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JUN 29 2004

**SURFACE
TRANSPORTATION BOARD**



BY HAND

**ENTERED
Office of Proceedings**

June 29, 2004

JUN 30 2004

**Part of
Public Record**

Hon. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street
Washington, D.C. 20423-0001

RE: STB Docket No. AB-873X, New York And Eastern
Railway, LLC-Discontinuance Exemption In
Poughkeepsie, Dutchess County, NY

STB Docket No. AB-55 (Sub-No. 652X) CSX
Transportation, Inc.-Discontinuance Exemption
In Poughkeepsie, Dutchess County, NY

STB Docket No. AB-565 (Sub-No. 17X) New York Central
Lines, LLC-Abandonment Exemption In Poughkeepsie,
Dutchess County, NY

Dear Mr. Williams:

On behalf of Petitioners New York And Eastern Railway LLC
(NY&E), CSX Transportation, Inc. (CSXT), and New York Central
Lines, LLC (NYC), I am filing an original and ten copies of a
Petition for Exemption under 49 U.S.C. 10502 from the provisions
of 49 U.S.C. 10903 for Discontinuance of Service over and
Abandonment of a rail line in Poughkeepsie, Dutchess County, NY.

I am also enclosing two checks payable to the Board for
\$4,700 and \$9,400, respectively, to cover the applicable filing
fees for NY&E, CSXT, and NYC and a computer disk containing the
Petition, the Environmental Report, and the Historic Report.

Please date stamp and return one copy of this filing for our
records.

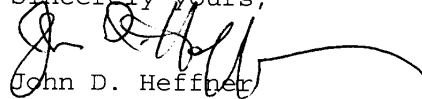
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JUN 29 2004

**SURFACE
TRANSPORTATION BOARD**

Hon. Vernon A. Williams
June 29, 2004
Page Two

Sincerely yours,


John D. Heffner

Enclosures

cc: Mr. Eyal Shapira
Mr. David Geraci (CSXT)
Louis Gitomer, Esq. (CSXT)

BEFORE THE
SURFACE TRANSPORTATION BOARD



DOCKET NO. AB-873X

ORIGINAL
NEW YORK AND EASTERN RAILWAY, LLC-DISCONTINUANCE EXEMPTION
IN POUGHKEEPSIE, DUTCHESS COUNTY, NY

DOCKET NO. AB-55 (SUB-NO. 652X)

CSX TRANSPORTATION, INC.-DISCONTINUANCE EXEMPTION
IN POUGHKEEPSIE, DUTCHESS COUNTY, NY

DOCKET NO. AB-565 (SUB-NO. 17X)

NEW YORK CENTRAL LINES, LLC-ABANDONMENT EXEMPTION
IN POUGHKEEPSIE, DUTCHESS COUNTY, NY

PETITION FOR EXEMPTION
UNDER 49 U.S.C. 10502

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John D. Heffner
John D. Heffner, PLLC
1920 N Street, N.W.
Suite 800
Washington, D.C. 20036
(202)263-4180

Counsel for Petitioners

DATED: June 29, 2004

FILED

JUN 29 2004

SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD



DOCKET NO. AB-873X

211460

NEW YORK AND EASTERN RAILWAY, LLC-DISCONTINUANCE EXEMPTION
IN POUGHKEEPSIE, DUTCHESS COUNTY, NY

DOCKET NO. AB-55 (SUB-NO. 652X)

211460

CSX TRANSPORTATION, INC.-DISCONTINUANCE EXEMPTION
IN POUGHKEEPSIE, DUTCHESS COUNTY, NY

DOCKET NO. AB-565 (SUB-NO. 17X)

NEW YORK CENTRAL LINES, LLC-ABANDONMENT EXEMPTION
IN POUGHKEEPSIE, DUTCHESS COUNTY, NY

PETITION FOR EXEMPTION
UNDER 49 U.S.C. 10502

I.
INTRODUCTION

Pursuant to 49 U.S.C. 10502, the New York and Eastern Railway, LLC ("NY&E"), CSX Transportation, Inc. ("CSXT"), and New York Central Lines, LLC ("NYC"), ("jointly referred to as Petitioners") jointly seek an exemption under 49 U.S.C. 10502 from 49 U.S.C. 10903 to permit NY&E and CSXT to discontinue service over and NYC to abandon approximately 4.7 miles of track and railroad right of way between milepost QCO 0.0 and milepost QCO 3.2 and between milepost QCK 29.5 and milepost QCK 31.0 (hereafter referred to as "the Line"), in the City and Town of Poughkeepsie, Dutchess County, NY. NY&E and CSXT presently lease

the Line from NYC. NY&E and CSXT desire to terminate their respective leases and discontinue service and NYC seeks to abandon the Line due to lack of demand for rail service. Petitioners do not expect any opposition to this request and urge that the Petition be granted as expeditiously as possible.

II.

STATEMENT OF FACTS

NY&E is a class III short line railroad established in 2003 to lease and operate the Line.¹ The Line was originally owned and operated by Consolidated Rail Corporation ("Conrail") and its corporate predecessors. It was subsequently acquired by NYC for operation by CSXT as part of the joint acquisition and partition of Conrail by CSXT and Norfolk Southern Corporation. See, STB Finance Docket No. 33388, CSX Corp. et al. - Control, Conrail Inc. et al., 3 S.T.B. 196 (1998).

NY&E took possession of the Line on September 10, 2003, pursuant to a 10 year lease with NYC. NY&E replaced CSXT as the operator of the Line although CSXT retained a residual common carrier obligation to serve the Line. At the time NY&E assumed the common carrier obligation, there had been no traffic on the

¹ The Board exempted NY&E's lease, operation, and possible future purchase in a decision served June 27, 2003, in FD No. 34358, New York and Eastern Railway LLC - Lease, Operation, Future Purchase Exemption - New York Central Lines, LLC and CSX Transportation, Inc.

Line since November, 2000. Immediately, NY&E and CSXT commenced a joint marketing program to persuade local businesses to ship over the Line. After several months, it became obvious that these efforts would be for naught as the Line has not handled a single car load of freight during NY&E's lease term. Moreover, there is no prospect of any freight being tendered for rail movement. Accordingly, NY&E, CSXT, and NYC mutually decided to terminate the lease and seek Board authorization for abandonment and discontinuance.

Petitioners submit as Exhibit A hereto a copy of a draft Federal Register Notice as required by 49 CFR 1152.60(c). Petitioners also submit as Exhibits B, C, D, and E, respectively, a scale map showing the Line and its relationship to cities, towns, nearby rail lines and highways as required by 49 CFR 1152.60(d), a final environmental report, a final historic report, and a Certificate of Compliance with 49 CFR 1105.12.

The Line does not contain any Federally granted rights of way.

The Line traverses postal zip codes 12601 and 12603.

A copy of this Petition has been served on all known shippers located on the Line as well as the affected political subdivisions.

III.

ARGUMENT
A GRANT OF THIS EXEMPTION IS REQUIRED

Petitioners seek an exemption under 49 U.S.C. 10502 from 49 U.S.C. 10903 to permit NY&E and CSXT to discontinue service over and NYC to abandon the Line. As pertinent, 49 U.S.C. 10903 forbids a rail carrier from abandoning any part of its railroad and discontinuing service unless the Board finds that the public convenience and necessity permit abandonment or discontinuance.

Petitioners believe that their request is appropriate for exemption from the formal procedures of §10903. Under §10502(a), Congress intended for the Board, in a matter related to a rail carrier providing rail transportation subject to its jurisdiction, to exempt a person, class of persons, transaction or service whenever it finds that the application of a provision of this subtitle - (1) is not necessary to carry out the transportation policy of §10101a of this title; and (2) either (a) the transaction or service is of limited scope, or (b) the application of a provision of this subtitle is not needed to protect shippers from the abuse of market power.

Indeed, the legislative history behind §10502 [and the predecessor §10505] makes clear Congress' intent that the Interstate Commerce Commission and [now the Board] use its exemption authority liberally to free certain transactions and

services from the administrative and financial costs associated with continued regulation. In discussing the exemption powers of the Board's predecessor -- the ICC -- the Staggers Act legislative history states:

The policy underlying this provision is that while Congress has been able to identify broad areas of Commerce where reduced regulation is clearly warranted, the Commission is more capable through the administrative process of examining specific regulatory provisions and practices not yet addressed by Congress to determine where they can be deregulated consistent with the policies of Congress. The conferees expect that, consistent with the policies of this Act, the Commission will pursue partial and complete exemptions from remaining regulation.

H.R. Rep. No. 96-1430, 96th Cong. 2d Sess. 105 (1980); see also, Exemption from Regulation--Boxcar Traffic, 367 I.C.C. 424, 428 (1983), vacated and remanded on other grounds, Brae Corp. v. United States, 740 F.2d 1023 (D.C. Cir. 1984). This statement applies equally to the Board as the ICC's successor.

Exemption of the proposed discontinuance and abandonment from §10903 is exactly the type of minor transaction Congress contemplated when it enacted §10502. The transaction proposed here falls squarely within the four corners of §10502 and its predecessor statute. See, e.g., STB Docket No. AB-55 (Sub-No. 549X), CSX Transportation, Inc.-Abandonment Exemption-In Mecklenburg County, NC (served November 21, 1997).

Moreover, but for the fact that NY&E assumed operations of the Line about nine months ago in September 2003, service could have been discontinued by CSXT and the Line abandoned by NYC pursuant to the Board's expedited service abandonment regulations at 49 CFR 1152.50.

A. Application of §§10903 Not Necessary to Further National Transportation Policy

Requiring Petitioner to comply with the formal requirements of §10903 is not necessary to carry out the transportation policy of 49 U.S.C. 10101a. Section 10101 represents Congress' most recent expression of rail transportation policy. Of these, a grant of the petition would satisfy subsections (2) and (7) by minimizing federal regulatory control over and granting expedited consideration of Petitioners' request to terminate service on a line without any traffic. Granting the Petition would eliminate the need to file a formal abandonment application under the provisions of §10903 and implementing regulations at 49 CFR 1152. Preparation and filing of such an application would not only be expensive. It would be burdensome in view of the substantial amount of supporting evidence required and unnecessary considering the fact that no traffic has moved over the Line in several years. In view of that fact, Petitioners do not anticipate any opposition to their request. These considerations, which have led the Board and the

former ICC to exempt discontinuance requests in similar situations, justify a grant of Petitioners' request. See, e.g., ICC Docket No. AB-33 (Sub-No. 118X), Union Pacific Railroad Company -- Abandonment Exemption -- In El Paso County, CO (served June 8, 1998).

Exempting the abandonment and discontinuance of the Line would promote an efficient rail system (49 U.S.C. 10101(3)), ensure continuation of a sound rail system (49 U.S.C. 10101(4)), foster sound economic conditions (49 U.S.C. 10101(5)), and encourage honest and efficient management (49 U.S.C. 10101(9)). There is no demand for service over the Line, and maintenance of the Line as a part of the national rail system is an unwarranted drain on the scarce capital resources of railroads.

B. The Transaction Is One of Limited Scope

The transaction unquestionably satisfies the limited scope test of §10502(a). The Line is but 4.7 miles long, in one County in one State. There has been no traffic in several years despite the marketing efforts of NY&E and CSXT.

By any measurement the Board chooses to use, this abandonment and discontinuance proposal is clearly limited in scope within the meaning of 49 U.S.C. 10502(a)(2)(A). A finding to that effect would be consistent with--and is indeed required by--the relevant facts of this case and relevant precedent. See,

e.g., STB Docket No. AB-55 (Sub-No. 549X), CSX Transportation, Inc.-Abandonment Exemption-In Mecklenburg County, NC, supra.

C. Application of §10903 is Not Necessary to Protect Shippers from Abuse of Market Power

Because this transaction satisfies the limited scope test of §10502(a), Petitioners do not need to show that it also meets the alternative test that there is no opportunity to expose shippers to abuse of market power. But even if the limited scope test were not satisfied, the exemption sought herein would still be warranted by virtue of §10502(a)(2)(B). There is no opportunity for abuse of captive shippers because no shipper has used the Line in several years. Should area shippers need rail service, CSXT provides rail service over its contiguous New York-Albany main line through Poughkeepsie. In addition, there are substantial transportation alternatives available over US Highways 9, 9W, and 43 in the Poughkeepsie area, along with a water route through the Hudson River.

IV.

THE LEVEL OF LABOR PROTECTION

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a carrier of its statutory obligation to protect employee interests. The Board and its predecessor agency, the Interstate Commerce Commission, however, have declined, except in unusual circumstances, to impose labor

conditions where a carrier abandons service over its entire line. NY&E proposes to abandon the entire rail line it serves. Also, no corporate affiliate of the NY&E will continue substantially similar rail operations and there is no corporate parent that would benefit from the proposed abandonment. See, Northampton and Bath R. Co. - Abandonment, 354 I.C.C. 784 (1978); Wellsville, Addison & Galetton R. Corp. - Abandonment, 354 I.C.C. 744 (1978); Docket No. AB-430X, and Willamette Valley Railroad Company - Abandonment Exemption - In Polk County, OR (not printed), served April 5, 1996.

As to CSXT and NYC employees, CSXT and NYC request that the conditions in Oregon Short Line R. Co. Abandonment - Goshen, 360 I.C.C. 91, be imposed.

V.

CONCLUSION

Accordingly, NY&E, CSXT, and NYC respectfully request that the Board expeditiously grant their request for exemption

- 10 -

from the provisions of 49 U.S.C. 10903 permit NY&E and CSXT to
discontinue service over and for NYC to abandon the Line.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John D. Heffner", with a long horizontal flourish extending to the right.

John D. Heffner
John D. Heffner, PLLC
Suite 800
1920 N Street, N.W.
Washington, D.C. 20036
Telephone: (202) 263-4180

Counsel for Petitioners

DATED: June 29, 2004

CERTIFICATE OF SERVICE

I hereby certify that I have this 30th day of Jan served
a copy of the foregoing Petition for Exemption upon the following
by mailing a copy thereof, first class, postage prepaid to:

The National Park Service
Recreational Resources Assistance Div.
P. O. Box 37127
Washington, DC 20013-7127

U. S. Dept. of Defense
Military Traffic Management Command
Transportation Engineering Agency
Railroads for National Defense Program
5611 Columbia Pike
Room 720 (MT-SA)
Falls Church, VA 22041-5050

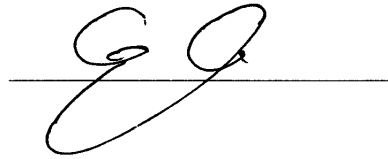
U. S. Dept. of Agriculture
Chief of Forest Service
P. O. Box 960-90
Washington, DC 20050


John D. Herfner

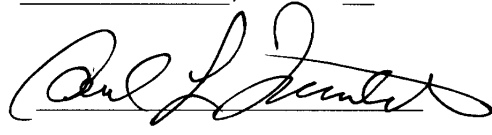
VERIFICATION

STATE OF)
) SS
CITY OF)

EYAL SHAPIRA, being duly sworn according to law,
hereby deposes and states that (s)he is authorized to make the
Verification, has read the foregoing document, and knows the
facts asserted therein are true and accurate as stated, to the
best of (her)his knowledge, information and belief.



Subscribed and sworn to before me, a Notary Public, in and for
the City of Newton. in the State of MA, this 28th.
day of June.


Notary Public

My Commission expires:



CARL L. FRADET
Notary Public
Commonwealth of Massachusetts
My Commission Expires April 3, 2007

EXHIBIT A

On June 24, 2004 New York and Eastern Railway, LLC, CSX Transportation, Inc. and New York Central Lines, LLC filed with the Surface Transportation Board, Washington, DC 20423, a petition for exemption for abandonment and discontinuance of service on a line of railroad approximately 4.7 miles long between milepost QCO 0.0 and milepost QCO 3.2 and between milepost QCK 29.5 and milepost QCK 31.0 near Poughkeepsie which traverses through postal zip codes 12601 and 12603 in Dutchess County, NY. The Line for which the abandonment and discontinuance of service exemption request was filed includes the station of Poughkeepsie, NY.

The line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

The interest of CSX Transportation railroad employees will be protected by the conditions imposes in Oregon Short Line R. Co. Abandonment, Goshen, 360 I.C.C. 91.

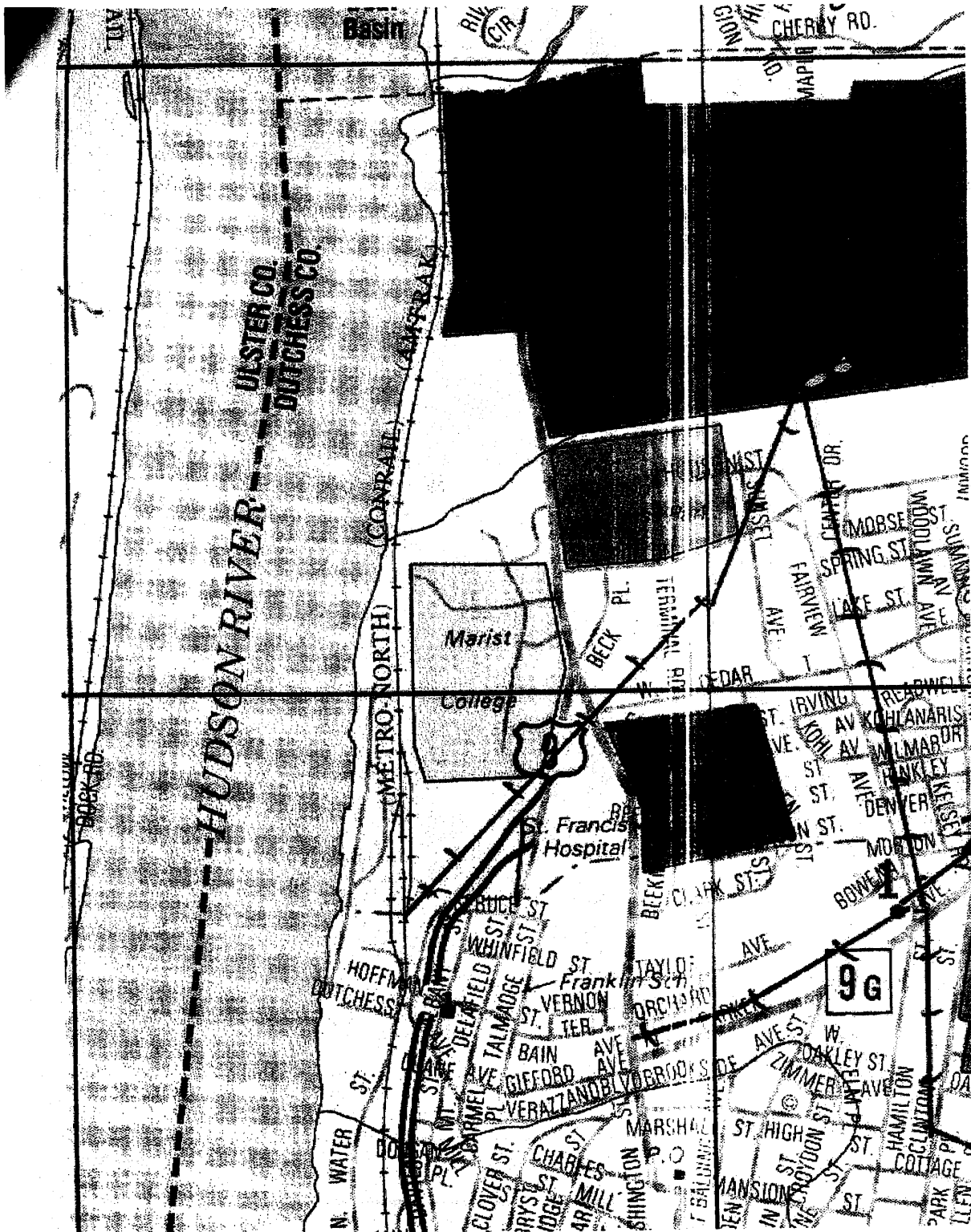
Any offer of financial assistance will be due no later than 10 days after service of a decision granting the petition for exemption.

All interested persons should be aware that following abandonment of rail service and salvage of the line, the line may be suitable for other public use including interim trail use.

Any request for a public use condition and any request for trail use/rail banking will be due no later than 20 days after notice of the filing of the petition for exemption is published in the FEDERAL REGISTER.

Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Section of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Section of Environmental Analysis. EAs in these 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 will generally be within 30 days of its service.



Dockets AB-873X, AB-55 (s. 652X), AB-565 (S. 17X)

EXHIBIT B

5/19/2004

ENVIRONMENTAL REPORT

DOCKET AB-873X

NEW YORK AND EASTERN RAILWAY LLC-DISCONTINUANCE EXEMPTION
IN POUGHKEEPSIE, DUTCHESS COUNTY, NY

DOCKET AB-55 (SUB-NO. 652X)

CSX TRANSPORTATION, INC. -DISCONTINUANCE EXEMPTION
IN POUGHKEEPSIE, DUTCHESS COUNTY, NY

DOCKET AB-565 (SUB-NO. 17X)

NEW YORK CENTRAL LINES, LLC. -ABANDONMENT EXEMPTION
IN POUGHKEEPSIE, DUTCHESS COUNTY, NY

The following information is provided in accordance with 49 C.F.R. Section 1105.7:

(1) PROPOSED ACTION AND ALTERNATIVES

Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

New York and Eastern Railway LLC ("NY&E") and CSX Transportation ("CSXT") propose to discontinue service over and New York Central Lines LLC ("NYC") proposes to abandon a line of railroad located in the Town and City of Poughkeepsie, Dutchess County, NY. NY&E, CSXT, and NYC will jointly be referred to as Applicants. The subject railroad is owned by NYC and leased to

CSXT, which has, in turn, subleased it to NY&E, a recently established class III short line railroad. The line consists of approximately 4.7 miles of right of way and associated property from milepost QCO 0.0 to milepost QCO 3.2 and milepost QCK 29.5 to milepost QCK 31.0 ("the Line"). NY&E originally leased the Line from CSXT in June 2003 with the intent of restoring service formerly provided by CSXT and Consolidated Rail Corporation ("Conrail"). No service is currently being provided over the Line since for lack of demand. NY&E has been unable to revitalize the Line. Therefore, CSXT and NYC have decided to terminate the lease and to seek to discontinue service over the Line and NYC has decided to seek to abandon the Line.

Abandonment of this line will result in the removal of the rail, crossties, and possibly the upper layer of ballast. Maintenance of the Line will cease.

The only alternative would be not to abandon and to continue to incur opportunity costs for the assets in the Line. This would not be a prudent utilization of carrier resources.

Two maps which delineate the proposed project are attached. (See attachments 1 and 2.)

(2) TRANSPORTATION SYSTEM

Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

There is no passenger or freight traffic on the Line. There will be no effect on existing regional or local transportation systems or patterns.

(3) LAND USE

- (i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.**

Applicants believe that their proposed action will not be inconsistent with local land use plans. On May 26, 2004, NY&E's representative contacted officials with the Town and City of Poughkeepsie and Dutchess County, NY, seeking current land use plans for each jurisdiction. (See Attachments 3-5.) NY&E will provide the Section of

Environmental Analysis ("SEA") with copies of replies by local land use officials upon receipt.

- (ii) **Based on consultation with the Natural Resource Conservation Service, state the effect of the proposed action on any prime agricultural land.**

NY&E contacted the appropriate Natural Resource Conservation Office, on May 26, 2004, and is currently awaiting its response. (Attachment 6). NY&E will furnish the SEA with that response upon receipt.

- (iii) **If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by 1105.9.**

On May 26, 2004, NY&E contacted the Coastal Resources & Waterfront Revitalization Division of the New York Secretary of State's Office seeking its comment on the impact of the abandonment, if any, on the State's coastal zone program. (Attachment 7). NY&E will provide the SEA with a copy of its comments upon receipt.

- (iv) **If the proposed action is an abandonment, state whether or not the right of way is suitable for alternative public use under 49 U.S.C. 10905 and explain why.**

The property proposed to be abandoned and discontinued may be suitable for alternative public uses, but may be subject to reversionary interest that may affect transfer of title for other than rail purposes.

(4) ENERGY

- (i) **Describe the effect of the proposed action on transportation of energy resources.**

The proposed action will have no effect on the transportation of energy resources, as the Line has not handled traffic of any type in several years.

- (ii) **Describe the effect of the proposed action on recyclable commodities.**

The proposed action will have no effect on the movement and/or recovery of recyclable commodities as no traffic of any type has moved over the Line in several years.

- (iii) **State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.**

The proposed action will not result in an increase or decrease in overall energy efficiency as no traffic has moved over the Line in several years.

- (iv) **If the proposed action will cause diversions from rail to motor carriage of more than: (A) 1,000 rail carloads a year; or (B) an average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given.**

There will be no diversion of rail traffic to motor carriage as no traffic has moved over the Line in several years.

(5) AIR

- (i) **If the proposed action will result in either: (A) an increase in rail traffic of at least 100% (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or (B) an increase in rail yard activity of at least 100% (measured by carload activity), or (C) an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions.**

The above thresholds will not be exceeded, as there is no rail traffic moving over the Line.

- (ii) **If the proposed action affects a class I or non-attainment area under the Clean Air Act; and will it result in either: (A) an increase in rail traffic of a least 50% (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line, or (B) an increase in rail yard activity of a least 20% (measured by carload activity), or (C) an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan.**

The above thresholds will not be exceeded, as there is no rail traffic moving over the Line.

- (iii) If transportation of ozone depleting materials (such as nitrogen oxide and freon) is contemplated, identify: the materials and quantity, the frequency of service; safety practices (including any speed restriction); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

Not applicable.

(6) NOISE

If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause: (i) an incremental increase in noise levels of three decibels Ldn or more, or (ii) an increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area, and quantify the noise increase for these receptors if the thresholds are surpassed.

The above thresholds will not be exceeded.

(7) SAFETY

- (i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).

There will be no effect on public health and safety as a result of the proposed action.

- (ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.

Not applicable.

- (iii) If there are any known hazardous waste sites or sites where there have been known hazardous material spills on the right of way,

identify the location of those sites and the types of hazardous materials involved.

Applicants' records do not indicate any hazardous waste sites or sites where there have been hazardous material spills on this line segment.

(8) BIOLOGICAL RESOURCES

- (i) **Based on consultation with the U. S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.**

On May 26, 2004, NY&E's representative wrote the U.S. Fish and Wildlife Service about its proposed action (See Attachment 8). NY&E has not received a response to its inquiry but will provide the SEA with a copy of the response upon receipt. Based upon Applicants' intention to remove only the track material and the upper layer of ballast, we do not believe that any federally endangered or threatened species will be negatively affected or critical habitats modified if the Line is abandoned.

- (ii) **State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.**

Based upon Applicants' review of the area, the Line is not within any wildlife sanctuaries or refuges, National or State parks or forests. Nevertheless, NY&E has contacted the National Park Service to obtain its views (Attachment 9) and will furnish the SEA with its comments upon receipt.

(9) WATER

- (i) **Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.**

On May 26, 2004, NY&E's representative contacted New York State's Environmental Conservation Department regarding this statement. (Attachment 10). NY&E has not received a response to its inquiry but will furnish the SEA with any comments received. Applicants do not contemplate any action known to be inconsistent with

federal, state and/or local water quality standards. Any necessary permits or applications will be obtained as well as compliance with conditions or procedures required by regulatory agencies.

- (ii) **Based on consultation with the U. S. Army Corps of Engineers, state whether permits under Section 404 of the Clean Water Act (33 U.S.C. 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.**

NY&E has contacted the U.S.Army Corps of Engineers. (Attachment 11) in connection with this question and will furnish the SEA with any comments received.

Applicants are not aware of any designated wetlands or 100-year flood plains within the proposed project.

Upon receiving abandonment authority, removal of material will be accomplished by use of the right of way for access, along with existing public and private crossings, and no new access roads are contemplated. CSXT and NYC do not intend to disturb any of the underlying roadbed or perform any activities that would cause sedimentation or erosion of the soil, and do not anticipate any dredging or use of fill in the removal of the track material. The crossties and/or other debris will be transported away from the rail line and will not be discarded along the right of way nor be placed or left in streams or wetlands, or along the banks of such waterways. Also, during track removal, appropriate measures will be implemented to prevent or control spills from fuels, lubricants or any other pollutant materials from entering any waterways. Based upon this course of action, Applicants do not believe a permit under Section 404 of the Clean Water Act will be required.

- (iii) **State whether permits under Section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action. (Applicants should contact the U. S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required).**

NY&E has contacted both the U.S. EPA and New York State's Environmental Conservation Department regarding this question and will provide their comments upon receipt. (Attachments 12 and 13).

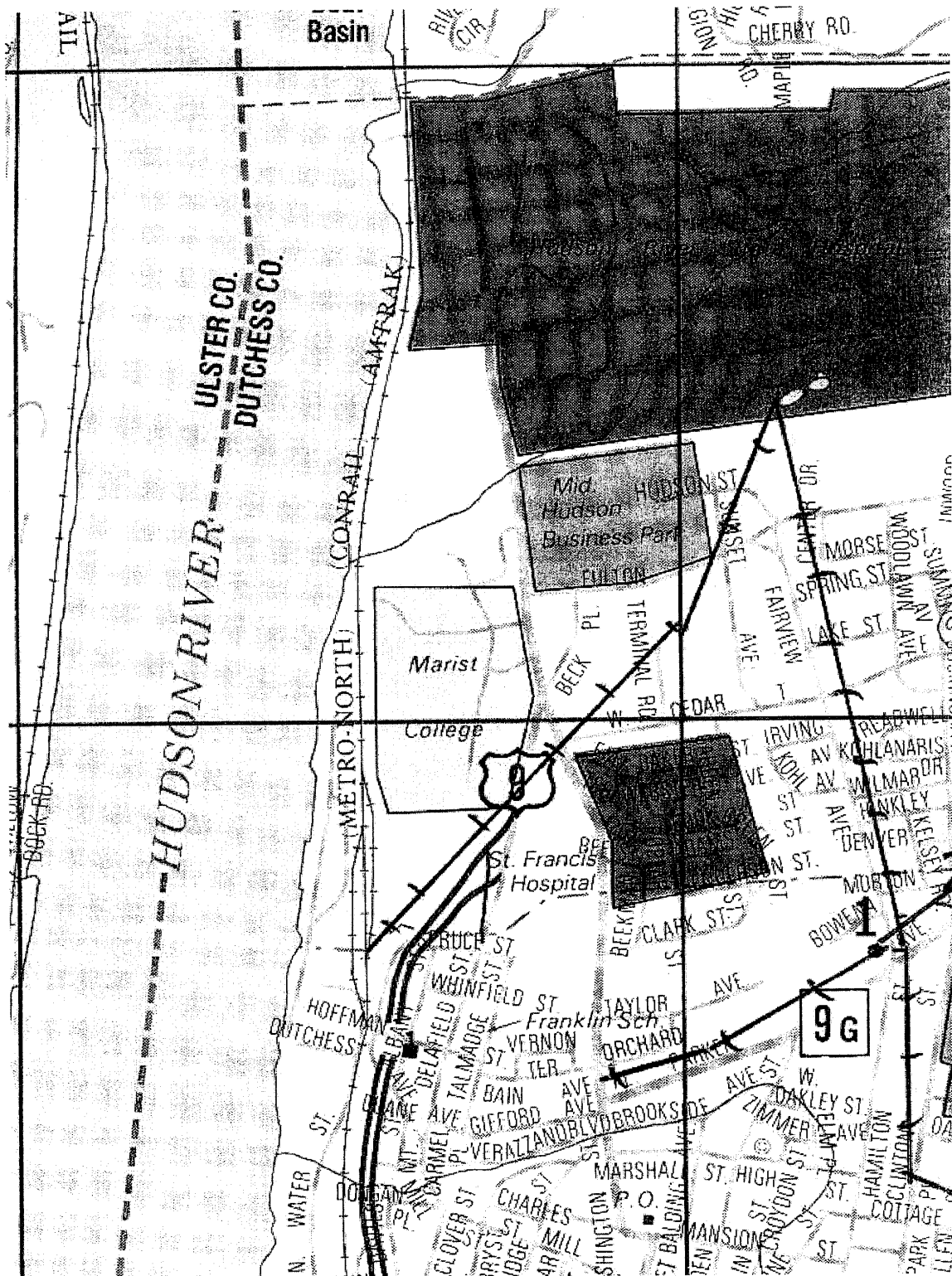
Based upon the course of action described in Section 9 (ii), Applicants do not believe a permit under Section 402 of the Clean Water Act will be required.

10. MITIGATION

Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

There will be no adverse environmental impacts in the project area as a result of this abandonment; therefore, mitigating action will not be necessary.

ATTACHMENT]



JOHN D. HEFFNER, PLLC

1920 N ST., N.W.

SUITE 800

WASHINGTON, D.C. 20036

(202) 263-4180

FAX (202) 296-3939

j.heffner@verizon.net

ATTACHMENT 3

May 26, 2004

Mr. Roger Akley, Commissioner
Dutchess County Planning Department
27 High Street
Poughkeepsie, NY 12601
County Planning Department

RE: Docket No. AB-873X, New York and Eastern
Railway, LLC, Discontinuance Exemption in
Poughkeepsie, Dutchess County, NY

Docket No. AB-565 (Sub. No. 17X), New York
Central Lines, LLC, Abandonment Exemption
in Poughkeepsie, Dutchess County, NY, and

Docket No. AB-55 (Sub. No. 652X)
CSX Transportation, Inc., Discontinuance
Exemption in Poughkeepsie, Dutchess County, NY

Dear Sir:

Please be advised that on or about June 7, 2004, New York and Eastern Railway, LLC (NY&E), CSX Transportation, Inc. (CSX), and New York Central Lines, LLC (NYC), expect to file with the Surface Transportation Board ("Board") a Petition for Exemption seeking authority for NY&E and CSX to discontinue service over and for NYC to abandon approximately 4.7 miles of railroad in Poughkeepsie, Dutchess County, NY.

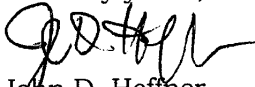
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Mr. Roger Akley, Commissioner
May 26, 2004
Page 2

you have any questions about the Board's environmental review process, please contact the Section of Environmental Analysis (SEA), Surface Transportation Board, Washington, DC 20423, telephone (202) 565-1545 and refer to the above Docket Numbers. Because the applicable statutes and regulations impose stringent deadlines for processing this action, your comments to SEA (with copy to me) within three weeks would be appreciated.

If there are any questions concerning this proposal, please contact me directly by telephone at (202) 263-4180, or by mail at the above address.

Sincerely yours,



John D. Heffner

Attachment

Copy:

Surface Transportation Board
Section of Environmental Analysis
1925 "K" Street NW - Suite 534
Washington, DC 20423-0001

cc: Mr. David Geraci
Mr. Eyal Shapira
Mr. Louis E. Gitomer

JOHN D. HEFFNER, PLLC

1920 N ST., N.W.

SUITE 800

WASHINGTON, D.C. 20036

(202) 263-4180

FAX (202) 296-3939

j.heffner@verizon.net

ATTACHMENT 4

May 26, 2004

Ms. Laura Wojtowicz, Planner
Town of Poughkeepsie Planning Department
1 Overocker Road
Poughkeepsie, NY 12603

RE: Docket No. AB-873X, New York and Eastern
Railway, LLC, Discontinuance Exemption in
Poughkeepsie, Dutchess County, NY

Docket No. AB-565 (Sub. No. 17X), New York
Central Lines, LLC, Abandonment Exemption
in Poughkeepsie, Dutchess County, NY, and

Docket No. AB-55 (Sub. No. 652X)
CSX Transportation, Inc., Discontinuance
Exemption in Poughkeepsie, Dutchess County, NY

Dear Madam:

Please be advised that on or about June 7, 2004, New York and Eastern Railway, LLC (NY&E), CSX Transportation, Inc. (CSX), and New York Central Lines, LLC (NYC), expect to file with the Surface Transportation Board ("Board") a Petition for Exemption seeking authority for NY&E and CSX to discontinue service over and for NYC to abandon approximately 4.7 miles of railroad in Poughkeepsie, Dutchess County, NY.

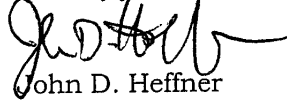
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Ms. Laura Wojtowicz, Planner
May 26, 2004
Page 2

Board, Washington, DC 20423, telephone (202) 565-1545 and refer to the above Docket Numbers. Because the applicable statutes and regulations impose stringent deadlines for processing this action, your comments to SEA (with copy to me) within three weeks would be appreciated.

If there are any questions concerning this proposal, please contact me directly by telephone at (202) 263-4180, or by mail at the above address.

Sincerely yours,



John D. Heffner

Attachment

Copy:

Surface Transportation Board
Section of Environmental Analysis
1925 "K" Street NW - Suite 534
Washington, DC 20423-0001

cc: Mr. David Geraci
Mr. Eyal Shapira
Mr. Louis E. Gitomer

JOHN D. HEFFNER, PLLC

1920 N ST., N.W.

SUITE 800

WASHINGTON, D.C. 20036

(202) 263-4180

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j.heffner@verizon.net

ATTACHMENT 5

May 26, 2004

Mr. Jim Marquette, City Administrator
City of Poughkeepsie Planning Department
PO Box 300
Poughkeepsie, NY 12602

RE: Docket No. AB-873X, New York and Eastern
Railway, LLC, Discontinuance Exemption in
Poughkeepsie, Dutchess County, NY

Docket No. AB-565 (Sub. No. 17X), New York
Central Lines, LLC, Abandonment Exemption
in Poughkeepsie, Dutchess County, NY, and

Docket No. AB-55 (Sub. No. 652X)
CSX Transportation, Inc., Discontinuance
Exemption in Poughkeepsie, Dutchess County, NY

Dear Sir:

Please be advised that on or about June 7, 2004, New York and Eastern Railway, LLC (NY&E), CSX Transportation, Inc. (CSX), and New York Central Lines, LLC (NYC), expect to file with the Surface Transportation Board ("Board") a Petition for Exemption seeking authority for NY&E and CSX to discontinue service over and for NYC to abandon approximately 4.7 miles of railroad in Poughkeepsie, Dutchess County, NY.

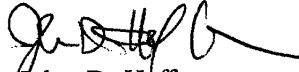
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Mr. Jim Marquette, City Administrator
May 26, 2004
Page 2

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If there are any questions concerning this proposal, please contact me directly by telephone at (202) 263-4180, or by mail at the above address.

Sincerely yours,



John D. Heffner

Attachment

Copy:

Surface Transportation Board
Section of Environmental Analysis
1925 "K" Street NW - Suite 534
Washington, DC 20423-0001

cc: Mr. David Geraci
Mr. Eyal Shapira
Mr. Louis E. Gitomer

TOWN OF POUGHKEEPSIE

Joseph E. Davis,
Supervisor



(845)485-3603
(845)485-3701 fax

One Overocker Road

Poughkeepsie, NY 12603

June 11, 2004

Mr. John D. Heffner, PLLC
1920 N St. N.W. Suite 800
Washington, D.C. 20036

RE: Docket No. AB-873X, New York and Eastern Railway, LLC,
Discontinuance Exemption in Poughkeepsie, Dutchess County, NY

Docket No. AB-565 (Sub. No. 17X), New York Central Lines,
LLC, Abandonment Exemption in Poughkeepsie, Dutchess County, NY

Docket No. AB-55 (Sub. No. 652X) CSX Transportation, Inc.,
Discontinuance Exemption in Poughkeepsie, Dutchess County, NY

Dear Mr. Heffner:

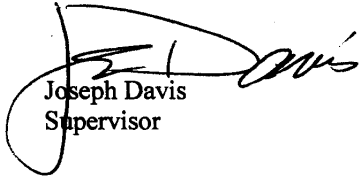
This letter is in response to the filing of a Petition for Exemption with the Surface Transportation Board ("Board") in seeking authority for the discontinuance of service and abandonment of approximately 4.7 miles of railroad in the City and Town of Poughkeepsie, Dutchess County, NY.

In order to gain a better understanding of the proposed action we request that you send us information regarding the short and long term strategic plan for the railroad right-of-way as it pertains to the City and Town of Poughkeepsie. In particular it is essential for us to know the proposed plan for the railroad should the Board grant the authority for abandonment.

This information will enable us to complete a thorough review of the proposed action as it begins the environmental review process. As such, we request that no action be taken until we have had time to receive and review the items listed above.

In addition, please forward this letter to Mr. David Geraci, Mr. Eyal Shapira, and Mr. Louis E. Gitomer. Thank you.

Sincerely,



Joseph Davis
Supervisor

Cc: Mr. Roger Akeley, Commissioner, Dutchess County Planning Department
Mrs. Anne Conroy, Dutchess County Economic Development Corporation
Mr. Jim Marquette, City Administrator, City of Poughkeepsie

JOHN D. HEFFNER, PLLC

1920 N ST., N.W.

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WASHINGTON, D.C. 20036

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j.heffner@verizon.net

ATTACHMENT 6

May 26, 2004

USDA - NRCS
Millbrook Service Center
2715 Route 44
Millbrook, NY 12545-0037

RE: Docket No. AB-873X, New York and Eastern
Railway, LLC, Discontinuance Exemption in
Poughkeepsie, Dutchess County, NY

Docket No. AB-565 (Sub. No. 17X), New York
Central Lines, LLC, Abandonment Exemption
in Poughkeepsie, Dutchess County, NY, and

Docket No. AB-55 (Sub. No. 652X)
CSX Transportation, Inc., Discontinuance
Exemption in Poughkeepsie, Dutchess County, NY

Dear Sir:

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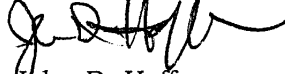
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USDA - NRCS
May 26, 2004
Page 2

refer to the above Docket Numbers. Because the applicable statutes and regulations impose stringent deadlines for processing this action, your comments to SEA (with copy to me) within three weeks would be appreciated.

If there are any questions concerning this proposal, please contact me directly by telephone at (202) 263-4180, or by mail at the above address.

Sincerely yours,



John D. Heffner

Attachment

Copy:

Surface Transportation Board
Section of Environmental Analysis
1925 "K" Street NW - Suite 534
Washington, DC 20423-0001

cc: Mr. David Geraci
Mr. Eyal Shapira
Mr. Louis E. Gitomer

JOHN D. HEFFNER, PLLC

1920 N St., N.W.

SUITE 800

WASHINGTON, D.C. 20036

(202) 263-4180

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j.heffner@verizon.net

ATTACHMENT 7

May 26, 2004

Mr. George R. Stafford, Director
Coastal Resources & Waterfront
Revitalization Division
Secretary of State's Office
41 State Street
Albany, NY 12331-0001

RE: Docket No. AB-873X, New York and Eastern
Railway, LLC, Discontinuance Exemption in
Poughkeepsie, Dutchess County, NY

Docket No. AB-565 (Sub. No. 17X), New York
Central Lines, LLC, Abandonment Exemption
in Poughkeepsie, Dutchess County, NY, and

Docket No. AB-55 (Sub. No. 652X)
CSX Transportation, Inc., Discontinuance
Exemption in Poughkeepsie, Dutchess County, NY

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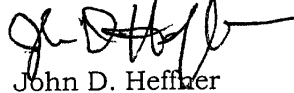
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Mr. George R. Stafford, Director
May 26, 2004
Page 2

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Sincerely yours,



John D. Heffner

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Surface Transportation Board
Section of Environmental Analysis
1925 "K" Street NW - Suite 534
Washington, DC 20423-0001

cc: Mr. David Geraci
Mr. Eyal Shapira
Mr. Louis E. Gitomer

JOHN D. HEFFNER, PLLC

1920 N St., N.W.

SUITE 800

WASHINGTON, D.C. 20036

(202) 263-4180

FAX (202) 296-3939

j.heffner@verizon.net

ATTACHMENT 8

May 26, 2004

Mr. Gerald Barnhart
Director
Fish, Wildlife & Marine Division
Environmental Conservation Department
50 Wolf Road
Albany, NJ 122333

RE: Docket No. AB-873X, New York and Eastern
Railway, LLC, Discontinuance Exemption in
Poughkeepsie, Dutchess County, NY

Docket No. AB-565 (Sub. No. 17X), New York
Central Lines, LLC, Abandonment Exemption
in Poughkeepsie, Dutchess County, NY, and

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CSX Transportation, Inc., Discontinuance
Exemption in Poughkeepsie, Dutchess County, NY

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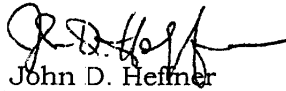
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Mr. Gerald Barnhart
May 26, 2004
Page 2

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Sincerely yours,


John D. Heffner

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Surface Transportation Board
Section of Environmental Analysis
1925 "K" Street NW - Suite 534
Washington, DC 20423-0001

cc: Mr. David Geraci
Mr. Eyal Shapira
Mr. Louis E. Gitomer

JOHN D. HEFFNER, PLLC

1920 N ST., N.W.

SUITE 800

WASHINGTON, D.C. 20036

(202) 263-4180

FAX (202) 296-3939

j.heffner@verizon.net

ATTACHMENT 9

May 26, 2004

National Park Service
Northeast Region
Regional Director
U.S. Custom House
200 Chestnut St., Fifth Floor
Philadelphia, PA 19106

RE: Docket No. AB-873X, New York and Eastern
Railway, LLC, Discontinuance Exemption in
Poughkeepsie, Dutchess County, NY

Docket No. AB-565 (Sub. No. 17X), New York
Central Lines, LLC, Abandonment Exemption
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CSX Transportation, Inc., Discontinuance
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National Park Service
May 26, 2004
Page 2

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Sincerely yours,



John D. Heffner

Attachment

Copy:

Surface Transportation Board
Section of Environmental Analysis
1925 "K" Street NW - Suite 534
Washington, DC 20423-0001

cc: Mr. David Geraci
Mr. Eyal Shapira
Mr. Louis E. Gitomer

JOHN D. HEFFNER, PLLC

1920 N St., N.W.

SUITE 800

WASHINGTON, D.C. 20036

(202) 263-4180

FAX (202) 296-3939

j.heffner@verizon.net

ATTACHMENT 10

May 26, 2004

Mr. N.G. Kaul, Director
Water Quality and Environmental Remediation Office
Environmental Conservation Department
50 Wolf Road
Albany, NY 12233

RE: Docket No. AB-873X, New York and Eastern
Railway, LLC, Discontinuance Exemption in
Poughkeepsie, Dutchess County, NY

Docket No. AB-565 (Sub. No. 17X), New York
Central Lines, LLC, Abandonment Exemption
in Poughkeepsie, Dutchess County, NY, and

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CSX Transportation, Inc., Discontinuance
Exemption in Poughkeepsie, Dutchess County, NY

To Whom It May Concern:

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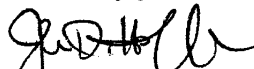
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Mr. N.G. Kaul, Director
May 26, 2004
Page 2

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Sincerely yours,



John D. Heffner

Attachment

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Surface Transportation Board
Section of Environmental Analysis
1925 "K" Street NW - Suite 534
Washington, DC 20423-0001

cc: Mr. David Geraci
Mr. Eyal Shapira
Mr. Louis E. Gitomer

JOHN D. HEFFNER, PLLC

1920 N St., N.W.

SUITE 800

WASHINGTON, D.C. 20036

(202) 263-4180

FAX (202) 296-3939

j.heffner@verizon.net

ATTACHMENT 11

May 26, 2004

Mr. Joe Vietri
U.S. Army Corps of Engineers
New York District
26 Federal Plaza
New York, NY 10278

RE: Docket No. AB-873X, New York and Eastern
Railway, LLC, Discontinuance Exemption in
Poughkeepsie, Dutchess County, NY

Docket No. AB-565 (Sub. No. 17X), New York
Central Lines, LLC, Abandonment Exemption
in Poughkeepsie, Dutchess County, NY, and

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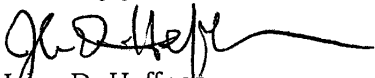
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Mr. Joe Vietri
May 26, 2004
Page 2

Transportation Board, Washington, DC 20423, telephone (202) 565-1545 and refer to the above Docket Numbers. Because the applicable statutes and regulations impose stringent deadlines for processing this action, your comments to SEA (with copy to me) within three weeks would be appreciated.

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Section of Environmental Analysis
1925 "K" Street NW - Suite 534
Washington, DC 20423-0001

cc: Mr. David Geraci
Mr. Eyal Shapira
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JOHN D. HEFFNER, PLLC

1920 N ST., N.W.

SUITE 800

WASHINGTON, D.C. 20036

(202) 263-4180

FAX (202) 296-3939

j.heffner@verizon.net

ATTACHMENT 12

May 26, 2004

Environmental Protection Agency
Region 2
290 Broadway
New York, NY 10007-1866

RE: Docket No. AB-873X, New York and Eastern
Railway, LLC, Discontinuance Exemption in
Poughkeepsie, Dutchess County, NY

Docket No. AB-565 (Sub. No. 17X), New York
Central Lines, LLC, Abandonment Exemption
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To Whom It May Concern:

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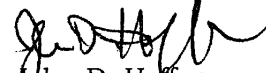
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Environmental Protection Agency
May 26, 2004
Page 2

Numbers. Because the applicable statutes and regulations impose stringent deadlines for processing this action, your comments to SEA (with copy to me) within three weeks would be appreciated.

If there are any questions concerning this proposal, please contact me directly by telephone at (202) 263-4180, or by mail at the above address.

Sincerely yours,



John D. Heffner

Attachment
Copy:
Surface Transportation Board
Section of Environmental Analysis
1925 "K" Street NW - Suite 534
Washington, DC 20423-0001

cc: Mr. David Geraci
Mr. Eyal Shapira
Mr. Louis E. Gitomer

JOHN D. HEFFNER, PLLC

1920 N ST., N.W.

SUITE 800

WASHINGTON, D.C. 20036

(202) 263-4180

FAX (202) 296-3939

j.heffner@verizon.net

ATTACHMENT 13

May 26, 2004

Mr. Gerald Barnhart, Director
Fish, Wildlife & Marine Division
Environmental Conservation Department
50 Wolf Road
Albany, NY 12233

RE: Docket No. AB-873X, New York and Eastern
Railway, LLC, Discontinuance Exemption in
Poughkeepsie, Dutchess County, NY

Docket No. AB-565 (Sub. No. 17X), New York
Central Lines, LLC, Abandonment Exemption
in Poughkeepsie, Dutchess County, NY, and

Docket No. AB-55 (Sub. No. 652X)
CSX Transportation, Inc., Discontinuance
Exemption in Poughkeepsie, Dutchess County, NY

To Whom It May Concern:

Please be advised that on or about June 7, 2004, New York and Eastern Railway, LLC (NY&E), CSX Transportation, Inc. (CSX), and New York Central Lines, LLC (NYC), expect to file with the Surface Transportation Board ("Board") a Petition for Exemption seeking authority for NY&E and CSX to discontinue service over and for NYC to abandon approximately 4.7 miles of railroad in Poughkeepsie, Dutchess County, NY.

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Mr. Gerald Barnhart, Director
May 26, 2004
Page 2

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Sincerely yours,



John D. Heffner

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Surface Transportation Board
Section of Environmental Analysis
1925 "K" Street NW - Suite 534
Washington, DC 20423-0001

cc: Mr. David Geraci
Mr. Eyal Shapira
Mr. Louis E. Gitomer

JOHN D. HEFFNER, PLLC

1920 N ST., N.W.

SUITE 800

WASHINGTON, D.C. 20036

(202) 263-4180

FAX (202) 296-3939

j.heffner@verizon.net

ATTACHMENT 14

May 26, 2004

Mr. Jack Earl
NYSDOT
Freight & Economic Development Division
1220 Washington Avenue
BLDG 7A, Room 303
Albany, NY 12232

RE: Docket No. AB-873X, New York and Eastern
Railway, LLC, Discontinuance Exemption in
Poughkeepsie, Dutchess County, NY

Docket No. AB-565 (Sub. No. 17X), New York
Central Lines, LLC, Abandonment Exemption
in Poughkeepsie, Dutchess County, NY, and

Docket No. AB-55 (Sub. No. 652X)
CSX Transportation, Inc., Discontinuance
Exemption in Poughkeepsie, Dutchess County, NY

Dear Sir:

Please be advised that on or about June 7, 2004, New York and Eastern Railway, LLC (NY&E), CSX Transportation, Inc. (CSX), and New York Central Lines, LLC (NYC), expect to file with the Surface Transportation Board ("Board") a Petition for Exemption seeking authority for NY&E and CSX to discontinue service over and for NYC to abandon approximately 4.7 miles of railroad in Poughkeepsie, Dutchess County, NY.

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Mr. Jack Earl
May 26, 2004
Page 2

Section of Environmental Analysis (SEA), Surface Transportation Board,
Washington, DC 20423, telephone (202) 565-1545 and refer to the above Docket
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John D. Heffner

Attachment

Copy:

Surface Transportation Board
Section of Environmental Analysis
1925 "K" Street NW - Suite 534
Washington, DC 20423-0001

cc: Mr. David Geraci
Mr. Eyal Shapira
Mr. Louis E. Gitomer

JOHN D. HEFFNER, PLLC

1920 N ST., N.W.

SUITE 800

WASHINGTON, D.C. 20036

(202) 263-4180

FAX (202) 296-3939

j.heffner@verizon.net

ATTACHMENT 15

May 26, 2004

Mr. Frank Maida
DOC/NOAA
National Geodetic Survey N/NGS23
1315 East West Highway Station 8736
Silver Spring, MD 20910-3282

RE: Docket No. AB-873X, New York and Eastern
Railway, LLC, Discontinuance Exemption in
Poughkeepsie, Dutchess County, NY

Docket No. AB-565 (Sub. No. 17X), New York
Central Lines, LLC, Abandonment Exemption
in Poughkeepsie, Dutchess County, NY, and

Docket No. AB-55 (Sub. No. 652X)
CSX Transportation, Inc., Discontinuance
Exemption in Poughkeepsie, Dutchess County, NY

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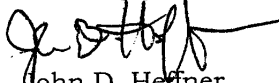
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Mr. Frank Maida
May 26, 2004
Page 2

Section of Environmental Analysis (SEA), Surface Transportation Board,
Washington, DC 20423, telephone (202) 565-1545 and refer to the above Docket
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If there are any questions concerning this proposal, please contact me directly by
telephone at (202) 263-4180, or by mail at the above address.

Sincerely yours,



John D. Heffner

Attachment

Copy:

Surface Transportation Board
Section of Environmental Analysis
1925 "K" Street NW - Suite 534
Washington, DC 20423-0001

cc: Mr. David Geraci
Mr. Eyal Shapira
Mr. Louis E. Gitomer



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
National Geodetic Survey
Silver Spring, Maryland 20910-3282

JUN 15 2004

Ms. Victoria J. Rutson
Chief, Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

Dear Ms. Rutson:

The area in question on the map with the Environmental and Historic Reports for the proposed rail line abandonment of New York and Eastern Railway, LLC, STB Docket No. AB-873X, the New York Central Lines, LLC, STB Docket No. AB-565 (Sub-No. 17X), and CSX Transportation, Inc., STB Docket No. AB-55 (Sub-No. 652X), for approximately 4.7 miles of rail line from milepost QCO 0.0 to milepost QCO 3.2 and milepost QCK 29.5 to milepost QCK 31.0, in the town and city of Poughkeepsie, Dutchess County, New York, has been reviewed within the areas of National Geodetic Survey (NGS) responsibility and expertise and in terms of the impact of the proposed actions on NGS activities and projects.

As a result of this review, 7 geodetic station markers have been identified that may be affected by the proposed abandonment; a listing of these markers is enclosed. Additional information about these station markers can be obtained via the Internet or NGS CD-FOM. A fact sheet for these two data retrieval methods is enclosed. If there are any planned activities which will disturb or destroy these markers, NGS requires not less than 90 days notification in advance of such activities in order to plan for their relocation.

If further information is needed for these geodetic markers, contact Mr. Frank C. Maida. His address is NOAA, N/NGS2, Room 8736, 1315 East-West Highway, Silver Spring, Maryland 20910-3282, telephone: 301-713-3198, fax: 301-713-4324, e-mail: Frank.Maida@noaa.gov.

Sincerely,

Richard A. Snay
Chief, Spatial Reference System Division

Enclosures

cc: N/NGS1 - G. Mitchell



Printed on Recycled Paper



NEW YORK AND EASTERN RAILWAY, LLC

STB DOCKET NO. AB-873X

NEW YORK CENTRAL LINES, LLC

STB DOCKET NO. AB-565 (SUB-NO. 17X)

CSX TRANSPORTATION, INC.

STB DOCKET NO. AB-55 (SUB-NO. 652X)

IN POUGHKEEPSIE, DUTCHESS COUNTY, NEW YORK

7 GEODETIC CONTROL MARKS IN THE PROPOSED ABANDONMENT AREA

PIDS	DESIGNATION	LATITUDE	LONGITUDE
LX1508	B 58	N414301	W0735434
LX1507	A 58	N414252	W0735512
LX1505	D 78	N414242	W0735538
LX1506	D 78 RESET	N414242	W0735538
LX1524	W 28	N414238	W0735546
LX1410	K 58	N414244	W0735614
LX1525	Y 28	N414238	W0735616

HISTORIC REPORT

DOCKET AB-873X

NEW YORK AND EASTERN RAILWAY LLC-DISCONTINUANCE EXEMPTION
IN POUGHKEEPSIE, DUTCHESS COUNTY, NY

DOCKET AB-55 (SUB-NO. 652X)

CSX TRANSPORTATION, INC. -DISCONTINUANCE EXEMPTION
IN POUGHKEEPSIE, DUTCHESS COUNTY, NY

DOCKET AB-565 (SUB-NO. 17X)

NEW YORK CENTRAL LINES, LLC. -ABANDONMENT EXEMPTION
IN POUGHKEEPSIE, DUTCHESS COUNTY, NY

1105.7(e)(1)

PROPOSED ACTION AND ALTERNATIVES. Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable detailed map and drawings clearly delineating the project.

New York and Eastern Railway, LLC ("NY&E") and CSX Transportation ("CSXT") propose to discontinue service over and New York Central Lines LLC ("NYC") proposes to abandon a line of railroad located in the Town and City of Poughkeepsie, Dutchess County, NY. NY&E, CSXT, and NYC will jointly be referred to as Applicants. The subject railroad is owned by NYC and operated by CSXT, which has, in turn, leased it to NY&E, a recently established class III short line railroad. The line consists of approximately 4.7 miles of right of way and associated property from milepost QCO 0.0 to milepost QCO 3.2 and milepost QCK 29.5 to milepost QCK 31.0 ("the Line"). NY&E originally leased the Line from CSXT in June

2003 with the intent of restoring service formerly provided by CSXT and Consolidated Rail Corporation ("Conrail"). No service is currently being provided over the Line for lack of demand. NY&E and CSXT have decided to terminate the lease and seek to discontinue service over the Line and NYC has decided to abandon the Line.

Abandonment of the Line will result in the removal of the rail, cross-ties, and possibly the upper layer of ballast. Maintenance of the Line will cease.

The only alternative would be not to abandon and to incur opportunity costs for the assets in the Line. This would not be a prudent utilization of carrier resources.

Two maps which delineate the proposed project are attached. (See Attachments 1 and 2.)

1105.8(d)

- (1) A U.S.G.S. topographic map showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action.**

Attached is a copy of the Poughkeepsie quadrangle topographic map prepared by the U. S. Department of Interior Geological Survey prepared by the U. S. Department of Interior Geological Survey. The Line has been identified by a heavy black diagonal line. (See Attachment 3).

There are five (5) structures owned by NYC that are 50 years old or older which may be eligible for listing in the National Register and are part of the proposed action.

- (2) A written description of the right of way (including approximate widths, to the extent known), and the topography and urban and/or rural characteristic of the surrounding area:**

The width of the right of way varies from 33 to 80 feet on

either side of the centerline of the track. The Line traverses the Town and City of Poughkeepsie in a residential and semi-light industrial area.

- (3) Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years old or older and of the immediately surrounding area:**

Appended as Attachment 6 are photographs of five railroad bridges, the only structures that are 50 years old or older on the Line.

- (4) The date(s) of construction of the structure(s), and the date(s) and extent of any major alterations, to the extent such information is known:**

Bridge No. 11111-304223 is located at Milepost QCK 30.11 and is a 75-foot "T" beam span built in 1900.

Bridge No. 11093-304223 is located at Milepost QCK 30.29 and is a 55-foot Thru-Plate Girder built in 1900.

Bridge No. 11033-304223 is located at Milepost QCK 30.89 and is an 18-foot "T" beam span built in 1912.

Bridge No. 1.36-304278 is located at Milepost QCO 1.36 and is a 30-foot "T" beam span built in 1910.

Bridge No. 2.27A-304278 is located at Milepost QCO 2.27 and is a 30-foot "T" beam span built in 1910.

All bridges are located within Poughkeepsie.

- (5) A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action:**

The Line was an intersection between two railroads. The land was acquired between 1871 and 1890 by the Poughkeepsie and Eastern Railroad (P&E) and the Poughkeepsie and Connecticut Railroad (P&C). Through a series of mergers and acquisitions, the P&E became part of the Central New England Railroad System (CNE) in 1907.

The P&C became part of the CNE in 1899. The CNE owned and operated the Line until it was absorbed into the New York, New Haven & Hartford Railroad (NH) sometime in the early part of the Twentieth Century. In 1969 NH was absorbed into the newly formed Penn Central Transportation Company (PCRR), which was subsequently acquired by Consolidated Rail Corporation (Conrail) in April 1976.

In June of 1999, CSX Corporation, CSXT's parent company, and Norfolk Southern Corporation (NS) jointly acquired control of Conrail Inc., and its wholly owned subsidiary, Conrail. As a result of that acquisition, certain assets of Conrail have been assigned to NYC, a wholly owned subsidiary of Conrail, to be exclusively operated by CSXT pursuant to an operating agreement. The Line is included among the property being operated by CSXT pursuant to the NYC operating agreement.

In September of 2003, NYC and CSXT entered into a lease agreement with the NY&E to occupy, maintain and operate the remaining segment known as the Poughkeepsie and Hospital Industrial Tracks.

Abandonment of the Line will result in the removal of the rail, crossties, and possibly the upper layer of ballast. Maintenance of the Line will cease.

- (6) **A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic:**

Engineering sketches can be provided upon request, if such engineering sketches exist.

- (7) **An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36**

C.F.R. 60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities):

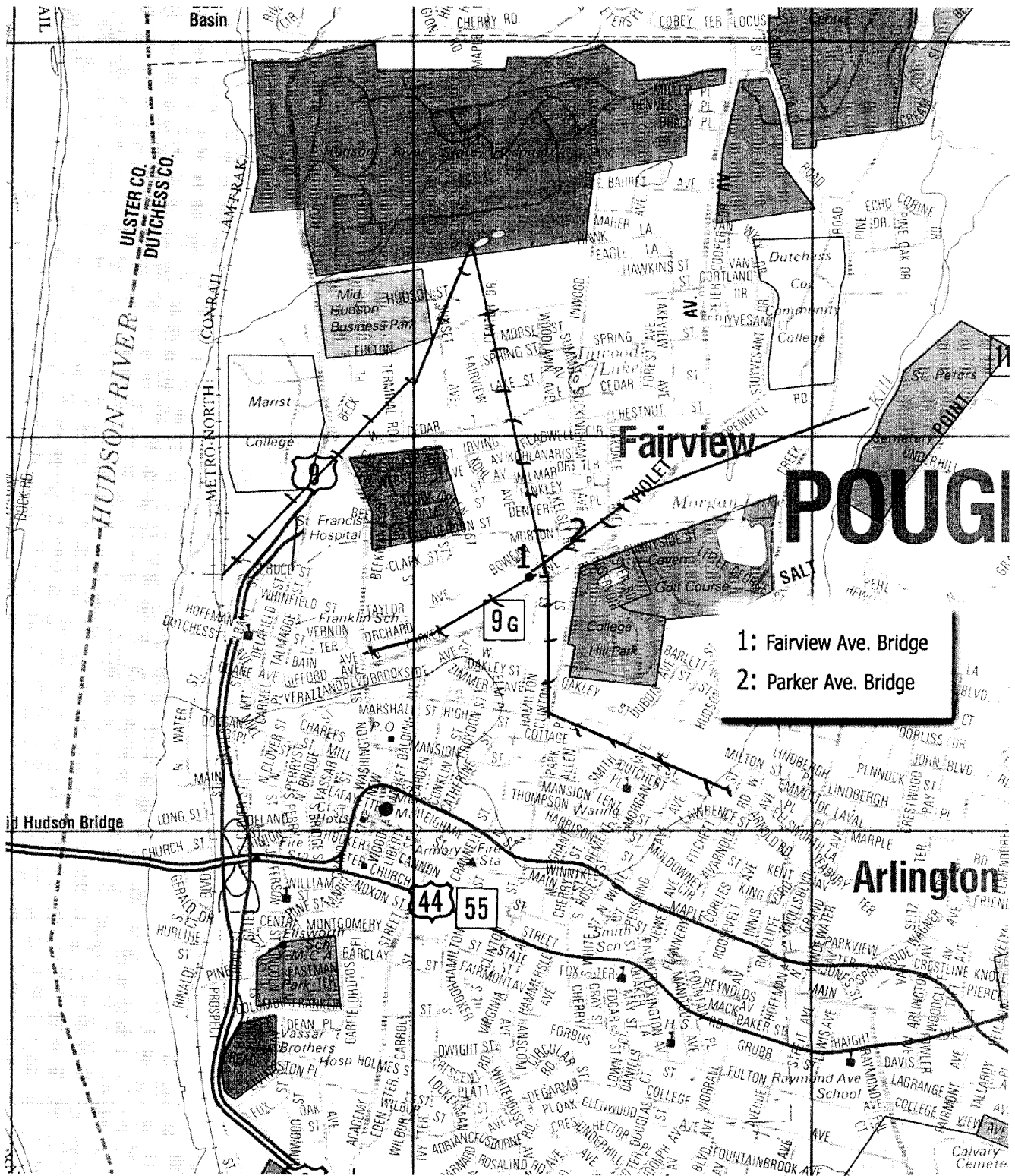
A review of our records indicates there are five (5) CSXT-owned structures over 50 years old on the Line which may be eligible for listing in the National Register.

We do not know of any significance or uniqueness to these structures that would warrant your consideration, since to our knowledge, it is not associated with any event that has made a contribution to the broad patterns of history; or was not associated with lives of persons significant to our past; does not embody the distinctive characteristics of a type, period or method of construction and does not represent a significant and distinguishable entity whose component may lack individual distinction and has not or may not be likely to yield information important in prehistory or history.

- (8) A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or man-made) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.

The Line was disturbed during construction by cuts and fill and any archeological resources that may have been located in the proposed project area would have been affected at that time versus during the proposed salvage operations associated with rail removal. Our records do not indicate that any swampy conditions exist, or that any hazardous material spills have occurred within the project area.

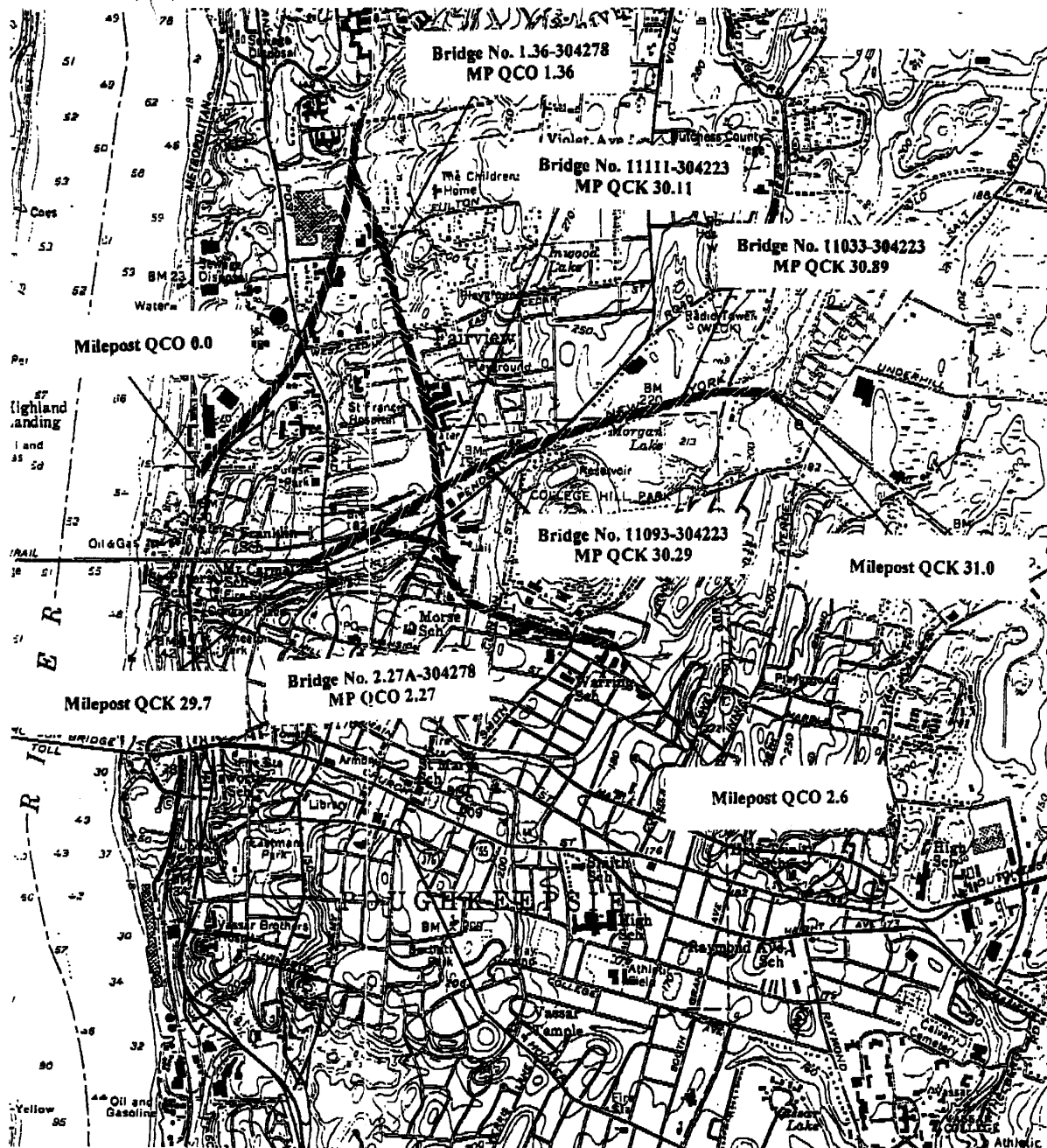
Legend 1" = 1/2 MILE



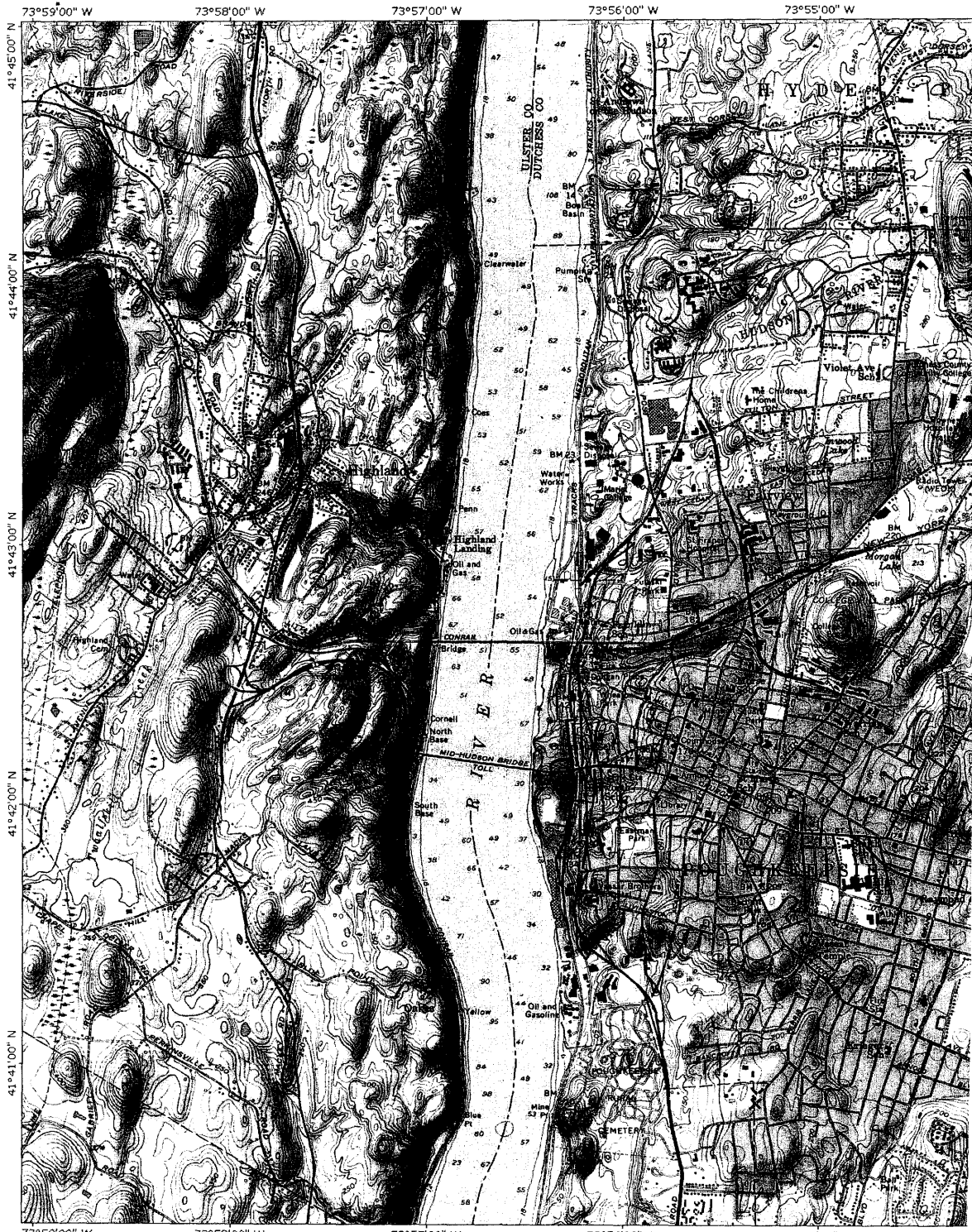
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ATTACHMENT 2

P. 002



ATTACHMENT 3

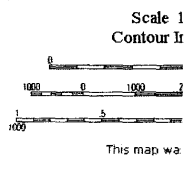
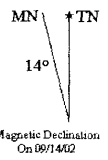


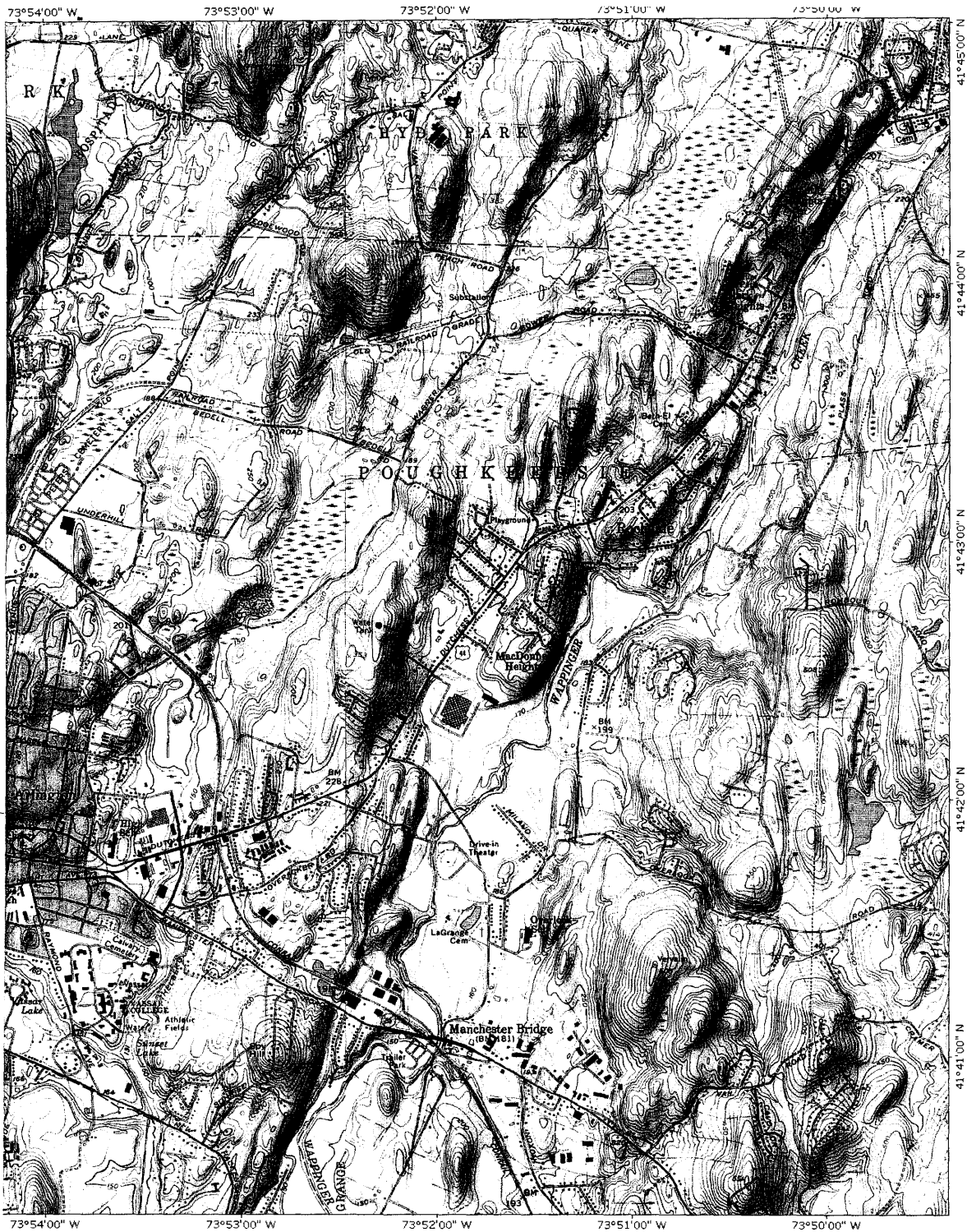
73°59'00" W 73°58'00" W 73°57'00" W 73°56'00" W 73°55'00" W
 NAD83 Horiz. Datum (Equiv. to WGS84)

This map was printed from a seamless mosaic of 2.5 USGS quads at the Map Machine, 2000 Robotic Geographic Mapping. The actual map microreduces map extent and conditions may change. Users assume all risk associated with the use of this map. Enjoy the Map Machine at home with regional and full-state TOPO! CD-ROMs and at your computer.

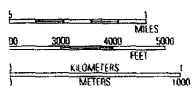


**NATIONAL
GEOGRAPHIC**





73°54'00" W
:30,750
terval 10 ft



printed by ES



MAP LOCATION
IN NEW ENGLAND

1	2	3
4	5	6
7	8	9

ADJOINING 7.5' QUADS

1. Rosendals, NY '80
2. Hyde Park, NY '97
3. Salt Point, NY '78
4. Clintondale, NY '57
5. Poughkeepsie, NY '93
6. Pleasant Valley, NY '81
7. Newburgh, NY '57
8. Wappingers Falls, NY '81
9. Hopewell Junction, NY '81

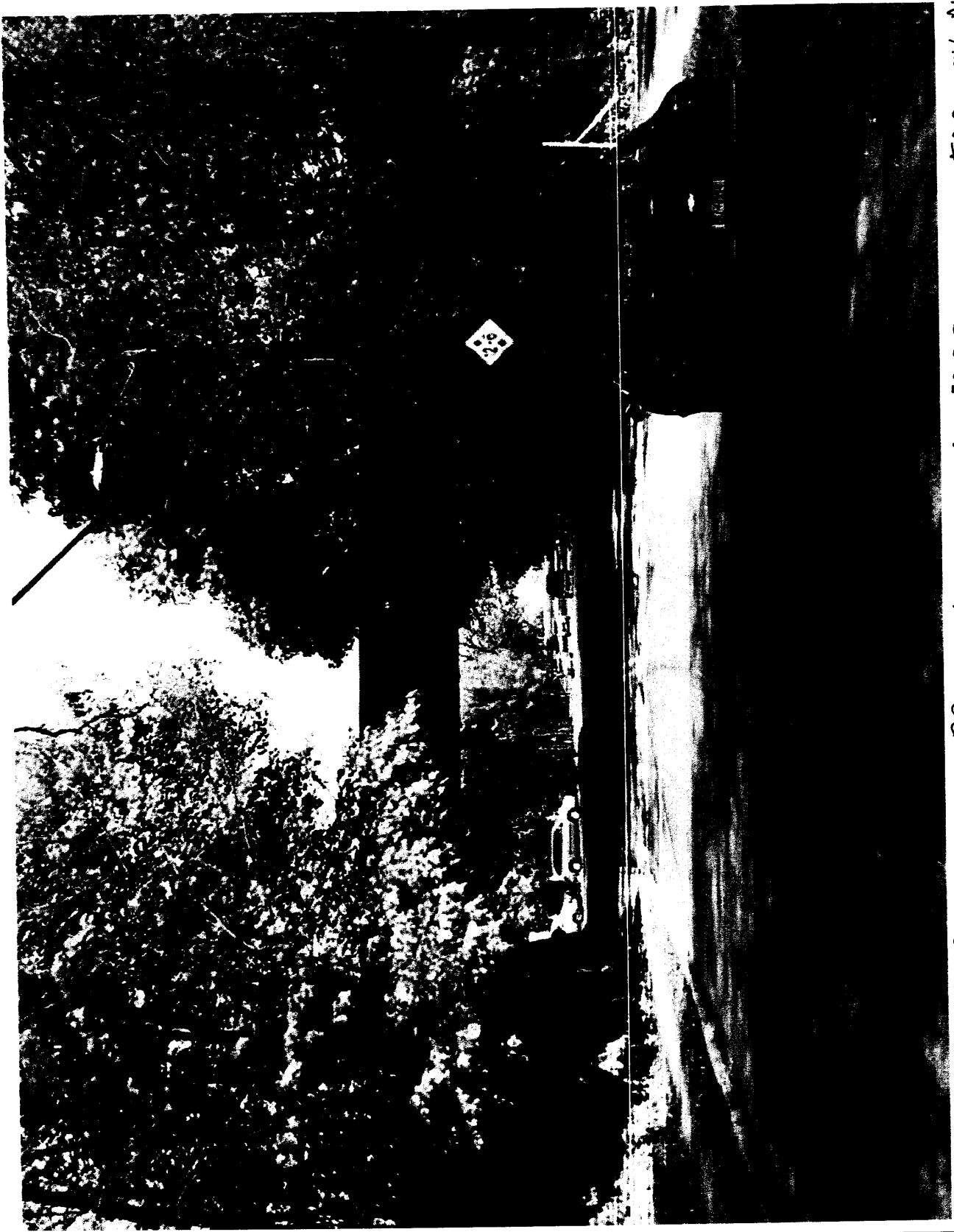
\$7.95



6 41152 90000 0



BRIDGE 8
MD - 30.11 Bridge 11111 - 304223 DARTMOUTH COLLEGE



P.L. No. 11093-20472

RR 10/11 #1 MP CLK 20.20

END 11/11/11 11/11

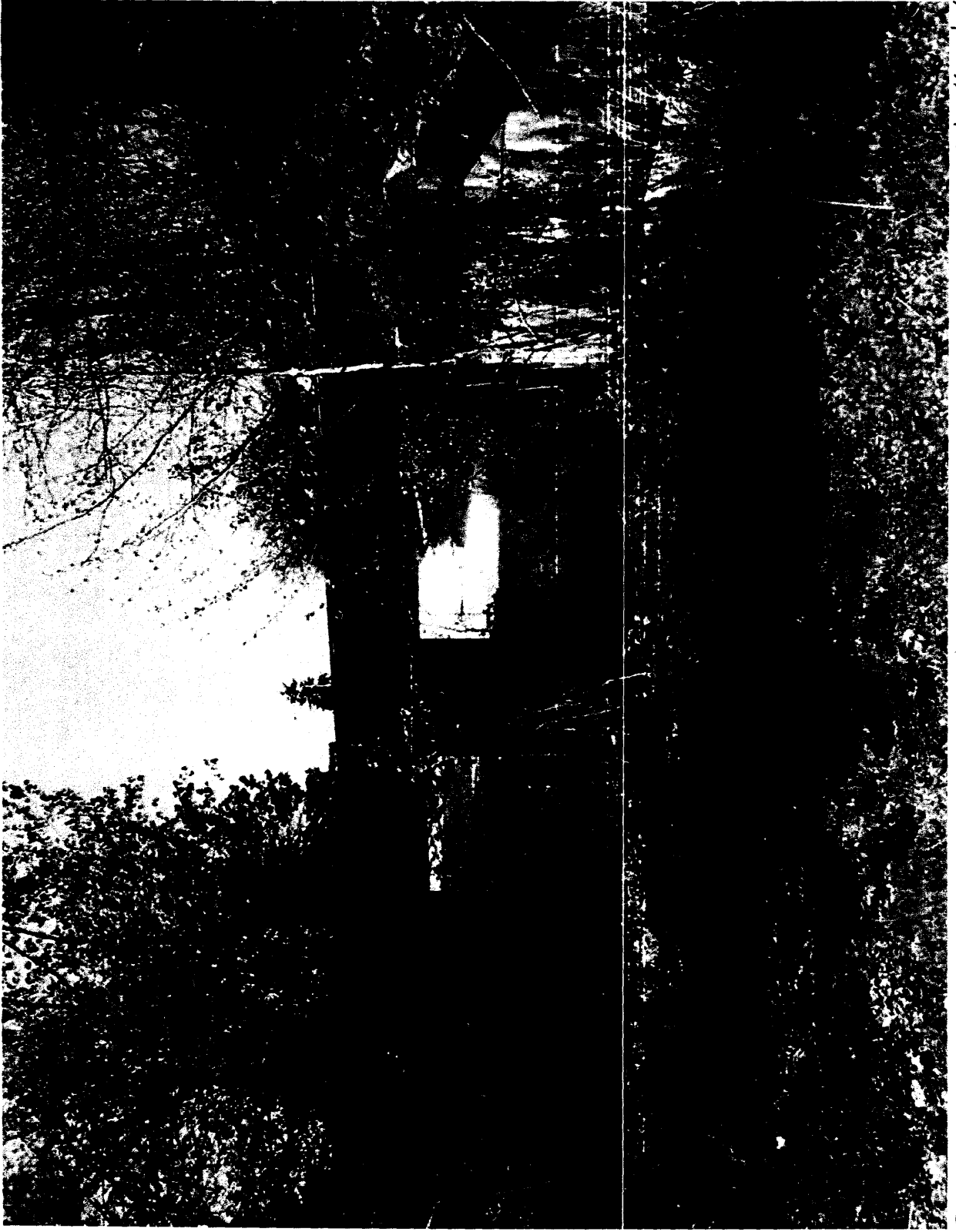


Bridges No 11032-24443

BRIDGE 14

map ark 30.09

CRICK RD

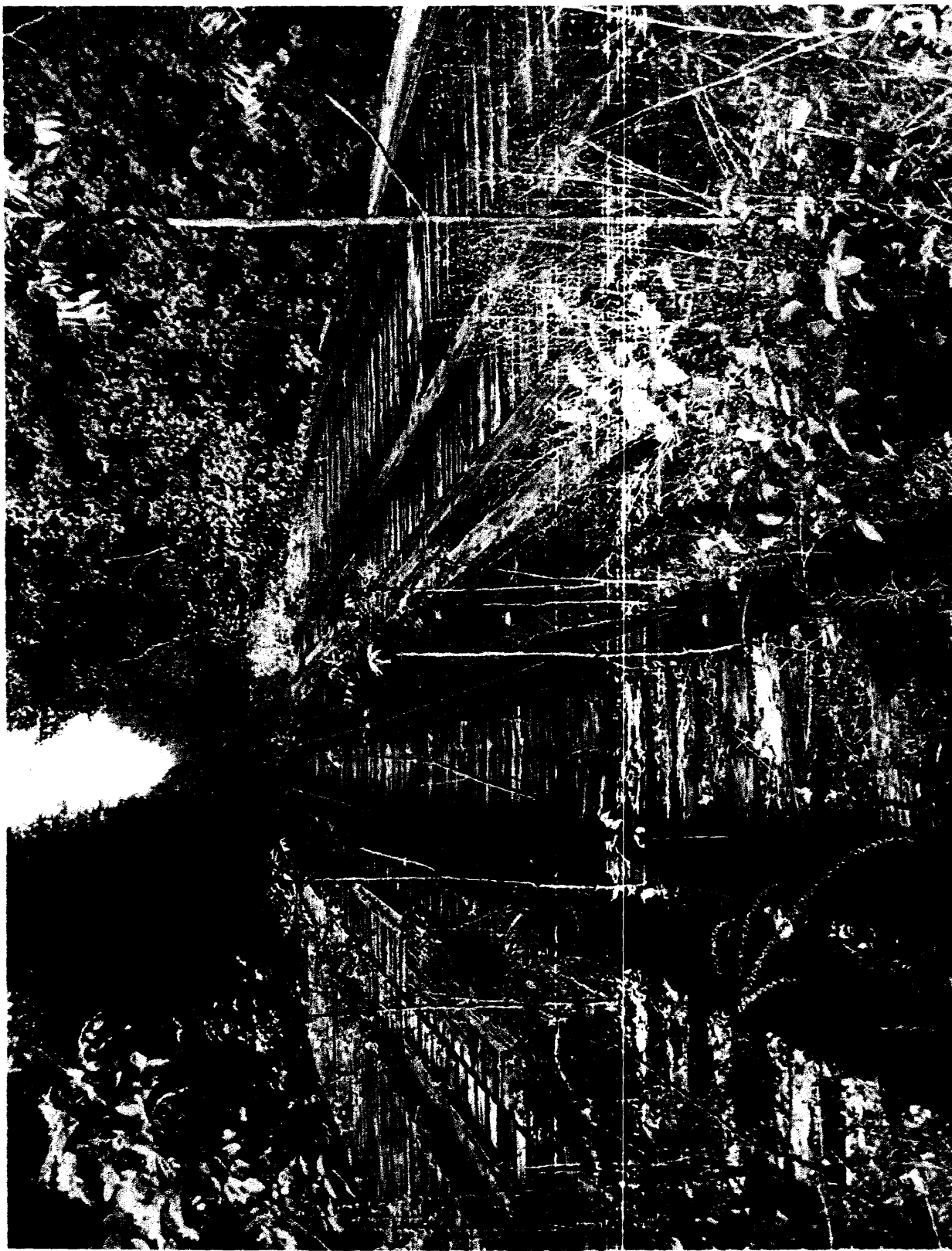


State Hospital

MP 000 1 31

BRIDGE 110

Q-1- 126-204570



DARCO AVE

1.5 2.5 3.5

201745 XZ

1.5 2.5 3.5

EXHIBIT E

CERTIFICATE OF COMPLIANCE WITH THE
NEWSPAPER PUBLICATION REQUIREMENTS OF
SECTION 49 CFR 1105.12

The undersigned further certifies that a "Notice of Intent to Abandon or to Discontinue Rail Service" was published in the form prescribed by the Board for Petitions for Abandonment Exemptions. The notice was published one time in the following newspaper serving communities along the Line:

<u>Community</u>	<u>Newspaper</u>	<u>Date</u>
Poughkeepsie, NY	<i>Poughkeepsie Journal</i>	June 18, 2004

Dated this 29th day of June, 2004.


John D. Heffner

Poughkeepsie Journal

Poughkeepsie, N.Y.

AFFIDAVIT OF PUBLICATION

State of New York
County of Dutchess
City of Poughkeepsie

New York And Eastern
Railway, LLC, CSX Trans-
portation, Inc. and New
York Central Lines, LLC,
give notice that on or
about June 17, 2004, they
will file jointly with the
Surface Transportation
Board, Washington, DC
20423, a petition for
exemption under 49
U.S.C. 10502 from the
or approval requirements
of 49 U.S.C. 10503, which
permitting the abandon-
ment of and discontinu-
ance of service over a 4.7
mile line of railroad be-
tween railroad milepost
QCO 0.0 and milepost
QCO 3.2 and between
milepost QCK 29.5 and
milepost QCK 31.0 (The
Line) near Poughkeepsie,
NY which traverses
through United States
Postal Service ZIP code
12601 in Dutchess County,
NY. The proceeding has
been docketed as Docket
Nos. AS-0734, AS-08 (Se-
b-No. 6820) and AS-08
(Sub-No. 17X).

The Board's Section of En-
vironmental Analysis
(SEA) will prepare pre-
pared for Environmental
Assessment (EA) which
will normally be available
30 days after the filing of
the petition for abandon-
ment exemption. Com-
ments on environmental
and energy matters
should be filed no later
than 30 days after the EA
becomes available to the
public and will be ad-
dressed in a Board deci-
sion. Interested persons
may obtain a copy of the
EA or make inquiries re-
garding environmental
matters by writing to SEA,
Surface Transportation
Board, Washington, DC
20423 or by calling SEA at
202-565-1545.

Appropriate offer of finan-
cial assistance to continue
rail service can be filed
with the Board. Requests
for environmental condi-
tions, public use condi-
tions, 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 rail use, public
use, and offers of financial
assistance) must be filed
directed with the Board's
Office of the Secretary,
1225 K Street, N.W., Wash-
ington, DC 20423 (See 49
CFR 1104.1(a) and
1104.3(a)) and one copy
must be served on appli-
cants' representative (See
49 CFR 1104.12(a)). Ques-
tions regarding offers of
financial assistance, public
use or rail use may be di-
rected to the Board's Of-
fice of Congressional and
Public Services at 202-
565-1594. Copies of any com-
ments or requests for con-
ditions should be served
on the applicant rep-
resentative, John D. Hoff-
er, 1520 N Street, N.W., Suite
600, Washington, DC
20436.

0290

Rita Lombardi, of the City of Poughkeepsie,

Dutchess County, New York, being duly sworn, says that at
the several times hereinafter mentioned she was and still is
the Principal Clerk of the Poughkeepsie Newspapers Division
of Gannett Satellite Information Network, Inc., publisher of
the POUCHKEEPSIE JOURNAL, a newspaper printed and
published every day in the year _____ in the city of
Poughkeepsie, Dutchess County, New York, and that the
annexed NOTICE was duly published in the said newspaper
for ~~one insertion~~ several successively, in each week, commencing
on the _____ 18th _____ day of
June _____

2004 _____ and _____ on the following dates
thereafter, namely on: _____

And ending on the _____ day of
_____, 2004 _____, both days inclusive.

Subscribed and sworn to before me this 21
day of June _____, 2004

Leslie Sheraden
Notary Public

My commission expires 10/4/05

LESLIE SHERADEN
Notary Public, State of New York
No. 01SH5018755
Qualified in Dutchess County
Commission Expires 10/4/05