

SERVICE DATE – APRIL 8, 2024

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423
DRAFT ENVIRONMENTAL ASSESSMENT
Docket No. AB 1233 (Sub-No. 2X)**

**Allegheny Valley Railroad Company – Abandonment Exemption –
in Allegheny County, Pa.**

BACKGROUND

In this proceeding, Allegheny Valley Railroad Company (AVR) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the prior approval requirements of 49 U.S.C. § 10903 in connection with the abandonment of approximately 3.6-miles of rail line, generally known as the Brilliant Branch located in Pittsburgh and Aspinwall, Allegheny County, Pennsylvania (the Line).¹ A map depicting the Line in relationship to the area served is appended to this Draft Environmental Assessment (Draft EA). If the notice becomes effective, the railroad will be able to salvage track, ties, and other railroad appurtenances and to dispose of the right-of-way.

According to AVR, it is seeking Board authorization to abandon the Line to facilitate an interim trail use arrangement with the Redevelopment Authority of Allegheny County (RAAC). AVR indicated that RAAC intends to file a request for a Notice of Interim Trail Use (NITU). RAAC would assume interim trail sponsorship for the Line and deploy the right-of-way as part of a pedestrian hiking trail. AVR stated that it “[would] concur with RAAC’s request for a NITU.”

DESCRIPTION OF THE LINE

The Line is located in Pittsburgh and Aspinwall, Pennsylvania, in an urban setting. The Line is composed of three connected sections. The first section extends approximately 2.3 miles, beginning at milepost 0.7 north of a wye connecting to Norfolk Southern Railway Company, in East Liberty, in the City of Pittsburgh and ends at approximate milepost 3.0, in the City of Pittsburgh. The second section, the Brilliant Branch-West Leg Wye extends approximately 0.5

¹ On February 23, 2024, AVR filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments. AVR’s verified notice included a request pursuant to 49 C.F.R § 1105.7(g) that the Board waive the provisions of 49 C.F.R. § 1105.11 calling for the carrier to use a form transmittal letter when sending its environmental and/or historic report to appropriate agencies. The Board denied AVR’s request for waiver and deemed the filing date for AVR’s verified notice to be March 14, 2024.

miles beginning at approximate milepost 0.0 on AVR's Allegheny River Bridge in the Borough of Aspinwall and ends at approximate milepost 0.5 in the Township of O'Hara. The third section, a portion of AVR's Allegheny Branch Connection, in the City of Pittsburgh, extends approximately 0.8 miles beginning at approximate milepost 1.8 and ends approximately 528 feet west of its connection with AVR's Allegheny Branch at approximate milepost 2.6. Together the three sections consist of approximately 3.6 miles of rail line.

According to AVR, the Line was constructed by the Pennsylvania Railroad, from 1902 to 1904, to act as a bypass around the City of Pittsburgh. AVR acquired the Line in 1995 from the Consolidated Rail Corporation. According to AVR, the Line has not seen local service since 2015, when the remaining customer permanently closed, after which AVR on occasion used the Line as a detour route when other routes were temporarily unavailable or for railcar storage.

ENVIRONMENTAL REVIEW

AVR submitted a combined environmental and historic report (E&H Report) that concludes the quality of the human environment would not be affected significantly as a result of the proposed abandonment of the Line, including salvage. AVR served the E&H 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)]² implementing the National Environmental Policy Act. The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to AVR, no local traffic has moved over the Line over the last two years, and there is no overhead traffic on the line that would have to be rerouted. Therefore, the proposed abandonment would not result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network. Nor would the proposed abandonment adversely impact the development, use and transportation of energy resources or recyclable commodities or the transportation of ozone-depleting materials.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way. If abandonment authority is granted, AVR stated that it intends to provide Amtrak an easement to turn its passenger equipment on the southerly 1,962 feet of the Line. Thus, no salvage activities

² The E&H Report is available for viewing on the Board's website at www.stb.gov by clicking "Search STB Records;" selecting "Filings" in the "Search for" dropdown menu; entering "AB" "1233" "1" "X" sequentially in the four boxes for "Docket Number," then selecting "Search." The E&H Report was filed on February 23, 2024.

would occur on this segment. On the remainder of the Line, AVR stated that it intends to remove the rail and crossties but does not intend to remove any ballast. According to AVR, it would not modify or remove any bridges, viaducts, or embankments located on the Line. Upon negotiating an existing interim trail use arrangement with the Redevelopment Authority of Allegheny County (RAAC), AVR intends to transfer the Line, including bridges, viaducts, and embankments, to RAAC for use as part of a public pathway for recreational use.

Land Use

AVR considers the proposed abandonment to be consistent with existing land use plans. AVR states the abandonment is being undertaken in part to make the Line available for public recreational use. AVR requested comments on the proposed abandonment from the Southwest Planning Commission and Allegheny County (SPC) by letter dated, December 7, 2023. AVR notified SPC again by letter dated, February 23, 2024, requesting comments and included a copy of the preliminary E&H Report. To date, OEA has not received a response.

AVR notified the United States Department of Agriculture’s Natural Resources Conservation Service (NRCS) of the proposed abandonment by letter dated December 7, 2023. By letter, dated January 25, 2024, AVR received a response from NRCS stating “[s]ince the project falls entirely within the Pittsburgh Urban Area according to the TIGERweb Web Map Services (WMS), an official site of the United States Census Bureau, it is not subject to the Farmland Protection Policy Act.” Therefore, OEA concludes there would be no adverse effect on prime agricultural land.

Hazardous Materials/Spills and Safety

AVR states that the proposed abandonment would have no detrimental effects on public health and safety. There are no known hazardous waste sites or sites where there have been known hazardous material spills on the Line. Therefore, OEA concludes that the proposed abandonment is unlikely to affect the transportation of hazardous materials.

Biological Resources

AVR requested comments from the U.S. Fish and Wildlife Service (USFWS) regarding the potential impact of the proposed abandonment to protected wildlife, including federally listed threatened and endangered species. To date, USFWS has not provided comments. To identify protected species in the project area, OEA conducted a search of the USFWS Information for Planning and Consultation (IPaC) system.³ The following six species may be present in the project area:

Protected Species That May Occur in the Project Area or be Affected by the Project	
Mammals	Status
Indiana bat (<i>Myotis sodalis</i>)	Endangered

³ U.S. Fish and Wildlife Service, Information for Planning and Consultation Tool (IPaC), <https://ipac.ecosphere.fws.gov> (OEA confirmed on March 28, 2024)

Protected Species That May Occur in the Project Area or be Affected by the Project	
Northern long-eared bat (<i>Myotis septentrionalis</i>)	Endangered
Tricolored bat (<i>Perimyotis sublavus</i>)	Proposed Endangered
Clams	
Longsolid (<i>Fusconaia subrotunda</i>)	Threatened
Rayed bean (<i>Villosa fabalis</i>)	Endangered
Insects	
Monarch butterfly (<i>Danaus plexippus</i>)	Candidate

The database indicates that there is no designated critical habitat for these species in the project area.

Because no land disturbance or instream work is contemplated; no bridge, viaduct, embankment, or tree removal is contemplated; and no critical habitat is present, OEA concludes that the proposed abandonment would have no effect on any of the six species. OEA is providing a copy of this Draft EA to the USFWS Pennsylvania Field Office for its review.

AVR notified the National Park Service (NPS) of the proposed abandonment requesting assistance in identifying any potential effects on wildlife sanctuaries or refugees, National or State parks or forests. To date, NPS has not provided comments. Because the Line does not cross any wildlife sanctuaries or refuges, National or State parks or forests, OEA believes that no such area would be affected by the proposed abandonment.

Water Resources

The Line is not located within a Coastal Zone. Therefore, no further consultation under the Coastal Zone Management Act is required.

AVR requested assistance from the U.S. Environmental Protection Agency, Region 3 (USEPA) and the U.S. Army Corps of Engineers, Pittsburgh District (USACE) in identifying whether permits under Sections 402 and 404 of the Clean Water Act (CWA) (33 U.S.C. §§ 1342 and 1344) are required for the proposed abandonment, respectively. USEPA provided comments but did not comment on the need for any permits under the CWA. However, OEA does not anticipate the need for permits under Section 402 of the CWA because AVR does not intend to disturb any roadbed underlying the Line or do any work in Waters of the United States (WOTUS).

In its comments, USEPA recommended that OEA should consider the indirect effect of the proposed conversion to trails use on the regional recreational trail systems. OEA notes that the Board's environmental and historic review in railroad abandonment proceedings is limited to the action before the Board, which is the proposed abandonment of a line of railroad. See Goos v. ICC, 911 F.2d 1283, 1297 (8th Cir. 1990) (the Board is not required to conduct an environmental analysis of impacts of trails use in an abandonment proceeding). Impacts from abandonment can include impacts from the diversion of rail traffic to other transportation modes and impacts from salvage activities. See In re Implementation of Env't Laws, 7 I.C.C.2d 807, 828-29 (1991)

By email received on March 20, 2024, USACE stated that a Pennsylvania state permit may be required if placement of material is required alongside the railroad tracks. USACE also stated that “if no work, salvage, removal, or otherwise, is to be conducted on or adjacent to the bridge crossing the Allegheny River, then no Section 10 permit or review is required.” Accordingly, OEA is recommending a condition requiring AVR to consult with USACE prior to the commencement of any abandonment-related salvage activities. OEA is providing a copy of this Draft EA to USEPA and USACE for review.

OEA received a comment from the Pennsylvania Department of Environmental Protection (PDEP) regarding the section of the Line that utilizes the bridge over the Allegheny River and the potential need for a State permit for abandonment of water obstructions and encroachments. Accordingly, OEA is recommending a condition requiring AVR to consult with PDEP prior to commencement of any abandonment-related activities. OEA is providing a copy of this Draft EA to PDEP for review.

Air Quality and Noise

OEA believes that any emissions associated with abandonment activities would be temporary and would not have a significant impact on air quality. Similarly, any noise related to abandonment activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

Summary

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. In addition to the parties on the Board’s service list for this proceeding, OEA is providing a copy of this Draft EA to the following agencies for review and comment: the U.S. Fish and Wildlife Service, Pennsylvania Ecological Services Field Office; the U.S. Army Corps of Engineers, Pittsburgh District; the U.S. Environmental Protection Agency, Region 3, and the Pennsylvania Department of Environmental Protection.

HISTORIC REVIEW

AVR states the Line was constructed by the Pennsylvania Railroad from 1902 to 1904 to act as a bypass around the City of Pittsburgh. Historically the Line was operated by the Pennsylvania Railroad Company, Penn Central Transportation Company, and Consolidated Rail Corporation. AVR acquired the Line in 1995. AVR states there are several structures which are 50 years or older on the Line.

AVR served the E&H Report on the Pennsylvania State Historic Preservation Office (State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c).⁴ Based on

⁴ Applicants seeking authority from the Board to abandon railroad lines may act on behalf of the Board when complying with the Section 106 regulations of the National Historic

available information, the SHPO submitted comments stating that no historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register) would be affected within the right-of-way (the Area of Potential Effect, or APE) of the proposed abandonment.

Therefore, pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, OEA has determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding as specified at 36 C.F.R. § 800.11(d), consists of AVR's historic report, all relevant correspondence, and this Draft EA, which have been provided to the SHPO and made available to the public through posting on the Board's website www.stb.gov.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the U.S. Department of Housing and Urban Development's Tribal Directory Assessment Tool (TDAT) to identify federally recognized Tribes that may have ancestral connections to the project area.⁵ The database indicated that the following federally-recognized tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment: Catawba Indian Nation; Delaware Tribe, Oklahoma; Delaware Tribe of Indians; Eastern Shawnee Tribe of Oklahoma; Osage Nation; and Seneca-Cayuga Nation. Accordingly, OEA is sending a copy of this Draft EA to these Tribes for review and comment.

CONDITIONS

OEA recommends that the following conditions be imposed on any decision granting abandonment authority:

- 1) Prior to commencement of any abandonment-related salvage activities, Allegheny Valley Railroad Company shall consult with the U.S. Army Corps of Engineers regarding potential impacts to water of the United States, including wetlands, and shall comply with its reasonable requirements.
- 2) Prior to commencement of any abandonment-related activities, Allegheny Valley Railroad Company shall consult with the Pennsylvania Department of Environmental Protection regarding potential impacts to the Allegheny River and shall comply with its reasonable requirements.

Preservation Act. Applicants are authorized to initiate the Section 106 review process and carry out some of its steps but the Board retains overall responsibility for the Section 106 review. See 36 C.F.R. § 800.2(c)(4); 49 C.F.R Part 1105; Delegation Letter (Dec. 9, 2009). The Delegation Letter can be found at a link on the bottom of the Board's website overviews historic preservation at <https://www.stb.gov/resources/environmental/historic-preservation-overview>.

⁵ U.S. Department of Housing and Urban Development, Tribal Directory Assessment Tool, <https://egis.hud.gov/tdat> (last accessed March 27, 2024).

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of the Line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives the proposed abandonment would include denial (and therefore not change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Board's Federal Register notice of the proposed abandonment. The Federal Register notice is also issued as a Board decision and is available on the Board's website.⁶

TRAIL USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29). The Federal Register notice is also issued as a Board decision and is available on the Board's website.⁷

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquires to Surface Transportation Board, Office of Public Assistance, Government Affairs, and Compliance, Washington, DC 20423.

⁶ Board decisions are available for viewing on the Board's website at <https://stb.gov> by clicking "Search STB Records;" selecting "Decisions" in the "Search for" dropdown menu; entering "AB" "1233" "2" "X" sequentially in the four boxes for "Docket Number," then selecting "Search."

⁷ Id.

COMMENTS

OEA encourages interested parties to submit their comments on the Draft EA electronically through the Board's website at <https://www.stb.gov/>. From the Board's home page, select "File an Environmental Comment" below the "Need Assistance?" button. Log-in accounts are not needed to file environmental comments electronically, and brief comments can be typed in the comment field, and lengthier comments can be attached as Word, Adobe Acrobat, or other file formats.

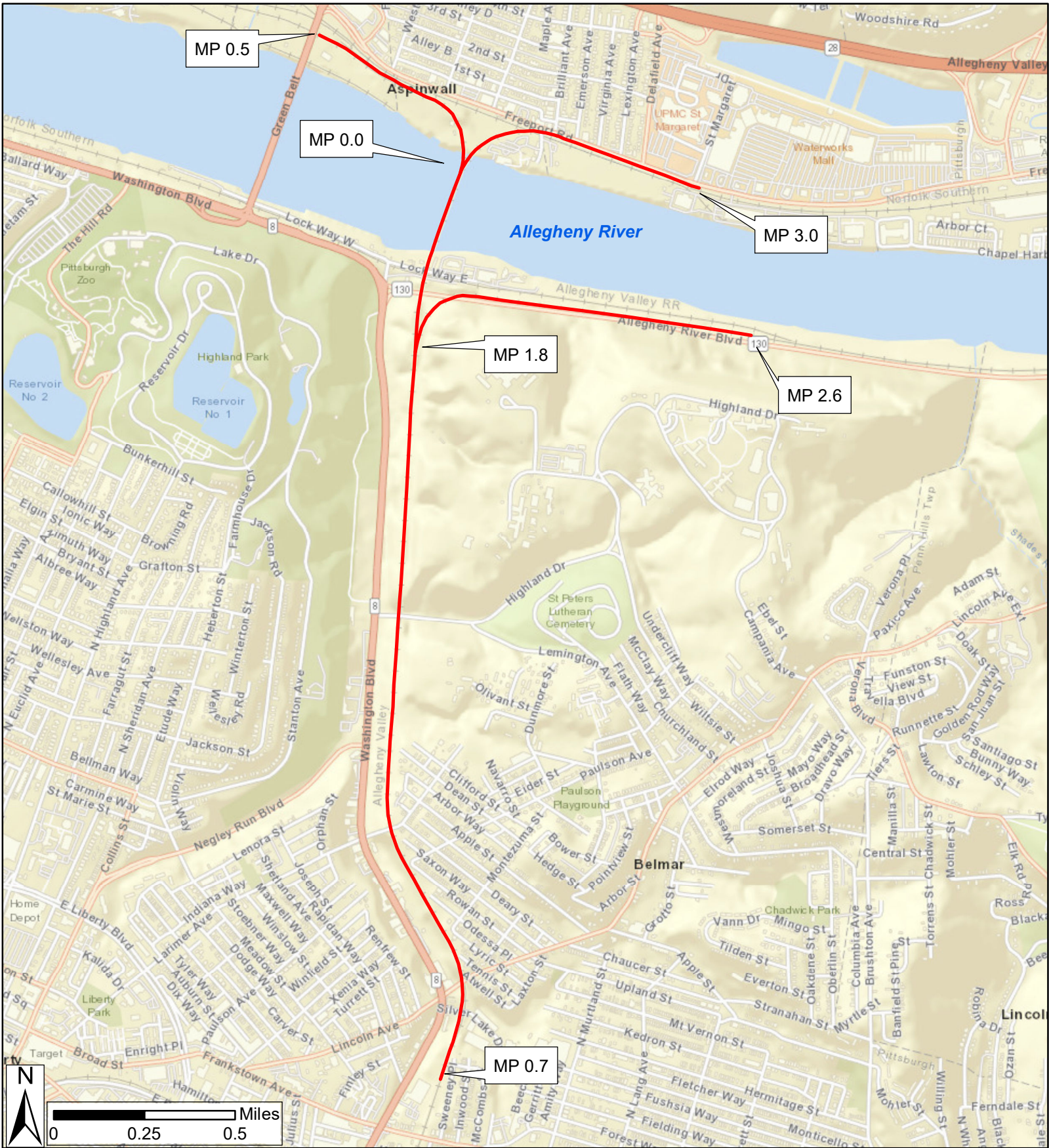
Alternatively, comments submitted by mail should be addressed to: Karen Stevens, Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001, Attention: Environment Filing, Docket No. AB-1233 (Sub-No. 2X). If you have any questions, please contact Karen Stevens by email at Karen.Stevens@stb.gov or by phone at 202-245-0304.

Date made available to the public: April 8, 2024.

Comment due date: April 23, 2024.

By the Board, Danielle Gosselin, Director, Office of Environmental Analysis.

Attachment



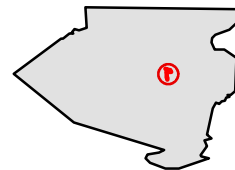
Docket No. AB 1233 (Sub-No.2X)

Allegheny Valley Railroad Company
Abandonment Exemption
Allegheny County, Pa.

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.



Allegheny County



Pennsylvania