

SERVICE DATE – MAY 3, 2019

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 1237 (Sub-No. 1X)

NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION—ABANDONMENT
EXEMPTION—BETWEEN LITTLETON, N.H., AND BETHLEHEM, N.H.

Decided: May 3, 2019

New Hampshire Department of Transportation (NHDOT) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon 6.86 miles of rail line located between milepost C113, station 995+66, at Industrial Drive in Littleton, N.H., and milepost C119.86, station 1359+77, a point 3.35 miles east of the Littleton/Bethlehem, N.H., town line (the Line). Notice of the exemption was served and published in the Federal Register on April 5, 2019 (84 Fed. Reg. 13,738). The exemption is scheduled to become effective on May 5, 2019.

The Board's Office of Environmental Analysis (OEA) served an environmental assessment (EA) on April 12, 2019, recommending that four environmental conditions be imposed on any decision granting abandonment authority. In the EA, OEA stated that the National Geodetic Survey (NGS) submitted comments stating that nine geodetic survey markers are located in the project area. OEA therefore recommended a mitigation condition requiring NHDOT to consult with NGS and notify NGS at least 90 days prior to beginning salvage activities that would disturb or destroy any geodetic station markers in order to plan for the possible relocation of the geodetic station markers by NGS.

OEA also stated that the New Hampshire Department of Environmental Services (NHDES) submitted comments stating that the Line is located entirely within the Ammonoosuc Designated River Corridor. OEA stated that salvage activities, although not involving in-stream work and not intended to result in discharges into any water resources, would take place within a designated river corridor. Therefore, OEA recommended a mitigation condition requiring NHDOT to consult with NHDES prior to the start of salvage activities regarding potential impacts to the Ammonoosuc Designated River Corridor and to follow the reasonable recommendations of that agency.

Based on the information provided by NHDOT and OEA's independent review, OEA concluded that the proposed abandonment would have no effect on the federally listed endangered and threatened species known or thought to occur in Grafton County, as identified by OEA, pursuant to Section 7 of the Endangered Species Act, 16 U.S.C. § 1536. However, in order to ensure that no federally protected species are affected, OEA recommended a mitigation condition requiring NHDOT to cease work and notify and consult with the U.S. Fish and Wildlife Service (USFWS) if any federally listed threatened or endangered species are encountered during salvage activities.

Lastly, OEA noted that NHDOT initiated consultation with the New Hampshire Division of Historic Resources (the State Historic Preservation Office, or SHPO) under Section 106 of the National Historic Preservation Act, 54 U.S.C. § 306108, by providing the SHPO with a copy of its Historic Report prior to filing its verified notice of exemption with the Board, pursuant to 36 C.F.R. § 800.4(d)(1). By letter dated August 16, 2017, the SHPO commented that the White Mountains Railroad is eligible for listing in the National Register of Historic Places (National Register) as a historic district under Criteria A and C for construction and engineering. The SHPO stated that 50 extant historic elements located along the Line have been confirmed as contributing elements to the linear historic district.

The SHPO concluded that neither the proposed abandonment nor the post-abandonment conversion of the Line into a trail would have an adverse effect on the White Mountains Railroad or other historic properties listed in or eligible for listing in the National Register, provided that certain stipulations related to salvage and repurposing of the rail right-of-way into a trail are met. Those stipulations include providing the SHPO with a list of identified hazards and a hazard removal plan with a reasonable time for review and consultation to revise plans, if necessary.

Based on the SHPO's comments and the information available to date, OEA concluded that, if NHDOT consults with the SHPO regarding the potential removal of hazards prior to undertaking salvage activities and implements the SHPO's reasonable recommendations for the treatment of the White Mountains Railroad and its contributing elements, the proposed abandonment would not adversely affect that National Register-eligible property. Accordingly, OEA recommended a mitigation measure requiring NHDOT to consult with the SHPO regarding the removal of potential hazards prior to beginning salvage activities, to follow the reasonable recommendations of the SHPO, and to report back to OEA the results of any consultations with the SHPO related to salvage of the Line.

OEA issued its Final EA on May 2, 2019, noting that no comments to the EA were received and recommending again that the four previously recommended conditions be imposed. Accordingly, based on OEA's recommendation, the conditions proposed in the 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 April 5, 2019, exempting the abandonment of the Line described above, is subject to the conditions that NHDOT shall: (1) consult with NGS and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers in order to plan for the possible relocation of the geodetic station markers by NGS; (2) prior to the start of

abandonment-related salvage activities, consult with NHDES regarding the potential impact of the proposed abandonment to the Ammonoosuc Designated River Corridor and follow the reasonable recommendations of NHDES; (3) if any federally listed threatened or endangered species are encountered during salvage activities, cease work, notify the USFWS, consult with USFWS regarding the potential impacts to any encountered federally listed threatened and endangered species, and follow the reasonable recommendations of USFWS; and (4) prior to beginning salvage activities, consult with the SHPO regarding the removal of potential hazards from the rail right-of-way, follow the SHPO's reasonable recommendations related to the treatment of rail-related historic properties during salvage, and report back to OEA the results of any consultations with the SHPO related to salvage of the Line.

3. This decision is effective on its service date.

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