

SERVICE DATE - MAY 8, 1997

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-167 (Sub-No. 1162X)

CONSOLIDATED RAIL CORPORATION--ABANDONMENT  
EXEMPTION--IN MONROE COUNTY, NY

Decided: May 2, 1997

Consolidated Rail Corporation (Conrail) filed a notice of exemption under 49 CFR 1152 Subpart F--*Exempt Abandonments* to abandon approximately 8.50 miles of its line of railroad from approximately milepost 0.10 to approximately milepost 7.20 (Rochester Running Track) and from approximately milepost 92.90 to approximately milepost 94.10 (Ontario Industrial Track) in Monroe County, NY. Notice of the exemption was served and published in the *Federal Register* on June 20, 1996 (61 FR 31607-08).

By decision served July 22, 1996, the proceeding was reopened at the request of the Board's Section of Environmental Analysis (SEA) and the exemption was made subject to the conditions that Conrail: (1) retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f; and (2) not salvage or dispose of the entire right-of-way until the U.S. Army Corps of Engineers completes its review under section 404 of the Clean Water Act, 33 U.S.C. 1344.

By letter dated October 22, 1996 Conrail requests that the Board remove the conditions imposed in the July 22, 1996 decision so that it may proceed with the abandonment of the line and removal of the track. It submitted letters from the New York State Parks, Recreational and Historic Preservation Agency (SHPO) and the U.S. Army Corps of Engineers (Corps). The SHPO has expressed concern about the future plans for the historic swing bridge at milepost 94.0, which once connected the two sides of the Genesee River. Also, the Corps advised that it regulates work in the Genesee River (a navigable waterway) under section 10 of the Rivers and Harbor Act of 1899, (33 U.S.C. 403) and that it should be contacted concerning the use of the swing bridge at milepost 94.0 to determine if authorization under section 10 of the Rivers and Harbor Act of 1899 is required. SEA states that, although the issue of documentation remains with respect to the historic swing bridge at milepost 94.0 of the Ontario Industrial Track, it appears that the previously imposed conditions can be modified to the extent necessary to permit Conrail to salvage the track. However, an evaluation of the potential impact of this project on historic resources has not been completed. Therefore, SEA recommends that the conditions imposed in the July 22, 1996 decision be modified as set forth in the ordering paragraph below.

As conditioned, 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 and the salvage conditions previously imposed in the decision served July 22, 1996, are modified to require that Conrail : (1) retain its

interest in and take no steps to alter the historic integrity of the swing bridge at milepost 94.0 of the Ontario Industrial Track until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f; and (2) consult with the Army Corps of Engineers concerning the change in use of the swing bridge at milepost 94.0.

3. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary