

SERVICE DATE – SEPTEMBER 18, 2025

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36830

PIPE PROPERTIES, LLC—PETITION FOR DECLARATORY ORDER—
CERTAIN TRACKAGE IN HAMILTON COUNTY, CHATTANOOGA, TENN.

Digest:¹ This decision finds that abandonment of certain track in Chattanooga, Tenn., does not require prior approval from the Board.

Decided: September 17, 2025

Pipe Properties, LLC (Pipe Properties), petitioned for a declaratory order finding that certain track in Chattanooga, Tenn., is not a railroad line subject to the Board’s regulatory oversight and may be abandoned without prior approval under 49 U.S.C. § 10903. No replies were filed. As discussed below, the Board will grant Pipe Properties’ petition.

BACKGROUND

Pipe Properties and its affiliate, Perimeter Properties, LLC (collectively, the Landowners), own approximately 141 acres of real property (the Land) immediately to the east of Interstate 24 and adjacent to downtown Chattanooga. (Pet. 1-2.) Before the Landowners acquired the Land, it was the site of the Wheland Foundry (Wheland) and U.S. Pipe and Foundry (U.S. Pipe). (*Id.* at 2.) According to the petition, the Wheland and U.S. Pipe businesses operated for more than a century, but each ceased operations approximately 20 years ago. (*Id.*)

Pipe Properties states that there is track on the Land, including on a parcel that it has donated to the Sports Authority of the County of Hamilton and the City of Chattanooga for a new stadium (Stadium Parcel) for the Chattanooga Lookouts, a professional baseball franchise. (*Id.*) The track, which Pipe Properties calls the Foundry Track, appears to be 85-pound track that was originally roughly 3,600 feet in length when fully intact, consisting of two stub-ended, parallel track segments. (*Id.* at 3-4.) The petition states that a total of roughly 2,250 feet of track remains, and the track appears to have been “isolated” from the interstate rail network by the removal of a turnout-switch connection that had connected the track to a parallel Norfolk Southern Railway Company (NSR) railroad line. (*Id.* at 4.)

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol’y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

According to Pipe Properties, the Foundry Track appears to have been owned by the Belt Railway of Chattanooga (Belt Railway), which is now a part of the NSR system. (Id.) Pipe Properties asserts that the evidence suggests “[T.G.] Montague gave the Belt Railway an easement in 1897 for an ‘industrial’ track, and that the Foundry Track – identified as Track Nos. 46 and 47 – occupied that easement.” (Id. at 9.) As support, Pipe Properties provides a 1916 valuation map from a neighboring railroad, the Nashville, Chattanooga, and St. Louis Railway (NC&StL), where the Foundry Track, which appears to be marked as Tracks 46 and 47, consists of two stub-ended tracks running from the Belt Railway and terminating on a parcel west of the U.S. Pipe facility. (Id. at 5; id. at Ex. D.) Pipe Properties also provides a 1941 deed in which U.S. Pipe granted NC&StL a new easement to construct industrial track. (Pet. 6-7; id. at Ex. E.) When describing the path of the new NC&StL track, the deed describes a nearby existing easement for “industrial track,” which seems to underly the Foundry Track. (Pet. 6-7; id. at Ex. E.)²

To further support its petition, Pipe Properties also provides a photograph from the 1950s showing the Foundry Track being served by a loading crane. (Pet. 9; id. at Ex. F.) Finally, it also provides a letter from NSR’s parent company, Norfolk Southern Corporation (NSC), dated September 3, 2024, expressing NSC’s opinion that the Foundry Track is not subject to the Board’s jurisdiction, based at least partly on the fact that the track is “located entirely on the property of a former foundry that is no longer connected to nearby rail infrastructure,” and that no abandonment authority is required. (Pet. 9-10; id. at Ex. G.)³

Pipe Properties seeks to remove uncertainty about the regulatory status of the Foundry Track. (Pet. 10-12.) According to the petition, the title company that intends to provide title insurance for the Stadium Parcel has raised a concern that the Foundry Track might be a Board-regulated railroad line that could only be disposed of in accordance with the Board’s abandonment processes. (Id. at 10.) Specifically, the title company is concerned that the National Rail Network Map (Network Map) available on the Board’s website depicts the Foundry Track as being physically connected to the parallel NSR line and considers the Foundry Track’s presence on the Network Map as evidence that it is a federally regulated line of railroad for which abandonment would be an essential precursor to stadium development. (Id. at 10-11; see also id. at 11 (image of Foundry Track on Network Map).) According to Pipe Properties, the title company has refused to offer title insurance for the Stadium Parcel “unless or until the

² Specifically, Pipe Properties states that, according to the deed, “the new NC&StL track will continue south from Parcel 40/Track 50 for a little more than 30 yards along the Belt’s River Track Right of Way until it will encounter its next parcel – the ‘north point of an easement . . . granted the Belt . . . by T.G. Montague . . . [in 1897]. . . for an industrial track serving the [Foundry].” (Pet. 7.) Pipe Properties explains that “[t]he 1941 deed’s cross reference to a 1897 industrial track easement[] is consistent with the parcels occupied by the beginning of Track Nos. 45, 46 and 47 (the Foundry Track).” (Id. (footnote omitted).)

³ NSC expressed hope that its letter would “adequately resolv[e] any regulatory risk” regarding the Foundry Track. (Id.)

Board were to express its written concurrence in [Pipe Properties'] assessment that the Foundry Track is not a federally[]regulated line of railroad.” (Pet. 12.)

Therefore, on January 22, 2025, Pipe Properties filed its petition for declaratory order. It asks the Board to find that the Foundry Track is not a railroad line subject to the Board’s regulatory oversight and may be dismantled and disposed of without the need for prior Board abandonment authorization. (*Id.* at 1.)⁴ No replies to the petition were filed.

DISCUSSION AND CONCLUSIONS

The Board has discretionary authority under 5 U.S.C. § 554(e) and 49 U.S.C. § 1321 to issue a declaratory order to eliminate controversy or remove uncertainty. See Bos. & Me. Corp. v. Town of Ayer, 330 F.3d 12, 14 n.2 (1st Cir. 2003); Delegation of Auth.—Declaratory Ord. Proc., 5 I.C.C.2d 675 (1989). The Board will issue a declaratory order here to remove uncertainty about the regulatory status of the Foundry Track.

Under § 10903, abandonment of railroad lines generally requires prior authorization by the Board. However, spur, industrial, team, switching, and side tracks, although within the Board’s exclusive jurisdiction, see 49 U.S.C. § 10502(b)(2), are excepted from the Board’s licensing authority, 49 U.S.C. § 10906, and thus do not require prior Board approval to abandon.⁵

In determining whether particular track is a railroad line, which requires prior Board authority to abandon under § 10903, or excepted track under § 10906, which does not, the agency and courts consider factors such as the track’s intended use, physical characteristics, relationship to the rail system, and history. See Ne. La. Multimodal Dist.—Pet. for Declaratory Ord., FD 36809, slip op. at 5-6 (STB served Sept. 15, 2025) and cases cited therein; see also N.Y.C. Econ. Dev. Corp.—Pet. for Declaratory Ord., FD 34429, slip op. at 5 (STB served July 15, 2004) (stating that “a case-by-case, fact-specific approach [is used] to make this determination”). Decisions have relied on indicia such as the length of the track; whether it serves more than one shipper; whether it is stub-ended; whether it was built to penetrate new

⁴ Pipe Properties states that, although the sought-after title insurance for the Stadium Parcel was the genesis of this petition, a Board decision concerning the legal status of the entirety of the Foundry Track would bear upon the future development of all parcels upon which any portion of the Foundry Track is or has been located. (Pet. 13 n.9.)

⁵ The Board also has recognized a category of track known as “private track,” which is outside the Board’s jurisdiction altogether and therefore also does not require abandonment authority. Pinelawn Cemetery—Pet. for Declaratory Ord., FD 35468, slip op. at 7 (STB served Apr. 21, 2015). Private track is “typically built and maintained by a shipper (or for a shipper at the shipper’s expense) and operated by the shipper (or its contractor) to serve only that shipper, moving the shipper’s own goods.” V&S Ry.—Pet. for Declaratory Ord.—R.R. Operations in Hutchinson, Kan., FD 35459, slip op. at 8 (STB served July 12, 2012) (citations omitted) (quoting B. Willis, C.P.A., Inc.—Pet. for Declaratory Ord., FD 34013, slip op. at 2 (STB served Oct. 3, 2001)). Pipe Properties offers that, if the Board does not find the Foundry Track to be main line or excepted track, it should, in the alternative, categorize it as private track. (Pet. 20-21.)

markets; whether there is regularly scheduled service; traffic volume; who owns and maintains the track; whether the track was constructed with light-weight rail; the condition of the track; what the track is used for; and whether there are stations on the track. Tri-City R.R.—Pet. for Declaratory Ord., FD 36037, slip op. at 4 (STB served June 1, 2017). Evidence regarding some indicia may be sufficient to determine the legal status of the track without need to consider all potential indicia. Liberty Harbor Holding LLC—Pet. for Declaratory Ord., FD 36772, slip op. at 3 (STB served Oct. 3, 2024).

Pipe Properties argues that the Foundry Track “is, and was deployed primarily, if not entirely, as § 10906 ‘spur track.’” (Pet. 15.) It explains that the Foundry Track is stub-ended and runs adjacent to, and parallel with, an NSR main line that appears to have been the railroad line to which the Foundry Track last connected. (*Id.* at 18.) The Foundry Track is only two-thirds of a mile long, (*id.*), and seems to be constructed of 85-pound rail, a weight Pipe Properties asserts is common to spur or industrial track, (*id.* at 19). Pipe Properties asserts that all data it has found indicates that the Foundry Track was located within the boundaries of the Wheland/U.S. Pipe facilities and exclusively supported the Wheland/U.S. Pipe facilities’ shipping needs and was used for the placement, loading, and unloading of shipments destined to and from those facilities. (*Id.* at 19-20.)

The record warrants a finding that the Foundry Track is not a railroad line under § 10901 and therefore does not require abandonment authority under § 10903. The record indicates that the Foundry Track was used for loading and unloading by crane, as indicated in the photograph included with the petition. (Pet., Ex. F.) The Foundry Track is also relatively light weight, adjacent to a main line track, and located on shipper property on an easement designated for “industrial track.” (Pet. 18-19; *id.* at Ex. E.) The 1916 valuation map also depicts the Foundry Track as being stub-ended. (Pet., Ex. D.) Finally, there is no indication in the record that the history of the Foundry Track includes regulatory treatment as a railroad line under § 10901.

Given the Board’s conclusion that the Foundry Track is not a railroad line requiring abandonment authority under § 10903, and because Pipe Properties only seeks a declaration that the Foundry Track may be disposed of without the need for abandonment authority from the Board, the Board need not determine whether the Foundry Track is excepted track under § 10906 or private track, as neither requires such authority. See 49 U.S.C. § 10906; Pinelawn Cemetery, FD 35468, slip op. at 7.⁶

⁶ Regarding the title company’s concerns about the Network Map, the Board notes that that map should not be relied on to determine the legal status of any particular track. See Surface Transp. Bd. R.R. Map Depot, <https://stb.maps.arcgis.com/home/index.html> (last visited Sept. 11, 2025) (stating, at bottom of the page, that “The maps on this site are intended for general informational purposes only and do not establish the legal status of any rail line. Data shown on the maps are based on information provided by railroad applicants to the Surface Transportation Board and have not been independently verified”); see also R. J. Corman R.R. Prop., LLC—Aban. Exemption—in Scott, Campbell, & Anderson Cntys., Tenn., AB 1296X, slip op. at 8 (STB served Nov. 17, 2022) (Board Member Fuchs, concurring, joined by Board Member Schultz) (suggesting the creation of a more complete map to assist in resolving questions about the legal status of rail lines).

For these reasons, the Board will grant Pipe Properties' petition for declaratory order. Based on this record, the Foundry Track is not a railroad line under § 10901 and does not require abandonment authority under § 10903. To ensure NSC is aware of this decision, Pipe Properties will be directed to serve a copy on NSC and certify such to the Board within five days of the service date.

It is ordered:

1. Pipe Properties' petition for declaratory is granted, as described above.
2. Pipe Properties shall serve this decision on NSC and certify such to the Board by September 23, 2025.
3. This decision is effective on its date of service.

By the Board, Board Members Fuchs, Hedlund, and Schultz.