

234783

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September 9, 2013

VIA FEDEX

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024



Re: **The New York, Susquehanna & Western
Railway Corporation - Exempt Abandonment -
Passaic and Morris Counties 7
STB Docket No. AB-286 (Sub No 6X)**

**ENTERED
Office of Proceedings**

SEP 10 2013

**Part of
Public Record**

Dear Ms Brown:

Enclosed for filing are the original and 10 copies of an Environmental/Historic Report being filed on behalf of The New York, Susquehanna & Western Railway Corporation in the above-reference proceeding

Please time stamp the extra copy of this letter to indicate receipt of all of the foregoing, and return it to me in the stamped, self-addressed envelope provided for your convenience.

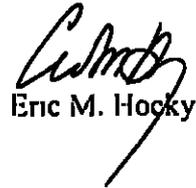
September 9, 2013

Page 2

Please let me know if there are any questions regarding this filing.

Very truly yours.

CLARK HILL THORP REED



Eric M. Hocky

EMI/l/e
Encls

234783

Before the

SURFACE TRANSPORTATION BOARD

STB Docket No AB-286 (Sub No. ⁷X)

**THE NEW YORK, SUSQUEHANNA & WESTERN RAILWAY CORPORATION
- EXEMPT ABANDONMENT -
PASSAIC AND MORRIS COUNTIES, NEW JERSEY**



ENVIRONMENTAL/HISTORIC REPORT

(color copies included)

**ENTERED
Office of Proceedings**

SEP 10 2013

**Part of
Public Record**

Eric M. Hocky
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One Commerce Square
2005 Market Street
Suite 1000
Philadelphia, PA 19103-7041
(215) 640-8500

Attorneys for The New York, Susquehanna
& Western Railway Corporation

Dated September 9, 2013

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. AB-286 (Sub No. 2X)



THE NEW YORK, SUSQUEHANNA & WESTERN RAILWAY CORPORATION
- EXEMPT ABANDONMENT -
PASSAIC AND MORRIS COUNTIES, NEW JERSEY

ENVIRONMENTAL/HISTORIC REPORT

The New York, Susquehanna & Western Railway Corporation ("Applicant") will be seeking authority to abandon a segment of its line of railroad which runs between milepost 22.1 in Wayne Township, Passaic County, New Jersey and milepost 26.3 in Pompton Plains Township, Morris County, New Jersey ("Subject Line"). This Subject Line traverses through United States postal zip codes 07440, 07442, 07444 and 07470.

Applicant plans to seek Board authorization on or about September 30, 2013 for its abandonment by filing a notice of exemption pursuant to the provisions of 49 CFR 1152.50. This report is being filed in connection therewith, and in accordance with the requirements of 49 CFR 1105.7 and 1105.8. To prepare this report, Applicant consulted with various state and federal agencies as required by the Board's regulations. See the letters attached as Exhibit A. Based on the written response received to-date by Applicant attached as Exhibit B, and the responses (both oral and written) noted in the Response Log attached as Exhibit C, Applicant states as follows:

ENVIRONMENTAL REPORT

(49 CFR 1105.7)

1. PROPOSED ACTION AND ALTERNATIVES

Applicant proposes to abandon the Subject Line which it acquired in April 1982. No local or overhead service has been provided between MP 25.96 and MP 22.1 for over twenty years. There has not been any local service between MP 25.96 and MP 26.3 for over two years. Applicant plans to remove and sell the rails and track, to the extent they are saleable. Morris County has indicated an interest in acquiring the right of way for trail use.

2. EFFECTS OF THE TRANSPORTATION SYSTEM

Because there has been no local or overhead service on the Subject Line for a substantial period of time, Applicant believes that the abandonment would have no effect on the transportation system. Applicant sent a consultation letter regarding the proposed abandonment to the New Jersey Office of GIS, as the state clearinghouse. See letter attached as part of Exhibit A. No response has been received.

3. LAND USE

Applicant is unaware of any regional or local land use patterns with which the proposed abandonment would be inconsistent. Applicant consulted with the following agencies regarding the proposed abandonment that may be concerned with land use issues: New Jersey Department of Environmental Protection – Green Acres Program and New Jersey Department of Environmental Protection – Division of Land Use Regulation (collectively “NJDEP”), Louis E. Imhoff, III, Clerk to the Board of Chosen Freeholders, Passaic County; Thomas J. Mastrangelo, Freeholder Director, Morris County Board of Chosen Freeholders, U.S. Environmental Protection Agency (“EPA”) (Region 2); U.S. National Park Service (Northeast Region), U.S. Natural Resources/Soil Conservation Service (“NRCS”), Morris County Soil

Conservation District; NRCS Service Center (serving Passaic County) and the National Geodetic Survey, United States Department of Commerce, NOAA. N/NJS2 (Spatial Reference System Division) Copies of these letters are attached as part of Exhibit A. As indicated in the Response Log attached as Exhibit C, NRCS stated in a telephone call that it anticipates no issues with the proposed abandonment. A letter is forthcoming and will be forwarded when received. Applicant also received responses from NJDEP, attached as part of Exhibit B and summarized in the Response Log attached as Exhibit C:

- In a telephone call and various email correspondence, the NJDEP stated that as long as the abandonment does not include tree removal, there are no anticipated issues. NJDEP may have issues concerning the development of trails, but that would need to be addressed by the trail developer following the abandonment.

No responses have been received from any of the other these consulted agencies.

ii. Applicant does not believe that the proposed abandonment will have any adverse effect on any prime agricultural land. Consultation notices were sent to the agencies listed in paragraph 3(i) above, and as indicated, no responses have been received except for the responses from NCRS and NJDEP that indicate that they have no issues with the proposed abandonment.

iii. Applicant does not believe that the abandonment is inconsistent with any coastal zone plans. Applicant sent a consultation letter regarding the abandonment to the New Jersey Coastal Management Office, a copy of which is attached as part of Exhibit A. No response was received, however, NJDEP indicated that the line is not in New Jersey's Coastal Zone. See email attached as part of Exhibit B, and the Response Log attached as Exhibit C.

iv. Applicant believes that the right of way may be suitable for use as a trail or other public purposes. Morris County has expressed an interest in acquiring the land for trail

purposes. While Passaic County has not raised issues specific to the environmental impact of the abandonment, in a telephone call, it requested the opportunity to comment on land use following the abandonment.

4. ENERGY

Since there has not been any local or overhead service on the line between MP 22.1 and MP 25.96 for over twenty years and no local service between MP 25.96 and MP 26.3 for over two years.

i. The proposed abandonment will have no effect on the transportation of energy sources;

ii. The proposed abandonment will have no effect on recyclable commodities;

iii. There will be no effect on overall energy efficiency;

iv. The proposed abandonment will not divert any traffic from rail to motor carriage.

Thus, the effects of the proposed abandonment will not exceed the thresholds set forth in 49 CFR 1105.7(c)(4)(iv)

5. AIR

Since there has not been any local or overhead service on the line between MP 22.1 and MP 25.96 for over twenty years and no local service between MP 25.96 and MP 26.3 for over two years, the proposed abandonment will not result in any increases in rail traffic or rail yard activity. The effects of the proposed abandonment will not exceed the thresholds set forth in 49 CFR 1105.7(c)(4)(v)

6. NOISE

Applicant does not believe that the proposed abandonment will result in any increase in noise levels.

7 SAFETY

Applicant does not believe that the proposed abandonment will have any adverse effect on public health or safety. Abandonment will allow the closing of seven public and two private rail-highway crossings (although crossings for possible trail use would still be necessary).

8 BIOLOGICAL RESOURCES

i Applicant has consulted with the U.S. Fish and Wildlife Service (Resident Agent in Charge) and the U.S. Fish and Wildlife Service (New Jersey Ecological Services Field Office), as well as to the following agencies that are potentially concerned with biological resources NJDEP; EPA; U.S. National Park Service (Northeast Region); NRCS; Morris County Soil Conservation District and NRCS Service Center (serving Passaic County). Copies of these letters are attached as part of Exhibit A. Copies of the written responses to-date are attached as part of Exhibit B. Both written and oral responses are summarized on the Response Log attached as Exhibit C. The following is a summary of the responses received to date:

- In an email and a letter, the U.S. Fish and Wildlife Service expressed concern about the effects of the proposed abandonment, in particular the removal of trees, on the habitat of the Indiana Bat. Applicant advised the agency that it did not anticipate removal of any trees as part of the salvage of the Subject Line, but that if any were removed, Applicant would only do so during the recommended time periods. Based on these representations, the Fish & Wildlife Service gave approval for the project.
- In a telephone call, NRCS stated that it anticipates no issues with the proposed abandonment. A letter is forthcoming and will be forwarded upon receipt.
- In a telephone call and various email correspondence, the NJDEP stated that as long as the abandonment does not include tree removal, there are no anticipated issues. NJDEP may have issues concerning the

development of trails, but that would need to be addressed by the trail developer following the abandonment.

ii. Applicant does not believe that there are any wildlife sanctuaries or refuges, National or State parks or forests in the vicinity of the proposed abandonment.

Consultation letters were sent to the agencies identified in the paragraph 8 i, and Applicant received the responses summarized above.

9. WATER

i. The proposed abandonment and any salvage will be handled in a manner that is consistent with the applicable local, State and Federal water quality standards. Applicant consulted with the agencies identified in paragraph 8 i

ii. Applicant also sent a consultation letter regarding the proposed abandonment to the U.S. Army Corps of Engineers (Philadelphia District). A copy of this letter is attached as part of Exhibit A. No response has been received to-date.

iii Applicant does not believe that any Clean Water Act permits will be required. Consultation letters were sent to NJDEP and EPA. Copies of these letters are attached as part of Exhibit A. As indicated in the responses from NJDEP, no permits will be required. See emails attached as part of Exhibit B, and Response Log attached as Exhibit C. No response has been received from the EPA.

10 PROPOSED MITIGATION

Since no adverse environmental impacts are expected, no mitigation is proposed.

11. ADDITIONAL INFORMATION FOR RAIL CONSTRUCTION

Not applicable

12. CONSULTATION

As shown by the copies of letters attached as Exhibit A, Applicant has consulted with the following agencies: New Jersey Office of GIS; NJDEP, Louis E. Imhoff, III, Clerk to the Board of Chosen Freeholders, Passaic County; Thomas J. Mastrangelo, Freeholder Director, Morris County Board of Chosen Freeholders, EPA; U.S. National Park Service (Northeast Region); NRCS, Morris County Soil Conservation District; NRCS Service Center (serving Passaic County) and the National Geodetic Survey, United States Department of Commerce, NOAA, N/NJS2 (Spatial Reference System Division), U.S. Fish and Wildlife Service (Resident Agent in Charge); the U.S. Fish and Wildlife Service (New Jersey Ecological Services Field Office) and the U.S. Army Corps of Engineers (Philadelphia District). Written responses are attached as Exhibit B, and all written and oral responses are summarized in the Response Log attached as Exhibit C.

13. CERTIFICATIONS

Applicant certifies that:

- a) It consulted with the agencies listed in 49 CFR 1105.7, as described in paragraph 12 above;
- b) On this date, it sent copies of this report to each of the agencies consulted as shown on the attached certificate of service;
- c) Notice of the proposed abandonment was published in The Daily Record on September 3, 2013. A copy of the form of notice, and a copy of the proof of publication are attached as Exhibit D.

- d) Applicant will not file its verified notice of abandonment until at least twenty (20) days after the agencies have been served with a copy of this report.

**HISTORIC REPORT
(49 CFR 1105.8)**

1 U.S.G.S TOPOGRAPHIC MAP

A U S G.S. topographic map showing the location of this proposed abandonment is attached as Exhibit E. The only historic structure 50 years old or older is a bridge over the Pompton River located at milepost 23 32

2 DESCRIPTION OF RIGHT OF WAY

The Subject Line extends from milepost 22.1 in Wayne Township, Passaic County, New Jersey and milepost 26.3 in Pompton Plains Township, Morris County, New Jersey. The surrounding area is predominantly suburban and light industrial

3 PHOTOGRAPHS OF HISTORIC STRUCTURE(S)

As noted above, the only historic structure 50 years old or older is a bridge over the Pompton River located at milepost 23.32. Photographs of the bridge are attached as Exhibit F.

4 DATES OF CONSTRUCTION OF HISTORIC STRUCTURE(S)

Applicant believes that the current bridge was constructed in 1915. Applicant is not aware of any major alterations to the bridge.

5. HISTORY OF CARRIER OPERATIONS IN THE AREA

Bases on information in Applicant's possession, the Subject Line was built in the 1860's, as part of New York and Greenwood Lake Railroad. Eventually, the Subject Line became part of the Erie Railroad and then the Erie Lackawanna Railroad. The Subject Line was conveyed to Consolidated Rail Corporation in 1976 as part of the Final System Plan. Applicant purchased the Subject Line from Conrail in April, 1982.

6. SUMMARY OF STRUCTURE DOCUMENTATION

Applicant has a variety of engineering drawings dating from construction of the bridge in 1915

7. OPINION REGARDING CRITERIA FOR LISTING

Applicant has given notice of the proposed abandonment to the New Jersey Historical Society. In email correspondence from the NJDEP, Applicant was advised that there might be a need to file a separate Section 106 request with the NJDEP Historic Preservation Office. Applicant will comply with any necessary requirements. However, the bridge at milepost 23.32, the only historical structure on the Subject will not be removed or altered. The salvage work that the Applicant proposes will be surface work only and will not disturb subsurface resources

8. ENVIRONMENTAL CONDITIONS

Applicant is unaware of any prior subsurface ground disturbance or fill, or environmental conditions which might affect the archeological recovery of resources or the surround terrain.

Respectfully submitted,



Eric M. Hocky
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One Commerce Square
2005 Market Street
Suite 1000
Philadelphia, PA 19103-7041
(215) 640-8500

Attorneys for The New York, Susquehanna
& Western Railway Corporation

Dated: September 9, 2013

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of September, 2013, I served a copy of the foregoing Environmental/Historic Report on the persons listed below by first class mail, postage prepaid:

New Jersey Office of GIS
P.O. Box 212
200 Riverview, 4th Floor
Trenton, NJ 08625

U S Fish and Wildlife Service
New Jersey Ecological Services Field Office
927 North Main Street, Building D
Pleasantville, NJ 08232-1454

State of New Jersey
Department of Environmental Protection
Green Acres Program
Mail Code 501-01
P.O. Box 420
Trenton, NJ 08625-0420

U.S. Fish and Wildlife Service
Resident Agent in Charge
1210 Corbin Street, 2nd Floor
Elizabeth, NJ 07201-2946

State of New Jersey
Department of Environmental Protection
Division of Land Use Regulation
Mail Code 501-02A
P.O. Box 420
Trenton, NJ 08625-0420

U.S. Army Corps of Engineers
Philadelphia District
The Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107-3390

Louis E. Imhof, III
Clerk to the Board of Chosen Freeholders
Passaic County Administration Building
Freeholder's Office
401 Grand Street
Paterson, NJ 07505

U S National Park Service
Northeast Region
Dennis Reidenbach, Regional Director
U.S. Customs House
200 Chestnut Street, 5th Floor
Philadelphia, PA 19106

Thomas J. Mastrangelo, Freeholder Director
Morris County Board of Chosen Freeholders
Morris County Administration & Records
Building
P.O. Box 900
Morristown, NJ 07963-0900

Carrie Mosley, State Conservationist
USDA – NRCS
220 Davidson Ave., 4th Floor
Somerset, NJ 08873

U S EPA Region 2
290 Broadway
New York, NY 10007-1866

Morris County Soil Conservation District
P O Box 900
Morristown, NJ 07963

NRCS Service Center
Hackettstown Commerce Park
Building 1
101 Bilby Road
Hackettstown, NJ 07840

Communications and Outreach Branch
NOAA. N/NGS12
National Geodetic Survey. SSMC3 #9202
1315 East West Highway
Silver Spring, MD 20910-3282

The New Jersey Historical Society
52 Park Place
Newark, NJ 07102

Martin Rosen, Manager
NJ Coastal Management Office
401-07D P.O. Box 420
401 East State Street
Trenton, NJ 08625

Caroline Scott
Mail Code 501-04B
State of New Jersey
Department of Environmental Protection
Historic Preservation Office
P.O. Box 420
Trenton, NJ 08625-0420



Carol D. Lydon, Paralegal
CLARK HILL THORP REED
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2005 Market Street
Suite 1000
Philadelphia, PA 19103-7041
(215) 640-8500

EXHIBIT A

CLARK HILL | THORP REED

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Email clydon@clarkhillthorpreed.com

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7005 Market Street
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Philadelphia, PA 19103
T 215 640 8500
F 215.640 8501

clarkhillthorpreed.com

July 29, 2013

VIA FIRST-CLASS MAIL

TO ALL AGENCIES PER THE ATTACHED SERVICE LIST

Re The New York, Susquehanna and Western Railway Corporation - Abandonment -
Wayne and Morris Counties, NY ⁷
STB Docket No AB-286 (Sub-No ~~6~~X)

Dear Madam or Sir,

This letter is to advise you that The New York, Susquehanna and Western Railway Corporation ("NYS&W") proposes to abandon a segment of its line of railroad, known as the Pompton Industrial, which runs in a northerly direction from Milepost 22 1 in Wayne Township, Passaic County, New Jersey to Milepost 26 3 in Pompton Plains Township, Morris County, New Jersey. The line also passes through the township of Pequannock, Morris County, New Jersey. The line traverses through United States Postal Zip Codes 07440, 07442, 07444 and 07470. A map showing the location of this line is attached.

NYS&W plans to seek Surface Transportation Board ("STB") authorization for its abandonment through a notice of exempt abandonment pursuant to the provisions of 49 C.F.R. §1152.50 on or about September 27, 2013 in Docket No AB-286 (Sub-No. 6X).

Based upon the information in our possession, the line does not contain federally granted rights of way. NYS&W believes that the right of way can be used for trail and other public purposes (Morris County has expressed an interest in acquiring the line for trail purposes.) Any documentation in the railroad's possession will be made available promptly to those requesting it.

No local service has been provided between MP 25.96 and MP 22 1, and no overhead service over the line, for over twenty years. There has not been any local service between MP 25.96 and MP 26 3 for over two years. NYS&W does not believe there are any reasonable alternatives to the proposed action. At this time, NYS&W plans to remove and sell the rails and

July 29, 2013

Page 2

track, to the extent they are saleable. NYS&W believes that the abandonment will not have a significant impact on the environment.

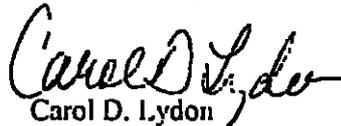
In advance of preparing an environmental report as required by applicable STB regulations, we are consulting with appropriate agencies such as yours as to any concerns which they may have as to environmental effects of the proposed abandonment.

We would appreciate an expression from you by August 28, 2013 that, within the area of your authority, you do not perceive that the abandonment will have a significant effect upon the environment. If you have any questions about the railroad's proposal or if you need assistance in this matter, please call me at (215) 640-8537.

Thank you for your cooperation.

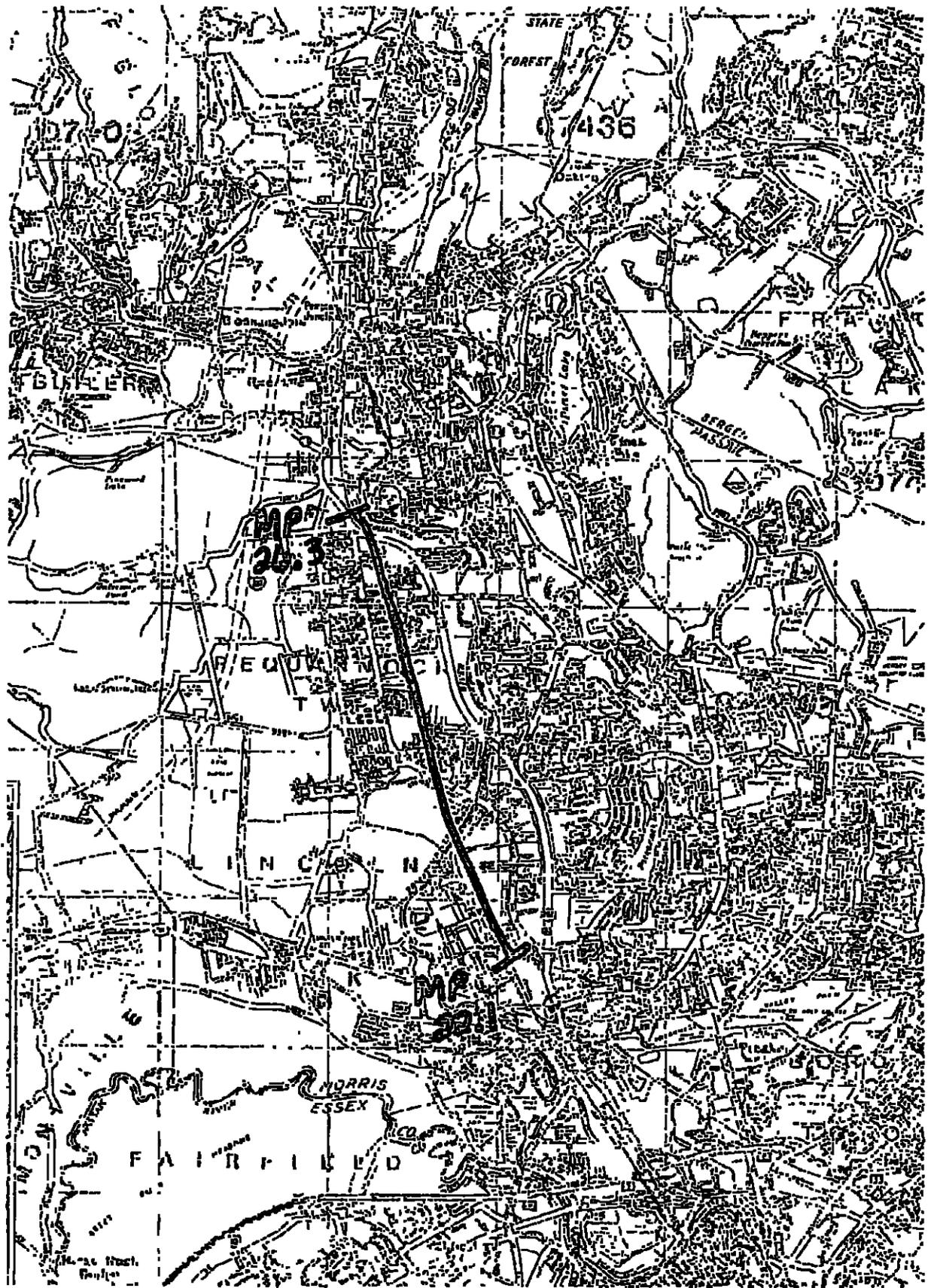
Sincerely,

CLARK HILL THORP REED


Carol D. Lydon

CDL
Enclosures

CC Eric M. Hocky, Esquire (via email)
Nathan R. Fenno (via email)



The New York, Susquehanna and Western Railway Corporation - Abandonment - Wayne and
Morris Counties, NY
STB Docket No. AB-286 (Sub-No 6X)
SERVICE LIST

New Jersey Office of GIS
P.O. Box 212
200 Riverview, 4th Floor
Trenton, NJ 08625

U.S. Fish and Wildlife Service
Resident Agent in Charge
1210 Corbin Street, 2nd Floor
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Philadelphia District
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P.O. Box 900
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U.S. EPA Region 2
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New York, NY 10007-1866

NRCS Service Center
Hackettstown Commerce Park
Building 1
101 Bilby Road
Hackettstown, NJ 07840

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927 North Main Street, Building D
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Communications and Outreach Branch
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July 29, 2013

VIA FIRST-CLASS MAIL

Martin Rosen, Manager
NJ Coastal Management Office
401-07D P O. Box 420
401 East State Street
Trenton, NJ 08625

Re The New York, Susquehanna and Western Railway Corporation - Abandonment -
Wayne and Morris Counties, NY
STB Docket No. AB-286 (Sub-No. ~~6X~~ 7)

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NYS&W plans to seek Surface Transportation Board ("STB") authorization for its abandonment through a notice of exempt abandonment pursuant to the provisions of 49 C.F.R. §1152.50 on or about September 27, 2013 in Docket No. AB-286 (Sub-No. 6X).

Based upon the information in our possession, the line does not contain federally granted rights of way. NYS&W believes that the right of way can be used for trail and other public purposes. (Morris County has expressed an interest in acquiring the line for trail purposes.) Any documentation in the railroad's possession will be made available promptly to those requesting it.

July 29, 2013

Page 2

No local service has been provided between MP 25.96 and MP 22.1, and no overhead service over the line, for over twenty years. There has not been any local service between MP 25.96 and MP 26.3 for over two years. NYS&W does not believe there are any reasonable alternatives to the proposed action. At this time, NYS&W plans to remove and sell the rails and track, to the extent they are saleable. NYS&W believes that the abandonment will not have a significant impact on the environment.

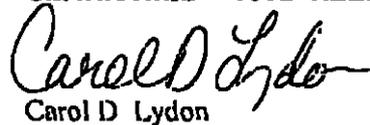
Please advise us whether the line is within New Jersey's coastal zone. If a segment is within the coastal zone, please advise further (1) if the proposed abandonment is an action listed for review in New Jersey's coastal zone management plan, and (2) if the action is so listed, whether the proposed action is consistent with the coastal zone management plan.

We would appreciate an expression from you by August 28, 2013 that, within the area of your authority, you do not perceive that the abandonment will have a significant effect upon coastal zone management. If you have any questions about the railroad's proposal, or if you need further assistance, please call me at (215) 640-8537.

Thank you for your attention to this matter.

Sincerely,

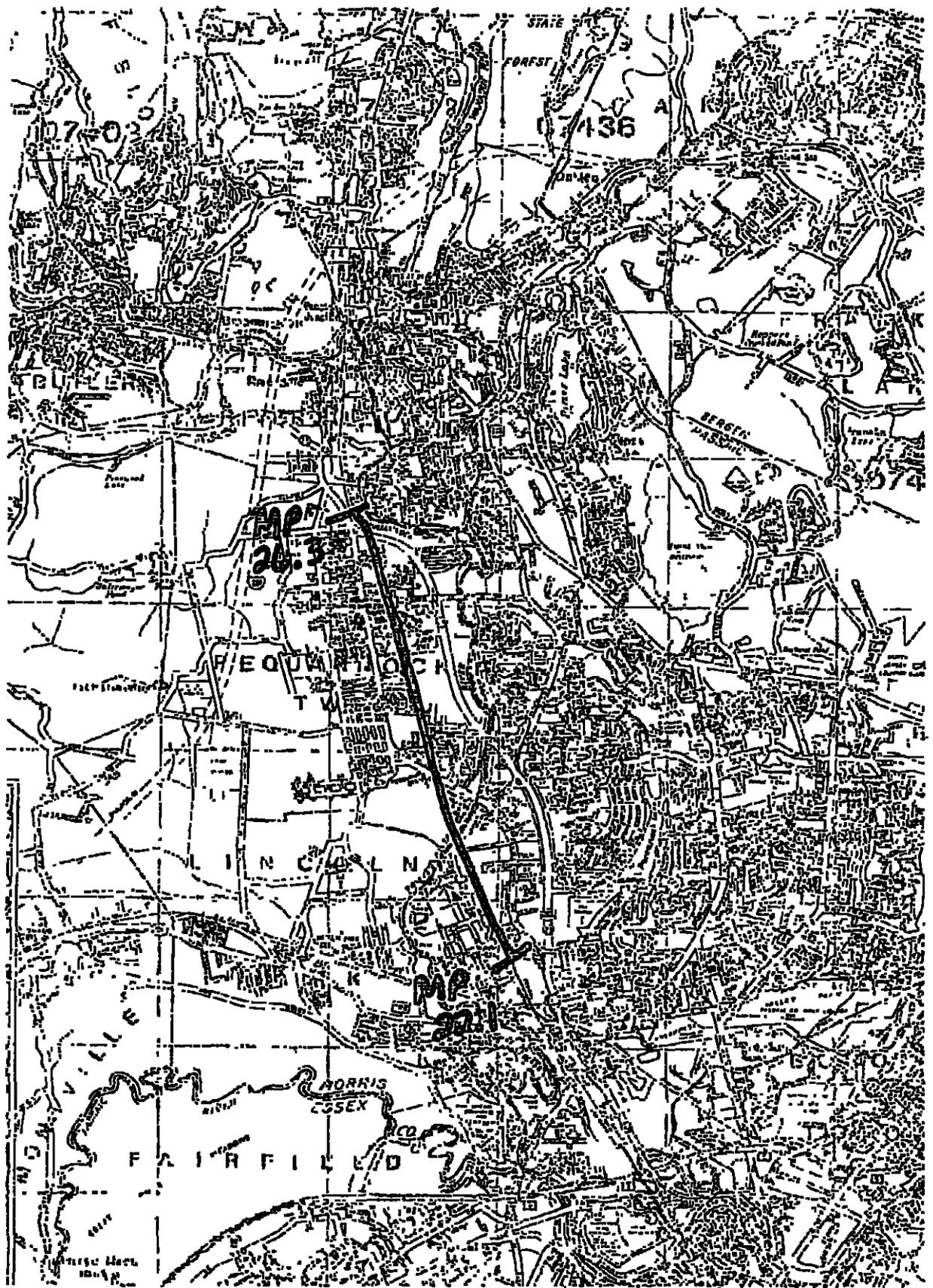
CLARK HILL THORP REED



Carol D. Lydon

CIDL
Enclosures

CC Eric M. Hocky, Esquire (via email)
Nathan R. Fenno (via email)



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July 29, 2013

VIA FIRST-CLASS MAIL

The New Jersey Historical Society
52 Park Place
Newark, NJ 07102

Re. The New York, Susquehanna and Western Railway Corporation - Abandonment -
Wayne and Morris Counties, NY ?
STB Docket No AB-286 (Sub-No. 6X)

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July 29, 2013

Page 2

track, to the extent they are saleable NYS&W believes that the abandonment will not have a significant impact on the environment.

Based upon a review of its records, NYS&W believes that the only structure on the line over 50 years old is the railroad bridge over the Pompton River

This consultation as to any concerns which you may have as to historic preservation effects of the proposed abandonment is being taken in advance of preparing an historic report as required by applicable regulations

We would appreciate an expression from you by August 28, 2013 that, within the area of your authority, you do not perceive that the abandonment will have a significant effect upon historic preservation. If you have any questions about the railroad's proposal, or if you need further assistance, please call me at (215) 640-8537

Thank you for your attention to this matter

Sincerely,

CLARK HILL THORP REED



Carol D. Lydon

CDL

Enclosures

CC Eric M. Hocky, Esquire (via email)
Nathan R. Fenno (via email)

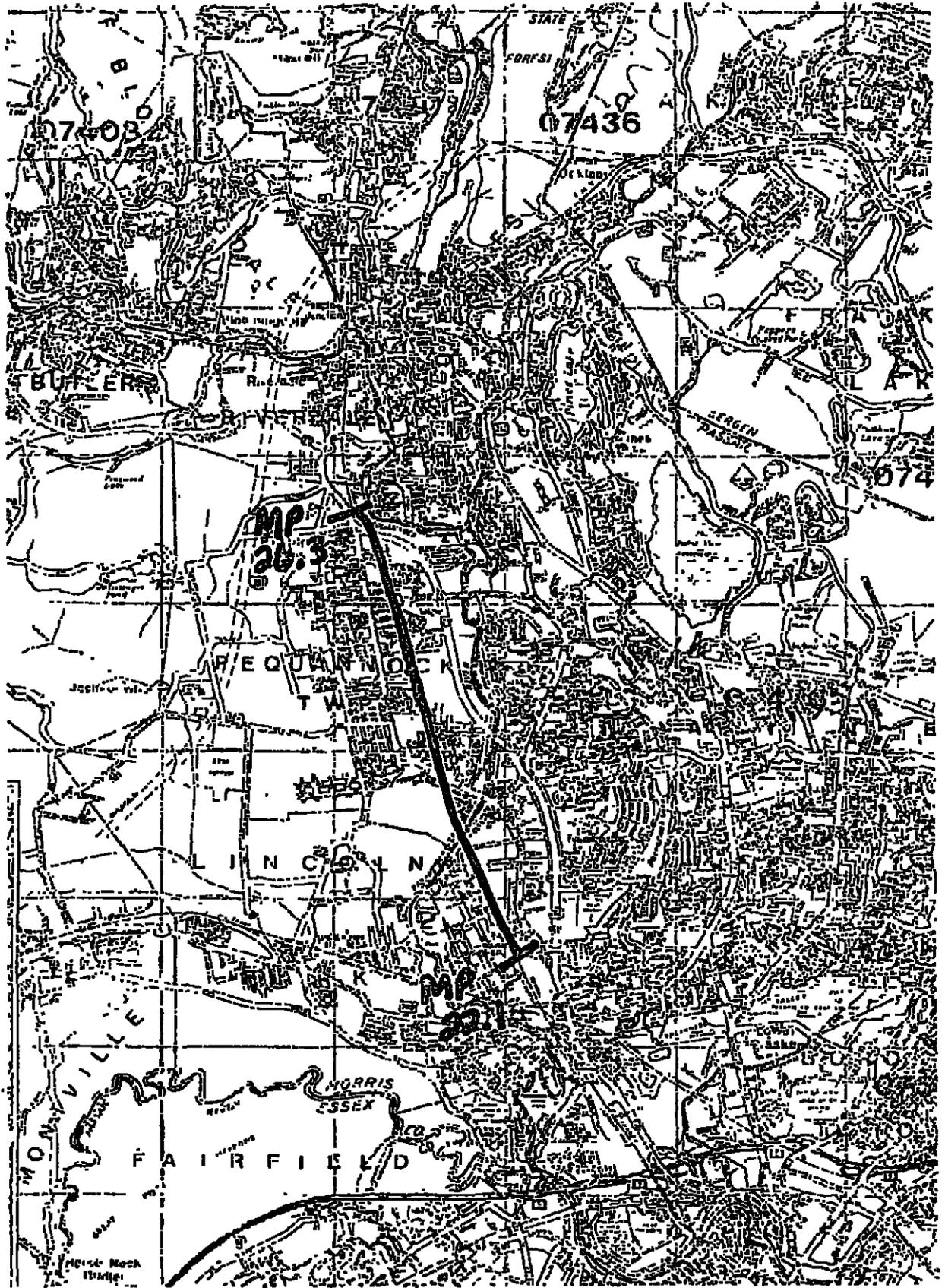


EXHIBIT B

Lydon, Carol

From: Hamlin, Dennis <dennis_hamlin@fws.gov>
Sent: Friday, August 02, 2013 4 03 PM
To: Lydon, Carol
Subject: Rail Line Abandonment
Attachments: return form iPaC -no names.doc

Carol,

I received your request for environmental consultation on the Pompton Industrial rail line abandonment.

While you have provided a reasonable map and project description, our office policy is to return any requests that do not specifically refer to a threatened or endangered species present or potentially present at the project site based on review of information available on our website

I don't believe have not worked with your firm in the past, so you may be unaware of our procedures. I am going to attach a copy of the form we would normally send back to you, giving you an idea of what we are looking for to be included with submissions.

I encourage you to look at our website consultation page and explore the iPaC decision support program. You can map in the exact location of your project and get site specific information on species of concern. If the query returns a listed species, you would refer to that species in your letter to us.

If query returns no species, you can print out a letter from the website stating the project will have "no effect" to any threatened or endangered species and nothing further is required.

For this particular project, the concern would be possible adverse affects to Indiana bat. A review of the information on Indiana bat would detail the restrictions. Restrictions on work in this location would include tree clearing. So your letter would say a review of our website indicated Indiana bat may be present, and hopefully you would tell us if any trees were planned to be removed.

A reply to this email describing any tree clearing will be sufficient for me to respond in this case. Please refer to id number 2013-I-0386.

Thanks

--

Dennis Hamlin
Fish and Wildlife Biologist
U S Fish and Wildlife Service
New Jersey Field Office
927 North Main Street, Bldg D
Pleasantville, NJ 08232
Phone: 609-383-3938 ext 14
Fax: 609-646-0352
Email: dennis_hamlin@fws.gov



United States Department of the Interior

FISH AND WILDLIFE SERVICE

New Jersey Field Office
927 North Main Street, Building D
Pleasantville, New Jersey 08232
Tel: 609-646-9310 Fax: 609-646-0352
<http://www.fws.gov/northeast/njfieldoffice>



IN REPLY REFER TO:

The U S Fish and Wildlife Service (Service) is unable to respond to your recent request for project or site review pursuant to the Endangered Species Act of 1973 (87 Stat 884, as amended; 16 U S C. 1531 *et seq*) (ESA) because your submission did not follow the procedures on our web site at

<http://www.fws.gov/northeast/njfieldoffice/Endangered/consultation.html>

In particular, your submission was lacking the following information.

- A map of the project site.
- The name(s) of any Federal or non-Federal agency authorizing or funding the project
- For communication towers, indication why the project is not eligible for a categorical determination of "not likely to adversely affect" as provided by the document *Communication Tower and Antenna Consultation in New Jersey*, available on our web site.
- A brief description of the proposed project, and project plans if available.
- Pictures of the project area
- Indication of which federally listed species under Service jurisdiction may occur in the action area (*i e* , the project's impact area), based on a project review via the Information, Planning, and Conservation (IPaC) decision support system (or alternatively by the municipality lists) on our web site, AND an assessment of habitats in the vicinity of the project site.
- A copy of any field surveys or environmental evaluations
- For projects in municipalities with known or potential occurrence of the Indiana bat (*Myotis sodalis*), indication whether tree clearing is proposed and, if so, the number or acres of trees proposed for removal and indication whether tree clearing will be seasonally restricted according to the dates on our web site.
- Proposed measures to avoid impacts to federally listed species.
- An assessment of direct, indirect and cumulative impacts to federally listed species from proposed project activities, and a preliminary determination of whether federally listed species will be adversely affected.
- Other

Staffing constraints currently limit the Service's New Jersey Field Office to reviewing only those projects that *may affect* federally listed species. The *may affect* determination is made by the Federal action agency or non-Federal project proponent using the information and instructions on our web site. Service concurrence with a *no effect* determination is not required under the ESA and will not be provided by the New Jersey Field Office. If the proposed project *may affect* federally listed species, please follow the instructions on our web site and resubmit your request with the information indicated above

Please refer to our web site for current lists of federally listed and candidate species in New Jersey, the National Bald Eagle Management Guidelines, and contacts for obtaining current information regarding State-listed and other species of concern from the New Jersey Natural Heritage and Endangered and Nongame Species Programs.

Reviewing Biologist _____

Authorizing Supervisor _____



United States Department of the Interior

FISH AND WILDLIFE SERVICE

New Jersey Field Office
 927 North Main Street, Building D
 Pleasantville, New Jersey 08232
 Tel: 609-646-9310 Fax: 609-646-0352
<http://www.fws.gov/northeast/njfieldoffice>



IN REPLY REFER TO:
 13-I-0386

Carol D. Lydon
 Clark Hill Thorp Reed
 One Commerce Square
 2005 Market Street
 Suite 1000
 Philadelphia, PA 19103
 Fax: (215) 640-8501

AUG 23 2013

Reference: The New York, Susquehanna and Western Railway Corporation, Pompton Industrial Line Railroad Abandonment, Morris and Passaic Counties, New Jersey

Dear Ms. Lydon:

The U.S. Fish and Wildlife Service (Service) has reviewed the above-referenced proposed project pursuant to the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*) (ESA) to ensure the protection of federally listed endangered and threatened species. The following comments do not address all Service concerns for fish and wildlife resources and do not preclude separate review and comment by the Service as afforded by other applicable environmental legislation.

A known occurrence or potential habitat for the following federally listed or candidate species is located on or near the project's impact area. However, the Service concurs that the proposed project is not likely to adversely affect federally listed or candidate species for the reasons listed below.

Species	Basis for Determination
Indiana bat (<i>Myotis sodalis</i>), Endangered	No trees to be removed within the project action area. Effects to the species are discountable.

Except for the above-mentioned species, no other federally listed or proposed threatened or endangered flora or fauna under Service jurisdiction are known to occur within the proposed project's impact area. Therefore, no further consultation pursuant to the ESA is required. If additional information on federally listed species becomes available, or if project plans change, this determination may be reconsidered.

Please refer to this office's web site at <http://www.fws.gov/northeast/njfieldoffice/Endangered/> for further information including federally listed and candidate species lists, procedures for requesting ESA review, the National Bald Eagle Management Guidelines, and contacts for obtaining information from the New Jersey Natural Heritage and Endangered and Nongame Species Programs regarding State-listed and other species of concern.

Reviewing Biologist: Dennis Hamlin
 Dennis Hamlin

Authorizing Supervisor: Ron Popowski
 Ron Popowski

Lydon, Carol

From: Langbein, Richard <Richard.Langbein@dep.state.nj.us>
Sent: Thursday, September 05, 2013 4:04 PM
To: Saunders, Dan
Cc: Cattuna, Lou, Squazzo, Chris, Lydon, Carol, Maresca, Vincent
Subject: New York, Susquehanna and Western Railway Corporation-Segment Abandonment-Passaic and Morris Counties
Attachments: RR Segment Abandonment.pdf

See the attached. Unfortunately this request was just delivered to me today and our comments are due to the requester, Carol Lydon (copied) by Monday. The track and tie removal does not appear to need any LU permits and the area of work is not in the Coastal Zone. However, as the structures may be regulated by your Office, I am sending you this e-mail in haste. Feel free to respond directly to Carol or through me if you prefer.

Chris, take a look at the attached, follow-up with Carol on the track and tie removal (just in case) and discuss the future plans for trail (public access) permitting.

Rich Langbein
u SHPO

CLARK HILL | THORP REED

Carol D Lydon
T 215 640 8537
F 215 640 8501
Email: clydon@clarkhillthorpreed.com

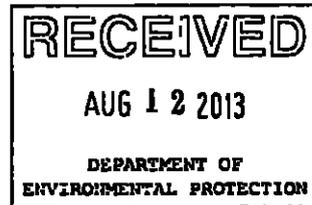
Clark Hill Thorp Reed
One Commerce Square
2005 Market Street
Suite 1000
Philadelphia PA 19103
T 215 640.8500
F 215 640.8501

clarkhillthorpreed.com

July 29, 2013

VIA FIRST-CLASS MAIL

Martin Roscn, Manager
NJ Coastal Management Office
401-07D P.O Box 420
401 East State Street
Trenton, NJ 08625



Re: The New York, Susquehanna and Western Railway Corporation - Abandonment -
Wayne and Morris Counties, NY 7
STB Docket No. AB-286 (Sub-No. 6X)

Dear Madam or Sir:

Forait
This letter is to advise you that The New York, Susquehanna and Western Railway Corporation ("NYS&W") proposes to abandon a segment of its line of railroad, known as the Pompton Industrial, which runs in a northerly direction from Milepost 22.1 in Wayne Township, Passaic County, New Jersey to Milepost 26.3 in Pompton Plains Township, Morris County, New Jersey. ~~The line also passes through the township of Pequannock, Morris County, New Jersey.~~ The line traverses through United States Postal Zip Codes 07440, 07442, 07444 and 07470. A map showing the location of this line is attached.

NYS&W plans to seek Surface Transportation Board ("STB") authorization for its abandonment through a notice of exempt abandonment pursuant to the provisions of 49 C.F.R. §1152.50 on or about September 27, 2013 in Docket No. AB-286 (Sub-No. 6X)

Based upon the information in our possession, the line does not contain federally granted rights of way. NYS&W believes that the right of way can be used for trail and other public purposes (Morris County has expressed an interest in acquiring the line for trail purposes). Any documentation in the railroad's possession will be made available promptly to those requesting it.

*See +
Chair*

July 29, 2013

Page 2

No local service has been provided between MP 25.96 and MP 22.1, and no overhead service over the line, for over twenty years. There has not been any local service between MP 25.96 and MP 26.3 for over two years. NYS&W does not believe there are any reasonable alternatives to the proposed action. At this time, NYS&W plans to remove and sell the rails and track, to the extent they are salable. NYS&W believes that the abandonment will not have a significant impact on the environment. ✓

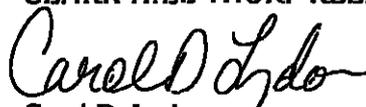
Please advise us whether the line is within New Jersey's coastal zone. If a segment is within the coastal zone, please advise further (1) if the proposed abandonment is an action listed for review in New Jersey's coastal zone management plan, and (2) if the action is so listed, whether the proposed action is consistent with the coastal zone management plan.

We would appreciate an expression from you by August 28, 2013 that, within the area of your authority, you do not perceive that the abandonment will have a significant effect upon coastal zone management. If you have any questions about the railroad's proposal, or if you need further assistance, please call me at (215) 640-8537.

Thank you for your attention to this matter.

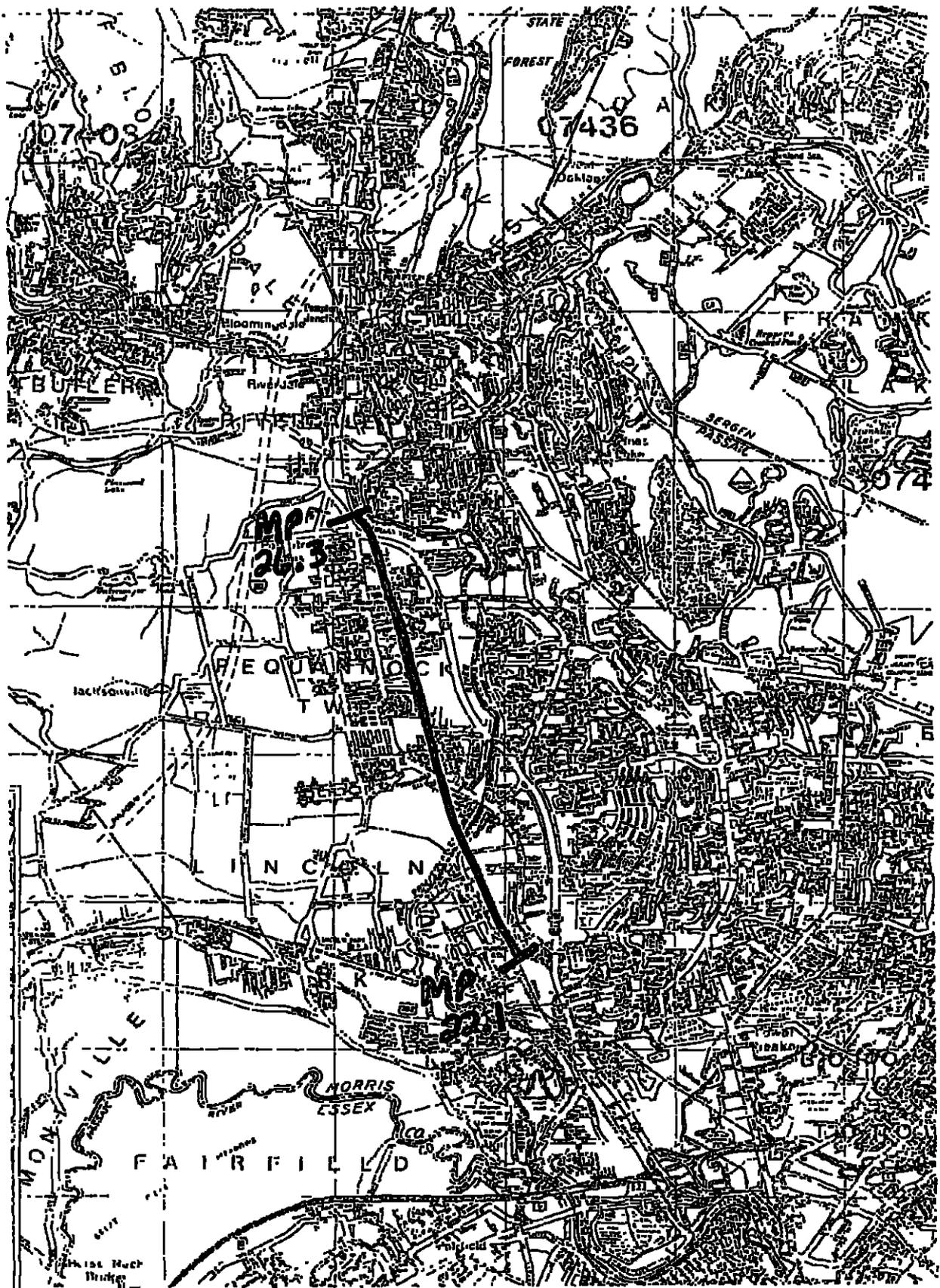
Sincerely,

CLARK HILL THORP REED


Carol D. Lydon

CDL
Enclosures

CC: Eric M. Hocky, Esquire (via email)
Nathan R. Fenno (via email)



Lydon, Carol

From: Saunders, Dan <Dan.Saunders@dep.state.nj.us>
Sent: Thursday, September 05, 2013 4:35 PM
To: Langbein, Richard
Cc: Cattuna, Lou; Squazzo, Chris; Lydon, Carol; Maresca, Vincent
Subject: RE: New York, Susquehanna and Western Railway Corporation-Segment Abandonment-Passaic and Morris Counties

Thanks We review abandonments separately pursuant to Section 106 of the National Historic Preservation Act, so we don't need to comment through LUR rules I don't believe we have gotten a request for Section 106 comments from the applicant or the Surface Transportation Board yet

Dan

From: Langbein, Richard
Sent: Thursday, September 05, 2013 4:04 PM
To: Saunders, Dan
Cc: Cattuna, Lou; Squazzo, Chris; 'clydon@clarkhillthorpreed.com'; Maresca, Vincent
Subject: New York, Susquehanna and Western Railway Corporation-Segment Abandonment-Passaic and Morris Counties

See the attached Unfortunately this request was just delivered to me today and our comments are due to the requester, Carol Lydon (copied) by Monday. The track and tie removal does not appear to need any LU permits and the area of work is not in the Coastal Zone However, as the structures maybe regulated by your Office, I am sending you this e-mail in haste. Feel free to respond directly to Carol or through me if you prefer.

Chris, take a look at the attached, follow-up with Carol on the track and tie removal (just in case) and discuss the future plans for trail (public access) permitting.

Lydon, Carol

From: Squazzo, Chris <Chris.Squazzo@dep.state.nj.us>
Sent: Friday, September 06, 2013 11:38 AM
To: Langbein, Richard
Cc: Cattuna, Lou, Lydon, Carol
Subject: RE: New York, Susquehanna and Western Railway Corporation-Segment Abandonment-Passaic and Morris Counties

Hi Carol, below are my comments to aid you in the removal process:

1. Like Rich said, this area is NOT in a coastal management area;
2. As long as you do not remove any trees or woody shrubs and/or there is no significant movement/disturbance of soil as a result of this activity, there should be plenty of room within the disturbed right-of-way that the Division would not regulate this activity and you would not need a permit.
3. As for future permitting for foot bridges or boardwalks, it's hard to say without knowing the specifics of the design and the extent of any potential soil or vegetation disturbance. Assuming that the foot bridges or boardwalk trails over/through regulated areas are proposed, simple Freshwater Wetland Statewide General Permits (like GP17) would suffice. As for Flood Hazard Area Permits and again assuming that these stream crossings would be on top of previously existing bridge abutments, then simple Permits-By-Rule would suffice. If you folks need a new crossing, then the worst case scenario would be that you need to obtain a Flood Hazard Area Individual Permit-7 13-11.8 (foot bridge).

If you should have any other questions, feel free to call or email me.

chris

Christopher C. Squazzo
Environmental Specialist 3
Bureau of Inland Regulation
Division of Land Use Regulation
Department of Environmental Protection
609-292-1258 (Direct Line)

From: Langbein, Richard
Sent: Thursday, September 05, 2013 4:04 PM
To: Saunders, Dan
Cc: Cattuna, Lou; Squazzo, Chris; 'clydon@clarkhillthorpreed.com'; Maresca, Vincent
Subject: New York, Susquehanna and Western Railway Corporation-Segment Abandonment-Passaic and Morris Counties

See the attached. Unfortunately this request was just delivered to me today and our comments are due to the requester, Carol Lydon (copied) by Monday. The track and tie removal does not appear to need any LU permits and the area of work is not in the Coastal Zone. However, as the structures may be regulated by your Office, I am sending you this e-mail in haste. Feel free to respond directly to Carol or through me if you prefer.

Chris, take a look at the attached, follow-up with Carol on the track and tie removal (just in case) and discuss the future plans for trail (public access) permitting.

EXHIBIT C

The New York, Susquehanna and Western Railway Corporation - Abandonment - Wayne and Morris Counties, NY
 STB Docket No. AB-286 (Sub-No. ~~5X~~ 7)
 RESPONSE LOG

<u>AGENCY</u>	<u>ACTION</u>	<u>RESPONSE</u>
New Jersey Office of GIS P.O. Box 212 200 Riverview, 4 th Floor Trenton, NJ 08625	Sent consult letter 7/29/13	
State of New Jersey Department of Environmental Protection Green Acres Program Mail Code 501-01 P.O. Box 420 Trenton, NJ 08625-0420	Sent consult letter 7/29/13	
State of New Jersey Department of Environmental Protection Division of Land Use Regulation Mail Code 501-02A P.O. Box 420 Trenton, NJ 08625-0420	Sent consult letter 7/29/13	<p>9/5/13 – Telephone call from Richard Langbein (609-292-9044) Per Mr. Langbein, if we are only removing rails and ties, there should not be a problem and the area is not in a coastal area, however, there could be other environmental concerns or historical concerns. He will pass letter along to Dan Saunders, an environmental specialist and also to the historical department of the DEP for their input.</p> <p>9/6/13 – Per email from Chrs Squazzo, as long as trees and shrubs are not removed, there is no need for permits. There are some possible issues regarding the creation of trails, but that would not affect the proposed abandonment.</p> <p>Per email from Dan Saunders, we may need to file a report under Section 106 regarding the historical aspect of the proposed abandonment</p>

<p>Louis L. Imhof, III Clerk to the Board of Chosen Freeholders Passaic County Administration Building Freeholder's Office 401 Grand Street Paterson, NJ 07505</p>	<p>Sent consult letter 7/29/13</p>	<p>8/29/13 – Telephone call from Michael Lisicatos from the Planning Commission (973-569-4047). At this time, they are raising no environmental issues regarding the abandonment. However, they would like to make comments regarding the use of the land following the abandonment. He needs to speak with other members of the planning commission during the week of 9/2 and they will issue a letter with their comments. He agreed that for purposes of the environmental report, our telephone conversation will suffice</p>
<p>Thomas J. Mastrangelo, Freeholder Director Morris County Board of Chosen Freeholders Morris County Administration & Records Building P.O. Box 900 Morristown, NJ 07963-0900</p>	<p>Sent consult letter 7/29/13</p>	
<p>U.S. EPA Region 2 290 Broadway New York, NY 10007-1866</p>	<p>Sent consult letter 7/29/13</p>	

<p>U S Fish and Wildlife Service New Jersey Ecological Services Field Office 927 North Main Street, Building D Pleasantville, NJ 08232-1454</p>	<p>Sent consult letter 7/29/13</p>	<p>8/2/13 – Voice mail from Dennis Hamlin in response to letter 8/2/13 – Email from Dennis Hamlin enclosing form that needs completion regarding abandonment. 8/20/13 – Review website for information regarding Indiana bat habitat concerns. email to Applicant enclosing tree removal restrictions and asking if trees were removed, if it would follow prescribed restrictions. 8/21/13 – Email from Applicant: trees not likely to be removed, but will follow restrictions, if necessary. 8/22/13 – Email to D Hamlin regarding response from Applicant 8/23/13 – Received approval from Fish & Wildlife Service.</p>
<p>U.S Fish and Wildlife Service Resident Agent in Charge 1210 Corbin Street, 2nd Floor Elizabeth, NJ 07201-2946</p>	<p>Sent consult letter 7/29/13</p>	
<p>U.S. Army Corps of Engineers Philadelphia District The Wanamaker Building 100 Penn Square East Philadelphia, PA 19107-3390</p>	<p>Sent consult letter 7/29/13</p>	

U.S. National Park Service Northcast Region Dennis Reidenbach, Regional Director U.S Customs House 200 Chestnut Street, 5 th Floor Philadelphia, PA 19106	Sent consult letter 7/29/13	
Carrie Mosley, State Conservationist USDA – NRCS 220 Davidson Ave., 4 th Floor Somerset, NJ 08873	Sent consult letter 7/29/13	
Morris County Soil Conservation District P.O Box 900 Morristown, NJ 07963	Sent consult letter 7/29/13	
NRCS Service Center Hackettstown Commerce Park Building 1 101 Bilby Road Hackettstown, NJ 07840	Sent consult letter 7/29/13	8/28/13 – Telephone call from Evan Matulinger. There are no issues and no problems with proposed abandonment Letter will be forthcoming, but it will be late (908) 782-4614 x3
Communications and Outreach Branch NOAA, N/NGS12 National Geodetic Survey, SSMC3 #9202 1315 East West Highway Silver Spring, MD 20910-3282	Sent consult letter 7/29/13	

<p>Martin Rosen, Manager NJ Coastal Management Office 401-07D P. O. Box 420 401 East State Street Trenton, NJ 08625</p>	<p>Sent consult letter 7/29/13</p>	
<p>The New Jersey Historical Society 52 Park Place Newark, NJ 07102</p>	<p>Sent consult letter 7/29/13</p>	

EXHIBIT D

Eric M. Hochy, Esquire, Clark Hill Thorp
Reed, Ore Commerce Square 2005
Market Street Suite 1000, Philadelphia,
PA 19103; (215) 540-8500.
(\$38.40) 834718

NOTICE OF INTENT TO ABANDON RAIL SERVICE

The New York, Susquehanna & Western Railway Corporation gives notice that on or about September 27, 2013, it intends to file with the Surface Transportation Board ("STB"), Washington, DC 20423, a notice of exempt abandonment pursuant to the provisions of 49 CFR 1152 Subpart F – Exempt Abandonments permitting the abandonment of service over 4.2 miles of the line of railroad between milepost 22.1 in Wayne Township, Passaic County, New Jersey and milepost 26.3 in Pompton Plains Township, Morris County, New Jersey. The line traverses through United States ZIP Codes 07440, 07442, 07444 and 07470. The proceeding will be docketed as STB Docket No. AB-286 (Sub. No. 6X)

The Board's Section of Environmental Analysis (SEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public, and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Section of Environmental Analysis, Surface Transportation Board, 395 E Street, S.W. Washington, DC 20423-0001 or by calling that office at (202) 245-0295.

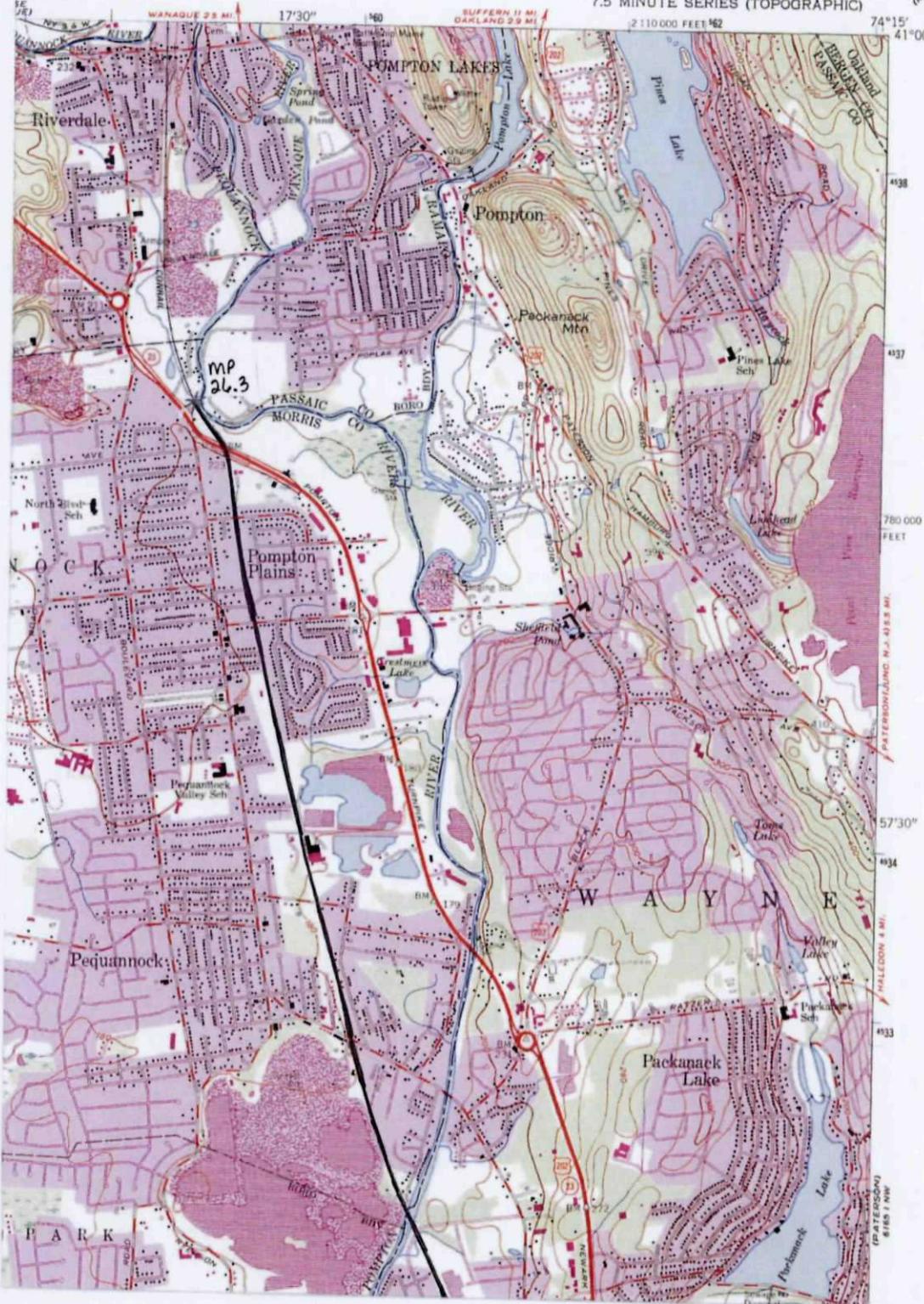
Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Section of Administration, Office of Proceedings, Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001 [see 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicant's representative [see 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Public Assistance, Governmental Affairs and Compliance at (202) 245-0238. Copies of any comments or requests for conditions should be served on the applicant's representative: Eric M. Hocky, Esquire, Clark Hill Thorp Reed, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia, PA 19103, (215) 640-8500.

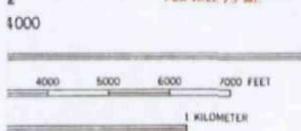
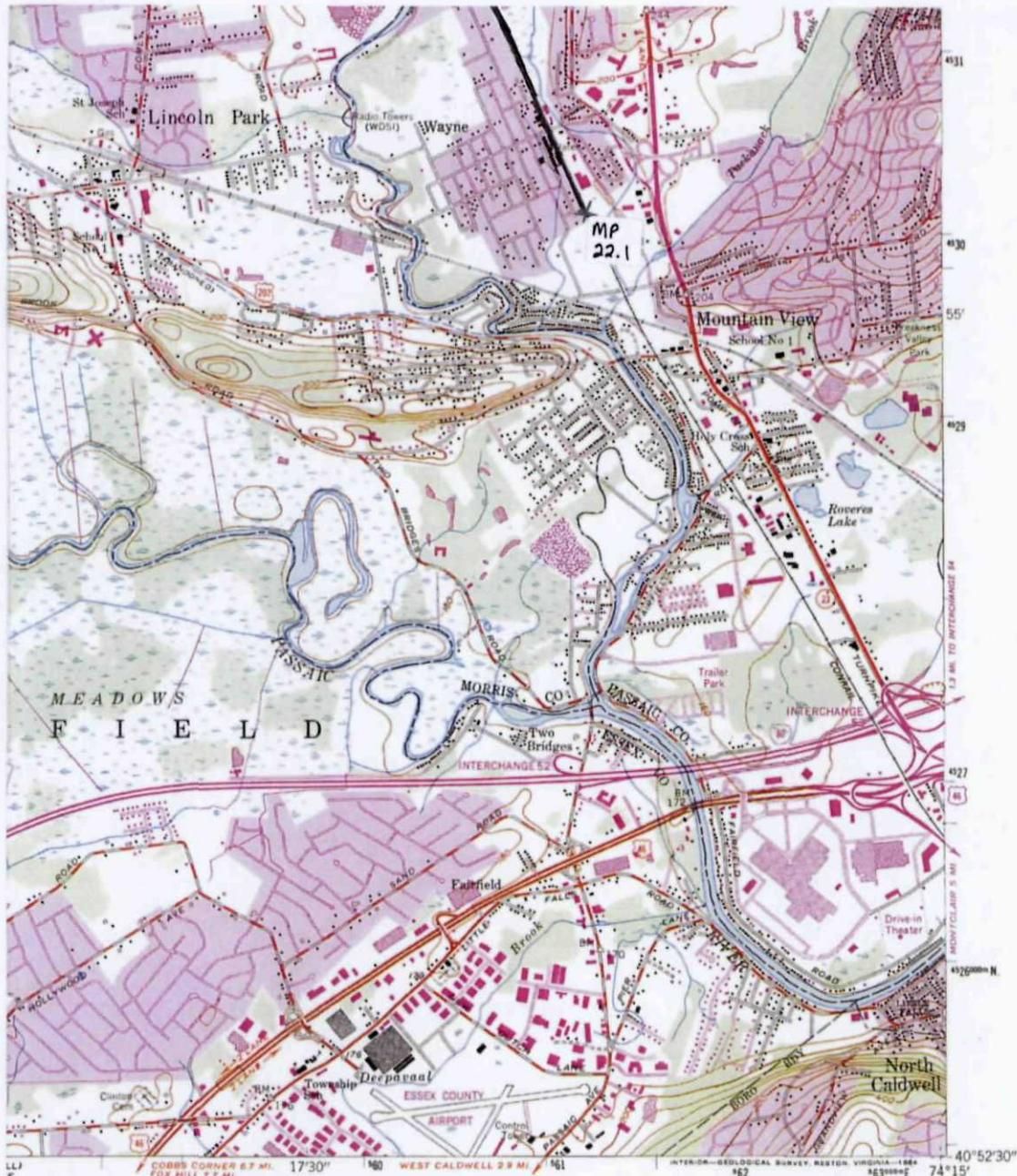
EXHIBIT E

TATES
OF THE ARMY
ENGINEERS

POMPTON PLAINS QUADRANGLE
NEW JERSEY
7.5 MINUTE SERIES (TOPOGRAPHIC)

6166 11 SW
(FRAME 1)





AL 20 FEET
SAL DATUM OF 1929

AL MAP ACCURACY STANDARDS
GEOLOGICAL SURVEY
1 RESTON, VIRGINIA 22092
NO SYMBOLS IS AVAILABLE ON REQUEST



USGS NHD HISTORICAL
MAP ARCHIVES
FEB 28 1997
REC'D FILE COPY

ROAD CLASSIFICATION

Heavy-duty ———— Light-duty ————
Medium-duty ———— Unimproved dirt - - - - -

U. S. Route State Route
Interstate Route

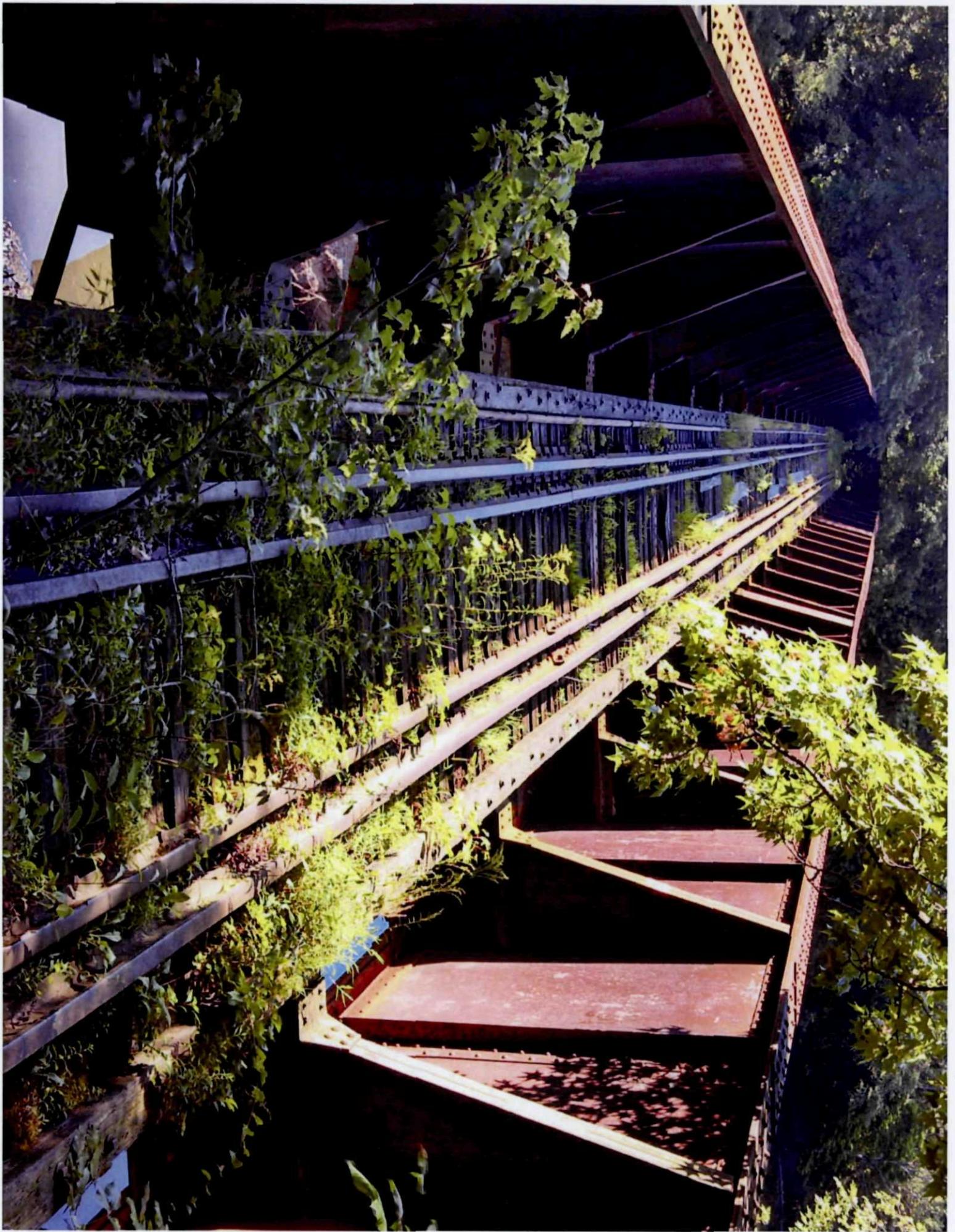
POMPTON PLAINS, N. J.
N4052.5—W7415/7.5

1955
PHOTOREVISED 1981
DMA 6185 IV NE—SERIES V822



EXHIBIT F





AMERIGAN BRIDGE

COMPANY

OF NEW YORK

U.S.A.

1915

