



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

October 7, 2020

Charles Montange, Esq.
426 NW 162nd Street
Seattle, WA 98177

Re: STB Docket No. AB-167 (Sub-No. 1189X), Consolidated Rail Corporation - Abandonment Exemption - in Hudson County, NJ; Request to Extend Comment Period on Draft Supplemental Environmental Assessment

Dear Mr. Montange:

Pursuant to 49 C.F.R. 1105.2,¹ I am responding to your filing of a motion on October 1, 2020, in which you, on behalf of your three clients,² ask the Surface Transportation Board (Board) to extend the deadline for submitting comments on the Draft Supplemental Environmental Assessment (DSEA) in the above-captioned case. You request that the deadline set in the DSEA—October 19, 2020—be extended until thirty (30) days following the issuance of a final “Memorandum of Agreement” that is being prepared for purposes of compliance with Section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C. 306108. For the reasons discussed below, I am denying your request to extend the comment period on the Draft Supplemental Environmental Assessment (DSEA).

As you correctly note, a draft Memorandum of Agreement will be prepared and circulated to the consulting parties who have been identified under the Section 106 process of NHPA for comment prior to the Section 106 Consulting Parties Online Meeting that OEA is hosting on October 27, 2020. After receipt and consideration of comments made at that meeting and any submitted in writing to OEA, a final Memorandum of Agreement will be prepared. As discussed in the DSEA, however, the environmental review process under the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321-4335, is proceeding on a separate track from the Section 106 process of NHPA in this case. See DSEA at 8-10, 15. Once OEA completes both the Section 106 process and the NEPA review, the Board will consider the recommendations from OEA concerning the effects of the proposed abandonment on the environment and historic resources, will balance that information with the transportation merits of the proceeding, and will issue a final decision approving, denying, or approving with the imposition of conditions a grant of abandonment authority to Conrail.

You have not demonstrated that your clients need more time to submit environmental comments. Rather, you rely on your clients’ alleged need for more time to submit comments on the DSEA regarding the

¹ This provision of the Board’s environmental rules delegate various responsibilities to the Director of the Office of Environmental Analysis (OEA). These responsibilities include interpretation of the Board’s environmental rules. Determinations of whether to grant extensions of time to submit comments during the environmental review process fall within the Director of OEA’s purview.

² City of Jersey City, Pennsylvania Railroad Harsimus Stem Embankment Preservation Coalition, and Rails to Trails Conservancy.

likely adverse effects of the proposed abandonment on historic sites and structures. Your clients will have ample opportunity to submit comments on impacts to historic sites and structures during the remainder of the NHPA Section 106 process. You mention in your motion OEA's upcoming Section 106 Consulting Parties Online Meeting, mentioned above, so you are aware that your clients will have additional opportunity to comment specifically on avoidance and minimization of impacts to historic sites and structures in the final step of the Section 106 process. As stated above, no final Board decision on this proposed abandonment will be issued until the completion of both the NEPA and the NHPA processes.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria Rutson". The signature is fluid and cursive, with a large initial "V" and "R".

Victoria Rutson
Director
Office of Environmental Analysis