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April 4, 2024

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20024

Re: **Docket No. AB 1233 (Sub-No. 2X)**
Allegheny Valley Railroad Company — Abandonment
Exemption — In Allegheny County, PA

Dear Ms. Brown:

Attached for filing in the above referenced docket please find correspondence from Christopher Ryder, Assistant Counsel with the Pennsylvania Department of Environmental Protection in Pittsburgh, PA.

Please let me know if you have any questions.

Respectfully submitted,

Thomas J. Healey

Thomas J. Healey

TJH:th

Enclosure



GOVERNOR'S OFFICE OF GENERAL COUNSEL
DEPARTMENT OF ENVIRONMENTAL PROTECTION

March 18, 2024

Thomas J. Healey, Esq.
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, IL 60606-3208

Re: Allegheny Valley Railroad Company – Abandonment Exemption –
in Allegheny County, PA, Docket No. AB 1233 (Sub-No. 2X)

Dear Mr. Healey:

The Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”) is in receipt of your Environmental/Historic Report and letter dated February 23, 2024, advising that Allegheny Valley Railroad Company (“AVR”) intends to file with the Surface Transportation Board a notice of exemption for abandonment of approximately 3.6 miles of rail line in Allegheny County (“Line”).

As you are likely aware, the Department administers and enforces numerous environmental statutes, including the Pennsylvania Dam Safety and Encroachments Act, Act of November 26, 1978, P.L. 1978, P.L. 1375, No. 325, as amended, 32 P.S. §§ 693.1 – 693.27 (“Encroachments Act”), and the regulations promulgated pursuant thereto at 25 Pa. Code, Chapter 105 (“Chapter 105”). Among other things, the Encroachments Act and Chapter 105 regulate “encroachments” and “water obstructions” as those terms are defined in Section 3 the Encroachments Act, 32 P.S. § 693.3:

“Encroachment.” Any structure or activity which in any manner changes, expands or diminishes the course, current or cross-section of any watercourse, floodway or body of water.

“Water Obstruction.” Includes any dike, bridge, culvert, wall, wing wall, fill, pier, wharf, embankment, abutment or other structure in, along, across or projecting into any watercourse, floodway or body of water.

In order to better understand the potential environmental effects of your proposed abandonment, and crucially the effect of such proposed abandonment on the section of the Line that utilizes a bridge over the Allegheny River (“Bridge”), which constitutes an encroachment, the Department requests the following additional information:

1. Please provide a copy of the contract referenced in your letter between AVR and the Redevelopment Authority of Allegheny County ("RAAC").
2. What entity will be responsible for conversion of the Line to its intended use as a public recreational trail?
3. What entity will be responsible for long-term operation and maintenance of the Bridge and other sections of Line upon abandonment?
4. What rights and responsibilities for the Bridge, including ownership thereof, will be transferred to RAAC?
5. Does AVR own the Bridge, or does some other entity own the Bridge?
6. Does AVR or other entity currently hold any permits or Submerged Lands License Agreements from the Department for any part of the Line or the Bridge?
7. What modifications will be made to the Line or the Bridge as part of the proposed abandonment?

Please note that pursuant to Section 6 of the Encroachments Act, 32 P.S. § 693.6(a), "No person shall construct, operate, maintain, modify, enlarge or abandon any dam, water obstruction or encroachment without the prior written permit of the [D]epartment." Further, DEP's regulations at 25 Pa. Code § 105.47 set forth the requirements for "abandonment" of water obstructions and encroachment. Based on the information you have provided to date, the Department's understanding is that AVR does not intend to "abandon" the Bridge or any other water obstruction or encroachment, as that term is used in the Encroachments Act or Chapter 105, but rather seeks to cease operating train service on the Line. If our understanding is incorrect, please notify us immediately.

Should you have any questions about this letter or wish to discuss the inquiries posed above, please feel free to contact me at 412-442-4270.

Sincerely,

s/ Christopher L. Ryder

Christopher L. Ryder
Assistant Counsel