

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-167 (Sub-No. 1185X)

CONSOLIDATED RAIL CORPORATION—ABANDONMENT EXEMPTION—  
IN MERCER COUNTY, NJ

Decided: October 28, 2008

Consolidated Rail Corporation (Conrail) filed a notice of exemption in STB Docket No. AB-167 (Sub-No. 1185X) under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a portion of a line of railroad known as the Robbinsville Industrial Track, between milepost 32.20± and milepost 37.90± in the cities of Hamilton Township and Washington Township, Mercer County, NJ, a distance of approximately 5.7 miles. Notice of the exemption was served and published in the Federal Register on July 3, 2006 (71 FR 37976-77). The exemption was scheduled to become effective on August 2, 2006. On July 13, 2006, a formal expression of intent to file an offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27(c)(2) was filed, which automatically stayed the effective date of the exemption until August 12, 2006.

In a decision served on August 10, 2006, the Board imposed a 180-day public use condition, an environmental condition, and an historic preservation condition. Under the historic preservation condition, Conrail was directed to retain its interest in and take no steps to alter the historic integrity of all sites, buildings, and structures within the project right-of-way that are eligible for listing or listed in the National Register of Historic Places (National Register) (generally, 50 years old or older) until completion of the section 106 process of the National Historic Preservation Act.

The due date for OFAs was subsequently extended to February 5, 2007. When no OFAs were filed, in a decision served on February 14, 2007, the Board made the exemption effective, terminated the OFA process, and recommenced the 180-day public use negotiating period.<sup>1</sup> The public use condition has since expired, but the abandonment exemption remains subject to the historic preservation condition.

On September 30, 2008, the State Historic Preservation Office (SHPO) for New Jersey filed a letter relating to the historic preservation condition. The SHPO informs the Board that the New Jersey Department of Transportation (NJDOT), the Federal Highway Administration, and the SHPO have agreed to mitigation measures for the Route 33 Bridge Replacement Project Area

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<sup>1</sup> The February 14, 2007 Board decision describes in detail the background of this proceeding.

and that these measures are sufficient to also satisfy the Board's section 106 consultation responsibilities for that section of the line.

Based on this letter, the Board's Section of Environmental Analysis (SEA) requests that the current section 106 condition be modified to allow the Route 33 Bridge Replacement Project to proceed as planned while ensuring that section 106 consultations continue for the remaining segments of the line. Thus, SEA recommends that the Board replace the current historic condition with a new condition that reads: Conrail shall retain its interest in and take no steps to alter the historic integrity of all sites, buildings, and structures (including tracks and ties) within the project right-of-way that are eligible for listing or listed in the National Register (generally, 50 years or older) until completion of the section 106 process of the National Historic Preservation Act. Conrail may, however, proceed with salvage and the NJDOT may proceed with construction activities within the Route 33 Bridge Replacement Project Area (located at milepost 34.05, plus a few hundred feet on either side) in accordance with plans submitted by the NJDOT to the SHPO, and as discussed in a September 30, 2008 letter from the SHPO to the Board. Conrail shall report back to SEA regarding any further consultations it has with the SHPO and any other section 106 consulting parties for the remaining segments of the project right-of-way for which the section 106 process has yet to be completed.

Accordingly, the proceeding will be reopened and the section 106 condition will be modified as set forth above.

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 historic preservation condition previously imposed in the decision served on August 10, 2006, is replaced with the condition that: Conrail shall retain its interest in and take no steps to alter the historic integrity of all sites, buildings, and structures (including tracks and ties) within the project right-of-way that are eligible for listing or listed in the National Register (generally, 50 years or older) until completion of the section 106 process of the National Historic Preservation Act. Conrail may, however, proceed with salvage and the NJDOT may proceed with construction activities within the Route 33 Bridge Replacement Project Area (located at milepost 34.05, plus a few hundred feet on either side) in accordance with plans submitted by the NJDOT to the SHPO, and as discussed in a September 30, 2008 letter from the SHPO to the Board. Conrail shall report back to the Section of Environmental Analysis regarding any further consultations it has with the SHPO and any other section 106 consulting parties for the remaining segments of the project right-of-way for which the section 106 process has yet to be completed.

3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan  
Acting Secretary