



US Department of Transportation
Federal Railroad Administration

Montgomery Intermodal Container Transfer Facility

Finding of No Significant Impact



Issued by: Federal Railroad Administration (FRA)

Prepared pursuant to 23 C.F.R 771

October 2024

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Appendix A – Executed Section 106 Memorandum of Agreement

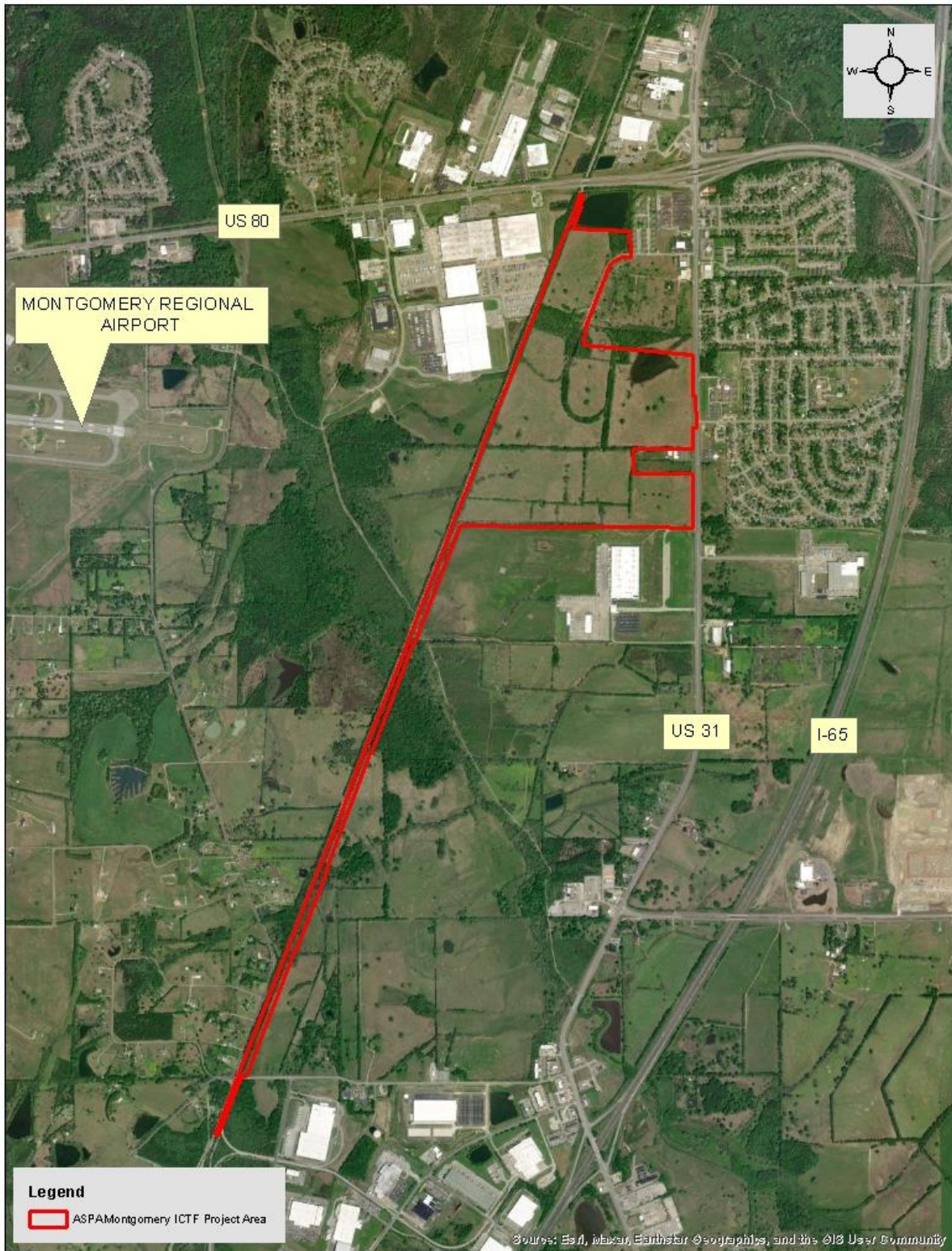
Introduction

The Federal Railroad Administration (FRA) prepared this Finding of No Significant Impact (FONSI) to comply with the National Environmental Policy Act, 42 United States Code (U.S.C.) §§ 4321 et. seq. (NEPA) and its implementing regulations, 40 Code of Federal Regulations (CFR) Parts 1500-1508; Federal Highway Administration (FHWA)/Federal Transit Administration (FTA)/FRA joint regulations implementing NEPA's (23 CFR Part 771); Section 4(f) of the United States Department of Transportation Act (49 U.S.C §303) and FHWA/FTA/FRA implementing regulations (23 CFR Part 774); and related laws. FRA makes this FONSI based on information included in the environmental assessment (EA) FRA prepared in cooperation with Alabama State Port Authority (ASPA), the city of Montgomery, and CSX Transportation (CSXT) for the Montgomery Intermodal Container Transfer Facility (ICTF) Project (the Project). The Project includes pre-construction project development activities, including environmental review and engineering design, and construction of the facility within south Montgomery, Montgomery County, Alabama. Inland intermodal shipping utilizes trains for the long-haul portion of the shipment, due to the efficiency of rail, while trucks are used to transport goods a short distance to and from the ICTF and to the final destination. The ICTF removes, segregates (if required) and stores goods upon delivery by one mode of transportation until a second mode of transportation out of the facility is available. This FONSI incorporates the EA by reference. The EA was made available to the public for review and comment from July 31 to August 30, 2024.

Project Area

The Project Area is illustrated on **Figure 1**. Surrounding land uses include the Montgomery Regional Airport, Southlawn Baptist Church, Kingdom Hall of Jehovah Witness, Cathedral of Restoration, Southlawn Middle School, light industrial, commercial, medium density residential and pastureland.

Figure 1: Project Area



Purpose and Need Statement

Project Purpose

The purpose of the proposed Project is to reduce congestion at the Port of Mobile (Port) and provide an alternate shipping option for existing Port customers in central Alabama.

Project Need

The two primary needs for the Project are to increase container storage and handling capacity, as well as provide an alternative shipping option between the Port and Montgomery, Alabama.

Alternatives

The EA included the review of two alternatives, the No-Action or No-Build Alternative and the Project or Build Alternative.

No-Build Alternative

The No-Build Alternative is required by federal regulations to be evaluated in an EA. The No-Build Alternative provides a baseline against which other project alternatives are compared.

The No-Build Alternative involves taking no action to increase container storage and handling capacity and provide an alternate shipping option. The No-Build Alternative would fail to meet the purpose and need for the Project, and container storage capacity at the Port would remain congested, slowing the movement of imports and exports, as well as sorting and handling times. Port customers in the central region of Alabama would continue to primarily utilize trucks to transport containers to and from the Port.

Build Alternative (Preferred Alternative)

The Build Alternative consists of the construction of an ICTF on an approximately 272-acre property owned by the ASPA in Montgomery, Alabama. The facility includes two 3,500 linear feet process rail tracks, one 3,500 linear feet support rail track, a maintenance building, and an administration building. Container stacking areas will be provided adjacent to the process tracks. Rubber tired gantry cranes will be employed to load and unload trains and trucks at the facility. Ten thousand linear feet of lead track will also be constructed parallel to the existing CSXT main line to provide rail access into the ICTF. Truck access into the facility will be provided through intersection improvements within the ALDOT right of way (ROW) at US Highway 31 (US 31) and Green Leaf Drive. Once operational, the Montgomery ICTF is anticipated to be open from 6:00 a.m. to 6:00 p.m. Monday through Friday. **Figure 2** reflects the preliminary design for the ICTF, while **Figure 3** reflects the 10,000 linear feet lead track.

Figure 2: ICTF Preliminary Design

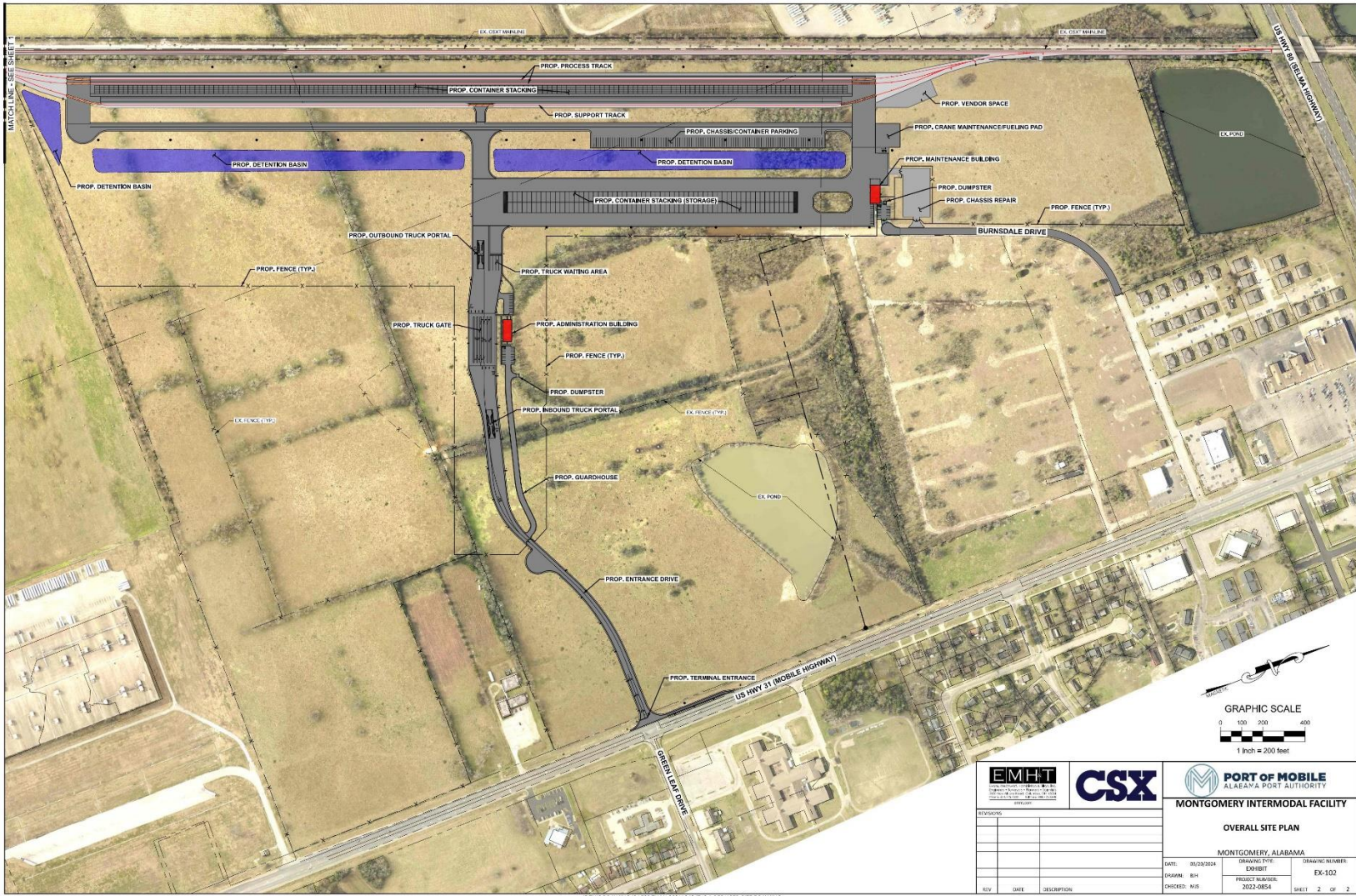


Figure 3: Lead Track Preliminary Design



IF THIS DRAWING IS LESS THAN 22" X 34" IT IS A REDUCED SIZE DRAWING

			MONTGOMERY INTERMODAL FACILITY	
			OVERALL SITE PLAN	
MONTGOMERY, ALABAMA		DATE: 3/29/2024	DRAWING TYPE: EXHIBIT	DRAWING NUMBER: EX-101
DRAWN: BJA	CHECKED: MJS	PROJECT NUMBER: 2022-0854	SHEET 1 OF 2	

Selected Alternative

The FRA compared the No Build Alternative and Build Alternative, assessing the ability of each alternative to meet the Project's Purpose and Need and determine the Selected Alternative. The Build Alternative was chosen as the Selected Alternative for several reasons, including:

- Location - The site is centrally located in the state of Alabama with access to Interstate 65 (I-65) and Interstate 85 (I-85).
- Rail access – The CSXT rail line directly borders the site to the west.
- Highway access – US Highway 31 (US 31) is an existing five-lane minor arterial roadway in the vicinity of the site.
- Property size – The site is approximately 272 acres. This will allow for future expansion of the facility if needed.
- Current zoning – The site is zoned light industrial.

FRA has concluded that the Selected Alternative will have no foreseeable significant impact on the quality of the natural and human environments. The Selected Alternative is best able to achieve the proposed action purpose and need without significant environmental impacts. Minimization Measures were included in the EA to further reduce environmental impacts.

Environmental Consequences and Environmental Commitments

Based on the EA, FRA has concluded that the Selected Alternative will have no foreseeable significant impact on the quality of the natural and human environment. **Table 1** summarizes potential impacts to physical, biological, and human resources which have a possibility to be affected by the Project, as evaluated in Section 4.0 of the EA. ASPA is required to comply with all applicable federal, state, and local permitting requirements during the implementation of the Selected Alternative, which include:

- Clean Water Act of 1977, 33 U.S.C. § 1251-1376;
- Section 404/401 of the Clean Water Act, 33 U.S.C. § 1344; and
- Executive Order 11990, Protection of Wetlands, 42 FR 26961, 3 CFR, 1977.

Table 1: Summary of Impacts and Mitigation Measures*

Resource	Project Anticipated Impacts	Project Mitigation Measures
Air Quality, Greenhouse Gas (GHG), Climate Change	<p>The Project is located in an area that is currently in attainment for all National Ambient Air Quality Standards (NAAQS) criteria pollutants. Air quality impacts during construction would be <i>de minimis</i>. Construction and operation of the Project will generate GHG; however, the Project will shift freight from less efficient highways to more efficient rail transportation having a positive impact by reducing overall GHG emission.</p>	<p>ASPA will implement the following best management practices (BMPs) to minimize combustion engine emissions and fugitive dust during construction:</p> <ul style="list-style-type: none"> • Use appropriate dust suppression methods during on-site construction activities. Available methods include application of water, dust palliative, or soil stabilizers; use of enclosures, covers, silt fences, or wheel washers; and suspension of earth-moving activities during high wind conditions. • Maintain an appropriate speed to minimize dust generated by vehicles and equipment on unpaved surfaces. • Shut off equipment when it is not in use. • Cover haul trucks importing/exporting dirt with tarps. • Stabilize previously disturbed areas with vegetation or mulching if such area will be inactive for several weeks or more (unlikely). • Visually monitor all construction activities regularly and particularly during extended periods of dry weather and implement dust control measures when appropriate.
Noise and Vibration	<p>Rail Noise</p> <p>The increase in rail cars from the Project will not contribute to a change in FTA noise impact criteria level at the receptors from</p>	<p>ASPA will minimize construction noise by implementing specific measures to help mitigate the noise at the source. BMPs to minimize construction equipment</p>

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Resource	Project Anticipated Impacts	Project Mitigation Measures
	<p>what is already being experienced from existing train operations. Therefore, no impact from rail noise is anticipated as a result of the Project.</p> <p>Roadway Traffic Noise</p> <p>The predicted design year 2045 Project condition noise levels will not approach, meet or exceed the noise abatement criteria (NAC) and no substantial increases in noise levels are predicted to occur; therefore, an analysis of noise abatement is not required for the Project for traffic noise.</p> <p>Construction Noise</p> <p>Temporary increase in noise is anticipated during construction.</p> <p>Vibration</p> <p>According to Table 6-5 Impact Criteria Considering Existing Conditions of the FTA’s Transit Noise and Vibration Impact Assessment Manual, the Project will have no vibration impact if the existing vibration exceeds the standard vibration criteria, the number of train events does not increase significantly, and the project vibration does not exceed the existing vibration by 3 decibel (dB) or more. Due to existing vibration exceeding the standard vibration criteria of 80 dB for residences and buildings where people normally sleep at two locations and the amount of train events not increasing, the Project is anticipated to have no impact on vibration.</p> <p>Construction Vibration</p> <p>Construction vibration will temporarily increase vibration levels in the immediate vicinity of the construction site. However, it should be noted that most construction equipment is moving, thereby limiting the exposure of any one location to prolonged construction vibration. No mitigation is required.</p>	<p>noise require regular and thorough maintenance procedures for all construction equipment. The following mitigation measures will be implemented by ASPA for construction noise:</p> <p><u>Construction Noise Mitigation Measures</u></p> <p>ASPA will monitor construction noise to verify compliance with the noise limits established in the FTA Transit Noise and Vibration Impact Assessment Manual (September 2018). ASPA will provide the contractor with the flexibility to meet the FTA construction noise limits in the most efficient and cost-effective manner. The contractor will have the flexibility of either prohibiting certain noise-generating activities during nighttime hours or providing additional noise control measures to meet the noise limits. To meet required noise limits, the following noise control mitigation measures will be implemented by ASPA as necessary, for nighttime and daytime:</p> <ul style="list-style-type: none"> • Avoid nighttime construction in residential neighborhoods. • Locate stationary construction equipment as far as possible from noise-sensitive sites. • Re-route construction-related truck traffic along roadways that will cause the least

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Resource	Project Anticipated Impacts	Project Mitigation Measures
		<p>disturbance to residents.</p> <ul style="list-style-type: none"> • Monitor and maintain equipment to meet noise limits. • Limit or avoid certain noisy activities during nighttime hours. • Use equipment with properly working mufflers for all engines.
Farmland Resources	The US Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS) determined that the Project is in an area designated as urban development and is therefore exempt from the Farmland Policy Protection Act (FPPA).	No mitigation
Water Quality	Minimal direct water quality impacts to surface water bodies could result from the Project during the construction phase and the operational phase. Stormwater discharges from the Project will generally be to Caney Branch.	Discharges during construction will be subject to a National Pollutant Discharge Elimination System (NPDES) General Permit for construction activities that result in a total land disturbance of one acre or greater issued by Alabama Department of Environmental Management (ADEM). BMPs, including, but not limited to, silt fencing, wattles, inlet protection and stormwater detention basins will be utilized during construction to minimize impacts to water quality. Additionally, permanent vegetation will be installed on all exposed soils to stabilize disturbed areas post construction.
Wetlands and Watercourses	Permanent impact to 0.42 acre of jurisdictional wetlands and 0.05 acre (217 linear feet) of perennial stream are anticipated. Prior to starting construction, the ASPA will obtain a US Army Corps of Engineers (USACE) Section 404 permit.	ASPA will purchase mitigation credits will be purchased from an USACE approved mitigation bank to compensate for unavoidable impacts.

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Resource	Project Anticipated Impacts	Project Mitigation Measures
Threatened and Endangered Species, Migratory Birds, and Bald and Golden Eagles	The FRA determined and the US Fish and Wildlife Service (USFWS) concurred that the Project “May Affect but is Not Likely to Adversely Affect” the tricolored bat (<i>Perimyotis subflavus</i>).	Conservation measures that will be implemented by the ASPA include no tree or vegetation clearing between December 15 - February 15 and May 1 - July 15 to avoid removal of suitable roosting trees during pup season. If this tree clearing timing is not achievable, formal consultation will be initiated with the USFWS and a mist-netting survey will be conducted to determine presence or absence of this species prior to any clearing activities.
Floodplains	<p>The Project would involve placing bridge piers and piles within the 100-year floodplain and the regulated floodway. It is anticipated that the Project will result in a 0.2’ rise in the floodplain elevation.</p> <p>The city of Montgomery regulates development of floodplains within the city limits. All work within the floodplains will be done in accordance with the requirements of the city of Montgomery’s Floodplain Development Ordinance as adopted by the city of Montgomery, and with all other applicable federal, state, and local regulations.</p>	<p>Impacts of the Project on the hydrology, drainage, and flooding conditions of Caney Branch will meet all local, state, and federal standards.</p> <p>A Conditional Letter of Map Revision (CLOMR) will be prepared and submitted to Federal Emergency Management Agency (FEMA) for review to determine that the Project, if built as proposed, or proposed hydrology changes would meet minimum National Flood Insurance Program (NFIP) standards.</p> <p>It is anticipated that a “Floodplain Development Permit” will be submitted to the city of Montgomery by the ASPA for their review and approval prior to initiating construction.</p>
Cultural and Historic Resources	The FRA determined and the Alabama State Historic Preservation Officer (SHPO) concurred that Site 1Mt565/ Falkners Siding is eligible for listing on the National Register of Historic Places (NRHP). This resource cannot be avoided; therefore, it will be adversely affected.	A Memorandum of Agreement (MOA) between the FRA, ASPA, and Alabama SHPO has been prepared and executed for data recovery, reporting, and education.
Section 4(f)/6(f) and Parks and Recreation	There are no Section 4(f)/6(f) properties located within or adjacent to the Project Area.	No mitigation

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Resource	Project Anticipated Impacts	Project Mitigation Measures
Hazardous Material and Hazardous Waste	A Phase I Environmental Site Assessment (ESA) conducted for the Project did not reveal the presence of hazardous waste within the Project Area. Rail cars containing hazardous materials will remain on the existing CSXT rail line and/or proposed sidetrack, adjacent to the Montgomery ICTF. No hazardous materials will be loaded or offloaded at the ICTF. Once in operation, it is not anticipated that there will be an increase in hazardous waste passing through the Project Area.	No mitigation. Should contaminated materials be encountered during construction, ASPA will dispose of all materials properly and in accordance with all federal, state, and local regulations.
Land Use	Land use will change from unimproved pastureland to light industrial use, but will be consistent with current zoning. Approximately 0.97 acre of permanent right of way (ROW) and 0.21 acre of temporary construction easement (TCE) required. No private residences or structures will be relocated, and there will be no displacement of any residential or commercial uses.	ASPA will conduct all ROW and easement acquisitions in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
Community Facilities	Social interaction patterns will not be altered, and community facilities will not be physically impacted by the construction of the Project; therefore, it is not anticipated that the Project will negatively impact existing community facilities.	No mitigation
Aesthetics and Visual	Views of the Project would be converted from unimproved pastureland to light industrial in nature. Highly visible elements of the Project include intersection improvements at US 31 and Green Leaf Drive and the entrance road into the ICTF. The ICTF would be less visible as it is located approximately 0.5-mile west of US 31. As discussed in Section 4.3.4 of the EA, the Project is consistent with existing light industrial land uses in the area. The Montgomery Regional Airport and other light industrial facilities are located within the vicinity of the Project; therefore, the Project would be consistent with the surrounding visual environment and would not substantially change the existing visual character of the surrounding area. Existing tree lined fence rows and stands of trees would provide a buffer between the Project and the surrounding properties and roadways.	No mitigation

Table 1: Summary of Impacts and Mitigation Measures*

Resource	Project Anticipated Impacts	Project Mitigation Measures
	Therefore, no mitigation is required.	
Demographics and Environmental Justice	<p>The Project would have a direct and positive impact on local environmental justice (EJ) populations by providing employment in the form of construction jobs and new opportunities when the ICTF becomes operational. The job creation would also benefit the local and state economy.</p> <p>No residential or commercial relocations are anticipated to occur because of the Project. Also, the Project would not bisect communities, would not adversely affect community cohesion, and no road closures are anticipated during construction. A traffic analysis was prepared for the Project which indicates that the Project will not result in unacceptable traffic conditions (Section 4.3.9 of the EA). In addition, air quality (Section 4.2.1 of the EA) and noise (Section 4.2.2 of the EA) impacts are not anticipated to as a result of increased rail or vehicular traffic from the Project. Visual impacts (Section 4.3.6 of the EA) are not anticipated to occur due to a tree-lined fence row which will visually separate the EJ communities from the proposed intersection improvements and ICTF access road. As a result, it is anticipated that minority and low-income populations will not experience disproportionate adverse impacts from the Project. In addition, it is anticipated that there would be no decrease in property values based on the lack of impacts to the adjacent EJ communities.</p>	No mitigation, positive impact
Public Health, Safety and Security	The Project is not anticipated to result in negative impacts to public health, safety, and security during construction or operation.	<p>ASPA will develop and implement a traffic control plan during construction to provide safe and efficient road user flow in the work zone.</p> <p>Safety and security measures, such as controlled gates, cameras, lights and fencing will be incorporated into the Project design. The ICTF will not be open to the general public and Transportation Worker Identification Credential (TWIC)</p>

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Resource	Project Anticipated Impacts	Project Mitigation Measures
		cards will be required for access.
Transportation	<p>Roadway</p> <p>The Project would improve inbound and outbound reach for products for existing and future industries, increase competition, and relieve congestion on the interstate highway system. While interstate traffic would decrease, local traffic would increase slightly. It is anticipated that there would be no substantial impact to the local roadway/highway network from the Project.</p> <p>Minor increases in traffic are anticipated to occur during construction because no vehicular traffic currently accesses the Project site. It is anticipated that intersection improvements at US 31 and Green Leaf Drive will be implemented early in the construction phase to control construction traffic entering and exiting the site.</p> <p>Air</p> <p>Due to the Project being in proximity the Montgomery Regional Airport and Dannelly Field, the FAA requested that an Obstruction Evaluation/Airport Airspace Analysis be performed during the EA process to determine potential impacts to airspace. Federal Aviation Administration (FAA) 7460-1 forms were prepared for all proposed lighting poles and rubber-tired gantry cranes and were submitted for the review and approval. Upon review, the FAA requested that four lighting poles be lowered. These modifications were made and were resubmitted back to FAA for final approval. There are no anticipated impacts to airport operations from the Project.</p> <p>Rail</p> <p>The Project would not increase the number of trains that currently occur along the CSXT mainline rail track; therefore, the project will not impact rail traffic. Additional rail cars will be added to the existing trains. Trains offloading at the ICTF will utilize the 10,000</p>	No mitigation

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Resource	Project Anticipated Impacts	Project Mitigation Measures
	<p>linear feet lead track and will not stop on the mainline; therefore, it is not anticipated that the existing rail crossing at Wasden Road will be affected.</p>	
<p>Energy Use and Utilities</p>	<p>Energy Use</p> <p>During construction of the ICTF and related roadway and rail improvements, the prime contractor and their subcontractors would use indirect energy, including electricity, gasoline, and diesel fuel, to power construction equipment and to install building materials (concrete, steel, etc.) It is anticipated that all contractors would be responsible for providing their own power to accomplish assigned tasks, most likely using gas or diesel operated generators for powering all non-motorized construction equipment. Therefore, there would be no increase in the electric power demand at the Project site during construction.</p> <p>During operation, electricity would be used to power the lighting, ventilation, and heat at the ICTF. Diesel fuel would be used to power the rubber-tired gantry cranes. While the Project would result in an increase in energy use compared to existing conditions, electric power would be available from existing sources. Long term fuel savings would be recognized through the reduction of vehicle miles traveled due to the shifting of container freight from truck to rail. Therefore, the Project is not expected to have a substantial impact on energy consumption and availability and there are no mitigation measures required.</p> <p>Utilities</p> <p>There are two existing power poles in the western ROW of the intersection of US 31 and Green Leaf Drive that will need to be moved prior to initiating intersection improvements. Additionally, there are water and sewer lines in the vicinity of the lead track work that will need to be replaced.</p>	<p>ASPA will coordinate with the respective utility owners throughout the design phase, and identified utility conflicts will be resolved prior to beginning construction.</p>

Table 1: Summary of Impacts and Mitigation Measures*

Resource	Project Anticipated Impacts	Project Mitigation Measures
Construction Period Impacts	<p>The Project would have minor, short-term construction period impacts on the local economy and employment, water quality, air quality, noise levels, and energy use. While temporary impacts related to water quality, air quality, noise levels, and energy use would be negative in nature, there would be positive impacts to the economy and employment due to the creation of construction jobs.</p>	<p>ASPA will implement BMPs, including, but not limited to, silt fencing, wattles, inlet protection and stormwater detention basins during construction to minimize impacts to water quality.</p> <p>Additionally, permanent vegetation will be installed on all exposed soils to stabilize disturbed areas post construction.</p> <p>ASPA will implement the following BMPs to minimize combustion engine emissions and fugitive dust during construction:</p> <ul style="list-style-type: none"> • Use appropriate dust suppression methods during on-site construction activities. Available methods include application of water, dust palliative, or soil stabilizers; use of enclosures, covers, silt fences, or wheel washers; and suspension of earth-moving activities during high wind conditions. • Maintain an appropriate speed to minimize dust generated by vehicles and equipment on unpaved surfaces. • Shut off equipment when it is not in use. • Cover haul trucks importing/exporting dirt with tarps. • Stabilize previously disturbed areas with vegetation or mulching if such area will be inactive for several weeks or more (unlikely).

Table 1: Summary of Impacts and Mitigation Measures*

Resource	Project Anticipated Impacts	Project Mitigation Measures
		<ul style="list-style-type: none"> • Visually monitor all construction activities regularly and particularly during extended periods of dry weather and implement dust control measures when appropriate. <p>ASPA will monitor construction noise to verify compliance with the noise limits established in the FTA Transit Noise and Vibration Impact Assessment Manual (September 2018). ASPA will provide the contractor with the flexibility to meet the FTA construction noise limits in the most efficient and cost-effective manner. The contractor will have the flexibility of either prohibiting certain noise-generating activities during nighttime hours or providing additional noise control measures to meet the noise limits. To meet required noise limits, the following noise control mitigation measures will be implemented by ASPA as necessary, for nighttime and daytime:</p> <ul style="list-style-type: none"> • Avoid nighttime construction in residential neighborhoods. • Locate stationary construction equipment as far as possible from noise-sensitive sites. • Re-route construction-related truck traffic along roadways that will cause the least disturbance to residents. • Monitor and maintain equipment to meet noise limits.

Table 1: Summary of Impacts and Mitigation Measures*

Resource	Project Anticipated Impacts	Project Mitigation Measures
		<ul style="list-style-type: none"> • Limit or avoid certain noisy activities during nighttime hours. • Use equipment with properly working mufflers for all engines.
Indirect and Cumulative Impacts	<p><i>Indirect Impacts</i></p> <p>The ICTF is not intended to serve new clients and no planned developments are linked to the Project. Industrial development exists in the area and several large corporations including Amazon, Hyundai, and Coca-Cola have recently announced plans to construct new facilities in the area independent from the ICTF construction. However, it is possible that the multimodal railroad access provided by the ICTF could attract new industrial development to the area. As discussed in Section 4.3.4 of the EA, the Project is consistent with the existing zoning regulations. Additionally, several large tracts of undeveloped land surrounding the ICTF site are zoned M-1 (light industrial) and are the most likely location for any subsequent industrial development as a result of the ICTF. Therefore, adverse indirect impacts to planned land-use or development objectives in the area would not be expected.</p> <p>Adverse indirect impacts to natural resources could occur from subsequent development; however, no planned developments are linked to the Project. In addition, any new development would have to comply with state and federal laws and any impacts would be offset with mitigation. As a result, it is expected that any indirect impacts to natural resources would be minimal and mitigation for indirect impacts is not recommended.</p> <p>Potential beneficial indirect economic impacts could occur if new industrial development occurs in the area. However, no planned industrial developments are linked to the Project.</p>	No mitigation

Table 1: Summary of Impacts and Mitigation Measures*

Resource	Project Anticipated Impacts	Project Mitigation Measures
	<p><i>Cumulative Impacts</i></p> <p>Resources reviewed in detail for cumulative impacts are those that would be impacted by the Project. Resources included in this cumulative impact analysis include wetlands and watercourses and archaeological resources.</p> <p>As discussed in Section 4.2.5 of the EA, the Project will directly impact 0.42-acre of jurisdictional wetland and 0.05-acre (217 linear feet) of perennial stream. Any impacts to wetlands and watercourses associated with current and future actions would require mitigation; therefore, these actions along with the Project, would not result in cumulative adverse impacts to wetlands and watercourses.</p> <p>As discussed in Section 4.3.1 of the EA, an NRHP-eligible archaeological site (Site 1 Mt565/Falkner's Siding) will be directly impacted by the Project. The FRA, in coordination with the Alabama SHPO and ASPA, has prepared a MOA that includes mitigation measures to offset unavoidable impacts to Site 1Mt565. As a result, the Project will not contribute to adverse cumulative impacts to additional archaeological sites.</p>	

*Minor text modifications have been made to this table since the release of the EA. However, the impacts and associated mitigation measures remain unchanged.

Coordination and Consultation

Public Outreach

Public involvement for the EA included hosting a public involvement meeting, attending a neighborhood association meeting, and updating the FRA Project website (<https://railroads.dot.gov/rail-network-development/environment/montgomery-intermodal-container-transfer-facility-project>).

Agency Coordination

Coordination for the Montgomery ICTF Project has occurred and is ongoing with several Federal, state, and local agencies. Section 106 consultation regarding potential impacts to historical properties as described in the EA occurred with the Alabama SHPO. The following agencies were contacted:

- USACE
- FHWA
- FEMA
- FAA
- USFWS
- USDA NRCS
- Alabama Department of Transportation (ALDOT)
- ADEM
- Alabama Department of Conservation and Natural Resources (ADCNR)
- City of Montgomery Floodplain Administrator

Tribal Coordination

FRA completed Tribal consultation in compliance with Section 106 of NHPA, with the federally recognized tribes identified having lands or resources in the Study Area. The following tribes were identified:

- Absentee-Shawnee Tribe
- Choctaw Nation of OK
- Mississippi Band of Choctaw Indians
- Thlopthlocco Tribal Town
- Alabama-Coushatta
- Tribe of TX
- Alabama-Quassarte Tribe of OK
- Cherokee Nation
- Chickasaw Nation

- Coushatta Tribe of Louisiana
- Eastern Band of the Cherokee Nation
- Eastern Shawnee Tribe of Oklahoma
- Kialegee Tribal Town
- Muscogee (Creek) Nation
- Poarch Band of Creek Indians
- Seminole Nation of OK
- Seminole Tribe of FL
- Tunica-Biloxi Tribe of Louisiana
- United Keetoowah Band of the Cherokee Indians in Oklahoma
- Jena Band of Choctaw Indians

Responses were received from the following Tribes:

- Mississippi Band of Choctaw Indians – The Tribe stated that they reviewed the full description of the proposed project and agreed with the No Adverse Effect to Historic Properties determination. (Note: This comment was received prior to the FRA making the finding of Adverse Effect to Site 1Mt565/Falkners Siding.) Additionally, they have no tribal interests that would be affected by the project. However, they would like to be notified if there are any inadvertent discoveries of any potential significant cultural items or artifacts during execution of the project.
- Cherokee Nation – The project is outside of the Cherokee Nation’s Area of Interest. Thus, they respectfully defer to federally recognized Tribes that have interest in the land base at this time.
- Choctaw Nation of OK – Regarding the English Village and Southlawn Estates eligibility as an Historic District under NHPA guidelines, the Tribe defers to the Alabama SHPO. Their office also defers to the AHC on eligibility determinations for the remains of Circle H Ranch’s racetrack.

Concerning the overall project, the Choctaw Nation Historic Preservation Department respectfully defers to the other Tribes that have been contacted.

- Muscogee (Creek) Nation – Montgomery County is located within the Muscogee (Creek) Nation’s historic area of interest and is of importance to them. After review, the Muscogee Nation is unaware of any Muscogee sacred sites, burial grounds, or significant cultural resources located within the immediate project area. Due to all of the resources discovered being non-Native, the Muscogee Nation will defer to the SHPO regarding determinations of impacts to the non-Native resources. However, due to the historic presence of Muscogee people in the project area, inadvertent discoveries of cultural resources, human remains and related NAGPRA items may occur, even in areas of existing or prior development. Should this occur, the Muscogee (Creek) Nation requests

that all work cease and our office as well as other appropriate agencies be notified immediately.

EA Public Comment Period

The EA was made available for public review with a formal comment period from July 31 to August 30, 2024. There were no comments received.

Conclusion

FRA carefully considered the Project record, including the EA and associated technical reports and analysis, the identified mitigation measures and environmental commitment, and the written and oral comments offered by agencies, stakeholders, and the public on this record. Based on this consideration, FRA determined the Montgomery ICTF Project as presented and assessed in the attached EA satisfies the requirements of NEPA (42 U.S.C. § 4321 et seq.), Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and FHWA/FTA/FRA joint regulations implementing NEPA (23 CFR Part 771), and the Selected Alternative described in this FONSI would have no significant impact on the quality of the human or natural environment. The EA provides sufficient evidence and analysis for FRA to determine that an environmental impact statement is not required for the Montgomery ICTF Project as presented.

STEPHANIE BENNETT PEREZ-ARRIETA
Digitally signed by STEPHANIE BENNETT PEREZ-ARRIETA
Date: 2024.10.08 13:12:52 -04'00'

October 8, 2024

Stephanie B. Perez
Chief, Environmental Review Division
Federal Railroad Administration

Date

FRA's Office of Environmental Program Management, prepared this document in September 2024 in accordance with USDOT's NEPA regulations. For further information regarding this FONSI contact:

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The following organization(s) assisted FRA's Office of Environmental Program Management in the preparation of the associated EA:

Alabama State Port Authority
Volkert, Inc.

Appendix A – Executed Section 106 Memorandum of Agreement

**MEMORANDUM OF AGREEMENT
AMONG
THE FEDERAL RAILROAD ADMINISTRATION,
THE ALABAMA STATE HISTORIC PRESERVATION OFFICER,
AND
THE ALABAMA STATE PORT AUTHORITY
REGARDING THE
MONTGOMERY INTERMODAL CONTAINER TRANSFER FACILITY PROJECT
MONTGOMERY, ALABAMA**

WHEREAS, the Alabama State Port Authority (ASPA) is proposing to construct an Intermodal Container Transfer Facility (ICTF) in Montgomery, Alabama (Project); and

WHEREAS, the Project will consist of two 3,500 linear feet process rail tracks, one 3,500 linear foot support rail track, a maintenance building, and an administration building. Container stacking areas will be provided adjacent to the process tracks. Rubber-tired gantry cranes will be employed to load and unload trains and trucks at the facility. Ten thousand linear feet of lead track will also be constructed parallel to the existing CSXT main line to provide rail access into the ICTF. Truck access into the facility will be provided through intersection improvements within the Alabama Department of Transportation (ALDOT) right of way (ROW) at US Highway 31 (US 31) and Green Leaf Drive; and

WHEREAS, the Federal Railroad Administration (FRA) administered Fiscal Year 2022 Congressionally Directed Consolidated Rail Infrastructure and Safety Improvements (CRISI) funding for pre-construction Project development activities, including environmental review, engineering design, and construction for the Project; and

WHEREAS, FRA's action requires review under the National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 *et seq.*) and is considered a undertaking under Section 106 of the National Historic Preservation Act of 1966 (54 U.S.C. § 306108) (NHPA), as amended, and its implementing regulations at 36 Code of Federal Regulations [C.F.R.] § 800 (hereinafter collectively referred to as Section 106); and

WHEREAS, FRA has coordinated Section 106 compliance with the NEPA process and is preparing an Environmental Assessment (EA); and

WHEREAS, pursuant to 36 C.F.R. § 800.2(c)(4), FRA authorized the ASPA to initiate consultation and prepare any necessary analyses, documentation, and recommendations on its behalf, but FRA remains legally responsible for all findings and determinations, including determinations of eligibility and effects of the undertaking; and

WHEREAS, pursuant to 36 C.F.R. § 800.2(a), FRA notified the following agencies of FRA's undertaking, and since the project is also an undertaking for their agencies, all three agencies notified FRA and the Alabama State Historic Preservation Office (SHPO) that they recognize FRA as the lead federal agency for section 106 and that FRA shall act on their behalf, fulfilling their collective responsibilities under section 106: Federal Highway Administration (FHWA) Alabama Division; the

Federal Aviation Administration (FAA); and the US Army Corps of Engineers – Regulatory Division Mobile District – Birmingham Field Office; and

WHEREAS, pursuant to 36 C.F.R. § 800.3(c)(3), FRA initiated consultation and identified consulting parties pursuant to 36 C.F.R. § 800.2(c) with the SHPO, in a letter dated September 8, 2023 (Attachment 1); and

WHEREAS, pursuant to 36 C.F.R. § 800.3(f), in a letter dated September 8, 2023, the FRA invited the following organizations with a demonstrated interest in the Project to participate in the Section 106 process and be consulting parties: Southlawn Community Organization, Southlawn Baptist Church, and Hope Hull Recreation Center. No parties accepted FRA’s invitation; and

WHEREAS, pursuant to 36 C.F.R. § 800(3)(f)(2), in a letter dated July 27, 2023, (Attachment 1) FRA invited the following Federally recognized Indian tribes (herein collectively referred to as Tribes) to participate in the Section 106 process and be consulting parties: Absentee-Shawnee Tribe, Choctaw Nation of Oklahoma, Mississippi Band of Choctaw Indians, Thlopthlocco Tribal Town, Alabama-Coushatta Tribe of Texas, Alabama-Quassarte Tribe of Oklahoma, Cherokee Nation, Chickasaw Nation, Coushatta Tribe of Louisiana, Eastern Band of the Cherokee Nation, Eastern Shawnee Tribe of Oklahoma, Kialegee Tribal Town, Muscogee (Creek) Nation, Poarch Band of Creek Indians, Seminole Nation of Oklahoma, Seminole Tribe of Florida, Tunica-Biloxi Tribe of Louisiana, United Keetoowah Band of the Cherokee Indians in Oklahoma, and Jena Band of Choctaw Indians. The following Tribes declined being a consulting party: Mississippi Band of Choctaw Indians (August 16, 2023); Choctaw Nation of Oklahoma (August 25, 2023); Cherokee Nation (August 18, 2023). On August 8, 2023, the Muscogee Nation requested the Phase I Cultural Resources Assessment for review prior to submitting a response or comments. In a follow up email dated September 21, 2023, the Muscogee Nation stated that due to the resources discovered being non-Native, they deferred to the SHPO regarding determinations of impacts to the non-Native resources. There were no Tribes who accepted consulting party status; and

WHEREAS, pursuant to 36 C.F.R §§ 800.4(a)(1) and 800.16(d) and in consultation with SHPO and consulting parties, FRA, in consultation with the SHPO, defined the undertakings area of potential effects (APE) in a letter dated September 8, 2023, with the SHPO’s response letter dated October 6, 2023; and

WHEREAS, pursuant to 36 C.F.R § 800.4 and in consultation with SHPO and consulting parties, FRA identified four historic properties that are listed in or eligible for listing in the National Register of Historic Places (NRHP) in the APE: English Village and Southlawn Estates Historic District, Southlawn Baptist Church, Selma to Montgomery National Historic Trail, and the Hope Hull Recreation Center; and made a finding of No Adverse Effects to these resources in a letter dated September 8, 2023. SHPO concurred with these determinations and findings in a letter dated October 6, 2023 (Attachment 1); and

WHEREAS, FRA identified one additional historic property in the APE in a letter dated April 2, 2024: Site 1Mt565, a late-nineteenth and early-twentieth century railroad siding site with extensive domestic artifact deposits and intact features. FRA found that the undertaking will destroy Site 1Mt565 and therefore made a finding of Adverse Effects. SHPO concurred with this determination and finding in a letter dated April 12, 2024 (Attachment 1); and

WHEREAS, pursuant to 36 C.F.R § 800.5 and in consultation with SHPO and consulting parties, FRA found that the Project will have an adverse effect on Site 1Mt565. SHPO concurred with this finding in a letter dated April 12, 2024 (Attachment 1); and

WHEREAS, pursuant to 36 C.F.R § 800.6(a) and in consultation with SHPO and consulting parties, FRA considered the following avoidance and minimization measures: Project design modifications to avoid the site; however, the Project could not be redesigned to avoid the adverse effect and meet the Project's Purpose and Need; and

WHEREAS, the consulting parties agree that recovery of significant information from the archeological site listed above may be done in accordance with the Secretary of the Interior's (SOI) Standards and Guidelines for Archaeological and Historic Preservation (48FR 44716-740) and the Alabama Historical Commission Administrative Code, Chapter 460-x-9 Archaeological Investigations (2006); and

WHEREAS, FRA and the ASPA, along with the SHPO, have determined that it is appropriate to enter into this Memorandum of Agreement (MOA) to resolve adverse effects pursuant to 36 C.F.R § 800.6(c), which will govern the implementation of the undertaking and satisfy FRA's obligation to comply with Section 106; and

WHEREAS, pursuant to 36 C.F.R. § 800.6(a)(1), FRA notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination and intention to execute a MOA on May 22, 2024, and the ACHP, in a letter dated June 30, 2024, elected to not participate in the consultation pursuant to 36 C.F.R. § 800.6(a)(1)(iii) (Attachment 1); and

WHEREAS, the ASPA will have roles and responsibilities in the implementation of this MOA and FRA invited the ASPA to sign this MOA as an Invited Signatory; and

WHEREAS, FRA sought and considered the views of the public regarding Section 106 through the NEPA process by holding a public meeting on March 16, 2023, and made the Draft MOA available to the public for review and comment by inclusion in the Environmental Assessment (EA) during the public comment period between July 31, 2024 to August 30, 2024; and shall ensure that the following terms and conditions, including the Archeological Data Recovery Plan, will be implemented in a timely manner and with adequate resources in compliance with the National Historic Preservation Act of 1966 (16 U.S.C. 470).

NOW, THEREFORE, FRA and SHPO (collectively referred to as the Signatories) agree that the project will be implemented in accordance with the following stipulations to take into account the effect of the Project on historic properties.

STIPULATIONS

FRA, in coordination with the ASPA, will ensure the following measures are carried out.

I. APPLICABILITY

This MOA applies to FRA's undertaking and binds FRA since it is providing funding for the ICTF Project.

II. TIMEFRAMES AND COMMUNICATIONS

The timeframes and communication protocols described in this Stipulation apply to all Stipulations in this MOA unless otherwise specified.

- A. All time designations are in calendar days unless otherwise stipulated. If a review period ends on a Saturday, Sunday, or Federal holiday, the review period will be extended until the next business day.
- B. All review periods are thirty (30) days, starting on the day the documents are provided by the ASPA for review.
- C. The ASPA, in coordination with FRA, will ensure that all comments received within the 30-day review period are considered, and will consult with responding parties as appropriate. If the ASPA does not receive comments within the 30-day review period, the ASPA may proceed to the next step of the process.
- D. In exigent circumstances (e.g., in Post-review discovery situations, or concerns over construction suspensions or delays), all Signatories agree to expedite their respective document review within seven (7) days.
- E. All official notices, comments, requests for further information, documentation, and other communications will be sent in writing by e-mail or other electronic means.
- F. FRA is responsible for all government-to-government consultation with Tribes.

III. PROFESSIONAL QUALIFICATIONS STANDARDS

The ASPA will ensure that all actions prescribed by this MOA are carried out by, or under the direct supervision of, qualified professional(s) who meet the appropriate standards in the applicable disciplines as outlined in the *Secretary of the Interior's Professional Qualifications Standards* (48 Fed. Reg. 44716, 44738 (Sept. 29, 1983)).

IV. DOCUMENTATION STANDARDS

All studies, reports, plans, and other documentation prepared pursuant to this MOA will be consistent with pertinent standards and guidelines outlined in *Archaeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines* (48 Fed. Reg. 44716, Sept. 29, 1983). In addition, documentation will also follow applicable guidance issued by the ACHP and applicable Alabama SHPO standards/required formats or subsequent revisions or replacements to these documents.

V. TREATMENT MEASURES

A. Site 1MT565 Phase III Data Recovery

1. FRA and ASPA shall ensure that all archaeological investigations undertaken in compliance with this agreement are conducted by qualified professional archaeologist that meet the Secretary of the Interior's Professional Qualification Standards for historical archaeology (at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the historic period) and have previous experience working on late-nineteenth and early-twentieth century archaeological sites; and that the report meets the SOI's Standards and Guidelines for Archaeological and Historic Preservation (48FR 44716-740) and the Alabama Historical Commission Administrative Code, Chapter 460-x-9 Archaeological Investigations (2006). ASPA shall provide FRA with the resume and experience of the Principal

Investigator to document they meet the above-reference criteria prior to the start of any work on the archaeological data recovery plan (ADRP) for Site 1Mt565.

2. Within 60 days of execution of this agreement, ASPA's archaeological contractor will prepare the Site 1Mt565 ADRP as per the standards in Stipulation IV: Documentation Standards. The Site 1Mt565 ADRP will include research into and documentation of the individuals who lived at the site to the extent possible in the historic records, a detailed historic context that allows for the development of meaning research questions; a list of achievable research questions based on the results of the Phase I and II testing and historic context, and field and laboratory methodology specific to the site. An electronic version of the ADRP will be submitted to the FRA and SHPO for a thirty (30) day review and comment period.
3. All comments received on the ADRP will be addressed by the ASPA's archaeological contractor within thirty (30) days of receipt and the ADRP will be re-submitted to FRA and the SHPO for final approval. FRA and SHPO will review the revised ADRP within thirty (30) days and provide any final comments for incorporation. If FRA has concerns about the proposed approaches in the ADRP, including concerns expressed by the SHPO, FRA shall meet with ASPA and their archaeological consultant to resolve the issues.
4. ASPA will implement the ADRP within ninety (90) days of final approval.
5. ASPA shall provide monthly email updates to FRA and SHPO on the progress of the fieldwork. If FRA or SHPO have any concerns with the progress on the fieldwork, FRA shall notify ASPA to set up a meeting to discuss and resolve any concerns.
6. Essential staff from the FRA and SHPO reserve the right to perform field visits and inspections throughout the course of the archaeological investigations. All site visits and inspections will be coordinated with the archaeological contractor a week in advance. ASPA and the archaeological contractor also reserve the right to call for an onsite meeting to discuss changes in methodology or to discuss unusual or rare finds. This request must also be made at least a week in advance.

B. Site 1MT565 Phase III Reporting

1. Within thirty (30) days of the completion of fieldwork, ASPA will provide a Management Summary of the field investigations to the FRA for review and comment. Upon approval, ASPA on behalf of FRA will submit copies of the Management Summary to the SHPO for review and comment. The SHPO shall be afforded thirty (30) days to review and comment on the Management Summary. Once the final Management Summary has been approved by the FRA and SHPO, the FRA will issue a notice to proceed for project construction at the site.
2. ASPA shall provide monthly email updates to FRA and SHPO on the progress of the artifact analysis and report writing. If FRA or SHPO have any concerns with the progress on the analysis and reporting, FRA shall notify ASPA to set up a meeting to discuss and resolve any concerns.
3. Within one (1) calendar year from the completion of the Phase III data recovery fieldwork, ASPA shall submit a final draft report digitally to the FRA. The report shall meet the requirements listed in Stipulation IV: Documentation Standards. Upon approval, ASPA on behalf of FRA will digitally submit the draft final report to the SHPO for

review and comment. The SHPO shall be afforded thirty (30) days to review and comment on the final draft report. The final report will incorporate editorial comments provided by both parties. FRA and SHPO will review the revised final draft report within thirty (30) days and provide any final comments for incorporation. If FRA has concerns about the proposed approaches in the ADRP, including concerns expressed by the SHPO, FRA shall meet with ASPA and their archaeological consultant to resolve the issues.

4. ASPA's archaeological consultant shall submit an updated Archaeological Site Survey Record for site 1MT565 to both the Alabama State Archaeological Site File and the SHPO.

C. Academic Publication

Due to the uniqueness of the site, the results of the study will be shared so that it is available to other professional archaeologists. Within one year of the completion of the Phase III report, ASPA shall have their consultant who performed the Phase III data recovery write an article and submit to a peer-reviewed regional or national archaeological journal. Since journals are peer reviewed, FRA cannot ensure that the article will be selected for publication; therefore, ASPA will also submit a redacted Phase III report to the Montgomery City-County Library System.

VI. PROJECT MODIFICATION AND DESIGN CHANGES

ASPA will notify the Signatories, and consulting tribes and consulting parties if any are later identified, of any proposed modifications or design changes to that ICTF that may result in additional or new effects on historic properties within 15 days. Failure to notify FRA of such changes may jeopardize project delivery and/or funding. Before ASPA takes any action that may result in additional or new effects on historic properties, ASPA, in coordination with FRA, will consult with SHPO (and consulting tribes and consulting parties if later identified) to determine the appropriate course of action. This may include revision to the APE, identification of historic properties, assessment of effects to historic properties, and treatment measures to resolve adverse effects. If FRA determines that an amendment to the MOA is required, it will proceed in accordance with Stipulation X.

VII. POST-REVIEW DISCOVERIES

A. Unanticipated Discovery or Effect to Historic Properties

In accordance with 36 C.F.R. § 800.13(a)(2), if a previously undiscovered archeological or cultural resource that is or could reasonably be a historic property is encountered during Project construction or a previously known historic property will be affected in an unanticipated manner during construction, as determined by staff who meet the qualifications set forth in Stipulation III, the ASPA will implement the following procedures. Each step within these procedures will be completed within seven (7) days unless otherwise specified:

1. The ASPA will require the contractor to immediately cease all ground disturbing and/or construction activities within a 50-foot radius buffer zone of the discovery. For any discovered archeological resources, ASPA will also halt work in surrounding areas where additional subsurface remains are reasonably expected to be present. ASPA, in coordination with FRA, may seek written SHPO concurrence during notification that a smaller buffer is allowable based on facts in the field specific to the unanticipated discovery.

2. ASPA will ensure that no excavation, operation of heavy machinery, or stockpiling occurs within the buffer zone. ASPA will secure the buffer zone through the installation of protective fencing. ASPA will not resume ground disturbing and/or construction activities within the buffer zone until the specified Section 106 process required by this MOA is complete. Work in all other Project areas may continue.
 3. ASPA will notify the Signatories within 24 hours of any unanticipated discovery or unanticipated effect. ASPA, in coordination with FRA, will also consider if new Federally recognized Indian tribes and/or consulting parties should be identified and invited to consult regarding unanticipated discoveries or unanticipated effects.
 4. Following notification of an unanticipated discovery or effect, ASPA, will investigate the discovery site and evaluate the resource(s) according to the documentation standards contained in Stipulation IV. ASPA, in coordination with FRA, will prepare and submit a written document containing a proposed determination of National Register eligibility for the resource and/or, if relevant, an assessment of the Project's effects on historic properties. ASPA will provide that document for review to the Signatories, and consulting Tribes and consulting parties if later identified, in accordance with the timeframes and communications protocols identified in Stipulation II. If SHPO does not concur with the eligibility and/or effects determination, FRA may elect to assume eligibility and/or adverse effects for expediency.
 5. If the resource is determined to be eligible for listing in the National Register and/or adverse effects cannot be avoided, ASPA, in coordination with FRA, will propose in writing to Signatories, and consulting Tribes and consulting parties if later identified, treatment measures to resolve adverse effects following the timeframes and communications protocols identified in Stipulation II.
 6. If it is necessary to develop treatment measures, ASPA, in coordination with FRA, will implement the approved treatment measures. ASPA will ensure construction-related activities within the buffer zone do not proceed until consultation with the Signatories, and consulting Tribes and consulting parties if later identified, concludes with SHPO concurrence that: 1) the resource is not National Register-eligible; 2) the agreed upon treatment measures have been implemented; or 3) it has been agreed that the treatment measures can be completed within a specified time period after construction-related activities have resumed.
- B. Unanticipated Discovery of Human Remains
1. If human remains are encountered during ground disturbing or construction activities, ASPA will immediately halt subsurface disturbance in that portion of the Project area and immediately secure and protect the human remains and any associated funerary objects in place in such a way that minimizes further exposure or damage to the remains from the elements, looting, and/or vandalism. ASPA will ensure a perimeter with a 50-foot radius buffer zone around the human remains is established where there will be no excavation, operation of heavy machinery, or stockpiling. ASPA will secure the buffer zone through the installation of protective fencing. ASPA, in coordination with FRA, may seek written SHPO concurrence during notification that a smaller buffer is allowable based on facts in the field specific to the unanticipated discovery. ASPA will not resume ground disturbing and/or construction activities within the buffer zone until the specified Section 106

process required by this MOA is complete. Work in all other ICTF Project areas may continue.

2. ASPA will immediately notify the local police department to determine if the discovery is subject to a criminal investigation by law enforcement and notify the Signatories within twenty-four (24) hours of the initial discovery.
3. If a criminal investigation is not appropriate, ASPA will ensure compliance with any applicable State and local laws pertaining to human remains, funerary objects, and cemeteries.
4. In the event the human remains encountered are of Native American origin, FRA, in coordination with ASPA, will consult with the appropriate Tribal representatives and SHPO to determine treatment measures for the avoidance, recovery or reburial of the remains. FRA and ASPA will follow the guidelines outlined in the ACHP's *Policy Statement Regarding Treatment of Burial Sites, Human Remains, and Funerary Objects* (2023). ASPA would also need to comply with the Alabama Burial Act (Code of Alabama 1975, §13A-7-23.1, as amended) and Alabama Historical Commission Administrative Code, 460-X-10, Burials.
5. If the remains are not of Native American origin, ASPA, in coordination with FRA, will consult with the Signatories, and consulting Tribes, and consulting parties if later identified, pursuant to Stipulation VII.A(4)-(6) to determine if the discovery is a historic property, take into account the effects on the historic property, and resolve adverse effects, as appropriate.
6. If it is necessary to develop treatment measures, ASPA, in coordination with FRA, will implement the approved treatment measures. ASPA will ensure ground disturbing and construction-related activities within the buffer zone do not proceed until consultation with the Signatories, and consulting Tribes and consulting parties if later identified, as appropriate, concludes with SHPO concurrence that: 1) the resource is not National Register-eligible; 2) the agreed upon treatment measures have been implemented; or 3) it has been agreed that the treatment measures can be completed within a specified time period after construction-related activities have resumed.
7. ASPA, in coordination with FRA, will also ensure ground disturbing and construction-related activities within the buffer zone do not proceed until ASPA has complied with any Alabama state burial laws.

VIII. ADOPTABILITY

If a Federal agency, not initially a party to or subject to this MOA, receives an application for financial assistance, permits, licenses, or approvals for the Project as described in this MOA, such Federal agency may become a signatory to this MOA as a means of complying with its Section 106 responsibilities for its Project. To become a signatory to this MOA, the agency official must provide written notice to the Signatories that the agency agrees to the terms of the MOA, specifying the extent of the agency's intent to participate in the MOA, and identifying the lead Federal agency for the Project. The participation of the agency is subject to approval by the Signatories. Upon approval, the agency must execute a signature page to this MOA, file the signature with the ACHP, and implement the terms of this MOA, as applicable. Any necessary amendments to the MOA will be considered in accordance with Stipulation X.

IX. MONITORING AND REPORTING

Once yearly, beginning one (1) year from the date of execution of this MOA until it expires or is terminated, the ASPA will provide all Signatories, and consulting Tribes and consulting parties if later identified, to this MOA a summary report detailing work undertaken pursuant to its terms. Such report will include any progress on implementation, proposed scheduling changes, any problems encountered, and any disputes or objections received because of FRA and ASPA's efforts to carry out the terms of this MOA.

X. AMENDMENTS

If any amendment is required or any Signatory to this MOA requests that it be amended, FRA will notify the Signatories, and consulting Tribes and consulting parties if later identified, and consult for no more than thirty (30) calendar days (or another time period agreed upon by all Signatories) to consider such amendment. The amendment will become effective immediately upon execution by all Signatories. FRA will file the executed amendment with the ACHP.

XI. DISPUTE RESOLUTION

- A. Any Signatory to this MOA, and consulting Tribe or consulting Party if later identified, may object to any proposed action(s) or the manner in which the terms of this MOA are implemented by submitting its objection to FRA in writing, after which FRA will consult with all Signatories to resolve the objection. If FRA determines such objection cannot be resolved, FRA will, within thirty (30) days of such objection:
 1. Forward all documentation relevant to the dispute, including FRA's proposed resolution, to the ACHP (with a copy to the Signatories). ACHP may provide FRA with its comments on the resolution of the objection within thirty (30) days of receiving documentation.
 2. If the ACHP does not provide comment regarding the dispute within thirty (30) days, FRA will make a final decision on the dispute and proceed accordingly.
 3. FRA will document this decision in a written response that takes into account any timely comments received regarding the dispute from ACHP and the Signatories and provide the Signatories, and consulting Tribes and consulting parties if later identified, with a copy of the response.
 4. FRA will then proceed according to its final decision.
 5. The Signatories remain responsible for carrying out all other actions subject to the terms of this MOA that are not the subject of the dispute.
- B. A member of the public may object to the manner in which the terms of this MOA are being implemented by submitting its objection to FRA in writing. FRA will notify the other Signatories of the objection in writing and take the objection into consideration. FRA will consult with the objecting party, and if FRA determines it appropriate, the other Signatories for not more than thirty (30) days. Within fifteen (15) days after closure of this consultation period, FRA will provide the Signatories, and consulting Tribes and consulting parties if later identified, and the objecting party with its final decision in writing.

XII. TERMINATION

- A. If any Signatory to this MOA determines that its terms will not or cannot be carried out, that Signatory will immediately consult with the other Signatories to attempt to develop an amendment

per Stipulation X. If within thirty (30) days an amendment cannot be reached, any Signatory may terminate the MOA upon written notification to the other Signatories.

- B. Once the MOA is terminated, and prior to work initiating or continuing the Project, FRA must either: 1) execute a new MOA pursuant to 36 C.F.R. § 800.6, or 2) request, take into account, and respond to the comments of the ACHP under 36 C.F.R. § 800.7. FRA will notify the Signatories as to the course of action it will pursue.

XIII. EFFECTIVE DATE

- A. This MOA will become effective immediately upon execution by all Signatories. In the event another federal agency elects to use this MOA, the MOA will be effective on the date that other federal agency completes the process identified in Stipulation VIII of this MOA.
- B. Counterparts. This PA may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.
- C. Electronic Copies. Within one (1) week of the last signature on this MOA, the ASPA shall provide each Signatory with one high quality, legible, full color, electronic copy of the fully executed MOA and all of its attachments fully integrated into one, single document. If the electronic copy is too large to send by e-mail, ASPA shall provide each Signatory with an electronic copy of the fully executed MOA as described above via other suitable, electronic means.

XIV. DURATION

This MOA will expire when all treatments measures identified in Stipulation V have been completed and ASPA has completed a final yearly summary report, or in five (5) years from the effective date, whichever comes first, unless the Signatories extend the duration through an amendment in accordance with Stipulation X. The Signatories to this MOA will consult six (6) months prior to expiration to determine if there is a need to extend or amend this MOA. Upon completion of the Stipulations set forth above, ASPA, in coordination with FRA, will provide a letter with attached documentation of completion to SHPO, with a copy to the Signatories. If SHPO concurs the Stipulations are complete within thirty (30) days, ASPA will notify the Signatories, and consulting Tribes and consulting parties if later identified, in writing and this MOA will expire, at which time the Signatories will have no further obligations hereunder. If SHPO objects, FRA and ASPA will consult further with SHPO to resolve the objection. If the objections cannot be resolved through further consultation, FRA will resolve the dispute pursuant to Stipulation XI. ASPA will provide written notification to the Signatories, consulting Tribes, and consulting parties on the final resolution.

XV. EXECUTION AND IMPLEMENTATION

Execution of this MOA by the Signatories and its subsequent filing with the ACHP by FRA, demonstrates that FRA has taken into account the effect of the Project on historic properties, has afforded the ACHP an opportunity to comment, and FRA has satisfied its responsibilities under Section 106 of the NHPA and its implementing regulations.

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AMONG
THE FEDERAL RAILROAD ADMINISTRATION,
THE ALABAMA STATE HISTORIC PRESERVATION OFFICER,
AND
THE ALABAMA STATE PORT AUTHORITY
REGARDING THE
MONTGOMERY INTERMODAL CONTAINER TRANSFER FACILITY PROJECT
MONTGOMERY, ALABAMA**

FEDERAL RAILROAD ADMINISTRATION

By:  Date: September 17, 2024
Melissa Ivie
Deputy Federal Preservation Officer

**MEMORANDUM OF AGREEMENT
AMONG
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THE ALABAMA STATE HISTORIC PRESERVATION OFFICER,
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REGARDING THE
MONTGOMERY INTERMODAL CONTAINER TRANSFER FACILITY PROJECT
MONTGOMERY, ALABAMA**

ALABAMA STATE HISTORIC PRESERVATION OFFICER

By: Lee Anne Hewett

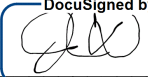
Lee Anne Hewett

Deputy State Historic Preservation Officer

Date: September 13, 2024

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AMONG
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AND
THE ALABAMA STATE PORT AUTHORITY
REGARDING THE
MONTGOMERY INTERMODAL CONTAINER TRANSFER FACILITY PROJECT
MONTGOMERY, ALABAMA**

ALABAMA STATE PORT AUTHORITY

By: 

John Driscoll
Director and Chief Executive Officer

Date: Sep 5, 2024 | 6:14 PM EDT

ATTACHMENT 1 – SECTION 106 CONSULTATION DOCUMENTATION

- FRA Letters
 - 1.FRA Tribal Consultation Initiation Dated July 27, 2023
 2. FRA Findings Letter Dated September 8, 2023
 3. FRA Updated Findings Letter Dated April 2, 2024
 - 4.ACHP Notice of Adverse Effect Dated May 22, 2024
- SHPO Letters
 1. SHPO Concurrence Letter Dated October 6, 2023
 2. SHPO Concurrence Letter Dated April 12, 2024
- ACHP Letter
 1. ACHP Response Letter Dated June 30, 2024
- Tribal Consultation (if applicable)
 1. Response from the Mississippi Band of Choctaw Indians Dated August 16, 2023
 2. Response from the Choctaw Nation of Oklahoma Dated August 25, 2023
 3. Response from the Cherokee Nation Dated August 18, 2023
 4. Response from the Muscogee Nation Dated August 8, 2023
 5. Follow Up Response from the Muscogee Nation Dated September 21, 2023

FRA LETTERS



U.S. Department
of Transportation

1200 New Jersey Avenue, SE
Washington, DC 20590

**Federal Railroad
Administration**

July 27, 2023

Devon Frazier
THPO
Absentee-Shawnee Tribe
2025 S Gordon Cooper Drive
Shawnee, OK 74801

RE: Montgomery Intermodal Container Transfer Facility (ICTF)
Montgomery, Montgomery County, Alabama
Initiation of Section 106 Consultation and Request for Information and Comment

Dear Honorable John Raymond Johnson:

The Federal Railroad Administration (FRA) is providing financial assistance to the Alabama State Port Authority (ASPA) for the proposed Montgomery Intermodal Container Transfer Facility (ICTF) (Project). The Project is located south of U.S. Highway 80 and west of U.S. Highway 31 in Montgomery, Montgomery County, Alabama. The Project is located in Township 15 North, Range 17 East, Sections 3, 4, 9, 10, 17, 18, 20 and 21 on the Montgomery South, AL United States Geological Survey's (USGS) Quadrangle 7.5 Minute Series Topographic Map. The center coordinates of the project location are latitude 32.299520 N and longitude 86.357406 W (Attachment A). The Project is an undertaking subject to Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulations 36 CFR Part 800 (Section 106). The purpose of this letter is to initiate Section 106 consultation for the Project to determine if there are historic properties of cultural or religious significance to your Tribe that may be affected by the Project.

Project Purpose and Need

The purpose of the Project is to reduce congestion at the Port of Mobile and provide an alternate shipping option for existing Port customers in central Alabama. The two primary needs for the Project are to increase container storage and handling capacity, as well as provide an alternative shipping option between the Port and Montgomery, Alabama.

Project Description

The Project consists of the construction of an ICTF on an approximately 272-acre property owned by the ASPA in Montgomery, Alabama. The facility will consist of two 3,500 linear feet process rail tracks, one 3,500 linear foot support rail track, a maintenance building, and an administration building. Container stacking areas will be provided adjacent to the process tracks. Rubber tired gantry cranes will be employed to load and unload trains and trucks at the facility. Ten thousand (10,000) linear feet of

lead track will also be constructed parallel to the existing CSXT main line to provide rail access into the ICTF. Truck access into the facility will be provided through intersection improvements within the Alabama Department of Transportation (ALDOT) right of way (ROW) at U.S. Highway 31 (US 31) and Green Leaf Drive. Once operational, the Montgomery ICTF is anticipated to be open from 6:00 a.m. to 6:00 p.m. Monday through Friday.

Area of Potential Effects

The Project's area of potential effects (APE) was set at 0.4 km (1/4 mile) from the edge of the limits of disturbance (LOD) for the proposed facility and 0.2 km (1/8 mile) from the proposed centerline of the linear railway portion of the project area to account for potential visual, atmospheric, and auditory effects (Attachment A). Archaeological survey was conducted within the LOD, and survey for above-ground resources was conducted in the APE.

Phase I Cultural Resource Assessment

A literature and document search was conducted in order to gather pertinent background information regarding the limits of disturbance (LOD) and its surroundings. This research included inspections of the Alabama State Archaeological Site File (ASASF) (Office of Archaeological Research [OAR] 2023), the Alabama Register of Landmarks and Heritage (ARLH) (Alabama Historical Commission [AHC] 2023), and the National Register of Historic Places (NRHP) (National Park Service 2023). Historic newspapers (including the Alabama Journal, Montgomery Advertiser, and the New York Times), books, and deed records were also explored.

A Phase I cultural resources assessment (CRA) was conducted on February 1-17 and April 3-5, 2023 and was guided by procedural standards created by the Alabama Council of Professional Archaeologists in accordance with the Alabama Historical Commission's (2002) specifications as outlined in the Policy for Archaeological Surveying and Testing in Alabama and the Alabama Historical Commission Section 106 Architectural Resources Guidelines.

Three archaeological sites were encountered. Site 1Mt565 corresponds closely to the location of three former structures which are likely related to Falkners Siding. Site 1Mt566 contains the remains of a collapsed barn/equipment shed. Site 1Mt567 is a large site encompassing the race track portion of the Circle H Ranch, once owned by Fred William Hooper. The Circle H Ranch site was recorded as a designed historic landscape that includes a grouping of equestrian related building foundations and features, a large pond, two standing structures, and an elevated dirt racing track with a discernible chute. The site will be evaluated using the National Park Service's Bulletin 18 on designed landscapes.

Twelve above-ground resources were found within the APE. The two resources (Resources 11 and 12, a cinderblock bathroom building and a cinder block building with unknown function) are associated with the Circle H Ranch potential designed landscape. Nine of the standing structures evaluated within the APE are recommended as ineligible for the NRHP.

The English Village and Southlawn Estates suburban neighborhoods are historically significant for unifying as one of the few originally segregated communities in Alabama working toward integration. The period of significance is from 1962-1988, the year of English Village's groundbreaking to the Southlawn Baptist Church's recognition as a model example of maintaining an integrated community. The neighborhoods and their historic community amenities are eligible as a district for the NRHP under Criterion A for their association with Social History/Civil Rights events that have made a significant

contribution to the broad patterns of our history. The Southlawn Baptist Church (Resource 4) is eligible under Criterion A for its Social/Civil Rights history and as part of the Southlawn and English Village neighborhoods.

Request for Information and Comments

FRA requests that you: 1) review the enclosed materials and provide any information you are willing to share regarding historic properties of religious or cultural significance to your Tribe that may be present in the APE and/or may be affected by the Project, and 2) notify FRA within 30 calendar days from the date of your receipt of this letter whether you accept or decline this invitation to be a Consulting Party. Please e-mail your response to me at kristen.zschomler@dot.gov. If you have questions or wish to discuss the Project, I can be reached at 651-391-0243. Thank you for your cooperation on the Project.

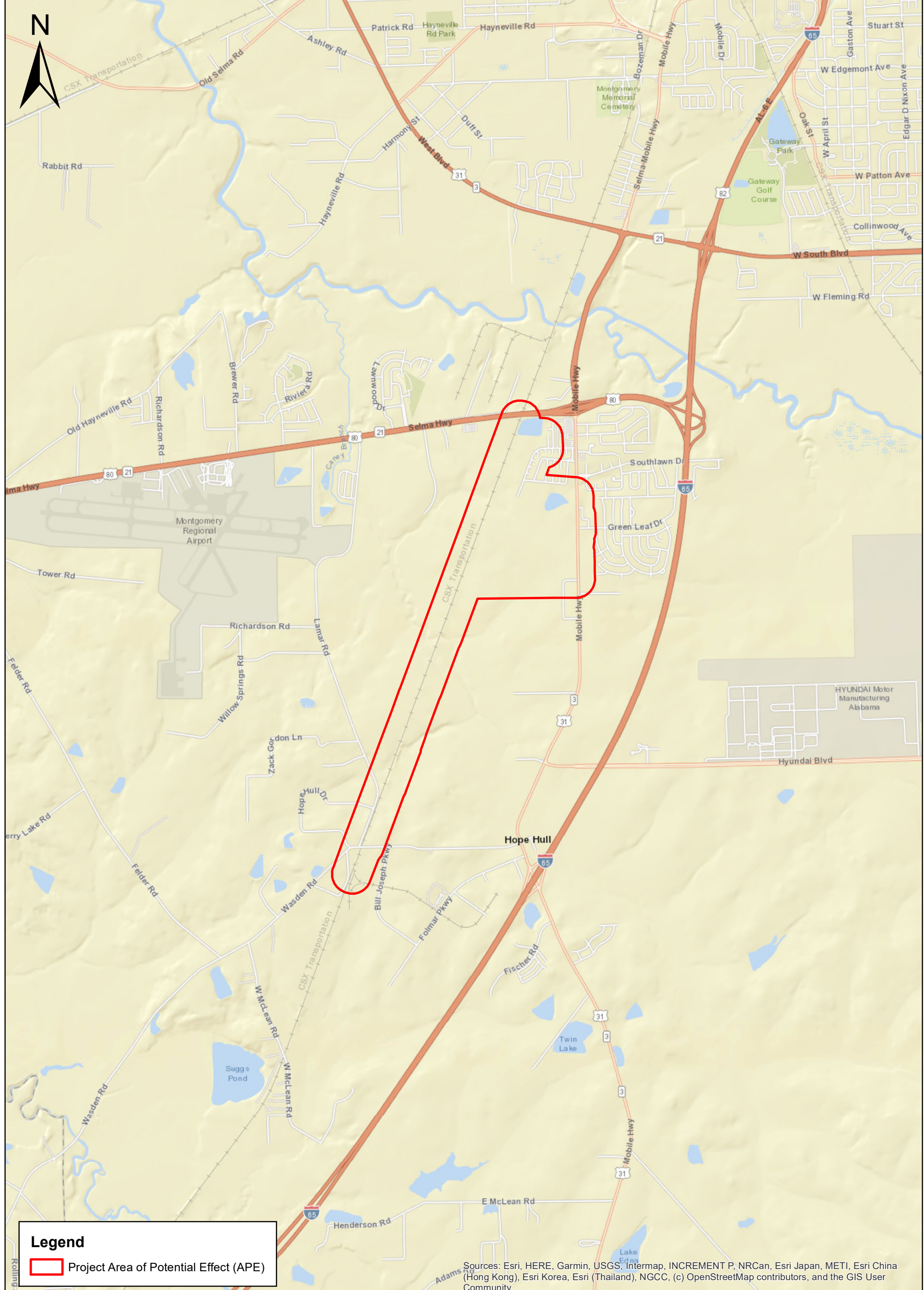
Sincerely,

Kristen Zschomler

Kristen Zschomler, RPA
Environmental Protection Specialist, Cultural Resources Division
Federal Railroad Administration

Attachments: Location Map
USGS Quadrangle Map
APE Aerial Map

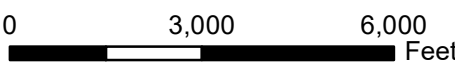
cc: Gretchen Barrera, Environmental Director, ASPA



Legend

Project Area of Potential Effect (APE)

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community

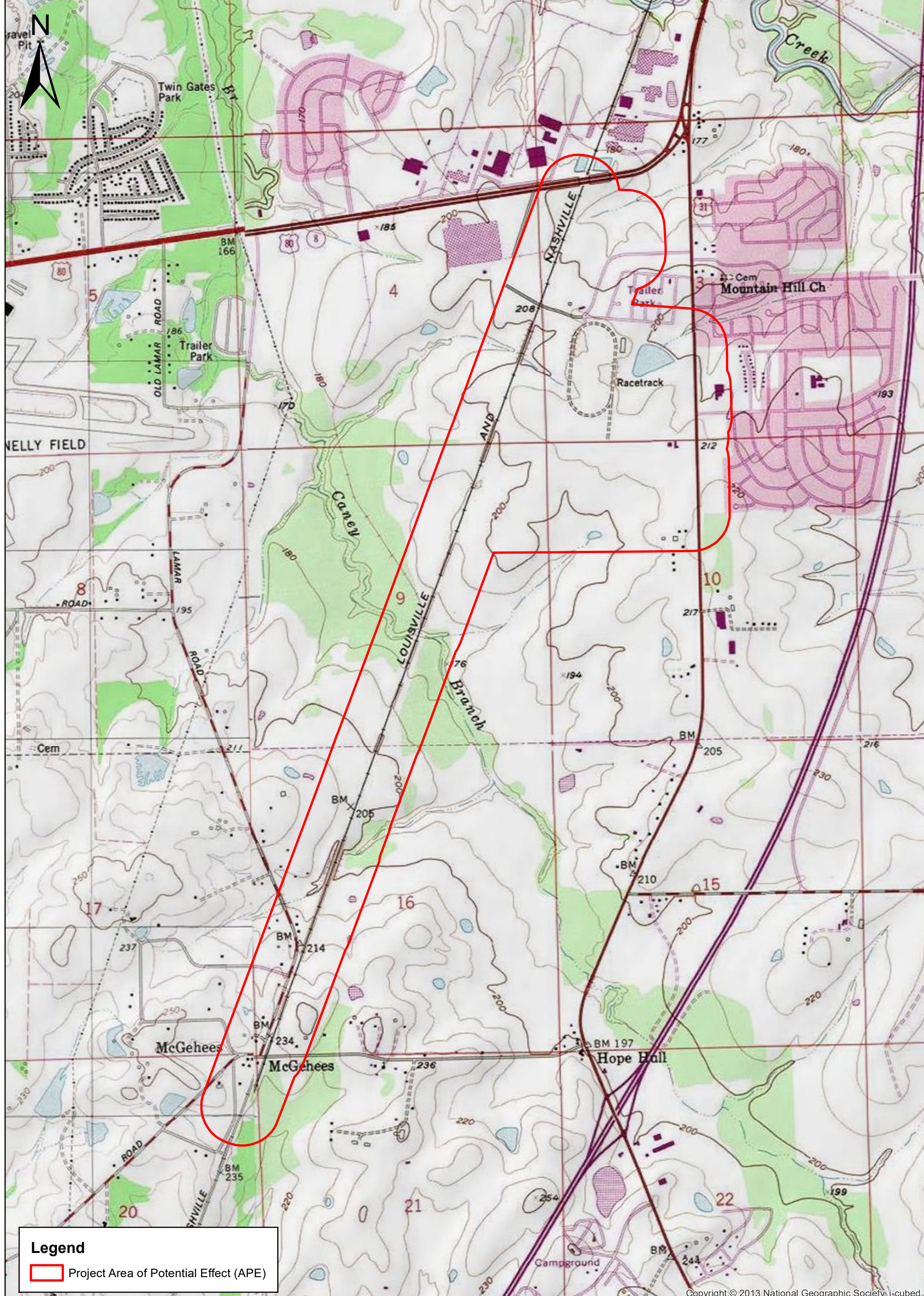


1 Inch = 3,000 Feet

Note: This map is not intended for construction.

**Figure 1: General Location
Montgomery ICTF
Federal Railroad Administration
Montgomery, Montgomery County, AL**





**Figure 2: USGS Quadrangle Map
Montgomery ICTF
Federal Railroad Administration
Montgomery, Montgomery County, AL**

0 1,500 3,000 Feet

1 Inch = 1,500 Feet
Note: This map is not intended for construction.





Legend

 Project Area of Potential Effect (APE)

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VOLKERT

0 3,000 6,000 Feet

1 Inch = 3,000 Feet

Note: This map is not intended for construction.

Figure 3: APE Aerial
Montgomery ICTF
Federal Railroad Administration
Montgomery, Montgomery County, AL



**Federal Railroad
Administration**

September 8, 2023

Amanda McBride
Environmental Review Coordinator
Alabama Historical Commission
State Historic Preservation Office
468 South Perry St.
P.O. Box 300900
Montgomery, AL 36130-0900

RE: Montgomery Intermodal Container Transfer Facility (ICTF)
Montgomery, Montgomery County, Alabama
Section 106 Consultation, Determinations of Eligibility, and Assessment of Effects

Dear Ms. McBride:

The Federal Railroad Administration (FRA) is providing financial assistance to the Alabama State Port Authority (ASPA) for the proposed Montgomery Intermodal Container Transfer Facility (ICTF) (Project). The Project is located south of U.S. Highway 80 (US 80) and west of U.S. Highway 31 (US 31) in Montgomery, Montgomery County, Alabama. The Project is in Township 15 North, Range 17 East, Sections 3, 4, 9, 10, 17, 18, 20 and 21 on the Montgomery South, AL United States Geological Survey's (USGS) Quadrangle 7.5 Minute Series Topographic Map. The center coordinates of the project location are latitude 32.299520 N and longitude 86.357406 W.

The Project is an undertaking subject to Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulations 36 CFR Part 800 (Section 106). The purpose of this letter is to initiate Section 106 consultation, document FRA's determinations of eligibility and assessment of effects, and to seek your office's comments and concurrence on our determinations and assessments to date. Since one property still needs to be evaluated to determine its eligibility to the National Register of Historic Places (NRHP), our findings of effects for the that property, if eligible, and the overall Project will be documented in a subsequent findings letter.

PROJECT PURPOSE AND NEED

The purpose of the Project is to reduce congestion at the Port of Mobile and provide an alternate shipping option for existing Port customers in central Alabama. The two primary needs for the Project are to increase container storage and handling capacity, as well as provide an alternative shipping option between the Port and Montgomery, Alabama.

PROJECT DESCRIPTION

The Project consists of the construction of an ICTF on an approximately 272-acre property owned by the ASPA in Montgomery, Alabama (Attachment A for general site plan and Attachment B for plan sheets from the 30 percent design package). The facility will consist of two 3,500 linear feet process rail tracks, one 3,500 linear foot support rail track, a maintenance building, and an administration building (Pages 8-12; 18-20). Container stacking areas will be provided adjacent to the process tracks. Rubber-tired gantry cranes will be employed to load

and unload trains and trucks at the facility (Pages 8-20). Ten thousand (10,000) linear feet of lead track will also be constructed parallel to the existing CSXT main line to provide rail access into the ICTF (Pages 1-7; 12-14). Access to the facility will be accommodated via a new roadway from US 31. The new roadway will intersect US 31 at an existing 3-way signalized intersection at Green Leaf Drive. The existing signalized intersection will be modified to a 4-way intersection. The intersection improvements will be constructed within the existing Alabama Department of Transportation right-of-way (ROW) (Pages 20, 21; 24; 29; 34-39). Once operational, the Montgomery ICTF is anticipated to be open from 6:00 a.m. to 6:00 p.m. Monday through Friday.

AREA OF POTENTIAL EFFECTS

An Area of Potential Effects (APE), as defined in 36 CFR Part 800.16(d), is “the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.”¹

Direct effects refer to those occurring at the time of the undertaking, whether physical, auditory, visual, or atmospheric, and resulting from construction and/or operation. *Indirect effects* are those occurring later in time, but that are reasonably foreseeable as being caused by the undertaking. No indirect effects have been identified to date; however, they may be defined through consultation and as Project design advances. *Cumulative effects* are incremental effects of the undertaking that when added together become adverse.

Physical effects from Project construction will be limited to the proposed construction limits, or Limits of Disturbance (LOD).

According to the noise and vibration analysis (Attachment C), no noise/auditory and vibration effects are anticipated from the increased traffic along US 31 turning into the ICTF; and, due to vibration from operation of the existing CSXT railroad and the fact that the number of train events is not increasing, there are no vibration effects anticipated from the operation of the Project. Further, no construction-related noise or vibration effects are anticipated beyond the LOD based on proposed construction activities.

Based on these potential effects, the Project’s APE was set at 0.4 km (1/4 mile) beyond the edge of the limits of disturbance (LOD) for the proposed facility and 0.2 km (1/8 mile) beyond the proposed centerline of the linear railway portion of the project area to account for potential physical visual, atmospheric, and auditory effects (see Figure 1 on Page 2 of Attachment D, *A Phase I Cultural Resources Survey for the Proposed Montgomery ICTF and Railroad Lead Line, Montgomery County, Alabama* by All Phases Archaeology, LLC).

PHASE I CULTURAL RESOURCE ASSESSMENT

A literature search was conducted to gather pertinent background information about previously recorded properties within one mile of the APE. This research included inspections of the Alabama State Archaeological Site File (ASASF) (Office of Archaeological Research [OAR] 2023),

¹ FRA used 36 CFR 800 and the guidance by the Advisory Council on Historic Preservation (ACHP) to establish the Project’s APE (Reasonable_good_faith_identification.pdf [achp.gov] and Determining which archaeological sites are significant: Identification | Advisory Council on Historic Preservation [achp.gov]).

the Alabama Register of Landmarks and Heritage (ARLH) (Alabama Historical Commission [AHC] 2023), and the NRHP (National Park Service 2023).

A Phase I cultural resources assessment (CRA) was conducted on February 1-17 and April 3-5, 2023 and was guided by procedural standards created by the Alabama Council of Professional Archaeologists in accordance with the Alabama Historical Commission's (AHC) (2002) specifications as outlined in the Policy for Archaeological Surveying and Testing in Alabama and the AHC Section 106 Architectural Resources Guidelines. The archaeological survey was conducted within the LOD, and the survey for above-ground resources was conducted within the APE, inclusive of the LOD.

One previously recorded resource that has been determined eligible for the NRHP was identified within the APE: an approximately two-mile segment of the **Selma to Montgomery National Historic Trail** (54 miles in total length). According to the National Park Service: "Located across the Dallas, Lowndes, and Montgomery counties in lower central Alabama, the Selma to Montgomery National Historic Trail (SEMO) follows 54 miles of US 80 and local streets. Beginning at the steps of the Brown Chapel A.M.E. Church in Selma and ending at those of the Alabama Capitol Building in Montgomery, the march route follows the route of three 1965 civil rights marches that were instrumental in gaining voting rights for African American citizens (Maps - Selma To Montgomery National Historic Trail (U.S. National Park Service) (nps.gov)."

Twelve above-ground resources are within the APE (Resources 1-12), two of which (Resources 11 and 12) are associated with the Fred Hooper Circle H Ranch.

Three archaeological sites were found within the LOD. Site 1Mt565 corresponds closely to the location of three former structures which were likely related to Falkners Siding. Site 1Mt566 contains the remains of a collapsed barn/equipment shed. Site 1Mt567 is a large site encompassing the racetrack portion of the Circle H Ranch, once owned by Montgomery construction contractor, cattle rancher, and famed horse owner and breeder Fred William Hooper. See "Determination of Eligibility" below for further information on the Fred Hooper Circle H Ranch.

DETERMINATIONS OF ELIGIBILITY

FRA determines that **Site 1Mt566** and the above-ground structures **Resource Numbers 1-3 and 6-12** documented in the attached report (Attachment D) warrant no further consideration and **are not individually eligible for the NRHP.**

While recommended not eligible in the attached report, **FRA determines that the Hope Hull Recreation Center (Resource 5) is associated with broad patterns of events important in our history in the area of Community Planning and Development and Social History (Criterion A).** See Attachment E for the evaluation of the property.

Site 1Mt565 requires evaluation to determine its eligibility for listing in the NRHP. See Attachment F for the proposed Phase II research design for the site.

As documented in the enclosed report, the English Village and Southlawn Estates suburban neighborhoods and the Southlawn Baptist Church are historically significant for their association with the English Village-Southlawn Community Organization (EVSCO) which was "one of the South's few integrated neighborhood organizations" and which held meetings at the Southlawn

Baptish Church to discuss measures to create a diverse and inclusive community as well as fight blockbusting. **FRA determines that the English Village and Southlawn Estates Historic District is eligible for the NRHP under Criterion A for its association with Social History/Civil Rights events that have made a significant contribution to the broad patterns of history.** The Southlawn Baptist Church (Resource 4) contributes to the historic district and is also individually eligible under Criterion A for its Social/Civil Rights history. The church meets the requirements of Criterion Consideration A for religious properties since it is determined eligible under Social History and Civil Rights, not for its specific religious affiliation. FRA determines that the period of significance for the historic district and the church is from 1973, when African American began purchasing homes and moving into the neighborhood, through 1980, when the last meeting was held by the EVSCO at the Southlawn Baptist Church. These dates differ than what is in the report in Attachment D. Since most of the period of significance is less than 50 years in age, both properties also need to meet Criterion Consideration G. Based on Montgomery's strong association with the Civil Rights movement in the mid- to late-twentieth century, the example of one of the very few integrated neighborhood association fighting against blockbusting and creating a diverse and inclusive community is of exceptional significance in our nation's history.

Site 1Mt567 identified during the CRA was recorded as an archaeological site; however, no significant artifacts and/or features were identified to warrant further archaeological testing. Rather, the features identified during the survey were evaluated by FRA as a rural, discontinuous historic landscape of property owned and developed by Fred Hooper. The lands include a grouping of equestrian-related building foundations and features, a large pond, two standing structures, an elevated dirt racing track with a discernible chute within the northern parcels, and discontinuous pasturelands to the south. Fred Hooper's Circle H Ranch was evaluated using the National Park Service's Bulletin 30 on rural landscapes (Attachment G, Fred Hooper's Circle H Ranch Evaluation). Based on the research and evaluation of the property, **FRA determines that while the ranch is significant for its association with Hooper under Criterion B, Fred Hooper's Circle H Ranch (inclusive of Site 1Mt567 and Resources 11 and 12) does not retain sufficient integrity to be eligible for listing under the NRHP.** Further, it is also not eligible under Criteria A, C, and D.

CONSULTING PARTY OUTREACH

A public involvement meeting was held on March 16, 2023, from 5:00 p.m. to 7:00 p.m. in the Southlawn Middle School cafeteria located at 5333 Mobile Highway, Montgomery, Alabama. The meeting was advertised in the primary local newspaper, the *Montgomery Advertiser*; at other local public meetings; and signs placed in several locations in the vicinity of the proposed project.

The purpose of the meeting was to evaluate potential environmental impacts that may occur due to the proposed project. Gathered information will be documented in the Environmental Assessment (EA) prepared under the requirements of the National Environmental Policy Act (NEPA). Examples of environmental resources to be evaluated include, but are not limited to, historic properties, wetlands, threatened and endangered species, environmental justice, noise, and air.

Twenty members of the public attended the meeting, and 18 comments were received. Attendees expressed concern over the potential increase in traffic and noise along US 31. Three schools and three churches in the vicinity of the US 31 and Green Leaf intersection were identified by attendees as having significant ties to the community: Southlawn Elementary

School, Southlawn Middle School, Southlawn Day Care, Southlawn Baptist Church, the Cathedral of Restoration, and the Kingdom Hall. The Southlawn Elementary School, Southlawn Middle School, and Southlawn Baptist Church are contributing elements to the English Village and Southlawn Estates Historic District. The Southlawn Day Care, the Cathedral of Restoration, and the Kingdom Hall are less than 50 years in age and were not found to have exceptional significance to be considered eligible for the NRHP under Criterion Consideration G.

At the request of the Southlawn Community Organization, representatives of the ASPA and ALDOT attended their May 11, 2023 meeting. Members of the community further expressed their concerns over the potential for increased traffic and noise impacts from the proposed project.

While no people or individuals requested consulting party status at those meetings, FRA notes that the Southlawn Community Organization, the Southlawn Baptist Church, and the Hope Hull Recreation Center may have an interest in the project, especially as we have determined their properties eligible for the NRHP. FRA invites them via copy on this letter to participate as Section 106 consulting parties. Consulting parties should indicate their willingness to participate as a consulting party and provide comments, as indicated below, within 30 calendar days from the date on this letter. For more information on the role of a consulting party see: <https://www.achp.gov/digital-library-section-106-landing/citizens-guide-section-106-review>. Also, recognition as being “eligible for listing in the National Register” does not prevent owners from making changes to their properties. It simply requires FRA to consider the effects of this federal undertaking to them, but in no way restricts their rights as property owners.

FRA invited federally recognized Native American tribes to participate in consultation by separate letter. The tribes contacted are listed in Attachment H. To date, the following tribes have responded: the Muscogee Nation, the Mississippi Band of Choctaw Indians, the Choctaw Nation of Oklahoma, and the Cherokee Nation. The Muscogee Nation requested a copy of the archaeological survey report; therefore, they are copied on this letter and attached report. There have been no further responses. We will work to address any concerns that may be raised and notify your office as appropriate.

ASSESSMENT OF EFFECTS

Utilizing the examples of adverse effects from 36 CFR 800.5(a)(2), **FRA finds that the English Village and Southlawn Estates Historic District, the Southlawn Baptist Church, the Selma to Montgomery National Historic Trail, and the Hope Hull Recreation Center will not be destroyed, moved, neglected, repaired, or rehabilitated, or have a change of use due to the Project.**

Based on the noise and vibration study discussed above and included as Attachment C, **the Project is not anticipated to have any noise or vibration effects to the historic properties identified.**

Since the Project will not be visible from the Hope Hull Recreation Center, **FRA finds that the Project will have no adverse effects to the Hope Hull Recreation Center.**

The only effect the Project may have on the remaining eligible properties is visual. The visual effects to each property are discussed in the following paragraphs.

English Village and Southlawn Estates Historic District

The Project will introduce improvements to an existing signalized intersection, altering it from a three-way to four-way intersection, and a new road to the west and north of the English Village and Southlawn Estates Historic District, including the discontinuous boundaries of the Southlawn Baptist Church (Attachment B: Pages 20-21; 24; 29; 34-39; Figure 1). The proposed changes will be viewable from a very limited portion of the historic district, at its southwestern edge. The large scale of the historic district, the minor changes to an existing intersection, and the proposed road and facility located at a distance to the west means it is unlikely that there will be visual changes to the physical features within the historic district's setting that contribute to its historic significance or the introduction of visual elements that diminish the significant historic features of the historic district. FRA therefore finds that there will be **No Adverse Effect to the English Village and Southlawn Estates Historic District**, including the discontinuous boundaries of the Southlawn Baptist Church.

Southlawn Baptist Church

The Project will introduce improvements to an existing signalized intersection and a new road approximately 450 feet north of the Southlawn Baptist Church (Attachment B: Pages 20-21; 24; 29; 34-39; Figure 1). The Southlawn Baptist Church faces east, and a fence with vegetation including trees will visually separate the intersection and road from the church (Figure 1). It is therefore unlikely that there will be visual changes to the physical features within the historic district's setting that contribute to its historic significance or the introduction of visual elements that diminish the church's significant historic features. FRA therefore finds that there will be **No Adverse Effect to the Southlawn Baptist Church**.

Selma to Montgomery National Historic Trail

An approximately two-mile portion of the Selma to Montgomery National Historic Trail runs through the north end of the APE. The entire 54-mile trail, mostly running along the Selma Highway, is listed within the National Trails Systems Act for its historical significance. The proposed ICTF will be visible from the trail. The area adjacent to US 80 has changed since the march in 1965, with the road being reconstructed into a two-lane divided interstate and the construction of numerous industrial properties to the north and south. It is therefore unlikely that the Project will create visual changes to the physical features within the historic district's setting that contribute to its historic significance or introduce visual elements that diminish the trail's significant historic features. FRA therefore finds that there will be **No Adverse Effect to the Selma to Montgomery National Historic Trail**.



Figure 1. 2023 Google aerial view of Project area (top) with boundaries of the Southlawn Baptist Church in yellow and of the English Village and Southlawn Historic District (green), to which the church also contributes. The red circle shows the location of the intersection improvements, and the red line approximates the proposed new road (Attachment A for site plan). The middle image is from the edge of the historic district looking west to the intersection of Green Leaf Drive and US 31. The bottom image shows the entrance of the Southlawn Baptist Church looking north to the location of the intersection improvements.

Next Steps

FRA invites your comments on the delineation of the APE and the appropriateness of the identification and evaluation efforts to date.

We also request your comments on the proposed Phase II evaluation methodology of Site 1Mt565 and seek your comments and concurrence on our determinations of eligibility and our assessment of effects to date on the identified historic properties.

FRA will make an additional determination of eligibility on Site 1Mt565 once the field work and analysis is completed, and assessment of effects if necessary. If eligible, we will make a finding of effect to the archaeological site and document the overall findings of effects for the project in a subsequent letter.

Please email your response by October 6, 2023, to me at kristen.zschomler@dot.gov. If you have questions or wish to discuss the Project, I can be reached at 651-391.0243. Thank you for your cooperation on the Project.

Sincerely,

Kristen Zschomler

Kristen Zschomler, RPA
Historian, Architectural Historian, and Archaeologist
Federal Railroad Administration

Attachments A: General Site Plan
 B: Plan Sheets from 30 Percent Design Package
 C: Noise and Vibration Report
 D: *A Phase I Cultural Resources Survey for the Proposed Montgomery ICTF and Railroad Lead Line, Montgomery County, Alabama* by All Phases Archaeology, LLC
 E: Hope Hull Recreation Center Evaluation
 F: Proposed Research Design for Site 1Mt565
 G: Fred Hooper's Circle H Ranch Evaluation
 H: List of Native American tribes contacted

Copied: Robin Soweka, Jr., Muscogee Nation
 John W. Sharp, Sr., President Southlawn Community Organization
 Southlawn Baptist Church
 Hope Hull Recreation Center
 Gretchen Barrera, ASPA
 Paige Felts, Volkert

**Federal Railroad
Administration**

April 2, 2024

Amanda McBride, Environmental Review Coordinator
Alabama Historical Commission
State Historic Preservation Office
468 South Perry St.
P.O. Box 300900
Montgomery, AL 36130-0900

RE: Montgomery Intermodal Container Transfer Facility (ICTF)
Montgomery, Montgomery County, Alabama
Continued Section 106 Consultation, Determination of Eligibility, and Assessment of Effects
AHC 23-1282

Dear Ms. McBride:

The Federal Railroad Administration (FRA) is providing financial assistance to the Alabama State Port Authority (ASPA) for the proposed Montgomery Intermodal Container Transfer Facility (ICTF) (Project). The Project is located south of U.S. Highway 80 (US 80) and west of U.S. Highway 31 (US 31) in Montgomery, Montgomery County, Alabama. The Project is in Township 15 North, Range 17 East, Sections 3, 4, 9, 10, 17, 18, 20 and 21 on the Montgomery South, AL United States Geological Survey's (USGS) Quadrangle 7.5 Minute Series Topographic Map. The center coordinates of the project location are latitude 32.299520 N and longitude 86.357406 W. The Project is an undertaking subject to Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulations 36 CFR Part 800 (Section 106).

FRA initiated consultation with your office on September 8, 2023, providing the Project Purpose and Need, Project Description, the area of potential effects (APE), identification and evaluation of historic properties, and assessment of effects. We determined that Site 1Mt566, Fred Hooper's Circle H Ranch (inclusive of Site 1Mt567 and Resources 11 and 12 in the Phase I report); and the above-ground structures Resource Numbers 1-3 and 6-12 were not eligible for the NRHP. We further determined that the Hope Hull Recreation Center, the English Village and Southlawn Estates Historic District, and the Southlawn Baptist Church were eligible; and found the project would not adversely affect them. Finally, we determined that Site 1Mt565 required evaluation to determine its eligibility for listing in the NRHP and submitted the Phase II research design for the site to your office. Your office concurred with our determinations of eligibility, findings of effects, and research design in a letter dated October 6, 2023.

This submittal includes the Phase II report for Site 1Mt565 (Attachment A), our agency's determination of eligibility, assessment of effects to the site, and an updated finding of effects for the Project.

Evaluation of Site 1Mt565

All Phases Archaeology (APA) completed fieldwork, based on the above-referenced Phase II research design, in the fall of 2023 and submitted the attached report to FRA in March 2024. The Phase II fieldwork included shovel testing at 10-meter intervals; and the excavation of four

1-x-2 m test units and a 3 m² “L” shaped unit to fully expose a cultural feature. Two subsurface features were identified in addition to numerous domestic and railroad-related late-nineteenth through mid-twentieth century artifacts, demonstrating that the site has good integrity. APA recommended the site as significant under Criteria A and D in the areas of Transportation and Archaeology-Historic-Non-Aboriginal with a period of significance from 1896/1897 (when the siding was founded) until 1938 (when it was sold by the Louisville and Nashville [L&N] Railroad).

FRA agrees that site 1Mt565/Falkners Siding is significant and agrees with the period of significance, but notes that since many artifacts are domestic items, its significance goes beyond just the area of Transportation. While the report documents those who owned the land and/or shipped their goods from the siding, only one occupant of the site was identified; therefore, more research is needed to identify who lived in the three houses over time. Initial research by our agency indicates that in 1910 the site foreman was white, and the laborers were Black and that some of the households included families. Prior to data recovery, further research will be conducted to determine, to the extent possible, who lived at the site and when and to target research questions to the site’s other areas of significance, Ethnic History-Black and Social History.

We agree that site 1Mt565/Falkners Siding is not significant for its association with individuals who did not live on the site as discussed in the report; however, as referenced above, further research will be conducted to determine, to the extent possible, who lived at the site over time, including their families. Based on that research, if information comes forward to indicate any of the occupants could be locally, statewide, or nationally important people as per Criterion B, the research design will incorporate research questions and methodology specific to that association.

Site 1Mt565/Falkners Siding has the potential to be eligible under Criterion C, based on the exposure of the brick walkway or road. The data recovery plan will include research questions focused on the site layout, landscape features, and building design details including how they vary from or match the L&N Railroad’s standard plans and maps for station houses and sidings. These question undoubtedly blend with Criterion D significance of information potential; regardless, such research avenues will be explored to allow for consideration of any design or engineering significance as per Criterion C that might be identified as more of the site is excavated.

FRA agrees with APA that the site is eligible under Criterion D because the site contains adequate data as demonstrated through the intact features, artifact density, and lack of disturbance.

In summary, FRA determines that site 1Mt565/Falkners Siding is significant for Criteria A and D under the areas of Ethnic History-Black, Social History, Transportation, and Archaeology-Historic-Non-Aboriginal; and that it is potentially eligible under Criterion C for design.

CONSULTING PARTY OUTREACH

No public meetings have occurred since our previous correspondence. While our agency included the Southlawn Community Organization, the Southlawn Baptist Church, and the Hope Hull Recreation Center on our previous findings letter and invited them via copy on that letter to participate as Section 106 consulting parties, none responded accepting the invitation.

FRA invited federally recognized Native American tribes to participate in consultation by separate letter prior to our September 2023 letter and included the list of tribes contacted. The Muscogee Nation requested a copy of the Phase I archaeological survey report; therefore, they were copied on the September 2023 letter and the report was shared. Subsequently, the stated no further interest in the Project unless Native American related resources are identified.

ASSESSMENT OF EFFECTS

Utilizing the examples of adverse effects from 36 CFR 800.5(a)(2), **FRA finds that Site 1Mt565 will be destroyed by the Project since it is within the limits of disturbance (LOD)**. FRA discussed Project redesign with ASPA and they determined that there was no way to redesign the plans to avoid the site while still meeting the Project’s Purpose and Need.


Finding of Effects

FRA finds that the Project as currently proposed will have **Adverse Effects** to historic properties. We propose to enter into a memorandum of agreement (MOA) and to meet with your office and any interested consulting parties to develop appropriate mitigation, which will include at a minimum data recovery because of the site’s research potential. As mentioned previously, prior to data recovery, an updated research plan will be developed and will include further research into and documentation of the individuals who lived at Falkners Siding over time, including their families. This research will help to develop appropriate research questions around areas of significance such as Ethnic History – Black, Social History, and if any significant individuals are associated with the site.

FRA seeks your office’s concurrence with our determination of eligibility and findings of effects. Please email your response within 30 days of receipt of this letter to kristen.zschomler@dot.gov. If you have questions or wish to discuss the Project, I can be reached at 651-391.0243. Thank you for your cooperation on the Project.

Sincerely,

Kristen
Zschomler

 Digitally signed by Kristen
Zschomler
Date: 2024.04.02 15:18:25 -05'00'

Kristen Zschomler, RPA
Historian, Architectural Historian, and Archaeologist
Environmental Protection Specialist
Federal Railroad Administration

Attachments A: Phase II Report

Copied: Gretchen Barrera, ASPA
Paige Felts, Volkert

Paige Felts

From: Paige Felts
Sent: Wednesday, May 22, 2024 2:36 PM
To: e106@achp.gov
Cc: Gretchen Barrera; Zschomler, Kristen (FRA); Wright, Kevin (FRA); Clark, Sara (FRA)
Subject: Alabama State Port Authority Montgomery ICTF, Montgomery, Montgomery County, Alabama

To whom it may concern:

The Federal Railroad Administration (FRA) is providing financial assistance to the Alabama State Port Authority (ASPA) for the proposed Montgomery ICTF Project (Project). The Project is an undertaking subject to Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulations 36 CFR § 800 (Section 106).

The Project is south of U.S. Highway 80 (US 80) and west of U.S. Highway 31 (US 31) in Montgomery, Montgomery County, Alabama (Township 15 North, Range 17 East, Sections 3, 4, 9, 10, 17, 18, 20 and 21 on the Montgomery South, AL United States Geological Survey's (USGS) Quadrangle 7.5 Minute Series Topographic Map). The center coordinates of the project location are latitude 32.299520 N and longitude 86.357406 W.

The RFA has determined that the Project will have an adverse effect on a historic property and is therefore notifying the Advisory Council on Historic Preservation (ACHP). A link to the ACHP's Electronic Section 106 Documentation Submittal System (e106) Form is found below.

 [ACHPNoticeofAdverseEffectFRAFinal.pdf](#)

Paige Felts, CPESC
Asst. Vice President, East Gulf Region
Environmental Permitting and Compliance Manager
Volkert, Inc.
1680 West 2nd Street, Suite B
Gulf Shores, Alabama 36542

O 251-968-7551
C 251-504-0361

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Advisory Council on Historic Preservation
Electronic Section 106 Documentation Submittal System (e106) Form
MS Word format

Send to: e106@achp.gov

Please review the instructions at www.achp.gov/e106-email-form prior to completing this form. Questions about whether to use the e106 form should be directed to the assigned ACHP staff member in the Office of Federal Agency Programs.

I. Basic information

1. Purpose of notification. Indicate whether this documentation is to:

- Notify the ACHP of a finding that an undertaking may adversely affect historic properties
- Invite the ACHP to participate in a Section 106 consultation
- Propose to develop a project Programmatic Agreement (project PA) for complex or multiple undertakings in accordance with 36 C.F.R. 800.14(b)(3)
- Supply additional documentation for a case already entered into the ACHP record system
- File an executed MOA or PA with the ACHP in accordance with 800.6(b)(iv) (where the ACHP did not participate in consultation)
- Other, please describe
[Click here to enter text.](#)

2. ACHP Project Number (If the ACHP was previously notified of the undertaking and an ACHP Project Number has been provided, enter project number here and skip to Item 7 below):

N/A

3. Name of federal agency (If multiple agencies, list them all and indicate whether one is the lead agency):

Federal Rail Administration (FRA)

4. Name of undertaking/project (Include project/permit/application number if applicable):

Montgomery Intermodal Container Transfer Facility

5. Location of undertaking (Indicate city(s), county(s), state(s), land ownership, and whether it would occur on or affect historic properties located on tribal lands):

Project Location: Montgomery, Montgomery County, Alabama

Land Owner: Alabama State Port Authority

The project will not occur or affect historic properties located on tribal lands.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

401 F Street NW, Suite 308 ☐ Washington, DC 20001-2637

Phone: 202-517-0200 ☐ Fax: 202-517-6381 ☐ achp@achp.gov ☐ www.achp.gov

6. Name and title of federal agency official and contact person for this undertaking, including email address and phone number:

Kristen Zschomler, RPA
 Historian, Architectural Historian, and Registered-Professional Archaeologist 10341
 Environmental Protection Specialist - Cultural Resource Division - Major Projects Team
 Office of Environmental Program Management - Federal Railroad Administration
 651.391.0243 - kristen.zschomler@dot.gov

II. Information on the Undertaking*

7. Describe the undertaking and nature of federal involvement (if multiple federal agencies are involved, specify involvement of each):

The Alabama State Port Authority (ASPA), in partnership with the city of Montgomery and CSX Transportation (CSXT), intends to develop an inland intermodal container transfer facility (ICTF or Project) to include trackage, loading/unloading and stacking areas to be in south Montgomery, Montgomery County, Alabama. ASPA will use Fiscal Year 2022 Congressionally Directed Consolidated Rail Infrastructure and Safety Improvements (CRISI) funding, administered by the Federal Railroad Administration (FRA), for pre-construction project development activities, including environmental review and engineering design, and construction of the facility. The Federal Aviation Administration (FAA), the U.S. Army Corps of Engineers (USACE), Federal Highway Administration (FHWA) are also permitting, funding, and/or permitting the Project. FRA sent an email on May 22, 2024, to the agencies to ask if they plan to recognize FRA as the lead federal agency.

8. Describe the Area of Potential Effects (APE):

The Project's APE was set at 0.4 km (1/4 mile) beyond the edge of the limits of disturbance (LOD) for the proposed facility and 0.2 km (1/8 mile) beyond the proposed centerline of the linear railway portion of the project area to account for potential physical visual, atmospheric, and auditory effects (see Figure 1 on Page 2 of **Attachment A, A Phase I Cultural Resources Survey for the Proposed Montgomery ICTF and Railroad Lead Line, Montgomery County, Alabama** by All Phases Archaeology, LLC).

9. Describe steps taken to identify historic properties:

A literature search was conducted to gather pertinent background information about previously recorded and anticipated properties within one mile of the APE. This research included inspections of the Alabama State Archaeological Site File (ASASF) (Office of Archaeological Research [OAR] 2023), the Alabama Register of Landmarks and Heritage (ARLH) (Alabama Historical Commission [AHC] 2023), and the NRHP (National Park Service 2023).

A Phase I cultural resources assessment (CRA) was conducted on February 1-17 and April 3-5, 2023, and was guided by procedural standards created by the Alabama Council of Professional Archaeologists in accordance with the Alabama Historical Commission's (2002) specifications as outlined in the Policy for Archaeological Surveying and Testing in Alabama and the Alabama Historical Commission Section 106 Architectural Resources Guidelines. Archaeological survey was conducted within the LOD, and survey for above-ground resources was conducted within the APE, inclusive of the LOD. Based on the Phase II testing, FRA determined that site 1Mt565/Falkners Siding is significant for Criteria A and D under the areas of Ethnic History-Black, Social History, Transportation, and Archaeology-Historic-Non-Aboriginal; and that it is potentially eligible under Criterion C for design. The Alabama SHPO concurred.

10. Describe the historic property (or properties) and any National Historic Landmarks within the APE (or attach documentation or provide specific link to this information):

There are no National Historic Landmarks in the APE.

Attachment A - *A Phase I Cultural Resources Survey for the Proposed Montgomery ICTF and Railroad Lead Line, Montgomery County, Alabama* by All Phases Archaeology, LLC

Attachment B – *Phase II Testing and Evaluation of Site 1MT565, Montgomery County, Alabama* by All Phases Archaeology, LLC

11. Describe the undertaking's effects on historic properties:

The project will have an adverse effect on Site 1MT565. The project will have no adverse effects on the other identified historic properties (Selma to Montgomery National Historic Trail; the Hope Hull Recreation Center; English Village and Southlawn Estates Historic District; and the Southlawn Baptist Church).

12. Explain how this undertaking would adversely affect historic properties (include information on any conditions or future actions known to date to avoid, minimize, or mitigate adverse effects):

Utilizing the examples of adverse effects from 36 CFR 800.5(a)(2), FRA finds that Site 1Mt565 will be destroyed by the Project since it is within the limits of disturbance (LOD). FRA discussed Project redesign with ASPA, and they determined that there was no way to redesign the plans to avoid the site while still meeting the Project's Purpose and Need.

13. Provide copies or summaries of the views provided to date by any consulting parties, Indian tribes or Native Hawai'ian organizations, or the public, including any correspondence from the SHPO and/or THPO.

See **Attachment C for tribal consultation letters**. Robin Soweka, Jr., of the Muscogee Nation provided the following comment:

Thank you for sending the correspondence regarding the proposed Alabama State Port Authority's Montgomery ICTF project located in Montgomery County, Alabama. Montgomery County is located within the Muscogee (Creek) Nation's historic area of interest and is of importance to us. After review, the Muscogee Nation is unaware of any Muscogee sacred sites, burial grounds, or significant cultural resources located within the immediate project area. Due to all of the resources discovered being non-Native, the Muscogee Nation will defer to the SHPO regarding determinations of impacts to the non-Native resources. However, due to the historic presence of Muscogee people in the project area, inadvertent discoveries of cultural resources, human remains and related NAGPRA items may occur, even in areas of existing or prior development. Should this occur, the Muscogee (Creek) Nation requests that all work cease and our office as well as other appropriate agencies be notified immediately. Please feel free to contact me if there are any questions or concerns.

Plans to involve the public and identify other consulting parties

A public involvement meeting was held on March 16, 2023, from 5:00 p.m. to 7:00 p.m. in the Southlawn Middle School cafeteria located at 5333 Mobile Highway, Montgomery, Alabama. The meeting was advertised in the primary local newspaper, the *Montgomery Advertiser*; at other local public meetings; and signs placed in several locations in the vicinity of the proposed project.

The purpose of the meeting was to evaluate potential environmental impacts that may occur due to the proposed project. Gathered information will be documented in the Environmental Assessment (EA) prepared under the requirements of the National Environmental Policy Act (NEPA). Examples of environmental resources to be evaluated include, but are not limited to, historic properties, wetlands, threatened and endangered species, environmental justice, noise, and air.

Twenty members of the public attended the meeting, and 18 comments were received. Attendees expressed concern over the potential increase in traffic and noise along US 31. Three schools and three churches in the vicinity of the US 31 and Green Leaf intersection were identified by attendees as having significant ties to the community: Southlawn Elementary School, Southlawn Middle School, Southlawn Day Care, Southlawn Baptist Church, the Cathedral of Restoration, and the Kingdom Hall. The Southlawn Elementary School, Southlawn Middle School, and Southlawn Baptist Church are contributing elements to the English Village and Southlawn Estates Historic District. The Southlawn Day Care, the Cathedral of Restoration, and the Kingdom Hall are less than 50 years in age and were not found to have exceptional significance to be considered eligible for the NRHP under Criterion Consideration G.

At the request of the Southlawn Community Organization, representatives of the ASPA and ALDOT attended their May 11, 2023, meeting. Members of the community further expressed their concerns over the potential for increased traffic and noise impacts from the proposed project.

Alabama SHPO Coordination - See **Attachment D** for coordination letters.

- Informal consultation call held August 9, 2023;
- FRA findings letter dated September 8, 2023;
- SHPO concurrence letter dated October 6, 2023;
- FRA updated findings letter dated April 2, 2024;
- SHPO concurrence letter dated April 12, 2024.

Alabama Historical Commission
 Amanda McBride
 Environmental Review/Section 106 Coordinator
 334.230.2692
Amanda.McBride@ahc.alabama.gov

The following organizations were included in FRA's findings letters and were invited to be consulting parties. None responded.

- John W. Sharp, Sr., President Southlawn Community Organization
- Southlawn Baptist Church
- Hope Hull Recreation Center

III. Additional Information

- 14. Please indicate the status of any consultation that has occurred to date, including whether there are any unresolved concerns or issues the ACHP should know about in deciding whether to participate in consultation.** Providing a list of consulting parties, including email addresses and phone numbers if known, can facilitate the ACHP's review response.

There are no unresolved concerns or issues.

15 Does your agency have a website or website link where the interested public can find out about this project and/or provide comments? Please provide relevant links:

Yes, <https://railroads.dot.gov/rail-network-development/environment/montgomery-intermodal-container-transfer-facility-project>

16. Is this undertaking considered a “major” or “covered” project listed on the Federal Infrastructure Projects Permitting Dashboard? If so, please provide the link:

<https://www.permits.performance.gov/permitting-project/dot-projects/montgomery-intermodal-container-transfer-facility>

The following are attached to this form (check all that apply):

- Section 106 consultation correspondence
- Maps, photographs, drawings, and/or plans
- Additional historic property information
- Consulting party list with known contact information
- Other: Phase I Cultural Resource Assessment, Phase II Testing and Evaluation Report

SHPO LETTERS



ALABAMA HISTORICAL COMMISSION

Lisa D. Jones
Executive Director
State Historic Preservation Officer

468 South Perry Street
Montgomery, Alabama 36130-0900

Tel: 334-242-3184
Fax: 334-242-1083

October 6, 2023

Paige Felts
Volkert
1680 West 2nd St. Suite B
Gulf Shores, AL 36542

Re: AHC 23-1282
Alabama State Port Authority Montgomery ICTF, Montgomery, AL
Montgomery County

Dear Ms. Felts:

Upon review of the cultural resource assessment conducted for the above referenced project, we disagree with the author's determination of effect regarding the Hope Hull Recreation Center (Resource 5). However, we concur with the federal agency's findings letter regarding the National Register eligibility of the potential English Village and Southlawn Estates Historic District, the Southlawn Baptist Church, the Hope Hull Recreation Center, and the previously listed Selma to Montgomery National Historic Trail, as well as the finding of Not Eligible for Fred Hooper's Circle H Ranch. Therefore, we concur with the determination of No Adverse Effect to Historic Properties.

In terms of the Phase II archaeology methodology, you should conduct the shovel testing first and then reconsult on the placement of test units based upon those results. If after the test units are completed, you intend to recommend the site as not eligible, a small amount of mechanical scrape should be added to the methodology to demonstrate that there are no intact features.

We appreciate your commitment to helping us preserve Alabama's historic archaeological and architectural resources. Should you have any questions, please contact Eric Sipes at 334.230.2667 or Eric.Sipes@ahc.alabama.gov. Have the AHC tracking number referenced above available and include it with any future correspondence.

Sincerely,

Lee Anne Hewett
Deputy State Historic Preservation Officer

LAH/EDS/lah



ALABAMA HISTORICAL COMMISSION

Lisa D. Jones
Executive Director
State Historic Preservation Officer

468 South Perry Street
Montgomery, Alabama 36130-0900

Tel: 334-242-3184
Fax: 334-242-1083

April 12, 2024

Paige Felts
Volkert, Inc.
1680 West 2nd Street Suite B
Gulf Shores, AL 36542

Re: AHC 23-1282
Alabama State Port Authority Montgomery ICTF, Montgomery, Alabama
Montgomery County

Dear Ms. Felts:

Upon review of the Phase II archaeological testing report for site 1Mt565, we agree with your assessment that the site is eligible for the National Register of Historic Places under Criteria A and D, and potentially eligible under Criterion C pending further investigation. Per the information provided, we understand that the site cannot be avoided, and the proposed federal undertaking will represent an adverse effect upon this historic property. Therefore, we will look forward to continuing Section 106 consultation with your agency on the development of a Memorandum of Agreement to resolve the adverse effect.

We appreciate your commitment to helping us preserve Alabama's historic archaeological and architectural resources. Should you have any questions, please contact Eric Sipes at 334.230.2667 or Eric.Sipes@ahc.alabama.gov. Have the AHC tracking number referenced above available and include it with any future correspondence.

Sincerely,

Lee Anne Hewett
Deputy State Historic Preservation Officer

LAW/EDS/nj

ACHP LETTER



June 30, 2024

Kristen Zschomler
Environmental Protection Specialist
Cultural Resource Division, Major Projects Team
Federal Railroad Administration
395 John Ireland Boulevard, MS 620
St. Paul, MN 55155

Ref: *Montgomery Intermodal Container Transfer Facility*
Montgomery, Montgomery County, Alabama
ACHP Project Number: 021165

Dear Ms. Zschomler:

On May 22, 2024, the Advisory Council on Historic Preservation (ACHP) received your notification and supporting documentation regarding the potential adverse effects of the referenced undertaking on a property or properties listed or eligible for listing in the National Register of Historic Places. Based upon the information you provided, we have concluded that Appendix A, *Criteria for Council Involvement in Reviewing Individual Section 106 Cases*, of our regulations, "Protection of Historic Properties" (36 CFR Part 800) implementing Section 106 of the National Historic Preservation Act, does not apply to this undertaking. Accordingly, we do not believe our participation in the consultation to resolve adverse effects is needed.

However, if we receive a request for participation from the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer, affected Indian tribe, a consulting party, or other party, we may reconsider this decision. Should the undertaking's circumstances change, consulting parties cannot come to consensus, or you need further advisory assistance to conclude the consultation process, please contact us.

Pursuant to Section 800.6(b)(1)(iv), you will need to file the final Section 106 agreement document (Agreement), developed in consultation with the Alabama SHPO and any other consulting parties, and related documentation with the ACHP at the conclusion of the consultation process. The filing of the Agreement and supporting documentation with the ACHP is required in order to complete the requirements of Section 106 of the National Historic Preservation Act.

Thank you for providing us with your notification of adverse effect. If you have any questions or require our further assistance, please contact Bill Marzella at (202) 517-0209 or by e-mail at

bmarzella@achp.gov and reference the ACHP Project Number above.

Sincerely,

A handwritten signature in black ink that reads "Dana Daniels". The signature is written in a cursive, flowing style.

Dana Daniels
Historic Preservation Technician
Office of Federal Agency Programs

TRIBAL CONSULTATION



MISSISSIPPI BAND OF CHOCTAW INDIANS
TRIBAL HISTORIC PRESERVATION OFFICE
101 INDUSTRIAL ROAD
CHOCTAW, MS 39350

Ms. Kristen Zschomler, RPA
Federal Railroad Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

August 16, 2023

Via E-mail at: kristen.zschomler@dot.gov

RE: Section 106 Review Consultation, Montgomery Intermodal Container Transfer Facility (ICTF),
Montgomery, Montgomery County, AL.

Determination: No Adverse Effect to Historic Properties/No Tribal Interests Affected

Dear Ms. Zschomler:

The Mississippi Band of Choctaw Indians' (MBCI) THPO has received and appreciates your letter dated July 27, 2023, in which you request our Tribe's review and consultation on the above-referenced site.

We have reviewed the full description of the proposed project that you have provided and the MBCI concurs with the Department of Interior's finding of No Adverse Effect to Historic Properties. Additionally, MBCI does not have any tribal interests that would be affected by this project. However, we would like to be notified if there are any inadvertent discoveries of any potentially significant cultural items or artifacts during the execution of this project.

Thank you for consulting with the Mississippi Band of Choctaw Indians on the above-referenced project. If you have any questions that we at MBCI may be able answer, please do not hesitate to contact me by phone at (601) 663-7606, or by email at THPO@choctaw.org.

Sincerely,

A handwritten signature in black ink that reads "Melanie Carson".

Melanie Carson
Planner/THPO
Mississippi Band of Choctaw Indians
Planning Office
101 Industrial Rd
Choctaw, MS 39350

Evan Reid

From: Evan Reid
Sent: Tuesday, December 5, 2023 10:00 AM
To: Evan Reid
Subject: FW: Initiation of Section 106 Consultation and Request for Information and Comment – Montgomery ICTF, Montgomery, Montgomery County, Alabama

From: Karen D. Downen <kdownen@choctawnation.com>

Sent: Friday, August 25, 2023 1:29 PM

To: kristen.zschomler@dot.gov

Cc: Lindsey Bilyeu <lbilyeu@choctawnation.com>; Ian Thompson <ithompson@choctawnation.com>; Evan Reid <evan.reid@volkert.com>

Subject: Re: Initiation of Section 106 Consultation and Request for Information and Comment – Montgomery ICTF, Montgomery, Montgomery County, Alabama

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Ms. Zschomler,

The Choctaw Nation of Oklahoma thanks FRA, ASPA and Volkert, for information concerning the above referenced project. Montgomery County currently lies outside of our area of historic interest.

The Choctaw Nation Historic Preservation Department has carefully reviewed the documents provided. Thank you for providing that level of detail when initiating Section 106 consultation.

Regarding the English Village and Southlawn Estates eligibility as an Historic District under NHPA guidelines, our office defers to the Alabama SHPO. Our office also defers to the AHC on eligibility determination for the remains of Circle H Ranch's racetrack.

Concerning this overall project, the Choctaw Nation Historic Preservation Department respectfully defers to the other Tribes that have been contacted.

If you have any questions, please contact me.

Respectfully yours,

Karen Denham Downen, BFA, MHP
Graduate Certificate in Native American Studies
NHPA Compliance Review Specialist
Historic Preservation Department
Choctaw Nation of Oklahoma
P.O. Box 1210, Durant, OK 74702
Desk Phone: 580-642-7896
Cell Phone: 580-916-2670
kdownen@choctawnation.com
www.choctawnation.com
www.choctawnationculture.com

Evan Reid

From: Evan Reid
Sent: Tuesday, December 5, 2023 9:47 AM
To: Evan Reid
Subject: FW: Montgomery Intermodal Container Transfer Facility (Montgomery County, AL) and Chickasaw RR Lead Line (Mobile County, AL)

From: Elizabeth Toombs <elizabeth-toombs@cherokee.org>
Sent: Friday, August 18, 2023 2:03 PM
To: Zschomler, Kristen (FRA) <kristen.zschomler@dot.gov>
Subject: Montgomery Intermodal Container Transfer Facility (Montgomery County, AL) and Chickasaw RR Lead Line (Mobile County, AL)

CAUTION: This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Ms. Zschomler:

The Cherokee Nation received review requests for two proposed undertakings:

- Chickasaw Railroad Lead Line, Mobile County, AL
- Montgomery Intermodal Container Transfer Facility, Montgomery County, AL

Please note that both Mobile and Montgomery counties are outside the Cherokee Nation's Area of Interest. Thus, this Office respectfully defers to federally recognized Tribes that have an interest in this landbase at this time.

Thank you for the opportunity to comment upon this proposed undertaking. Please contact me if there are any questions or concerns.

Wado,

Elizabeth Toombs, Tribal Historic Preservation Officer
Cherokee Nation
Tribal Historic Preservation Office
PO Box 948
Tahlequah, OK 74465-0948
918.453.5389

Evan Reid

From: Evan Reid
Sent: Tuesday, December 5, 2023 9:49 AM
To: Evan Reid
Subject: FW: Initiation of Section 106 Consultation and Request for Information and Comment – FRA, Montgomery ICTF, Montgomery, Montgomery County, Alabama

From: Section106 <Section106@mcn-nsn.gov>
Sent: Tuesday, August 8, 2023 3:42 PM
To: kristen.zscomler@dot.gov
Cc: Evan Reid <evan.reid@volkert.com>
Subject: Fw: Initiation of Section 106 Consultation and Request for Information and Comment – FRA, Montgomery ICTF, Montgomery, Montgomery County, Alabama

EXTERNAL EMAIL. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon Ms. Zschomler,

Thank you for the correspondence regarding the proposed construction of an ICTF in Montgomery, Montgomery County, Alabama. Montgomery County is located within the Muscogee (Creek) Nation's historic area of interest and is of importance to us. After review, could you please provide the Phase I Cultural Resource Assessment that is mentioned in the correspondence? The Muscogee Nation will send in our response/comments upon receipt of the CRA. Please feel free to contact me if there are any questions or concerns.

Thank you,

Robin Soweka, Jr.

Cultural Resource Specialist, Historic and Cultural Preservation Department

The Muscogee Nation

P.O. Box 580 | Okmulgee, OK 74447

T 918.732.7726 | F 918.758.0649

rosoweka@MuscogeeNation.com

MuscogeeNation.com



From: Evan Reid <evan.reid@volkert.com>

Sent: Thursday, July 27, 2023 1:52 PM

To: Corain Lowe <clowe@mcn-nsn.gov>; Emman Spain <emspain@mcn-nsn.gov>; Section106 <section106@mcn-nsn.gov>

Subject: Initiation of Section 106 Consultation and Request for Information and Comment – FRA, Montgomery ICTF, Montgomery, Montgomery County, Alabama

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

On behalf of the Federal Railroad Administration, please find the attached Initiation of Section 106 Consultation and Request for Information and Comment letter for the Montgomery Intermodal Container Transfer Facility (ICTF) located in Montgomery, Montgomery County, Alabama. We request that you review the enclosed materials and provide any information you are willing to share regarding potential historic properties of religious or cultural significance to your Tribe that may be present in the project area and/or may be affected by the Project, and 2) notify FRA within 30 calendar days from the date of your receipt of this letter whether you accept or decline this invitation to be a Consulting Party. If you have questions or wish to discuss the Project, Kristen Zschomler can be reached at 651-391-0243. Thank you for your cooperation on the Project.

Evan Reid, CPESC

Environmental Scientist | Volkert, Inc.

1680 West 2nd Street, Suite B | Gulf Shores, AL 36542 | https://url2.mailanyone.net/scanner?m=1qP66a-00057d-4l&d=4%7Cmail%2F90%2F1690483800%2F1qP66a-00057d-4l%7Cin2a%7C57e1b682%7C28487972%7C14114132%7C64C2BD081266A0C5BFE994C7BF57D356&o=k.wwwrolewvmoc.t&s=V7c_IN6mOymtdHjRbpHe9bHgneE

[He9bHgneE](https://url2.mailanyone.net/scanner?m=1qP66a-00057d-4l&d=4%7Cmail%2F90%2F1690483800%2F1qP66a-00057d-4l%7Cin2a%7C57e1b682%7C28487972%7C14114132%7C64C2BD081266A0C5BFE994C7BF57D356&o=k.wwwrolewvmoc.t&s=V7c_IN6mOymtdHjRbpHe9bHgneE)

Office: 251.968.7551 x1454 | Cell: 205.504.9467

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Paige Felts

From: Section106 <Section106@mcn-nsn.gov>
Sent: Thursday, September 21, 2023 9:21 AM
To: Paige Felts
Subject: Re: Alabama State Port Authority Montgomery ICTF, Montgomery, AL

EXTERNAL EMAIL. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Good morning Ms. Felts,

Thank you for sending the correspondence regarding the proposed Alabama State Port Authority's Montgomery ICTF project located in Montgomery County, Alabama. Montgomery County is located within the Muscogee (Creek) Nation's historic area of interest and is of importance to us. After review, the Muscogee Nation is unaware of any Muscogee sacred sites, burial grounds, or significant cultural resources located within the immediate project area. Due to all of the resources discovered being non-Native, the Muscogee Nation will defer to the SHPO regarding determinations of impacts to the non-Native resources. However, due to the historic presence of Muscogee people in the project area, inadvertent discoveries of cultural resources, human remains and related NAGPRA items may occur, even in areas of existing or prior development. Should this occur, the Muscogee (Creek) Nation requests that all work cease and our office as well as other appropriate agencies be notified immediately. Please feel free to contact me if there are any questions or concerns.

Thank you,

Robin Soweka, Jr.

Cultural Resource Specialist, Historic and Cultural Preservation Department
The Muscogee Nation
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From: Paige Felts <paige.felts@volkert.com>
Sent: Friday, September 8, 2023 9:24 AM
To: 106, Section <Section.106@ahc.alabama.gov>
Cc: Gretchen Barrera <Gretchen.Barrera@alports.com>; Jason Goffinet <jason.goffinet@volkert.com>; Zschomler, Kristen (FRA) <kristen.zschomler@dot.gov>; Wright, Kevin (FRA) <kevin.wright@dot.gov>; Nolan, Erin [USA] <Nolan_Erin@bah.com>; Monterville, Tomika (FRA) <tomika.monterville@dot.gov>; 'Dixon, Marc (FRA)' <marc.dixon@dot.gov>; Sam Matheny <sam.matheny@volkert.com>; Doug Otto, P.E. <Doug.Otto@alports.com>; Section106 <Section106@mcn-nsn.gov>
Subject: Alabama State Port Authority Montgomery ICTF, Montgomery, AL

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Dear Ms. McBride:

Please find attached a project consultation form and a link below to documents that have been prepared for Section 106 consultation for the proposed Alabama State Port Authority's Montgomery ICTF project. Please review all the information provided and let us know if you have any questions or comments.

 [ASPA ICTF Section 106](#)

Paige Felts, CPESC
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ATTACHMENT 2 – AREA OF POTENTIAL EFFECTS

2 - Montgomery ICTF and Lead Line

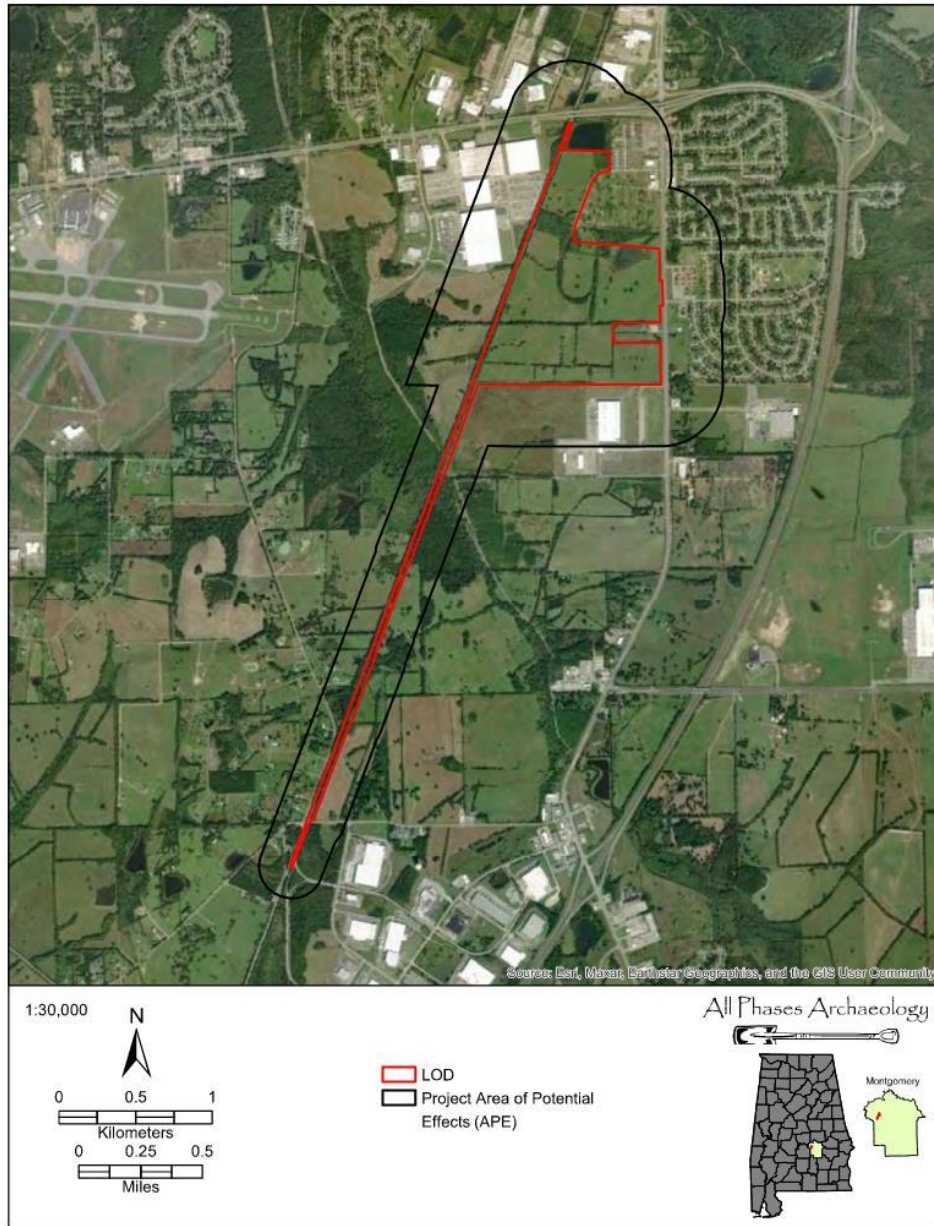


Figure 1. Aerial image showing the LOD and the APE.

Source: *A Phase I Cultural Resources Survey for the Proposed Montgomery ICTF and Railroad Lead Line, Montgomery County, Alabama* by All Phases Archaeology, LLC