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SERVICE DATE – APRIL 24, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-254 (Sub-No. 9X)

PROVIDENCE AND WORCESTER RAILROAD COMPANY—ABANDONMENT
EXEMPTION—SLATERSVILLE SECONDARY TRACK (WOONSOCKET, RI AND
BLACKSTONE, MA)

Decided: April 23, 2007

Providence and Worcester Railroad Company (P&W) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon an approximately 1.1-mile portion of the Slatersville Secondary Track extending from milepost 0.85 +/- at the north side of Boyden Street in Woonsocket, Providence County, RI, to a point that is 1,480 +/- feet northerly of the end of the track at milepost 0.00 in Blackstone, Worcester County, MA. Notice of the exemption was served and published in the Federal Register on March 26, 2007 (72 FR 14169-70). The exemption is scheduled to become effective on April 25, 2007.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on March 30, 2007. In the EA, SEA stated that P&W submitted a historic report as required by the Board's rules at 49 CFR 1105.8(a) and served a copy of the report on the Rhode Island State Historic Preservation Office (RISHPO) and the Massachusetts State Historic Preservation Office (MASHPO). SEA also stated that RISHPO and MASHPO have not completed their review of the proposed abandonment. Therefore, SEA recommends that a condition be imposed requiring P&W to retain its interest in and take no steps to alter the historic integrity of all sites, buildings, and structures within the project right-of-way that are eligible for listing or listed in the National Register of Historic Places (generally 50 years old or older) until the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed.

No comments to the EA were received by the April 16, 2007 due date. Accordingly, the condition recommended by SEA in the EA will be imposed. Based on SEA's recommendation, the proposed abandonment, if implemented as conditioned, will not significantly affect either the quality of the human environment or the conservation of energy resources.

In the March 30, 2007 EA, SEA indicated that a portion of the right-of-way may be suitable for public use following abandonment. By a late-filed petition (filed on

April 20, 2007), the city of Woonsocket (City) requests the issuance of a 180-day public use condition under 49 U.S.C. 10905.¹ Under section 10905, the Board may prohibit the disposal of rail properties that are proposed to be abandoned and are appropriate for public purposes for a period of not more than 180 days after the effective date of the decision approving or exempting the abandonment.

To justify a public use condition, a party must set forth: (i) the condition sought; (ii) the public importance of the condition; (iii) the period of time for which the condition would be effective; and (iv) justification for the imposition of the period of time requested. See 49 CFR 1152.28(a)(2). Because the City has satisfied these requirements, a 180-day public use condition will be imposed, commencing from the April 25, 2007 effective date of the exemption.

It should be noted that a public use condition is not imposed for the benefit of any one potential purchaser, but rather to provide an opportunity for an interested person to acquire the right-of-way that has been found suitable for public purposes, including trail use. Therefore, P&W is not required to deal exclusively with the City, but may engage in negotiations with other interested persons.

It is ordered:

1. This proceeding is reopened.

2. On reconsideration, the notice served and published in the Federal Register on March 26, 2007, exempting the abandonment of the line described above, is subject to the condition that P&W retain its interest in and take no steps to alter the historic integrity of all sites, buildings, and structures within the project right-of-way that are eligible for listing or are listed in the National Register of Historic Places (generally 50 years old or older) until the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed. P&W shall report to SEA regarding any consultations with the RISHPO, the MASHPO, and any other section 106 consulting party. P&W may not file its consummation notice or initiate any salvage activities (including removal of tracks and ties) until the section 106 process has been completed and the Board has removed the condition.

¹ The March 26, 2007 notice provided that requests for public use conditions were to be filed by April 16, 2007. However, in Aban. and Discon. of R. Lines and Transp. Under 49 U.S.C. 10903, 1 S.T.B. 894 (1996) and 2 S.T.B. 311 (1997), the Board retained the policy of accepting filings after the due date when good cause is shown. Because there is no indication that City's late-filed request will prejudice any party, and the City states that it had endeavored to pursue a public use condition in the environmental docket for this proceeding, there is good cause to accept the request and it will be accepted. See Wheeling & Lake Erie Railway Company–Abandonment Exemption–in Starke County, OH, STB Docket No. AB-227 (Sub-No. 10X), slip op. at 1 n.1 (STB served Nov. 7, 1997).

3. The late-filed request for a public use condition under 49 U.S.C. 10905 is accepted.

4. On reconsideration, the notice of exemption served and published in the Federal Register on March 26, 2007, exempting the abandonment of the line described above, is modified to the extent necessary to permit public use negotiations as set forth below.

5. Consistent with the public use condition imposed in this decision, P&W may discontinue service and salvage track and related materials. P&W shall keep intact the right-of-way, including bridges, trestles, culverts and tunnels, for a period of 180 days from the effective date of the abandonment exemption (until October 22, 2007), to enable any state or local government agency, or other interested person, to negotiate the acquisition of the line for public use.

6. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary