This is to certify that the foregoing is a true and complete copy of a record on file with the New York State Department of Transportation.

10/12/12 (Date) Sharon L. Torro (Signature)

Secretary 1 (TITLE)

SERVED

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STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION

At the Office of the Department of Transportation in the County of Albany on 10/9/12

PRESENT:

CLIFFORD THOMAS, Acting Director
Office of Modal Safety and Security

CASE 36030 - Application of the County of Erie, pursuant to Sections 89 and 91 of the Railroad Law, as to the manner in which the intersection of Kenmore Avenue (County Route 189) and Sheridan Drive (State Route 325) shall cross the tracks of the Wonalancet Running Track of CSX Transportation, Inc. in the Town of Tonawanda, Erie County, at Mile Post 2.61 (USDOT No. 519-566 L).

CASE 36047 - Petition of the County of Erie for a determination, pursuant to Sections 89 and 90 of the Railroad Law, as to the manner in which a proposed new Woodward Avenue shall cross over the realigned tracks of the Wonalancet Running Track of CSX Transportation, Inc. in the Town of Tonawanda, Erie County, in the vicinity of Mile Post 2.52.

A proceeding having been instituted to investigate the matter herein; and an Order having been issued on March 1, 2006; and a request having been received to vacate the March 1, 2006 Order in its entirety; and no objections thereto having been received; and a report dated September 26, 2012 having been issued recommending that the March 6, 2006 Order be vacated in its entirety, it is:

ORDERED:

That the March 1, 2006 Order is hereby vacated in its entirety.

By the Office of Modal Safety and Security

ADOPTED: OCTOBER 9, 2012

STATE OF NEW YORK
DEPARTMENT OF TRANSPORTATION

CASE 36030 - Application of the County of Erie, pursuant to Sections 89 and 91 of the Railroad Law, as to the manner in which the intersection of Kenmore Avenue (County Route 189) and Sheridan Drive (State Route 325) shall cross the tracks of the Wonalancet Running Track of CSX Transportation, Inc. in the Town of Tonawanda, Erie County, at Mile Post 2.61 (USDOT No. 519-566 L).

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INTERESTED PARTIES:

Donna K. Hintz, Associate Attorney, New York State Department of Transportation, 50 Wolf Road, Albany, NY 12232.

Craig Sollenberger, Project Engineer, Design and Construction, CSX Transportation, Inc., 1836 Broadway, Buffalo, NY 14212.

Robert Rohauer, CSX Transportation, Inc., One Bell Crossing Road, Selkirk, NY 12158

John Loffredo, Commissioner, Erie County Department of Public Works, 95 Franklin Street, 14th Floor, Buffalo, NY 14202.

Michael Siragusa, Esq., Erie County Law Department, 95 Franklin Street, Room 1634, Buffalo, NY 14202.

The Honorable Anthony F. Caruana, Tonawanda Town Supervisor, 2919 Delaware Ave., Room 1, Kenmore, NY 14217

The Honorable William E. Swanson, Tonawanda Superintendent of Highways, 450 Woodward Ave., Kenmore, NY 14217

The Honorable Mark C. Poloncarz, Erie County Executive, 95 Franklin Street, Buffalo, NY 14202

Clerk, Erie County Legislature, 92 Franklin Street, 4th Floor, Buffalo, NY 14202.

Richard J. Hody, Transportation Engineer, URS Corporation, 640 Ellicott Street, Buffalo, NY 14203.

New York State Thruway, Buffalo Division, 455 Cayuga Road, Suite 800, Cheektowaga, NY 14225-0121

* * *

By a letter dated March 6, 2003, the County of Erie requested the New York State Department of Transportation (Department) to issue orders directing the manner in which the intersections of Kenmore Avenue and Sheridan Drive and a proposed new Woodward Avenue shall cross over the realigned tracks of the Wonalancet Running Track of CSX Transportation, Inc. in the Town of Tonawanda, Erie County.

In an Order dated March 1, 2006, the Department set forth certain conditions for the manner in which these two intersections shall cross the Wonalancet Running Track of CSX Transportation, Inc. in the Town of Tonawanda, Erie County.

By a letter dated August 30, 2012, the Department requested that the March 1, 2006 Order be vacated in its entirety.

By a Notice to Vacate Order dated September 5, 2012, interested parties were given until September 21, 2012 to request that a public hearing be held or to submit written comments on the Department's August 30, 2012 request. No responses have been received.

In light of the fact that no party has objected to the Department's request, it is recommended that an Order be issued vacating the March 1, 2006 Order in its entirety.

September 26, 2012
RAR:ll

ROBERT A. RYBAK
Chief Administrative Law Judge
Office of Proceedings