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## VIA ELECTRONIC FILING

Hon. Anne K. Quinlan  
Acting Secretary  
Surface Transportation Board  
395 E Street SW  
Washington, DC 20024

September 25, 2009

Re: The New York, Susquehanna and Western Railway Corporation  
- Abandonment Exemption - In Oneida County, NY  
STB Docket No. AB-286 (Sub-No. 6X)  
**Comments to Environmental Assessment**

Dear Secretary Quinlan:

On September 11, 2009, the Board's Section of Environmental Analysis ("SEA") issued its Environmental Assessment ("EA") in this proceeding. This letter is being filed by the applicant The New York, Susquehanna and Western Railway Corporation ("NYS&W") in response to the EA's request for comments which are due September 28, 2009.

SEA has requested that the Board impose two environmental conditions on the abandonment authorized in this proceeding. For the reasons set forth below, NYS&W does not believe that the conditions are necessary.

(1) SEA recommends further consultation with the US Fish and Wildlife Service ("USFWS") based on listings in USFWS's website about possible endangered species in the area. However, subsequent to the filing of its initial Environmental and Historic Report, NYS&W received a further response from USFWS dated August 3, 2009, indicating no further coordination or consultation was required. A copy of the USFWS letter is enclosed with these comments. (Applicant inadvertently did not forward a copy of the letter to SEA thinking USFWS would have done so.)

(2) SEA recommends a hold on consummation and salvage until the Section 106 historical review process has been completed. By letter dated September 21, 2009, the New York State Office of Parks, Recreation and Historic Preservation ("SHPO") confirms that it has now completed its Section 106 review, and that it has found that the abandonment project will have "No Adverse Effect." A copy of the SHPO letter is enclosed with these comments.

*Pittsburgh*

*Philadelphia*

*Princeton*

*Wheeling*

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2005 Market Street  
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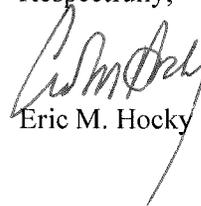


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Based on these additional responses received by NYS&W that SEA did not have when completing the EA, NYS&W requests that the Board not impose any environmental conditions on the abandonment.

Respectfully,



Eric M. Hocky

EMH/e

Enclosures

cc: Catherine Glidden, SEA (by email; w/encls.)  
NYSW (by email; w/encls.)  
All persons on service list (by mail; w/encl.)



# United States Department of the Interior



## FISH AND WILDLIFE SERVICE

New York Field Office

3817 Luker Road

Cortland, NY 13045

Phone: (607) 753-9334 Fax: (607) 753-9699

<http://www.fws.gov/northeast/nyfo>

To: Carol Lydon

Date: Aug 3, 2009

USFWS File No: 70739

Regarding your:  Letter  FAX  Email

Dated: July 24, 2009

For project: New York, Susquehanna and Western Railway Corporation, Fay Street Branch Abandonment

Located:

In Town/County: City of Utica / Oneida County

Pursuant to the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*), the U.S. Fish and Wildlife Service:

- Acknowledges receipt of your "no effect" and/or no impact determination. No further ESA coordination or consultation is required.
- Acknowledges receipt of your determination. Please provide a copy of your determination and supporting materials to any involved Federal agency for their final ESA determination.
- Is taking no action pursuant to ESA or any other legislation at this time but would like to be kept informed of project developments.

As a reminder, until the proposed project is complete, we recommend that you check our website (<http://www.fws.gov/northeast/nyfo/es/section7.htm>) every 90 days from the date of this letter to ensure that listed species presence/absence information for the proposed project area is current. Should project plans change or if additional information on listed or proposed species or critical habitat becomes available, this determination may be reconsidered.

USFWS Contact(s): Sandra L. Dixon 08-03-2009

Supervisor:

Date:

08-04-2009



## New York State Office of Parks, Recreation and Historic Preservation

Historic Preservation Field Services Bureau • Peebles Island, PO Box 189, Waterford, New York 12188-0189  
518-237-8643  
www.nysparks.com

David A. Paterson  
Governor

Carol Ash  
Commissioner

September 21, 2009

Carol D. Lydon, Esq.  
Thorp Reed & Armstrong  
2005 Market St. 1000  
Philadelphia, New York 19103

Re: STB Docket No. AB-286 (Sub. No. 6X)  
Fay St. Branch Abandonment/  
NY Susquehanna & Western railway  
MP 284.80- MP 285.22  
C/UTICA, Oneida County  
09PR03546

Dear Ms. Lydon:

Thank you for requesting the comments of the State Historic Preservation Office (SHPO) with regard to the abandonment of 0.42 miles of track of the former New York, Susquehanna and Western Railroad in the City of Utica. We have reviewed the project in accordance with Section 106 of the National Historic Preservation Act of 1966

Based upon this review, it is the SHPO opinion that your project will have No Adverse Effect upon cultural resources in or eligible for inclusion in the National Registers of Historic Places.

If you have any questions regarding this review, please call me at (518) 237-8643, extension 3283 or email me at james.warren@oprhp.state.ny.us.

Sincerely,

James Warren  
Historic Sites Restoration Coordinator