

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

DRAFT ENVIRONMENTAL ASSESSMENT

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

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

BACKGROUND

In this proceeding, Winchester & Western Railroad Company (W&W) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in Cumberland County, New Jersey. The rail line proposed for abandonment extends approximately 0.5 miles from Milepost 16.2 to Milepost 16.7 in the Township of Commercial (the Line). A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, the railroad would be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

ENVIRONMENTAL REVIEW

W&W submitted an Environmental Report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment of the Line or any post-abandonment activities, including salvage and disposition of the right-of-way. W&W served the Environmental Report on a number of appropriate federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)].¹ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to W&W, the Line has been out of service for over two years and no local or overhead traffic has moved over the Line in that time. Therefore, no traffic would need to be rerouted if the proposed abandonment were approved. Accordingly, the proposed abandonment would not adversely impact the development, use, and transportation of energy resources or recyclable commodities; adversely impact the transportation of ozone-depleting materials; or

¹ The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 434 (Sub-No. 4X).

result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

Salvage and disposal of a rail line typically include the removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. W&W states that it does not intend to salvage the Line or any related track materials if abandonment of the Line were authorized. Accordingly, W&W believes that any decision granting the requested abandonment authority would not have any adverse effects on environmental resources.

Land Use

According to W&W, the right-of-way along the Line is approximately 60 feet wide. Adjacent land use consists primarily of residential, commercial, recreational, and light industrial uses as well as transportation corridors. The National Geodetic Survey responded that there are no geodetic marks in the project area.

Transportation and Safety

Because the Line is out of service, no freight traffic would be diverted from rail to truck transportation.

Coastal Zone Compliance

The Township of Commercial in Cumberland County is subject to the New Jersey Department of Environmental Protection's (NJDEP) Coastal Management Program and the proposed abandonment may require additional Federal Consistency review under the Coastal Zone Management Act (16 U.S.C. § 1451 *et seq.*). Accordingly, OEA recommends that any decision granting abandonment authority include a condition requiring W&W to consult with the NJDEP Coastal Management Program to determine whether state coastal management consistency certification is required. W&W may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until it reports the results of these consultations in writing to OEA and the Board has removed this condition.

Water Resources

As stated above, W&W does not plan to conduct salvage activities, and accordingly would not cause sedimentation or erosion of the soil or require any dredging or use of fill. While OEA does not believe that the proposed abandonment would require a permit from the U.S. Army Corps of Engineers (Corps) under Section 404 of the Clean Water Act (33 U.S.C. § 1344), OEA is providing a copy of this EA to the Corps for its review and comment.

W&W does not anticipate any excavation or other ground-disturbance activity, or the need for related storm water mitigation measures. According to W&W, the proposed abandonment would not result in the discharge of wastewater or storm water and would not need a permit under Section 402 of the Clean Water Act (33 U.S.C. § 1342). Since OEA has not received comment from NJDEP regarding the need for a permit under Section 402, OEA is providing a copy of this EA to NJDEP for its review and comment.

Hazardous Materials

W&W states that it is not aware of any release of hazardous substances on or near the Line. OEA researched publicly available information regarding federally listed remediation sites near the Line and did not identify any that would be affected by the proposed abandonment. Accordingly, no mitigation regarding hazardous waste sites or hazardous material spills is recommended.

Biological Resources

W&W requested comments from the U.S. Fish and Wildlife Service (USFWS) regarding the potential impact of the proposed abandonment to protected wildlife, including federally listed threatened and endangered species. USFWS replied by letter affirming that the only federally listed or candidate species, the northern long-eared bat (*Myotis septentrionalis*), would not be adversely affected by the proposed project and no further consultation under the Endangered Species Act would be required. Accordingly, OEA concludes that the species is not likely to be adversely affected and, per USFWS guidance, no mitigation is required.

Air Quality

Because W&W does not plan to conduct salvage activities, there would be minimal if any air emissions associated with the proposed abandonment. Therefore, OEA believes that the proposed abandonment would not have a significant impact on air quality.

Noise

Because W&W does not plan to conduct salvage activities, there would be minimal if any noise emissions associated with the proposed abandonment.

Summary

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. OEA is providing a copy of this EA to the following agencies: NJDEP and USACE.

HISTORIC REVIEW

W&W served the Historic Report on the New Jersey State Historic Preservation Officer (SHPO), pursuant to 49 C.F.R. § 1105.8(c).² OEA has not heard from the State Historic Preservation Officer (SHPO) and therefore has not been able to consider the SHPO's opinion before determining if the rail line may be potentially eligible for listing on the National Register of Historic Places. Accordingly, we are recommending a condition requiring the railroad to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures and objects within the project right-of-way (the Area of Potential Effect) eligible for listing or listed in the National Register of Historic Places until completion of the Section 106 process. Guidance regarding the Board's historic preservation review process is available on the Board's website at <https://prod.stb.gov/resources/environmental/historic-preservation-overview/>

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the U.S. Department of Housing and Urban Development's Tribal Directory Assessment Tool (TDAT) to identify federally recognized Tribes that may have ancestral connections to the project area.³ The database indicated that the following federally recognized Tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment: Absentee-Shawnee Tribe of Indians of Oklahoma; Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Shawnee Tribe. Accordingly, OEA is sending a copy of this EA to those Tribes for review and comment.

CONDITIONS

We recommend that the following conditions be imposed on any decision granting abandonment authority:

- 1. Pursuant to the Coastal Zone Management Act (16 U.S.C. § 1451 et seq.) and the Board's environmental regulations at 49 C.F.R. § 1105.9, Winchester & Western Railroad Company (W&W) shall consult with the New Jersey Department of Environmental Protection's Coastal Management Program and obtain state coastal**

² Applicants seeking authority from the Board to abandon railroad lines may act on behalf of the Board when complying with the Section 106 regulations of the National Historic Preservation Act. Applicants are authorized to initiate the Section 106 review process and carry out some of its steps, but the Board retains overall responsibility for the Section 106 review. See 36 C.F.R. § 800.2(c)(4); 49 C.F.R. Part 1105; Delegation Letter (Dec. 9, 2009). The Delegation Letter can be found on the Board's website at [https://www.stb.gov/stb/docs/EnvironmentalDecisions/Delegation of 106 in Rail Abandonments.pdf](https://www.stb.gov/stb/docs/EnvironmentalDecisions/Delegation%20of%20106%20in%20Rail%20Abandonments.pdf).

³ Tribal Directory Assessment Tool, <https://egis.hud.gov/TDAT/> (last visited November 25, 2019).

management consistency certification. W&W may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until it reports the results of these consultations in writing to the Board's Office of Environmental Analysis and the Board has removed this condition.

- 2. Winchester & Western Railroad Company (W&W) shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f, has been completed. W&W shall report back to the Office of Environmental Analysis regarding any consultations with the New Jersey State Historic Preservation Office and the public. W&W may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.**

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of the line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send your comments to Surface Transportation Board, Washington, DC 20423, to the attention of Adam Assenza, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, www.stb.gov, by clicking on the "Environmental Comment" link. **Please refer to Docket No. AB 434 (Sub-No. 4X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Adam Assenza, the environmental contact for this case, by phone at (202) 245-0301, fax at (202) 245-0454, or e-mail at Adam.Assenza@STB.gov.

Date made available to the public: December 31, 2019.

Comment due date: January 15, 2020.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment

Begin Abandonment: MP 16.2

End Abandonment: MP 16.7



0 0.05 0.1
Miles



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

Winchester & Western Railroad Company
Abandonment Exemption
in Cumberland County, New Jersey

Legend

— the Line

Note: Maps produced by the STB's Office of Environmental Analysis are based on information provided by the applicant and are for reference purposes only. Endpoints are approximate.



Location in State