

50091
DO

SERVICE DATE – JANUARY 23, 2020

SURFACE TRANSPORTATION BOARD

DECISION

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

WINCHESTER & WESTERN RAILROAD COMPANY—
ABANDONMENT EXEMPTION—IN CUMBERLAND COUNTY, N.J.

Decided: January 22, 2020

Winchester & Western Railroad Company (W&W) filed a verified note 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). Notice of the exemption was served and published in the Federal Register on December 26, 2019 (84 Fed. Reg. 71,065). The exemption is scheduled to become effective on January 25, 2020.

The Board's Office of Environmental Analysis (OEA) served a draft Environmental Assessment (EA) on December 31, 2019, recommending that two conditions be imposed on any decision granting abandonment authority. In the EA, OEA noted that The Township of Commercial 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 recommended a condition requiring W&W to consult with the NJDEP Coastal Management Program and obtain state coastal management consistency certification.

OEA also stated that W&W served its historic report on the New Jersey State Historic Preservation Officer (SHPO), pursuant to 49 C.F.R. § 1105.8(c). The SHPO had not responded to W&W's historic report at the time the EA was prepared. Therefore, OEA was not able to consider the SHPO's opinion before determining if the Line may be eligible for listing on the National Register of Historic Places. Accordingly, OEA recommended 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 of the National Historic Preservation Act.

OEA issued its final EA on January 21, 2020, noting that no new comments on the EA were received by the January 15, 2020 due date. In the final EA, OEA modified its previously recommended Coastal Zone Management Act condition. The recommended condition, as modified, would require W&W to consult with the NJDEP Coastal Management Program to determine whether state coastal zone consistency certification is required. The final EA also corrected a typographical error in the National Historic Preservation Act condition.

Accordingly, based on OEA's recommendations, the two conditions proposed in the final EA will be imposed.

This decision, and the proposed abandonment if implemented as conditioned, will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.

2. Upon reconsideration, the notice served and published in the Federal Register on December 26, 2019, exempting the abandonment of the Line described above is subject to the following conditions:

(a) 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, W&W shall 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.

(b) 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, 54 U.S.C. § 306108, has been completed. W&W shall report back to OEA regarding any consultations with the SHPO 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.

3. This decision is effective on its service date.

By the Board, Allison C. Davis, Director, Office of Proceedings.