

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 167 (Sub-No. 1190X)

CONSOLIDATED RAIL CORPORATION—ABANDONMENT EXEMPTION—IN HUDSON
COUNTY, N.J.

Decided: April 14, 2011

Consolidated Rail Corporation (Conrail), CSX Transportation, Inc. (CSXT), and Norfolk Southern Railway Company (NS), filed a joint notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments and Discontinuances of Service, for Conrail to abandon, and for CSXT and NS to discontinue service over, a 2.27-mile portion of rail line (the Lehigh Valley Main Line), between mileposts 2.90± and 5.17±, in Jersey City, Hudson County, N.J. Notice of the exemption was served and published in the Federal Register on December 9, 2008 (73 Fed. Reg. 74,801).¹ The exemption was scheduled to become effective on January 8, 2009.

In an environmental assessment served December 12, 2008, the Board's Office of Environmental Analysis (OEA)² recommended that 3 conditions (2 consultation conditions and a Section 106 historic preservation condition) be imposed on any grant of abandonment authority. In a decision served May 17, 2010, the Board exempted the line from the offer of financial assistance provisions at 49 U.S.C. § 10904, effectively granting abandonment authority to Conrail. However, the Board inadvertently omitted imposing the environmental conditions recommended by OEA.

In a decision served July 1, 2010, the Board imposed a condition requiring Conrail 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) 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 had been completed, and noted that Conrail could not file its consummation notice until the Section 106 process had been completed and the Board had removed the condition.³

¹ The notice that was served and published also embraced CSX Transportation, Inc.—Discontinuance of Service Exemption—in Hudson County, New Jersey, AB 55 (Sub-No. 690X), and Norfolk Southern Railway Company—Discontinuance of Service Exemption—in Hudson County, New Jersey, AB 290 (Sub-No. 313X).

² Previously the Section of Environmental Analysis, or SEA.

³ At the time of the July 1 decision, Conrail had complied with the 2 consultation conditions.

In a supplement to the final EA, OEA states that, by letter dated March 10, 2011, the New Jersey Historic Preservation Office (SHPO) submitted comments stating that the proposed abandonment would not adversely affect any known historic properties. OEA further states that, based on the SHPO's information, it has determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register of Historic Places. Therefore, based on the information provided, OEA recommends that the Section 106 condition be removed.

Accordingly, the proceeding will be reopened and the previously imposed historic preservation condition will be removed.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the Section 106 historic preservation condition imposed in the July 1, 2010 decision is removed.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.