independence Ave., SW Washington, DC 20250-1111

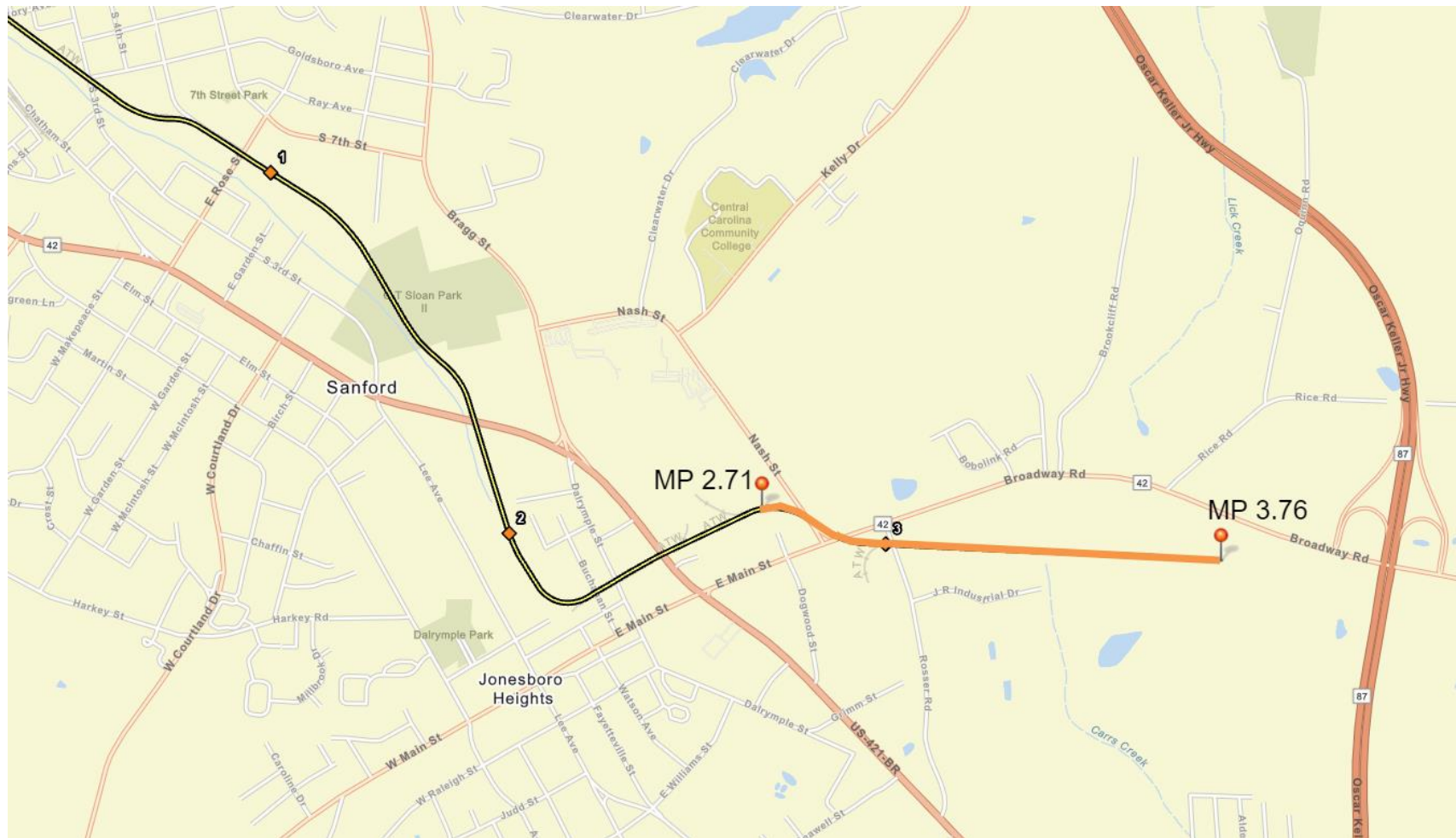
Justin J. Marks

Dated: October 5, 2021

NOTICE OF EXEMPTION

EXHIBIT A

MAP



ATLANTIC AND WESTERN RAILWAY
Milepost (MP) 2.71 to Milepost (MP) 3.76
(Valuation Station 142+93 - Valuation Station 198+37)
Lee County, North Carolina

NOTICE OF EXEMPTION

EXHIBIT B

NEWSPAPER NOTICE



Beaufort Gazette
Belleville News-Democrat
Bellingham Herald
Bradenton Herald
Centre Daily Times
Charlotte Observer
Columbus Ledger-Enquirer
Fresno Bee

The Herald - Rock Hill
Herald Sun - Durham
Idaho Statesman
Island Packet
Kansas City Star
Lexington Herald-Leader
Merced Sun-Star
Miami Herald

el Nuevo Herald - Miami
Modesto Bee
Raleigh News & Observer
The Olympian
Sacramento Bee
Fort Worth Star-Telegram
The State - Columbia
Sun Herald - Biloxi

Sun News - Myrtle Beach
The News Tribune Tacoma
The Telegraph - Macon
San Luis Obispo Tribune
Tri-City Herald
Wichita Eagle

AFFIDAVIT OF PUBLICATION

Account #	Order Number	Identification	Order PO	Amount	Cols	Depth
20539	109850	Print Legal Ad - IPL0034814		\$642.55	1	70 L

Attention: Kevin Richman

ENOTICE

1701 RD ISLAND AVE NW
WASHINGTON, DC 20036

ATW Sanford Abandonment

Notice of Intent To Abandon Rail Service

Atlantic and Western Railway, Limited Partnership gives notice that on or about August 24, 2021, it intends to file with the Surface Transportation Board, Washington, DC, a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to permit the abandonment of 1.05 miles of railroad line between approximately milepost 2.71 and extending to milepost 3.76 in Sanford, NC, traversing through United States Postal Service ZIP Code 27330 and 27332. The proceeding will be docketed as No. AB 646 (Sub-No. 1X).

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 trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of Proceedings either via e-filing or addressed to 395 E. Street S.W., Washington, DC 20423-0001 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicants' representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238. Copies of any comments or requests for conditions should be served on the applicant's representative: Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Ave. N.W. Suite 1300 South, Washington, DC 20004; (202) 772-0916; jmarks@clarkhill.com.
IPL0034814
Aug 1 2021

STATE OF NORTH CAROLINA COUNTY OF WAKE

Before the undersigned, a Notary Public of Dallas County, Texas, duly commissioned and authorized to administer oaths, affirmations, etc., personally appeared Crystal Trunick, who being duly sworn or affirmed, according to law, doth depose and say that he or she is Accounts Receivable Specialist of the News & Observer Publishing Company, a corporation organized and doing business under the Laws of the State of North Carolina, and publishing a newspaper known as The News & Observer, Wake and State aforesaid, the said newspaper in which such notice, paper, document, or legal advertisement was published was, at the time of each and every such publication, a newspaper meeting all of the requirements and qualifications of Section 1-597 of the General Statutes of North Carolina and was a qualified newspaper within the meaning of Section 1-597 of the General Statutes of North Carolina, and that as such he or she makes this affidavit; and is familiar with the books, files and business of said corporation and by reference to the files of said publication the attached advertisement for ENOTICE was inserted in the aforesaid newspaper on dates as follows:

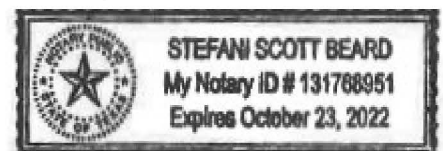
No. of Insertions: 1

Beginning Issue of: 08/01/2021

Ending Issue of: 08/01/2021

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Notary Public in and for the state of Texas, residing in Dallas County



Extra charge for lost or duplicate affidavits.
Legal document please do not destroy!

NOTICE OF EXEMPTION

EXHIBIT C

10-DAY NOTICE LETTERS

Justin J. Marks
T (202) 772-0916
F +12027720919
Email:jjmarks@ClarkHill.com

Clark Hill
1001 Pennsylvania Avenue N.W.
Suite 1300 South
Washington, DC 20004
T (202) 772-0909
F (202) 772-0919

September 15, 2021

ALL AGENCIES ON THE
ATTACHED SERVICE LIST

Re: Atlantic and Western Railway, Limited Partnership. – Abandonment Exemption –
in Lee County, NC
Surface Transportation Board Docket No. AB 646 (Sub-No. 1X)

To Whom it May Concern:

This letter is being sent to you pursuant to the requirements of 49 C.F.R. §1152.50(d), to advise you that Atlantic and Western Railway, Limited Partnership ("ATW") intends to file a notice for exemption for ATW to abandon rail service over the line of railroad described below, by filing a verified notice of exemption pursuant to the provisions of 49 C.F.R. Part 1152 Subpart F. ATW expects to file the notice of exemption with the STB on or about October 4, 2021, under STB Docket No. AB 646 (Sub-No. 1X).

ATW will invoke the STB's exemption procedures to abandon service of the line of railroad between approximately milepost 2.71 and milepost 3.76 in Sanford, NC. The subject line traverses through United States Postal Service ZIP Codes 27330 and 27332. A map of the subject line is enclosed.

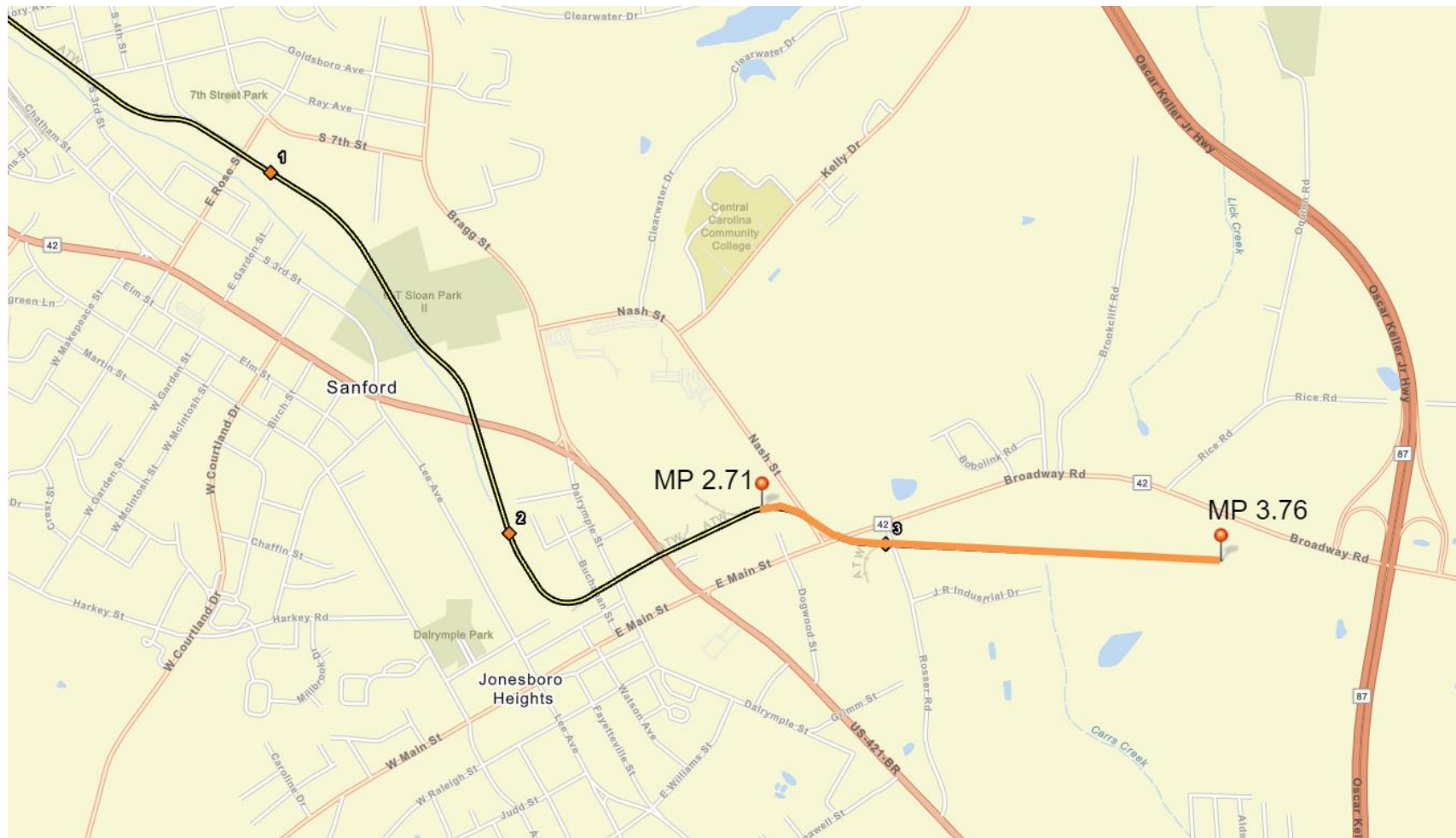
Based upon information in ATW's possession, the subject line does not contain federally granted rights of way. Any documentation in ATW's possession will be made available to those requesting it.

Sincerely,



Justin J. Marks
Counsel for Atlantic and Western Railway,
Limited Partnership

Enclosure



ATLANTIC AND WESTERN RAILWAY
Milepost (MP) 2.71 to Milepost (MP) 3.76
(Valuation Station 142+93 - Valuation Station 198+37)
Lee County, North Carolina

Advance Notice List under 1152.50(d)

United States Department of the Army Military Surface Deployment and Distribution Command Transportation Engineering Agency ATTN: SDTE-SA (Railroads for National Defense) 1 Soldier Way, Building 1900W Scott AFB, IL 62225	U.S. Department of the Interior - National Park Service RTCA Program 1849 C Street, NW Washington, DC 20240
Office of Chief of Forest Service U.S. Department of Agriculture 1400 Independence Ave., SW Washington, DC 20250-1111	Meredith McLamb Surface and Encroachments Manager NCDOT Rail Division 1556 Mail Service Center Raleigh, NC 27699-1556 mmclamb@ncdot.gov