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SERVICE DATE – LATE RELEASE APRIL 6, 2009

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-167 (Sub-No. 1189X)

CONSOLIDATED RAIL CORPORATION—ABANDONMENT EXEMPTION—IN HUDSON  
COUNTY, NJ

STB Docket No. AB-55 (Sub-No. 686X)

CSX TRANSPORTATION, INC.—DISCONTINUANCE OF SERVICE EXEMPTION—IN  
HUDSON COUNTY, NJ

STB Docket No. AB-290 (Sub-No. 306X)

NORFOLK SOUTHERN RAILWAY COMPANY—DISCONTINUANCE OF SERVICE  
EXEMPTION—IN HUDSON COUNTY, NJ

Decided: April 6, 2009

Consolidated Rail Corporation (Conrail), CSX Transportation, Inc. (CSXT), and Norfolk Southern Railway Company (NS) (collectively, applicants) jointly filed a verified notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments and Discontinuances of Service for Conrail to abandon, and for CSXT and NS to discontinue service over, an approximately 1.36-mile portion of a line of railroad known as the Harsimus Branch, between milepost 0.00, CP Waldo, and milepost 1.36, a point east of Washington Street, in Jersey City, Hudson County, NJ.<sup>1</sup> Notice of the exemption was served and published in the Federal Register on March 18, 2009 (74 FR 11631-32). The exemption is scheduled to become effective on April 17, 2009, unless stayed by the Board.<sup>2</sup>

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<sup>1</sup> In City of Jersey City, Rails to Trails Conservancy, Pennsylvania Railroad Harsimus Stem Embankment Preservation Coalition, and New Jersey State Assemblyman Louis M. Manzo—Petition for Declaratory Order, STB Finance Docket No. 34818 (STB served Aug. 9, 2007), the Board described the line as follows: extending between milepost 1.3 near Luis Munoz Marin Boulevard (formerly Henderson Avenue) and milepost 2.54 near Waldo Avenue, in Jersey City, NJ.

<sup>2</sup> The Board received two notices of intent to file an OFA on March 27, 2009. These filings will be addressed in a separate decision at the conclusion of the environmental phase of this proceeding.

On March 30, 2009, the Embankment Preservation Coalition (Coalition) filed a pleading arguing that Conrail's newspaper publication requirement (49 CFR 1105.12) in The Star-Ledger was defective. Coalition is also requesting an extension of at least 30 days for interested parties to respond regarding requests for reconsideration, public use conditions, trail use, and environmental issues.

On April 1, 2009, Conrail filed a reply to the Coalition's pleading. Conrail's reply objects to the Coalition's challenge of the newspaper publication requirement and states that The Star-Ledger is a "newspaper of general circulation" in Hudson County, pursuant to 49 CFR 1105.12. Conrail's also objects to the Coalition's request for an extension of time and noted that the historic preservation process will allow time for interested persons to participate in the process.

The requirement of 49 CFR 1105.12 has been met by Conrail. Notice of the proposed abandonment was published in The Star-Ledger on February 24, 2009, and there is no evidence that it was unavailable to residents of Hudson County. However, the request for additional time is justified and an extension for environmental comments is warranted based on the nature of the EA and the interests of various persons and organizations. Accordingly, the comment period for responses to the EA will be extended 30 days, until May 7, 2009, and the deadline for filing petitions to reopen and requests for trail use and public use conditions will also be extended to that date.

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

It is ordered:

1. The Coalition's requests for an extension of time to respond to the EA and to extend the deadline for filing petitions to reopen and requests for trail use and public use conditions are granted.
2. The Coalition's challenge to Conrail's newspaper publication is rejected.
3. The comment period for responses to the EA and the deadline for filing petitions to reopen and requests for trail use and public use conditions are extended until May 7, 2009.

4. The effective date of the abandonment exemption is now May 17, 2009.
5. This decision is effective on its date of service.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Anne K. Quinlan  
Acting Secretary