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SEA

SERVICE DATE – DECEMBER 12, 2008

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-167 (Sub-No. 1190X)

**Consolidated Rail Corporation - Abandonment Exemption –
In Hudson County, NJ**

STB DOCKET NO. AB-55 (Sub-No. 690X)

**CSX Transportation, Inc. - Discontinuance Exemption –
In Hudson County, NJ**

STB DOCKET NO. AB-290 (Sub-No. 313X)

**Norfolk Southern Railway Company - Discontinuance Exemption –
In Hudson County, NJ**

BACKGROUND

In this proceeding, the Consolidated Rail Corporation (Conrail) filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the abandonment of an approximately 2.27-mile rail line in Hudson County, New Jersey. The line extends between milepost 2.90 and milepost 5.17 in Jersey City. In addition, CSX Transportation, Inc. (CSXT) and Norfolk Southern Railway Company (NS) seek authority to discontinue service over the line. A map depicting the rail line in relationship to the area served is appended to this Environmental Assessment (EA).

In its filing to the Board, Conrail states that the track material was removed in the late 1970s or early 1980s, and the majority of the underlying right-of-way has been sold to various parties.¹ Conrail further explains that it did not retain an easement for the portions of the right-of-way that were sold. Consequently, if the notice becomes effective, Conrail would have the authority to consummate the abandonment and dispose of the remaining right-of-way, after complying with any imposed conditions, thus extinguishing its common carrier obligations on the line. As stated above, the rail line itself was removed decades ago; therefore, Conrail would not conduct any salvage activities as part of the proposed abandonment.

¹ Conrail still owns the portion of the line between milepost 4.5 at Chapel Avenue and milepost 4.9 at Linden Avenue, as well as a small parcel at Communipaw Avenue.

ENVIRONMENTAL REVIEW

Conrail, CSXT and NS (the Applicants) submitted an Environmental Report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including disposition of the remaining right-of-way. The Applicants served the Environmental Report on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 CFR 1105.7(b)].² The Board's Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

The line has not generated any traffic for at least two years. Accordingly, the proposed abandonment would not adversely impact the development, use, and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

The line is located in a relatively flat area that is used for urban residential, commercial, and industrial purposes, and the width of the right of way varies between 50 and 100 feet. As stated above, the rail, track materials, and cross ties have been removed from the line, and in the event that abandonment authority is granted in this proceeding, Conrail states that no clearing, grading, or alteration of the topography would result from the proposed abandonment. Portions of the line were elevated and some of the supporting piers and abutments are still standing. Conrail states that it has no current plans to dispose of these structures.

The U.S. Department of Fish and Wildlife's New Jersey Field Office (USFWS) reviewed the proposed project and submitted comments stating that a known occurrence or potential habitat for the Indiana Bat (*Myotis sodalist*), a Federally-listed endangered species, is located in or near the project area. However, because there would be no tree removal as part of the proposed abandonment, USFWS stated that the project would not be likely to adversely affect the Indiana bat. Accordingly, no mitigation regarding Federally-listed endangered or threatened species is recommended.

The U.S. Army Corps of Engineers (Corps) has not submitted any comments regarding the proposed abandonment. However, the railroad has no plans to undertake in-stream salvage work, and the proposed project would not involve any discharge of dredged or fill material into Federal, jurisdictional wetlands or waters. Accordingly, no mitigation is recommended.

² The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB-167 (Sub-No. 1190X).

According to the New Jersey State Division of Coastal Resources (NJ Coastal Resources), the line is located within the New Jersey State coastal zone. SEA recommends that Conrail consult with NJ Coastal Resources regarding the portions of the line that the railroad still owns to determine whether state coastal management consistency certification is required. If consistency certification is required, we recommend that Conrail obtains consistency certification and then notify SEA in writing, pursuant to the Coastal Zone Management Act (16 U.S.C. 1451 et seq) and the Board's environmental regulations at 49 CFR 1105.9.

There are no known hazardous waste sites or hazardous material spills located on the line proposed for abandonment. However, a portion of the line, including the portion of the line near Chapel Avenue, is included in a New Jersey Department of Environmental Protection (NJDEP) investigation of chromium contamination in Hudson County. Accordingly, prior to consummation of the abandonment, SEA recommends that Conrail consult with NJDEP and U.S. Environmental Protection Agency's Region 2 Office to ensure that any concerns regarding potential contamination of the right-of-way are addressed. SEA also recommends that Conrail report the results of these consultations in writing to SEA prior to consummation of the abandonment.

Based on all information available to date, SEA does not believe that the proposed project would cause significant environmental impacts.

Additional Comments

NJ Transit, which previously acquired portions of the subject right-of-way, submitted comments stating that it "takes no issue" with Conrail's proposed abandonment of the line.

HISTORIC REVIEW

The Applicants submitted a Historic Report as required by the Board's environmental rules [49 CFR 1105.8(a)] and served the report on the New Jersey State Historic Preservation Office (State Historic Preservation Office or SHPO) pursuant to 49 CFR 1105.8(c). Historically, parts of the line were elevated, and some of the supporting piers and abutments are still standing. These structures were constructed between 1896 and 1910. As stated above, Conrail has no current plans to dispose of these structures as part of the proposed project.

At the time of this EA, the SHPO had not submitted comments and, therefore, SEA has not been able to consider the SHPO's opinion before determining whether the proposed project could affect historic properties. Accordingly, we are recommending a condition requiring the railroad to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures and objects within the project right-of-way (the Area of Potential Effect) eligible for listing or listed in the National Register until completion of the Section 106 process. Guidance regarding the Board's historic preservation review process is available on the Board's website at <http://www.stb.dot.gov/stb/environment/preservation.html>.

Pursuant to 36 CFR 800.2, SEA conducted a search of the Native American Consultation Database at <http://home.nps.gov/nacd/> to identify Federally recognized tribes, which may have

ancestral connections to the project area. The database identified no Federally-recognized tribes in Hudson County.

CONDITIONS

SEA recommends that the following environmental conditions be placed on any decision granting abandonment authority:

1. Because a portion of the rail line proposed for abandonment is part of a New Jersey Department of Environmental Protection (NJDEP) investigation of chromium contamination, Consolidated Rail Corporation (Conrail) shall consult with NJDEP and the U.S. Environmental Protection Agency's Region 2 Office to ensure that any concerns regarding potential contamination of the right-of-way are addressed prior to consummation of the abandonment. Conrail shall report the results of those consultations in writing to the Board's Section of Environmental Analysis prior to filing a consummation notice.
2. Prior to filing a consummation notice, Consolidated Rail Corporation (Conrail) shall consult with the New Jersey State Division of Coastal Resources regarding the portions of the rail line that the railroad still owns to determine whether state coastal management consistency certification is required. If consistency certification is required, Conrail shall be prohibited from filing a consummation notice until it obtains consistency certification and then notifies the Board's Section of Environmental Analysis in writing, pursuant to the Coastal Zone Management Act, 16 U.S.C. 1451 *et seq.*, and the Board's environmental regulations at 49 CFR 1105.9.
3. Consolidated Rail Corporation (Conrail) shall retain its interest in and shall take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed. Conrail shall report back to the Board's Section of Environmental Analysis regarding any consultations with the New Jersey State Historic Preservation Office and the public. Conrail may not file its consummation notice until the Section 106 process has been completed and the Board has removed this condition.

CONCLUSIONS

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of and discontinuance of service over the line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by

another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Because Conrail has sold the majority of the right-of-way to various parties, the right-of-way may not be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

Because Conrail has sold the majority of the right-of-way to various parties, the right-of-way may not be suitable for use as a trail. A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice for exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this EA, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Christa Dean who prepared this EA. Environmental comments may also be filed electronically on the Board's website, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-167 (Sub-No. 1190X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this EA, please contact Christa Dean the environmental contact for this case, by phone at (202) 245-0299, fax at (202) 245-0454, or e-mail at christa.dean@stb.dot.gov.

Date made available to the public: December 12, 2008.

Comment due date: December 29, 2008.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Anne K. Quinlan
Acting Secretary

Attachment