

SERVICE DATE – NOVEMBER 5, 2019

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1273X

NEW YORK & GREENWOOD LAKE RAILWAY—ABANDONMENT EXEMPTION—IN
BERGEN AND PASSAIC COUNTIES, N.J.

Decided: November 4, 2019

New York & Greenwood Lake Railway (NYGL) filed a petition under 49 U.S.C. § 10502 for an exemption from the prior approval requirements of 49 U.S.C. § 10903 to abandon 1.1 miles of rail line extending between milepost 0.0 and milepost 1.1 in Bergen and Passaic Counties, N.J. (the Line). Notice of NYGL's petition was served and published in the Federal Register on June 10, 2019 (84 Fed. Reg. 26,929). By decision served September 5, 2019, the Board granted the petition, subject to environmental, historic preservation, and standard employee protective conditions. The exemption became effective on October 5, 2019.

Two of the Board's three conditions in its September 5, 2019 decision prevent NYGL from filing a consummation notice or initiating any salvage activities until the conditions have been satisfied and the Board has removed them. The first requires NYGL to consult with the New Jersey Coastal Management Program and obtain state coastal management consistency certification; the second requires NYGL 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 eligible for listing or listed in the National Register of Historic Places until completion of the Section 106 process of the National Historic Preservation Act, 54 U.S.C. § 306108.

In a Supplemental Final Environmental Assessment dated September 24, 2019, the Board's Office of Environmental Analysis (OEA) recommends removing both conditions. OEA states that the New Jersey Coastal Zone Management Program (CZMP) commented that there is no need to obtain a consistency determination because NYGL's salvage procedure would be of limited scope and would not involve any clearing or grading of the right-of-way nor any alterations to the bridge.¹ Accordingly, OEA has determined that the Board has satisfied its responsibilities under the Coastal Zone Management Act, 16 U.S.C. §§ 1451-1465, and the CZMP coastal management consistency certification process, and recommends that the condition be removed. Additionally, OEA states that the New Jersey Department of Environmental Protection's Historic Preservation Office (State Historic Preservation Office) commented that the

¹ CZMP cautioned that permits may be required if the scope of work changes beyond NYGL's described and limited salvage procedure.

proposed abandonment would have no adverse effect on any properties, districts, or archaeological or cultural resources of significance that are listed in or may be eligible for listing in the National Register of Historic Places. Accordingly, OEA has determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register of Historic Places. OEA states that this completes the Section 106 process and recommends that the Section 106 historic preservation condition be removed.

Based on OEA's analysis and recommendations, this proceeding will be reopened, and the previously imposed coastal zone management condition and Section 106 historic preservation condition will be removed. A third condition imposed in the September 5, 2019 decision, requiring consultation with the Bergen County Department of Planning and Engineering, remains in effect.

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. Upon reconsideration, the coastal zone management condition and the Section 106 historic preservation condition imposed in the September 5, 2019 decision are removed.
3. This decision is effective on its service date.

By the Board, Allison C. Davis, Director, Office of Proceedings.