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19104-0311



August 27, 2008

**OVERNIGHT DELIVERY VIA FEDERAL EXPRESS**

The Honorable Anne K. Quinlan  
Acting Secretary  
Surface Transportation Board  
395 E Street S.W., Room 100  
Washington, DC 20423

ENTERED  
Office of Proceedings  
AUG 28 2008  
Part of  
Public Record

**Re: Re- STB Docket No. AB-1020X. East Penn Railroad, LLC - Abandonment Exemption - In Bucks and Montgomery Counties, Pennsylvania**

Dear Acting Secretary Quinlan:

Attached for filing are the original and ten copies of a Petition for Certificate of Interim Trail Use and Public Use Condition pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1002.2(e). Attached is a check covering the \$200.00 filing fee which, Montgomery County, Pennsylvania, a local government entity, requests to be waived and refunded. I am also enclosing an extra copy of the petition which I ask that you time stamp and return in the enclosed self-addressed stamped envelope. If you have any questions, please contact me at (610) 278-1481 or [lgrass@montcopa.org](mailto:lgrass@montcopa.org).

Sincerely,

Laurel Frankston Grass  
Assistant County Solicitor

**FEE RECEIVED**

AUG 28 2008

**SURFACE  
TRANSPORTATION BOARD**

Enclosures  
cc. Karl Morell (w/enclosures)

**FILED**

AUG 28 2008

**SURFACE  
TRANSPORTATION BOARD**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**



STB DOCKET NO AB-1020X

**EAST PENN RAILROAD, LLC  
ABANDONMENT EXEMPTION  
IN BERKS AND MONTGOMERY COUNTIES, PENNSYLVANIA**

**PETITION FOR NOTICE FOR INTERIM TRAIL USE AND PUBLIC USE  
CONDITION**

**FILED**  
AUG 28 2008  
**SURFACE  
TRANSPORTATION BOARD**

Laurel Frankston Grass

**ATTORNEY FOR:  
MONTGOMERY COUNTY, PENNSYLVANIA**

Dated August 25, 2008

**ENTERED  
Office of Proceedings  
AUG 28 2008  
Part of  
Public Record**

**FEE RECEIVED**  
AUG 28 2008  
**SURFACE  
TRANSPORTATION BOARD**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

**STB DOCKET NO. AB-1020X**

**EAST PENN RAILROAD, LLC  
ABANDONMENT EXEMPTION  
IN BERKS AND MONTGOMERY COUNTIES, PENNSYLVANIA**

**PETITION FOR INTERIM TRAIL USE AND PUBLIC USE CONDITION**

Montgomery County, Pennsylvania, a local government entity of the Commonwealth of Pennsylvania, (hereinafter referred to as "Proponent") is interested in acquiring the right of way for interim trail use and rail banking under the National Trails System Act, 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29, of a rail corridor in Montgomery County, which is proposed for exemption from abandonment in STB DOCKET NO. AB-1020X.

While not taking a position on the merits of this abandonment, Proponent requests issuance of a Notice of Interim Trail Use and Public Use Condition, rather than an outright abandonment authorization, for the portion of the rail corridor of East Penn Railroad, LLC, that is located in Montgomery County, Pennsylvania, between Mileposts 0.0 and 2.26, (hereinafter referred to as "The Line") Proponent further requests an issuance of a Public Use Condition.

**A. Request for Interim Trail Use**

The railroad right of way in this proceeding is suitable for rail banking. In addition to the public use conditions sought below, Proponent states and requests the following.

## **FINANCIAL RESPONSIBILITY**

1. In order to establish interim trail use and rail banking under section 8(d) of the National Trails System Act, 16 U.S.C. § 1247(d) and 49 C F R.

§ 1152.29. Proponent, Montgomery County, Pennsylvania is willing to assume full responsibility to manage the right of way to be abandoned, to indemnify East Penn Railroad, LLC, its successors and assigns, for any legal liability arising out of the transfer or use of the right of way to be abandoned, and to pay any taxes levied or assessed against the right of way owned by East Penn Railroad, LLC and acquired by Proponent.

2 The right of way to be abandoned extends between milepost 0 0, at Pottstown and milepost 8.6 at Boyertown in Berks and Montgomery Counties, Pennsylvania. Montgomery County requests a right of way and Notice of Interim Trail Use and Public Use Condition for the portion in Montgomery County, Pennsylvania between mileposts 0.0 and 2.26, which is a distance of 2.26 miles. A map of the Line is attached.

3. Proponent acknowledges that use of the right of way is subject to the user continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right of way for rail service. A copy of this statement is being served on East Penn Railroad, LLC on the same date it is being served on the Board

**B. Request for Public Use Condition**

Proponent requests the STB to find that this property is suitable for other public use, specifically trail use, and to place the following conditions on abandonment:

1. An order prohibiting the carrier from disposing of the corridor, other than the tracks, ties and signal equipment, except for public use on reasonable terms. The justification for this condition is that the rail corridor passes through scenic routes that connect the trail system that is an integral part of Proponent's open space development environmental plan. It would provide important wildlife habitat and greenspace preservation as a recreational trail consistent with that plan.

2. The time period sought is 180 days from the effective date of the abandonment authorization. Proponent needs this period of time because to assemble and review title information and to commence negotiations with the East Penn Railroad, LLC.

3. An order barring-removal or destruction of potential trail-related structures such as bridges, trestles, culverts, and tunnels. The justification for this condition is that these structures have considerable value for recreational trail purposes. The time period requested is 180 days from the effective date of the abandonment authorization for the same reason as indicated above.

A filing fee of \$200.00 is enclosed with this Petition. Proponent is a local government entity, and pursuant to 49 C.F.R. § 1002 2(e), hereby requests a waiver of this filing fee and prays for it to be refunded to Proponent.

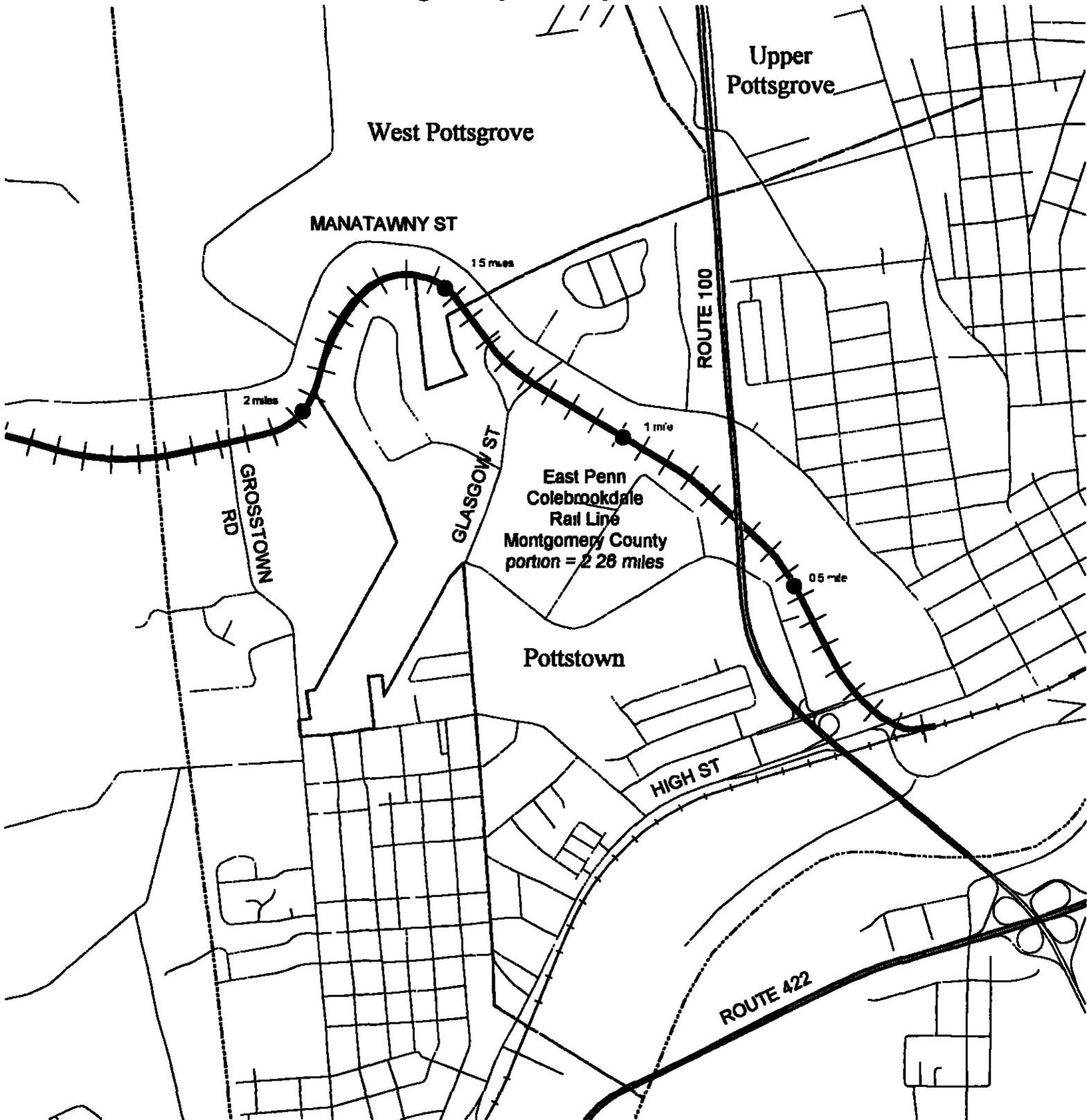
By my signature below, I certify service upon Karl Morell of Counsel, Ball Janik, LLP 1455 F Street, N.W., Suite 225, Washington, DC. 20005, by Federal Express delivery, on August 25, 2008.

Respectfully submitted,  
MONTGOMERY COUNTY SOLICITOR'S OFFICE

A handwritten signature in black ink, appearing to read "Laurel Frankston Grass", written over a horizontal line.

Laurel Frankston Grass  
Attorney for Montgomery County, Pennsylvania

# East Penn's Colebrookdale Rail Line Montgomery County Portion

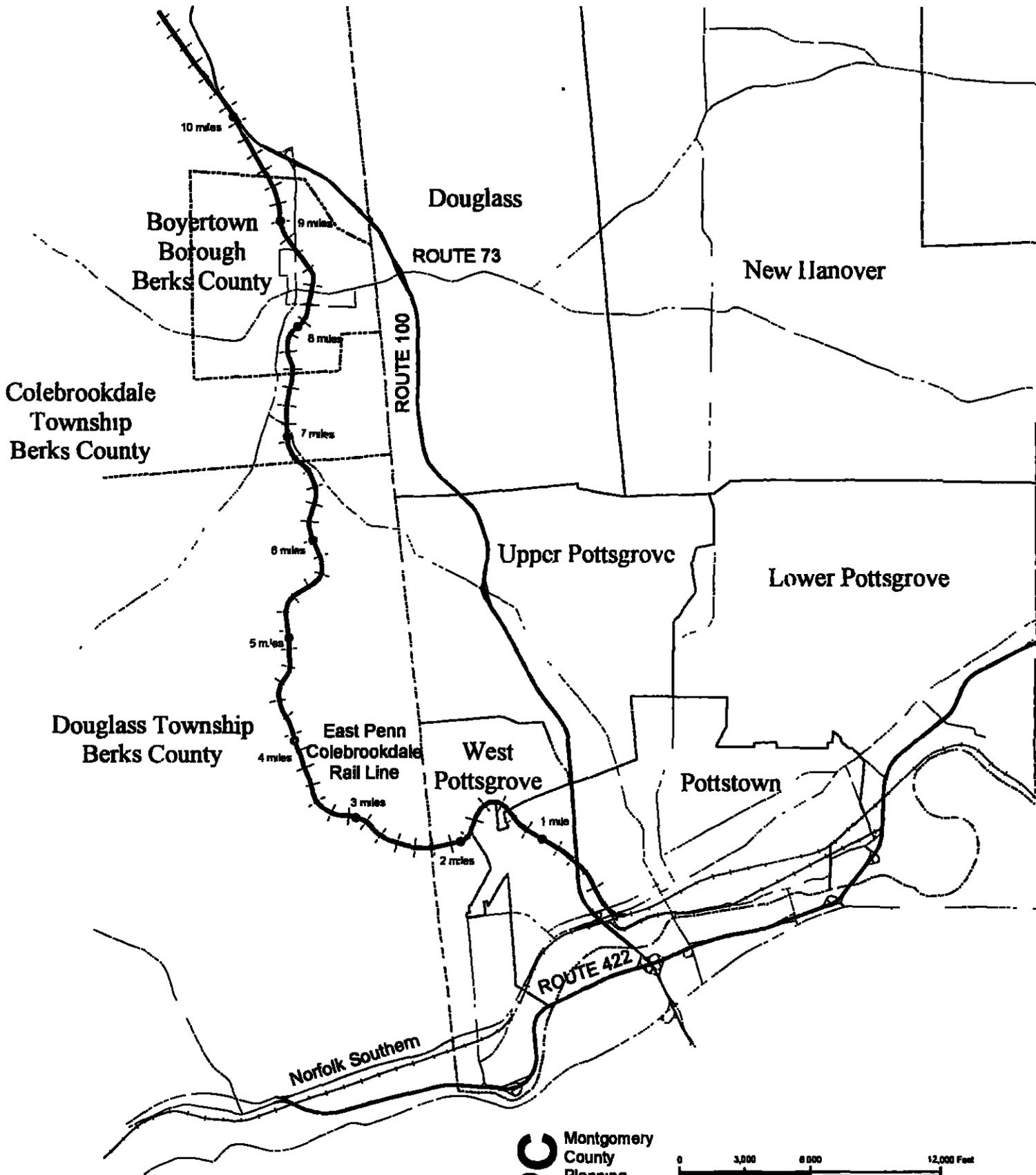


**MCPC** Montgomery County Planning Commission  
 Montgomery County Courthouse - Planning Commission  
 PO Box 311 • Norristown PA 19404-0311  
 (p) 610 278 3722 • (f) 610 278 3941  
 www.montcopa.org/plancom

0 750 1,500 3,000 Feet  
 Date map prepared August 2008

This map is based on 2005 ortho photography and official sources. Property lines were compiled from individual block maps from the Montgomery County Board of Assessment Appeals, with no verification from the deed. This map is not meant to be used as a legal definition of properties or for engineering purposes.

# East Penn's Colebrookdale Rail Line



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Base map prepared August 2008



This map is based on 2005 aerial photography and official sources. Property lines were compiled from individual block maps from the Montgomery County Board of Assessment Appeals, with no verification from the deed. This map is not meant to be used as a legal definition of properties or for engineering purposes.