

October 4, 2019

Surface Transportation Board
Case Control Unit
Washington ,DC, 20423

Attention; Kenneth Blodgett

Docket# 1266

Response to, and, Expression of Concerns About Enviornmental Assessment;

Dear Mr. Blodgett,

I am a citizen of Northampton County, specifically Cape Charles Township. I am also a member of The New York Philadelphia and Norfolk RR Resurrection LTD, of Cape Charles, a 501(c)3 Corporation, concerned with the preservation of the railroad, and its historic importance, and economic development potential, on the Eastern Shore of Virginia.

Beginning in the early hours of December 24, 2018, ANTDC/Canonie Atlantic, (the agents that/who commissioned the Environmental Assessment – hereafter, ANTDC/CAC) removed the rails in the Cape Charles marshalling yard, and in so doing violated the dreams, hopes and wishes of the populace, visitors, and tourists alike.

Below, I set forth several seeming discrepancies found in the Environmental Assessment report. If I misunderstand any 'terms of art' found in the Environmental Assessment report, I would of course welcome the author's response.

BACKGROUND

"If the notice becomes effective, CAC will be able to salvage track, ties, and other railroad appurtenances and to dispose of the right-of-way"

- * ANTDC/ CAC removed approximately seven miles of rail from the marshalling yard without any environmental assessment. ANTDC/Canonie did so long before the term Environmental Assessment (EA) was mentioned in the legal notice, published June 28, 2019.
- * ANTDC/CAC uses the EA to further blame all environmental damage on Tenant, Bay Shore Railroad. ANTDC/CAC as landlord shared in the responsibility by ignoring its asset management duties. ANTDC/CAC then inflicted further and far greater damage with crude removal techniques.

- * ANTDC/CAC tore out the rail between the marshalling yard and Bayshore Concrete after Bayshore closed, without due consideration to the future tenant of the Bayshore Concrete site. Now that Capital Pre-Cast is that tenant, Capital is deprived of rail service, and now requests 1,000 car per year rail service to save on trucking costs.
- * ANTDC/Canonie Atlantic undertook the latter track removal in the full knowledge that no shippers would want to/or be able to use the railroad without a holding and transfer yard.
- * ANTDC/Canonie Atlantic, having full knowledge of its intent to remove track, enticed the Commonwealth (VDOT) to seek Federal taxpayer dollars, and to spend Commonwealth Taxpayer Dollars on a new crossing.
- * To entice the Commonwealth, and the Federal Government to provide this crossing, ANTDC/Canonie cited the need to keep the track available to the future owner of the Bayshore Concrete property(now Capital Precast). ANTDC/Canonie Atlantic within weeks of the completion of that crossing, tore rail out of the marshalling yard.
- * During the same period, ANTDC/Canonie Atlantic Officials stated that “they didn’t want to deal with a railroad “ and “didn’t want anyone else operating the rails. These officials made these statements and so acted in total disregard for public monies spent on the crossing, and further disregard for the economic future of Cape Charles, or its sister communities in Congressional District Two.

ENVIRONMENTAL REVIEW

“the quality of the human environment would not be affected significantly as a result of the abandonment or any post abandonment activities”

- * The cultural and psychological impact on the community, alone is huge. The residents of District Two on the Eastern Shore are accustomed to both rail transport, of goods, and the railroad’s historic significance in their communities.
- * ANTDC/CAC are instead catering to developers who look toward fast money. ANTDC/Canonie Atlantic continues to answer this siren song, despite offers having been made and revoked by the developers to influence the removal of the rails.

- * Economic and cultural revitalization requires re-integration of the rails, into the daily economic and transportation needs of these Communities. It is interesting to note that most Maryland and Virginia Eastern Shore Communities have established internal, or at least nearby railroad museums, and spend significant resources maintaining these museums, and the rails linking the museums to the closest rail line.
- * ANTDC/CAC has ignored, and denied credence to the multi-generational objections of the populace, instead beginning removal, under cover of darkness, over the Christmas holidays, when few were around to contest, or even witness, the removal.
- * ANTDC/CAC violated Storage Agreements made by their tenants, Bay Coast Railroad and the Eastern Shore Railroad, providing far less than 30 days' notice to parties whose Cars had been stored in the marshalling yard for years. It is noteworthy that several of those storing cars in the marshalling yards were former railroad employees, now advanced in years. Instead, ANTDC/CAC inferred that it could deliver these cars to the Cape Charles Historical Society, a static museum, which does not even represent railroad preservation as its primary purpose. Among the cars so effected are the historically significant Southern Comfort and the Philadelphia Star, which latter car was used by Presidents Franklin Delano Roosevelt, and Harry Truman. The Car was used as a meeting between President Roosevelt and U.K. Prime Minister Winston Churchill.
- * ANTDC/CAC made no attempt to reimburse these car owners for power or water/sewer hookups.
- * ANTDC/CAC did not, prior to, nor during removal show due concern for human life and safety. The barge ramp was left for years in decrepit condition without fencing, or shoring-up of the structure, during a period in which it was common knowledge that the ramp was used as a fishing pier for adults and children alike. The yard was improperly enclosed during removal, without so much as the posting of warning signs. Trucks, cranes and dirt removal equipment raised polluted dust and overturned polluted earth, while people walked unwarned, and unaware, through the dust clouds.

- * ANTDC/CAC, The landlord, has openly, and in the Press blamed tenants, Eastern Shore Railroad, and Bay Coast Railroad for allowing the rails to become decrepit, for pollution, and, for other horrific management practices. This amounts to "slumlord" practice. No ANTDC/Canonie Atlantic official has ever answered the question (when presented) "What did Your lease say about maintenance responsibilities?", nor the question (when presented) "What do You believe were your responsibilities to maintenance of rail assets?"
- * ANTDC/CAC has claimed that it was forced to rely on its tenant because it "did not know the Railroad Business. Ownership imposes responsibility. Not knowing railroad business is not an excuse. ANTDC/CAC's refused responsibility, instead, turning its back on the whole situation. The degradation of business and maintenance alike fall squarely on ANTDC/CAC's shoulders.

"The line" is one of the most historic rail lines in the country. Built by Mr. William Scott and Mr. Alexander Cassatt as "The New York, Philadelphia and Norfolk Railroad," it played a massive role in building the agricultural and aqua cultural industry's on the shore and the North Eastern quadrant of Our Nation. Moreover, after incorporating the line, the Pennsylvania Railroad, under Alexander Cassatt's direction, dug the first ever tunnel under the Hudson river to emerge in the NY,P&N RR terminus (later after Cassatt's death, renamed The Pennsylvania Railroad Station, New York). Alexander Cassatt imported, and personally invented great modifications to, European tunnel building technology. Every underwater tunnel that we drive through today, owes its pedigree to Alexander Cassatt, and the NYP&N RR.

Despite the takeover by The Pennsylvania Railroad, Citizens of the Northeastern US used the name NY,P&N RR in reference to the line, well into the mid 1900's. The Pennsylvania Railroad later came under Norfolk Southern RR control. NYP&N continued to provide coal to Delmarva power company. The line was sold by Norfolk Southern CEO Arnold McKinnon (a very dear friend of mine) to the Canonie brothers. Mr. McKinnon later regretted the sale. He told me of his fear that Canonie would run the line into the ground, sooner or later.

The Accomack Northampton Transportation District Commission (ANTDC) is an entity composed of appointees of the Governor of the Commonwealth of Virginia. While details are shrouded and sketchy, ANTDC, at some point, came into ownership of "all voting shares of Canonie Atlantic." During the 1980's there were transfers of County held land, from Northampton County to Canonie Atlantic. Despite being an entity, whose shares are wholly owned by a government entity, Canonie Atlantic maintains a Corporate Charter. Canonie Atlantic's Board of Directors is comprised solely of the members of The Accomack Northampton Transportation District Commission.

The Commission holds averred public meetings monthly. However, when pressed with such questions as, to whom the Commissioner holders of Canonie Atlantic Stock owe their fiduciary duty (the Directors of Canonie Atlantic, or the People of Accomack and Northampton, or, where the proceeds of a particular grant have been spent, The ANTDC meeting is closed and becomes, instead, the closed meeting of the Board of Directors of Canonie Atlantic.

Meanwhile public funds appear to have been spent on crossings that have no planned future and what is now commonly referred to by the people of Cape Charles as the "Barge Fiasco"; ANTDC/CAC then spent large amounts of tax dollars upgrading the rail, and the barge ramp in Cape Charles with a handshake understanding that Virginia Beach would do the same. Virginia Beach then refused. Resultantly, Rail- Barge Traffic ceased.

DIVERSION of TRAFFIC

ANTDC/CAC has represented to the United States Surface Transportation Board (STB), that there are no active customers, and barely enough potential customers to sustain 300 cars annually on the line. The truth of the matter is vastly different. ANTDC/CAC has actively dissuaded, and even stifled, attempts to bring in new business. ANTDC/CAC has conveyed to the STB and its own public that Car-Load Express is "gouging" the rates and making it impossible to obtain or retain customers.

Yet, ANTDC/Canonie has openly stated that it "does not want to run a railroad". One ANTDC Commissioner (also a Board Member of Canonie Atlantic) openly stated, at a Commission Meeting: "I've learned more about railroads in the last ten months than I ever wanted to know."

ANTDC/CAC blames its tenant BCR for turning away business, yet its tenancy ended two years in the past and ANTDC has done nothing to contradict its former tenant. In full knowledge that Bay Shore Concrete could not actively carry on business without rail service, ANTDC/CAC continued to deny service to Bay Shore Concrete when its tenancy was long terminated. Capital Pre-Cast, Bay Shore's Successor in interest, has made clear that it would actively use 1000 cars per year, and remains ignored.

NY,P&N RR Res. Ltd. Staff has, with vastly limited resources and within a matter of a few days, polled numerous shippers on the line. Enough of those shippers (to account for 1800 cars per year) would prefer rail service to cut down on the high overhead of running trucks (their surveys are enclosed in the NY,P&N RR Res. LTD offer).

Also, the bay environment /watershed would be better off keeping the railroad. The Chesapeake Bay Foundation has made clear that rubber/latex poisoning in the bay originates with vehicles tires breaking down and pollutants from highway vehicles in general. Properly run, railroads are much cleaner today than the railroads of 50yrs ago.

SALVAGE ACTIVITIES:

By contrast to ANTDC/CAC claims, for past and future, minimal ballast has been removed. Approximately 10 miles of yard tracks and ties necessary for operation were removed before this assessment. Salvage was performed within the right of way. However, though some were okay for dumping in the town landfill site, others were buried on site.

ANTDC/CAC commissioned dirt movers to bulldoze the yard, and is allowing grass, and weed growth to constitute the cheapest form of capping the soil. Divots have been left, from tie removal, to collect rainwater. The resultant puddles float pollutants from the ground to the surface, and add to an already severe mosquito problem. As of this writing, much of the weed growth is waist high.

The entire parcel is listed with the EPA as a brownfield site. Anyone foolish enough to dig comes away with hands black with oil and coal dust. Asbestos from old railcar brake shoes abounds.

While ANTDC publicly states that the Township, and Harbor Commission of Cape Charles should determine the disposition of the land, its CAC counterpart (same people, same meeting room and meeting times) insists that it holds valuable land, and will not name a price affordable to the Township to purchase an acre for a parking overflow lot.

The Pennsylvania RR, The Eastern Shore Railroad and the Bay Coast Railroad have all used ground along the rails, to dump waste product. While there may be no effect upon the ability of farmers to grow crops, removal is not likely to allow for unpolluted food.

Far more critical: rail banking and rails to trails, will disturb, and damage the economy and cultural perspective of the community. Vastly preferable, is the economic potential, sense of community, and cultural heritage, inherent in keeping an operational line, and added (combined) bicycle path.

PARAGRAPH 4

While, ANTDC/CAC may not have needed prior approval of the STB, according to its own Environmental Assessment, it still proceeded with salvage operations without approval from the USACE,OEA,NGS, in full knowledge that the approval of these Agencies is required.

HISTORIC REVIEW

ANTDC/CAC fails to mention the historic significance of this rail in its Environmental Assessment. Please see NYP&N RR Res, Ltd.'s foregoing brief discussion of the historic value of the rail line(s) to the Eastern Shore of Virginia.

Virginia does not have an operational tourist rail line. The Virginia Tourism Corporation (VTC) has expressed interest in such a line. In fact, VTC staff have told NYP&N RR Res. Ltd, that VTC "would love to see one". Aside from the important historic value of this line (which should be on the National Historic Register) this line is isolated by the opening and closing of the Pocomoke river bridge. The near level ground of the Virginia Eastern Shore offers the advantages to any railroad of low fuel consumption, and, low wear and tear on equipment.

The line which, ANTDC/CAC proposes to abandon, is capable of operating three divisions: freight, passenger (personnel) and tourist cars. These advantages will more than triple the equity in the line. For examples of rail programs offering shared divisions, see Strasburg, PA and Grand Canyon RR. Both run common carrier and tourist trains on same track.

CONDITIONS:

ANTDC/CAC has not adhered to lawful, thoughtful management practices. Nor has ANTDC responded appropriately to market conditions, nor the needs of its merchants, or public. Instead, the conflict of interest, inherent in the Board of Directors of a Rail Road Company, and a Public Commission comprised of the same membership, has led to impulsive practices that serve neither entity, nor the people of the region. Pulling the rails needlessly after mis-spending public funds constitutes an additional squandering of a public resource. Worse, it isolates a regional economy, from the most economical means of moving its goods, services, people and visitors.

CONCLUSIONS:

The Environmental Assessment commissioned by ANTDC/CAC is an attempt to justify the dismantling of a Public Resource, when the gain is minimal, and the destination of the proceeds is unclear to the taxpayer. It is tantamount to pulling wool over the eyes of taxpayer, the Surface Transportation Board, and purchaser, alike. Resultant saleable (brownfield) parcels will necessarily fetch fire-sale prices.

ANTDC/CAC is attempting to rid itself of negative equity, when sound practice would dictate utilizing the resources involved to serve the populace, and business community, concurrently adding value. If ANTDC/CAC is incapable of (conflicted from) such conduct, and, likewise, incapable of accepting offered assistance, perhaps the Offices of the United States Bankruptcy Trustee is the preferable option. Removing the rails is not.

The "Gateway to the South" rails should not be squandered for the empty dreams of a few, who, to date have failed, at every turn, to make a sound management decision, or even to recognize their own ethical responsibilities. The United States Surface Transportation Board should not buy either this environmental assessment, nor the argument that the rail right of way can only serve as a sinkhole for tax dollars, or, as a bicycle trail. Both profitable rail service and an operable bicycle trail lie in this resource.

The true goal of this Environmental Assessment, and those commissioning it, is the dismantling of an Historic Public Treasure that, holds a means of regional economic development. Instead, ANTDC/CAC intends to serve building developer interests, yielding only a bicycle trail to the populace. It is incumbent upon the Surface Transportation Board to investigate the interests behind both the Environmental Assessment and the underlying Request for Abandonment.

Respectfully,

A handwritten signature in black ink that reads "John W. Paffrath USNret". The signature is written in a cursive, flowing style.

John W. Paffrath USNret
SV Grace H. Darling
1011 Bayshore rd.
Cape Charles , Va,23310