

209981

LEONARD, STREET AND DEINARD

PROFESSIONAL ASSOCIATION

January 26, 2004

Annie Littlefield

612-335-7082

annie.littlefield@leonard.com

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street N.W.
Washington, D.C. 20423-0001

Re: Abandonment of Trackage Located in Green Island, New York
STB Docket No.: AB-156 (Sub. No. 24X)

Dear Secretary Williams:

Please find enclosed for filing the original and 10 copies of the Delaware & Hudson Railroad Company's Notice of Class Exemption from the Requirements of 49 U.S.C. Sections 10903 for the above-referenced rail line abandonment. We have enclosed a check in the amount of \$2,700 pursuant to 49 C.F.R. Part 1002.2 as the filing fee, along with an IBM compatible floppy disc. I have enclosed a duplicate copy of this letter and a self-addressed, stamped envelope to be stamped with the filing date and returned to the undersigned.

If you have any questions regarding the above-referenced matter, please feel free to contact me.

Very truly yours,

LEONARD, STREET AND DEINARD



Annie Littlefield
AL:km

cc: Steve Fisk
Judy Mitchell
Bill Tuttle
Daniel Luciano
Joseph Legnard

FEE RECEIVED

JAN 29 2004

ENTERED
Office of Proceedings

JAN 29 2004

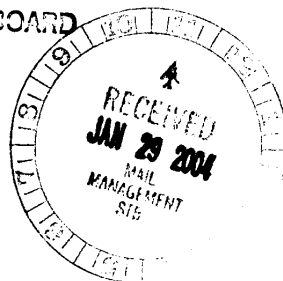
Part of
Public Record

SURFACE
TRANSPORTATION BOARD

FILED

29 2004

SURFACE
TRANSPORTATION BOARD



150 SOUTH FIFTH STREET SUITE 2300 MINNEAPOLIS, MINNESOTA 55402 TEL 612-335-1500 FAX 612-335-1657

LAW OFFICES IN MINNEAPOLIS, SAINT PAUL, MANKATO, SAINT CLOUD AND WASHINGTON, D.C.

WWW.LEONARD.COM

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

DELAWARE AND HUDSON RAILWAY)
COMPANY, INC.-- ABANDONMENT)
OF TRackage LOCATED IN)
ALBANY COUNTY, NEW YORK)

DOCKET NO. AB-156
(SUB-NO. 24X)

NOTICE OF EXEMPT ABANDONMENT OF TRackage LOCATED
BETWEEN MILE POST T1.81 +/- AND MILE POST T3.11 +/- IN ALBANY COUNTY, NEW
YORK, WHICH TRAVERSES THROUGH UNITED STATES POSTAL
ZIP CODES 12047 and 12183

NOTICE OF EXEMPTION
PURSUANT TO 49 U.S.C. SECTION 10502 AND 49 C.F.R. PART 1152.50

CLASS EXEMPTION FROM THE REQUIREMENTS
OF 49 U.S.C. SECTIONS 10903

ENTERED
Office of Proceedings

JAN 29 2004

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JAN 29 2004

SURFACE
TRANSPORTATION BOARD

DELAWARE AND HUDSON
RAILWAY COMPANY, INC.

Part of
Public Record

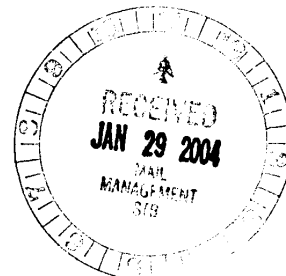
Annie Littlefield, Esq.
LEONARD, STREET AND DEINARD
PROFESSIONAL ASSOCIATION
150 South Fifth Street, Suite 2300
Minneapolis, Minnesota 55402
Tel: (612) 335-7082
Fax: (612) 335-1657

Date of Filing: January 26, 2004

FILED

29 2004

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BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

DELAWARE AND HUDSON RAILWAY)	
COMPANY, INC.-- ABANDONMENT)	DOCKET NO. AB-156
OF TRackage LOCATED IN)	(SUB-NO. 24X)
ALBANY COUNTY, NEW YORK)	

NOTICE OF EXEMPT ABANDONMENT OF TRackage LOCATED
BETWEEN MILE POST T1.81 +/- AND MILE POST T3.11 +/- IN ALBANY COUNTY,
NEW YORK, WHICH TRAVERSES THROUGH UNITED STATES
POSTAL ZIP CODES 12047 and 12183

NOTICE OF EXEMPTION
PURSUANT TO 49 U.S.C. SECTION 10502 AND 49 C.F.R. PART 1152.50

CLASS EXEMPTION FROM THE REQUIREMENTS
OF 49 U.S.C. SECTIONS 10903

The Delaware and Hudson Railway Company, Inc., d/b/a Canadian Pacific Railway Company ("D&H") files this Notice of Exemption pursuant to 49 U.S.C. § 10502 and the Commission's regulations at 49 C.F.R. Part 1152.50. This Notice of Exemption is for D&H's abandonment of a 1.3 +/- mile portion of its line in Albany County, New York between Mile Post T1.81 +/- and Milepost T3.11 +/- in Albany County, New York, which traverses through United States Postal Zip Codes 12047 and 12183. The line is one portion of line known as the Troy Branch.

No local traffic has moved over the line for at least 2 years and all overhead traffic has been routed over other lines. A map showing the line to be abandoned is attached as Exhibit No.

1.

In accordance with the requirements of 49 C.F.R. Part 1152.50, CSR submits the following:

1. WRITTEN NOTIFICATION OF FILING FOR ABANDONMENT EXEMPTION - 49 C.F.R. PART 1152.50(d)(1).

Said notification was served on the appropriate parties on January 16, 2004, at least ten (10) days prior to the filing date of this exemption. See Exhibit No. 2.

2. PROPOSED CONSUMMATION DATE - 49 C.F.R. PART 1152.50(d)(2).

D&H intends to consummate the proposed abandonment of its trackage on or after April 1, 2004.

3. CARRIER CERTIFICATION RE LOCAL AND OVERHEAD TRAFFIC AND STATUS OF NO COMPLAINTS - BY 49 C.F.R. PART 1152.50(b) and (d)(2).

The required Certification is annexed hereto as Exhibit No. 3.

4. INFORMATION REQUIRED BY 49 C.F.R. PARTS 1152.22(a)(1)-(4), (7) and (8) and (e)(4) (INCORPORATED BY REFERENCE IN 49 C.F.R. PART 1152.50(d)(2)):

- (a) PART 1152.22(a)(1) EXACT NAME OF APPLICANT.

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

- (b) PART 1152.22(a)(2) WHETHER THE APPLICANT IS A COMMON CARRIER BY RAILROAD SUBJECT TO THE INTERSTATE COMMERCE ACT.

D&H is a common carrier by railroad subject to the Interstate Commerce Act and the Interstate Commerce Commission Termination Act of 1995 (Title 49 U.S.C.).

- (c) PART 1152.22(a)(3) RELIEF SOUGHT (ABANDONMENT OF LINE OR DISCONTINUANCE OF SERVICE).

D&H seeks authority to abandon a 1.3 +/- mile portion of its trackage in Green Island and Cohoes, New York.

- (d) PART 1152.22(a)(4) DETAILED MAP

See Exhibit No. 1.

(e) PART 1152.22(a)(7) NAME, TITLE AND ADDRESS OF REPRESENTATIVE OF APPLICANT TO WHOM CORRESPONDENCE SHOULD BE SENT.

Diane P. Gerth, Esq.
LEONARD, STREET AND DEINARD
PROFESSIONAL ASSOCIATION
150 South Fifth Street, Suite 2300
Minneapolis, MN 55402
Tel: (612) 335-1463
Fax: (612) 335-1657

(f) PART 1152.22(a)(8) LIST OF ALL UNITED STATES POSTAL ZIP CODES THAT THE LINE PROPOSED FOR ABANDONMENT TRAVERSES:

United States Postal Zip codes 12047 and 12183.

(g) PART 1152.22(e)(4) STATEMENT OF WHETHER THE PROPERTIES PROPOSED TO BE ABANDONED ARE SUITABLE FOR USE FOR OTHER PUBLIC PURPOSES, INCLUDING ROADS OR HIGHWAYS, OTHER FORMS OF MASS TRANSPORTATION, CONSERVATION, ENERGY PRODUCTION OR TRANSMISSION, OR RECREATION. IF THE APPLICANT IS AWARE OF ANY RESTRICTION ON TITLE TO THE PROPERTY, INCLUDING ANY REVERSIONARY INTEREST, WHICH WOULD AFFECT THE TRANSFER OF TITLE OR THE USE OF THE PROPERTY FOR OTHER THAN RAIL PURPOSES, THIS SHALL BE DISCLOSED.

The properties proposed to be abandoned are likely suitable for use as transportation infrastructure and D&H is currently negotiating a potential sale to entities that will pursue public uses.

5. PART 1152.50(d)(2) THE LEVEL OF LABOR PROTECTION.

D&H understands that in granting an exemption for the proposed abandonment, the Board does not relieve a carrier of its statutory obligation to protect the interests of employees. Accordingly, while D&H anticipates that no adverse effect to its employees will occur as the result of this abandonment, it understands that the Board will likely impose the conditions set forth in Oregon Short Line Railroad Company - Abandonment - Goshen 360 I.C.C. 91 (1979), for the benefit of any carrier employee who may be adversely affected by the proposed abandonment.

6. PART 1105.7(c) CERTIFICATE OF SERVICE OF ENVIRONMENTAL REPORT AND HISTORIC REPORT.

An Environmental Report and Historic Report has been prepared in accordance with 49 C.F.R. Parts 1105.7 and 1105.8 and was served on the Board and all relevant parties on December 31, 2003, pursuant to 49 C.F.R. Part 1105.7(b). Applicant's certification pursuant to 49 C.F.R. Part 1105.7(c) is attached as Exhibit No. 4.

7. PART 1105.12 PUBLICATION OF NEWSPAPER NOTICE.

A Notice in accordance with Part 1105.12 has been published in a newspaper of general circulation in Albany County, New York. A copy of said notice is attached hereto with the requisite Certification. See Exhibit No. 5.

8. VERIFICATION.

The required Verification is attached as Exhibit 6 and made a part of this Notice of Exemption.

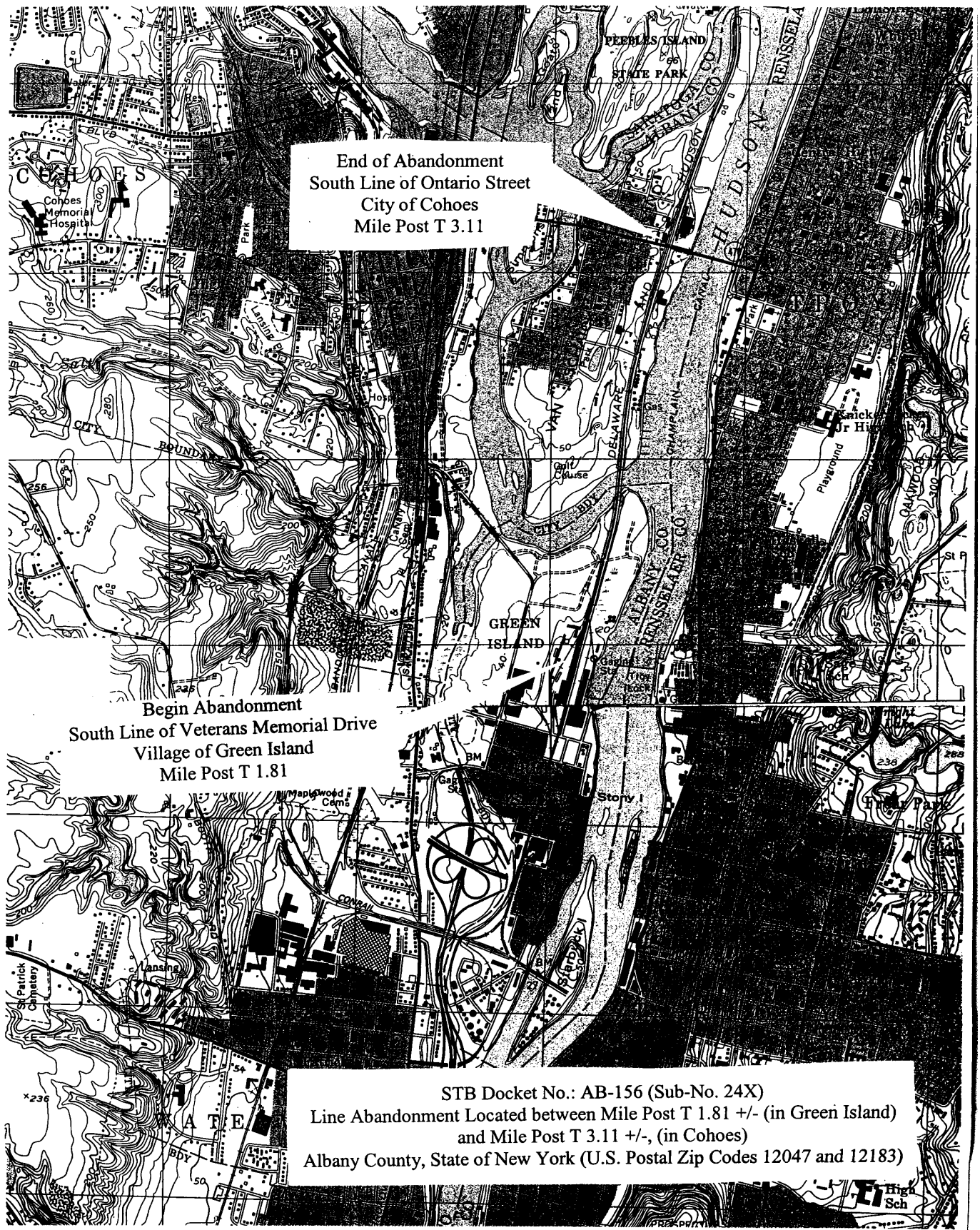
Date of Filing: January 26, 2004

Annie Littlefield (Lic. #0329277)
LEONARD, STREET AND DEINARD
PROFESSIONAL ASSOCIATION
150 South Fifth Street, Suite 2300
Minneapolis, Minnesota 55402
Tel: (612) 335-7082
Fax: (612) 335-1657

Counsel for the Delaware & Hudson
Railway Company, Inc.

EXHIBIT NO. 1

Detailed Exhibit Maps for Notice of Exemption
(49 C.F.R. Parts 1152.50(d)(2) and 1152.22 (a)(5))



End of Abandonment
South Line of Ontario Street
City of Cohoes
Mile Post T 3.11

Begin Abandonment
South Line of Veterans Memorial Drive
Village of Green Island
Mile Post T 1.81

STB Docket No.: AB-156 (Sub-No. 24X)
Line Abandonment Located between Mile Post T 1.81 +/- (in Green Island)
and Mile Post T 3.11 +/- (in Cohoes)
Albany County, State of New York (U.S. Postal Zip Codes 12047 and 12183)

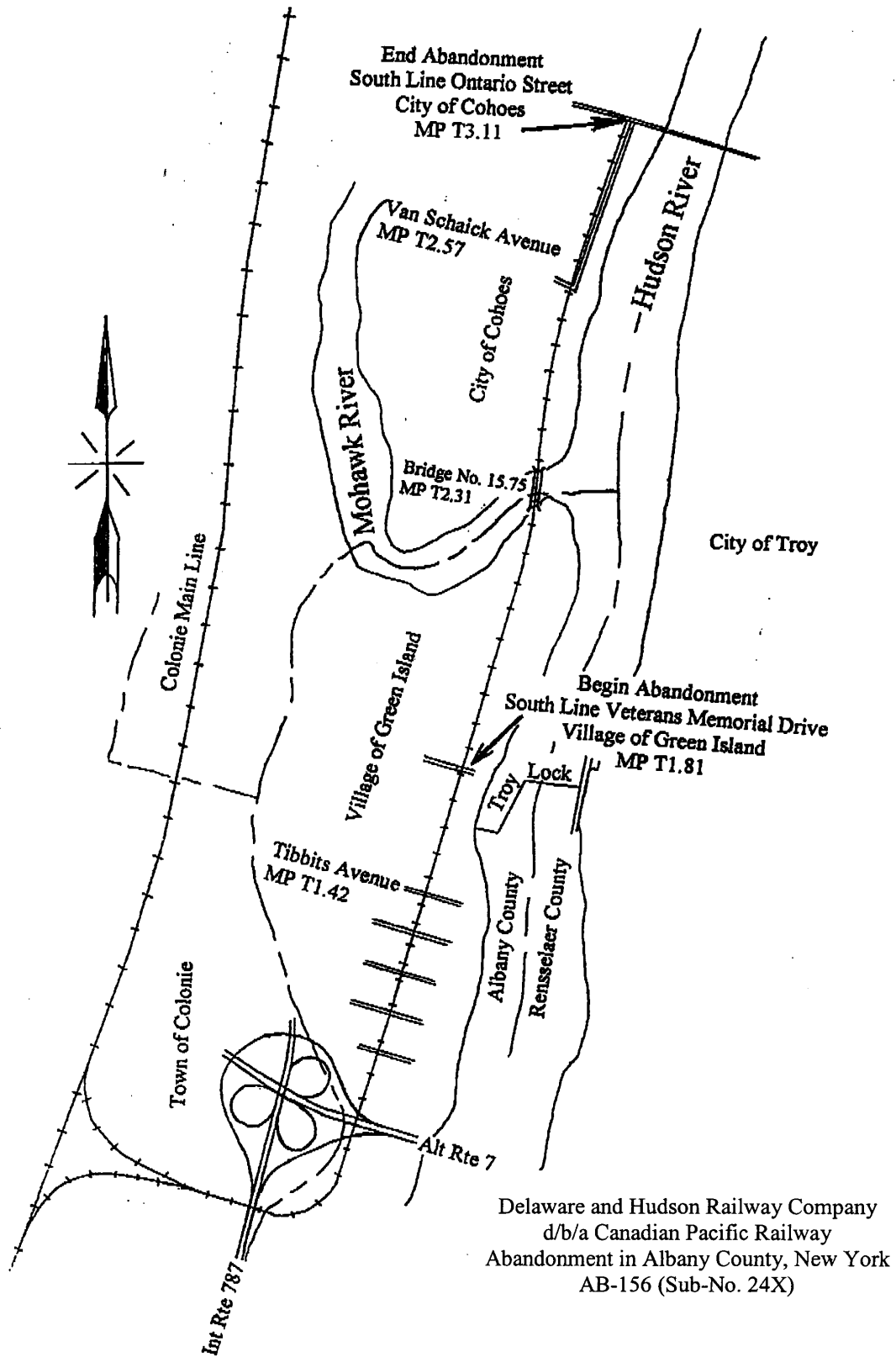


EXHIBIT NO. 2

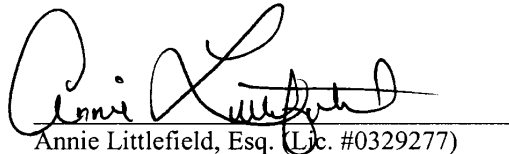
Certification of Proper Service of Written
Notice of Intent to Abandon under the Exemption Process

(49 C.F.R. Part 1152.50(d)(1))

CERTIFICATE OF COMPLIANCE WITH SERVICE REQUIREMENT FOR
NOTIFICATION OF INTENT TO FILE EXEMPTION ABANDONMENT

The undersigned hereby certifies that she served the Notice of Intent to File Notice of Exemption for the proposed abandonment in Docket No. AB-156 (Sub. No. 24X) via first class U.S. Mail, on January 16, 2004, as required by 49 C.F.R. Section 1152.50(d)(1), to the parties listed on the attached Service List. (See attached List).

Dated: January 26, 2004

A handwritten signature in black ink, appearing to read "Annie Littlefield", is written over a horizontal line.

Annie Littlefield, Esq. (Lic. #0329277)

LEONARD, STREET AND DEINARD
PROFESSIONAL ASSOCIATION

150 South Fifth Street, Suite 2300

Minneapolis, Minnesota 55402

Tel: (612) 335-7082

Fax: (612) 335-1657

SERVICE LIST
NOTICE OF INTENT TO FILE EXEMPT ABANDONMENT
Delaware & Hudson Railway Company, Inc. – Abandonment of
Trackage Located in Albany County, New York
Docket No.: AB-156 (Sub No. 23X)

NEW YORK PUBLIC SERVICE COMMISSION (OR EQUIVALENT AGENCY)

Maureen O'Donnell Helmer, Chair
New York State Public Service Commission
3 Empire State Plaza
Albany, NY 12223-1350

U.S. DEPARTMENT OF DEFENSE

(A) MILITARY TRAFFIC MANAGEMENT COMMAND

Military Traffic Management Command
Earl E. Washington, Jr.
Deputy Chief Information Management
200 Stovall Stt.
Alexandria, VA 22332

(B) TRANSPORTATION ENGINEERING AGENCY

Transportation Engineering Agency
Attn: M.T.T.E. - S.A.
720 Thimble Shoals Boulevard, Suite 130
Newport News, VA 23606-2574

NATIONAL PARK SERVICE, RECREATION RESOURCES ASSISTANCE DIVISION

National Center for Recreation and Conservation
U.S. Department of the Interior
National Park Service
1849 C Street NW, Room 3606
Washington, DC 20240
Attn: Mr. Tom Iurino

U.S. DEPARTMENT OF AGRICULTURE, CHIEF OF THE FOREST SERVICE

U.S.D.A. Forest Service
Attn: Mike Dombeck, Chief of the Forest Service
Auditors Building
201 14th Street, S.W.
Washington, D.C. 20250

EXHIBIT NO. 3

Carrier Certification of Out-of-Service Status/Local
Traffic/Overhead Traffic/No Complaints

(49 C.F.R. Part 1152.50(b))

CERTIFICATION THAT RAIL LINE MEETS
CRITERIA OF 49 C.F.R. SECTION 1152.50(b)

I, Steve Fisk, Senior Manager Business Development, for the Delaware and Hudson Railway Company, Inc., hereby certify that with respect to the trackage that is the subject of this Notice of Exemption in Docket AB-156 (Sub-No. 24X), Delaware and Hudson Railway has had no movements over the subject trackage in at least two years. No local traffic has been handled to or from any customer for at least two (2) years prior to the date hereof and any overhead traffic routed over this line can be and has been rerouted over other lines. Further, I certify that no formal complaint has been filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line segment and that no such complaint is either pending with the Commission or any U.S. District Court or has been decided in favor of a complainant within the two-year period immediately preceding the filing of this Notice.

The foregoing Certification is made on behalf of Delaware and Hudson Railway Company, Inc., and Canadian Pacific Railway by the undersigned after due and careful investigation of the matters herein certified. I verify under penalty of perjury under the laws of the United States of America, that I have been authorized by Delaware and Hudson Railway Company, Inc., to verify and file with the Surface Transportation Board the foregoing statement; that I know the contents thereof and the facts asserted therein; that I declare that the foregoing is true and correct.

Dated: 1/16, 2004

Steve Fisk

EXHIBIT NO. 4

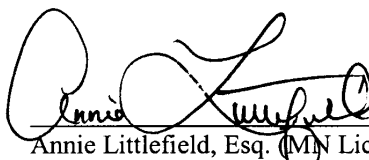
Certification of Proper Service of
Environmental and Historic Reports

(49C.F.R. Part 1105.7(c))

CERTIFICATE OF COMPLIANCE WITH SERVICE REQUIREMENT FOR
ENVIRONMENTAL AND HISTORIC REPORTS

The undersigned hereby certifies that she served the Environmental and Historic Reports for the proposed abandonment in Docket No. AB-156 (Sub. No. 24X) via first class U.S. Mail, on January 16, 2004, as required by C.F.R. Section 1105.7(c), to the parties listed on the attached List of Parties Consulted. (See attached Service List).

Dated: January ____, 2004

A handwritten signature in black ink, appearing to read "Annie Littlefield", written over a horizontal line.

Annie Littlefield, Esq. (MN Lic. #0329277)

LEONARD, STREET AND DEINARD
PROFESSIONAL ASSOCIATION

150 South Fifth Street, Suite 2300

Minneapolis, Minnesota 55402

Tel: (612) 335-7082

Fax: (612) 335-1657

SERVICE LIST
ENVIRONMENTAL AND HISTORIC REPORT
Delaware & Hudson Railway Company, Inc. – Abandonment of
Trackage Located in Albany County, New York
Docket No.: AB-156 (Sub No. 24X)

FEDERAL AGENCIES CONSULTED

Appropriate Regional Office(s) of the
U.S. Environmental Protection Agency

Jane Kenny
Regional Director
US EPA
290 Broadway, Floor 26
New York, NY 10007

U.S. Environmental Protection Agency State Official

New York State
Department of Environmental Conservation
625 Broadway
Albany, NY 12233

U.S. Fish and Wildlife Service

Ms. Mamie Parker
Regional Director
U.S. Fish and Wildlife Service
300 West Gate Center Drive
Hadley, MA 01035-9589

U.S. Army Corps of Engineers

Col. John B. O'Dowd
New York District of Corp. Engineers
Attn: Executive Officer
26 Federal Plaza, Room 2113
New York, NY 10278-0090

National Park Service

National Park Service Northeast Region
US Customs House, 3rd Floor
200 Chestnut Street
Philadelphia, PA 19106

U.S. Soil and Conservation Service

Mr. Joseph R. DelVecchio
State Conservationist
USDA Natural Resources Conservation Service
The Galleries Syracuse
441 Salina Street, 5th Floor
Syracuse, NY 13202
Tel. (315) 477-6524

National Geodetic Survey

National Geodetic Survey
1315 East-West Highway
Silver Spring, MD 20910-3282
Tel. (301) 713-3425

STATE AGENCIES CONSULTED

State Clearinghouse

The State of New York has no designated clearinghouse

State Department of Transportation for New York

Joseph A. Boardman, Commissioner
Department of Transportation
5-504 Harriman State Office Campus
1220 Washington Ave.
Albany, NY 12232

State Environmental Protection Agency for New York

Department of Environmental Conservation
625 Broadway
Albany, NY 12233

State Historic Preservation Office for New York

New York State
Office of Parks, Rec. & Historic Preservation
Empire State Plaza Agency Building #1, 17th Floor
Albany, NY 12238

State Coastal Zone Management Agency

New York Department of State
Division of Coastal Resources
41 State Street
Albany, NY 12231

Other Political Entities and/or Indian Reservations through which the line runs

Albany County

Michael Breslin
County Executive
112 State Street, Room 200
Albany, NY 12207

Village of Green Island

Mayor
Village of Green Island
20 Clinton St.
Green Island, NY 12183

City of Cohoes

Mayor John T. McDonald III
City of Cohoes
97 Mohawk Street
Cohoes, NY 12047

Local and Regional Planning Agencies

Capital District Regional Planning Commission
5 Computer Dr. West
Albany, NY 12205

Capital District Transportation Committee
5 Computer Dr. West
Albany, NY 12205

EXHIBIT NO. 5

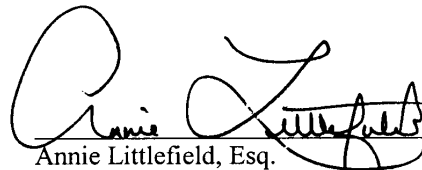
Certificate of Publication of
Newspaper Notice

(49 C.F.R. Part 1105.12)

CERTIFICATE OF PUBLICATION

The undersigned hereby certifies that Notice of the Proposed abandonment in Docket No. AB-156 (Sub No. 24X) (copy of Affidavit of Publication and Notice appended) was advertised in a newspaper of general circulation in all Counties through which the Line which is the subject of this Notice runs, as required by 49 C.F.R. Section 1105.12.

Dated: January 26, 2004

A handwritten signature in black ink, appearing to read "Annie Littlefield", is written over a horizontal line.

Annie Littlefield, Esq.

**LEONARD, STREET AND BEINARD
PROFESSIONAL ASSOCIATION**

150 South Fifth Street, Suite 2300

Minneapolis, MN 55402

Tel.: (612) 335-7082

Fax: (612) 335-1657

ALBANY TIMES UNION
News Plaza
Box 15000
Albany, New York 12212

STATE OF NEW YORK
COUNTY OF ALBANY

I, Fleming / A. Cooper of the City of Albany, being duly sworn, says that he/she is Principal Clerk of THE TIMES UNION, a daily newspaper printed in the County of Albany, Town of Colonie and Published in the County of Albany, Town of Colonie and the City of Albany, aforesaid and that notice of which a printed copy is annexed has been regularly published in the said ALBANY TIMES UNION on the following dates:

2-13-2003

A.D. Cooper

worn to before me, this 15th day of December 2003

Jean M. Hill
Notary Public
Albany County

.cct. #090837003

JEAN M. HILL
Notary Public, State of New York
No. 4820411
Qualified in Albany County
Commission Expires 9/30/08

LEGAL NOTICE

NOTICE

Delaware and Hudson Railway Company, Inc., (d/b/a Canadian Pacific Railway) gives notice that on or about January 25, 2004, it intends to file with the Surface Transportation Board, Washington, DC 20423, a Notice of Exemption under 49 U.S.C. 10505 from the prior approval requirements of 49 U.S.C. 10903, et seq., permitting the abandonment of a 1.3 +/- mile line of railroad between milepost T 1.81 +/- (in Green Island) and milepost T 3.11 +/- (in Cohoes) which traverses through United States Postal Service Zip Codes 12047 and 12183, in Albany County, New York. The proceeding will be docketed as No. AB-156 (Sub No. 24X).

The Board's Section of Environmental Analysis (SEA) will generally prepare an Environmental Assessment (EA), which will normally be available 60 days after the filing of the Notice of Exemption. Comments on environmental and energy matters should be filed no later than 30 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 SEA, Surface Transportation Board, 1925 K Street NW, Washington, DC, 20423-0001, or by calling SEA at

LEGAL NOTICE

202-565-1674.

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 the Secretary, 1925 K Street NW, 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 Services at 202-927-7597. Copies of any comments or requests for conditions should be served on the applicant's representative, Diane P. Gerth at Leonard, Street and Deinard, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402, 612-335-1500.

**Delaware & Hudson
Railway Company, Inc.**
(d/b/a Canadian
Pacific Railway)
Minneapolis, Minnesota
TU 11 (22225)

EXHIBIT NO. 6

Verification Regarding
Facts of Notice of Exemption

VERIFICATION

I, Steve Fisk, Senior Manager Business Development, for the Delaware and Hudson Railway Company, Inc., hereby verify that I have carefully examined all of the statements concerning the operations over Delaware and Hudson's Troy Branch the Notice of Exemption, including the map attached as Exhibit No. 1 to the Notice; that I have knowledge of the matters set forth therein; and that all such statements made and matters set forth are true and correct to the best of my knowledge, information, and belief.

The foregoing is made on behalf of Delaware and Hudson Railway Company, Inc., by the undersigned after due and careful investigation of the matters herein certified. I verify under penalty of perjury under the laws of the United States of America, that I have been authorized by Delaware and Hudson Railway Company, Inc., to verify and file with the Surface Transportation Board the foregoing statement; that I know the contents thereof and the facts asserted therein; that I declare that the foregoing is true and correct.

Date: 4/16, 2004

