

#20-3069

**SURFACE TRANSPORTATION BOARD
OFFICE OF ENVIRONMENTAL ANALYSIS**

FINAL ENVIRONMENTAL ASSESSMENT

ENVIRONMENTAL RECOMMENDATIONS IN
DOCKET NO. AB 193 (SUB-NO. 3X)

April 30, 2019

ABANDONMENT TYPE

The time for comments on the Environmental Assessment (EA) has expired in this:

☐ Notice of Exemption ☒ Petition for Exemption ☐ Regulated Abandonment

☐ **NO NEW COMMENTS WERE RECEIVED**

☒ **NEW COMMENTS WERE RECEIVED**

In this proceeding, Canton Railroad Company (Canton) filed a petition for exemption under 49 U.S.C. § 10502 from the prior approval requirements of 49 U.S.C. §10903 seeking to abandon approximately 1,200 linear feet (0.23 miles) of rail line located in Baltimore City, Maryland (the Line). The Surface Transportation Board's (Board) Office of Environmental Analysis (OEA) served an Environmental Assessment (EA) for this proceeding on March 29, 2019 for public review and comment. In the EA, OEA recommended one environmental condition and concluded that the proposed action would not significantly impact the quality of the human environment.

Comments on the EA

OEA received four comment letters/emails during the 30-day comment period. Comment summaries and OEA's responses are provided below.

Commenter 1. By the attached letter dated April 24, 2019, the Maryland Department of Environment's (MDE) Land and Materials Administration commented about (1) the need to characterize the soil for contamination; (2) the need to obtain a hazardous waste generator permit; (3) the need to obtain National Pollutant Discharge Elimination (NPDES) approvals and permits; (4) the possible presence of nontidal wetlands in the area; and (5) the need to consult with the proper Ecological Field office at the U.S. Fish and Wildlife Service (USFWS). MDE's comment's and OEA's responses follow in the same sequential order.

- (1) MDE commented that rail lines may contain residual contaminants from rail operations in the form of pesticides, petroleum products and by-products, metals, creosote, PCBs and PAHs, but that Canton's Environmental Report made no mention of the type of commodities that were previously transported on the Line. In response, OEA notes that Canton's Environmental Report adequately addressed the resource areas outlined in the Board's environmental rules. For hazardous wastes, the Board's rules at 49 C.F.R. § 1105.7 (e)(7) state that "if there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous

material involved.” In the Environmental Report, Canton states that there are no known hazardous waste sites or sites where hazardous material spills have occurred on the rail right-of-way, and that approximately 300 feet of the Line was paved over some 20 years ago by a third-party facility owner. In addition, OEA has confirmed through the review of hazardous waste data for the area that there are no federally listed remediation sites within or immediately adjacent to the rail right-of-way.¹ Accordingly, no mitigation related to hazardous waste sites or hazardous materials is necessary in this proceeding.

- (2) MDE commented that Canton will be responsible for characterizing hazardous wastes associated with the salvage process, particularly those wastes associated with railroad ties. OEA agrees that this is a valid concern and is recommending that the Board impose the condition recommended in the EA that would require Canton to consult with MDE’s Solid Waste Program prior to initiating salvage to determine what approvals would be needed for the proper handling and disposal of rail ties and to comply with its reasonable requirements.
- (3) MDE commented that Canton’s rail car wash and rail maintenance facility at Newark Street in Baltimore is subject to the permitting requirements of Maryland’s Industrial Stormwater NPDES program and that Canton must obtain a permit for these processes. MDE also commented that if Canton’s salvage activities result in the disturbance of one acre or more of soil then Canton is subject to the requirements of Maryland’s General Permit for Stormwater Associated with Construction Activity. Regarding the need for an industrial permit, OEA notes that the car wash and maintenance activities are not included in the proceeding at hand. The Board’s statutory authority is limited to the rail line right-of-way, therefore any structures or objects outside the right-of-way, such as any railroad related properties along the route, would be outside of the Board’s jurisdictional control. Regarding the General Permit for Stormwater Associated with Construction Activity, Canton has stated that it does not intend to disturb the underlying roadbed or perform any salvage activities that would result in sedimentation or erosion of the soil, but has also stated that it may backfill areas with stone or soil where ties and track material are removed to make the right-of-way more level. As this activity has the potential to add one acre or more of soil or stone to the right-of-way, OEA is recommending a new condition in this Final EA that would require Canton to consult with MDE’s Stormwater Management Program to determine the need for an NPDES permit.
- (4) MDE commented that several small nontidal wetlands are known to exist in the area but that the EA made no mention of the existence of nontidal wetlands. MDE has requested information on the exact location of the proposed abandonment to ensure that nontidal wetlands will not be impacted. Accordingly, OEA has included the maps from the EA in this Final EA and has confirmed through several mapping tools that there are no nontidal wetlands² in or adjacent to the Line. Most, if not all, of the area is impervious and in industrial and commercial uses.

¹ Environmental Protection Agency NEPAassist Planning Tool, <https://nepassisttool.epa.gov/nepassist/nepamap.aspx?wherestr=baltimore+maryland> (last accessed April 26, 2019).

² Environmental Protection Agency NEPAassist Planning Tool, <https://nepassisttool.epa.gov/nepassist/nepamap.aspx?wherestr=baltimore+maryland> (last accessed April 26, 2019) and U.S. Fish and Wildlife Service, National Wetlands Inventory, <http://www.fws.gov/wetlands/Data/Mapper.html> (last accessed April 26, 2019).

- (5) MDE commented that the EA mistakenly referred to the U.S. Fish and Wildlife Service's office in Hadley, Massachusetts for consultation on the proposed abandonment, when in fact it should have referenced the Annapolis, Maryland office. OEA notes that Canton first sent its environmental prefilming consultation letter to a USFWS office that subsequently directed Canton to the Hadley office, even though the project location was listed as Baltimore, Maryland. This email exchange is documented on pages 24 and 25 of Canton's Environmental Report and is included as an attachment here. This inadvertent error has not changed OEA's prior conclusion that the Northern Long-eared bat, a federally threatened species potentially present in the project area, would not be adversely affected by salvage activities. There are no designated critical habitats within the project area and Canton's salvage activities are of limited scope. No new access roads would be created and Canton intends to implement appropriate measures to prevent or control spills from fuels, lubricants or any other pollutant materials from entering any waterways. The proposed abandonment would have no adverse effect on areas designated as critical habitat. Moreover, the Northern Long-eared bat is a night time predator that primarily flies through the undergrowth of forested areas; the area of the proposed abandonment is urban/industrial and mostly impervious; and Canton intends to conduct salvage during daytime hours when the bat is not active. However, in order to ensure that the Northern Long-eared bat is not affected, OEA is recommending a new condition that would require Canton to cease work and notify and consult with the USFWS, Maryland Ecological Services Field Office if the Northern Long-eared bat is encountered during abandonment-related salvage activities.

Commenter 2. By the attached letter dated April 5, 2019, the Baltimore City Planning Commission commented that it supports the proposed abandonment and has entered into negotiations with the prospective buyer of the property. The City notes that once the proposed abandonment is consummated, the intended buyer – a residential developer – has agreed to donate part of the abandonment parcel to Baltimore City in order to facilitate trail development as part of the City's Green Network Plan. The City supports moving the abandonment process forward and has committed to working with all parties to ensure access for trail development.

Commenter 3. By the attached letter dated April 8, 2019, the Maryland Historical Trust (State Historic Preservation Office) reaffirmed its concurrence that no historic properties listed in or eligible for inclusion in the National Register of Historic Places would be affected within the right-of-way (Area of Potential Effects) of the proposed abandonment.

Commenter 4. By the attached email correspondence dated April 26, 2019, the Maryland Department of Natural Resources' Chesapeake and Coastal Service Office reaffirmed its prior comment that the proposed abandonment is consistent to the maximum extent practicable with its enforceable program policies of the Coastal Zone Management Act (16 U.S.C. § 1451 et seq.).

Conclusion and Two New Conditions

The EA comment period has ended. Accordingly, OEA recommends that the following conditions should be imposed upon any decision granting abandonment authority. The conditions are:

1. Prior to conducting salvage operations, Canton Railroad Company shall consult with the Maryland Department of Environment's Solid Waste Program to determine what approvals would be needed for the proper handling and disposal of rail ties and comply with its reasonable requirements.
2. Prior to conducting salvage operations, Canton Railroad Company shall consult with the Maryland Department of Environment's Stormwater Management Program to ensure appropriate consideration of the National Pollution Discharge Elimination System requirements and comply with its reasonable requirements.
3. If any federally listed threatened or endangered species are encountered during salvage activities, Canton Railroad Company (Canton) shall cease work and notify the U.S. Fish and Wildlife Service (USFWS), Maryland Ecological Services Field Office in Annapolis, Maryland. Canton shall consult with USFWS regarding the potential impacts to any encountered federally listed threatened and endangered species and shall follow the reasonable recommendations of USFWS.

OEA concludes that if the above conditions are imposed, the proposed action would not significantly affect the quality of the human environment.

Attachments: Four comment letters/emails
Maps from EA
USFWS email thread from the CEHR

OEA CONTACT: Diana Wood
202-245-0302
Diana.Wood@stb.gov

Distribution: Office of Proceedings
ECT
Canton Railroad
MDE, Land and Materials Administration
Maryland State Clearinghouse (Project # MD20190402-0210)
USFWS, Maryland Ecological Services Field Office



Maryland Department of the Environment

#E1-26434
Comments

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor

Ben Grumbles, Secretary
Horacio Tablada, Deputy Secretary

April 24, 2019

Diana Wood
Surface Transportation Board
Case Control Unit
Washington, DC 20423

Re: Docket No. AB 193 (Sub-No. 3X)

Dear Ms. Wood:

Thank you for the opportunity to comment on the Surface Transportation Board ("STB") Office of Environmental Analysis' ("OEA") March 29, 2019 Environmental Assessment regarding Canton Railroad Company's petition for abandonment exemption. The proposed exemption is for the abandonment of 1,200 linear feet of rail line in Baltimore City. In the Environmental Assessment, OEA recommended that the STB condition the exemption by requiring Canton to consult with the Maryland Department of the Environment's ("MDE") Solid Waste Program prior to initiating salvage so a determination can be made with regard to the proper handling and disposal of rail ties. The OEA concluded that, if this condition is imposed, the abandonment would not significantly impact the quality of the human environment and therefore does not require an environmental impact statement. The following comments are submitted on behalf of MDE.

Environmental Assessment of Soils

The OAE assessment should address the need to perform an environmental assessment of the soils located within the Canton Railroad Company's right-of-way. The soils need to be sampled to determine if hazardous substances were released into the environment in the areas subject to abandonment. As noted in the U.S. Environmental Protection Agency's 2005 guidance document ("Successful Rail Property Cleanup and Redevelopment - Lessons Learned and Guidance to Get Your Railfields Project on Track"), rail lines can be impacted by residual contamination from former railroad operations and associated industrial activities, including herbicides, petroleum products and byproducts, metals, and creosote. Electro-locomotives can be associated with PCBs. The PCB contamination is typically found at the railyards where equipment was historically repaired and stored. There may be incidental releases of PCB on rail lines. PAHs can be present due to treatment of railroad ties.

The operational activities conducted within a rail line right-of-way are recognized environmental conditions that merit investigation to determine if any further assessment and cleanup activity is required. In the Canton Railroad Company's "Environmental Report," there is no environmental assessment included and there is no description of the type of products that were transported historically. The Environmental Report instead relies primarily on the fact that the Company received no responses indicating specific environmental concerns. However, without an environmental assessment, there is insufficient information on which to base more specific comments as to the potential presence of hazardous substances.

Characterization and Management of Solid and Hazardous Waste

As with any waste generator, if solid waste is generated as part of the abandonment activities, the Canton Railroad Company will be responsible for characterizing the waste as to whether it meets the definition of

Ms. Diana Wood

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hazardous waste and for managing the waste in accordance with applicable regulations.

If materials, such as railroad ties, are determined not to be hazardous waste, they may be taken to a refuse disposal facility permitted to accept the material. Options include a construction and demolition debris ("C&D") landfill or a commercial C&D transfer facility that transports the material out of state. The list of permitted refuse disposal facilities is on our website at https://mde.maryland.gov/programs/LAND/SolidWaste/Documents/Permitted_Solid_Waste_Facilities.pdf. Any backfill material that is brought to the site should comply with the Soil and Fill Material Guidance at https://mde.maryland.gov/programs/Marylander/Documents/Dredging/NoTrackChangesFillMaterial_andSoilManagementFactSheet82217.pdf.

Impacts to Nontidal Wetlands

The area of Baltimore City along the Canton Railroad and I-895 has several small nontidal wetlands. The environmental assessment indicates that there will be no impacts to waterways, wildlife sanctuaries, national or state parks, critical habitats, or forest, but it does not specifically discuss nontidal wetlands. Please clarify the exact location of the 1,200 linear feet of railway to be abandoned to ensure that nontidal wetlands will not be impacted.

Industrial and Construction Stormwater

Canton Railroad Company at 1841 S Newkirk St, Baltimore MD 21224 had been contacted by MDE's Water and Science Administration (WSA) in the past about requirements for industrial stormwater. In speaking with John Magness, WSA learned that the Canton Railroad Company has the ability to wash rail cars and maintain its own fleet of trains at the above location. The company has not applied for industrial stormwater permit coverage and should do so.

The proposed abandonment activity will require coverage under Maryland's General Permit for Stormwater Associated with Construction Activity, if the project disturbs one acre or more of soil.

Contact information for U.S. Fish and Wildlife Service

There appears to be an error on page 4 of the environmental assessment related to review of the document by the U.S. Fish and Wildlife Service. The statement is made that "OEA is providing a copy of this EA to the USFWS Massachusetts [emphasis added] Ecological Services Field Office for review and comment. The document should refer to the Maryland Ecological Services Field Office (USFWS Chesapeake Bay Ecological Services Field Office, Annapolis, MD, (410) 573-4599, per <https://www.fws.gov/ecological-services/map/directory.html#MD>.)

Thank you again for the opportunity to comment. If I may be of further assistance, please contact me at 410-537-3304 or kaley.luleker@maryland.gov.

Sincerely,



Kaley Luleker
Director, Land and Materials Administration

cc: Lee Currey, Director, Water and Science Administration



#E1-26464

CHRIS RYER
Director

Commenter 2

April 5, 2019

Ms. Diana F. Wood
Office of Environmental Analysis
US Surface Transportation Board
395 E. Street SW, Room 1110
Washington, DC 20423

Re: Docket No. AB- 193 (Sub-No. 3X) [State Application Identifier: MD 20180327-0200]

Ms. Wood,

This letter serves as update to Baltimore City's March 6th letter responding to Docket No. AB- 193 (Sub-No. 3X) [State Application Identifier: MD 20180327-0200] regarding the petition for abandonment of a section of the Canton Rail line in Baltimore.

In the above mentioned letter we indicate that the section of railroad corridor in question is part of a Baltimore City adopted Master Plan, the Green Network Plan, adopted September 27, 2018 <https://planning.baltimorecity.gov/green-network-plan> which includes this area.

As an update, we would like to inform you that the City of Baltimore supports the abandonment of this corridor and have entered into negotiations with the prospective buyer of the property. Once abandonment is consummated, the intended buyer, a residential developer has agreed to donate part of this parcel to Baltimore City in order to facilitate trail development as part of the above mentioned Green Network Plan. We support the abandonment process moving forward and will work with all parties to ensure access for trail development.

Should you require any additional information, I can be reached by phone at 410-396-4327. Alternately, I can be reached by e-mail at chris.ryer@baltimorecity.gov.

Sincerely,

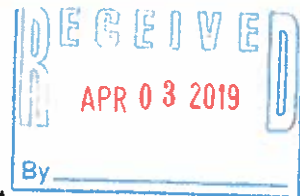
Chris Ryer
Director

BALTIMORE CITY PLANNING COMMISSION

Charles L. Benton, Jr. Building 417 East Fayette Street Eighth Floor Baltimore, MD 21202-3416

Plan Preserve Prosper

2019016924



46800
OEA

SERVICE -DATE MARCH 29, 2019

#E1-26465 Commenter:

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

Docket No. AB 193 (Sub-No. 3X)

The Maryland Historical Trust has determined that there are no historic properties affected by this undertaking.

Jim Van Cinn Date 4/8/19

**Canton Railroad Company-Abandonment Exemption-
in Baltimore City, MD.**

BACKGROUND

In this proceeding, Canton Railroad Company (Canton) filed a petition for exemption under 49 U.S.C. § 10502 from the prior approval requirements of 49 U.S.C. § 10903 seeking to abandon approximately 1,200 linear feet (0.23 miles) of rail line located in Baltimore City, Maryland (the Line). According to Canton, the Line has no milepost or station designations and is sometimes referred to as the OverFlo Track. The Line traverses United States ZIP Code 21224 and travels through a combination of older industrial properties and newer and/or revitalized mixed-use developments. Based on information in its possession, Canton states that the Line does not contain any federally granted right-of-way.

According to Canton, there has been no freight service on the Line since December 12, 2017. The only shipper located on the Line sold its property on December 19, 2017. Following abandonment, Canton intends to sell the right-of-way to the new property owner, 601 Haven Street LLC (Haven), for non-rail use. By letter dated January 15, 2019, Haven affirmed its intentions to purchase the right-of-way for non-rail use and is fully supportive of the proposed abandonment.

Two maps depicting the Line in relationship to the area served are appended to this Environmental Assessment (EA).

ENVIRONMENTAL REVIEW

Canton submitted an environmental report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. Canton served the environmental 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 The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

¹ The Environmental and Historic Reports are available for viewing on the Board's

#E1-26466

Wood, Diana

Commenter 4

From: RNardi@bakerandmiller.com
Sent: Monday, April 29, 2019 11:59 AM
To: Wood, Diana
Subject: Fw: CZMA Consistency Concurrence RE "Canton Line" Abandonment in Baltimore City

Hi Diana. Please see below for an email I received in connection with the proposed rail line abandonment by Canton Railroad Company (AB-193, Sub-No. 3X).

Rose-Michele Nardi
Partner
Baker and Miller PLLC
Suite 300
2401 Pennsylvania Ave, N.W.
Washington, D.C. 20037
(202) 663-7820
(202) 663-7849 (Fax)

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From: Joseph Abe -DNR- [<mailto:joseph.abe@maryland.gov>]
Sent: Friday, April 26, 2019 4:38 PM
To: Rose-Michele Nardi
Cc: Denise Keehner -MDE-; Catherine McCall -DNR-; Heather Nelson -MDE-; Myra Barnes -MDP-
Subject: CZMA Consistency Concurrence RE "Canton Line" Abandonment in Baltimore City

Rose-Michelle Nardi, J.D.
Attorneys at Law
Baker and Miller PLLC
2401 Pennsylvania Avenue
Washington, DC 20037
(Representing the Canton Railroad Company)

RE: Request for CZMA Consistency Concurrence RE Canton Railroad Company's Abandonment of the "Canton Line" in Baltimore City, Maryland

Dear Ms. Nardi:

On behalf of the Maryland Coastal Zone Management Program, I am responding to your request for Maryland's federal consistency concurrence regarding the Canton Railroad Company's abandonment of the "Canton Line" in Baltimore City, prepared pursuant to Section 307 of the Federal Coastal Zone Management Act of 1972, as amended (CZMA). Specifically, Canton Railroad Company filed a petition for exemption with the Surface Transportation Board seeking to abandon approximately 1,200

linear feet (0.23 miles) of rail line located in Baltimore City, Maryland.

Based on this screening of potential coastal effects of this project (i.e. Environmental and Historic Report), agency review responses, and statements and documentation from the Canton Railroad Company, this project has demonstrated consistency to the maximum extent practicable with Maryland's enforceable policies. Please note that this concurrence does not obviate Canton Railroad Company's responsibility to obtain any other State approvals that may be necessary for the project.

If you have any questions, please contact me or Denise Keehner (MDE; copied).

Respectfully,

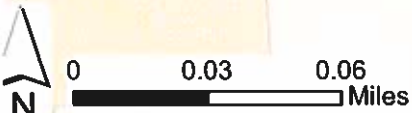
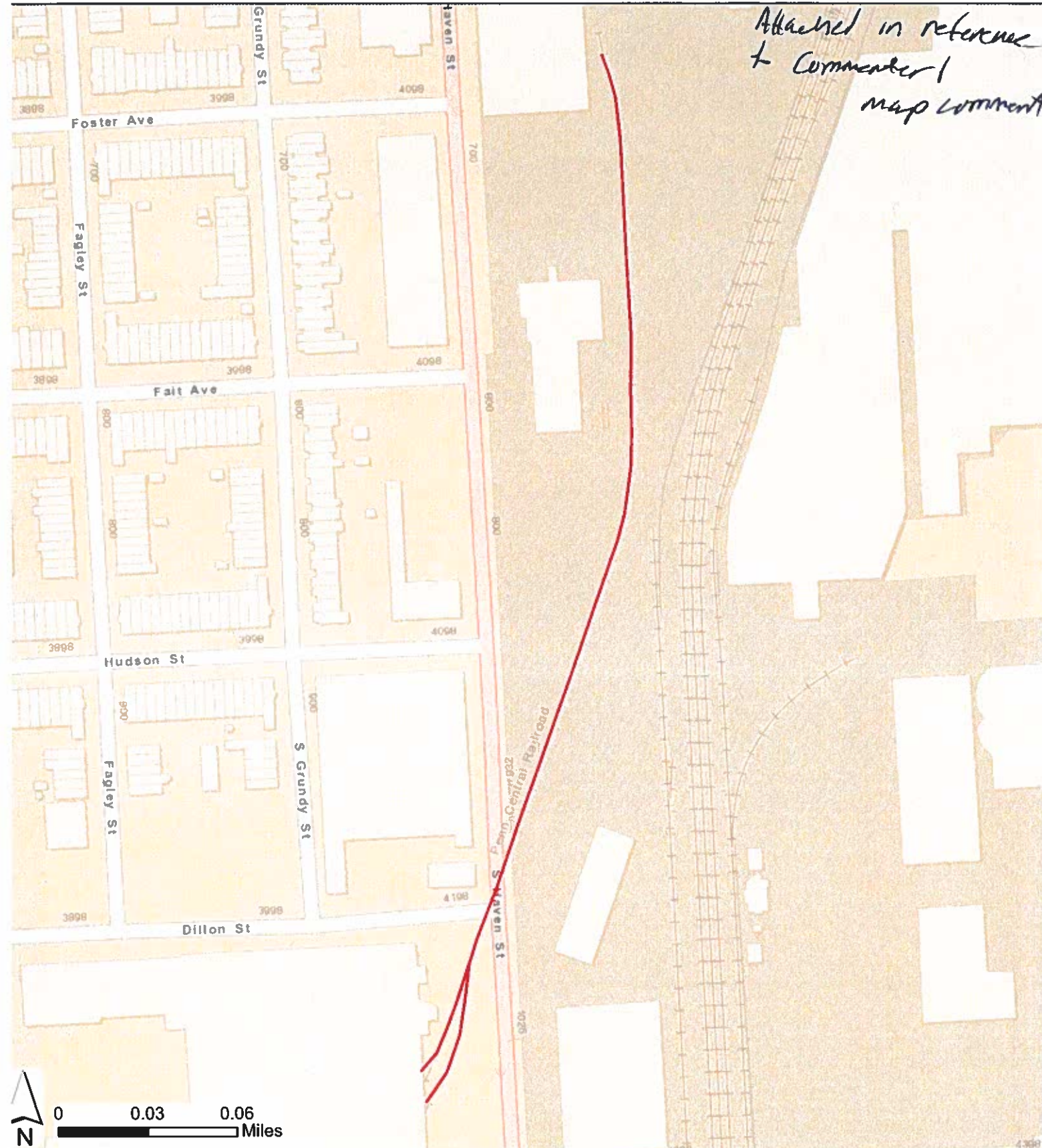
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	Joseph Abe Coastal Policy Coordinator, Chesapeake and Coastal Service Department of Natural Resources 580 Taylor Avenue, E-2 Annapolis, MD 21401 410-260-8740 (office) 443-690-5176 (cell) joseph.abe@maryland.gov
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[Click here](#) to complete a three question customer experience survey.

Closeup of the Line

Attached in reference
to Comment 1
map comment



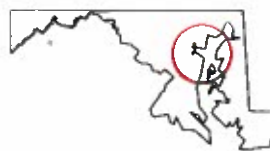
Docket No. AB 193 (Sub-No. 3X)

Canton Railroad Company
Abandonment Exemption
Baltimore City, MD

Legend

— the Line

Note: Maps produced by the STB's Office of Environmental Analysis are based on information provided by the applicant and are for reference purposes only.



Location in State

Attached is reference to
Page 1 of 2
Commenter 1 USFWS comment



Re: [EXTERNAL] Re: Canton Railroad Company Abandonment in Baltimore City, MD
Bixby, Meredith
to:
RNardi
12/11/2018 11:51 AM
Hide Details
From: "Bixby, Meredith" <meredith_bixby@fws.gov>
To: <RNardi@bakerandmiller.com>

Hello Rose-Michele -

I would send it to:

USFWS
c/o Ecological Services
300 Westgate Center Drive
Hadley, MA 01035

Thanks,
Merry

Meredith Bixby
Realty Specialist
National Wildlife Refuge System, Region 5
U.S. Fish and Wildlife Service
meredith_bixby@fws.gov
work phone 413.253.8556
work fax 413.253.8468

On Tue, Dec 11, 2018 at 10:23 AM <RNardi@bakerandmiller.com> wrote:

Hi Meredith. I will be sending out an Environmental/Historic Report with respect to the Canton Railroad Company Abandonment in Baltimore City, MD. If you want me to send the Report to someone other than you, please let me know the correct address/department. Thanks.

Regards,

Rose-Michele

Rose-Michèle Nardi
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penalty that may be imposed by the Internal Revenue Service or (2) promoting, marketing or recommending to another party any transaction or matter addressed herein.

From "Bixby, Meredith" <meredith.bixby@fws.gov>
To <mymiller@bakerandmiller.com>
Date 11/27/2018 09:49 AM
Subject Canton Railroad Company Abandonment in Baltimore City MD

Hello Rose-Michele,

I received a letter today from you regarding the Canton Railroad Company Abandonment in Baltimore City (Docket N. AB-193, Sub. No. 3x; State Application Identifier:MD20180327-0200). The letter was just generally addressed to the U.S. Fish and Wildlife Service at 300 Westgate Center Drive in Hadley, Massachusetts. Unfortunately, there are over 200 people and 10 different departments here, so I am not sure who to deliver it too.

I know it was not meant for me, so I'm trying to track down who/what department you meant to send it to. I want to make sure the appropriate people receive the letter and can provide comments, if necessary.

Thank you,
Merry

Meredith Bixby
Realty Specialist
National Wildlife Refuge System, Region 5
U.S. Fish and Wildlife Service
meredith_bixby@fws.gov
work phone 413 253 8536
work fax 413.253 8468