

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 531 (Sub-No. 3X)

PIONEER VALLEY RAILROAD COMPANY, INC.
—ABANDONMENT EXEMPTION—
IN HAMPSHIRE COUNTY, MASS.

Decided: December 15, 2022

Pioneer Valley Railroad Company, Inc. (PVRR), filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments to abandon approximately 4.25 miles of rail line from the northern terminus at Coleman Road (approximate milepost 69.70 in PVRR’s original track chart) to the southern terminus at Brickyard Road, near its intersection with Valley Road (approximate milepost 73.95 in PVRR’s original track chart), in the Town of Southampton, Hampshire County, Mass. (the Line). Notice of the exemption was served and published in the Federal Register on November 17, 2022 (87 Fed. Reg. 69,075). The exemption is scheduled to become effective on December 17, 2022.

On November 21, 2022, the Town of Southampton, Mass. (Southampton), filed a request for issuance of a notice of interim trail use or abandonment (NITU) under the National Trails System Act (Trails Act), 16 U.S.C. § 1247(d), to establish interim trail use/rail banking on the Line.¹ On December 8, 2022, PVRR filed a letter agreeing to negotiate with Southampton toward an interim trail use agreement for the Line.²

The Surface Transportation Board’s (Board) Office of Environmental Analysis (OEA) served a Draft Environmental Assessment (Draft EA) on November 21, 2022, recommending that one condition be imposed on any decision granting abandonment authority. OEA stated that PVRR submitted an historic report as required by the Board’s environmental rules and served the report on the Massachusetts Historical Commission (the State Historic Preservation Office, or SHPO), pursuant to 49 C.F.R. § 1105.8(c). The Draft EA noted that, to date, the SHPO had not provided comments on the proposed abandonment and that, therefore, OEA had not been able to consider the SHPO’s opinion before determining if structures associated with the Line may be

¹ On December 6, 2022, Southampton filed a correction to its request for NITU to fix an incorrect date.

² On November 30, 2022, PVRR submitted a letter indicating that it had reached an interim trail use/rail banking agreement with Southampton. However, in its December 8, 2022 letter, PVRR acknowledged that that notice of agreement had been filed prematurely. PVRR should file its notice of trail use agreement after this decision issuing the NITU.

eligible for listing on the National Register of Historic Places (National Register). Accordingly, OEA recommended a condition requiring PVRR to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effects) that are potentially eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 54 U.S.C. § 306108, has been completed. The recommended condition also would require PVRR to report back to OEA regarding any consultations with the SHPO, interested federally recognized tribes, and any other Section 106 consulting parties that have been identified and would prohibit PVRR from filing its notice of consummation until the Section 106 process has been completed and the Board has removed this condition.

OEA served its Final Environmental Assessment (Final EA) on December 9, 2022. The Final EA notes that no new comments were received and OEA therefore continues to recommend that the condition recommended in the Draft EA be imposed.

Interim Trail Use. Southampton's request for a NITU complies with the requirements of 49 C.F.R. § 1152.29, and PVRR has notified the Board that it is willing to negotiate an agreement for interim trail use with Southampton. Therefore, a NITU will be issued. The parties may negotiate an agreement during the one-year period prescribed below. If an interim trail use agreement is reached (and thus, interim trail use is established), the parties shall jointly notify the Board within 10 days that an agreement has been reached. 49 C.F.R. § 1152.29(d)(2) & (h). If no agreement is reached within one year, PVRR may fully abandon the Line, subject to any outstanding conditions. See 49 C.F.R. § 1152.29(d)(1). Use of the right-of-way for trail purposes is subject to possible future reconstruction and reactivation of the right-of-way for rail service.

This decision, and the proposed abandonment if implemented as conditioned, will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. The notice served and published in the Federal Register on November 17, 2022, exempting the abandonment of the Line described above is modified to the extent necessary to implement interim trail use/rail banking as set forth below to permit the parties to negotiate for interim trail use for the rail line, for a period of one year from the service date of this decision and notice, until December 16, 2023.
3. The abandonment is also subject to the following condition:³ PVRR shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites,

³ If an interim trail use agreement under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 were to be reached for the Line (or a portion thereof), compliance with this condition would not

buildings, structures, and objects within the project right-of-way (the Area of Potential Effects) that are potentially eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 54 U.S.C. § 306108, has been completed. PVRR shall report back to OEA regarding any consultations with the SHPO, interested federally recognized tribes, and any other Section 106 consulting parties that have been identified. PVRR may not file its notice of consummation until the Section 106 process has been completed and the Board has removed this condition.

4. If an interim trail use/rail banking agreement is reached, it must require the trail sponsor to assume, for the term of the agreement, full responsibility for: (i) managing the right-of-way; (ii) any legal liability arising out of the transfer or use of the right-of-way (unless the sponsor is immune from liability, in which case it need only indemnify the railroad against any potential liability); and (iii) the payment of any and all taxes that may be levied or assessed against the right-of-way.

5. Interim trail use/rail banking is subject to possible future reconstruction and reactivation of the right-of-way for rail service and to the trail sponsor's continuing to meet its responsibilities for the right-of-way described in paragraph 4 above.

6. If an interim trail use/rail banking agreement is reached (and thus, interim trail use/rail banking is established), the parties shall jointly notify the Board within 10 days that an agreement has been reached. See 49 C.F.R. § 1152.29(d)(2), (h).

7. If interim trail use/rail banking is implemented, and subsequently the trail sponsor intends to terminate trail use on all or any portion of the right-of-way covered by the interim trail use/rail banking agreement, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.

8. If an agreement for interim trail use/rail banking is reached by December 16, 2023, interim trail/rail banking use may be implemented. If no agreement is reached, PVRR may fully abandon the Line, subject to any outstanding conditions.

9. This decision and notice is effective on its service date.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

be required with respect to any portion of the Line covered by the interim trail use agreement for the duration of the agreement.