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SERVICE DATE – DECEMBER 11, 2020

SURFACE TRANSPORTATION BOARD

DECISION

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

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

Decided: December 10, 2020

On December 6, 2019, 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).

By decision served on January 23, 2020, the proceeding was reopened, and the exemption was made subject to a historic preservation condition and a condition requiring W&W to consult with the New Jersey Department of Environmental Protection's (NJDEP) Coastal Management Program to determine whether state coastal management consistency certification is required under the Coastal Zone Management Act, 16 U.S.C. § 1451 et seq. For each condition, the decision ordered that W&W may not file its consummation notice or initiate any salvage activities related to abandonment until the Board had removed the condition.

On December 3, 2020, W&W submitted a request to extend the consummation deadline until June 26, 2021. According to W&W, it received a response from NJDEP indicating that the proposed abandonment was not subject to any permitting requirements and no further action by NJDEP was warranted. W&W states that it forwarded that correspondence to the Board's Office of Environmental Analysis. Regarding the historic preservation condition, W&W states that the required field visit and survey were delayed by the COVID-19 pandemic, and review by the New Jersey State Historic Preservation Office could take 30 days or more to complete.

Both the historic preservation condition and the Coastal Zone Management Act condition are regulatory barriers to consummation, and neither has been removed by the Board. Where a legal or regulatory barrier to consummation exists at the end of the one-year time period in the Board's regulations for consummation, the notice of consummation must be filed not later than 60 days after satisfaction, expiration, or removal of the legal regulatory barrier. 49 C.F.R. § 1152.29(e)(2). Because W&W has until 60 days after the last of these conditions is removed to file its notice of consummation, its extension request is unnecessary at this time and will be denied as moot.

It is ordered:

1. W&W's request for an extension of time to consummate its abandonment authority is denied as moot.
2. This decision is effective on its service date.

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