

SERVICE DATE - FEBRUARY 5, 2021

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

DRAFT ENVIRONMENTAL ASSESSMENT

Docket No. AB 1266 (Sub-No. 1X)

**Canonie Atlantic Co. – Abandonment Exemption –
in Norfolk, Va.**

BACKGROUND

In this proceeding, Canonie Atlantic Co. (CAC) filed a petition under 49 U.S.C. § 10502 seeking exemption from the prior approval requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in Norfolk, Virginia. The rail line proposed for abandonment extends approximately 1.4 miles from milepost 100.7 at North Junction to milepost 102.1 at St. Julian (the Line). A map depicting the Line in relationship to the area served is appended to this Draft Environmental Assessment (Draft EA). If the Board grants the exemption, the railroad will be able to salvage track, ties and other railroad appurtenances and dispose of the right-of-way.

DESCRIPTION OF THE LINE

The Line is a small segment of a track that formed part of the Pennsylvania Railroad route between Wilmington, Delaware and Cape Charles, Virginia, and then by car float to Little Creek (Norfolk), Virginia. The Accomack-Northampton Transportation District Commission (ANTDC), a political subdivision of the Commonwealth of Virginia, was established in 1976 to preserve service over the Pennsylvania Railroad route. Cassatt Management Company, doing business as Bay Coast Railroad (BCR), began providing rail service on the Line in 2006 pursuant to an operating agreement with CAC. BCR unexpectedly ceased its rail operations in 2018. CAC remains the non-operating owner of the Line. BCR is currently seeking an exemption in Docket No. AB 1267 (Sub-No. 1X) to discontinue its common carrier service obligations over the Line (as well as over an adjacent line owned by Norfolk Southern Railway Company).

Given the lack of freight service, CAC has allowed the tracks to be used to support intercity passenger service. CAC now seeks to abandon the Line and plans to sell the Line to the Virginia Department of Rail and Public Transportation (DRPT) for public use as private track to continue supporting intercity passenger service.

The Line is located in Norfolk, which is an urban/suburban environment. The right-of-way is generally 79 feet wide and is crossed by two local roadways. CAC owns the rail, track materials, and the underlying property. There are no stations on the Line. CAC states that,

based on the information in its possession, the Line does not contain federally granted rights-of-way.

ENVIRONMENTAL REVIEW

CAC submitted a combined environmental and historic report (E&H Report) that concludes the quality of the human environment would not be affected significantly as a result of the proposed abandonment of the Line, including salvage. CAC served the E&H Report on a number of appropriate federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)]¹ implementing the National Environmental Policy Act. The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to CAC, no freight service has been provided over the Line for more than two years. As discussed above, CAC states that the only recent use of the Line has been to provide support for intercity passenger service. Therefore, the proposed abandonment would not result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network. Nor would the proposed abandonment adversely impact the development, use and transportation of energy resources or recyclable commodities or the transportation of ozone-depleting materials.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way. Should the Board grant abandonment authority, CAC plans to sell the Line to DRPT to be used for public use as private track to support passenger rail operations (in the same way the Line is being used currently). Because of the proposed continued use of the track, CAC does not intend to salvage any of the rail or ties.

CAC does not believe that the proposed abandonment would have any adverse effect on public health or safety because there would be no change in use of the tracks.

CAC is not aware of any regional or local land use patterns with which the proposed abandonment would be inconsistent and does not believe that the proposed abandonment would have an adverse effect on any prime agricultural land.

¹ The E&H Report is available for viewing on the Board's website at <https://prod.stb.gov> by clicking "Search STB Records," selecting "Filings" in the "Search for" dropdown menu; entering "AB" "1266" "1" "X" sequentially in the four boxes for "Docket Number," then selecting "Search." The E&H Report was filed on November 5, 2020.

The National Geodetic Survey (NGS) has indicated that no geodetic survey markers are present in the area of the proposed abandonment. Therefore, no further consultation with NGS is recommended.

CAC states that the proposed abandonment would be handled in a manner that is consistent with applicable local, state and federal water quality standards. CAC does not believe that any Clean Water Act permits would be required because there would be no salvage activities performed in connection with the proposed abandonment.

The Virginia Department of Environmental Quality - Office of Environmental Impact Review (DEQ-OEIR) coordinates Virginia's review of federal consistency documents prepared pursuant to the Coastal Zone Management Act, which applies to all federal activities which are reasonably likely to affect any land or water use or natural resources in Virginia's designated coastal resources management area. The abandonment of rail lines is a listed activity in Virginia's Coastal Zone Management (CZM) Program. CAC submitted federal consistency documentation upon DEQ-OEIR's request. Based on its review of the submission, DEQ-OEIR has determined that the proposed abandonment, as described, would be consistent with the CZM Program.

CAC does not believe that there are any wildlife sanctuaries or refuges, parks, or forests in the vicinity of the proposed abandonment.

CAC requested comments from the U.S. Fish and Wildlife Service (USFWS) regarding the potential impact of the proposed abandonment to protected wildlife, including federally listed threatened and endangered species under the Endangered Species Act (16 U.S.C. § 1531 *et seq.*). To date, USFWS has not provided comments. To identify protected species in the project area, OEA conducted a search of the USFWS Information for Planning and Consultation (IPaC) system.² The IPAC report indicates that the Piping Plover, a federally threatened species, may potentially be present in the area of the proposed abandonment, but there are no designated critical habitats listed. As discussed above, CAC plans to sell the Line to DRPT to be used for public use as private track to support passenger rail operations (in the same way the Line is being used currently). Because CAC does not intend to conduct any salvage activities, OEA believes that impacts to the Piping Plover would be unlikely to occur as a result of the proposed abandonment. Therefore, OEA has determined that the proposed abandonment would have no impact on federally listed threatened and endangered species. OEA is providing USFWS – Virginia Ecological Services Field Office in Gloucester a copy of this Draft EA for review.

OEA believes that any air emissions associated with abandonment activities would be temporary and would not have a significant impact on air quality. Similarly, any noise related to abandonment activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

² U.S. Fish and Wildlife Service, Information for Planning and Consultation (IPaC), <https://ecos.fws.gov/ipac/location/index> (last accessed January 22, 2021).

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. In addition to the parties on the Board's service list for this proceeding, OEA is providing a copy of this Draft EA to USFWS for review and comment.

HISTORIC REVIEW

CAC served the E&H Report on the Virginia Department of Historic Resources (State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c).³ The SHPO has requested that CAC submit additional information for its review. OEA has not heard from the SHPO and therefore has not been able to consider the SHPO's opinion before determining if the rail line may be potentially eligible for listing on the National Register of Historic Places. Accordingly, OEA is recommending a condition requiring the railroad to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures and objects within the project right-of-way (the Area of Potential Effect or APE) eligible for listing or listed in the National Register of Historic Places until completion of the Section 106 process. Guidance regarding the Board's historic preservation review process is available on the Board's website at <https://prod.stb.gov/resources/environmental/historic-preservation-overview>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the U.S. Department of Housing and Urban Development's Tribal Directory Assessment Tool (TDAT) to identify federally recognized Tribes that may have ancestral connections to the project area.⁴ The database indicated that the following federally-recognized tribes may have knowledge regarding properties of traditional religious and cultural significance within the APE of the proposed abandonment: Delaware Nation – Oklahoma, Nansemond Indian Tribe, and Pamunkey Indian Tribe. Accordingly, OEA is sending a copy of this Draft EA to these Tribes for review and comment.

CONDITIONS

³ Applicants seeking authority from the Board to abandon railroad lines may act on behalf of the Board when complying with the Section 106 regulations of the National Historic Preservation Act. Applicants are authorized to initiate the Section 106 review process and carry out some of its steps, but the Board retains overall responsibility for the Section 106 review. See 36 C.F.R. § 800.2(c)(4); 49 C.F.R. Part 1105; Delegation Letter (Dec. 9, 2009). The Delegation Letter can be found at a link on the bottom of the Board's website overviewing historic preservation at <https://prod.stb.gov/resources/environmental/historic-preservation-overview>.

⁴ U.S. Department of Housing and Urban Development, Tribal Directory Assessment Tool, <https://egis.hud.gov/tdat> (last accessed January 22, 2021).

OEA recommends that the following condition be imposed on any decision granting abandonment authority:⁵

Canonie Atlantic Co. (CAC) shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 54 U.S.C. § 306108, has been completed. CAC shall report back to the Office of Environmental Analysis (OEA) regarding any consultations with the Virginia Department of Historic Resources and the public. CAC may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended condition is imposed, abandonment of the Line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Board's Federal Register notice of the proposed abandonment. The Federal Register notice is also issued as a Board decision and is available on the Board's website.⁶ CAC indicates that the Line would not be suitable for other purposes. As explained above, CAC plans to sell the Line to DRPT to be used for public use as private track to support passenger rail operations.

⁵ If an interim trail use agreement under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 is reached for the Line (or a portion thereof), compliance with this condition is not required with respect to any portion of the Line covered by the interim trail use agreement for the duration of the agreement.

⁶ Board decisions are available for viewing on the Board's website at <https://prod.stb.gov> by clicking "Search STB Records," selecting "Decisions" in the "Search for" dropdown menu; entering "AB" "1266" "1" "X" sequentially in the four boxes for "Docket Number," then selecting "Search."

TRAIL USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of notice of the petition for exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29). The Federal Register notice is also issued as a Board decision and is available on the Board's website.⁷ CAC indicates that the Line would not be suitable for interim trail use/rail banking. As explained above, CAC plans to sell the Line to DRPT to be used for public use as private track to support passenger rail operations. As a result, CAC states that it would not agree to negotiate for interim trail use.

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

As of March 17, 2020, all filings and other submissions should be submitted electronically through the Board's website at <https://prod.stb.gov>. To submit a comment on the Draft EA, select "File an Environmental Comment" under "Need Assistance?" on the Board's home page. Brief comments can be typed in the comment field provided, and lengthier comments can be attached as Word, Adobe Acrobat or other file formats. If you have any questions, please contact Kenneth Blodgett by email at Kenneth.Blodgett@stb.gov or by phone at 202-245-0305.

Date made available to the public: February 5, 2021.

Comment due date: March 8, 2021.

By the Board, Danielle Gosselin, Acting Director, Office of Environmental Analysis.

Attachment

⁷ Id.

St. Julian Abandonment and Discontinuance



MP 102.1
at St. Julian

CAC line to be abandoned by CAC and
discontinued by BCR

MP 100.7 at
North Junction

NS line to be
discontinued by
BCR

MP 100.3