BEFORE THE
GEORGIA PUBLIC SERVICE COMISSION

Sandersville Railroad Company Hancock, County, Georgia **In re: Sandersville Railroad Company's Petition for Approval to Acquire Real Estate by Condemnation**	Docket No. 45045

VERIFIED APPLICATION FOR LEAVE TO INTERVENE OF THE NO RAILROAD IN OUR COMMUNITY COALITION

Pursuant to O.C.G.A. §§ 46-2-59 and 50-13-14, and Rule 515-2-1-.06 of the Commission, the No Railroad in Our Community Coalition ("NROCC") respectfully requests that the Commission grant this Verified Application for Leave to Intervene ("Application") in the above-captioned proceeding. In support of this Application, NROCC states as follows:

On March 8, 2023, Sandersville Railroad Company filed the Petition that is the subject of this docket, requesting, *inter alia*, that the Commission approve the acquisition of the subject real estate by condemnation to resolve the dispute between the Sandersville Railroad Company and Mr. Robert Donald Garrett, Sr. *See* Document No. 193527. The petition sought to acquire by condemnation a tract of land owned by Mr. Garrett to build an industrial spur ("the Hanson Spur") between a CSX rail line near Sparta, Georgia, and the Hanson Quarry, acquired by North American gravel supplier Heidelberg Materials. *Id.* On April 5, 2023, Mr. Garrett and his wife, Sarah Veazey Garrett ("the Garretts"), timely filed a verified application for leave to intervene as owners of the property subject to this proceeding. *See* Document No. 193944.

On May 2, 2023, Marvin Smith, Jr., Patricia Smith, William Smith, and Helen Smith timely filed verified applications for leave to intervene as owners of parcels that are targeted for future

acquisition by Sandersville Railroad Company for the Hanson Spur project. *See* Document Nos. 194317, 194318. On June 20, 2023, Verne Kennedy Hollis, Thomas Ahmad Lee, Leo John Briggs, Georgia Ann Briggs, Sally G. Wells, Joel Bradford Reed, Kathy Lynn Reed, Herus Ellison Garrett, and Donna N. Garrett timely filed verified applications for leave to intervene as owners of parcels that are targeted for future acquisition by Sandersville Railroad Company for the Hanson Spur project. *See* Document Nos. 204858, 204859, 204860, 204861, 204862, 204863, 204864.

This Application on behalf of NROCC for leave to intervene is timely filed. O.C.G.A. § 46-2-59(c) requires an interested party to "file an application for leave to intervene within 30 days following the first published notice of the proceeding." Petitioner Sandersville Railroad Company represented to the Commission that it first published legal notice of hearing in this matter on Friday, June 2, 2023, in the *Fulton County Daily Report*. *See* Document No. 204637.

The filing of NROCC's Application on June 21, 2023, falls within 30 days of the first published notice of proceeding in this matter and is therefore timely pursuant to O.C.G.A. § 46-2-59(c).

NROCC'S BACKGROUND

1. NROCC is an unincorporated association that was created in response to Sandersville Railroad Company's threats to use eminent domain against property owners in the chosen path of the proposed Hanson Spur project.

2. NROCC's headquarters are located at 929 Shoals Road in Sparta, Georgia.

3. NROCC founders Janet P. and David Mark Smith ("the Smiths") received a letter from Sandersville Railroad Company dated April 4, 2022. The letter contained information about the Hanson Spur project and notice that the railroad intended to use some of their

property for the project. The Smiths sent a letter in response objecting to the project as a whole and to any use of their property in furtherance of the project.

4. As of the date of this Application, the Smiths' property is no longer under direct threat of condemnation because the latest route for the spur will not require use of their property. However, the Smiths continue to object to the Hanson Spur because the project will affect their use and enjoyment of their property as well as the character of their neighborhood and community.

5. After objecting to the letter on behalf of themselves, the Smiths canvassed their neighborhood. They talked to residents to see if the community knew about the project and to gauge community members' thoughts and feelings about a train running near their homes and in the middle of their neighborhood. Several residents that the Smiths spoke with did not receive a letter, but they were concerned about the safety and environmental impacts of a train traveling close to their properties and through their community.

6. In response to community members' interest in organizing and opposing the project, the Smiths founded the NROCC in July 2022.

7. NROCC organized and hosted its first community rally in opposition to the Hanson Spur at the Hancock County Courthouse in Sparta, Georgia, in August 2022. Since then, NROCC has continued to hold monthly rallies to inform the community about the threat of the proposed railroad and to recruit members who are interested in advocating against the rail spur in their community.

8. Additionally, NROCC and its members have engaged in numerous activities in opposition to the Hanson Spur, including spearheading media campaigns to amplify the voices of community members, attending Hancock County Commission meetings, sending letters to

Hancock County officials, creating and distributing NROCC branded yard signs, and recruiting nonprofit partners to further their mission of stopping the Hanson Spur project and preventing new environmental burdens to their community.

GROUNDS FOR INTERVENTION

9. Pursuant to O.C.G.A. §§ 46-2-59 and 50-13-14, and Rule 515-2-1-.06 of the Commission, NROCC has an interest in intervening in this proceeding on behalf of its members, residents of Hancock County, Georgia, who are united in their opposition to the construction of the Hanson Spur.

10. According to O.C.G.A. § 46-2-59(e)(2), the Commission or a hearing officer shall permit a person to intervene "who demonstrates a legal, property, or other interest in the proceeding." The provision further instructs that, "[i]n determining whether to permit intervention, the hearing officer may consider whether the person's interest is adequately represented by other parties and whether the intervention will unduly delay the proceedings or prejudice the rights of other parties." O.C.G.A. § 46-2-59(e)(2).

NROCC Has Important Legal, Property, Or Other Interests in this Proceeding, Generally.

11. With homes located on Shoals Road, Maggie Reynolds Road, and Clayton Road in Sparta, several NROCC members live near the proposed route of the railway expansion. They are deeply concerned about the potential negative effects of the Hanson Spur on their legal and economic interests in their property and overall quality of life.

12. First and foremost, NROCC members are concerned about the potentially disruptive environmental effects of the Hanson Spur on their properties and families. With homes near the proposed route of the Hanson Spur, coalition members would be subjected to unwanted and hazardous noise, air pollution, and vibrations from the railroad.

13. NROCC members have already been forced to endure noise, dust, debris, and vibrations from existing mining operations at the Hanson Quarry, which will be served and expanded by the Hanson Spur, according to the Sandersville Railroad Company. The new spur will only compound the negative environmental impacts already affecting coalition members.

14. In addition to affecting residents' daily health and quality of life, these disturbances have the very real potential effect of diminishing the property values of their homes and land.

15. Given the recent spate of railroad derailments around the country,[1] safety is also a significant concern for coalition members who oppose the Hanson Spur running close to their homes and through their neighborhood. For example, although "experts say the amount of damage caused by the accident in East Palestine [Ohio] is unusual, two derailments in one month is not."[2]

NROCC's Individual Members Have Specific Interests in this Proceeding and Concerns Regarding the Impacts of the Spur.

Bennie and Eloise Clayton

16. Bennie and Eloise Clayton ("the Claytons") are NROCC members who have lived on Clayton Boulevard in Sparta, Georgia, since 1970. The street is named after them, and they were the first family to live on that street.

17. The Claytons attend NROCC rallies and community meetings and have an NROCC sign in their front yard.

18. The Claytons are retired and care for Mrs. Clayton's 85-year-old mother.

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[1] Joe Hernandez, *There are about 3 U.S. train derailments per day. They aren't usually major disasters*, NPR (Mar. 9, 2023), https://www.npr.org/2023/03/09/1161921856/there-are-about-3-u-s-train-derailments-per-day-they-arent-usually-major-disaste.

[2] *Id.*

19. The Claytons received a letter from the Sandersville Railroad Company announcing the Hanson Spur project.

20. The Claytons estimate that the spur tracks will be between 200 and 300 hundred feet from their home.

21. The Claytons do not want a rail spur near the home they built more than 50 years ago. They are concerned about how a nearby spur will affect the value of their property because they want their adult children to inherit the property after their death.

22. The Claytons are also concerned about the expected increased quarry production that the rail spur will serve. The noise and vibrations from the rock quarry presently impair their use and enjoyment of their property, and if the quarry expands, it will expand closer to their home and increase these disruptions.

Melanie Benson

23. A recent transplant from South Florida, Melanie Benson is a NROCC member who has lived on Maggie Reynolds Road in Sparta, Georgia, since 2022.

24. Ms. Benson learned from Benjamin Tarbutton, III, president of the Sandersville Railroad Company, that the spur track will come within 100 feet of her home.

25. Ms. Benson suffers from asthma and is worried air pollution from the proposed Hanson Spur project will aggravate her breathing issues.

26. Ms. Benson has 15-year-old twin sons who are currently finishing high school in South Florida. Her sons have several disabling conditions, including lung disease.

27. When her sons graduate from high school, Ms. Benson plans for them to move onto her property where she will build each of them a small home so she can care for them.

28. If the proposed rail spur is built, Ms. Benson believes that neither she nor her sons will be able to breathe properly or remain on the property.

29. Her sons were planning to visit her this summer, but she has postponed the trip because she is worried about the potential impacts of the rail spur construction on their health and that she will have nowhere safe for her sons to stay.

Elizabeth Scott

30. Elizabeth Scott is a NROCC member who lives on Clayton Boulevard in Sparta, Georgia. Her mother purchased the land in the 1980s and later passed the land to Ms. Scott.

31. Ms. Scott is retired and loves the peace and quiet of her neighborhood.

32. Ms. Scott estimates that the proposed spur track will be about 350 feet from her home.

33. Ms. Scott is very concerned about the noise and air pollution and is worried she will lose the sense of calm she has and enjoys when she is home.

Betty and James Lamar

34. Betty and James Lamar ("the Lamars") are NROCC members who have lived on Maggie Reynolds Road in Sparta, Georgia, since 2000.

35. The Lamars have attended NROCC rallies and community meetings and have an NROCC sign in their yard.

36. At a community meeting held by the Sandersville Railroad Company about the Hanson Spur, the Lamars learned that the railroad tracks would be approximately 300 feet away from their property line and that the company would use part of that track to park rail cars. During that meeting, Mrs. Lamar expressed her concerns about the proximity of the railroad to her home. Her concerns were dismissed by the railroad company's representative.

37. The Lamars have eight grandchildren who visit them at their home every Sunday and stay with them during the summer. Three of the grandchildren suffer from respiratory conditions, including asthma and allergies.

38. The Lamars are concerned that the pollution from construction and operation of the Hanson Spur could exacerbate their grandchildren's respiratory conditions. They already must limit the children's time outdoors due to the noise and pollution from the Hanson Quarry, whose operations the Hanson Spur would expand.

39. Just 800 feet away from the Lamars' property, the rock quarry regularly sets off high-powered explosives that cause noise and vibrations that shake their home, which also serves as the base for the Lamars' trucking company. The Lamars anticipate that once the Hanson Spur is completed, there will be even more explosive activity at the quarry.

40. Working from home, Mrs. Lamar makes phone calls all day and is concerned about further disruption to their business from the construction and operation of the Hanson Spur and any increased activity at the rock quarry due to the spur.

41. While the Lamars did not receive a letter from Tarbutton, they did observe land surveyors with equipment on their property. They subsequently learned that the surveyors worked for Sandersville Railroad Company.

42. The surveyors came onto the Lamars' property several times, sometimes coming near their house.

43. The Lamars never gave Sandersville Railroad Company or anyone else permission for the surveyors to enter or remain on their property.

Kenneth Clayton

44. Kenneth Clayton is a NROCC member who regularly attends the coalition's rallies and community meetings and has a NROCC yard sign on his property.

45. Mr. Clayton is a United States Marine Corps combat veteran who suffers from post-traumatic stress disorder ("PTSD") and diabetic neuropathy.

46. Except for the time he spent away serving his country, Mr. Clayton has lived in his home on Shoals Road in Sparta, Georgia, since 1972. The home was originally purchased by Mr. Clayton's mother, who bequeathed the home to him and his brother upon her death.

47. After attending a community meeting hosted by Sandersville Railroad Company and speaking with a representative from the company, Mr. Clayton estimates that the spur will be approximately 75 to 100 feet away from his home.

48. Mr. Clayton is concerned that a rail spur so close to his home will make the property unlivable. He is already plagued with the noise and vibrations from the nearby rock quarry. Even if there is a berm erected between his property and the spur, he is concerned about the additional noise the spur will bring and how it will affect his PTSD.

49. Mr. Clayton is also concerned about the impact the spur's noise and vibrations will have on the structural integrity of the home. The home is more than fifty years old, and although the quarry has denied liability, Mr. Clayton believes that the blasting and vibrations from the quarry have already damaged his foundation, sheetrock, and roof.

50. For these reasons, NROCC and its members have substantial legal, economic, and other interests that will be directly affected by the outcome of these proceedings.

No Other Party Can Adequately Protect NROCC's Interests.

51. No other party can adequately represent the interests of NROCC. To meet this standard, an intervenor need only show that representation of his or her interests "may be" inadequate, a burden that is "minimal." *Trbovich v. United Mine Workers*, 404 U.S. 528, 538 n.10 (1972).

52. NROCC uniquely speaks for the community, residents, and property owners who will be impacted by the construction of the Hanson Spur and the train traveling near their homes daily.

53. While the NROCC broadly shares the Garretts' and the other intervening party applicants' interests in stopping construction of the Hanson Spur, these interests differ in five important respects that are related to but extend far beyond the protection of the Garretts' property that is the subject of this proceeding.

54. First, as stated, NROCC represents a diverse coalition of Hancock County residents who are affected by the construction of the Hanson Spur but whose properties do not appear to be subject to future condemnation based on representations made by Sandersville Railroad Company thus far.

55. These coalition members include landowners with smaller properties than the Garrett property and the properties of other intervening applicants. In many cases, this means that coalition members' homes abut their property lines and are adjacent to where the Hanson Spur would be built. As a result, they would suffer significant increases in noise, vibrations, and pollution, among other disruptive effects of the rail spur.

56. Second, although individual landowners like the Garretts and other intervening applicants could at any time decide to sell their property to the Sandersville Railroad Company,

NROCC's stated mission is unequivocally to stop the Hanson Spur project and to prevent new environmental burdens to the community.

57. Third, as stated, NROCC's diverse coalition of impacted landowners and concerned residents have an interest in maintaining a residential neighborhood and community that is healthy, quiet, and whole, and that is not further bisected by expanding industrial projects that do not benefit most residents economically or otherwise.

58. Fourth, many of NROCC's members are Black or African American residents whose ancestors have lived in the neighborhood for approximately a century and who have an interest in seeing the historically and predominantly African American neighborhood maintain its nature and character. Several NROCC members have relatives who are buried in the historic St. Galilee graveyard near the proposed spur.

59. Finally, coalition members have no other remedy to protect their interests because their properties are not the subject of the instant proceedings, nor has the Sandersville Railroad Company indicated that their properties may be subject to eminent domain in the future. S*ee Potter's Properties, LLC v. VNS Corp.*, 306 Ga. App. 621, 623 (2010) ("[I]t is the rule in this State that a party may not intervene where he has a remedy which may be asserted in a proper proceeding."). As such, this proceeding may be the only opportunity that coalition members have to be heard in public and on the record about how the Hanson Spur project will affect their community, their lives, and their properties, providing a valuable perspective as the Commission considers the public benefit aspect of the proposed Hanson Spur, and one that is unique from the Garretts' and other intervening applicants' interests, as mentioned above.

60. In sum, NROCC's interests in the outcome of these proceedings are separate and distinct and cannot be adequately represented by the Garretts or any other intervening party or applicant.

61. NROCC desires to intervene in these proceedings to the extent issues considered and decided here may affect the Coalition's interests. NROCC desires the option to exercise the full rights available to an intervening party, including but not limited to, the right to file testimony, to present evidence, to participate in any Commission-ordered mediation, hearings, or other proceedings, to submit briefs, to cross-examine witnesses, and to be heard in oral argument.

NROCC Members Intend to Provide Direct Testimony in These Proceedings.

62. The Scheduling Order requires applications to intervene to "state the applicant's present intention to submit direct testimony and by whom and on what subject." Scheduling Order 1(b)(2).

63. NROCC founders and members intend to submit direct testimony on how the proposed rail spur would negatively impact their properties, neighborhood, community, and health.

NROCC's Intervention Will Not Cause Undue Delay or Prejudice.

64. NROCC's intervention will not unduly delay the proceedings nor prejudice the rights of other parties.

65. As stated, the filing of NROCC's Application on June 21, 2023, falls within 30 days of the first published notice of proceeding in this matter on Friday, June 2, 2023, in the *Fulton County Daily Report. See* Document No. 204637. The Application is therefore timely pursuant to O.C.G.A. § 46-2-59(c) and will have no prejudicial or delaying effect.

REQUEST FOR RELIEF

WHEREFORE, NROCC respectfully requests that the Commission grant this Application for Leave to Intervene in these proceedings as a party hereto, with full rights of participation as provided by the Commission's Rules of Practice and Procedure and relevant sections of the Georgia Code on all issues of law and fact to be developed during this proceeding.

NROCC further requests that it be placed on the Commission's official service list to receive copies of all notices, pleadings, orders, and other documents that are submitted in these proceedings. All such notices, pleadings, correspondence, orders, and other documents should be served on NROCC and their counsel as follows:

No Railroad in Our Community Coalition
c/o Janet P. and David Mark Smith
929 Shoals Road
Sparta, GA 31087

Jamie Rush
Malissa Williams
Miriam Gutman
The Southern Poverty Law Center
150 E. Ponce de Leon Avenue, Suite 340
Decatur, GA 30030

Respectfully submitted this 21st day of June, 2023.

Jamie Rush (Georgia Bar No. 999887)
Malissa Williams (Georgia Bar No. 964322)
Miriam Gutman (Georgia Bar No. 170768)
The Southern Poverty Law Center
150 E. Ponce de Leon Avenue, Suite 340
Decatur, Georgia 30030
E: jamie.rush@splcenter.org
E: malissa.williams@splcenter.org
E: miriam.gutman@splcenter.org
T: (404) 673-6523

BEFORE THE
GEORGIA PUBLIC SERVICE COMISSION

Sandersville Railroad Company Hancock, County, Georgia **In re: Sandersville Railroad Company; Hancock County, Georgia Acquisition**	Docket No. 45045

VERIFICATION OF APPLICATION FOR LEAVE TO INTERVENE OF THE NO RAILROAD IN OUR COMMUNITY COALITION

Jamie B. Rush personally appeared before the undersigned Notary Public and stated under oath that she is the attorney for the No Railroad in Our Community Coalition; that she is authorized by the aforementioned party to execute this verification on its behalf; and that the facts alleged in the party's Verified Application for Leave to Intervene in Docket No. 45045, are true and correct to the best of her information and belief.

This 20th day of June, 2023.

Jamie B. Rush

Sworn and subscribed before me
this 20th day of June, 2023.

Notary Public

Frances Lamby Scott
NOTARY PUBLIC
Forsyth County, GEORGIA
My Commission Expires 08/01/2025

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the foregoing Verified Application for Leave to Intervene of the No Railroad in Our Community Coalition via electronic mail and United States Mail with sufficient postage thereon to the following, pursuant to Ga. Comp. R. & Regs. 515-16-16-.02 and 515-2-1-.04(4)(b), (3), addressed as follows:

VIA Electronic Mail and U.S. First-Class Mail:

L. Craig Dowdy
Steven L. Jones
TAYLOR ENGLISH DUMA, LLP
1600 Parkwood Circle
Suite 200
Atlanta, Georgia 30339
Telephone: (770)434-6868
Facsimile: (770)434-7376
cdowdy@taylorenglish.com
sjones@taylorenglish.com

Robert S. Highsmith, Jr.
Laura E. Flint
HOLLAND & KNIGHT LLP
1180 West Peachtree Street NW
Suite 1800
Atlanta, Georgia 30309
Telephone: (404)817-8500
Facsimile: (404)881-0470
robert.highsmith@hklaw.com
laura.flint@hklaw.cm

Counsel for Petitioner Sandersville Railroad Company

Grant E. McBride
Smith, Welch, Webb & White, Attorneys at Law
2200 Keys Ferry Court
P. O. Box 10
McDonough, Georgia 30253
Tel.: (770)957-3937
Fax: (770)957-9165
Email: gmcbride@smithwelchlaw.com

Counsel for Intervenors
Leo John Briggs and Georgia Ann Briggs

Robert Donald Garrett, Sr.
Sarah V. Garrett
1335 Shoals Road
Sparta, Georgia 31087

William Blain Smith
Helen Diane Smith
823 Chatsworth Drive
Accokeek MD 20607

Marvin Smith, Jr.

Joel Bradford

Patricia Smith
15500 Avery Road
Rockville, Maryland 20855

Kathy Lynn Reed 5 Dogwood Lane
Chatsworth GA 30705

Sally G. Wells
140 Dunn Road
Sparta GA 31087

Donna N. Garrett
154 Lakeview Drive
Sparta GA 31087

Verne K. Hollis
373 Hamilton Street
Sparta GA 31087

Herus Ellison Garrett
111 Brookwood Court
Eatonton GA 31027

Thomas Ahmed Lee
8201 Brookriver Drive, Ste. 246
Dallas TX 75247

Property Owners

Nancy Gibson
Georgia Public Service Commission
244 Washington Street SW
Atlanta, Georgia 30334
Telephone: (404)463-0882
Facsimile: (770)342-3054
E-mail: ngibson@psc.ga.gov

Designated Hearing Officer

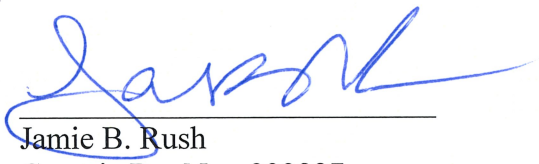
Sallie Tanner
Georgia Public Service Commission
244 Washington Street SW
Atlanta, Georgia 30334
Telephone: (404)656-4501
Facsimile: (404)656-2341
E-mail: stanner@psc.ga.gov

Executive Secretary of the Public Service Commission

Rob Trokey
Georgia Public Service Commission
Georgia Public Service Commission
244 Washington Street SW
Atlanta, Georgia 30334
E-mail: rtrokey@psc.ga.gov

Director, Electric Unit of the Public Service Commission

Respectfully submitted this 21st day of June, 2023.



Jamie B. Rush
Georgia Bar No.: 999887
SOUTHERN POVERTY LAW CENTER

150 E. Ponce de Leon Ave., Ste. 340
Decatur, Georgia 30030
Telephone: (404)673-6523
Fax: (404)221-5857
Email: jamie.rush@splcenter.org

Counsel for Intervenors
No Railroad in Our Community Coalition
("NROCC")