

FROM: James Riffin P.O. Box 4044 Timonium, MD 21094 (443) 414-6210
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TO: Cynthia T. Brown, Chief, Section of Administration, Office of Proceedings STB
 Karen Stevens, Office of Environmental Analysis STB

RE: AB 290 (Sub. No. 412X)

DATE: December 2, 2024

Appended are my Comments regarding the Draft Environmental Assessment ("DEA") for AB 290 (Sub. No. 412X).

Normally, these comments would only be filed as an Environmental Filing. However, these comments raise an additional 'false statement' allegation, [the Map appended to NSR's NOE and the Map appended to the DEA, contain false information],¹ and suggest the Board should expand its definition of the term, 'Traffic Diversion,' to include diversion of truck traffic to rail, in addition to the traditional 'rail to truck diversion.' Both of which should be addressed by the full Board.

For the above reasons, I ask that these Comments be filed as an Environmental Filing, AND as a 'regular' filing.

Respectfully,



James Riffin

1. Both Maps: Falsely depict the Western branch of the CIT connecting to the MTA's "Yard leads;" and falsely depict the MTA's "Yard leads" connecting to the CIT. An impossibility, since the CIT tracks and Light Rail tracks are grade separated by a 20 or so foot concrete wall where the "Yard leads" connect to the MTA's Light Rail tracks on the south end of the MTA's shops.
 NSR's Map: Falsely states NSR has 'Overhead Freight Rights' over the MTA's "Yard leads."
 DEA Map: Falsely states the MTA's "Yard leads" are Line.

Before the
Surface Transportation Board

JR - 7

STB DOCKET NO. AB-290 (Sub-No. 412X)

NORFOLK SOUTHERN RAILWAY COMPANY –
ABANDONMENT EXEMPTION --
IN THE CITY OF BALTIMORE, MARYLAND

JAMES RIFFIN'S COMMENTS
DRAFT ENVIRONMENTAL ASSESSMENT

1. James Riffin (“**Riffin**”) herewith submits his Comments regarding the Draft Environmental Assessment (“**DEA**”) in the above entitled proceeding, which DEA was Served on **November 25, 2024**.

2. The DEA contains, and reiterates, multiple false and / or misleading statements, to wit:

- A. “[T]he Maryland Transit Administration (MTA) **owns** the underlying right-of-way ... ”;
- B. The MTA “operates **passenger** rail service over the Line.”
- C. The **Map** appended to the DEA depicts **non-existent Line**.

3. The Environmental Review portion of the DEA:

- A. Ignores previous ‘salvage activities’ performed by the MTA in February, 2023.
- B. Only addresses half of the issues presented.

FALSE STATEMENTS

4. **Who owns the real property underlying the Line.** A portion of the real property underlying the Line, is owned by the MTA, and a portion is owned by Amtrak. See Riffin’s **Ex. 2**,

appended to Riffin's November 25, 2024 filed, Notice of Intent to Participate, with Comments, and see ¶¶ 13 - 20 of Riffin's 11-25-2024 Comments.

5. The MTA **does NOT** "operate **passenger** rail service over the Line." Nor could the MTA operate any of its passenger transit rail cars over ANY portion of the Line, since (A) there is NO catenary line over ANY portion of the presently-existing Line (freight) tracks; and (B), ALL of the MTA's passenger transit rail cars operate via electricity provided by catenary wires suspended over the center-line of whatever tracks the passenger transit rail cars are operated on. See **Ex. 2**, and ¶¶ 29 - 48 of Riffin's 11-25-2024 Comments.

6. The **Map** appended to the DEA, falsely represents Line where no Line exists. The Line consists of ONE freight track between Milepost UU 0.0 and UU 0.85 + / -. At or about UU 0.85, there **was** a turnout, at Light Rail North Station (N) 122 + 82, [it was removed February, 2023 by the MTA, without the knowledge or consent, of Norfolk Southern Railway Company ("NSR")], which turnout track crossed the Light Rail Tracks, [the crossing freight track, and two diamonds, were removed February, 2023, by the MTA, without the knowledge or consent, of Norfolk Southern Railway Company ("NSR")], then connected to the Norfolk Southern Tail Track, via a LH turnout. The Tail Track was a North-South oriented track, parallel to, and about 40 feet West of the Western Light Rail Track (Trk # 1 S.B.). The Tail Track extended north beyond the LH Tail Track turnout, about 500 feet (a bit north of Wyman Park Dr., at or near UU 1.0), and south beyond the LH Tail Track turnout, to the Flexi-Flo Yard, which contained 12 or so yard tracks. See **Ex. 3** of Riffin's 11-25-2024 Comments.

7. ALL of the Flexi-Flo yard tracks were stub-end tracks. NONE of the tracks in the Flexi-Flo yard connected to ANY track, freight or Light Rail track, at the south end of the Flexi-Flo yard (as falsely depicted on the Map appended to the DEA, appended to NSR's NOE).

8. The Map **falsely depicts as Line**, the MTA's "Yard Leads" tracks (two), which connect to Light Rail Track, #1, S.B., and # 2 N.B., at Light Rail North Station (N) 91 + 89 and 91 + 97. NONE of the MTA's yard tracks connect to ANY of the Flexi-Flo yard tracks. See **Ex. 3** of Riffin's 11-25-2024 Comments.

9. **February, 2023, Salvage Activities.** In February, 2023, the MTA, without the knowledge or consent of NSR, removed the Line turnout, at Light Rail North Station (N) 122 + 82, and the Line crossing track, which crossed Light Rail's two tracks at or near Light Rail North Station (N) 124 + 60, and the two crossing-track diamonds. See Maryland Department of Transportation ("MDOT") **February 8, 2023** letter to NSR, at pp. 49-5 of NSR's NOE.

10. **Circa 2019**, NSR sold its Flexi-Flo yard real property to a third party. ALL of the Flexi-flo tracks were removed, from the south end of the yard (stub end of the yard tracks), to the gate on the north end of the Flexi-Flo yard, through which gate the Line track that served the Flexi-Flo yard, entered the yard area.

11. NSR's NOE correctly states that **NSR** does not plan to engage in any **future** salvage activity. Riffin argues that NSR's failure to note **recent past salvage activity**, by both NSR and the MTA, constitutes material "misleading information."

12. Riffin brings to the Office of Environmental Analysis's attention, Conrail's Jersey City AB 167 (Sub. No. 1189X) [on going] proceeding, in which extensive Line salvage work was done by Conrail, and by third-parties, with Conrail's knowledge and consent, which pre-abandonment authority salvage activity was, and still is, the basis for extensive litigation.

ENVIRONMENTAL REVIEW COMMENTS

13. Historically [pre AB 167 (Sub. No. 1189X)], the Board's Environmental Review ONLY addressed rail carrier activities which would occur while the Board still had jurisdiction over the line that was the subject of an abandonment proceeding. The Board argued that any activities which occurred AFTER abandonment authority was granted, and consummated, [which divested the Board of jurisdiction over the line], was NOT subject to 'environmental' or 'historic' review by the Board.

14. In AB 167 (Sub. No. 1189X), the Board's 'no longer have jurisdiction' justification for NOT addressing post-abandonment activities, was challenged. Which has resulted in more than a decade

of ongoing litigation. Since the Board has yet to issue a final abandonment decision, there has been no court review of the Board's 'no jurisdiction justification.' In addition, in *Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244 (2024), the Supreme Court abolished the long-standing doctrine of *Chevron* deference to an agency's interpretation of a statute.

15. **Diversion of Traffic.** Historically, the Board has ONLY looked at 'one side of the Traffic Diversion coin,' to wit: Will abandonment result in diversion of rail traffic to truck traffic?

16. Given the World's need to reduce carbon dioxide emissions, Riffin argues, in an abandonment proceeding, the Board needs to take into account whether abandonment of a rail line will PRECLUDE NEAR-FUTURE diversion of **truck traffic TO rail traffic**. [Transporting freight via rail results in far fewer CO2 emissions, [1/4 or less], than transporting the same tonnage of freight via truck. One gallon of diesel will move one ton of freight 400+ miles on rail; a gallon of diesel will move a ton of freight only about 90 miles via a truck.]

17. **In this Proceeding:** There has been no local rail traffic on the Line in the past 5 years.

18. Riffin argues, there is a high probability that in the **very near future, significant** truck traffic would be diverted to rail traffic on the Line, to wit:

19. **MTA MOW:** For the past 20 years or so, the MTA has transported ALL of its maintenance of way [**"MOW"**] materials to the segment of the Light Rail tracks needing MOW work, via truck. Ballast is delivered via truck. 320-foot pieces of 115 RE rail, is CUT into 80-foot pieces, at the steel mill. [Three 'cuts' produce 4 pieces of 80-foot rail.] The 80-foot pieces of rail are trucked via over-size load trucks, to the segment of Light Rail tracks where the rail needs to be replaced. The 80-foot pieces are then Thermite-welded back into 320-foot pieces. [Three Thermite-welds at \$1,000 or so per weld.]

20. Trucking ballast and rail is more costly than railing ballast and rail. Cutting, then welding back together, rail, is much more expensive than using steel-mill-produced 320-foot pieces of rail.

21. The MTA has a 320-foot capacity rail train. That rail train, when carrying 320-foot pieces of rail, CANNOT negotiate the 'S' curves that carry the Light Rail tracks over CSX's tracks, a few hundred feet south of North Avenue. End result: The ONLY way rail-delivered 320-foot pieces of rail can be delivered to the Light Rail tracks north of North Avenue [north of UU 0.50 or so], is via the CIT connection to the National Freight rail system, at Pennsylvania Station in Baltimore City [at UU 0.0].

22. **Prior to 2024**, Maryland had a budget **surplus**. There was 'plenty of money' to pay the substantial extra cost of trucking the MTA's MOW material needs for the north end of its Light Rail System.

23. In **2024**, Maryland had a budget **deficit** in excess of \$1 billion. To 'cover' that deficit, during the summer of 2024, Maryland **reduced** the amount budgeted for Transportation needs (which included the costs associated with MOW maintenance of the Light Rail tracks), by in excess of **\$1 billion**.

24. In **2025**, Maryland faces a budget **deficit** in excess of **\$2.7 billion**. In January, 2025, the Maryland Legislature will have to 'cut' expenses by \$2.7 billion or so. 'Everything is on the table,' read a recent Baltimore Sun headline discussing the upcoming budget deficit.

25. There is a very high probability that the amount budgeted for MOW materials for the Light Rail tracks, will be very substantially reduced. [Railroads have historically 'balanced their budget deficits' by 'deferring MOW.' Which quickly results in 'speed restrictions.']

26. EITHER, the MTA will have to 'cut its MOW materials purchased, [deferring MOW maintenance], OR, begin using rail as the means of delivering MOW track and ballast. [Doing the same amount of work, with less money.]

27. If the CIT is abandoned, the 'rail option' for delivering 320-foot pieces of rail, will no longer exist. [Even if the CIT tracks remain in place, since NSR would no longer have the authority to use

the existing CIT tracks that are on real property owned by Amtrak, to access the CIT tracks that are on real property owned by the MTA.]

28. When MDOT sent its February, 2023 letter to NSR, asking NSR to seek abandonment authority for the CIT, Maryland was enjoying a substantial budget **surplus** (half a billion Dollars or so). No one anticipated the substantial budget **deficits** that Maryland must deal with. There was no immediate need to substantially **reduce** the MTA's budget. Beginning in **January, 2025**, Maryland's Legislature will be looking for ways to reduce the MTA's budget by a substantial amount. When that occurs [in **April, 2025**], the MTA will be looking for ways to reduce its expenditures. If the CIT has NOT been abandoned, then obtaining 320-foot pieces of rail, and ballast, by rail, will remain a viable, substantially less costly alternative, to trucks.

29. Delivering 320-foot pieces of rail, and ballast, to the MTA **via rail**, would substantially **divert truck traffic TO rail, which would substantially reduce CO2 emissions.** [That **improves** 'air quality and noise.' It also has a 'positive' effect on 'public health.']

CONCLUSION

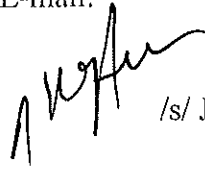
30. Riffin argues that abandonment of the CIT would result in a **substantial deleterious effect on the environment.**

 Respectfully,
/s/ James Riffin

James Riffin
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CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of December, 2024, a copy of the foregoing DER Comments, was served on the parties noted below, by E-mail.



/s/ James Riffin

E-mail:

James Riffin

NSR:
MTA

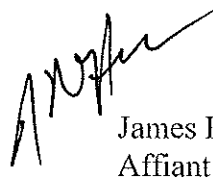
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DECEMBER 2, 2024 AFFIDAVIT OF JAMES RIFFIN

1. I am over the age of 21. I am competent, and authorized, to make this Affidavit.
2. In November, 2024, I spoke with the Light Rail person who is in charge of maintaining the Light Rail tracks. During the conversation, the person said the following:
 - A. The MTA has a rail train that is capable of carrying 320-foot pieces of rail.
 - B. The rail train, when carrying 320-foot pieces of rail, cannot negotiate the 'S' curves that carry the Light Rail tracks over the CSX tracks, just south of North Avenue.
 - C. The MTA presently, and in the past, has purchased 80-foot pieces of rail, that were trucked to the location where Light Rail rail needed to be replaced.
 - D. At the location where rail was being replaced, the 80-foot pieces of rail were Thermite welded together.
 - E. Ballast is delivered to MTA via trucks.
3. Thermite welds cost around \$1,000 for each weld, and take 45 or so minutes to complete. (Material plus labor.)
4. A Baltimore Sun article, published in the summer of 2024, stated that in 2023, Maryland had a budget surplus of nearly \$1 billion. The article stated that Maryland had a 2024 budget deficit of more than \$1 billion. The article further stated that more than \$1 billion was eliminated from the 2024 Maryland Transportation budget.
5. A November, 2024 Baltimore Sun article stated that in 2025, Maryland will have a budget deficit of at least \$2.7 billion dollars. In a subsequent November, 2024 Baltimore Sun article, the headline for the article said: "Everything is on the table." Referring to potential budget cuts for Maryland's fiscal year 2025 budget, which will be determined by the Maryland Legislature during its 90-day session, starting in January, 2025, ending in April, 2025.
6. Class I rail carrier advertisements state that one ton of freight can be railed in excess of 400 miles using one gallon of diesel.
7. From personal knowledge and experience, I know that a truck tractor hauling 22 or so tons of freight, will consume one gallon of diesel every 4 miles or so. That equates to using one gallon of diesel to truck one ton of freight 88 miles (or 88 tons for one mile). [4 mpg x 22 tons = 88 ton-miles per gallon.]
8. I certify under the penalties of perjury, that the above is true and correct to the best of my personal knowledge, information and belief.

Executed on: December 1, 2024


James Riffin
Affiant