

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1273X]

New York & Greenwood Lake Railway—Abandonment Exemption—in Bergen and Passaic Counties, N.J.

New York & Greenwood Lake Railway (NYGL) has filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. § 10502 for 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).¹ The Line traverses U.S. Postal Service Zip Codes 07055 and 07026.

According to NYGL, the Line was purchased in 2017 by Passaic Street Properties, LLC (PSP), through a tax foreclosure sale due to NYGL's failure to pay federal taxes. In 2018, PSP filed a notice of exemption in Docket No. FD 36187 to acquire the Line, which NYGL opposed. The Board rejected PSP's notice of exemption with respect to the Line.² NYGL states that, thereafter, it entered into negotiations with PSP and that the parties have reached a settlement in which NYGL has agreed to abandon

¹ NYGL initially submitted its petition on April 24, 2019, but supplemented it on May 10, 2019, and again on May 21, 2019. In light of NYGL's supplements, the petition is deemed to have been filed on May 21, 2019.

² Passaic Street Props., LLC—Acquis. & Operation Exemption—N.Y. & Greenwood Lake Ry., FD 36187 (STB served July 18, 2018).

the Line. NYGL filed the petition for exemption in accordance with the settlement agreement.

NYGL states that the Line has not had a significant amount of traffic since 2009 when its last customer went out of business. According to NYGL, starting in 2017, it renewed efforts to market the Line as a transload facility, and those efforts led to handling about eight carloads of traffic, which NYGL states is insufficient to produce a profit and enable NYGL to rehabilitate the trackage. NYGL states that PSP and the local governments wish to reclaim the right-of-way for urban redevelopment, and local planners seek to redevelop the area for residential and commercial purposes.

In addition to an exemption from the provisions of 49 U.S.C. § 10903, NYGL also seeks an exemption from the offer of financial assistance (OFA) procedures of 49 U.S.C. § 10904. NYGL states that the submission of an OFA could defeat the very purpose for which this abandonment has been filed. NYGL's request for exemption from § 10904 will be addressed in the final decision.

According to NYGL, the Line does not contain federally granted rights-of-way, and any documentation in NYGL's possession will be made available promptly to those requesting it.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. § 10502(b). A final decision will be issued by September 6, 2019.

Any OFA under 49 C.F.R. § 1152.27(b)(2) will be due no later than 120 days after the filing of the petition for exemption, or 10 days after service of a decision granting the petition for exemption, whichever occurs sooner. Persons interested in submitting an OFA must first file a formal expression of intent to file an offer by June 20, 2019, indicating the type of financial assistance they wish to provide (i.e., subsidy or purchase) and demonstrating that they are preliminarily financially responsible. See 49 C.F.R. § 1152.27(c)(1)(i).

Following authorization for abandonment, the Line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 C.F.R. § 1152.28 or for trail use/rail banking under 49 C.F.R. § 1152.29 will be due no later than July 1, 2019.³

All filings in response to this notice must refer to Docket No. AB 1273X and must be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on NYGL's representative, Sloane S. Carlough, Clark Hill, PLC, 1001 Pennsylvania Ave., N.W., Suite 1300 South, Washington, DC 20004. Replies to the petition are due on or before July 1, 2019.

³ Filing fees for OFAs and trail use requests can be found at 49 C.F.R. § 1002.2(f)(25) and (27), respectively.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment regulations at 49 C.F.R. part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by OEA will be served upon all parties of record and upon any other agencies or persons who comment during its preparation. Other interested persons may contact OEA to obtain a copy of the EA (or EIS). EAs in abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA generally will be within 30 days of its service.

Board decisions and notices are available at www.stb.gov.

Decided: June 5, 2019.

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