

SERVICE DATE – SEPTEMBER 25, 2020

**SURFACE TRANSPORTATION BOARD**  
WASHINGTON, DC 20423

**DRAFT ENVIRONMENTAL ASSESSMENT**

**Docket No. AB 290 (Sub-No. 409X)**

**Norfolk Southern Railway Company—Abandonment Exemption—  
in the City of Clifton, Passaic County, N.J.**

**BACKGROUND**

In this proceeding, Norfolk Southern Railway Company (NSR) filed a notice with the Surface Transportation Board (the Board) under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in Passaic County, New Jersey. The rail line proposed for abandonment (the Line) extends approximately 0.4 miles from Milepost IA 12.5 near Clifton Avenue to Milepost IA 12.9 near Paiget Avenue in the City of Clifton, New Jersey (Clifton). 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, NSR would be able to dispose of the right-of-way. NSR does not intend to salvage the Line as part of the proposed abandonment.

**DESCRIPTION OF THE LINE**

The right of way of the Line ranges in width from approximately 59 feet to approximately 68 feet along the main track centerline. The Line runs through an urban area of Clifton that has been developed for commercial, transportation, and industrial uses. There are no bridges or other rail-related structures on the Line. Much of the rail and related track material was removed before NSR acquired the Line in 1999, although approximately 1,900 feet of track remains on the northern end of the Line near Piaget Avenue.

**ENVIRONMENTAL REVIEW**

NSR submitted a combined Environmental and Historic Report (E&H Report) that concludes that the quality of the human environment would not be affected significantly as a result of the proposed abandonment. NSR served the E&H Report on appropriate federal, state, and local agencies, as required by the Board's environmental rules [49 C.F.R. § 1105.7(b)].<sup>1</sup> The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

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<sup>1</sup> The E&H Reports are available for viewing on the Board's website at <https://prod.stb.gov/> by going to "Search STB Records," selecting "Filings," and then conducting a search for AB 290 (Sub-No. 409X). The E&H Report was filed on July 29, 2020.

## ***Diversion of Traffic***

NSR states that there has been no rail traffic on the Line for at least 20 years, and there is no overhead traffic. Accordingly, the proposed abandonment would not adversely impact the development, use, or transportation of energy resources or of recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could significantly impact air quality or the local transportation network.

## ***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. In this case, NSR does not plan to conduct any salvage as part of the abandonment proceeding. Following abandonment, NSR intends to convey the rail right-of-way to a business owner adjacent to the Line with remaining rail and related track material intact.

## ***Land Use***

NSR sent a copy of the E&H Report to appropriate local governments, including the city government of Clifton and requested comments related to the consistency of the proposed abandonment with existing local land use plans. To date, no comments related to local land use have been received. Because the proposed abandonment would not result in any changes to transportation systems and would not involve any salvage activities, OEA concludes that local land use would not be affected. Therefore, no mitigation related to local land use is recommended.

The Line traverses a developed area of Clifton that is dominated by residential, commercial, and industrial uses. Based on OEA's review of available data, the Line does not cross and is not immediately adjacent to any local, state, or federal forests, parks, wildlife sanctuaries or refuges, or other public lands.<sup>2</sup> Because no salvage is planned as part of the proposed abandonment, OEA does not anticipate any adverse impacts on public land and is not recommending any mitigation related to public land.

NSR requested comments from the U.S. Natural Resources Conservation Service (NRCS) related to the potential for the proposed abandonment to affect agricultural land but has received no response to date. Because the Line is located within a developed urban area and because no salvage activities are planned, OEA believes that the proposed abandonment would not result in any impacts to prime or unique farmland. Accordingly, no mitigation related to agricultural land is recommended.

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<sup>2</sup> U.S. Geological Survey, Protected Areas Database of the United States, <https://maps.usgs.gov/padus/> (last accessed September 18, 2020).

### *Coastal Zone Management*

The Line is located within Clifton, which falls within the boundaries of the New Jersey Coast Management Program (NJCMP).<sup>3</sup> Because NSR does not propose to conduct any salvage activities as part of the proposed abandonment, OEA has determined that the proposed abandonment would **not affect** any natural resources, land uses, or water uses in the coastal zone. Therefore, the federal consistency requirements of Section 307 of the Coastal Zone Management Act (16 U.S.C. § 1456) do not apply, and no mitigation related to coastal zone management is necessary or recommended. OEA is sending a copy of this Draft EA to the New Jersey Department of Environmental Protection (NJDEP), which administers the NJCMP, for review and comment.

### *Surface Waters and Wetlands*

NSR has requested comments from NJDEP, the U.S. Environmental Protection Agency, and the U.S. Army Corps of Engineers regarding potential impacts to water resources. To date, these agencies have not provided comments. Based on OEA's review of available data and aerial imagery, the Line does not cross and is not adjacent to any surface waters or wetlands.<sup>4</sup> Because NSR does not intend to undertake any salvage activities and because there are no waterways or wetlands in the vicinity of the Line, OEA concludes that the proposed abandonment would not result in any impacts on water resources. Therefore, no mitigation related to surface waters or wetlands is necessary or recommended.

### *Hazardous Materials*

NSR states that there are no known hazardous waste sites or sites where hazardous material spills have occurred on or adjacent to the rail right-of-way. OEA's review of the area has confirmed that there are no federally-listed remediation sites within or immediately adjacent to the rail right-of-way.<sup>5</sup> Because there are no known issues related to hazardous waste spills within the rail right-of-way and because NSR does not propose to conduct any salvage activities that could result in ground disturbance, no mitigation related to hazardous waste sites or hazardous materials is necessary or recommended.

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<sup>3</sup> New Jersey Department of Environmental Protection, Map of NJ Coastal Municipalities, <https://www.state.nj.us/dep/cmp/docs/new-detailed-cafra-map.pdf> (last accessed September 21, 2020).

<sup>4</sup> U.S. Fish and Wildlife Service, National Wetlands Inventory, <https://www.fws.gov/wetlands/data/mapper.html> (last accessed September 18, 2020).

<sup>5</sup> Environmental Protection Agency, NEPAassist, <https://www.epa.gov/nepa/nepassist> (last accessed September 21, 2020).

## Biological Resources

NSR sent a copy of its E&H Report to the U.S. Fish and Wildlife Service (USFWS) and requested that USFWS provide comments related to the proposed abandonment's potential to affect wildlife, including federally listed threatened and endangered species. To date, USFWS has not provided comments. To identify federally listed threatened and endangered species that could be present in the project area, OEA conducted a search of the USFWS Information for Planning and Consultation (IPaC) system.<sup>6</sup> The table below shows the federally listed endangered and threatened species known or thought to occur in the county in which the Line is located, as identified by OEA's search. OEA notes that the Line does not cross critical habitat for any of the species identified.

| Federally Listed Species in Passaic County, New Jersey                                                               |                                           |
|----------------------------------------------------------------------------------------------------------------------|-------------------------------------------|
| <b>Mammals</b><br>Indiana Bat ( <i>Myotis sodalis</i> )<br>Northern Long-eared Bat ( <i>Myotis septentrionalis</i> ) | <b>Status</b><br>Endangered<br>Threatened |
| <b>Reptiles</b><br>Bog Turtle ( <i>Clemmys muhlenbergii</i> )                                                        | Threatened                                |
| <b>Plants</b><br>Small Whorled Pogonia ( <i>Isotria medeoloides</i> )                                                | Threatened                                |

Because the Line is located in a developed area of Clifton that has been heavily altered over many years, OEA does not believe that the rail right-of-way contains potentially suitable habitat for any of the species listed above. NSR does not propose to conduct any salvage as part of the proposed abandonment. Therefore, the proposed abandonment would not result in any changes to project area, disturbance to habitat, or temporary disturbances to wildlife during salvage activities. Based on the information provided by NSR and OEA's independent review, OEA has concluded that the proposed abandonment would have **no effect** on federally listed threatened and endangered species, pursuant to Section 7 of the Endangered Species Act (16 U.S.C. § 1536). OEA also concludes that the proposed abandonment would have negligible impacts on other species of wildlife. Accordingly, no mitigation related to biological resources is necessary or recommended. OEA is sending a copy of this Draft EA to USFWS for review and comment.

## Air Quality

Impacts to air quality from the abandonment-related salvage of an out-of-service rail line are typically temporary and minor. In this case, because no abandonment-related salvage activities are planned, OEA concludes that no impacts to air quality would occur as a result of the proposed abandonment. Therefore, no mitigation related to air quality is recommended.

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<sup>6</sup> U.S. Fish and Wildlife Service, Information for Planning and Consultation System, <https://ecos.fws.gov/ipac/> (last accessed September 18, 2020).

## *Noise*

Noise impacts from the abandonment-related salvage of an out-of-service rail line are typically temporary and minor. In this case, because no abandonment-related salvage activities are planned, OEA concludes that the proposed abandonment would not result in any noise impacts. Therefore, no mitigation related to noise impacts is recommended.

## *Summary*

Based on all information available to date, OEA believes that the proposed abandonment, including abandonment-related salvage activities, would not result in any significant environmental impacts. OEA is providing a copy of this Draft EA to the following agencies for review and comment: NJDEP and USFWS.

## **HISTORIC REVIEW**

### *Historical Background*

Prior to filing its Notice of Exemption, NSR submitted an E&H Report that provides a narrative of the history of the Line. The narrative was prepared by NSR and NSR's consultant, Richard Grubb & Associates, Inc. (RGA), a cultural resources consulting firm with experience in researching the history of railroads in New Jersey.

As described in the narrative prepared by NSR and RGA, the Line was originally part of the Paterson and Hudson River Railroad (P&HR), the second-oldest incorporated railroad company in New Jersey and the oldest segment of the Erie Railroad system. Construction of the P&HR began in Paterson, New Jersey on July 4, 1831 and reached the community of Aquackanonk in present-day Passaic, New Jersey by May 1832. Formal operations on this segment of the P&HR, which includes the Line, began on June 22, 1832. The railroad was later extended eastward over the Passaic River, across the Meadows quagmire, and over the Hackensack River. With the completion of the Bergen Cut, a 40-foot deep excavation through Bergen Hill, in 1838, the P&HR provided the first rail route from Patterson to the Hudson River at Jersey City, New Jersey. The impact of the P&HR in the Clifton area was limited. Located between the more densely developed areas of Passaic and Paterson, Clifton remained largely agricultural until the 1920s and 1930s.

In 1853, the P&HR formally became part of the NY&E mainline. On April 27, 1875, after several bankruptcies, NY&E became the New York, Lake Erie and Western Railway (NYLE&W). In 1880, NYLE&W completed construction of a new mainline known as the "Bergen Short-Cut," which carried long-haul freight and passenger service around Passaic and Paterson. Rail traffic was diverted from the segment of the P&HR that includes the Line, which effectively became a local freight and commuter branch line.

The NYLE&W went into foreclosure in 1895 and was reorganized along with other rail lines to form the Erie Railway (Erie) later that year. By 1961, the Erie had merged into the Erie-

Lackawanna Railroad (EL) system. As part of a track consolidation effort authorized by the Interstate Commerce Commission (ICC), the P&HR segment between Passaic and Carlton Hill, just south of the Line, was abandoned. The bridge across the Passaic River was removed, tracks were pulled up, and the right-of-way was converted to roadways or transferred to adjoining property owners. The remaining segment of track between South Paterson and Passaic, which includes the Line, thus became a dead-end line known as the Passaic Industrial Track and passenger service ceased in 1966.

The EL was included in the Final System Plan under the Railroad Revitalization and Regulatory Reform Act of 1976 and thus came under the cooperation of the newly created Consolidated Rail Corporation (Conrail) on April 1, 1976. The Line was transferred to NSR on June 1, 1999 as part of a transaction by which NSR and CSX Corporation indirectly acquired various parts of the Conrail system. There has been no freight service over the Line since before NSR acquired it in 1999 and, as noted above, passenger service ceased in 1966.

The New Jersey Historic Preservation Office (HPO) issued opinions in 1999, 2003, and 2006 indicating that the Erie Railroad Main Line, including the Line, is eligible for listing in the National Register of Historic Places (National Register) as the Erie Railroad Main Line Historic District (Erie Historic District). Extending from Jersey City to the New York state line, the Erie Historic District is eligible for listing in the National Register under Criteria A and C (see 36 C.F.R. Part 63) in the areas of transportation and engineering with a period of significance from 1831 to 1960. The property is also listed in the New Jersey Register of Historic Places. A 2009 study by RBA Group, Inc. conducted on behalf of the New Jersey Turnpike Authority also concluded that the entire length of the Erie Railroad to the New York State Line, including abandoned portions, is eligible for listing in the National Register. As defined in that report and in the SHPO's online records, the Erie Historic District comprises well over 30 miles of active and abandoned rail line segments, including abandoned rail lines that were abandoned, salvaged, and redeveloped into roads or other uses many years ago.

### *Section 106 Review*

Pursuant to the Section 106 regulations of the National Historic Preservation Act (36 C.F.R. Part 800), NSR initiated consultation with the New Jersey Historic Preservation Office (the State Historic Preservation Officer or SHPO) by providing the SHPO with a copy of its E&H Report on July 27, 2020, prior to filing its notice of exemption with the Board.<sup>7</sup> To date, the SHPO has not provided comments. Based on the information in the E&H Report and OEA's

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<sup>7</sup> 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 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 [https://www.stb.gov/stb/docs/EnvironmentalDecisions/Delegation of 106 in Rail Abandonments.pdf](https://www.stb.gov/stb/docs/EnvironmentalDecisions/Delegation%20of%20106%20in%20Rail%20Abandonments.pdf).

independent research, OEA has concluded that one National Register-eligible historic property, the Erie Historic District, is present within the APE of the proposed abandonment.

Abandonment of a line of railroad can adversely affect historic properties within the APE when abandonment-related salvage activities or the diversion of traffic from rail transportation to truck transportation would diminish the integrity of a property's location, design, setting, materials, workmanship, feeling, or association. Because there would be no change in rail traffic as a result of the proposed abandonment and because NSR does not intend to conduct any salvage activities as part of the proposed abandonment, OEA concludes that the proposed abandonment would have **no effect** on the Erie Historic District. The proposed abandonment would also have no effect on any other National Register-eligible historic properties within the APE.

In order to ensure that the SHPO has sufficient time to review and comment on OEA's finding of no **historic properties affected**, OEA is recommending that the Board impose a Section 106 condition requiring NSR to retain its interest in and take no steps to alter the historic integrity of all historic properties within the APE that are listed in or eligible for listing in the National Register until the Section 106 process is complete and the Board has removed the condition. If the SHPO does not object to OEA's finding within 30 days of receiving this Draft EA, OEA will prepare a Supplemental Final EA recommending that the Board remove the Section 106 condition.

#### *Tribal Consultation*

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the U.S. Department of Housing and Urban Development Tribal Directory Assessment Tool to identify federally recognized tribes that may have ancestral connections to the project area.<sup>8</sup> The search identified the following federally recognized tribes as potentially having knowledge regarding properties of traditional religious and cultural significance within the right-of-way of the proposed abandonment:

- Delaware Nation, Oklahoma;
- Delaware Tribe of Indians; and
- Shawnee Tribe.

OEA is sending a copy of this Draft EA to these tribes for review and comment.

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<sup>8</sup> U.S. Department of Housing and Urban Development, Tribal Directory Assessment Tool, <https://egis.hud.gov/tdat/> (last accessed March 16, 2020).

## **CONDITIONS**

OEA recommends that the following condition be imposed on any decision granting abandonment authority:<sup>9</sup>

1. Norfolk Southern Railway Company (NSR) shall 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 Effect) that are 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. NSR shall report back to the Office of Environmental Analysis (OEA) regarding any consultations with the New Jersey Historic Preservation Office and the public. NSR may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

## **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 to the proposed abandonment would include denial (and therefore no 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 would 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.<sup>10</sup>

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<sup>9</sup> If an interim trail use agreement under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 is reached for the Line (or a portion thereof), compliance with these conditions is not required with respect to any portion of the Line covered by the interim trail use agreement for the duration of the agreement.

<sup>10</sup> Board decisions are available for viewing on the Board's website at

## **TRAILS 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.<sup>11</sup>

## **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 inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

## **COMMENTS**

As of March 17, 2020, all filings and other submissions should be submitted electronically through the Board's website at <https://prod.stb.gov>. To submit a comment on the Draft EA, select "File an Environmental Comment" under "Need Assistance?" on the Board's home page. Brief comments can be typed in the comment field provided, and lengthier comments can be attached as Word, Adobe Acrobat or other file formats. If you have any questions, please contact Josh Wayland by email at [joshua.wayland@stb.gov](mailto:joshua.wayland@stb.gov) or by phone at 202-245-0330.

Date made available to the public: September 25, 2020

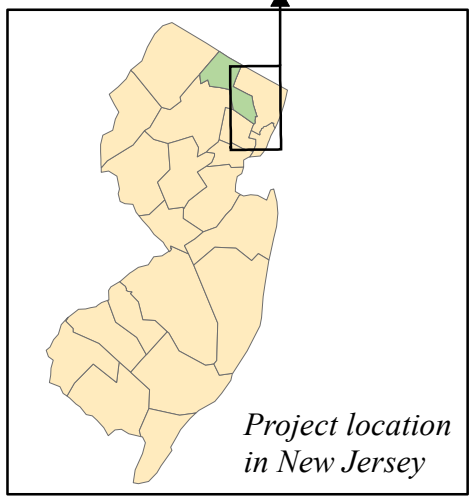
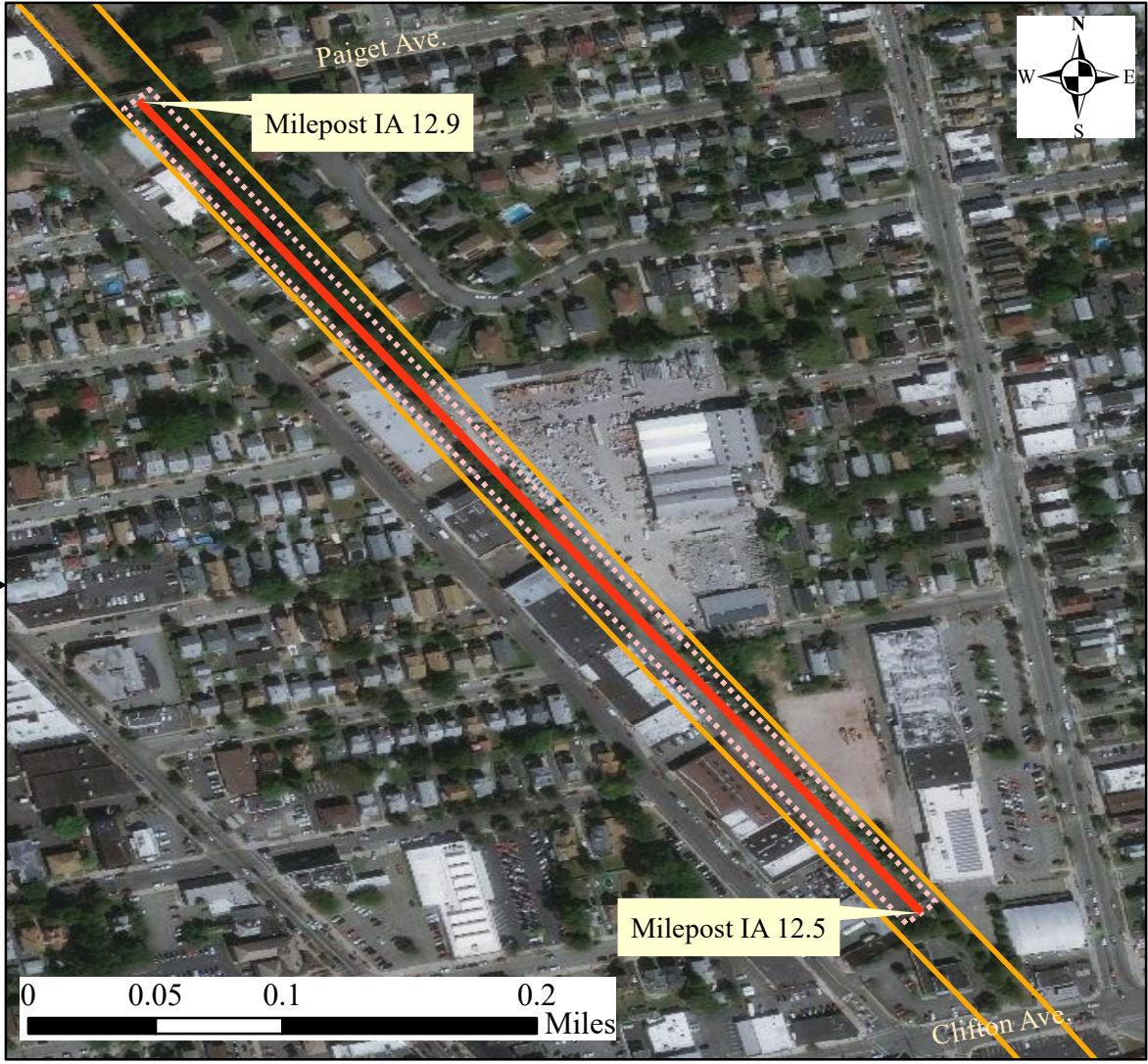
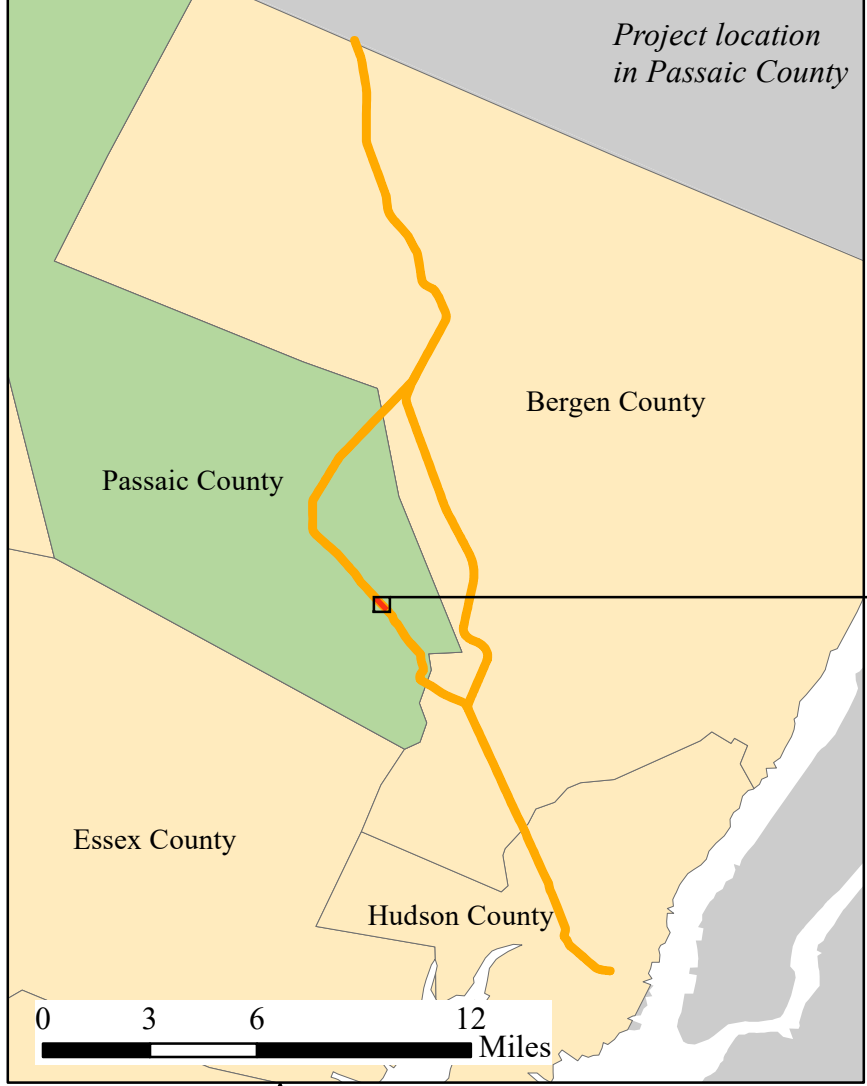
**Comment due date: October 12, 2020**

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

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<https://prod.stb.gov> by clicking "Search STB Records;" selecting "Decisions" in the "Search for" dropdown menu; entering "AB" "290" "409" "X" sequentially in the four boxes for "Docket Number," then selecting "Search."

<sup>11</sup> Id.



## Docket No. AB 290 (Sub-No. 409X)

Abandonment Exemption in the City of Clifton, Passaic County, N.J.

- Line proposed for abandonment
- Erie Railroad Main Line Historic District
- Rail right-of-way (approximate)

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