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OEA

SERVICE DATE – LATE RELEASE AUGUST 8, 2016

**SURFACE TRANSPORTATION BOARD  
Washington, DC 20423**

**ENVIRONMENTAL ASSESSMENT**

**Docket No. AB 272X**

**Morristown & Erie Railway, Inc.– Abandonment Exemption –  
in Roseland, Essex County, NJ**

**BACKGROUND**

In this proceeding, Morristown & Erie Railway, Inc. (M&E) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in Essex County, New Jersey. The rail line proposed for abandonment extends approximately 5,000 feet (close to one mile in length) from milepost 9 (near the eastern side of Route I-280) to the end of the track at Harrison Avenue (the Line). The entire length of track to be abandoned is within the Borough of Roseland, New Jersey. A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

**ENVIRONMENTAL REVIEW**

M&E submitted an Environmental Report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. M&E served the Environmental Report on a number of appropriate federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)].<sup>1</sup> The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

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<sup>1</sup> The Environmental and Historic Reports are available for viewing on the Board's website at [www.stb.dot.gov](http://www.stb.dot.gov) by going to "E-Library," selecting "Filings," and then conducting a search for AB 272X

*Summary of OEA findings*

<b>Transportation System</b>	No significant impact.
<b>Land Use</b>	No significant impact.
<b>Energy</b>	No significant impact.
<b>Air</b>	No significant impact.
<b>Noise</b>	No significant impact.
<b>Safety</b>	No significant impact.
<b>Biological Resources</b>	No significant impact.
<b>Water</b>	No significant impact.
<b>Historic Report</b>	No significant impact.

**No Conditions  
Recommended**

*Diversion of Traffic*

According to M&E, no local or overhead traffic has moved over the Line for at least two years and there is no potential for future overhead traffic because the Line is located at the end of the track. 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*

If granted authority to abandon, M&E states that it would salvage the rail, tie plates, joint bars, and other track material, but leave the ties, bridges, and culverts in place to be conveyed along with M&E's right, title, and interest, if any, in the right-of-way to the Borough of Roseland for use as public space. M&E plans to conduct salvage activities by using the existing right-of-way for access, along with existing public and private road crossings, and no new access roads are contemplated. According to M&E, salvage activities would not cause sedimentation or erosion of the soil. M&E does not anticipate any dredging or use of fill when removing the track material. M&E states that no debris would be discarded along the right-of-way and any work along the right-of-way would be subject to appropriate measures to prevent or control spills from fuels, lubricants or any other pollutant materials. M&E notes that it is not aware of any previous hazardous waste spills or existing sites in the right-of-way and that salvage would not release any pollutant that would require a permit under § 402 of the Clean Water Act.

The Line does not cross and is not immediately adjacent to any waterways. M&E states that it would not conduct any in-stream salvage activities. According to comments from the New Jersey Department of Environmental Protection (NJDEP), the right-of-way is not located within a designated coastal zone and therefore, no state coastal management consistency certification is

required. Additionally, NJDEP states in its letter that the proposed abandonment and salvage activities would not require any permits from the Division of Land Use Regulation, including permits relating to protection of flood hazard areas or freshwater wetlands. The Natural Resources Conservation Service conducted a review of soils in and around the area of interest and reported that there would be no impact on farmland of prime, statewide, unique, or local importance. The National Geodetic Survey submitted comments that no geodetic survey marks are located within the right-of-way.

The U.S. Fish and Wildlife Service (USFWS) submitted comments stating that the proposed abandonment would not affect federal trust resources under its jurisdiction and currently protected by the Endangered Species Act. USFWS reported potential or known occurrence within the right-of-way of one endangered species—the Indiana bat (*Myotis sodalis*) and two threatened species—the bog turtle (*Clemmys muhlenbergii*) and the northern long-eared bat (*Myotis septentrionalis*). USFWS has concurred, however, that the proposed abandonment is not likely to adversely affect these species due to the lack of suitable habitat in the right-of-way and M&E’s confirmation that it would clear no trees as part of the Line’s salvage.

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities 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 salvage activities would cause significant environmental impacts.

## **HISTORIC REVIEW**

According to M&E, the Line was originally constructed in 1895 by its predecessor, the Whippany River Railroad (WRR), to connect local papers mills to the railroad in the Morris County, NJ, area. The owners of the railroad (who also owned the paper mills that M&E served) formed the Whippany & Passaic River Railroad, which was merged into M&E and provided interchange with the Delaware, Lackawanna & Western Railroad Company and the Erie Railroad. After the paper mills closed, the two railways merged into the M&E and in 1982, the Line was bought out of bankruptcy by its current owner. The proposed portion for abandonment is the dormant end of the line in Roseland.

Following the Board’s environment rules at 49 C.F.R. 1105.8(c), M&E prepared and provide an Historic Report on the State Historic Preservation Office, New Jersey Department of Environmental Protection. The State Historic Preservation Officer (SHPO) submitted comments stating that the proposed abandonment would not affect any known archaeological sites or historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register). OEA has verified the Historic Report and the information provided by the SHPO, and concurs with the SHPO’s finding.

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, we have determined that no known historic properties listed in or eligible for inclusion in the National Register would be affected within the right-of-way (the Area of Potential Effect, or APE) of the proposed abandonment. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of the railroad's Historic Report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at [www.stb.dot.gov](http://www.stb.dot.gov).

OEA conducted a search of the Native American Consultation Database to identify federally-recognized tribes that may have ancestral connections to the project area,<sup>2</sup> in compliance with 36 C.F.R. § 800.2. The database indicated no federally-recognized tribes that may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (which OEA has identified as the Area of Potential Effect under Section 106) of the proposed abandonment.

### **CONDITIONS**

We do not recommend that environmental or historic conditions be imposed on any decision granting abandonment authority.

### **CONCLUSIONS**

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, abandonment of the Line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

The only alternative to the proposed abandonment would be denial (and therefore no action). The existing quality of the human environment and energy consumption would not be affected.

### **PUBLIC USE**

Following abandonment and salvage of the rail 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 Federal Register notice.

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<sup>2</sup> Native American Consultation Database, <http://grantsdev.cr.nps.gov/Nagpra/NACD> (last visited August 5, 2016).

## **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).

## **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 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**

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Adam Assenza, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. **Please refer to Docket No. AB 272X in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Adam Assenza, the environmental contact for this case, by phone at (202) 245-0301, fax at (202) 245-0454, or e-mail at [adam.assenza@stb.gov](mailto:adam.assenza@stb.gov).

Date made available to the public: August 8, 2016.

**Comment due date: August 23, 2016.**

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment