

SERVICE DATE – JANUARY 12, 2023

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36606

MARYLAND DEPARTMENT OF NATURAL RESOURCES—
PETITION FOR DECLARATORY ORDER

Digest:¹ The Maryland Department of Natural Resources filed a petition for declaratory order requesting that the Board determine whether a previous owner of a rail line consummated the abandonment authority granted by the Board’s predecessor agency. This decision finds that the abandonment was timely consummated and the Board therefore lacks jurisdiction over the line.

Decided: January 11, 2023

By petition filed on April 22, 2022, the Maryland Department of Natural Resources (MDNR) seeks a declaratory order determining whether a portion of the Hagerstown Branch between Valuation Station 0+00 at Weverton, Md., and Valuation Station 980+00 at Roxbury, Md. (the Line), formerly owned by the Washington County Railroad Company (WCRC) and operated by the Baltimore and Ohio Railroad Company (B&O Railroad), has been abandoned or whether it remains part of the interstate rail network and the Board retains jurisdiction over it. (Pet. 3.) MDNR states that it acquired the line from WCRC’s successor in interest in the Line, CSX Transportation, Inc. (CSXT), in September 1991 and “is exploring options for a rail-to-trail project.” (Id. at 1.)

Along with its petition, MDNR submits a June 1978 certificate and decision by the Board’s predecessor, the Interstate Commerce Commission (ICC), permitting abandonment of the Line (as well as another line segment not at issue here).² See Wash. Cnty. R.R. Aban.

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol’y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

² An Administrative Law Judge initially authorized abandonment of the Line in November 1977. See Wash. Cnty. R.R. Aban. Portion Hagerstown Branch Between Weverton & Hagerstown, also Portion of the Antietam Branch near Security, All in Wash. Cnty., Md., AB 19 (Sub-No. 20) et al. (ICC served Nov. 8, 1977). Subsequently, the ICC received a petition for administrative review, which it denied in a 1978 decision affirming the 1977 decision. See Wash. Cnty. R.R.—Aban. Portion Hagerstown Branch Between Weverton & Hagerstown, also Portion of the Antietam Branch near Sec., All in Wash. Cnty., Md. (April 1978 Decision), AB 19 (Sub-No. 20) et al. (ICC served Apr. 27, 1978).

Portion Hagerstown Branch Between Weverton & Hagerstown, also Portion of the Antietam Branch near Security, All in Wash. Cnty., Md. (June 1978 Ord.), AB 19 (Sub-No. 20) (ICC served June 22, 1978). The June 1978 Order, AB 19 (Sub-No. 20), slip op. at 2, provided that, to exercise the abandonment authority, applicants would need to advise the ICC in writing of the date the abandonment took place and submit two copies of the journal entries showing that the Line had been retired from service.³ The order also provided that, if not exercised within one year, the abandonment authority would expire. June 1978 Ord., AB 19 (Sub-No. 20), slip op. at 2.

Additionally, MDNR submits two letters describing actions taken by either WCRC or B&O Railroad following the June 1978 Order.⁴ The first is addressed to the ICC acting secretary and signed by an attorney for the Chessie System Railroad (Chessie), which owned B&O Railroad.⁵ (Pet., Ex. D.) The letter, dated December 6, 1978, and stamped as received by the ICC on December 10, 1978, states that the abandonment authority authorized in Docket No. AB 19 (Sub-No. 20) “was exercised at 12:01 AM, November 15, 1978” and asserts that journal entries would be forwarded to the ICC. (Id.)

The second letter, dated April 10, 1979, is signed by Aubrey H. Herndon, Jr., Chief, Interpretations Branch, and is addressed to Chessie’s assistant vice president and comptroller, thanking him for his “letter of April 4, 1979, submitting the accounting for the authorized abandonments of the Hagerstown and Antietam branches that had been inadvertently omitted from [his] original submission to us of February 2, 1979.” (Pet., Ex. E.) The letter states that “[t]he accounting is acceptable and our file on this matter will be closed.” (Id.)

DISCUSSION AND CONCLUSIONS

Under 5 U.S.C. § 554(e) and 49 U.S.C. § 1321, the Board may issue a declaratory order to terminate a controversy or remove uncertainty. The Board has broad discretion in determining whether to issue a declaratory order. See Bos. & Me. Corp. v. Town of Ayer, 330 F.3d 12, 14 n.2 (1st Cir. 2003); Delegation of Auth.—Declaratory Ord. Proc., 5 I.C.C.2d 675, 675 (1989). For the reasons discussed below, the Board will issue a declaratory order finding that the abandonment authority granted by the ICC in the June 1978 Order was consummated and that the Board does not have jurisdiction over the Line.

³ In this context, “retirement” refers to consummation of abandonment authority. See Black Hills Transp.—Modified Rail Certificate, FD 34924, slip op. at 5 (STB served Jan. 27, 2010). The submission of journal entries indicating the intent to retire a line was “the approach followed at that time to inform the agency when an abandonment had been consummated.” Id.

⁴ MDNR states that these letters are the “only documentation known to MDNR” relating to actions taken by WCRC or B&O Railroad with respect to the abandonment. (Pet. 3.)

⁵ B&O Railroad was part of Chessie, a unit of CSX Corporation, before merging into the Chesapeake & Ohio Railway Company, which merged into CSXT. See CSX Transp., Inc.—Aban.—Between Big Pool & Tonoaway in Wash. Cnty., Md., AB 55 (Sub-No. 240X), slip op. at 1 n.1 (ICC served July 13, 1988).

For lines authorized for abandonment before 1997,⁶ the Board determines whether abandonment authority was consummated on a case-by-case basis by evaluating all the facts and circumstances to determine the line owner's intent. See Beaufort R.R.—Modified Rail Certificate, FD 34943, slip op. at 6 (STB served Mar. 19, 2008). In determining whether there was an intent to consummate abandonment, the Board looks to the rail carrier's actions, including both stated intentions and various physical acts. See Md. Transit Admin.—Aban. Exemption—in Somerset Cnty., Md., AB 590 (Sub-No. 1X), slip op. at 3 (STB served May 13, 2015).

As noted above, in Docket No. AB 19 (Sub-No. 20), the ICC authorized WCRC to abandon and B&O Railroad to cease operations over the Line. See June 1978 Ord., AB 19 (Sub-No. 20), slip op. at 1. The ICC order required that, to exercise the authority, the applicants advise the ICC in writing of the date the abandonment took place and submit copies of the relevant journal entries, and it provided that the authority would expire if not exercised within one year. Id. at 2.

The record here contains a letter from Chessie stating that the abandonment authority was exercised on November 15, 1978. (Pet., Ex. D.) That letter was received by the ICC on December 10, 1978, (id.), and establishes both that the abandonment authority was exercised within the one-year period and that the ICC was advised in writing of the abandonment. See June 1978 Ord., AB 19 (Sub-No. 20), slip op. at 2.

Although the December 1978 letter also states that journal entries would be forwarded to the ICC, (Pet., Ex. D), the ICC file for Docket No. AB 19 (Sub-No. 20) in the Board's possession does not contain journal entries. However, the April 10, 1979 letter, which appears to be from the ICC to Chessie, sufficiently demonstrates that the ICC did receive relevant journal entries at some point prior to that date. That letter seemingly responds to a letter from Chessie, which is described as "submitting the accounting" for the "abandonments of the Hagerstown and Antietam branches" authorized in Docket No. AB 19 (Sub-No. 20). (Pet., Ex. E.) As the Board has recognized, it was standard ICC practice to describe correspondence containing journal entries as "submitting accounting," which indicates that the ICC sent the April 1979 letter to Chessie after having received journal entries. See Chester Cnty., Pa.—Pet. for Declaratory Ord., FD 36400, slip op. at 3 (STB served July 13, 2021) (stating that an ICC letter described correspondence it received "as 'submitting accounting' for rail line retirements," which showed that the ICC received "a journal entry showing the accounting information"). Additionally, the April 1979 letter states that "[t]he accounting is acceptable and our file on this matter will be closed," demonstrating that the ICC considered the journal entries sufficient and conclusive on the matter, and that no additional action was necessary to close the file. (Pet., Ex. E (noting that a copy of the letter would be inserted into the file for Docket No. AB 19 (Sub-No. 20)).)

⁶ In 1997, the Board established a rule requiring that railroads authorized to abandon a line file a "notice of consummation" within one year of the service date of a decision authorizing the abandonment "to signify that it has exercised the authority granted and fully abandoned the line." 49 C.F.R. § 1152.29(e)(2). Such notice is "deemed conclusive on the point of consummation." Id.; see Honey Creek R.R.—Pet. for Declaratory Ord., FD 34869 et al., slip op. at 4-5 (STB served June 4, 2008).

There is no evidence of record that calls into question this interpretation of the letters submitted by MDNR. Accordingly, the Board finds that the record sufficiently demonstrates that abandonment authority was exercised within one year of the June 1978 Order. See Black Hills Transp., FD 34924, slip op. at 5 (finding that journal entries were conclusive evidence that a carrier had exercised abandonment authority where agency records contained an ICC letter referencing the date of the carrier's letter filing such journal entries). Therefore, the Board finds that abandonment of the Line, as authorized in Docket No. AB 19 (Sub-No. 20), was timely consummated and that the Board has no jurisdiction over the Line, as it is no longer part of the interstate rail network.

It is ordered:

1. The Board finds that abandonment of a portion of the Hagerstown Branch between Valuation Station 0+00 at Weverton, Md., and Valuation Station 980+00 at Roxbury, Md., as authorized in Docket No. AB 19 (Sub-No. 20), was timely consummated and that the Board has no jurisdiction over the Line.

2. This decision is effective on its service date.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz.



Justin Holder <jholder2004@gmail.com>

RE: Subject: Brunswick Line Option 4 B&O line proposal opposition

Justin Holder <jholder2004@gmail.com>

Thu, Mar 9, 2023 at 8:31 AM

To: brunswick@mdot.maryland.gov

Cc: Bill Wivell <william.wivell@house.state.md.us>, william.valentine@house.state.md.us, Paul Corderman <paul.corderman@senate.state.md.us>, kbuckler@radiofreehubcity.com, Herald Mail News <news@herald-mail.com>, "citydesk@newspost.com" <citydesk@newspost.com>, news@localdvm.com, "jeremiah_dewolf@yahoo.com" <jeremiah_dewolf@yahoo.com>, jbarr@washco-md.net, dharvey@washco-md.net

Bcc: Adam Greivell <adam.greivell@gmail.com>

Dear Brunswick MDOT,

I had the opportunity to read Mr. Jerry DeWolf's well thought and cordial message this morning. I would not disagree with Mr. Dewolf, but I would like to add a few notes not mentioned.

The "abandoned" Weaverton to Roxbury line of the B & O railroad has no overhead tunnels or bridges. This makes the path well suited for an elevated and very high speed commuter path directly to Hagerstown, MD.

I had the opportunity last Monday to sit in an office on the 6th Floor of 301 W Preston St, Baltimore, MD and review the entire State of Maryland purchase and transaction of the "abandoned railroad from CSX (including attorney and deliberative process protected materials.) What I did not locate was any correspondence or attempt in accordance with Federal law to place an "interim trail use", "condition of public use" or "rail-bank" the "abandoned" line. Specifically I searched for:

- a. "Conditions of Public Use" on the property as discussed in the 1976 Railroad Revitalization and Reform Act 49 U.S.C. § 809(c);
- b. "Rail banking agreements" as being described in the National Trails System Act, 16 U.S.C. § 1248 Section 8(d) and/or 16 U.S.C. § 1247(d);
- c. "National recreation trails" as discussed in 16 U.S.C. §§ 1241-1251 and/or Public Law. 90-543, § 2(b), 82 Stat. 919 (1968);
- d. "Statement of Willingness To Assume Financial Responsibility" in accordance with 16 U.S.C. § 1247(d) and 49 CFR § 1152.29; and/or
- e. "Discussions to assume management of the right-of-way, subject to the right of a railroad to reassert control of the property for restoration or reconstruction of rail service." 49 CFR § 1152.29(c)(2), (d)(2), (the "railbanking agreements.")

I had the opportunity in June of 2021 to visit our National Archives and review the entire I.C.C. docket A. B 19 sub 20. It was clear the line and property was "abandoned" on June 21st 1978 and the abonament consummated on November 15th 1978 by letter from railroad General Counsel Virginia Gunning confirming total bridge and track salvage. "Once the Commission has struck that balance, its conclusion is entitled to considerable deference. 'The weight to be given to cost of a relocated line as against the adverse effects upon those served by the abandoned line is a matter which the experience of the Commission qualifies it to decide. *And, under the statute, it is not a matter for judicial redecision.*' *Purcell v. United States*, 315 U. S. 381, 385 (1942)" *Chicago & N.W. Tr. Co. v. Kalo Brick & Tile*, 450 U.S. 311, 321, 101 S.Ct. 1124, 1132, 67 L.Ed.2d 258, 267 (1981), (the "abandonment.")

Thus, it is my opinion without any railbanking agreements the abandonment is final and the 1991 quit claim deed from

CSX to State of Maryland to the use of DNR (the "quitclaim deed") was a "pig in a poke" generally. Noting there are 4 fee simple deeds in downtown Keedysville in between Md. Rt 34 and the Little Antietam Creek, so the quitclaim deed did transfer some rights. What is apparent is the "pay to play scheme" DNR has been involved in by requesting abutting property owners recognize DNR as owner in exchange for access or utilities is again in my opinion a "taking" and not any form of *estoppel* or property transfer. More importantly the "pay to play scheme" has managed to preserve the path of the "abandoned" railroad making condemnation proceeding a viable option. As recently as last week I discussed the "pay to play scheme" with MDOT insomuch MDOT's study relied on SDAT data to "verify" DNR ownership and not title, see Thu, Mar 2, 4:13 PM (7 days ago) email from this address to amaes1@mdot.maryland.gov.

I have requested redress from the Maryland Attorney General regarding the "pay to play scheme" and the DNR's participation in what appeared to be a conspiracy to "take" private property in a Mar 6, 2023, 11:47 PM (3 days ago) email to Talley.Kovacs@Maryland.gov:

"I write to the Honorable Assistant Attorney General with concerns regarding representations made by Chip Wood (Mr. "Wood") to the Honorable Board of Washington County Commissioners.

On Tue, Apr 14, 2020 at 9 11 AM Mr Wood made offer to Dan Hudson -DNR-:

'In my discussions with the individual members of the public or elected politicians such as a county commissioner – I can cite 'facts' that technically are not precise – but they enable me to continue the discussion – **although I will say the facts came from DNR** if asked.' (the "misrepresentations") see **email - 200411 - Civil War Rail Trail-- Excessive Costs_Redacted** attached hereto and incorporated herein by reference at p. 3 highlighted area.

On Thursday, April 30, 2020 10:25 AM Mr. Wood was informed by Dan Hudson -DNR- that:

'Actually prior to retiring Mr Wilson was able to work with DNR's legal staff to do an initial pass thru the deeds. Their findings were not as optimistic as yours with only **a small handful of the individual parcels held fee-simple** and **most with no documentation at all.**', (the "material fact(s)") see **RE Civil War Rail Trail -- Property Ownership Disputes_Redacted** attached hereto and incorporated herein by reference at p. 1 highlighted area.

However the Md. Department of Natural Resources appears to tacitly stand by and remain deliberately indifferent as Mr. Wood makes misrepresentations of material fact(s) to the Washington County Commissioners and the Public 'writ large.

I find this behavior concerning given the Attorney General's May 6th 1994 letter to Mr. Frank Bolton of Md. Dept. of General Services, RE: Weaverton to Roxbury Right of Way; and allegedly "privileged" statements made therein.

Could the Honorable Asst. Attorney General who represents Md. Dept. of Natural Resources kindly provide some clarification or redress?"

I very much enjoy riding my bike and appreciate all of the recreational opportunities provided in the area. However it is apparent to me the State of MARYland's title can not be perfected and the threat of a railroad is a threat of inverse condemnation hanging over properties. I do hope the Attorney General does right by its citizens and takes affirmative action to perfect the title in a court of law, or institutes condemnation proceedings if it is to continue to pursue what is apparently a "pipe dream."

I thank MDOT and the state or Maryland for the hard work and public service. With all due respect, this is why the libertarian party says "taxes are theft."

Please have a wonderful day.

Very Truly Yours,

Justin K. Holder
Libertarian Party

“The nine most terrifying words in the English language are, “I’m from the government and I’m here to help.”— Ronald Reagan, 40th President of the United States, News Conference (12 August 1986).” *Litz v. Maryland Dept. of Environment*, 131 A.3d 923, 924 446 Md. 254 (2016).



Justin Holder <jholder2004@gmail.com>

RE: Subject: Brunswick Line Option 4 B&O line proposal opposition

MARC Brunswick Line <Brunswick@mdot.maryland.gov>

Mon, Mar 13, 2023 at 9:37 AM

To: Justin Holder <jholder2004@gmail.com>

Good morning Justin - thank you for your comments on the Brunswick Line Expansion Study Technical Report, particularly the Western Maryland Options. This work is the first step in evaluating the feasibility of various alignment options to extend MARC service into Western Maryland. The Technical Report has deemed Option 4 to be the least feasible as the rail right-of-way does not exist anymore and property acquisition will be extremely challenging. We look forward to continuing the conversations with stakeholders as we move through the process.

Sincerely,
The Brunswick Study Team

From: Justin Holder <jholder2004@gmail.com>**Sent:** Thursday, March 9, 2023 1:31 PM**To:** MARC Brunswick Line <Brunswick@mdot.maryland.gov>**Cc:** Bill Wivell <william.wivell@house.state.md.us>; william.valentine@house.state.md.us <william.valentine@house.state.md.us>; Paul Corderman <paul.corderman@senate.state.md.us>; kbuckler@radiofreehubcity.com <kbuckler@radiofreehubcity.com>; Herald Mail -- News Desk <news@herald-mail.com>; citydesk@newspost.com <citydesk@newspost.com>; news@localdvm.com <news@localdvm.com>; jeremiah_dewolf@yahoo.com <jeremiah_dewolf@yahoo.com>; jbarr@washco-md.net <jbarr@washco-md.net>; dharvey@washco-md.net <dharvey@washco-md.net>**Subject:** RE: Subject: Brunswick Line Option 4 B&O line proposal opposition

[Quoted text hidden]

DEPARTMENT OF GENERAL SERVICES
ACTION AGENDA

REAL PROPERTY CONVEYANCE

ITEM

DEPARTMENT OF NATURAL RESOURCES

CSX Transportation, Inc.
Washington County - File #2994

REFERENCE

Board of Public Works approval is requested to accept an option contract to purchase 178.43 acres by quit claim deed, representing the old railroad bed from Weverton to Roxsbury (approximately 94,934 feet in length and 50 to 60 feet wide) with title vested in the name of the State of Maryland, to the use of the Department of Natural Resources in conjunction with the "Rails to Trails" and "Greenways" program. Title transfer documents are subject to legal review.

SPECIAL CONDITIONS

1. All lease agreements shall be assigned to Grantee at closing.
2. In the event a claim or claims regarding title to any portion of the premises is confirmed by the court, CSXT will reimburse Purchaser the per acre sale price paid for the premises of \$3,082.44 per acre for the portion affected by the claim.
3. Reimbursement as enumerated above will remain in full force and effect for ten (10) years from the conveyance of the premises, at which time CSXT's obligations hereunder shall automatically and immediately terminate without any act on the part of CSXT or any other person being required to effectuate such termination.

<u>OPTIONOR</u>	CSX Transportation, Inc.
<u>PROPERTY</u>	178.43 acres, unimproved
<u>OPTION DATE</u>	09/25/91
<u>PRICE</u>	\$550,000 - (\$3,082.44 P/A)
<u>APPRAISED VALUE</u>	\$751,000 - \$4,208 P/A - Bowers
	\$749,200 - \$4,198 P/A - Reiter
	\$695,000 - \$3,904 P/A - Owner's Appraisal
	\$365,000 - \$2,045 P/A - Ritter
<u>FUND SOURCE</u>	88.54.04 Item 028 MCCBL 1991 - Program Open Space

REMARKS

1. The Department of Natural Resources recommends approval of this acquisition
2. There will be no relocation or moving expenses associated with this acquisition.
3. Successors of title may have a reverter interest in the subject property and the Department may have cause to deal with settling these land disputes at a further date as they are disclosed.

Board of Public Works Action - The above referenced Item was:

Approved	disapproved	Deferred	Withdrawn
With Discussion		Without Discussion	

GRANTOR: CSX Transportation, Inc.

GRANTEE: Department of Natural Resources

AREA: 178.43 acres, unimproved

IMPROVEMENTS/USE: None

APPRAISAL SUMMARY

751,000 - \$4,208 P/A - Bowers

749,000 - \$4,198 P/A - Reiter

695,000 - \$3,904 P/A - Owners Appraisal

365,000 - \$2,045 P/A - Ritter

OTHER CONDITIONS/HISTORY:

- Railroad has been abandoned.
- All tracks and salvageable materials have been removed by CSX.
- CSX transportation will assist the State of Maryland in confirming its title to any portion of the premises in any litigation contesting said title and will reimburse the State of Maryland the consideration paid (\$3,084.44) per acre for the portion affected by the claim.

Similar Past Purchases of Railroad Property

- BPW 12/19/79 - 289 acres in Baltimore County (Northern Central Railroad)
- BPW 8/8/90 - 287 acres in Washington County. (CSX - Big Pool to Tonolowau Creek)

PURPOSES: Property will be used in conjunction with "Rails to Trails" and "Greenways" program.

NAME: CSX Transportation, Inc.

ID#: 54-6000720

LA26B.MAH



Parris N. Glendening
Governor

Maryland Department of Natural Resources

PUBLIC LANDS

Tawes State Office Building
Annapolis, Maryland 21401

John R. Griffin
Secretary

Carolyn D. Davis
Deputy Secretary

March 4, 1999

Mr. Timothy Lung
Senior Planner
Washington County Planning Commission
100 West Washington St, Rm 320
Hagerstown, MD 21740-4727

RE: Notification Procedure for Weverton-Roxbury Rail Corridor Easements

Dear Mr. Lung,

This letter serves to reaffirm the notification procedure formulated during our telephone conversations regarding the processing of family subdivisions which require access easements across the Weverton-Roxbury Rail Corridor from the Department of Natural Resources (DNR).

Once the subdivision applicants have signed an Easement Agreement with DNR, the Land and Property Management unit within DNR will forward a copy of the signed Agreement to the appropriate Planner at the Washington County Planning Commission. Washington County will delay approval of the subdivision application until such time as it has received its copy of the Agreement.

At this point in time, your contacts within DNR for Weverton-Roxbury easements will be Ms. Jean Lippard, Land and Property Management, and myself. We both may be reached by calling our new toll-free number, 1-877-620-8DNR, reaching Jean at ext 8163 and myself at ext 8408.

It has been a pleasure working with you. Feel free to call Jean or myself if you have any questions regarding the DNR easement process.

Sincerely,

A handwritten signature in cursive script that reads "Wanda Cole".

Wanda Cole
Natural Resources Manager
Resource Planning

cc: Jean Lippard
Shawn Clotworthy



Subject: RE: Civil War Rail Trail -- Property Ownership Disputes
From: "Chip Wood" <[REDACTED]>
Date: 4/30/2020, 6:04 PM
To: "'Dan Hudson -DNR-'" <dan.hudson@maryland.gov>
CC: <mshifler@foxassociatesinc.com>, "Andrew Eshleman" <aeshleman@washco-md.net>, "Hobbs, Scott" <SHobbs@washco-md.net>, <nita.settina@maryland.gov>

Hi Dan,

If John Wilson replied to me in the way you mention – I lost track of it. In any event, I have received a price from Fox & Associates, a Civil Engineer-Survey firm, of under \$10,000. If DNR chooses to contract out this work, I would expect DNR to have the contract reviewed and approved by County engineering. The records are in the County Courthouse on West Washington Street, on the diagonal corner from the County office building. Records are available for free, on line, at mdlanmdrec.net or email to msahelp@mdsa.net.

Cheers, Chip Wood

From: Dan Hudson -DNR- [<mailto:dan.hudson@maryland.gov>]
Sent: Thursday, April 30, 2020 10:25 AM
To: Chip Wood
Subject: Re: Civil War Rail Trail -- Property Ownership Disputes

Mr Wood,

Apologies for the tardy reply. Regarding deed research. Actually prior to retiring Mr Wilson was able to work with DNR's legal staff to do an initial pass thru the deeds. **Their findings were not as optimistic as yours with only a small handful of the individual parcels held fee-simple and most with no documentation at all.** Your note implies copies of original records still being available - please share contact for the keeper of those records as that is not consistent with what I remember Mr Wilson's research turning up.

Regarding encroachments. While I'm not involved in the day-to-day, I'd say local staff would not agree with your assessment. They do manage the corridor, send letters to owners with encroachments, provide letters/permission regarding crossings for driveways + field access, etc. No doubt it could be more thorough but I think they would bristle to the notion that the State has abandoned this area.



Dan Hudson
Trail Manager
Maryland Park Service
Department of Natural Resources
580 Taylor Ave., E-3
Annapolis, Maryland 21401
dan.hudson@maryland.gov
(410) 260-8149 (O)
(443) 569-1477 (M)
[Website](#) | [Facebook](#) | [Twitter](#)

Click [here](#) to complete a three question customer experience survey.

On Thu, Apr 16, 2020 at 4:51 PM Chip Wood <[REDACTED]> wrote:

Hi Dan,

As an aid to my request for DNR to perform property ownership research – attached for your reference is a report I did based on my analysis of surveying work that the State had done in 1993.

As you will see, both the County and DNR have been lax in their enforcement of codes and encroachments.

If you have any questions, please ask.

Cheers,

Chip Wood, P.E., Consulting Environmental Engineer, Retired

[REDACTED]

[REDACTED]

IN THE CIRCUIT COURT OF MARYLAND FOR WASHINGTON COUNTY

JEFFREY YOUNG,

*

Plaintiff,

*

v.

*

Civil Case No.: C-21-CV-20-000371

JUSTIN HOLDER, et al.,

*

Defendants.

*

* * * * *

BUSINESS RECORDS CERTIFICATION

I, Stephen McGee, state that I am over 18 years of age, having personal knowledge of the matters set forth herein and am competent to testify.

1. I am the Official Custodian of Records at the Maryland Department of Natural Resources (“DNR”), 580 Taylor Avenue, D-4, Annapolis, Maryland 21401.


2. I do hereby certify and solemnly affirm under the penalties of perjury that, to the best of my knowledge, information, and belief, the enclosed records are true and accurate reproductions of the business records of DNR pertaining to: (1) email communications between DNR Assistant Attorney General Talley Kovacs and Washington County Assistant State’s Attorney Joseph Michael in 2020; and (2) a map generated by the Land Acquisition and Planning Division of DNR using “Maryland’s Environmental Resources and Land Information Network” (MERLIN), which is an online mapping system created and managed by DNR (more information about MERLIN and disclaimers are available at: <https://dnr.maryland.gov/pages/Merlin.aspx>).

3. These records are created and kept in the course of the regularly conducted business activity of DNR as a regular practice of that business activity. They were made at or near the time of the occurrence of the matters set forth therein, by or from information transmitted by a person with knowledge of those matters. The originals of the email communications records are maintained electronically on Maryland.gov servers. The MERLIN online map system is maintained in the Center for Geospatial Products and Services within DNR. The attached map of the property at or near 25 Antietam Drive, Keedysville, MD 21756 generated using the MERLIN system is maintained in the Land Acquisition and Planning Division of DNR.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

9/12/24

Date



Stephen McGee
Records Custodian
Maryland Department of Natural Resources

Subject: Re: Information



Talley H. Kovacs -DNR- <talley.kovacs@maryland.gov>
to Mary Ironside -DNR-, Michael, Joe

Fri, Sep 11, 2020, 1:2

WARNING!! This message originated from an **External Source**. Please use proper judgment and caution when opening attachments, clicking links, or responding to this email.
Any claims of being a County official or employee should be disregarded.

Joe-

Additional documents are attached. Jeffrey Bonnerwith, LAP Surveys/GIS Supervisor for DNR, has analyzed the title near the Holder property- he can discuss the attached documents with you. Mr. Bonnerwith can be reached at jeffrey.bonnerwith@maryland.gov.

Talley H-S. Kovacs, Esq.
Assistant Attorney General
Talley.Kovacs@maryland.gov
Cell: (443) 841-8877

On Fri, Sep 11, 2020 at 1:04 PM Mary Ironside -DNR- <mary.ironside@maryland.gov> wrote:

Hello,

George Forlifer with land acquisition and planning is the DNR employee who assisted with boundary marking recently at the 25/28 Antietam Drive location.

george.forlifer@maryland.gov

Attached are maps which may assist.

The Merlin Map is from the Medusa Maryland Cultural Resource Information System. I looked up each property owner through real property search and labeled for my own information.



[changing_maryland_logo.jpg](#)



[facebook_logo.jpg](#)



[twitter_logo.jpg](#)

dnr.maryland.gov

Ranger Mary Ironside
Park Manager
South Mountain Recreation Area
Department of Natural Resources
21843 National Pike
Boonsboro, Maryland 21713
[301-791-4656](tel:301-791-4656)
(office)
[240-285-2621](tel:240-285-2621)
(cell)
Mary.Ironside@maryland.gov

On Fri, Sep 11, 2020 at 1:04 PM Mary Ironside -DNR- <mary.ironside@maryland.gov> wrote:


Hello,



George Forlifer with land acquisition and planning is the DNR employee who assisted with boundary marking recently at the 25/28 Antietam Drive location.

george.forlifer@maryland.gov

Attached are maps which may assist.

The Merlin Map is from the Medusa Maryland Cultural Resource Information System. I looked up each property owner through real property search and labeled for my own information.

 [changing_maryland_logo.jpg](#)

 [facebook_logo.jpg](#)
 [twitter_logo.jpg](#)
dnr.maryland.gov

Ranger Mary Ironside
Park Manager
South Mountain Recreation Area
Department of Natural Resources
21843 National Pike
Boonsboro, Maryland 21713
301-791-4656
(office)
240-285-2621
(cell)
Mary.Ironside@maryland.gov

[Click here](#) to complete a three question customer experience survey.

5 Attachments • Scanned by Gmail

SDAT Real Property Search

Real Property Data Search v1.0
Search Result for WASHINGTON COUNTY

[View Map](#) [View Grant/Right Registration](#) [View Grant/Right Registration](#)

[Return To Results Page](#)

Account Number	District	19 Account Number	01212
Owner Name:	SD NATURAL RESOURCES	Dist:	ESDMPT
Address:	201 LAND & WFP Bldg 1-3	Prctg Reference:	SD
	IMRES STATE OFFICE BLDG	Dist Reference:	01010-0096
	900 WASHINGTON		
	ANNAPOLIS MD 21401-2502		


Parcel Address: WASHINGTON
KEEDYSVILLE 21756-0000

Legal Description: 1.64 ACRES
S41.00 DE
P40.00 TO W&LS

Map: GME Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Parcel No: Parcel Map

0101 1001 0000 1000000000 0000 0000

Source: A970705011.F


 **SDAT_ Real Propoe..**

01275 00801
RECEIVED FEB 23 1996
Hutell, Mary Jane OCS File: 8096

EASEMENT
FOR
WERTON TO ROXBURY RIGHT OF WAY

THIS EASEMENT (the "Agreement"), made this 13th day of February, 1995, by and between THE STATE OF MARYLAND, to the use of the DEPARTMENT OF NATURAL RESOURCES, the "Grantor", and Mary Jane Hutell (the "Grantee").

WITNESSETH, WHEREAS the Grantor is the owner of all that land situate and lying in Washington County, Maryland as more fully described in a deed dated September 6, 1991 from

 **ROW Hutzell.pdf**


NO TITLE SEARCH
NO EXAMINATION
01015 00796
JAMES EARL RAY
JAMES EARL RAY
JAMES EARL RAY

Received for Record November 13, 1991 (41-124-0000) LINDS 1015

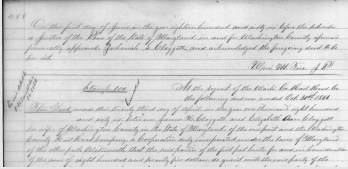
THIS QUITCLAIM DEED, made this 16th day of September, 1971, between ONE TRANSDINATION, INC., a Virginia corporation whose mailing address is 200 Beaver Street, Jacksonville, Florida 32202, successor by Articles of Merger effective September 2, 1967 to the Chesapeake and Ohio Railway Company, its then successor by Articles of Merger effective April 30, 1967 to The Baltimore and Ohio Railroad Company, hereinafter called "Grantor", and STATE OF MARYLAND, TO THE USE OF THE DEPARTMENT OF NATURAL RESOURCES, whose mailing address is 201 LAND & WFP BLDG, ANNAPOLIS, MARYLAND 21401, hereinafter called "Grantee", and MANUFACTURERS TRUST COMPANY and S. A. BRITTON, JR., Trustees as hereinafter provided, WITNESSETH:


(Wherever used herein, the terms "Grantor" and "Grantee" may be construed in the singular or plural, as the context may require or admit, and for purposes of exceptions, reservations and/or covenants, shall include the heirs, legal representatives and assigns of individuals and of the successors and assigns of corporations.)

OFFICE	DATE
REC'D	11-13-91
FILED	11-13-91
CLERK	11-13-91
CHIEF	11-13-91
DEPUTY	11-13-91
ASSISTANT	11-13-91
RECORDS	11-13-91
GENERAL	11-13-91
MANAGER	11-13-91
SECRETARY	11-13-91
PROPERTY	11-13-91
PLANNING	11-13-91
INSPECTION	11-13-91
CONSTRUCTION	11-13-91
MAINTENANCE	11-13-91
OPERATIONS	11-13-91
TRAINING	11-13-91
ADMINISTRATION	11-13-91
FINANCE	11-13-91
LEGAL	11-13-91
COMMUNICATIONS	11-13-91
INFORMATION	11-13-91
RESEARCH	11-13-91
DEVELOPMENT	11-13-91
ENVIRONMENTAL	11-13-91
PLANNING	11-13-91
CONSTRUCTION	11-13-91
OPERATIONS	11-13-91
TRAINING	11-13-91
ADMINISTRATION	11-13-91
FINANCE	11-13-91
LEGAL	11-13-91
COMMUNICATIONS	11-13-91
INFORMATION	11-13-91
RESEARCH	11-13-91
DEVELOPMENT	11-13-91
ENVIRONMENTAL	11-13-91


 **WA_DB_1015-079..**


Cost deed into W...



 **Cost deed into W...**

Weverton-Roxbur.



 **Weverton-Roxbur.**

Subject: tRE: Forest Damage Assessment



Michael, Joe <jmichael@washco-md.net>
to Mary Ironside -DNR-, Talley H. Kovacs -DNR-

Thu, Oct 1, 2020, 12:0

Hi,

This case is becoming burdensome for this office – basically the State’s Attorney’s Office will be put in the position of proving a quiet title action in the District Court – an action that I am likely to lose because of lack of expertise and resources. This will set a very bad precedent up and down the rail-trail.

Instead, please begin the process of filing an action in the Circuit Court to quiet DNR’s title in fee simple to exclude Mr. Holder’s allegedly superior claim from the property of DNR. The Circuit Court’s opinion will be binding in District Court, but not vice versa.

It’s the only fair way to do this. I have asked Mr. Holder’s counsel to start that process and he won’t because he sees the advantage of not doing so because Mr. Holder (who doesn’t even seem to be a title owner of a contiguous property!) has a win-win situation by making this go forward in the District Court instead. I think that he is trying to stall to build up his time of exclusive and notorious use of the disputed land, yet another reason for DNR to beat him to the punch and quiet title.

I don’t see how the DNR can expect the Washington

I don't see how the DNR can expect the Washington County State's Attorney's Office to protect DNR's rights criminal court with a higher standard, if the Attorney General won't protect DNR's rights in civil court at the lower standard.

Let me know how DNR is going to proceed.

From: Mary Ironside -DNR- <mary.ironside@maryland.gov>




Sent: Monday, September 28, 2020 11:35 AM

To: Talley H. Kovacs -DNR- <talley.kovacs@maryland.gov>; Michael, Joe <jmichael@washco-md.net>

Subject: Fwd: Forest Damage Assessment

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It looks like the restitution is under \$500

   dnr.maryland.gov	Ranger Mary Ironside Park Manager South Mountain Recreation Area Department of Natural Resources 21843 National Pike Boonsboro, Maryland 21713 301-791-4656 (office) 240-285-2621 (cell) Mary.Ironside@maryland.gov
--	---

[Click here](#) to complete a three question customer experience survey.

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

From: Robert R. Schwartz -DNR- <robertr.schwartz@maryland.gov>

Date: Thu, Sep 24, 2020 at 4:22 PM

Subject: Re: Forest Damage Assessment

To: Mary Ironside -DNR- <mary.ironside@maryland.gov>

Cc: Christy Bright -DNR- <christy.bright@maryland.gov>, George Eberling -DNR- <george.eberling@maryland.gov>

Hi Mary,

Attached is the damage assessment for the area along the rail trail. You mentioned that the responsible party may question my credentials so I included my licensed forester and forest warden numbers so if any questions arise, they are right there. Apologies for how long it took me to get it to you. Please let me know if this will work for what you need or if you have any questions.

Best,

Bob

Subject: Re: State of MD v. Justin Holder



Talley H. Kovacs -DNR- <talley.kovacs@maryland.gov>
to Michael, Joe

Thu, Nov 12, 2020, 5:1

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Joe-

DNR has asked that I make a request to you to put these citations on the stet docket. Thank you in advance for yc consideration.

Talley

Talley H-S. Kovacs, Esq.
Assistant Attorney General
Talley.Kovacs@maryland.gov
Cell: (443) 841-8877

On Mon, Nov 2, 2020 at 1:57 PM Michael, Joe <jmichael@washco-md.net> wrote:

Thanks for at least telling me that you won't be telling me.

This office will be putting effort into the preparation and pursuit of this criminal matter that corresponds with the DNR's effort to protect its property in civil court. Under these circumstances it is likely to be a not guilty, which v probably not inure to DNR's benefit in the long run.

If DNR would prefer that the State NP this matter so that DNR is not left with a not-guilty verdict, please send m formal request to NP this case for this office's file, and this office will give that request due consideration.

Meanwhile I am watching the civil proceedings in the Circuit Court vis a vis the neighboring properties.

From: Talley H. Kovacs -DNR- <talley.kovacs@maryland.gov>

Sent: Monday, November 2, 2020 1:10 PM

To: Michael, Joe <jmichael@washco-md.net>

Subject: Re: State of MD v. Justin Holder

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Joe-

I left a message for you last week to discuss your emails, but I know you are incredibly busy. I do understand yc position. At this time, I cannot offer anything further regarding DNR's deliberation upon actions it may or may no take in the future.

I left a message for you last week to discuss your emails, but I know you are incredibly busy. I do understand your position. At this time, I cannot offer anything further regarding DNR's deliberation upon actions it may or may not take in the future.

Best regards,

Talley

Talley H-S. Kovacs, Esq.
Assistant Attorney General
Talley.Kovacs@maryland.gov
Cell: (443) 841-8877

On Wed, Oct 14, 2020 at 9:26 AM Michael, Joe <jmichael@washco-md.net> wrote:

As requested in my e-mail of October 1, 2020, please let me know how DNR is going to proceed on the civil end. Your e-mail was silent regarding my request for information – not that you have any obligation to tell me.

The State will wait until the citations are set for trial to make any determination on how it is going to proceed but given the DNR's apparent lack of interest in this matter, additional charges are unlikely, unless a different victim, who is more interested in asserting its rights steps forward. Needless to say, this office would not be devoting any of its resources to a case that the DNR won't take to civil court.

I'll let you know when the citations are set. Mary, if a

I'll let you know when the citations are set. Mary, if a when this matter goes to trial, please be ready to explain during your testimony why DNR feels that criminal charges are appropriate in a case where DN cannot or will not exert its property rights in equity court. The Judge will want to know and understand that answer, because it goes to the heart of the matter. It is a real headscratcher.

From: Talley H. Kovacs -DNR- <talley.kovacs@maryland.gov>

Sent: Tuesday, October 13, 2020 1:47 PM

To: Michael, Joe <jmichael@washco-md.net>

Subject: State of MD v. Justin Holder

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Mr. Michael-

I hope this email finds you well. DNR understands that your office may determine to nolle pros the four citatio issued to Justin Kyle Holder in June 2020. Please let me know if you plan to prosecute Mr. Holder under Crin Law Section Article 6-301 for Malicious Destruction of Property, which you seemed inclined to pursue as late September 11, 2020 according to your email to Mr. Holder's attorney.

If I can be of further assistance, please do not hesitate to contact me.

From: Talley H. Kovacs -DNR- <talley.kovacs@maryland.gov>
Sent: Tuesday, October 13, 2020 1:47 PM
To: Michael, Joe <jmichael@washco-md.net>
Subject: State of MD v. Justin Holder

WARNING!! This message originated from an **External Source**. Please use proper judgment and caution with opening attachments, clicking links, or responding to this email.
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Mr. Michael-

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If I can be of further assistance, please do not hesitate to contact me.

Best,

Talley Kovacs
Talley H-S. Kovacs, Esq.
Assistant Attorney General
Department of Natural Resources
Tawes State Office Building
580 Taylor Avenue, Suite C-4
Annapolis, Maryland 21401
Talley.Kovacs@maryland.gov
Office: (410) 260-8351
Cell: (443) 841-8877* (Effective March 14, 2020 call this number to reach me.)

*****We are currently teleworking due to the COVID-19 emergency. Email is the best way to reach me.***