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**New York State Office of Parks,
Recreation and Historic Preservation**

The Governor Nelson A. Rockefeller Empire State Plaza • Agency Building 1, Albany, New York 12238
www.nysparks.com

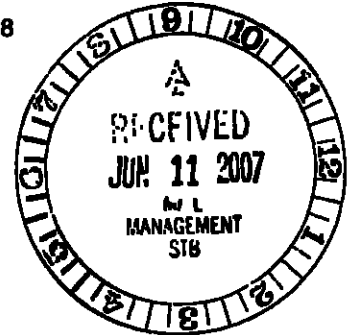
June 8, 2007

Mr. Vernon A. Williams, Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

ENTERED
Office of Proceedings

JUN 11 2007

Part of
Public Record



Elliot Spitzer
Governor

Carol Ash
Commissioner

**RE: Delaware and Hudson Railway Company, Inc. d/b/a
Canadian Pacific Railway Company, Docket No. AB-156(Sub-No.26X)**

Dear Mr. Williams:

This request is filed on behalf of the New York State Office of Parks, Recreation and Historic Preservation (Proponent) which is a government agency interested in natural resources. While not taking a position on the merits of this abandonment, Proponent requests issuance of a Public Use Condition as well as a Certificate or Notice of Interim Trail Use rather than an outright abandonment authorization between mileposts A 6.95+/- (in Colonie) and A 7.13+/- and mileposts T 0.0+/- and T 1.81+/- (in Green Island), in Albany County, New York. .

A. Public Use Condition

Proponent requests the STB to find that this property is suitable for other public use, specifically trail use, and to place the following conditions on the abandonment:

1. An order prohibiting the carrier from disposing of the corridor, other than the tracks, ties and signal equipment, except of public use on reasonable terms. The justification for this condition is that the rail corridor in question would make an excellent recreational trail and conversion of the property to trail use is in accordance with regional plans and consistent with the policies with the Statewide Comprehensive Outdoor Recreation Plan (SCORP). OPRHP is aware that Parks and Trails New York and the Capital District Transportation Committee (CDTC) are in support of this corridor being used as a trail. The corridor would provide an important link between the existing Hudson-Mohawk Bikeway and has been identified as a proposed hike/bike trail within the CDTC's "Mohawk Hudson Bike Hike Crossroads Connection Study". The time period sought is 180 days from the effective date of abandonment authorization. Proponent needs this much time to fully evaluate the trail and to commence negotiations with the carriers.
2. An order barring removal or destruction of potential trail-related structures such as bridges, trestles, culverts and tunnels. The justification for this condition is that these

structures have considerable value for recreational trail purposes. The time period requested is 180 days from the effective date of abandonment authorization for the same reason as indicated above.

B. Interim Trail Use

The railroad right-of-way in this proceeding is suitable for rail banking. In addition to the public use conditions sought above, Proponent also makes the following request:

STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY

In order to establish interim trail use and rail banking under section 8(d) of the National Trails System Act, 16 U.S.C. §1247 (d), and 49 C.F.R. §1152.29, New York State Office of Parks, Recreation and Historic Preservation is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability), in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the owner for the right-of-way and operated by Finger Lakes Railroad.

The property known as the Delaware and Hudson Railway Company, Inc., d/b/a Canadian Pacific Railway Company (D&H) extends between railroad milepost A 6.95 +/- (in Colonie) and milepost A 7.13 +/- and mileposts T 0.0 +/- and T 1.81 +/- (in Green Island) in Albany County, New York. The right-of-way is part of a line of railroad proposed for abandonment in STB Docket No. AB -156 (Sub.-No. 26X). A map depicting the right-of-way is attached.

The NYS Office of Parks, Recreation and Historic Preservation acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

By my signature below, I certify service upon Delaware and Hudson's Railway Company, Inc., representative, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402, by U.S. Mail, postage prepaid, first class, on June 8, 2007.

Respectfully submitted,

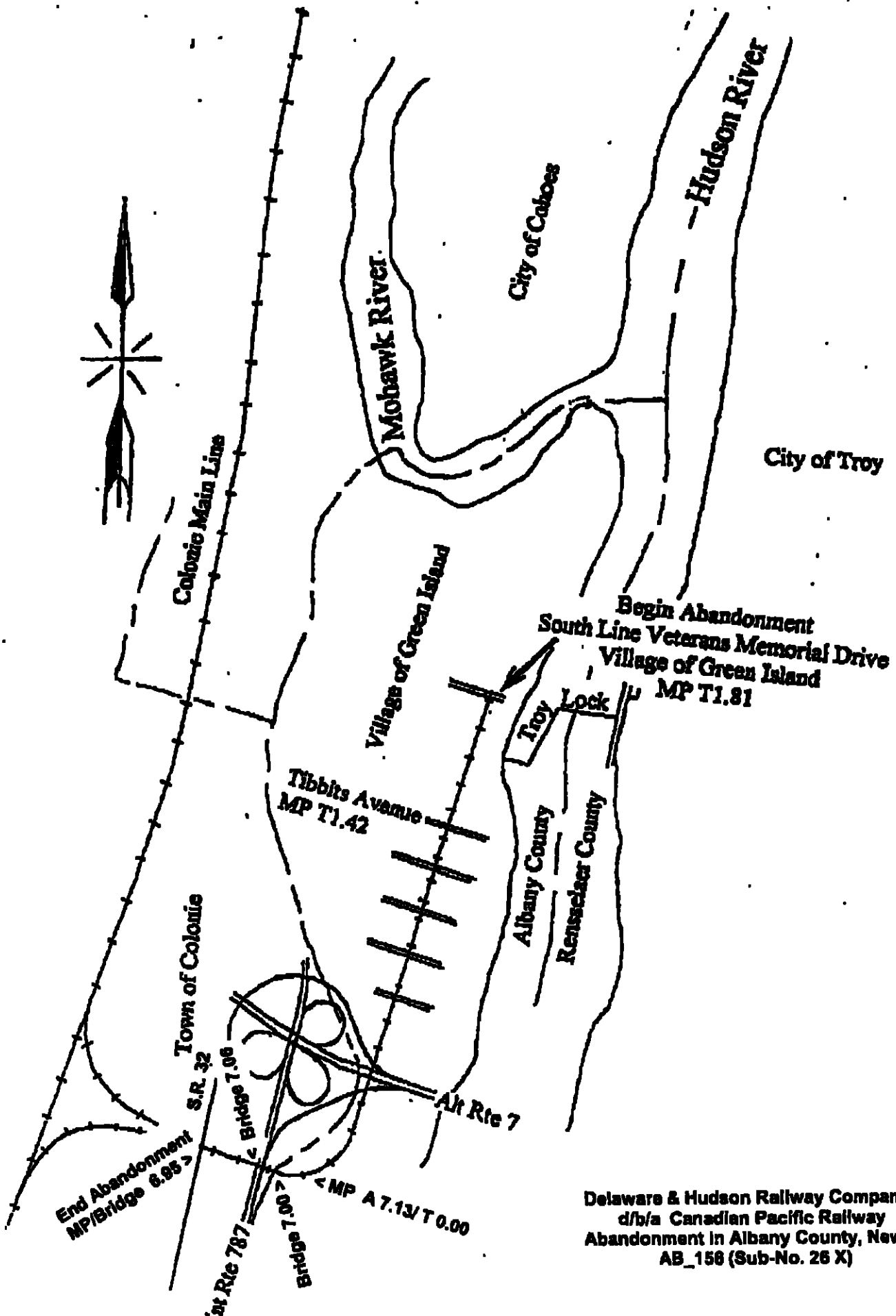


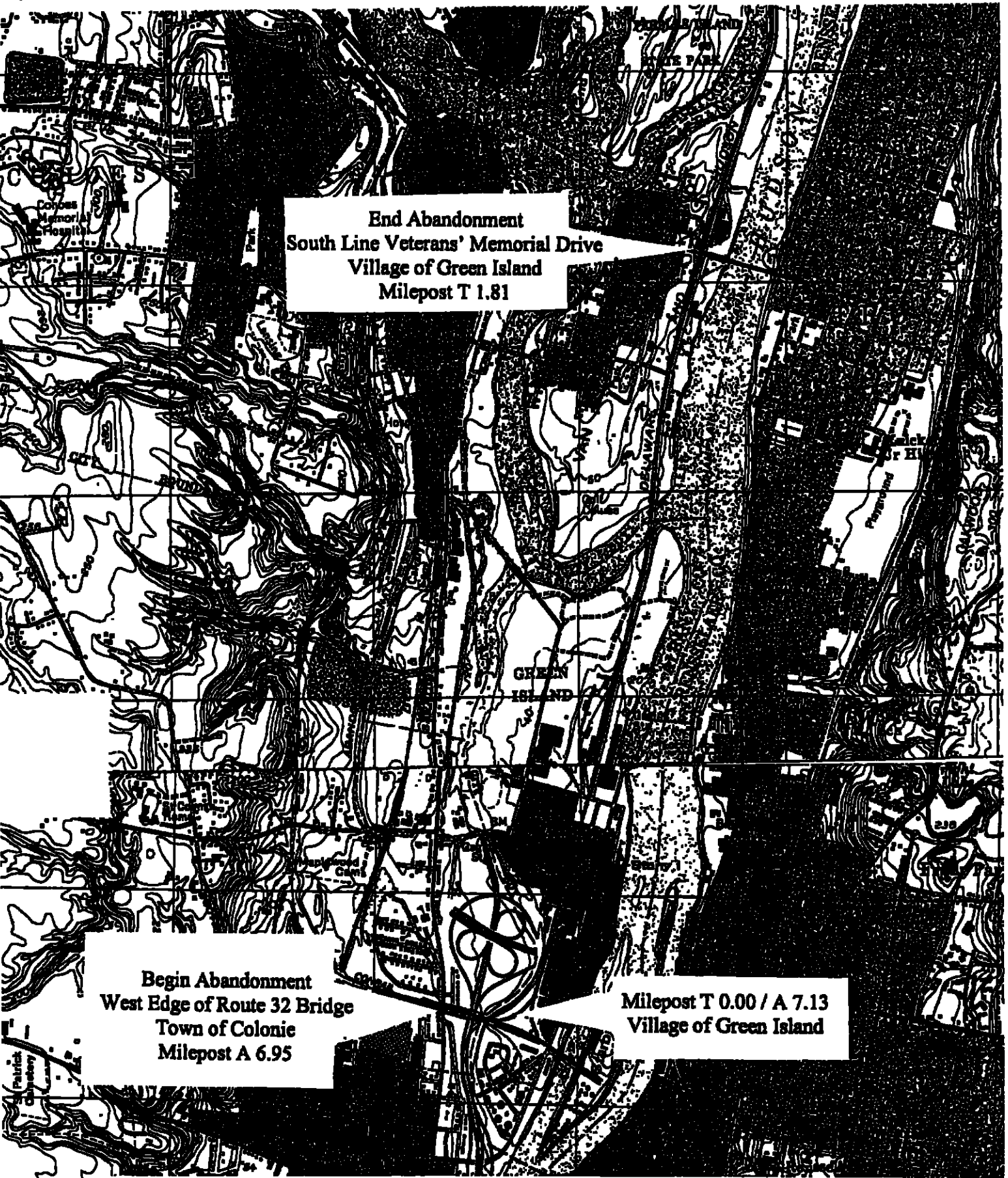
Erik Kullcsid

Deputy Commissioner for Open Space Protection

Attachments

cc W Karl Hanson
Leonard, Street and Deinard Professional Association





End Abandonment
South Line Veterans' Memorial Drive
Village of Green Island
Milepost T 1.81

Begin Abandonment
West Edge of Route 32 Bridge
Town of Colonie
Milepost A 6.95

Milepost T 0.00 / A 7.13
Village of Green Island

STB Docket No. AB-156 (Sub-No. 26X)
Line abandonment between milepost A 6.95 +/- (in Colonie)
and milepost A 7.13 +/- and milepost T 0.00 +/- and milepost T 1.81 +/- (in Green Island)
Albany County, State of New York (U.S. Postal Service Zip Codes 12183 and 12189)

38026

SERVICE DATE – JUNE 1, 2007

DO

FR-4915-01-P

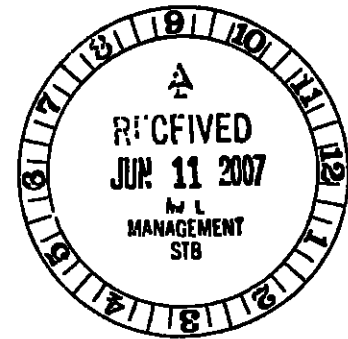
DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No AB-156 (Sub-No 26X)]

Delaware and Hudson Railway Company, Inc , d/b/a Canadian Pacific Railway

Company—Abandonment Exemption—in Albany County, NY



Delaware and Hudson Railway Company, Inc., d/b/a Canadian Pacific Railway

Company (D&H) has filed a notice of exemption¹ under 49 CFR 1152 Subpart F—Exempt

Abandonments to abandon 1.98 +/- miles of rail line between mileposts A 6.95 +/- (in

Colonie) and A 7.13 +/- and mileposts T 0.0 +/- and T 1.81 +/- (in Green Island), in

Albany County, NY.² The line traverses United States Postal Service Zip Codes 12183

and 12189

D&H has certified that (1) no local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be and has been rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the

¹ D&H filed a supplement to its notice of exemption on May 17, 2007.

² Pursuant to 49 CFR 1152.50(d)(2), the railroad must file a verified notice with the Surface Transportation Board (Board) at least 50 days before the abandonment or discontinuance is to be consummated. D&H initially indicated in its notice of exemption a proposed consummation date of June 29, 2007, but because the verified notice was filed on May 14, 2007, consummation may not take place prior to July 3, 2007. D&H has been informed by a Board staff member that consummation may not take place until July 3, 2007.

line either is pending with the Board or with any U S District Court or has been decided in favor of complainant within the 2-year period, and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on July 3, 2007, unless stayed pending reconsideration.³ Petitions to stay that do not involve environmental issues,⁴ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),⁵ and trail use/rail banking requests under 49 CFR 1152.29 must be filed by June 11, 2007. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be

³ On May 17, 2007, R. Freedom & Son, Inc., filed a notice of intent to file an OFA to purchase the line. The Board will address the request and any other requests that may be timely filed in a separate decision.

⁴ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

⁵ Each OFA must be accompanied by the filing fee, which currently is set at \$1,300. See 49 CFR 1002.2(f)(25).