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SERVICE DATE – DECEMBER 10, 2013

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 286 (Sub-No. 7X)

THE NEW YORK, SUSQUEHANNA AND WESTERN RAILWAY CORPORATION—
ABANDONMENT EXEMPTION—PASSAIC AND MORRIS COUNTIES, N.J.

Decided: December 9, 2013

The New York, Susquehanna and Western Railway Corporation (NYS&W) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a segment of its line of railroad, known as the Pompton Industrial, between milepost 22.1 in Wayne Township, Passaic County, N.J., and milepost 26.3 in Pompton Plains Township, Morris County, N.J. (the Line). Notice of the exemption was served and published in the Federal Register on November 8, 2013 (78 Fed. Reg. 67,216). The exemption is scheduled to become effective on December 11, 2013.

The Board's Office of Environmental Analysis (OEA) served an environmental assessment (EA) in this proceeding on November 15, 2013. In the EA, OEA states that the National Geodetic Survey (NGS) commented that there are six geodetic markers within the right-of-way of the proposed abandonment. Therefore, OEA recommends that NYS&W be required to consult with NGS at least 90 days prior to the beginning of salvage activities that would disturb or destroy any geodetic station markers.

In addition, OEA stated that NYS&W submitted an historic report, as required by the Board's environmental rules at 49 C.F.R. § 1105.8(a), and served the report on the New Jersey Historical Society (State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c). The historic report indicates that the rail line includes an historic-era bridge over the Pompton River. The SHPO has not provided comments regarding the potential of the proposed undertaking to adversely affect historic properties, including the bridge. Thus, OEA recommends that NYS&W be required 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 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, 16 U.S.C. § 470f, has been completed. OEA also recommends that NYS&W be required to report back to OEA regarding any consultations with the SHPO and the public, and that NYS&W not be allowed to 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.

Comments on the EA were due November 29, 2013, but none were received. Accordingly, the conditions recommended by OEA in the EA will be imposed.

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 notice served and published in the Federal Register on November 8, 2013, exempting the abandonment of the line described above is subject to the conditions that NYS&W: (1) shall consult with NGS at least 90 days prior to the beginning of salvage activities that would disturb or destroy any geodetic station markers; and (2)(i) 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 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, 16 U.S.C. § 470f, has been completed, (ii) shall report back to OEA regarding any consultations with the SHPO and the public, and (iii) 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.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.