

STATE OF NORTH CAROLINA  
COUNTY OF RUTHERFORD

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
FILE NO. 21-CVS-0605

DEPARTMENT OF TRANSPORTATION, )  
Plaintiff, ) SECOND  
vs. ) AMENDMENT TO COMPLAINT, AND TO  
) DECLARATION OF TAKING AND  
RUTHERFORD RAILROAD DEVELOPMENT ) NOTICE OF DEPOSIT  
CORPORATION, et al, )  
Defendants. )  
\_\_\_\_\_ )

NOW COMES the Department of Transportation, plaintiff herein, pursuant to N.C.G.S. § 136-103 amends the Complaint and Declaration of Taking and Notice of Deposit heretofore filed herein as follows:

By striking the "Exhibit B" and substituting the following:

**AMENDED EXHIBIT "B"**

**DESCRIPTION OF THE SUBJECT PROPERTY:** Those certain lands lying and being in the Rutherfordton/Cool Springs Township, Rutherford County, North Carolina, and being more particularly described as follows:

Being a portion of that land described in a deed dated October 15, 1990, from Southern Railway Carolina Division to Rutherford Railroad Development Corporation, and recorded February 5, 1991, in Book 572, Page 387, Rutherford County Registry. The property description in said deed is hereby incorporated by reference.

**INTEREST OR ESTATE TAKEN:**

Easement in perpetuity for highway right of way and for all other purposes for which plaintiff is authorized by law to subject the same, and if the area is no longer used for those purposes, the Department of Transportation will bear all costs of returning the area to its use for railroad purposes, and if the area is required for railroad use, the Department of Transportation will bear all costs of modifying its highway or other improvements to accommodate the use of the area for railroad purposes.

**AREA TAKEN:**

That area sufficient to acquire for Department of Transportation Project 34400.2.5 the right of way shown over and upon Parcel 120 on Plan Sheet 11 of the above-mentioned project. Said areas taken will be more specifically described on the plat provided for in G.S. 136-106.

Except as hereby amended, plaintiff adopts and ratifies its original Complaint and Declaration of Taking as fully as if herein set out.

Respectfully submitted this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.

JOSHUA H. STEIN  
Attorney General

Thomas O. Lawton III  
Special Deputy Attorney General  
N.C Department of Justice  
60 Court Plaza, Box 3561  
Asheville, N.C. 28801  
(828) 393-6816 tlawton@ncdoj.gov  
N.C Bar # 19690

**CERTIFICATE OF SERVICE**

I certify that I served defendants and/or counsel for the opposing parties with the foregoing by depositing a copy or copies in the United States Mail, in a properly addressed envelope with adequate postage, in the manner prescribed by Rule 5 of the Rules of Civil Procedure, to the addresses below.

This \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Thomas O. Lawton III

COPIES TO:

Jeff Bandini  
3434 Edwards Mill Road  
Suite 112-266  
Raleigh, N.C. 27612

Rutherford Railroad Development Corporation  
By serving the Town Manager of the Town of Forest City,  
Janet Mason, or her successor in office  
128 North Powell Street  
Forest City, NC 28043

Bechtler Development Corporation  
By serving its Registered Agent, Jim Black  
622 Airport Road, Suite 100  
Rutherfordton, NC 28139

Town of Forest City  
By serving its Town Manager,  
Janet Mason or her successor in office  
128 North Powell Street  
Forest City, NC 28043

Town of Ruth  
By serving its Mayor, David Guy,  
Or his successor in office  
199 Northview-Dorsey Street  
Rutherfordton, NC 28139

Town of Rutherfordton  
By serving its Town Manager,  
Doug Barrick, or his successor in office  
129 North Main Street  
Rutherfordton, NC 28139

County of Rutherford  
By serving its County Manager,  
Steve Garrison, or his successor in office  
289 North Main Street  
Rutherfordton, NC 28139