

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

DRAFT ENVIRONMENTAL ASSESSMENT

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

**The New York, Susquehanna and Western Railway Corporation–Abandonment
Exemption–in Bergen County, N.J.**

BACKGROUND

In this proceeding, the New York, Susquehanna and Western Railway Corporation (NYSW) filed a verified notice with the Surface Transportation Board (Board) under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of two separate segments of railroad in Bergen County, New Jersey (the Line). The first segment, known as the Lodi Branch, is located between milepost 15.80 near Columbia Avenue in Lodi and milepost 14.50 near East Hunter Avenue in Hackensack (Lodi Branch). The second segment, known as the Passaic Branch, is located between milepost 17.30 near Wallace Street in Elmwood Park and milepost 18.40 near Lanza Avenue in Garfield (Passaic Branch). The combined distance for both line segments is approximately 2.4 miles. A map depicting the line segments in relationship to the area served is appended to this Draft Environmental Assessment (Draft EA). If this notice becomes effective, NYSW would be able to salvage the track, ties and other railroad appurtenances and to dispose of the right-of-way.

DESCRIPTION OF THE LINE

According to NYSW, the Lodi Branch is the remaining portion of the rail line constructed by the Hackensack and Lodi Company in 1896 to extend rail service from the NYSW mainline to industries located in Lodi. Similarly, the Passaic Branch is the remaining portion of the rail line constructed by the Passaic and New York Railroad Company in 1885 and 1886 to extend rail service from the NYSW mainline to Passaic. NYSW controlled and operated the Line until their bankruptcy and received authority to purchase the Lodi Branch and the Passaic Branch from the bankruptcy trustee in 1980. NYSW states that there have been no active railroad customers on the Line for over ten years.

According to NYSW, the Lodi Branch crosses approximately four local roadways and travels through light industrial and commercial areas. The Passaic Branch crosses approximately five local roadways and travels through residential and commercial areas. The right of way for the Line is generally 66 feet wide, and the topography is level. There are no bridges on the Line. The Lodi Branch traverses United States ZIP Codes 07644 and 07601 and the Passaic Branch traverses United States ZIP Codes 07026 and 07407. Based on information in its possession, NYSW indicates that the Line does not contain any federally granted rights-of-way.

ENVIRONMENTAL REVIEW

NYSW submitted an Environmental and Historic report (E&H 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 salvage. NYSW served the E&H Report on a number of appropriate federal, state, and local agencies as required by the Board's environmental rules [49 C.F.R. § 1105.7(b)].¹ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to NYSW, there has been no local traffic over the Line for over ten years, and there is no overhead traffic to be rerouted. Both segments of the Line are stub-ended. 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

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way. Following abandonment, NYSW intends to salvage the rail line, track, ties, and other track materials but may leave track materials in place closest to the NYSW mainline for use as railcar storage. There are no bridges or other structures on the Line.

The New Jersey Department of Environmental Protection's Coastal Management Program (NJDEP) has not provided comments on whether the Line is located in a New Jersey coastal zone. To determine if any coastal zone areas would be impacted by the proposed abandonment, OEA conducted a search of NJDEP's Coastal Management Program web site. According to the *Map of N.J. Coastal Municipalities*,² the City of Hackensack is located within the state's inland coastal boundary. Therefore, NJDEP's Coastal Management Program would need to determine if the project is consistent with the state's enforceable policies, pursuant to the Coastal Zone Management Act (16 U.S.C. § 1451 *et seq.*). Accordingly, OEA is recommending a condition that would require NYSW to consult with NJDEP's Coastal Management Program,

¹ The E&H Report is available for viewing on the Board's website at <https://prod.stb.gov/> by clicking "Search STB Records;" selecting "Filings" in the "Search for" dropdown menu; entering "AB" "286" "8" "X" sequentially in the four boxes for "Docket Number," then selecting "Search." The E&H Report was filed on November 23, 2020.

² Map of New Jersey Coastal Municipalities, <https://www.nj.gov/dep/cmp/index.html> (last visited December 16, 2020).

and if necessary, obtain any required approvals prior to initiating any salvage activities related to the abandonment.

NYSW requested comments from the U.S. Fish and Wildlife Service (USFWS) regarding the potential impact of the proposed abandonment to protected wildlife, including federally listed threatened and endangered species. To date, USFWS has not provided comments. To identify protected species in the project area, OEA conducted a search of the USFWS Information for Planning and Consultation (IPaC) system.³ The data base indicated that there are no protected threatened or endangered species located in the area of the proposed abandonment. Accordingly, OEA has determined that no federally listed threatened or endangered species would be affected by the proposed abandonment. OEA is providing the USFWS New Jersey field office a copy of this Draft EA for its review.

The Natural Resources Conservation Service submitted comments stating that there are no areas of prime farmland along the right-of-way proposed for abandonment.

The National Geodetic Survey (NGS) has indicated that no geodetic survey markers are present in the area of the proposed abandonment. Therefore, no further consultation with NGS is recommended.

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Similarly, any noise related to salvage operations would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. In addition to the parties on the Board's service list for this proceeding, OEA is providing a copy of this Draft EA to the following agencies for review and comment: the National Park Service; the U.S. Fish and Wildlife Service; the U.S. Army Corps of Engineers; the U.S. Environmental Protection Agency; the New Jersey Department of Environmental Protection; the New Jersey Division of Fish and Wildlife; the New Jersey Department of Transportation; the Bergen County Office of the County Executive; and the Bergen County Department of Planning and Engineering.

HISTORIC REVIEW

NYSW submitted an historic report as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)] and served the report on NJDEP's Historic Preservation Office (SHPO), pursuant to 49 C.F.R. § 1105.8(c).⁴ Based on available information, the SHPO has submitted

³ U.S. Fish and Wildlife Service, Information, Planning, and Consultation (IPaC) System, <http://ecos.fws.gov/ipac> (last visited December 15, 2020).

⁴ Applicants seeking authority from the Board to abandon railroad lines may act on behalf of the Board when complying with the Section 106 regulations of the National Historic Preservation Act (NHPA). Applicants are authorized to initiate the Section 106 review process and carry out some of its steps, but the Board retains overall responsibility for the Section 106

comments stating that one building over 50 years old, built circa 1925, is located adjacent to the rail segment at 267 Lanza Avenue in Garfield City. However, based on the activities associated with the salvage process, the proposed abandonment would have no effect on this building and has a low potential to affect archaeological resources. Accordingly, the SHPO concludes that a “no historic properties affected” finding is appropriate and intends to forward this opinion to NJDEP’s Coastal Zone Program to assist with any associated coastal zone consistency review. Guidance regarding the Board’s historic preservation review process is available on the Board’s website at <https://prod.stb.gov/resources/environmental/historicpreservation-overview>.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, OEA has determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register of Historic Places. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of NYSW’s historic report, all relevant correspondence, and this Draft EA, which have been provided to the SHPO and made available to the public through posting on the Board’s website at <https://prod.stb.gov>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the U.S. Department of Housing and Urban Development Tribal Directory Assessment Tool to identify federally recognized tribes that may have ancestral connections to the project area.⁵ The database indicates that there are three federally recognized tribes that may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way or APE of the proposed abandonment. The tribes include the Delaware Nation, Oklahoma; the Delaware Tribe of Indians; and the Shawnee Tribe. OEA is sending a copy of this Draft EA to these tribes for review and comment.

CONDITION

OEA recommends that the following condition be imposed on any decision granting abandonment authority.⁶

Pursuant to the Coastal Zone Management Act (16 U.S.C. § 1451 *et seq.*) and the Surface Transportation Board’s (Board) environmental regulations at 49 C.F.R. § 1105.9, the New York, Susquehanna and Western Railway Corporation (NSW) shall consult with the New Jersey Department of Environmental Protection’s Coastal Management Program

review. *See* 36 C.F.R. 800.2(c)(4); 49 C.F.R. Part 1105; Delegation Letter (Dec. 9, 2009). The Delegation Letter can be found on the Board’s website at <https://prod.stb.gov/resources/environmental/historic-preservation-overview/>.

⁵ U.S. Department of Housing and Urban Development, Tribal Directory Assessment Tool, <https://egis.hud.gov/tdat/> (last visited December 22, 2020).

⁶ If an interim trail use agreement under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 were to be reached for the Line (or a portion thereof), compliance with these conditions would not be required with respect to any portion of the Line covered by the interim trail use agreement for the duration of the agreement.

and obtain state coastal management consistency certification, if necessary. NYSW may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until it reports the results of these consultations in writing to the Board's Office of Environmental Analysis and the Board has removed this condition.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended condition is imposed, abandonment of the Line will 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

Following abandonment and salvage of the Line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Board's Federal Register notice of the proposed abandonment. The Federal Register notice is also issued as a Board decision and is available on the Board's website.⁷

TRAILS USE

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 of 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 C.F.R. § 1152.29). The Federal Register notice is also issued as a Board decision and is available on the Board's website.⁸

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

⁷ Board decisions are available for viewing on the Board's website at <https://prod.stb.gov/> by clicking "Search STB Records;" selecting "Decisions" in the "Search for" dropdown menu; entering "AB" "286" "8" "X" sequentially in the four boxes for "Docket Number," then selecting "Search."

⁸ Id.

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

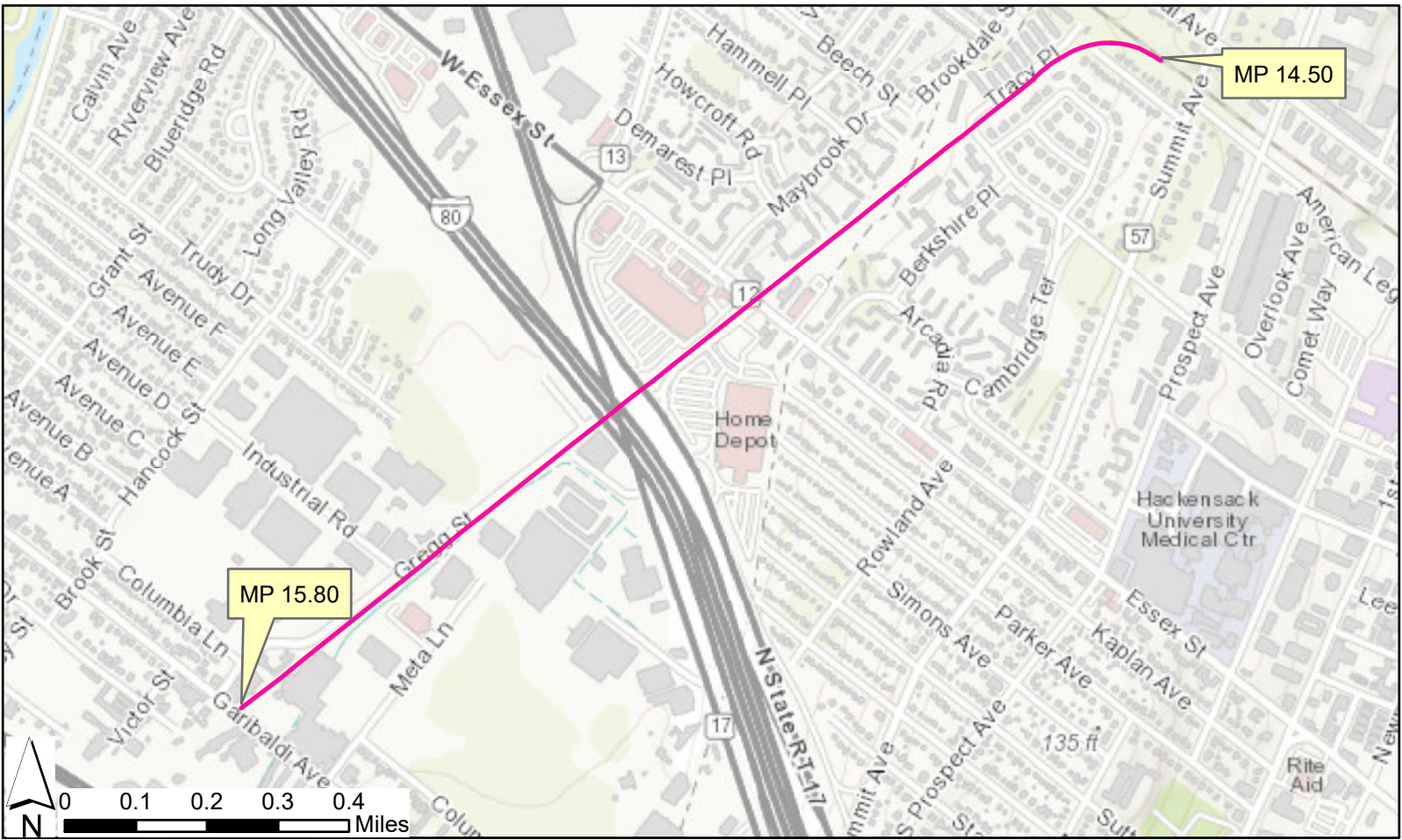
As of March 17, 2020, all filings and other submissions should be submitted electronically through the Board's website at <https://prod.stb.gov>. To submit a comment on the Draft EA, select "File an Environmental Comment" under "Need Assistance?" on the Board's home page. Brief comments can be typed in the comment field provided, and lengthier comments can be attached as Word, Adobe Acrobat or other file formats. If you have any questions, please contact Diana Wood by email at diana.wood@stb.gov or by phone at 202-245-0302.

Date made available to the public: January 8, 2021.

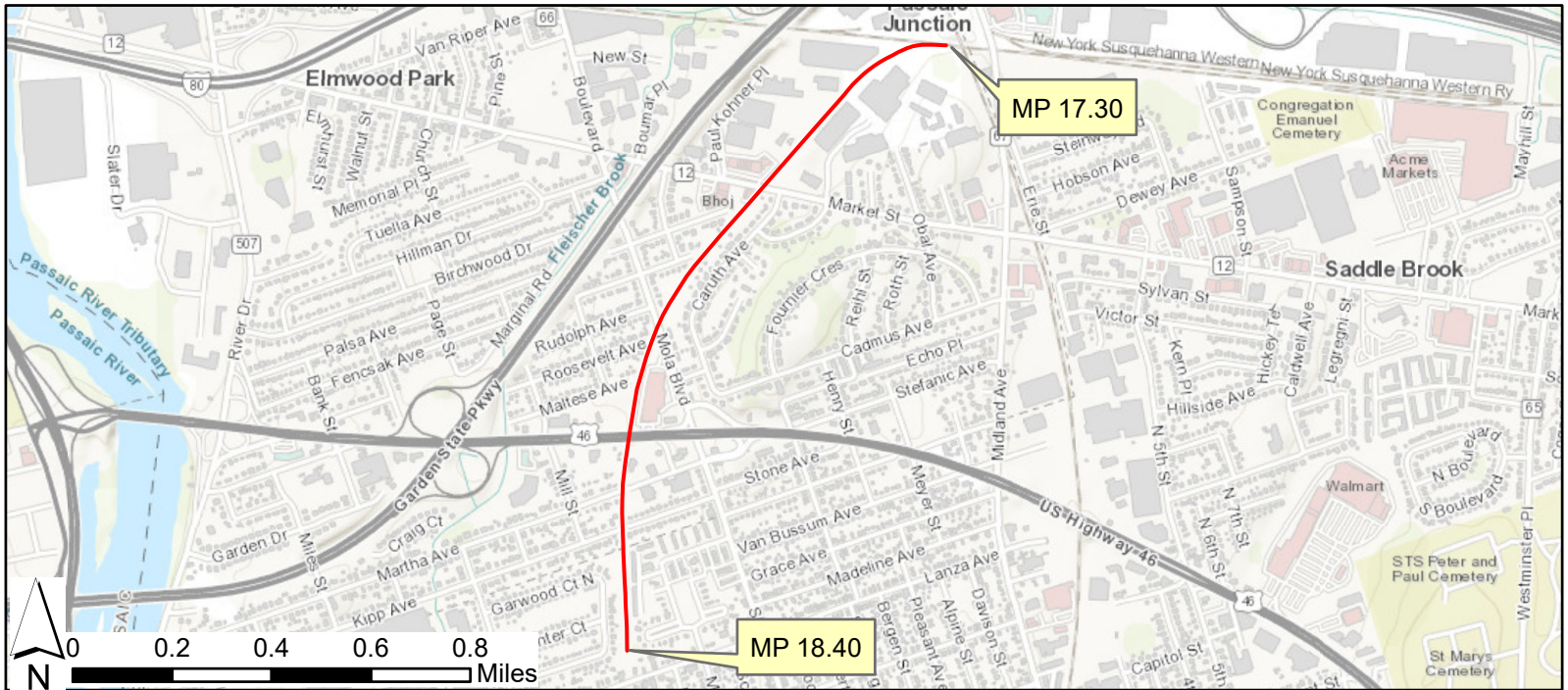
Comment due date: January 25, 2021.

By the Board, Danielle Gosselin, Acting Director, Office of Environmental Analysis.

Attachment



Lodi Branch



Passaic Branch



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Legend

- Lodi Branch
- Passaic Branch

Note: Maps produced
 by the STB's Office of
 Environmental Analysis
 are based on information
 provided by the applicant
 and are for reference
 purposes only.



New Jersey