

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

300124

STB DOCKET NO. AB-434 (Sub-No. 4X)

ENTERED
Office of Proceedings
December 6, 2019
Part of
Public Record

**WINCHESTER & WESTERN RAILROAD COMPANY –
ABANDONMENT EXEMPTION – CUMBERLAND COUNTY, NEW JERSEY**

**VERIFIED NOTICE OF EXEMPTION OF
WINCHESTER & WESTERN RAILROAD CO.
PURSUANT TO 49 C.F.R. § 1152.50**

Winchester & Western Railroad Co. (“W&W”) hereby submits this Notice of Exemption pursuant to 49 C.F.R. § 1152, Subpart F, to abandon its line of railroad in the Township of Commercial, Cumberland County, New Jersey for the purpose of removing it from the national railroad system as there are no current rail operations and it is unlikely that there will be any in the future. The line of railroad in question extends from approximately milepost 16.2 to milepost 16.7 in the Township of Commercial, Cumberland County, New Jersey, a distance of approximately 0.5 miles (hereinafter referred to as the “Subject Line”). The Subject Line is located at the end of W&W’s rail line in New Jersey, and thus, no local or overhead common carrier rail traffic has moved over the Subject Line during the past two years. Based on information in the possession of W&W, the Subject Line does not contain federally granted rights-of-way.

	In accordance with the requirements of 49 C.F.R. § 1152.50(d)(2), W&W submits the
FEE RECEIVED	FILED
following: December 6, 2019	December 6, 2019
SURFACE	SURFACE
TRANSPORTATION BOARD	TRANSPORTATION BOARD

1. Consummation Date

W&W intends to consummate the proposed abandonment of the Subject Line on or after January 25, 2020 (at least 50 days after the filing of this verified notice of exemption).

2. General Information

a. Exact name of applicant

The Winchester and Western Railroad Company.

b. Whether applicant is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, chapter 105

W&W is a Class III common carrier.

c. Relief sought

Pursuant to the STB's class exemption for the abandonment of out-of-service rail lines, codified at 49 C.F.R. § 1152, Subpart F, W&W seeks authority to abandon the Subject Line for the purpose of removing it from the national rail system.

3. Detailed Map of Subject Line

A map of the Subject Line is appended hereto as Exhibit A.

4. W&W's Representative

W&W's representative to whom correspondence regarding this abandonment should be sent is:

Edward D. Greenberg
GKG Law, P.C.
The Foundry Building
1055 Thomas Jefferson Street NW
Suite 500
Washington, DC 20007
egreenberg@gkglaw.com
(202)342-5277

5. U.S. Postal Service Zip Codes Traversed

The Subject Line traverses U.S. Postal Service Zip Code 08349.

6. Certification: 49 C.F.R. § 1152.50 (b)

The certification required by 49 C.F.R. § 1152.50(b) is appended hereto as Exhibit B.

7. Rural and Community Impact

Statement of whether the properties proposed to be abandoned are appropriate for use for other public purposes, including roads or highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the applicant is aware of any restriction on the title to the property, including any reversionary interest, which would affect the transfer of title or the use of property for other than rail purposes.

W&W is abandoning the Subject Line for the purpose of removing it from the national rail system as there are no current rail operations and it is unlikely that there will be any in the future. Although the subject line could conceivably be used for a public purpose, such as a nature trail or bike path, the line is only approximately 0.5 miles long, and located on and is surrounded by private property consisting of an industrial sand mining site. These characteristics significantly limit the suitability of using the subject area for a public purpose. W&W is not aware of any title restrictions.

8. Labor Protection

Although it is unlikely that any railroad employees will be adversely affected by the proposed abandonment, their rights will be adequately protected by the labor protective conditions in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979).

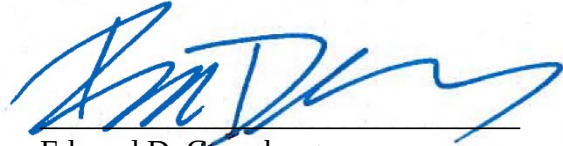
9. Environmental and Historic Report

An Environmental and Historic Report was prepared and served upon all parties identified in 49 C.F.R. §§1105.7 and 1105.8, and are appended hereto as Exhibit C, accompanied by all letters received in response to the reports.

10. Certifications

Attached as Exhibit D are Certificates pursuant to the notice requirements of 49 C.F.R. §§ 1152.50(d)(1), 1105.11 and 49 C.F.R. § 1105.12.

Respectfully submitted,



Edward D. Greenberg
GKG Law, P.C.
The Foundry
1055 Thomas Jefferson Street, N.W.
Washington, D.C. 20007
Telephone: 202-342-5277
Facsimile: 202-342-5299
egreenberg@gkglaw.com

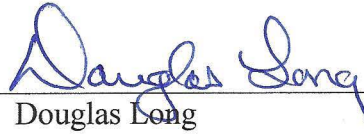
*Attorney for
Winchester & Western Railroad Co.*

Dated: December 6, 2019

VERIFICATION

I, Douglas Long, Superintendent of the railroad operated by the Winchester and Western Railroad Company ("W&W"), declare under penalty of perjury, under the laws of the United States of America, that I have read the foregoing Verified Notice of Exemption and that its statements are true and correct to the best of my knowledge, information and belief. I further declare that I am qualified and authorized to submit this verification on behalf of the W&W.

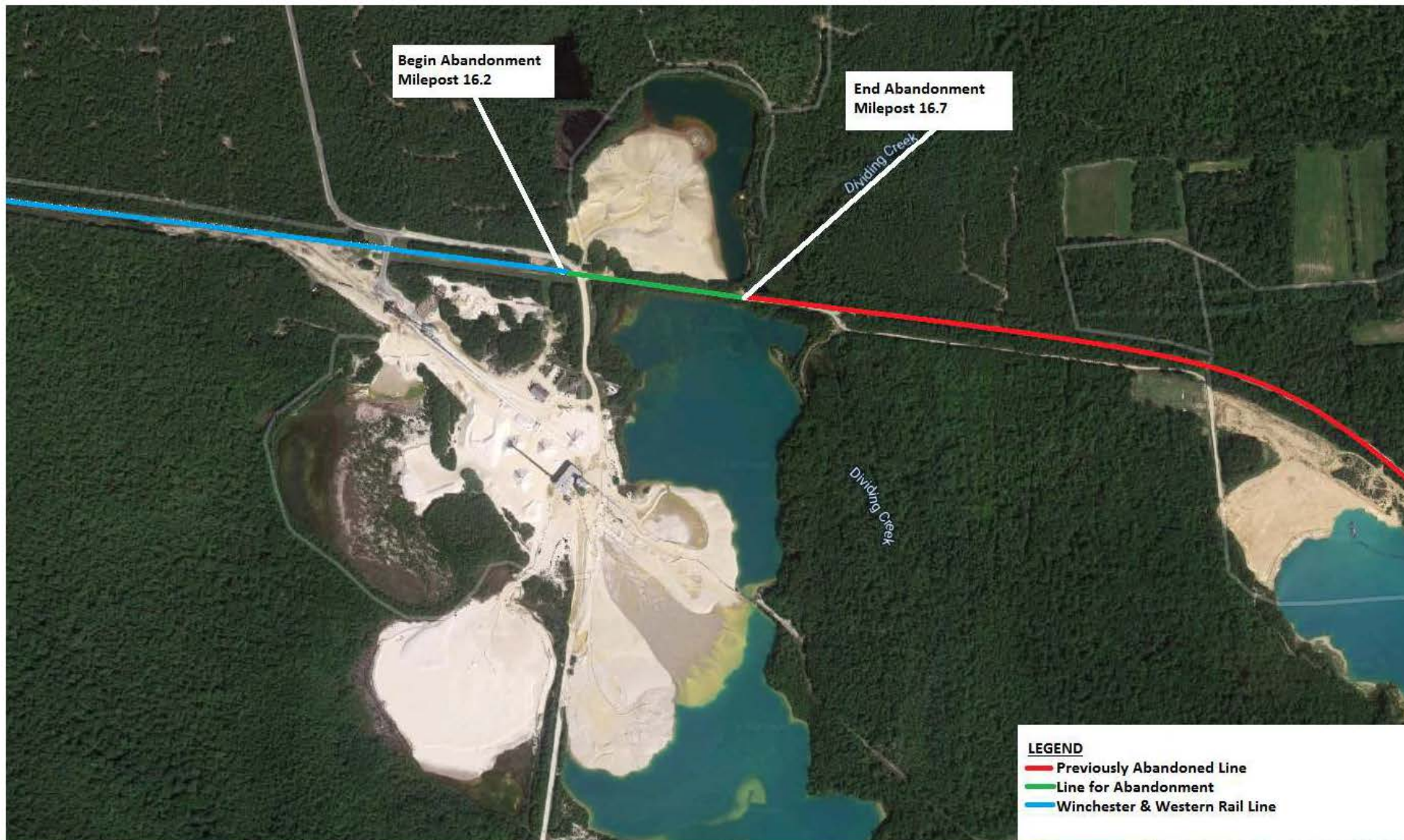
Dated at 3:45 pm, this 22nd day of November __, 2019.



Douglas Long

EXHIBIT A

MAP



Begin Abandonment
Milepost 16.2

End Abandonment
Milepost 16.7

Dividing Creek

Dividing Creek

LEGEND

- Previously Abandoned Line
- Line for Abandonment
- Winchester & Western Rail Line

EXHIBIT B

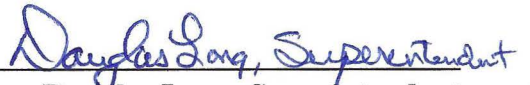
49 C.F.R. § 1152.50

(B) CERTIFICATION

**CERTIFICATION THAT RAIL LINE MEETS
CRITERIA OF 49 C.F.R. SECTION §1152.50(b)**

I, Douglas Long, Superintendent of the railroad operated by The Winchester and Western Railroad Company ("W&W"), hereby certify that for the last two years preceding the foregoing Notice of Exemption, no local common carrier freight traffic has moved over W&W's line of railroad in the Township of Commercial, Cumberland County, New Jersey, extending from milepost 16.2 to approximately milepost 16.7, a distance of approximately 0.5 miles (the "Subject Line").

No overhead traffic has moved over the Subject Line and therefore none needs to be rerouted over other lines of railroad. Furthermore, no formal complaint filed by a user of rail service on the line (or a state or local government entity acting on behalf of such user) regarding cessation of service over the Subject Line is pending with the Surface Transportation Board or any U.S. District Court, or has been decided in favor of a complainant within the two-year period. The foregoing certification is made on behalf of W&W by the undersigned after due and thorough investigation of the matters herein certified and based on the best knowledge, information and belief of the undersigned.

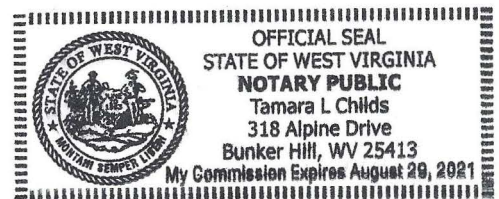

Douglas Long, Superintendent

STATE OF
COUNTY OF Berkeley)

ss.

SUBSCRIBED AND SWORN TO before me this 22nd day of November 2019.


Notary Public



My commission expires: 29th Aug. 2021

EXHIBIT C

ENVIRONMENTAL AND HISTORIC REPORT, SAMPLE TRANSMITTAL LETTER, RESPONSES

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB DOCKET NO. AB-434 (Sub-No. 4X)

**WINCHESTER & WESTERN RAILROAD COMPANY –
ABANDONMENT EXEMPTION – CUMBERLAND COUNTY, NEW JERSEY**

COMBINED ENVIRONMENTAL AND HISTORIC REPORT

The Winchester & Western Railroad Company (“W&W”) is proposing to abandon a portion of its line (the “Subject Line”) running at or near Mile Post 16.2 near to the end-of-track at Mile Post 16.7 near Dividing Creek Road in the Township of Commercial, Cumberland County, New Jersey, a total distance of approximately 0.5 miles (2,857 feet), all of which is located within the Township of Commercial, Cumberland County, New Jersey, in United States Postal Service Zip Code 08349. In regard thereto, W&W submits this Combined Environmental and Historical Report in compliance with the reporting requirements of the Surface Transportation Board regulations at 49 C.F.R. §§ 1105.7 and 1105.8.

- 1. PROPOSED ACTION AND ALTERNATIVES. Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a reasonable, detailed map and drawings clearly delineating the project.**

RESPONSE: W&W proposes to abandon a portion of its line running at or near Mile Post 16.2 to end-of-track at Mile Post 16.7 near Dividing Creek Road, a total distance of

approximately 0.5 miles (2,857 feet) in the Township of Commercial, Cumberland County, New Jersey. There has been no traffic on the Subject Line for over two years and no shippers are located on the Subject Line. The Subject Line is located at the end of W&W's rail line in New Jersey and has no overhead traffic.

Although the Subject Line could conceivably be used for a public purpose, such as a nature trail or bike path, the line is only approximately 0.5 miles long, and is located on and surrounded by private property consisting of an industrial sand mining site. These characteristics significantly limit the suitability of using the subject area for a public purpose.

W&W has no plans to salvage the Subject Line's rail and related track material. W&W does not intend to perform any activities that would cause sedimentation or erosion of the soil.

A copy of a map of the Township of Commercial reflecting the Subject Line being abandoned is attached as Attachment 1.

2. TRANSPORTATION SYSTEM. Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

RESPONSE: As noted above, there has been no rail traffic for over two years and no shippers are located on the Subject Line. Accordingly, the proposed abandonment would have a minimal affect on regional or local transportation systems or patterns.

3. LAND USE.

- i. Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.**

RESPONSE: W&W has reviewed planning documents of the area of the proposed abandonment and believes the proposed action is consistent with the existing land use plans of State and local planning agencies. The New Jersey Department of Transportation Freight Planning for the State of New Jersey (“NJDOT”), the Township of Commercial, and Cumberland County were notified by letter by dated October 18, 2019 of the proposed abandonment. As of the date of this report, NJDOT, the Township of Commercial, and Cumberland County have not responded. W&W will provide the Board with copies of any responses it receives.

ii. Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.

RESPONSE: As W&W does not intend to salvage the Subject Line or related track material, W&W does not believe that the proposed abandonment would have an effect on any prime agricultural land. The United States Department of Agriculture, Natural Resource Conservation Service (“NRCS”), was notified of the proposed abandonment by letter dated October 18, 2019. As of the date of this report, the NRCS has not responded. W&W will provide the Board copies of any response it receives.

iii. If the action effects land or water uses within a designated coastal zone, include the coastal zone information required by § 1105.9.

RESPONSE: As W&W does not intend to salvage the Subject Line or related track material, W&W does not believe that the proposed abandonment would have an effect on any land or water use within a designated coastal zone. The New Jersey Department of Environmental Protection, Land Use Management (“NJDEP”) was notified by letter dated

October 18, 2019 of the proposed abandonment. As of the date of this report, the NJDEP has not responded. W&W will provide the Board copies of any responses it receives.

- iv. **If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. § 10905 and explain why.**

RESPONSE: Although the Subject Line could conceivably be used for a public purpose, such as a nature trail or bike path, the Subject Line is only 0.5 miles long, and is located on and surrounded by private property consisting of an industrial sand mining site. These characteristics significantly limit the suitability of using the subject area for a public purpose.

4. ENERGY.

- i. **Describe the effect of the proposed action on transportation of energy resources.**

RESPONSE: Over the past two years, no traffic has moved over the Subject Line. The proposed abandonment will have no effect on the transportation of energy resources.

- ii. **Describe the effect of the proposed action on recyclable commodities.**

RESPONSE: Over the past two years, no traffic has moved over the Subject Line.

- iii. **State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.**

RESPONSE: The proposed action will have no effect on overall energy efficiency, as there have been no rail shipments on the Subject Line in the past two years.

- iv. **If the proposed action will cause diversions from rail to motor carriage of more than:**

- a. **1,000 rail carloads a year, or**

- b. an average of 50 rail carloads per mile per year for any part of the affected Line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given.

RESPONSE: There are no shippers on the Subject Line and there have been no rail shipments for over two years. Accordingly, the proposed abandonment will have no effect on the shipper's ability to use rail and will not cause a diversion of rail traffic to motor carriage.

5. **AIR.**

i. **If the proposed action will result in either:**

- a. an increase in rail traffic of at least 100% (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or
- b. an increase in rail yard activity of at least 100% (measured by carload activity), or
- c. an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions. For a proposal under 49 U.S.C. § 10901 (or § 10505) to construct a new line or re-institute service over a previously abandoned line, only the eight train a day provision in §§ (5)(i)(A) will apply.

RESPONSE: The proposed abandonment will not result in an increase in rail traffic on any segment of the rail line affected by the proposal, an increase in rail yard activity, or an increase in truck traffic in excess of the above thresholds.

ii. **If the proposed action affects a class 1 or non-attainment area under the Clear Air Act, and will result in either:**

- a. an increase in rail traffic of at least 50% (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line,

- b. an increase in rail yard activity of at least 20% (measured by carload activity), or
- c. an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan. However, for a rail construction under 49 U.S.C. § 10901 (or 49 U.S.C. § 10505), or a case involving the reinstitution of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

RESPONSE: The proposed abandonment will not result in an increase in rail or truck traffic or rail yard activity.

- iii. If transportation of ozone depleting materials (such as nitrogen oxide and freon) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

RESPONSE: No traffic has moved over the line in the past two years. Accordingly, the proposed abandonment does not involve the transportation of ozone depleting materials.

6. NOISE. If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause:

- i. an incremental increase in noise levels of three decibels Ldn or more; or
- ii. an increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (*e.g.*, schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area and quantify the noise increase for these receptors if the thresholds are surpassed.

RESPONSE: The thresholds identified in item (5)(i) will not be surpassed.

7. SAFETY.

- i. Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).**

RESPONSE: The proposed abandonment will have no adverse effect on public health or safety.

- ii. If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.**

RESPONSE: The proposed abandonment does not involve or effect the transportation of hazardous materials.

- iii. If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.**

RESPONSE: W&W's records do not indicate that there are any hazardous waste sites, or sites where there have been hazardous material spills, on the Subject Line.

8. BIOLOGICAL RESOURCES.

- i. Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.**

RESPONSE: As W&W does not intend to salvage the Subject Line or related track material, W&W does not believe that the proposed abandonment would have an effect on any endangered or threatened species or areas designated as a critical habitat. The U.S. Fish and

Wildlife Service was notified of the proposed abandonment by letter dated October 18, 2019. W&W received a response from the U.S. Fish and Wildlife Service (attached). In that response, it “concurs that the proposed project is not likely to adversely affect federally listed or candidate species.”

ii. State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

RESPONSE: As W&W does not intend to salvage the Subject Line or related track material, W&W does not believe that the proposed abandonment will affect any wildlife sanctuaries or refuges, National or State parks or forests. The U.S. Fish and Wildlife Service and the U.S.D.A. Natural Resource Conservation Service were notified of the proposed abandonment by letters dated October 18, 2019. As reflected above, W&W received a response from the U.S. Fish and Wildlife Service stating that it “supports the proposed restoration and has no comments to provide.” As of the date of this report no response has been received from the U.S.D.A. Natural Resource Conservation Service. W&W will provide the Board copies of any responses it receives.

9. WATER.

i. Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

RESPONSE: As W&W does not intend to salvage the Subject Line or related track material, W&W does not believe that the proposed abandonment would be inconsistent with applicable Federal, State or local water quality standards. The New Jersey Department of Environmental Protection was notified of the proposed abandonment by letter dated October 18,

2019. As of the date of this report no response has been received. W&W will provide the Board with copies of any response it receives.

- ii. **Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe effects.**

RESPONSE: As W&W does not intend to salvage the Subject Line or related track material, W&W does not believe that the proposed abandonment would require permits under section 404 of the Clean Water Act or that any designated wetland or flood plains would be affected. The U.S. Army Corp. of Engineers was notified of the proposed abandonment by letter dated October 18, 2019. As of the date of this report no response has been received. W&W will provide the Board with copies of responses it receives.

- iii. **State whether permits under section 402 of the Clean Water Act (33 U.S.C. § 1342) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection agency or equivalent agency if they are unsure whether such permits are required.)**

RESPONSE: As W&W does not intend to salvage the Subject Line or related track material, W&W does not believe that the proposed abandonment would require permits under section 402 of the Clean Water Act. The U.S. Environmental Protection Agency and the New Jersey Department of Environmental Protection were notified of the proposed abandonment by letters dated October 18, 2019. As of the date of this report no response has been received. W&W will provide the Board with copies of any responses it receives.

10. **PROPOSED MITIGATION. Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.**

RESPONSE: In the past two years, there have been no rail shipments on the Subject Line, and no shippers are located on the Subject Line. Moreover, W&W does not intend to salvage the Subject Line or related track material. Accordingly, the proposed abandonment will not have any adverse environmental impacts in the area and no mitigating action will be necessary.

HISTORIC REPORT
49 C.F.R. § 1105.8(d)

1. MAP.

A map showing the location of the portion of the Subject Line proposed to be abandoned is attached hereto as Attachment 1. There are no railroad structures on the Subject Line that are 50 years old or older.

2. DESCRIPTION OF LINE.

The area through which the Subject Line runs is sparsely populated and consists of fairly flat land. The Subject Line runs through a commercial and industrial area. The width of the Subject Line's right-of-way generally is approximately 60 feet. The portion of the Subject Line proposed to be abandoned runs from a point at or near Mile Post 16.2 to Mile Post 16.7, a distance of approximately 0.5 miles.

3. PHOTOGRAPHS.

There are no railroad structures on the Subject Line that are 50 years old or older.

4. INFORMATION ON STRUCTURES.

Because there are no structures owned by W&W on the Subject Line's right-of-way that are 50 years old or older, this section is not applicable.

5. BRIEF HISTORY OF OPERATIONS.

No operational changes by W&W are contemplated as a result of the proposed abandonment of the Subject Line. The Subject Line was constructed by the Cumberland and Maurice River Railroad in the early 1870's. It appears that in the 1890s, the Subject Line was subsequently acquired by the Central Railroad of New Jersey ("Central") and that in the 1970s Central was merged into Consolidated Rail Corporation ("Conrail"). Conrail abandoned the Subject Line in 1985, and W&W acquired it in 1986.

On February 28, 2001 W&W filed a Petition for Exemption, in STB Docket No. AB-434 (Sub-No. 3 X), *Winchester and Western Railroad Company – Abandonment Exemption – In Cumberland County, N.J.*, from the prior approval requirements of 49 U.S.C. § 10903, to abandon approximately 1.3 miles of the rail line between MP 16.7 to the end of the line at approximately MP 18.0. The Board granted that exemption by decision in that docket served June 18, 2001.

The proposed abandonment would result in the W&W rail line now terminating at approximately MP 16.2.

6. ENGINEERING DOCUMENTS.

Documents in W&W's possession concerning this abandonment may include valuation maps.

7. HISTORIC CRITERIA.

W&W does not believe, based on readily available information in its possession, that the Subject Line meets the criteria for listing on the National Register of Historic Places. Further, W&W does not believe that there is a likelihood of archaeological resources or any other previously unknown historic properties in the project area. Moreover, W&W does not intend to salvage the Subject Line or related track material. The New Jersey Historic Preservation Office

was notified by letter dated October 18, 2019 of the proposed abandonment. As the date of this report no response has been received regarding the proposed abandonment. W&W will provide the Board with copies with any response it receives.

8. GROUND DISTURBANCES.

Based on readily available information in its possession, W&W does not know of any other sub-surface ground disturbance or fill, environmental conditions (naturally occurring or man-made) that might affect the archaeological recovery of resources and the surrounding terrain. W&W does not intend to salvage the Subject Line or related track material.

9. WITHIN 30 DAYS OF RECEIPT OF THE HISTORIC REPORT, THE STATE HISTORIC PRESERVATION OFFICER MAY REQUEST THE FOLLOWING ADDITIONAL INFORMATION REGARDING SPECIFIED NONRAILROAD OWNED PROPERTIES OR GROUPS OF PROPERTIES IMMEDIATELY ADJACENT TO THE RAILROAD RIGHT-OF-WAY: PHOTOGRAPHS OF SPECIFIED PROPERTIES THAT CAN BE READILY SEEN FROM THE RAILROAD RIGHT-OF-WAY (OR OTHER PUBLIC RIGHTS-OF-WAY ADJACENT TO THE PROPERTY) AND A WRITTEN DESCRIPTION OF ANY PREVIOUSLY DISCOVERED ARCHEOLOGICAL SITES, IDENTIFYING THE LOCATION AND TYPE OF THE SITE (I.E., PREHISTORIC OR NATIVE AMERICAN).

If any additional information is requested, W&W will promptly supply the necessary information.



ATTORNEYS AT LAW

THE FOUNDRY BUILDING ♦ 1055 THOMAS JEFFERSON STREET, NW ♦ SUITE 500 ♦ WASHINGTON, D.C. 20007
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WRITER'S DIRECT E-MAIL ADDRESS
EGREENBERG@GKGLAW.COM

WRITER'S DIRECT DIAL NUMBER
202-342-5277

October 18, 2019

[AGENCY]
[ADDRESS]

**Re: *Winchester & Western Railroad Company—Abandonment
Exemption—Cumberland County, New Jersey
STB Docket No. AB-434 (Sub-No. 4X)***

Dear Sir or Madam:

On or about November 8, 2019, we will be filing with the Surface Transportation Board a Verified Notice of Exemption seeking authority to abandon a line of railroad located in Commercial Township, Cumberland County, New Jersey. The line of railroad in question extends from approximately milepost 16.2 to milepost 16.7, a distance of approximately 0.5 miles. Attached is an Environmental Report and Historic Report describing the proposed action and any expected environmental and/or historic effects, as well as a map of the affected area.

We are providing this report so that you may review the information that will form the basis for the STB's independent environmental analysis of this proceeding. If any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the Board's environmental review process, please contact the Office of Environmental Analysis (OEA), Surface Transportation Board, Washington, DC, telephone (202) 245-0295 and refer to the above Docket Number. Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to OEA (with a copy to our representative) would be appreciated within 3 weeks.

Your comments will be considered by the Board in evaluating the environmental and/or historic preservation impacts of the contemplated action. If there are any questions concerning this proposal, please contact our representative directly. Our representative in this matter is



An International Association of Independent Law Firms in Major World Centers

GKG LAW, P.C.

[AGENCY]

October 18, 2019

Page 2

Edward D. Greenberg who may be contacted by telephone at (202) 342-5277 or by mail at 1055 Thomas Jefferson St., NW; Suite 500; Washington, DC 20007.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'EDD', with a long horizontal flourish extending to the right.

Edward D. Greenberg

Enclosure



United States Department of the Interior
FISH AND WILDLIFE SERVICE

New Jersey Field Office
4 E. Jimmie Leeds Road, Suite 4
Galloway, New Jersey 08205
Tel: 609/646-9310

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



IN REPLY REFER TO:
20-CPA-0032

OCT 24 2019

Mr. Edward D. Greenberg
1055 Thomas Jefferson Street, NW
Washington, District of Columbia 20007
E-mail: EGREENBERG@GKGLAW.COM

Reference: Winchester and Western Railroad Company - Abandonment Exemption, Township of Commercial, Cumberland County, New Jersey [STB Docket No. AB-434 (Sub-No.4X)]

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) ensuring the protection of federally listed endangered and threatened species. The Service supports the proposed restoration and has no comments to provide pursuant to the Fish and Wildlife Coordination Act (48 Stat. 401; 16 U.S.C. 661 *et seq.*).

A known occurrence or potential habitat for the following federally listed or candidate species is located on or near the project 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
Northern long-eared bat (<i>Myotis septentrionalis</i>) (threatened)	The 0.5 mile rail line will be abandoned and left in place

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:

Carlo Popolizio

Authorizing Supervisor:

Ron Popowski

EXHIBIT D

CERTIFICATIONS

CERTIFICATE OF SERVICE AND PUBLICATION

49 C.F.R. § 1152.50(d)(1) – Notice

The undersigned certifies that on October 29, 2019 (at least 10 days before a Notice of Exemption is filed), written notice was given of Winchester & Western Railroad Co.'s intent to use the exemption notice procedure to abandon its line of railroad in the Township of Commercial, Cumberland County, New Jersey in Docket No. AB-434 (Sub-No. 4X).

Written notice (a sample letter is attached hereto) was served on the following:

NJ Board of Public Utilities
44 So. Clinton Ave., 7th Floor
Trenton, NJ 08625

New Jersey Department of Transportation
P.O. Box 600
Trenton, NJ 08625-0600

Bruce A. Busler
SDDCTEA
Railroads for National Defense
1 Soldier Way
Bldg 1900W
Scott AFB, IL 62225

*Bob Ratcliffe
RCTA, National Park Service
1201 Eye St., NW, 9th floor
(Org Code 2220)
Washington, DC 20005

* Resent on November 25, 2019 to
corrected address:

Bob Ratcliffe
RCTA
National Park Service
1849 C Street, NW
Org. Code 2220*
Washington, D.C. 20240

Vicki Christiansen
Chief of the Forest Service
U.S. Department of Agriculture
1400 Independence Ave, SW
Washington, DC 20250-1111

49 C.F.R. § 1105.11 – Transmittal Letter for Applicant’s Report

The undersigned certifies that on October 18, 2019 (at least 20 days before a Notice of Exemption is filed), a Combined Environmental and Historic Report pursuant to 49 C.F.R. §§ 1105.7 and 1105.8 was served on the following agencies:

1. New Jersey Natural Resources Conservation Service;
2. New Jersey Coastal Zone Management;
3. New Jersey Environmental Protection Agency;
4. New Jersey Historic Preservation Office;
5. New Jersey State Clearinghouse;
6. State of New Jersey;
7. Department of Transportation;
8. Township of Commercial;
9. Cumberland County Board of Freeholders;
10. U.S. Fish and Wildlife Service;
11. U.S. Army Corps of Engineers;
12. National Park Service;
13. National Park Service, Northeast Regional Office;
14. U.S. National Geodetic Survey;
15. Natural Resource Conservation Service;
16. Environmental Protection Agency, New Jersey Regional Office; and
17. Edison, NJ Environmental Center

49 C.F.R. §1105.12 – Newspaper Notice

The undersigned further certifies that a “Notice of Intent to Abandon” was published in the form prescribed by the Board for a Notice of Exemption. The notice was

published on time in a major newspaper in the county in which the Subject Line is located
as follows:

<u>County</u>	<u>Newspaper</u>	<u>Date</u>
Cumberland	Daily Journal	October 9, 2019

Dated this 6th day of December, 2019.


Edward D. Greenberg



ATTORNEYS AT LAW

THE FOUNDRY BUILDING ♦ 1055 THOMAS JEFFERSON STREET, NW ♦ SUITE 500 ♦ WASHINGTON, D.C. 20007
TELEPHONE: 202-342-5200 FACSIMILE: 202-342-5219

RICHARD BAR
BRENDAN COLLINS
EDWARD D. GREENBERG
MATTHEW T. JOURNY
KATHARINE FOSTER MEYER
DAVID K. MONROE
TROY A. ROLF
KEITH G. SWIRSKY
THOMAS W. WILCOX
CHRISTOPHER B. YOUNGER

OLIVER M. KRISCHIK
KRISTINE O. LITTLE
RYAN D. SWIRSKY

OF COUNSEL:
STEVEN JOHN FELLMAN

MINNESOTA OFFICE:
114 FIRST STREET SOUTH
BUFFALO, MN 55313
(T) 763-682-6620 (F) 763-682-6261

WRITER'S DIRECT E-MAIL ADDRESS
EGREENBERG@GKGLAW.COM

WRITER'S DIRECT DIAL NUMBER
202-342-5277

October 29, 2019

[AGENCY]
[ADDRESS]

**Re: *Winchester & Western Railroad Company—Abandonment Exemption—
Cumberland County, New Jersey***
STB Docket No. AB-434 (Sub-No. 4X)

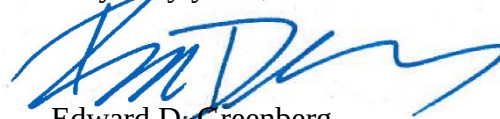
Dear Sir or Madam:

Please be advised that on or after December 5, 2019, Winchester & Western Railroad Co. ("W&W") will file a notice of exemption pursuant to 49 C.F.R. §1152.50, seeking authority from the Surface Transportation Board to abandon its line of railroad in Cumberland County, New Jersey for the purpose of removing the track from the national rail system as there are no current rail operations and it is unlikely that there will be any in the future.

The line is located in the Township of Commercial, Cumberland County, New Jersey and traverses U.S. Postal Service ZIP code 08349. It extends from milepost 16.2 to milepost 16.7, a distance of 0.5 miles. Based on information in our possession, the line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

Please feel free to contact me with any questions.

Very truly yours,



Edward D. Greenberg



An International Association of Independent Law Firms in Major World Centers

AFFIDAVIT OF PUBLICATION

Publisher's Fee \$36.98 Affidavit \$21.00

State of **NEW JERSEY**

Cumberland County

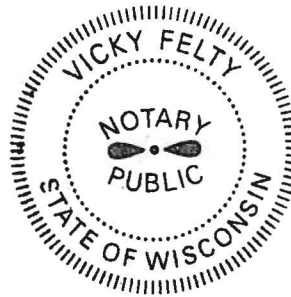
Personally appeared Allison Naron

Of the **Daily Journal**, a newspaper printed in Freehold, New Jersey and published in Vineland, in said County and State, and of general circulation in said county, who being duly sworn, depose and saith that the advertisement of which the annexed is a true copy, has been published in the said newspaper 1 times, once in each issue as follows:

10/09/19 A.D 2019

Vicky Felty
Notary Public State of Wisconsin County of Brown

9-19-21
My commission expires



Ad Number: 0003828635

The Winchester and Western Railroad Company gives notice that on or about November 8, 2019, it intends to file with the Surface Transportation Board, Washington, D.C. 20423, a notice of exemption under 49 C.F.R. 1152 Subpart F – Exempt Abandonments permitting the abandonment of a 0.5 mile line of railroad, the line of railroad extends from approximately milepost 16.2 to milepost 16.7 in Commercial Township, Cumberland County, New Jersey which traverses through United States Postal Service ZIP Code 08349. The proceeding has been docketed as AB-434 (Sub-No. 4X).

The Board's Office of Environmental Analysis (OEA) 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 Office of Environmental Analysis (OEA), Surface Transportation Board, Washington, D.C. 20423 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 trail use, public use, and offers of financial assistance) must be filed directly with the Board's Office of Proceedings, 395 E Street, S.W., Washington, D.C. 20423-0001 (See 49 C.F.R. 1104.1(a) and 1104.3(a)), and one copy must be served on applicants' representative (See 49 C.F.R. 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:

Edward D. Greenberg
GKG Law, P.C.
The Foundry Building
1055 Thomas Jefferson Street NW
Suite 500
Washington, DC 20007
egreenberg@gkglaw.com
(202) 342-5277
Ptr. Fee: \$36.98