

39037  
SEA

SERVICE DATE – MAY 23, 2008

**SURFACE TRANSPORTATION BOARD**  
WASHINGTON, DC 20423

**ENVIRONMENTAL ASSESSMENT**

**STB Docket No. AB-762X**

**Middletown and New Jersey Railway Company, Inc. – Abandonment Exemption –  
in Orange County, NY**

**BACKGROUND**

In this proceeding, Middletown and New Jersey Railway Company, Inc. (M&NJ) filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the abandonment of a line of railroad in Orange County, New York. The rail line proposed for abandonment extends 7.50 miles from milepost 6.50 in Slate Hill to milepost 14.00 in the Village of Unionville. 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.

**DESCRIPTION OF THE LINE**

According to M&NJ, the line proposed for abandonment was used primarily to transport agricultural products to the surrounding farming community from 1880 through the 1960's. The railroad also delivered coal to customers along the line during the earlier part of the 20<sup>th</sup> century. With the development of the interstate highway system, the need to provide materials by rail to these communities diminished. Additionally, the Susquehanna Railroad abandoned their connecting railroad to the south, thus making this section a spur. The last train to use the portion of the line proposed for abandonment ran in 1971.

The line proposed for abandonment is located in the southern part of the Town of Wawayanda (milepost 6.5 at County Road 93, known as Lime Kiln Road) and extends south through the Town of Minisink and into the Village of Unionville. The line ends at a stream that is the boundary line between the states of New York and New Jersey. The right-of-way is 66 feet wide (33 feet on either side of the center line) from milepost 6.50 to the Unionville border. There is an approximately 1000 foot section in Minisink, just north of Route 1 in Westtown where the right-of-way is 100 feet wide. The right-of-way in Unionville is 100 feet wide, with two exceptions. In one area north of Railroad Avenue, the right-of-way is 150 feet wide for a section of approximately 400 feet and tapers back down to 100 feet. The second area is a portion of the right-of-way along Main Street where it is reduced to approximately 30 feet.

Based on information in M&NJ's possession, the line does not contain Federally granted right-of-way. According to M&NJ, there are no restrictions on the title of the property and there are no reversionary interests on the property which would affect the transfer of title. The properties proposed to be abandoned may be suitable for public uses and M&NJ is currently discussing a potential sale to the Town of Minisink. M&NJ plans on liquidating the property for trail use or in a private sale to adjoining property owners or other interested parties. The Orange County Department of Planning (OCDP) has indicated that it is not opposed to the abandonment if the right-of-way remains intact for use as a trail or another public transportation utility. OCDP opposes an abandonment which would result in the right-of-way not being kept intact. M&NJ indicates that there are no structures on the right-of-way.

## **ENVIRONMENTAL REVIEW**

M&NJ 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&NJ 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 CFR 1105.7(b)]. The Board's Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding.

### ***Diversion of Traffic***

According to M&NJ, no local traffic has moved over the line for at least two years and there is no overhead traffic on the line. 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***

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way.

M&NJ indicates that abandonment and salvage of the line will not result in activities below the surface or below the level of initial disturbance. M&NJ has no plans to remove or alter the contour of the roadbed underlying any part of the rail line to be abandoned. There are no plans to undertake in-stream work or dredge and/or fill any materials in connection with the proposed abandonment. Water quality impacts are not expected in connection with the proposed abandonment.

M&NJ has no knowledge of any hazardous material spills on the right-of-way or in adjacent areas. The previous use of this line was to transport grain, feed, milk, and other agricultural products.

Based on M&NJ's site investigation, the line proposed for abandonment does not pass through state parks or forests, National parks or forests, or wildlife sanctuaries. No adverse effects on wildlife sanctuaries, National parks or forests, or state parks or forests are anticipated.

The National Geodetic Survey (NGS) has advised SEA that five geodetic station markers have been identified that may be affected by the proposed abandonment. Accordingly, we will recommend a condition requiring that M&NJ consult with the National Geodetic Survey (NGS) and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.

SEA 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, SEA does not believe that salvage activities would cause significant environmental impacts.

## **HISTORIC REVIEW**

M&NJ served the historic report on the New York State Historic Preservation Office (SHPO), pursuant to 49 CFR 1105.8(c). SEA has not heard from the SHPO and therefore has not been able to consider the SHPO's opinion before determining if the rail line may be potentially eligible for listing on the National Register of Historic Places. Accordingly, we are recommending a condition requiring the railroad to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures and objects within the project right-of-way (the Area of Potential Effect) eligible for listing or listed in the National Register of Historic Places until completion of the Section 106 process. Guidance regarding the Board's historic preservation review process is available on the Board's website at <http://www.stb.dot.gov/stb/environment/preservation.html>.

SEA conducted a search of the Native American Consultation Database at [www.cast.uark.edu/other/nps/nacd/](http://www.cast.uark.edu/other/nps/nacd/) to identify Federally recognized tribes that may have ancestral connections to the project area and identified no tribes that may have an interest in the proposed abandonment.

## **CONDITIONS**

We recommend that the following conditions be imposed on any decision granting abandonment authority:

1. Middletown and New Jersey Railway Company shall consult with the National Geodetic Survey (NGS) and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.
2. Middletown and New Jersey Railway Company (M&NJ) shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed. M&NJ shall report back to the Section of Environmental Analysis regarding any consultations with the State Historic Preservation Office and the public. M&NJ may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

## **CONCLUSIONS**

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should 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 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

## **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 CFR 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 Kenneth Blodgett, 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-762X in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Kenneth Blodgett, the environmental contact for this case, by phone at (202) 245-0305, fax at (202) 245-0454, or e-mail at [blodgettk@stb.dot.gov](mailto:blodgettk@stb.dot.gov).

Date made available to the public: May 23, 2008.

**Comment due date: June 6, 2008.**

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Anne K. Quinlan  
Acting Secretary

Attachment