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SERVICE DATE – NOVEMBER 8, 2013

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 286 (Sub-No. 7X)]

The New York, Susquehanna and Western Railway Corporation—Abandonment
Exemption—Passaic and Morris Counties, N.Y.

The New York, Susquehanna and Western Railway Corporation (NYS&W) has filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a segment of its line of railroad, known as the Pompton Industrial, between milepost 22.1 in Wayne Township, Passaic County, N.J., and milepost 26.3 in Pompton Plains Township, Morris County, N.J. (the Line). The Line traverses United States Postal Service Zip Codes 07440, 07442, 07444, and 07470.

NYS&W has certified that: (1) no local traffic has moved over the Line for at least two years; (2) there is no overhead traffic on the Line;¹ (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 C.F.R. § 1105.7(c) (environmental report), 49 C.F.R. § 1105.11 (transmittal letter),

¹ NYS&W states that no local or overhead traffic has moved over the portion of the Line between milepost 22.1 and milepost 25.96 for over twenty years, or on the portion of the Line between 25.96 and milepost 26.3 for over two years.

49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on December 11, 2013, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,² formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),³ and trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by November 18, 2013. Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by November 29, 2013, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

² The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

³ Each OFA must be accompanied by the filing fee, which is currently set at \$1,600. See 49 C.F.R. § 1002.2(f)(25).

A copy of any petition filed with the Board should be sent to NYS&W's representative: Eric M. Hocky, Clark Hill Thorp Reed, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia, PA 19103.

If the verified notice contains false or misleading information, the exemption is void ab initio.

NYS&W has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by November 15, 2013. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 C.F.R. § 1152.29(e)(2), NYS&W shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by NYS&W's filing of a notice of consummation by November 8, 2014, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

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“WWW.STB.DOT.GOV.”

Decided: November 4, 2013.

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