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OEA

SERVICE DATE – DECEMBER 11, 2015

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB 837 (Sub-No. 1X)
The Long Island Rail Road Company – Abandonment Exemption –
in Queens County, N.Y.

Docket No. AB 1236X
New York & Atlantic Railway Company – Discontinuance of Service Exemption –
in Queens County, N.Y.

BACKGROUND

In this proceeding, the Long Island Rail Road Company (LIRR) and New York & Atlantic Railway Company (NYA), (collectively applicants) filed petitions of exemption under 49 U.S.C. § 10502 seeking exemption from the requirements of 49 U.S.C. § 10903 for LIRR to abandon and NYA to discontinue service over two segments of rail line (the lines) located in Long Island City, Queens County, New York. The first segment, a portion of the Montauk Cutoff, is approximately 0.69 miles in length and is located between Milepost 0.0 and Milepost 0.69. The second segment, the Main Line Cutoff, is approximately 0.38 miles in length and is located between Milepost 0.82 and Milepost 1.2. A map depicting the lines in relationship to the area served is appended to this Environmental Assessment (EA). If the petitions become effective, LIRR will be able to salvage track, ties, and other railroad appurtenances and to dispose of the right-of-way.

ENVIRONMENTAL REVIEW

LIRR submitted an Environmental Report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. LIRR 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)].¹ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

¹ The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 837 (Sub-No 1X).

LIRR believes that the lines were constructed in or about 1910 so that freight trains from LIRR's North Shore freight yard and Main Line could access the LIRR's Lower Montauk branch without interfering with LIRR passenger trains, which had begun traveling into Manhattan's newly built Pennsylvania Station. Based on information in LIRR's possession, neither segment contains federally granted rights of way. The approximate width of the right of way varies from 75 feet to 125 feet and is located on an elevated man-made embankment approximately 15 feet above street level. The surrounding area is urban.

LIRR states that there are currently no active shippers on either segment of rail line proposed for abandonment. Pursuant to a Transfer Agreement between NYA and LIRR, NYA has the exclusive right to use the Montauk Cutoff for freight purposes. NYA does not currently operate over the Montauk Cutoff, and there are no longer any active shippers on the line. The freight traffic formerly operating over that segment now operates over LIRR's Lower Montauk/C Secondary line. No freight carriers currently operate over the Main Line Cutoff. Applicants do not believe that shippers are likely to oppose the proposed abandonment or be adversely affected by it.

LIRR indicates that it would maintain ownership of both segments of rail line that it seeks to abandon. LIRR would remove a portion of the Montauk Cutoff that is approximately 0.04 miles in length between milepost 0.24 and milepost 0.28 without removing the underlying rail bed to allow a more economical construction of tracks that is necessary for storage facilities related to the East Side Access (ESA) project that will bring LIRR passenger trains into Manhattan's Grand Central Terminal. If additional funding becomes available, LIRR would remove an additional portion of the Montauk Cutoff through the Skillman Avenue Bridge at milepost 0.35.

LIRR does not plan to remove any other portions of the rail lines (including culverts, ballasts and bridges) that it seeks to abandon. LIRR would cut the rails at the Cabin M Bridge and lift the bridge to a vertical position where it would be welded in place so that it would not be an impediment to navigation on Newtown Creek's Dutch Kills tributary. LIRR would continue to maintain the remaining portions of the rail lines, although the maintenance required would decrease due to the absence of train movements.

The Metropolitan Transportation Authority, LIRR's parent company, intends to provide the public with a Request for Expressions of Interest to determine possible future uses for the Montauk Cutoff. Future possible uses include, but are not limited to, public open space, urban farming, or museum and sculpture garden space.

Diversion of Traffic

According to LIRR, there are currently no active shippers on either segment of rail line proposed for abandonment. 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. LIRR indicates that it would maintain ownership of both segments of rail line that it seeks to abandon and does not plan to conduct salvage activities.

LIRR believes that the proposed abandonment is consistent with existing land use plans based on its review of agency local and regional land use planning documents. The proposed abandonment would not have any effect on prime agricultural land. LIRR is not aware of any hazardous waste sites or sites where there have been known hazardous material spills on the right of way.

The National Geodetic Survey has advised OEA that no geodetic station markers have been identified that may be affected by the proposed abandonment.

LIRR believes that the proposed abandonment is consistent with applicable federal, state and local water quality standards. No designated wetlands or 100 year flood plains would be affected by the proposed abandonment. LIRR does not believe that any water quality permits would be required for activities related to the proposed abandonment.

The rail line that LIRR seeks to abandon is located within a coastal zone. Accordingly, to address compliance with the Coastal Zone Management Act, OEA will recommend a condition requiring that LIRR consult with the New York State Department of State - Office of Coastal, Local Government and Community Sustainability to obtain state coastal management consistency certification prior to conducting any activities related to the proposed abandonment (including removal of tracks and ties).

LIRR indicates that no wildlife sanctuaries, refuges, National or State parks, or forests would be adversely affected by activities related to the proposed abandonment. The proposed abandonment would not adversely affect endangered or threatened species or areas designated as a critical habitat.

OEA believes that any air emissions associated with activities related to the proposed abandonment would be temporary and would not have a significant impact on air quality. Noise associated with activities related to the proposed abandonment 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 activities related to the proposed abandonment would cause significant environmental impacts

HISTORIC REVIEW

LIRR submitted an historic report as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)] and served the report on the New York State Office of Parks, Recreation and Historic Preservation (SHPO) pursuant to 49 C.F.R. § 1105.8(c). The SHPO has reviewed the historic report. Based on the information provided, the SHPO has determined that the proposed abandonment would have no impact on archaeological and/or historic resources listed in or eligible for the New York State and National Registers of Historic Places.

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 the proposed abandonment would not affect historic properties within the right-of-way (the Area of Potential Effect, or APE) of the proposed abandonment listed in or eligible for inclusion in the National Register. 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 <http://www.stb.dot.gov>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database to identify federally-recognized tribes that may have ancestral connections to the project area.² The database indicated no federally-recognized tribes that may have knowledge regarding properties of traditional religious and cultural significance within the APE of the proposed abandonment.

CONDITIONS

We recommend that one environmental condition be imposed on any decision granting abandonment authority.

Pursuant to the Coastal Zone Management Act (16 U.S.C. § 1451 *et seq.*) and the Board's environmental regulations at 49 C.F.R. § 1105.9, the Long Island Rail Road Company (LIRR) shall consult with the New York State Department of State – Office of Coastal, Local Government and Community Sustainability and obtain state coastal management consistency certification. LIRR may not file its consummation notice or initiate any activities related to abandonment (including removal of tracks and ties) until it reports the results of these consultations in writing to the Board's Office of Environmental Analysis and the Board has removed this condition.

² Native American Consultation Database, <http://home.nps.gov/nacd/> (last visited November 23, 2015).

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, abandonment of the lines would 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 lines, the right-of-way may be suitable for other public use. A request containing the requisite 4-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.

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 original and 2 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, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 837 (Sub-No. 1X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Kenneth Blodgett by phone at (202) 245-0305, fax at (202) 245-0454, or e-mail at blodgetk@stb.dot.gov.

Date made available to the public: December 11, 2015.

Comment due date: January 11, 2016.

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

Attachment