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SERVICE DATE – FEBRUARY 23, 2010

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB-167 (Sub-No. 1093X)

CONSOLIDATED RAIL CORPORATION – ABANDONMENT EXEMPTION – IN  
BROOME COUNTY, NY

Decided: February 22, 2010

Consolidated Rail Corporation (Conrail) filed a notice of exemption under 49 CFR 1152 Subpart F – Exempt Abandonments with our predecessor agency, the Interstate Commerce Commission (ICC), to abandon a 3.1-mile line of railroad, extending from milepost 196.6 to milepost 199.7, in Broome County, NY. Notice of the exemption was served and published in the Federal Register on July 31, 1989 (54 FR 31589). The exemption became effective on August 30, 1989.

By decision served on August 31, 1989 (August 1989 decision), the proceeding was reopened at the request of the ICC's Section of Energy and Environment (SEE) and the exemption was made subject to the conditions that Conrail shall: (1) leave in place the bridge over Vestal Road; and (2) keep the roadbed at a height not less than that currently existing.

SEE imposed those conditions at the request of the Town of Vestal, NY (Vestal), and Conrail. By deed dated February 25, 1998, Conrail conveyed real property, including the Vestal Road Bridge (the bridge), to Newco Services, Inc. (Newco). On May 21, 2002, Newco conveyed that property, including the bridge, to Central New York Railroad Corporation (CNYK). According to CNYK, it has never sought authority to commence railroad operations over the bridge and has never conducted any railroad operations over the bridge. The Board's Section of Environmental Analysis (SEA) states that it has received letters from Vestal, CNYK, and the Broome County Department of Public Works, dated October 29, 2009, October 7, 2009, and November 4, 2009, respectively, requesting that the condition that the bridge remain in place be removed. SEA also received a letter dated November 5, 2009, from the New York State Office of Parks, Recreation and Historic Preservation stating that the removal of the bridge will have no impact on cultural resources in or eligible for inclusion in the State and National Register of Historic Places (Register).<sup>1</sup> Based on all of the available information, SEA recommends that the condition requiring that the bridge remain in place be removed.

Accordingly, the proceeding will be reopened and the previously imposed condition requiring that the bridge remain in place will be removed.

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<sup>1</sup> In 1989, SEE was advised by the New York State Office of Historic Preservation that the proposed abandonment would have no adverse effect on any structures listed or eligible for listing in the Register.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the condition imposed in the August 1989 decision requiring that the bridge remain in place is removed. The condition requiring that the roadbed be kept at a height no less than that currently existing, also imposed in the August 1989 decision, remains in effect.
3. This decision is effective on its date of service.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.