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301363

December 14, 2020

VIA E-FILING

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

ENTERED
Office of Proceedings
December 14, 2020
Part of
Public Record

Re: The New York, Susquehanna and Western Railway Corporation
– Abandonment Exemption – in Bergen County, NJ Surface Transportation Board
Docket No. AB 286 (Sub No. 8X)

Dear Ms. Brown:

Enclosed for filing in the above referenced docket is the Notice of Exempt Abandonment being filed under 49 C.F.R. Part 1152 Subpart F on behalf of The New York, Susquehanna and Western Railway Corporation (“NYSW”). The filing fee has been submitted via pay.gov.

Also enclosed in this filing is an email exchange between NYSW and the New Jersey Department of Environmental Protection provided to the Board as a supplement to Exhibit C of the Environmental and Historic Report submitted to the Board on November 23, 2020.

FILED
December 14, 2020
SURFACE TRANSPORTATION
BOARD

Sincerely,



Justin J. Marks
*Counsel to The New York, Susquehanna and
Western Railway Corporation*

Enclosure

FEE RECEIVED
December 14, 2020
SURFACE
TRANSPORTATION BOARD

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. AB 286 (Sub No. 8X)

THE NEW YORK, SUSQUEHANNA AND WESTERN RAILWAY CORPORATION
– ABANDONMENT EXEMPTION –
BERGEN COUNTY, NJ

NOTICE OF EXEMPTION

(color copies included)

Eric M. Hocky
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Philadelphia, PA 19103
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(202) 772-0916
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*Counsel for The New York, Susquehanna
and Western Railway Corporation*

Dated: December 14, 2020

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. AB 286X (Sub No. 8X)

THE NEW YORK, SUSQUEHANNA AND WESTERN RAILWAY CORPORATION
– ABANDONMENT EXEMPTION –
BERGEN COUNTY, NJ

NOTICE OF EXEMPTION

The New York, Susquehanna and Western Railway Corporation (“NYSW”) is filing this Notice of Exemption under the Board’s class exemption procedures at 49 C.F.R. Part 1152, Subpart F, seeking exemption authority for its abandonment of the lines of railroad comprising the following two segments of rail line (together, the “Subject Lines”):

1. Between milepost 15.80 in Lodi, NJ and milepost 14.50 in Hackensack, NJ traversing through United States Postal Service ZIP Codes 07644 and 07601 (“the Lodi Branch”);
2. Between milepost 17.30 in Elmwood Park, NJ and milepost 18.40 in Garfield, NJ traversing through United States Postal Service ZIP Codes 07407 and 07026 (“the Passaic Branch”).

NYSW owns the land, rail, track material and other personal property, as well as the underlying right-of-way. There are no stations on the Subject Lines. A map of the Subject Lines is attached as Exhibit A.

No local service has been provided on either the Lodi Branch or the Passaic Branch for over ten years, and neither segment of the Subject Lines has any overhead traffic. At this time, the portions of the Subject Lines nearest to the NYSW main lines may be left in place after abandonment to be used for railcar storage. The remainder of the rails would be salvaged and sold.

This Notice of Exemption is being filed pursuant to the requirements of 49 C.F.R. §1152.50 regarding exemptions for out of service rail lines. In accordance with such requirements, NYSW hereby provides the following information in support of its request for an abandonment exemption:

- 1) The exact name of the Applicant is The New York, Susquehanna and Western Railway Corporation.
- 2) NYSW is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, chapter 105.
- 3) The relief sought by NYSW is an exemption for the abandonment of the lines of railroad extending (a) between milepost 15.80 in Lodi, NJ and milepost 14.50 in Hackensack, NJ and (b) between milepost 17.30 in Elmwood Park, NJ and milepost 18.40 in Garfield, NJ.
- 4) A Map of the Subject Lines is attached hereto as Exhibit A.
- 5) The representative of NYSW to whom correspondence should be sent is: Eric M. Hocky, Esq., Clark Hill, PLC, Two Commerce Square, 2001 Market St., Suite 2620, Philadelphia, PA 19103; (215) 640-8523; or Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Ave. N.W., Suite 1300 South, Washington, DC 20004; (202) 772-0916.
- 6) The Lodi Branch of the Subject Lines traverses through United States Postal Service ZIP Codes 07644 and 07601 and the Passaic Branch of the Subject Lines traverses through United States Postal Service Zip Codes 07407 and 07026.
- 7) NYSW holds no opinion as to whether the right-of-way is suitable for trail use or other public purposes, and knows of no entity interested in use of the right-of-way for a trail.
- 8) NYSW proposes to consummate the abandonment on or after February 2, 2020.
- 9) NYSW certifies that:

- a) No local or overhead traffic has moved over either of the Subject Lines for over ten years. Because neither of the Subject Lines is a “through line,” there is no overhead traffic on either of the Subject Lines.
 - b) No formal complaint by a user of rail service on the Subject Lines, or a state or local government entity acting on behalf of such user, regarding cessation of service over the Subject Lines either is pending with the Board or any U.S. District Court, or has been decided in favor of the complainant within the two year period.
- 10) Although no employees of the NYSW will be affected by the proposed abandonment, NYSW recognizes that its abandonment of the Subject Lines will be made subject to the standard employee protective conditions as set forth in *Oregon Short Line Railroad Co .- Abandonment -- Goshen*, 360 I.C.C. 91 (1979).
- 11) NYSW filed an Environmental / Historic Report (“EHR”) with the Board on November 23, 2020, more than twenty days prior to this filing.
- 12) NYSW certifies that it has complied with the legal (newspaper) notice requirements of 49 C.F.R. §1105.11. Notice of the proposed abandonment was published in the *Bergen Record* on November 21, 2020. A copy of the form of notice and a copy of the proof of publication are attached as Exhibit B.
- 13) NYSW certifies that it has complied with the notice requirements of 49 C.F.R. §1152.50(d)(1). A copy of the notice dated December 4, 2020, sent to the required governmental agencies is attached hereto as Exhibit C.

For the reasons set forth above, the Board should find that NYSW's proposed abandonment satisfies the exemption requirements of 49 C.F.R. §1152.50, and should issue the appropriate notice.

Respectfully submitted,



Eric M. Hocky
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ehocky@clarkhill.com

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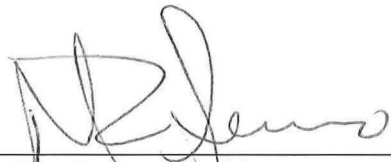
*Counsel for The New York, Susquehanna
and Western Railway Corporation*

Dated: December 14, 2020

VERIFICATION

I hereby verify on behalf of The New York, Susquehanna and Western Railway Corporation, under penalty of perjury, that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verification.

Executed on December 14, 2020.



Nathan Fenno, President

CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing Notice of Exemption was served on the persons shown on the attached list by first class mail, postage prepaid.

Ms. Nicole Minutoli
Director
NJ Department of Transportation
Multimodal Services
1035 Parkway Avenue, P.O. Box 600
Trenton, NJ 08625-0600

National Park Service
Northeast Region
1234 Market Street
Philadelphia, PA 19107

Ms. Catherine R. McCabe
NJ Department of Environmental Protection
Commissioner
401 E. State St. - 7th Floor, East Wing
P.O. Box 402
Trenton, NJ 08625-0402

National Park Service
1849 C Street, NW
Washington, DC 20240

James J. Tedesco III
County of Bergen Executive
One Bergen County Plaza
Room 580
Hackensack, NJ 07601.

Natural Resources Conservation Service
USDA
Office of the Chief
1400 Independence Ave., SW
Room 5105-A
Washington, DC 20250

Mr. Dave Kluesner
US EPA Region 2, Director
290 Broadway
New York, New York 10007-1866

Natural Resources Conservation Service
USDA
Ms. Carrie Lindig
State Conservationist
USDA-NRCS State Office
220 Davidson Ave 4th Floor
Somerset, New Jersey 08873

U.S. Fish and Wildlife Service
Northeast Region 5
Office of the Regional Director
300 Westgate Center Drive
Hadley, Massachusetts 01035-9589

Communications and Outreach Branch
NOAA, N/NGS12
National Geodetic Survey, SSMC3 #9340
1315 East-West Highway
Silver Spring, MD 20910-3282
ngs.infocenter@noaa.gov

Director
N.J. Division of Fish and Wildlife
Mail Code 501-03
P.O. Box 420
Trenton, NJ 08625-0420

Ms. Kimberly Springer, Manager
NJDEP Coastal Management Office
Mail Code 401-07D, P.O. Box 420
401 East State Street
Trenton, NJ 08625-0420

U.S. Army Corps of Engineers
Chief, Regulatory Branch
NY District US Army Corps of Engineers
26 Federal Plaza, Room 16-406
New York, New York 10278-0090

U.S. Department of the Interior -
National Park Service
RTCA Program
1849 C Street, NW
Washington, DC 20240

United States Department of the Army
Military Surface Deployment and Distribution
Command
Transportation Engineering Agency
ATTN: SDTE-SA (Railroads for National
Defense)
1 Soldier Way, Building 1900W
Scott AFB, IL 62225

Ms. Katherine Marcopul
Administrator & Deputy State Historic
Preservation Officer
Mail Code 501-04B
State of New Jersey
Department of Environmental Protection
Historic Preservation Office
P. O. Box 420
Trenton, NJ 08625-0420

Office of Chief of Forest Service
U.S. Department of Agriculture
1400 Independence Ave., SW
Washington, DC 20250-1111



Justin J. Marks

Dated: December 14, 2020

NOTICE OF EXEMPTION

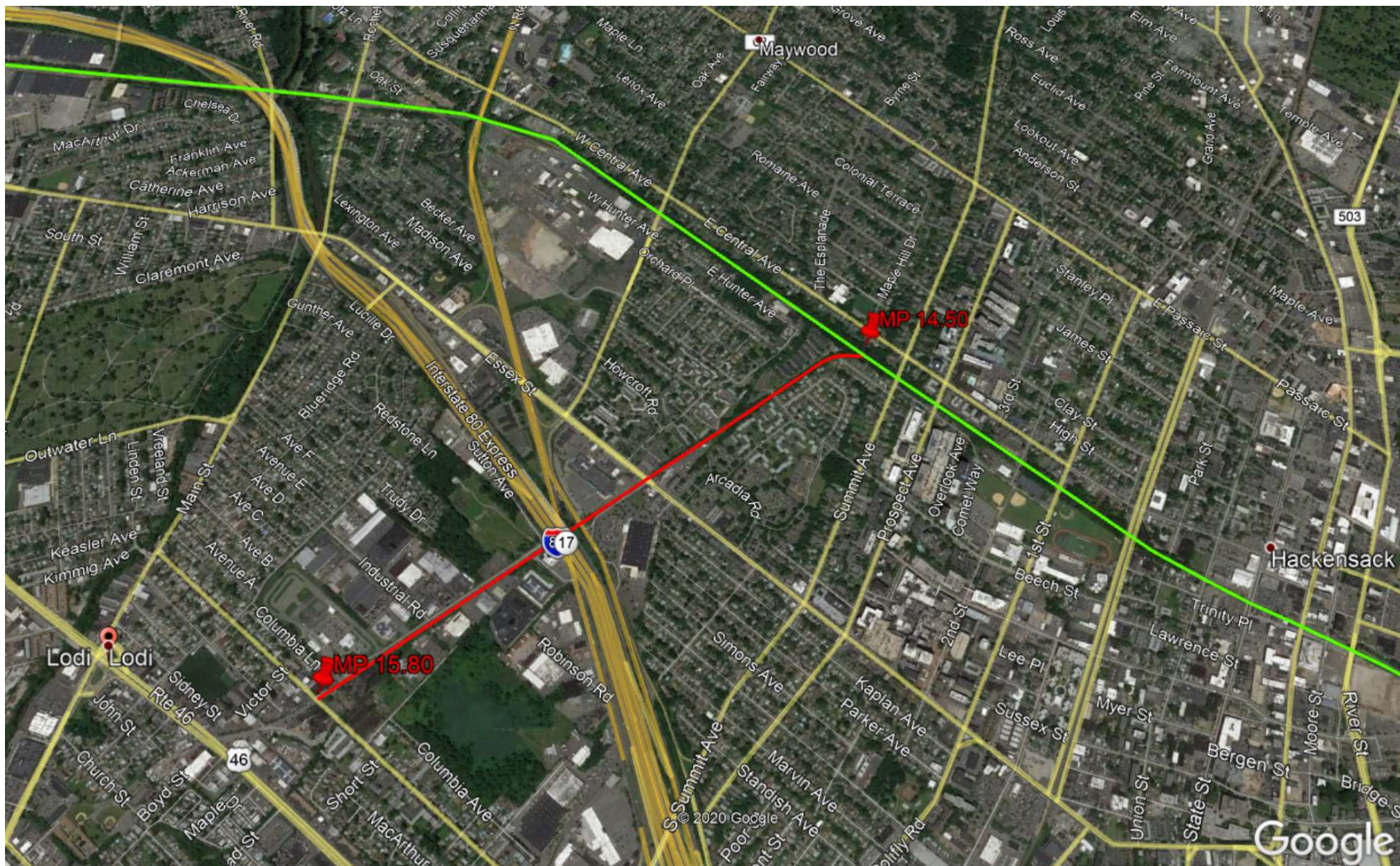
EXHIBIT A

MAPS

NOTICE OF EXEMPTION

EXHIBIT A-1

LODI BRANCH MAP



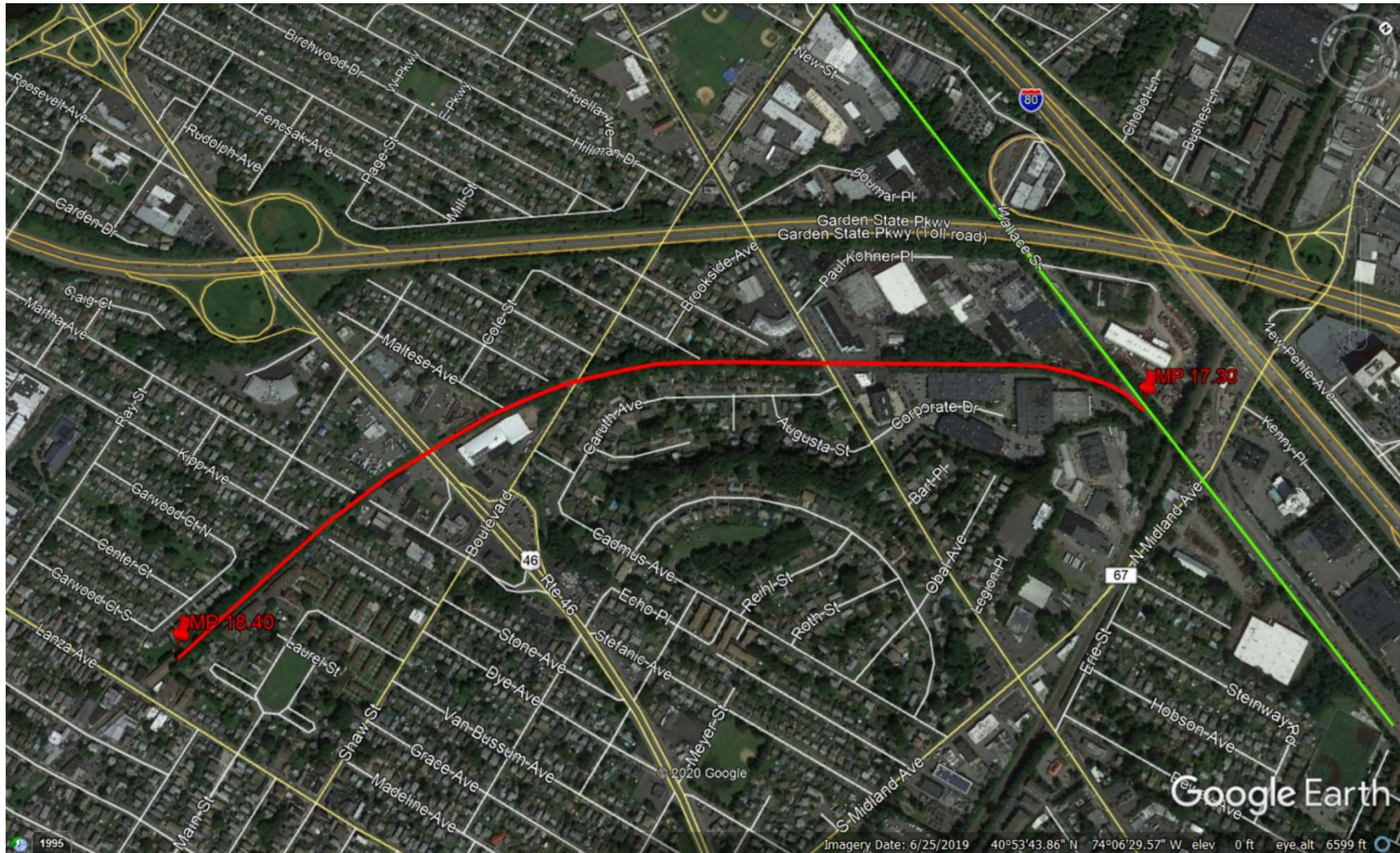
NYS&W Lodi Branch
NYS&W Main Line



NOTICE OF EXEMPTION

EXHIBIT A-2

PASSAIC BRANCH MAP



NYS&W Passaic Branch	
NYS&W Main Line	

NOTICE OF EXEMPTION

EXHIBIT B

NEWSPAPER NOTICE

Ad Number: 0004476216



Ad Order Number
0004476216

STATE OF NEW JERSEY
COUNTY OF PASSAIC

Vicki Kelly

Of full age, being duly sworn according to law, on his/her oath says that he/she is employed at North Jersey Media Group publisher of the The Record. Included herewith is a true copy of the notice that was published on the following date(s):

11/21/2020

in The Record, a newspaper of general circulation and published in Hackensack, in the County of Bergen and circulated in Bergen, Passaic, Hudson, Morris and Essex Counties. Said newspaper is published seven days a week.

Subscribed and sworn before me this 21 day of November, 2020

Nancy Heyrman

A Notary Public, State of Wisconsin, County of Brown

5.15.23

My Commission Expires

NANCY HEYRMAN
Notary Public
State of Wisconsin

NOTICE OF INTENT TO ABANDON
RAIL SERVICE

The New York, Susquehanna and Western Railway Company gives notice that on or about December 1, 2020, it intends to file with the Surface Transportation Board, Washington, DC, a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments permitting the abandonment of two segments of railroad line totaling 2.4 miles (a) between milepost 15.80 in Lodi, NJ and milepost 14.50 in Hackensack, NJ traversing through United States Postal Service ZIP Codes 07644 and 07601, and (b) between milepost 17.30 in Elmwood Park, NJ and milepost 18.40 in Garfield, NJ traversing through United States Postal Service ZIP Codes 07407 and 07026 in Bergen County, NJ. The proceeding will be docketed as No. AB 286 (Sub-No. 8X).

The Board's Office of Environmental Analysis (OEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Office of Environmental Analysis (OEA), Surface Transportation Board, Washington, DC or by calling that office at (202) 245-0245.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Office of Proceedings either via e-filing or addressed to 395 E. Street S.W., Washington, DC 20423-0001 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicants' representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238. Copies of any comments or requests for conditions should be served on the applicant's representative: Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Ave. N.W., Suite 1300 South, Washington, DC 20004; (202) 772-0916; jmarks@clarkhill.com.

The Record: November 21, 2020
Fee: \$39.42 (83) 0004476216

NOTICE OF EXEMPTION

EXHIBIT C

10-DAY NOTICE LETTERS

CLARK HILL

Justin J. Marks
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Email: jmarks@ClarkHill.com

Clark Hill
1001 Pennsylvania Avenue NW
Suite 1300
Washington, DC 20004
T 202.772.0909
F 202.772.0919

clarkhill.com

December 4, 2020

ALL AGENCIES ON THE ATTACHED SERVICE LIST

Re: The New York, Susquehanna and Western Railway Corporation
– Abandonment Exemption – in Bergen County, NJ Surface Transportation Board
Docket No. AB 286 (Sub No. 8X)

To Whom it May Concern:

This letter is being sent to you pursuant to the requirements of 49 C.F.R. §1152.50(d), to advise you that The New York, Susquehanna and Western Railway Corporation (“NYSW”) intends to seek authorization from the Surface Transportation Board (“STB”) to abandon rail service over the lines of railroad described below, by filing a verified notice of exemption pursuant to the provisions of 49 C.F.R. Part 1152 Subpart F. NYSW expects to file the notice of exemption with the STB on or about December 14, 2020, under STB Docket No. AB 286 (Sub No. 8X).

NYSW will invoke the STB’s exemption procedures to abandon service of the lines of railroad (the “Subject Lines”):

1. Between milepost 15.80 in Lodi, NJ and milepost 14.50 in Hackensack, NJ traversing through United States Postal Service ZIP Codes 07644 and 07601 (“the Lodi Branch”);
2. Between milepost 17.30 in Elmwood Park, NJ and milepost 18.40 in Garfield, NJ traversing through United States Postal Service ZIP Codes 07407 and 07026 (“the Passaic Branch”).

Maps of the Subject Lines are attached.

December 4, 2020

Page 2

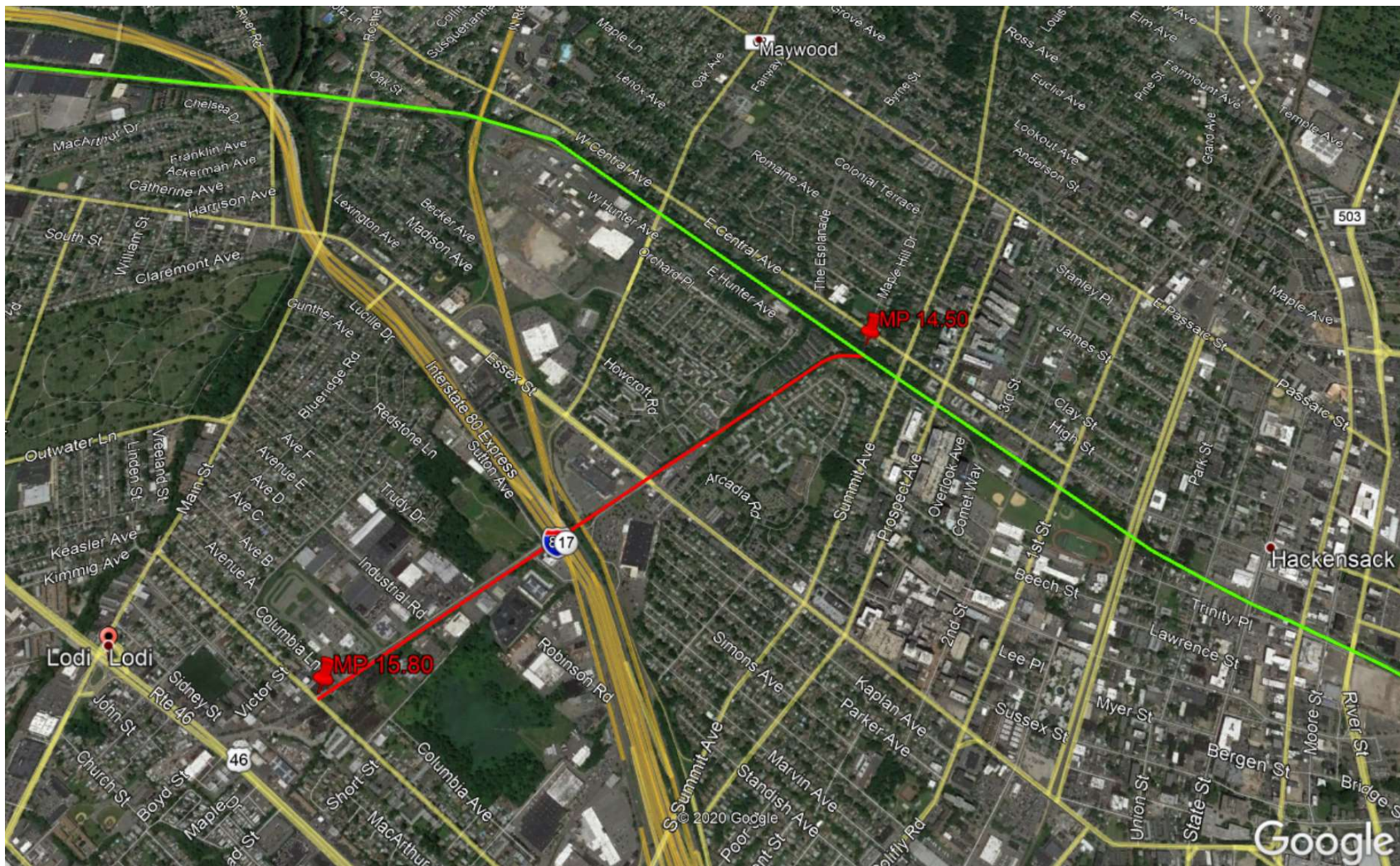
Based upon information in NYSW's possession, the Subject Lines do not contain federally granted rights of way. Any documentation in NYSW's possession will be made available to those requesting it.

Sincerely,

A handwritten signature in blue ink that reads "Justin J. Marks". The signature is written in a cursive, flowing style.

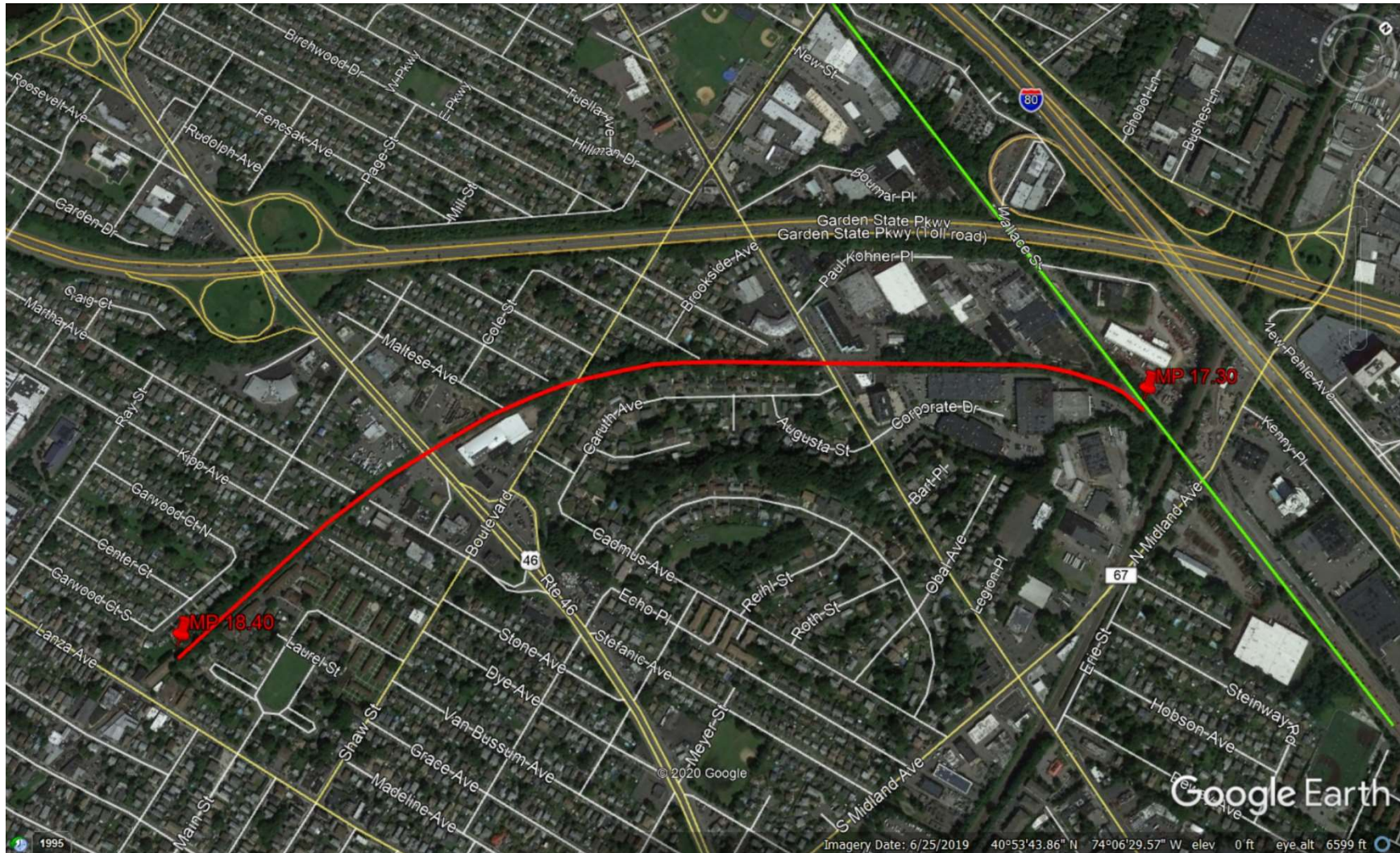
Justin J. Marks
*Counsel to The New York, Susquehanna and
Western Railway Corporation*

Enclosure



NYS&W Lodi Branch
NYS&W Main Line





NYS&W Passaic Branch	
NYS&W Main Line	

U.S. Department of the Interior - National Park Service RTCA Program 1849 C Street, NW Washington, DC 20240	Office of Chief of Forest Service U.S. Department of Agriculture 1400 Independence Ave., SW Washington, DC 20250-1111
United States Department of the Army Military Surface Deployment and Distribution Command Transportation Engineering Agency ATTN: SDTE-SA (Railroads for National Defense) 1 Soldier Way, Building 1900W Scott AFB, IL 62225	Ms. Nicole Minutoli Director NJ Department of Transportation Multimodal Services 1035 Parkway Avenue, P.O. Box 600 Trenton, NJ 08625-0600

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. AB 286X (Sub No. 8X)

THE NEW YORK, SUSQUEHANNA AND WESTERN RAILWAY CORPORATION
– ABANDONMENT EXEMPTION –
BERGEN COUNTY, NJ

SUPPLEMENT TO EXHIBIT C
OF THE
ENVIRONMENTAL/HISTORIC REPORT

Marks, Justin J.

From: Marks, Justin J.
Sent: Monday, December 14, 2020 5:32 PM
To: Davis, Mark
Subject: RE: NYSW RR Abandonment Federal Consistency Determination - #0200-20-0001.1

Mr. Davis:

Thank you for your email. NYSW confirms that there are no bridges or structures on the line and as such, none will be impacted as part of the track removal. At this time, NYSW has not made a determination of how much of the tracks will be retained for storage.

Thank you,

Justin J. Marks

CLARK HILL PLC

1001 Pennsylvania Ave. NW | Washington, DC 20004
202.772.0916 (Direct) | 202.772.0930 (Fax) |
jmarks@ClarkHill.com | www.clarkhill.com

From: Davis, Mark <Mark.Davis@dep.nj.gov>
Sent: Wednesday, December 9, 2020 9:18 AM
To: Marks, Justin J. <jmarks@ClarkHill.com>
Subject: NYSW RR Abandonment Federal Consistency Determination - #0200-20-0001.1

[External Message]

Mr. Marks,

I am reviewing your October 15, 2020, request for a Federal Consistency Determination for the NYSW railway abandonment. Can you please confirm that no bridges or structures are to be impacted as part of the track removal? Also, can you identify which section of track will remain for railcar storage? Thank you.

Mark C. Davis, Environmental Specialist 4

Bureau of Inland Regulation
Division of Land Resource Protection
NJ Department of Environmental Protection
501 East State Street, Trenton, NJ 08625
mark.davis@dep.nj.gov



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