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SERVICE DATE – DECEMBER 26, 2019

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 434 (Sub-No. 4X)]

Winchester & Western Railroad Company—Abandonment Exemption—in Cumberland County, N.J.

Winchester & Western Railroad Co. (W&W) has filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments to abandon an approximately 0.5-mile line of railroad, from approximately milepost 16.2 to milepost 16.7, in the Township of Commercial, Cumberland County, N.J. (the Line). The Line traverses U.S. Postal Service Zip Code 08349.

W&W has certified that: (1) no local common carrier freight traffic has moved over the Line for at least two years; (2) no overhead traffic has moved over the Line for at least two years and, therefore, there is no need to reroute any traffic; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 C.F.R. § 1105.12 (newspaper publication), 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies), and 49 C.F.R. §§ 1105.7 and 1105.8 (environmental and historic report), have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received,¹ this exemption will be effective on January 25, 2020, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues must be filed by January 3, 2020.² Formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2) and trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by January 6, 2020.³ Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by January 15, 2020, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

¹ Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (i.e., subsidy or purchase) and demonstrating that they are preliminarily financially responsible. See 49 C.F.R. § 1152.27(c)(2)(i).

² The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

³ Filing fees for OFAs and trail use requests can be found at 49 C.F.R. § 1002.2(f)(25) and (27), respectively.

A copy of any petition filed with Board should be sent to W&W's representative, Edward D. Greenberg, GKG Law, P.C., The Foundry Building, 1055 Thomas Jefferson Street NW, Suite 500, Washington, DC 20007.

If the verified notice contains false or misleading information, the exemption is void ab initio.

W&W has filed a combined environmental and historic report that addresses the potential effects of the abandonment on the environment and historic resources.⁴ OEA will issue an environmental assessment (EA) by December 31, 2019. The EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 C.F.R. § 1152.29(e)(2), W&W shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by W&W's filing a

⁴ On December 11, 2019, W&W supplemented its historic report with a letter from the New Jersey Historic Preservation Office.

notice of consummation by December 26, 2020, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at www.stb.gov.

Decided: December 18, 2019

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.