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SERVICE DATE – SEPTEMBER 4, 2009

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-286 (Sub-No. 6X)]

The New York, Susquehanna and Western Railway Corporation—Abandonment
Exemption—in Oneida County, NY

The New York, Susquehanna and Western Railway Corporation (NYS&W), has filed a verified notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a .42-mile segment of its Fay Street Branch rail line between milepost 284.80 at or near Oswego Street in Utica, and milepost 285.22 at or near Warren Street in Utica, in Oneida County, NY. The line traverses United States Postal Service Zip Code 13502.

NYS&W has certified that: (1) no local traffic has moved over the line for at least 2 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 or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal

¹ NYS&W states that no local or overhead traffic has moved over the line for more than 15 years and that any previous overhead traffic has long been rerouted.

letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 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 R. Co.–Abandonment–Goshen, 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 October 7, 2009, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,² formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),³ and trail use/rail banking requests under 49 CFR 1152.29 must be filed by September 14, 2009. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 24, 2009, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

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

² The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service 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 currently is set at \$1,500. See 49 CFR 1002.2(f)(25).

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

NYS&W has filed both an environmental report and a historic report that address the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by September 11, 2009. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 245-0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] 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 CFR 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 September 4, 2010, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at
“WWW.STB.DOT.GOV.”

Decided: August 25, 2009.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Anne K. Quinlan

Acting Secretary