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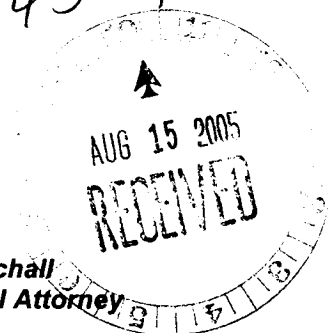
AUG 15 2005

**SURFACE
TRANSPORTATION BOARD**

Direct Dial Number:
(757) 629-2759
fax (757) 533-4872

**NORFOLK SOUTHERN CORPORATION
THREE COMMERCIAL PLACE
NORFOLK, VA 23510**

James R. Paschall
Senior General Attorney



**ENTERED
Office of Proceedings**

AUG 15 2005

**Part of
Public Record**

August 12, 2005

via Federal Express

Honorable Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

FEE RECEIVED

AUG 15 2005

**SURFACE
TRANSPORTATION BOARD**

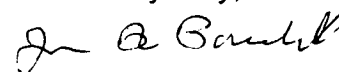
Re: STB Docket No. AB-290 (Sub-No. 236X), The Cincinnati, New Orleans
and Texas Pacific Railway Company - Abandonment - Petition for
Exemption - at Rockwood, Tennessee, in Roane County, Tennessee

Dear Mr. Williams:

Enclosed for filing with the Board in the subject docket is an original and ten copies of The Cincinnati, New Orleans and Texas Pacific Railway Company's (a wholly owned subsidiary of Norfolk Southern Railway Company) Petition for Exemption to abandon a railroad line in the subject proceeding. Also, enclosed are two checks totaling \$5,200 for the filing fee and three diskettes in a format that is compatible with the Board's word processing programs.

Please acknowledge receipt of this filing on the enclosed copy of this letter and return it to me in the self-addressed, stamped envelope.

Yours very truly,



James R. Paschall

Enclosures

Mr. Vernon A. Williams
Re: AB-290, Sub-No. 236X
Page 2 of 2
August 12, 2005

cc w/ encl.: Mr. Kevin Dunn
Franklin Industries, Inc.
10583 Hwy. 70 East
Crab Orchard, TN 37723

Mr. Charles Holiway
Horsehead Resources Development Co., Inc.,
West Baldwin Street
P.O. Box 5
Rockwood, TN 37854

Mr. Pat Miller, Chairman,
Tennessee Regulatory Authority
460 James Robertson Parkway,
Nashville TN, 37243-0505

Mr. John Fisher, Transportation Manager II
Tennessee Department of Transportation
Office of Rail & Water Transportation
Suite 1800 James K. Polk Bldg.
Nashville, TN 37243

United States Department of Defense
Military Traffic Management Command (MTMCTEA)
Transportation Engineering Agency
Railroads for National Defense Program
720 Thimble Shoals, Blvd., Suite 130
Newport News, VA 23606-2574

Mr. Tom Ross, Chief of National Recreation and Trails
U. S. Department of the Interior - National Park Service
Recreation Resources Assistance Division
P.O. Box 37127
Washington, D.C., 20013-7127

U. S. Department of Agriculture,
Chief of the Forest Service
4th Floor N.W., Auditors' Building
14th Street and Independence Avenue, S.W.
Washington, D.C. 20250

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-290 (SUB-NO. 236X)

THE CINCINNATI, NEW ORLEANS AND TEXAS PACIFIC RAILWAY COMPANY

- ABANDONMENT EXEMPTION -

IN ROCKWOOD, TENNESSEE, IN ROANE COUNTY, TENNESSEE

PETITION FOR EXEMPTION

ENTERED
Office of Proceedings

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SURFACE
TRANSPORTATION BOARD

James R. Paschall
Senior General Attorney
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510

(757) 629-2759

Attorney for
The Cincinnati, New Orleans and Texas Pacific
Railway Company

Dated: August 12, 2005

FILED
AUG 15 2005
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Docket No. AB-290 (Sub-No. 236X)

The Cincinnati, New Orleans and Texas Pacific Railway Company

- Abandonment Exemption -

At Rockwood, In Roane County, Tennessee -

Petition for Exemption

The Cincinnati, New Orleans and Texas Pacific Railway Company ("CNOTP"), a wholly-owned subsidiary of Norfolk Southern Railway Company ("NSR"), hereby petitions the Surface Transportation Board (the "Board" or "STB"), pursuant to the provisions of 49 U.S.C. 10502, as amended, for exemption from the prior approval requirements of 49 U.S.C. 10903 to abandon 1.10 miles of railroad line between Mileposts 156.9-H and 158.0-H at Rockwood, TN (the "Line").¹

Upon CNOTP's abandonment of the Line, rail service over the track will not

¹The Line was once part of the Tennessee Central Railway Company line. TCR was an independent company until 1968. A portion of the TCR line was acquired by the Southern Railway Company subsidiary, Harriman and Northeastern Railroad Company, in 1968-1969. H&NE was merged into CNOTP in 1970. The subject Line was not part of the Cincinnati Southern Railway. CSR is leased to the CNOTP and comprises a large portion of the CNOTP rail lines. The Historic Report contains more detailed information about the history of the Line.

cease. The Line will be sold to Franklin Industries, Inc., for continued railroad use in the operation of Franklin Industries' existing 15.4-mile private railroad line that serves its facility at Crab Orchard, TN. Franklin Industries acquired this Line from CNOTP following the Board's decisions served November 15, 2000 and December 22, 2000, in STB Docket No. AB-290 (Sub-No. 208X), *The Cincinnati, New Orleans and Texas Pacific Railway Company - Abandonment - Exemption in Cumberland and Roane Counties, TN*.

Because of the planned sale of the Line to Franklin Industries, Inc., for continued railroad use, CNOTP also requests exemption from 49 U.S.C. 10904 (offer of financial assistance procedures) and 49 U.S.C. 10905 (public use conditions), which will be consistent with and facilitate the sale, maintenance and operation of the Line for continued rail service as a private track. The Line also will continue to be used by CNOTP under an agreement with Franklin Industries as an interchange track to interchange freight traffic with both Franklin Industries and Horsehead Resource Development, Inc., which is located off the Line at Rockwood, TN. Horsehead has its own locomotive and can provide switching for its facility at Rockwood, TN after rail cars are interchanged to it on the subject track.² Because of the arrangements made among CNOTP, Franklin Industries, Inc., and Horsehead Resource Development Co., Inc., for continued use of the Line, and for the protection of rail service to Horsehead in the event Franklin Industries, Inc., ceases to operate the Line, CNOTP anticipates no protest or opposition to this petition for exemption by any current railroad customer or

²Thus, Franklin Industries, Inc. will not operate as a railroad to provide common

other party with an interest in rail service over the Line.

Section 10502 of Title 49 of the United States Code, as amended, directs the Board to exempt a transaction when the Board finds that the transaction satisfies certain statutory criteria. This petition demonstrates that the abandonment for which CNOTP seeks exemption satisfies the statutory criteria. The only shippers that use the Line consent to the abandonment. Rail service over the track in fact will not cease. The shippers will continue to operate over the track for their own accounts and in order to interchange traffic with CNOTP after the abandonment of the Line and its sale to Franklin Industries. Therefore, CNOTP's action in formally abandoning the Line as a line of railroad will not result in a cessation of service or an abuse of market power.

This exemption will permit Franklin Industries, Inc. to improve its operation through the use of additional interchange track, including a run-around track at Rockwood, TN, and to more readily maintain the Line as part of its existing private line. The arrangements among CNOTP, Franklin and Horsehead will protect Horsehead's ability to receive service from CNOTP in the event Franklin ceases its operation of the track. As a result of the formal abandonment of the Line and its sale to Franklin Industries, CNOTP anticipates that operations on this segment of line will be more efficient and economical.

Background

The Line is a 1.1-mile segment connecting to a 15.4-mile dead-end private rail carrier rail service to Horsehead Resource Development Co., Inc.

line. That line previously was formally abandoned by CNOTP and sold to the single shipper on the Line, Franklin Industries. Franklin Industries is located at the end of the 15.4-mile line at Crab Orchard, TN.

Formal abandonment of the subject Line will allow Franklin Industries to operate over the Line that includes a run-around track and will facilitate interchange of Franklin Industries' rail traffic with CNOTP. Franklin Industries can readily and easily maintain the additional short segment of Line along with its maintenance of the adjacent segment that it already owns. CNOTP will continue to use the track under an agreement with Franklin Industries to interchange traffic with both Franklin Industries and Horsehead Resource Development, Inc., which is located off the Line at Rockwood, TN. Horsehead has its own locomotive and can provide switching for its facility at Rockwood, TN after rail cars are interchanged to it on the subject track. CNOTP, Franklin Industries, Inc., and Horsehead Resource Development Co., Inc., have arranged for continued use of the Line for rail service to Horsehead in the event Franklin ceases its private rail operation.

There is no overhead or other local traffic on the Line and no potential for overhead traffic because it is a short, dead-end branch line. There is little or no potential, or space, for additional industrial development on this short line segment in addition to the existing operation of Horsehead Resource Development Co., Inc. Since CNOTP will continue to provide rail service to Rockwood, if there are other potential railroad customers who desire to locate industries needing rail service at Rockwood, they will be able to find alternate sites along CNOTP's lines. The area is sparsely

populated, however, and further industrial development potential at Rockwood, much less along the subject short line segment, appears to be limited by the current small population of Rockwood and Roane County.

Further Information

Further information supporting an exemption for the proposed abandonment is as follows:

(1) Exact name of petitioner. The petitioner is The Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP), a wholly owned subsidiary of Norfolk Southern Railway Company (NSR). CNOTP is a common carrier by railroad that operates a railroad in Ohio, Kentucky and Tennessee. NSR operates a railroad system in 20 States throughout the Eastern United States, including Tennessee, and Ontario, Canada. NSR, formerly Southern Railway Company, is a wholly owned subsidiary of Norfolk Southern Corporation, a non-carrier holding company.

(2) Petitioner is a common carrier by railroad subject to 49 U.S.C. Subtitle IV, Chapter 105.

(3) Pursuant to 49 U.S.C. 10502, the relief sought is an exemption from the prior approval requirements of 49 U.S.C. 10903 so that CNOTP may abandon the Line without being required to list the Line on its system diagram map or to submit a full long-form abandonment application. Because CNOTP intends to sell the Line to Franklin Industries, Inc., for continued use for railroad purposes in Franklin Industries' private rail line and as an interchange track, CNOTP also requests exemptions from the

requirements and operation of 49 U.S.C. 10904 (offer of financial assistance procedures) and 49 U.S.C. 10905 (public use conditions)

(4) A map of the Rockwood, TN Line proposed to be abandoned and sold to Franklin Industries for use as private railroad track and as an interchange track is attached as Exhibit 1.

(5) System Diagram Map. This Line has not been included as a rail line to be abandoned or over which service is to be discontinued on the carrier's system diagram map under because it was not expected to be the subject of an abandonment application. Moreover, the track will be kept in use as part of the private railroad operation of Franklin Industries, Inc., and as an interchange track for exchange of rail traffic between CNOTP and both Franklin Industries, Inc., and Horsehead Resource Development Co., Inc.

(6) This petition is being filed because the Line must be formally abandoned as a Line of railroad before it can be sold to Franklin Industries, Inc., for private railroad operation. Incorporation of the Line into Franklin's private rail line should lead to more efficient and economical maintenance and operation of the track. Arrangements have been made to protect the interchange of traffic between CNOTP and Horsehead Resource Development Co., Inc., both currently and in the event Franklin Industries ceases its operation of the track. The abandonment also is necessary so that neither shipper will assume a common carrier obligation with respect to their private rail operations.

(7) Counsel for Petitioner to whom correspondence may be sent is:

James R. Paschall
Senior General Attorney
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191

Counsel's Phone Number is: (757) 629-2759

(8) The Line proposed for abandonment and sale to Franklin Industries traverses United States Postal Service Zip Code 37854 and serves the station of Rockwood, TN. CNOTP will continue to provide rail service to the station of Rockwood, TN and to interchange traffic with the two active shippers that use the Line.

Reasons for Abandonment

Formal abandonment of the subject Line will allow Franklin Industries to operate over the Line for the use of a run-around track and to facilitate interchange of its rail traffic with CNOTP. Franklin Industries can more readily and easily operate and maintain the Line along with its operation and maintenance of the adjacent segment. Franklin will gain access to a run-around track that will expedite and improve its operations. CNOTP will continue to use the track under an agreement with Franklin Industries to interchange traffic with both Franklin Industries and Horsehead Resource Development, Inc., which is located off the Line at Rockwood, TN.

CNOTP expects no protest or opposition by any user of rail service over the Line to the proposed abandonment and subsequent transaction and use of the Line. CNOTP also expects no valid protest or objection that would justify denial of the petition

by any other party.

Efforts to Continue Service

The abandonment of the subject Line will not result in the loss of rail service to the only shippers who ship or receive rail traffic over the Line. The more economical and efficient operation and maintenance of the Line as part of a private rail line and as an interchange track will help to continue rail service to the shippers on the Line.

CNOTP will continue to serve the station of Rockwood, TN.

Communities on Line

The only community on the Line is Rockwood, TN (population 5,774 in the 2000 census). Rockwood will continue to receive rail service from CNOTP.

Public Use, Trail Use, Offers of Financial Assistance

Since the Line to be abandoned will be retained in rail service as a private track and as an interchange track, it is not suitable for public use and should not be subject to Offers of Financial Assistance, Trail Use Negotiation conditions or Public Use conditions. Therefore, CNOTP requests exemption of this abandonment transaction from the provisions of 49 U.S.C. 10904 (offer of financial assistance procedures) and 49 U.S.C. 10905 (public use conditions) to facilitate the sale to and continued operation of the line by Franklin Industries. In view of the plan to sell the Line to Franklin Industries, CNOTP will not negotiate with any potential trail user for possible transfer of the right-of-

way for interim trail use. CNOTP is not aware of any reversionary interest that would affect the transfer of title, and furthermore, believes that any such interest would not come into effect due to the continued use of the Line for railroad purposes.

Statement Concerning Federally Granted Right of Way

Based on information in CNOTP's possession, the line does not contain federally granted right-of-way. Any documentation later found in CNOTP's possession concerning this matter will be made available promptly to those requesting it.

Title Search

CNOTP's title search is incomplete. At this time, CNOTP is not aware of any reversionary interest that would affect transfer of title, and furthermore, believes that any such interest would not come into effect as a result of the transfer of the Line to Franklin Industries due to the continued use of the Line for railroad purposes.

Employee Protection

Since under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a carrier of its statutory obligation to protect the interests of its employees, CNOTP is willing, as a condition to the Board granting this exemption, for the Board to order that the employee protective conditions set forth in *Oregon Short Line R. Co. -- Abandonment -- Goshen*, 360 I.C.C. 91 (1979), apply to this abandonment transaction.

Environmental and Energy Impact; Historical Report

Attached are an Environmental Report and a Historic Report prepared and previously distributed to the appropriate Federal, State and Local agencies in accordance with the Board's regulations. There are no bridges or structures on the Line and no salvage operations will be undertaken as a result of the abandonment. Because the Line will continue to be used for railroad purposes and similar operations to its current use after its abandonment, CNOTP believes the Board could waive the requirements for these reports. In any event, CNOTP presents the reports and requests that the Board find that the proposed abandonment and planned subsequent use of the Line will not result in any adverse effect on the environment or on historic places, properties or resources. Moreover, the Tennessee State Historic Preservation Officer has stated that the proposed undertaking will not result in an adverse effect on National Register of Historic Places Listed or Eligible properties. Because the plans for the Line do not involve a change in its use for railroad purposes or any salvage activities, CNOTP further requests that the Board not impose environmental or historic preservation process conditions on the exemption that would delay consummation of the abandonment of the Line.

Passenger Service

There is no passenger service on the Line.

Draft Federal Register Notice

A draft notice of NSR's petition for exemption to be published by the Board in the Federal Register within 20 days of the petition's filing and a copy of the draft notice contained on a computer diskette compatible with the Board's current word processing capabilities is attached.

The Abandonment Is Appropriate For Exemption

The Line, which is only 1.1 miles in length, will be retained as part of a private rail line and as an interchange track after its formal abandonment. The transfer of the track will result in more efficient and economical railroad maintenance and operations by and service to the only two customers on or served by the Line, Franklin Industries, Inc., and Horsehead Resource Development Co., Inc. These customers have reached private arrangements with CNOTP and between themselves that will facilitate the continuation of rail service over the Line. Therefore, no railroad customer will lose rail service as a result of the abandonment of the Line. CNOTP rail service generally will continue to the station of Rockwood, TN.

Under these circumstances, a more detailed application or even a more detailed petition, is unnecessary since the transaction is limited in scope, will not result in a reduction in rail service, and will not result in an abuse of market power. CNOTP expects no protest or opposition by any user of rail service over the Line to the proposed abandonment and to the subsequent transaction and use of the Line. CNOTP also expects no valid protest or objection that could justify denial of the petition

by any other party.

This abandonment is also appropriate for exemption from the provisions of 49 U.S.C. 10904 (offer of financial assistance procedures) and 49 U.S.C. 10905 (public use conditions) to facilitate the sale of the Line to, and its continued maintenance and operation by Franklin Industries.

The petition procedure also will allow the Board to act more efficiently and expeditiously in handling this matter than would action on a formal application.

Notice

CNOTP is giving notice to the two shippers on the Line and to the public agencies required to be served with petitions for exemption to abandon railroad lines by mailing copies of this petition for exemption to them. Several additional governmental agencies have received notice of the petition for exemption through the distribution of the Environmental Report. CNOTP has arranged for the publication of a newspaper notice concerning the filing of the petition for exemption in Roane County, TN, the only county through which the Line runs.

Discussion and Authorities

Under 49 U.S.C. 10903, a rail line may not be abandoned without the Board's prior approval. Under 49 U.S.C. 10502, however, the Board must exempt a transaction or service from regulation when the Board finds that: (1) continued regulation is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101; and (2) either

(a) the transaction or service is of limited scope, or (b) regulation is not necessary to protect shippers from the abuse of market power.

Detailed scrutiny of this transaction under 49 U.S.C. 10903 is not necessary to carry out the rail transportation policy. By minimizing the administrative expense of the application process, an exemption will reduce regulatory barriers to exit [49 U.S.C. 10101(7)]. An exemption will also foster sound economic conditions and encourage efficient management by relieving CNOTP from the cost of owning and maintaining a line that the sole shipper is willing to buy, maintain and operate [49 U.S.C. 10101(5) and (9)]. Other aspects of the rail transportation policy will not be affected adversely. Regulation of the transaction is not necessary to protect shippers from the abuse of market power

This petition clearly shows that CNOTP has met the exemption criteria for the abandonment of the subject 1.1-mile line of railroad at Rockwood, TN. The Board does not need to provide the detailed scrutiny of the proposed abandonment of the Line based on a long-form application for the Board's prior approval under 49 U.S.C. 10903 in order for the Board to carry out the rail transportation policy set forth in 49 U.S.C. 10101. By minimizing the administrative expense of the application process, the Board's approval of an exemption in this proceeding also will reduce regulatory barriers to exit in the railroad industry [49 U.S.C. 10101(7)].

By permitting more efficient maintenance, operation and use of the subject Line through its abandonment and transfer to Franklin Industries for continued private and interchange use, and enabling CNOTP to apply its maintenance forces and assets more

productively elsewhere on its rail system, an exemption will promote safe and efficient rail transportation, foster sound economic conditions, and encourage efficient management [49 U.S.C. 10101(3), (5), and (9)]. Other aspects of the rail transportation policy will not be affected adversely by the grant of the exemption. Continuation of rail service in fact will be promoted.

Regulation of the proposed transaction is not necessary to protect shippers from the abuse of market power. The only shippers who receive rail service over the Line do not object to the proposed abandonment and, through the planned transaction, will continue to maintain and operate the track and to receive CNOTP rail service through interchange of their rail traffic on the track. Given the appropriateness of this market power finding in this case, the Board need not determine whether the proposed transaction is limited in scope. However, based on numerous precedents, CNOTP believes that an abandonment of a 1.1-mile dead-end branch line serving two shippers also should be found to be limited in scope, especially when the track will be reclassified and remain in service.

CNOTP is giving notice to the two shippers on the Line, Franklin Industries, Inc., and Horsehead Resource Development Co., Inc., by serving them with copies of the petition for exemption so that they may see the exact petition for abandonment as filed, place their names on the Board's service list or otherwise participate in this proceeding if they wish to do so. Moreover, CNOTP has proceeded with the filing of the petition with the understanding of support for it by these customers. Nonetheless, should the Board so order, CNOTP will serve a copy of the Board's decision on these railroad

customers and certify to the Board that copies of the decision have been sent to them.

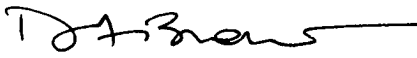
Further exemption of the proposed abandonment of the subject Line from the provisions of 49 U.S.C. 10904 (offer of financial assistance procedures) and 49 U.S.C. 10905 (public use conditions) to expedite and facilitate the sale to and continued operation and maintenance of the Line by Franklin Industries is proper and necessary. Imposition of OFA procedures or a public use condition could delay the transfer of the right-of-way to Franklin Industries for a valid use as a private, industrial lead track and an interchange track, and jeopardize the timely performance of more efficient and economical maintenance, operation and use of the track along the Line. See STB Docket No. AB-3 (Sub-No. 139X), *Missouri Pacific Railroad Company -- Abandonment and Discontinuance of Operations Exemption -- in Houston, Harris County, TX*, STB Docket No. AB-423 (Sub-No. 2X), *Houston Belt & Terminal Railway Company -- Discontinuance of Operations Exemption -- In Houston, Harris County, TX*, served December 31, 1996, slip op., pages 4-5 as well as the Board's decision with respect to the abandonment of the connecting 15.4-mile line, served November 15, 2000 in STB Docket No. AB-290 (Sub-No. 208X), *The Cincinnati, New Orleans and Texas Pacific Railway Company - Abandonment - Exemption in Cumberland and Roane Counties, TN*.

Conclusion

Therefore, The Cincinnati, New Orleans and Texas Pacific Railway Company, a wholly-owned subsidiary of Norfolk Southern Railway Company, respectfully petitions the Board under 49 U.S.C. 10502, to exempt the abandonment of approximately 1.1 miles of CNOTP railroad line between Milepost 156.9-H and Milepost 158.0-H at Rockwood, TN, from the prior approval requirements of 49 U.S.C. 10903 and from the provisions of 49 U.S.C. 10904 (offer of financial assistance procedures) and 49 U.S.C. 10905 (public use conditions).

Respectfully submitted

THE CINCINNATI, NEW ORLEANS AND
TEXAS PACIFIC RAILWAY COMPANY

BY 
David A. Brown
Vice President - Strategic Planning

Dated: August 12, 2005

Of Counsel:

James R. Paschall
Senior General Attorney
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510
757-629-2759

VERIFICATION

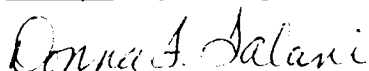
Commonwealth of Virginia)
) ss
City of Norfolk)

David A. Brown makes oath and says that he is Vice President-Strategic Planning of Norfolk Southern Railway Company, parent company of its wholly-owned subsidiary, The Cincinnati, New Orleans and Texas Pacific Railway Company, the petitioner herein; that he has been authorized by the petitioner to verify and file with the Surface Transportation Board the foregoing petition in STB Docket No. AB-290 (Sub-No. 236X); that he has carefully examined all of the statements in the petition as well as the exhibits attached thereto and made a part thereof; that he has knowledge of the facts and matters relied upon in the petition; that he has obtained knowledge of certain facts from, and has relied in part upon, the business records of the company or persons with a business duty to keep those records accurately; and that all representations set forth in the petition and exhibits are true and correct to the best of his knowledge, information, and belief.



David A. Brown

Subscribed and sworn to before me, a notary public
in and for the State and City above named, this
5th day of August, 2005.



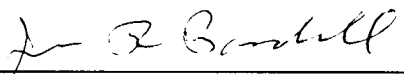
Notary Public

My commission expires: My Commission Expires April 30, 2007

CERTIFICATION

SERVICE OF ENVIRONMENTAL AND HISTORIC REPORTS, NEWSPAPER NOTICE - 49 C.F.R. §1152.50(d)(1)

I hereby certify (1), pursuant to 49 C.F.R. §1105.11, that Environmental and Historic Reports related to the Petition for Exemption in Docket No. AB-290 (Sub-No. 236X), The Cincinnati, New Orleans and Texas Pacific Railway Company - Abandonment - Petition for Exemption - at Rockwood, Tennessee, in Roane County, Tennessee, were submitted to the agencies identified in 49 C.F.R. §1105.7(b) and to the Tennessee State Historic Preservation Officer (see Exhibit 2); and (2) that the newspaper notice required by 49 C.F.R. §1152.50(d)(1) was given through publication on July 18, 2005, in *The Roane County News*, which is a newspaper of general circulation in Roane County, TN, the county through which the Line runs (see Exhibit 3).



James R. Paschall

Dated: August 12, 2005

CERTIFICATE OF SERVICE

I certify that the foregoing petition in STB Docket No. AB-290 (Sub-No. 236X) has been served on Mr. Kevin Dunn, Franklin Industries, Inc., 10583 Hwy. 70 East, Crab Orchard, TN 37723; Charles Holiway, Horsehead Resources Development Co., Inc., West Baldwin Street, P.O. Box 5, Rockwood, TN 37854; Mr. Pat Miller, Chairman, Tennessee Regulatory Authority, 460 James Robertson Parkway, Nashville TN, 37243-0505; Mr. John Fisher, Transportation Manager II, Tennessee Department of Transportation, Office of Rail & Water Transportation, Suite 1800 James K. Polk Bldg., Nashville, TN 37243; the United States Department of Defense, Military Traffic Management Command (MTMC TEA), Transportation Engineering Agency, Railroads for National Defense Program, 720 Thimble Shoals, Blvd., Suite 130, Newport News, VA 23606-2574; Mr. Tom Ross, Chief of National Recreation and Trails, U. S. Department of the Interior - National Park Service, Recreation Resources Assistance Division, P.O. Box 37127, Washington, D.C., 20013-7127; and U. S. Department of Agriculture, Chief of the Forest Service, 4th Floor N.W., Auditors' Building, 14th Street and Independence Avenue, S.W., Washington, D.C. 20250 on August 12, 2005, by first class mail, postage prepaid.


James R. Paschall

Dated: August 12, 2005

Federal Register: _____, 2005 (Volume 70, Number ____)]

[Notices]

[Page ____]

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-290 (Sub-No. 236X)]

The Cincinnati, New Orleans and Texas Pacific Railway Company - Abandonment -
Petition for Exemption - at Rockwood, Tennessee, in Roane County, Tennessee

On August 15, 2005, The Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP), a wholly-owned subsidiary of Norfolk Southern Railway Company (NSR), filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903, to abandon an approximately 1.1-mile line of railroad, extending between Milepost 156.9-H and Milepost 158.0-H at Rockwood, TN (the Line) in Roane County, Tennessee. The Line traverses United States Postal Service Zip code 37854 and serves the station of Rockwood, TN, where CNOTP will continue to provide rail service.

In addition to an exemption from 49 U.S.C. 10903, petitioner seeks exemption from 49 U.S.C. 10904 (offer of financial assistance procedures) and 49 U.S.C. 10905 (public use conditions). In support, CNOTP contends that exemption from these provisions is necessary to permit conveyance of the line segment to Franklin Industries (Franklin), for continued operation as part of its private railroad operation. These requests will be addressed in the Board's final decision.

The Line does not contain federally granted rights-of-way. Any documentation in CNOTP's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.--Abandonment--Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by December 13, 2005. Any offer of financial assistance (OFA) under 49 C.F.R. 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer must be accompanied by a \$1,200.00 filing fee. See 49 C.F.R. 1002.2(f)(25).

Any request for a public use condition under 49 C.F.R. 1152.28 or for trail use/rail banking under 49 C.F.R. 1152.29 will be due no later than _____, 2005. Each trail use request must be accompanied by a \$200.00 filing fee. See 49 C.F.R. 1002.2(f)(27). However, interested persons should be aware that CNOTP indicates that it will sell the Line to Franklin Industries, Inc., for continued use for railroad purposes and will not negotiate with any party for an agreement for interim trail use of the right-of-way.

All filings in response to this notice must refer to STB Docket No. AB-290 (Sub-No. 236X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001, and (2) James R. Paschall, Norfolk Southern Railway Company, Three Commercial Place, Norfolk, VA 23510.

Replies to the CNOTP petition are due on or before _____, 2005.

Persons seeking further information concerning abandonment procedures may

contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment or discontinuance regulations at 49 C.F.R. part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565-1545. [TDD for the hearing impaired is available at 1-800-877-8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at www.stb.dot.gov

Decided: _____, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. _____ Filed _____]

BILLING CODE _____

SURFACE TRANSPORTATION BOARD
Docket No. AB-290 (Sub-No. 236x)
Exhibit A



NORFOLK SOUTHERN

LOCATION				Rockwood, Tennessee			
TITLE				Proposed abandonment			
				156.9 H 158.0 H			
DCM	VAL	SEC	MAP	MILE POST			
BNW	FILE			DRAWING NUMBER			
CNE	DATE						

EXHIBIT 2

ENVIRONMENTAL AND HISTORIC REPORTS



Norfolk Southern Corporation
Law Department
Three Commercial Place
Norfolk, Virginia 23510-9241

James R. Paschall
Senior General Attorney

Writer's Direct Dial Number

(757) 629-2759
fax (757) 533-4872

July 13, 2005

To: All Agencies and Parties Shown on Attached Service List:

Re: STB Docket No. AB-290 (Sub-No. 236X), The Cincinnati, New Orleans, & Texas Pacific Railway Company - Abandonment - Petition for Exemption - at Rockwood, Tennessee, in Roane County, Tennessee - Environmental and Historic Reports

On or about August 15, 2005, The Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP), a wholly-owned subsidiary of Norfolk Southern Railway Company (NSR), expects to be filing with the Surface Transportation Board (STB) a petition seeking authority to abandon a 1.1-mile railroad line located at Rockwood, Tennessee, in Roane County, Tennessee between Milepost 156.9-H and Milepost 158.0. Attached is an Environmental Report and an Historic Report describing the proposed action and any expected environmental or historic effects of the action, as well as a map of the affected area.

Inasmuch as the line will continue in operation as part of the private railroad line of Franklin Industries, Inc. and will continue to be used as an interchange track between CNOTP and Franklin Industries, Inc. and between CNOTP and Horsehead Resources Development, Co., Inc., and no track or material will be salvaged and no in-stream work, dredge or fill will occur as a result of the proposed action, CNOTP believes the proposed action will not have a significant effect on the environment or historic resources.

We are providing this report so that you may review the information that will form the basis for the STB's independent environmental and historic analysis of the action proposed in this proceeding. If any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the Board's environmental review process, please contact the Section of Environmental Analysis (SEA), Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423, telephone (202) 565-1554 and refer to the above STB Docket No. AB-290 (Sub-No. 236X).

Agency Transmittal Letter
STB AB-290, Sub-No. 236X
July 13, 2005
Page 2 of 2

Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to SEA (with a copy to our representative) would be appreciated within 3 weeks. Your comments will be considered by the Board in evaluating the environmental and/or historic preservation impacts of the contemplated action. If there are any questions concerning this proposal, please contact our representative directly.

Our representative in this matter is James R. Paschall, Senior General Attorney, Norfolk Southern Railway Company who may be contacted by telephone at 757-629-2759 or by mail at Three Commercial Place, Norfolk, VA 23510. Mr. Paschall will be assisted with respect to this matter by Mr. Larry G. Western, Engineer Environmental Design, Norfolk Southern Railway Company, 110 Franklin Road, Roanoke, VA 24042, 540-981-4239 and Mr. Richard P. Dietz, Engineer Systems, Design and Construction, Norfolk Southern Railway Company, 175 Spring Street, Atlanta, GA 30303, 404-529-1434.

Very truly yours,



James R. Paschall

Attachment

cc: Messrs. K. R. Miller
L. G. Western
R. P. Dietz
M. C. Kirchner
J. T. Moon
Ms. J. M. Lipps

Environmental and Historic Preservation Agency Contact Service List for STB Docket No. AB-290 (Sub-No. 236X), The Cincinnati, New Orleans, & Texas Pacific Railway Company - Abandonment - Petition for Exemption - at Rockwood, Tennessee, in Roane County, Tennessee - July 15, 2005

Tennessee State Planning Office
500 Charlotte Avenue
309 John Sevier Building
Nashville, TN 37219

Tennessee Department of Environment and Conservation
401 Church Street
L&C Tower, 21st Floor
Nashville, TN 37243-0435

State Historic Preservation Officer
Tennessee Historical Commission
2941 Lebanon Road
Nashville, TN 37243-0442

Mr. Ken Yager, Mayor
Roane County Tennessee
P.O. Box 643
County Courthouse
Kingston, TN 37763-0643

Mr. Michael Miller, Mayor
City Hall
Rockwood, TN 37854

U. S. Environmental Protection Agency
Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303-3104

U.S. Fish and Wildlife Service
1849 C Street, NW
Washington, DC 20242

U.S. Fish and Wildlife Service
Century Center
1875 Century Blvd.
Atlanta GA 30345

U.S. Army Corps of Engineers
Great Lakes and Ohio River Division
CELRD-CM-O
550 Main Street
Cincinnati, OH 45201-1159

U.S. National Park Service
Southeast Region
100 Alabama St., SW
Atlanta, GA 30303

United States Department of Agriculture
Natural Resources Conservation Service
675 U.S. Courthouse
801 Broadway
Nashville, TN 37203

NGS Information Services
NOAA, N/NGS12
National Geodetic Survey
SSMC-3, #9202
1315 East-West Highway
Silver Spring, MD 20910-3282

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB DOCKET NO. AB-290 (Sub-No. 236X)

THE CINCINNATI, NEW ORLEANS, & TEXAS PACIFIC RAILWAY COMPANY
- ABANDONMENT -
- PETITION FOR EXEMPTION -
AT ROCKWOOD, TENNESSEE
IN ROANE COUNTY, TENNESSEE

ENVIRONMENTAL REPORT

Keith R. Miller, Director Environmental Engineering and Audits
Larry G. Western, Engineer Environmental Design
THE CINCINNATI, NEW ORLEANS, & TEXAS PACIFIC RAILWAY COMPANY
ENVIRONMENTAL PROTECTION DEPARTMENT
110 FRANKLIN ROAD, SE
ROANOKE, VIRGINIA 24042-0013

James R. Paschall
Senior General Attorney
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510

Attorney for
The Cincinnati, New Orleans and Texas
Pacific Railway Company

Dated: July 12, 2005

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Docket No. AB-290 (Sub-No. 236X)

The Cincinnati, New Orleans, & Texas Pacific Railway Company
- Abandonment -
- Petition for Exemption -
At Rockwood, Tennessee
In Roane County, Tennessee

Environmental Report

This Environmental Report is submitted to appropriate Federal, State and Local government agencies of the proposed abandonment by The Cincinnati, New Orleans, & Texas Pacific Railway Company ("CNOTP"), a wholly-owned subsidiary of Norfolk Southern Railway Company ("NSR") of 1.1 miles of railroad line between Milepost 156.9-H and Milepost 158.0-H at Rockwood in Roane County, Tennessee. CNOTP has solicited comments from the government agencies and requests any further comments the agencies might have with respect to the proposal. The abandonment of this segment of railroad line will not result in the physical abandonment of the line or the discontinuance of railroad operations on the line. After consummation of the abandonment exemption authority, CNOTP will sell the Line to Franklin Industries, Inc.

for incorporation into its private line of railroad and for use as an interchange track for exchange of rail traffic between CNOTP and Franklin Industries, Inc., and between CNOTP and Horsehead Resources Development Co., Inc.

CNOTP is submitting this report in the subject proceeding in accordance with the Surface Transportation Board's ("STB" or "Board") regulations at 49 CFR § 1105.7. This report includes the information specified in 49 CFR 1105.7(e) and evaluates the proposed abandonment's environmental impacts and any reasonable alternatives to the action, except to the extent that the report explains why any portions of the regulations are inapplicable. The Board may waive or modify, in whole or in part, the provisions of this section where a railroad applicant shows that the information requested is not necessary for the Board to evaluate the environmental impacts of the proposed action.

CNOTP previously circulated a draft Environmental Report and a draft Historic Report concerning the proposed abandonment of the subject line in October 2001 and renewed the notice given in that report in March 2003. However, CNOTP's plan to file a petition for exemption for abandonment of the Line, and reclassification of the track as private track, with the STB was delayed both times. CNOTP now expects to file a petition for exemption to abandon the line within the next one to two months. Because of this, CNOTP is submitting to the agencies, and ultimately to the STB, a new Environmental Report. CNOTP also has submitted a new draft Historic Report to the Tennessee State Historic Preservation Officer.

As noted above, prior to the preparation of this new Environmental Report, CNOTP sent written requests to the agencies and governmental bodies asking for

confirmation of their previous responses concerning the impact, if any, of the proposal on the environment, or for a new or initial response where appropriate, within twenty-one days from the date of receipt of the attached letter. That letter explained the proposed abandonment and subsequent transaction, provided maps, included copies of any previous responses and requested confirmation of previous responses or current written responses to the proposal. Attached to this report is a copy of that letter and of list of agencies to which it was sent. Also attached are copies of any responses to the letter that CNOTP has received from the agencies.

The formal abandonment of the subject line of railroad will result in no material change in the operation of the property as a railroad line. There are no bridges or structures on the Line. In any event, the track and material on the Line will not be salvaged. The Line must be formally abandoned before it can be incorporated into the private rail operation of Franklin Industries. Franklin Industries already operates a private rail line between milepost 141.5-H at Crab Orchard, TN and milepost 156.9-H at Rockwood, TN, a distance of 15.4 miles in Cumberland and Roane Counties, TN. Franklin Industries acquired that line from CNOTP after its formal abandonment pursuant to an STB decision served November 15, 2000, in STB Docket No. AB-290 (Sub-No. 208X), *The Cincinnati, New Orleans and Texas Pacific Railway Company - Abandonment Exemption - in Cumberland and Roane Counties, TN*. CNOTP, Franklin Industries, Inc. and Horsehead Resource Development, Inc. believe the track can be more efficiently and economically maintained and operated if transferred to Franklin Industries for inclusion with its current private railroad operations and for use as an

interchange track.

Because the operation of the Line will continue after the abandonment, CNOTP believes the Board could waive or modify the provisions of the section requiring an environmental report in this docket. Based on the nature and impact of CNOTP's action and the subsequent use of the property for railroad purposes, CNOTP believes the Board could find the proposed action will have no environmental impact without a further environmental report. Regardless of this possibility, CNOTP nonetheless submits this updated, although substantially similar, report because CNOTP submitted an earlier Environmental Report concerning CNOTP's proposed formal abandonment of this line of railroad. CNOTP wishes to avoid any question about the application of the report requirement in this proceeding by filing this report rather than by asking for a waiver of the report requirements. However, CNOTP believes that this report serves to confirm that an STB decision approving the proposed abandonment, and the formal abandonment of the Line, and subsequent transaction with respect to the transfer and continued maintenance and operation of the track, will not have adverse environmental effects.

49 CFR 1105.7(e)(1) Proposed Action and Alternatives.

Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices.

RESPONSE: CNOTP proposes to abandon 1.10 miles of rail line in the town of Rockwood in Roane County, Tennessee. The line will be sold to Franklin Industries for

incorporation in its private railroad operation. By decision served November 15, 2000, the Surface Transportation Board ("STB") granted an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 for CNOTP to abandon its 15.4 miles of railroad line between Milepost 141.5-H at Crab Orchard, TN and Milepost 156.9-H at Rockwood, TN, the end point of the subject line, in Cumberland and Roane Counties, TN. The line was then sold to Franklin Industries so that Franklin Industries might more economically repair, maintain and operate the line to provide continuing rail service to its Crab Orchard, TN facility. Franklin Industries could handle the substantial, imminent costs needed to rehabilitate the line since it was the only user of the line and would be more certain of its future potential use.

The addition of the subject 1.1-mile line to the Franklin Industries private track, rather than its outright abandonment, means that there will be no significant changes in current operations or maintenance practices, only a change in the identity of the main user of and responsible party for the Line and facilities. This disposition of the Line for continued railroad operations and the absence of any plan to salvage track and material from the Line makes the remainder of this question inapplicable for environmental assessment purposes and makes further response to this question unnecessary.

Also describe any reasonable alternatives to the proposed action.

RESPONSE: There are no reasonable alternatives to the proposed action. No alternatives are needed in any event because of the continuation of the current use of the property and the minimal, if any, change in the operation of the property after the formal abandonment of the Line. There will be no salvage activity following the

consummation of the abandonment exemption authority. CNOTP's formal abandonment of this 1.10-mile railroad line segment and its sale of the Line for operation as part of a private rail line operated by a local industry will result in retention of the railroad use of the property, retention of the track and material in place, and avoidance of the temporary impacts from salvage for recycling of the rails and crossties or disturbance of the property.

Include a readable, detailed map and drawings clearly delineating the project.

RESPONSE: Exhibit A is a map of the line to be abandoned and sold to Franklin Industries.

49 CFR 1105.7(e)(2) Transportation system.

Describe the effects of the proposed action on regional or local transportation systems and patterns.

RESPONSE: The subject 1.1-mile line will be formally abandoned as a line of railroad but will continue in operation as part of the Franklin Industries private rail line and as an interchange track between CNOTP and Franklin Industries and between CNOTP and Horsehead Resources Development Co., Inc.

Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

RESPONSE: None.

49 CFR 1105.7(e)(3) Land use.

(i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any

inconsistencies.

RESPONSE: No change in current use of the property for railroad purposes is proposed. Written queries were sent to Roane County and the Town of Rockwood concerning this aspect of the proposal. CNOTP received no response but it is apparent from the proposed continuation of the use of the property for railroad operations that no negative response was or should be expected.

(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land.

RESPONSE: No change in current use of the property for railroad purposes is proposed. No salvage of the track and materials on the property is proposed. Therefore, consultation with the U. S. Soil and Conservation Service would be unnecessary. Nonetheless, CNOTP sent a letter to the State Conservationist in connection with preparation of the earlier draft report and that official responded that the proposed action would not affect prime agricultural land. CNOTP sent a follow-up letter asking for confirmation of this finding in connection with the preparation of this updated report, but in view of the fact that the proposal remains the same and the environment in the area of the track has not changed, CNOTP had and has no reason to expect the State Conservationist to change the earlier response.

(iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by Sec. 1105.9.

RESPONSE: No change in current use of the property for railroad purposes is proposed. Moreover, the property is not located in a coastal zone. CNOTP has determined that Tennessee has no Coastal Zone Management agency.

(iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. 10906 and explain why.

RESPONSE: The right-of-way will continue to be used for railroad purposes so it will not be available for alternative public use. Despite the fact that it will be formally abandoned, the right-of-way will continue to be used for railroad purposes.

49 CFR 1105.7(e)(4) Energy.

(i) Describe the effect of the proposed action on transportation of energy resources.

RESPONSE: No effect on transportation of energy resources is expected. No change in current use of the property for railroad purposes is proposed.

(ii) Describe the effect of the proposed action on recyclable commodities.

RESPONSE: No effect on transportation of energy resources is expected. No change in current use of the property for railroad purposes is proposed.

(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

RESPONSE: No effect on overall energy efficiency is expected. No change in current use of the property for railroad purposes is proposed.

*(iv) If the proposed action will cause diversions from rail to motor carriage of more than:
(A) 1,000 rail carloads a year; or
(B) An average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given.*

RESPONSE: No traffic will be diverted from rail to motor carriage as a result of the proposed action.

49 CFR 1105.7(e)(5) Air.

(i) If the proposed action will result in either:

(A) An increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or

(B) An increase in rail yard activity of at least 100 percent (measured by carload activity), or

(C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions.

RESPONSE: No change in current use of the property for railroad purposes is proposed so the proposed action will not result in an effect on air quality.

(ii) If the proposed action affects a class I or nonattainment area under the Clean Air Act, and will result in either:

(A) An increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line,

(B) An increase in rail yard activity of at least 20 percent (measured by carload activity), or

(C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan.

RESPONSE: No change in current use of the property for railroad purposes is proposed. The State of Tennessee has not established analysis thresholds for air emissions. EPA has National Ambient Air Quality Standards for pollutants (including ozone) as found in 40 CFR Part 50. CNOTP does not anticipate any adverse effect on Tennessee's air quality as a result of the proposed formal abandonment but continued private and industrial track operation of the subject track. It will continue to be used for the same purposes as its current use. Roane County in Tennessee is in attainment for all National Ambient Air Quality Standard (NAAQS) pollutants according to the U.S.

Environmental Protection Agency.

(iii) If transportation of ozone depleting materials (such as nitrogen oxide and freon) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

RESPONSE: No change in current use of the property for railroad purposes is proposed and no salvage of material or other disturbance of the property will occur as a result of the proposed action that would disturb any hazardous materials sites.

49 CFR 1105.7(e)(6) Noise.

If any of the thresholds identified in item (5)(i) of this section are surpassed, state whether the proposed action will cause:

(i) An incremental increase in noise levels of three decibels Ldn or more; or

(ii) An increase to a noise level of 65 decibels Ldn or greater.

If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the project area, and quantify the noise increase for these receptors if the thresholds are surpassed.

RESPONSE: The proposed action does not exceed the Surface Transportation Board thresholds at 49 CFR 1105.7 (e)(6) and therefore does not require a quantified analysis of noise levels. There is no Federal noise regulation according to the Environmental Protection Agency. Neither the State of Tennessee nor Roane County have established analysis thresholds for noise. In any event, no change in current use of the property is proposed and no salvage of the track and materials on the property or other disturbance of the property is proposed.

49 CFR 1105.7(e)(7) Safety.

(i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings).

RESPONSE: No change in current use of the property for railroad purposes is proposed. CNOTP and Franklin Industries believe that the proposed maintenance and operation of the line after its formal abandonment and sale to Franklin Industries for use as part of its private line of railroad and as an interchange track will be more economical and efficient.

(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.

RESPONSE: No change in current use of the property for railroad purposes is proposed.

(iii) If there are any known hazardous waste sites or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

RESPONSE: No change in current use of the property is proposed. No salvage of the track and materials on the property is proposed. Therefore, a further response to this question is inapplicable with respect to the proposed action.

49 CFR 1105.7(e)(8) Biological Resources.

(i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

RESPONSE: No change in current use of the property is proposed. No salvage of the track and materials on the property is proposed. Since the proposed action is not likely to adversely affect endangered or threatened species or areas designated as a critical habitat, consultation with the U. S. Fish and Wildlife Service would be unnecessary. Nonetheless, a request for comment was sent to the U. S. Fish and Wildlife Service. The Tennessee Department of Environment & Conservation (TDEC) previously indicated with respect to a prior report concerning this proposal that with the limited scope of the project action, harm to habitat or plant species of State concern will be minimal and no significant impact to those species is likely to result from project implementation.

(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

RESPONSE: No change in current use of the property is proposed. No salvage of the track and materials on the property is proposed. The proposed action will not affect wildlife sanctuaries or refuges, National or State parks or forests. Although some State forests may be in the general vicinity of Rockwood, TN, the subject railroad Line is on the edge of the town itself.

49 CFR 1105.7(e)(9) Water.

(i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

RESPONSE: No change in current use of the property for railroad purposes is

proposed. No salvage of the track and materials on the property is proposed. There are no plans to undertake in-stream work, or dredge and/or fill any materials in connection with the proposed action. There are no bridges or structures on the line in any event. Thus, the proposed action will not change water quality or be inconsistent with local water quality standards and consultation with State water quality officials would be unnecessary.

(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. 1344) are required for the proposed action and whether any designated wetlands or 100-year flood plains will be affected. Describe the effects.

RESPONSE: The rail Line proposed for abandonment does not cross waterways, nor were wetlands observed within the property boundary. The Line proposed for abandonment does not pass through the 100-year flood plains or any wetlands. No change in current use of the property is proposed. No salvage of the track and materials on the property is proposed. There are no plans to undertake in-stream work, or dredge and/or fill any materials in connection with the proposed action. There are no bridges or structures on the Line in any event. Therefore, no Clean Water Act permits would be required for the proposed action and consultation with the U. S. Army Corps of Engineers would be unnecessary. Nonetheless, a letter has been sent to the USACE district office, regulatory branch, requesting comment on the proposed action.

(iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action.

RESPONSE: No change in current use of the property is proposed. No salvage

of the track and materials on the property is proposed. There are no plans to undertake in-stream work, or dredge and/or fill any materials in connection with the proposed action. There are no bridges or structures on the Line in any event. Therefore, no Clean Water Act permits would be required for the proposed action and consultation with the U. S. Army Corps of Engineers would be unnecessary. Nonetheless, a letter has been sent to the USACE district office, regulatory branch, requesting comment on the proposal.

49 CFR 1105.7(e)(10) Proposed Mitigation.

Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

RESPONSE: No change in current use of the property is proposed. No salvage of the track and materials on the property is proposed. There are no plans to undertake in-stream work, or dredge and/or fill any materials in connection with the proposed action. Therefore, no actions to mitigate adverse environmental impacts will be required as a result of the proposed action.

Additional Information - National Geodetic Survey Marker

Attached is a response from the National Geodetic Survey that states there is a National Geodetic Survey marker on or near the Line. Since no change in current use of the property for railroad purposes and no salvage of the track and materials on the property will take place, the proposed formal abandonment of the Line will have no effect on this marker, regardless of its exact location.

Respectfully submitted,

NORFOLK SOUTHERN RAILWAY COMPANY

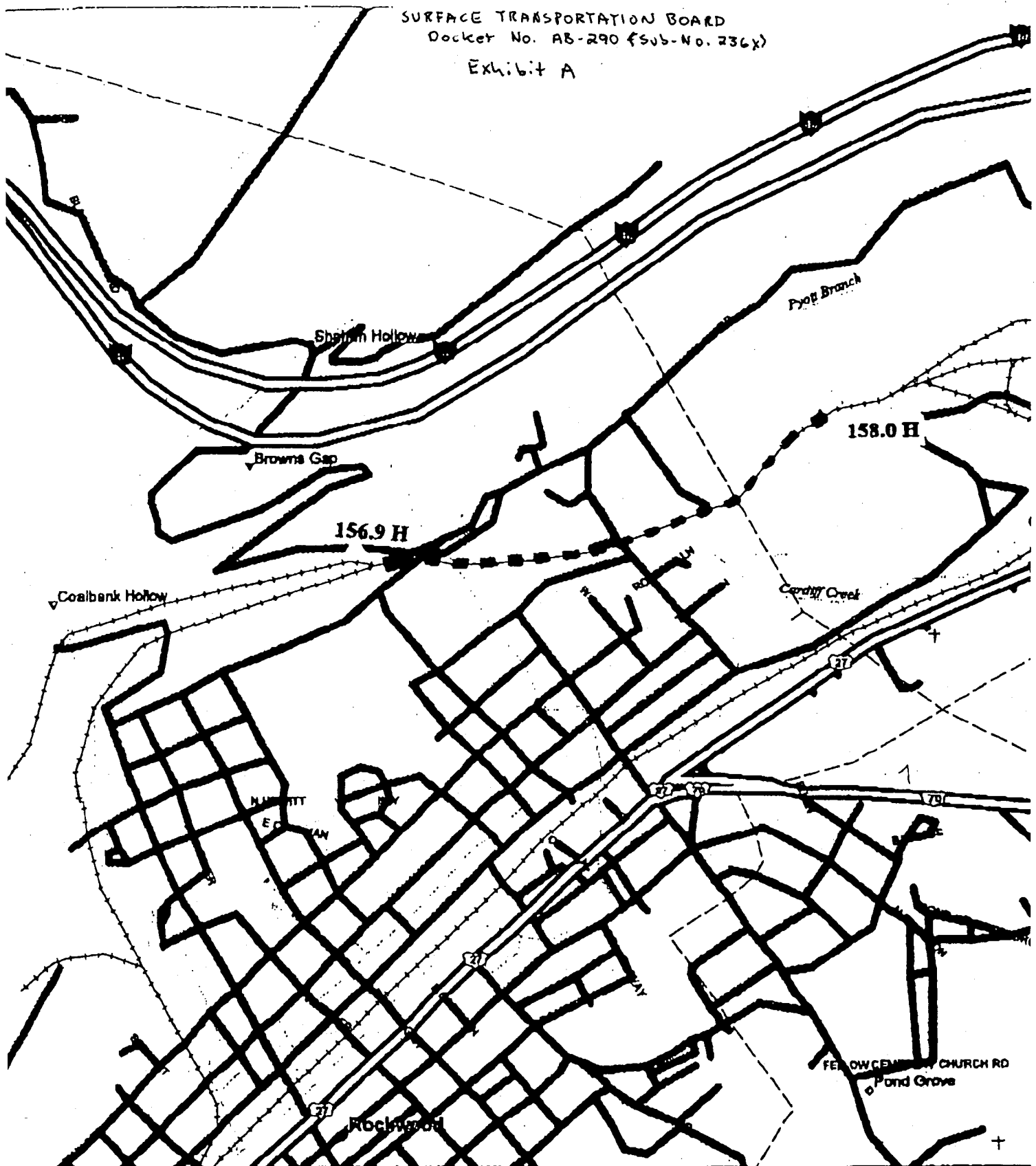
BY *J. A. Bantull*
Name

Dated: July 12, 2005

EXHIBIT A

MAP

Exhibit A



NORFOLK SOUTHERN

Rockwood, Tennessee

Proposed abandonment

156.9 H 158.0 H

WILEY POST.

RECEIVED **12-10-68**

DAYE

EXHIBIT B

CNOTP Environmental Information Request Letter



Norfolk Southern Corporation
Law Department
Three Commercial Place
Norfolk, Virginia 23510-9241

James R. Paschall
Senior General Attorney

Writer's Direct Dial Number
(757) 629-2759
fax (757) 533-4872

April 6, 2005

To: All Agencies and Parties Shown on Attached Service List:

Re: STB Docket No. AB-290 (Sub-No. 236X), The Cincinnati, New Orleans, & Texas Pacific Railway Company - Abandonment - Petition for Exemption - at Rockwood, Tennessee, in Roane County, Tennessee - Environmental and Historic Reports

In the near future, The Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP), a wholly-owned subsidiary of Norfolk Southern Railway Company (NSR), expects to be filing with the Surface Transportation Board (STB or Board) a petition seeking authority to abandon a 1.1-mile railroad line located at Rockwood, Tennessee, in Roane County, Tennessee between Milepost 156.9-H and Milepost 158.0-H. The track will continue in operation as part of the private railroad line of Franklin Industries, Inc. and as an interchange track for exchange of rail freight traffic between CNOTP and both Franklin Industries Inc. and Horsehead Resources Development, Co., Inc. No track or material will be salvaged and no in-stream work, dredge or fill will occur as a result of the proposed STB exemption, the formal abandonment of the line and the contemplated subsequent transaction with respect to the ownership and operation of the track. Thus, CNOTP believes the proposed action will not have a significant effect on the environment but inasmuch as the transaction cannot be completed without formal abandonment of the line, CNOTP is required to file for an STB exemption.

While we believe the STB could waive the requirement for an environmental report under the circumstances of this case, we think the most conservative course is to prepare the usual report. We have twice previously begun preparation of this filing and regret that because we were unable to complete it, we must again ask for your comments so that a timely presentation can be made to the STB. We previously contacted Federal, State and Local agencies and received written responses from some of them. If we received a response from your agency, it is attached to this letter. Also attached are two maps showing the location of the subject line.

Under the STB's environmental regulations, 49 C.F.R. 1105, we are advising you of this proposed abandonment and transaction so that you may assist us in identifying any potential effects it may have. We request that you reply in writing to confirm that

any prior response you have provided remains current and correct, or to confirm our conclusion that the proposed abandonment will have no adverse effect on the environment because of the continuing use of the property for similar railroad purposes or to state your contrary conclusion that the proposed abandonment may result in some environmental effect and your advice as to mitigation measures that should be considered by the STB.

We ask that you assist us in identifying any potential effects of the abandonment, if any, on the following, especially as any of these matters relate to your area of regulation or expertise:

1. Regional or local land use plans.
2. Regional or local transportation systems and patterns, including alternative transportation modes and effect on grade crossings.
3. Alternative public use of all or part of the right-of-way and whether this depends on whether the railroad owns the property in fee in whole or in part or uses it in whole or in part under an easement.
4. Energy consumption and efficiency.
5. Air emissions and noise levels.
6. Hazardous waste sites on the railroad right-of-way or sites where there have been known hazardous materials spills on the railroad right-of-way.
7. Bodies of water and overall water quality under applicable federal, state or local standards.
8. Designated wetlands and 100-year flood plains.
9. Endangered or threatened species and critical habitats.
10. Wildlife sanctuaries or refuges and national or state parks or forests.
11. Whether any permits under Sections 402 or 404 of the Clean Water Act (33 U.S.C. 1342, 1344) are required for the proposed abandonment.
12. Existing or potential safety hazards.

We would appreciate your review of the proposed action and your providing to us any comments you may have in a written response within 3 weeks of the date of your receipt of this letter. Please refer to STB Docket No. AB-290 (Sub-No. 236X) in your reply. Please reply to:

James R. Paschall
Senior General Attorney
Norfolk Southern Railway Company
Three Commercial Place
Norfolk, VA 23510

STB No. AB-290 (Sub-No. 236X)

April 6, 2005

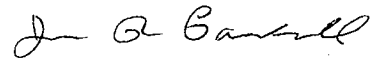
Page 3 of 3

If you have any questions concerning this proposal or need additional information, please contact our representative directly. Our representative in this matter is James R. Paschall, Senior General Attorney, Norfolk Southern Railway Company who may be contacted by telephone at 757-629-2759 or by mail at Three Commercial Place, Norfolk, VA 23510. He will be assisted with respect to this matter by Mr. Larry G. Western, Engineer Environmental Design, Norfolk Southern Railway Company, 110 Franklin Road, Roanoke, VA 24042, 540-981-4239 and Mr. Richard P. Dietz, Engineer Systems, Design and Construction, Norfolk Southern Railway Company, 175 Spring Street, Atlanta, GA 30303, 404-529-1434.

A separate revised Historic Report is being sent to the Tennessee State Historic Preservation Officer.

In accordance with the STB's regulations, a copy of the Environmental Report prepared in connection with the proposed abandonment of the 1.1-mile line at Rockwood, TN that will be transferred to the private operation of Franklin Industries and used as an interchange track will be forwarded to you at least 20 days before the petition for exemption to abandon the line is filed with the Board.

Very truly yours,



James R. Paschall

Enclosures

Environmental and Historic Preservation Agency Contact Service List for STB Docket No. AB-290 (Sub-No. 236X), The Cincinnati, New Orleans, & Texas Pacific Railway Company - Abandonment - Petition for Exemption - at Rockwood, Tennessee, in Roane County, Tennessee - April 6, 2005 - Page 1 of 3

Tennessee State Planning Office
500 Charlotte Avenue
309 John Sevier Building
Nashville, TN 37219

Tennessee Department of Environment and Conservation
401 Church Street
L&C Tower, 21st Floor
Nashville, TN 37243-0435

Tennessee Department of Environment and Conservation
Knoxville Field Office
2700 Middlebrook Pike,
State Plaza Building, Suite 220,
Knoxville, TN 37921

Mr. Ken Yager, Mayor
Roane County Tennessee
P.O. Box 643
County Courthouse
Kingston, TN 37763-0643
for the County and the County Planning Commission

Mr. Michael Miller, Mayor
City Hall
Rockwood, TN 37854

U. S. Environmental Protection Agency
Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303-3104

Mr. Sam Hamilton, Regional Director
U.S. Fish and Wildlife Service
Century Center
1875 Century Blvd.
Atlanta GA 30345

Environmental and Historic Preservation Agency Contact Service List for STB Docket
No. AB-290 (Sub-No. 236X), The Cincinnati, New Orleans, & Texas Pacific Railway
Company - Abandonment - Petition for Exemption - at Rockwood, Tennessee, in
Roane County, Tennessee - April 6, 2005 - Page 2 of 3

U.S. Army Corps of Engineers
Regulatory Branch
3701 Bell Road
Nashville, Tennessee 37214

Ms. Patricia A. Hooks, Regional Director
U.S. National Park Service
Southeast Region
100 Alabama St., SW
Atlanta, GA 30303

Mr. William D. Shaddox
Chief, Land Resources Division
U. S. National Park Service
1849 "C" Street, N.W. #MS3540
Washington, D.C. 20240

Mr. James W. Ford
State Conservationist
United States Department of Agriculture
Natural Resources Conservation Service
675 U.S. Courthouse
801 Broadway
Nashville, TN 37203

Mr. Richard A. Snay
Chief, Spatial Reference System Division
NGS Information Services
NOAA, N/NGS12
National Geodetic Survey
SSMC-3, #9202
1315 East-West Highway
Silver Spring, MD 20910-3282

Tennessee Wildlife Resource Agency
Region 2 Office
Ellington Agricultural Center
P. O. Box 41489
Nashville, TN 37204

Environmental and Historic Preservation Agency Contact Service List for STB Docket No. AB-290 (Sub-No. 236X), The Cincinnati, New Orleans, & Texas Pacific Railway Company - Abandonment - Petition for Exemption - at Rockwood, Tennessee, in Roane County, Tennessee - April 6, 2005 - Page 3 of 3

Mr. John Fisher, Transportation Manager
TDOT – Public Transportation, Water, and Railways
Suite 1800
James K. Polk Building
505 Deadrick Street
Nashville, TN 37243

TDEC Division of Water Pollution Control
6th Floor, L & C Annex
401 Church Street
Nashville, TN 37243

Mr. James W. Haynes, Director
TDEC Division of Superfund
4th Floor, L & C Annex
401 Church Street
Nashville, TN 37243

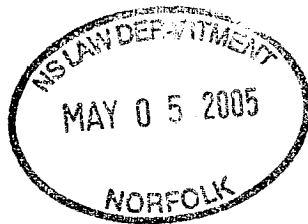
Mr. Barry R. Stephens, Director
TDEC Division of Air Pollution Control
9th Floor, L & C Annex
401 Church Street
Nashville, TN 37243

Tennessee State Parks
7th Floor, L & C Tower
401 Church Street
Nashville, TN 37243

Mr. Thomas Dailey
Tennessee Department of Agriculture
Forestry Division
P. O. Box 2666
Knoxville, TN 37901

EXHIBIT C

Agency Consultations;
Responses to CNOTP Environmental Information Request Letter



0909

APR 18 2005

Norfolk Southern Corporation
Law Department
Three Commercial Place
Norfolk, Virginia 23510-9241

James R. Paschall
Senior General Attorney

No significant adverse impacts to wetlands
or federally listed endangered or threatened
species are anticipated from this proposal.

Writer's Direct Dial Number
(757) 629-2759
fax (757) 533-4872

Leah Bailey
Field Supervisor
U.S. Fish and Wildlife Service
Cookeville, TN 38501

5/2/05
Date

April 6, 2005

RECEIVED
FWS-ATLANTA, GA
08 APR 12 AM 11:22
PERMIT OFFICE

To: All Agencies and Parties Shown on Attached Service List:

Re: STB Docket No. AB-290 (Sub-No. 236X), The Cincinnati, New Orleans, & Texas Pacific Railway Company - Abandonment - Petition for Exemption - at Rockwood, Tennessee, in Roane County, Tennessee - Environmental and Historic Reports

In the near future, The Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP), a wholly-owned subsidiary of Norfolk Southern Railway Company (NSR), expects to be filing with the Surface Transportation Board (STB or Board) a petition seeking authority to abandon a 1.1-mile railroad line located at Rockwood, Tennessee, in Roane County, Tennessee between Milepost 156.9-H and Milepost 158.0-H. The track will continue in operation as part of the private railroad line of Franklin Industries, Inc. and as an interchange track for exchange of rail freight traffic between CNOTP and both Franklin Industries Inc. and Horsehead Resources Development, Co., Inc. No track or material will be salvaged and no in-stream work, dredge or fill will occur as a result of the proposed STB exemption, the formal abandonment of the line and the contemplated subsequent transaction with respect to the ownership and operation of the track. Thus, CNOTP believes the proposed action will not have a significant effect on the environment but inasmuch as the transaction cannot be completed without formal abandonment of the line, CNOTP is required to file for an STB exemption.

While we believe the STB could waive the requirement for an environmental report under the circumstances of this case, we think the most conservative course is to prepare the usual report. We have twice previously begun preparation of this filing and regret that because we were unable to complete it, we must again ask for your comments so that a timely presentation can be made to the STB. We previously contacted Federal, State and Local agencies and received written responses from some of them. If we received a response from your agency, it is attached to this letter. Also attached are two maps showing the location of the subject line.

Under the STB's environmental regulations, 49 C.F.R. 1105, we are advising you of this proposed abandonment and transaction so that you may assist us in identifying any potential effects it may have. We request that you reply in writing to confirm that

United States Department of Agriculture



Natural Resources Conservation Service
675 U.S. Courthouse
801 Broadway
Nashville, Tennessee 37203

April 26, 2005



Mr. James R. Paschall
Senior General Attorney
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510

Dear Mr. Paschall:

SUBJECT: Proposed Main Line Abandonment at Rockwood, TN, STB Docket No. AB-290
(Sub-No. 236X)

Your project proposal has been reviewed, and no adverse impact on conservation of natural resources was observed.

Sincerely,

A handwritten signature in black ink, appearing to read "J.W. Ford", with a stylized flourish at the end.

JAMES W. FORD
State Conservationist

cc:

Steven Dobbs, RC, NRCS, Nashville, TN

United States Department of Agriculture



Natural Resources Conservation Service
424 North Kentucky Street
Suite 124
Kingston, TN 37763
(865) 376-2393 Ext. 3

April 27, 2005

Mr. James R. Paschall
Senior General Attorney
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510

Re: Proposed Main Line Abandonment @ Rockwood, TN STB Docket No. AB-290
(Sub-No. 236X).

Dear Mr. James R. Paschall:

I have received your project proposal and see no adverse impact on conservation of natural resources.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jeffery Young".

Jeffery Young, District Conservationist

JY/DM

cc: Steven Dobbs, Resource Conservationist



United States Department of Agriculture



Natural Resources Conservation Service
424 North Kentucky Street
Suite 124
Kingston, TN 37763
(865) 376-2393 Ext. 3

April 22, 2005

Mr. James R. Paschall
Senior General Attorney
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510

Re: Proposed Main Line Abandonment @ Rockwood, TN, STB Docket No. AB-290
(Sub-No. 236X)

Dear Ms. Gorby:

I have received your project proposal and see no adverse impact on conservation of natural resources.

Sincerely,

A handwritten signature in cursive script that reads "Jeffery Young".

Jeffery Young, District Conservationist

JY/dm

Cc: Steven Dobbs, Resource Conservationist



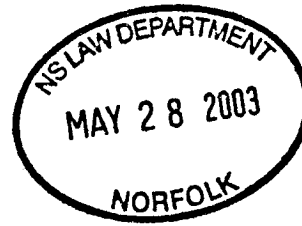


United States
Department of
Agriculture

Natural
Resources
Conservation
Service

424 North Kentucky Street
Suite 124
PO Box 206
Kingston, TN 37763
(865)376-2393, extension3

May 22, 2003



Ms Sandra J Gorby
Norfolk Southern Corporation
Law Department
Three Commercial Place
Norfolk, Virginia 23510-9241

Re: Proposed Main Line Abandonment @ Rockwood TN.

Dear Ms. Gorby:

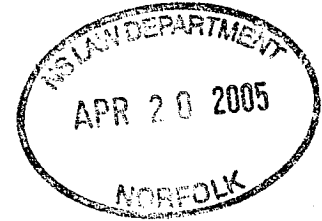
I have received your project proposal and see no adverse impact on conservation of natural resources.

Sincerely


Terry A. Gupton District Conservationist
ra



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF AIR POLLUTION CONTROL
9TH FLOOR, L & C ANNEX, 401 CHURCH STREET
NASHVILLE, TN 37243-1531
TELEPHONE: (615) 532-0554



April 15, 2005

Mr. James R. Paschall
Senior General Attorney
Norfolk Southern Railway Company
Three Commercial Place
Norfolk, VA 23510

Re : STB Docket No. AB-290 (Sub-No. 236X)

Dear Mr. Paschall:

I have received a copy of your letter dated April 6, 2005 in which you outline a plan for The Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP) to abandon a 1.1 mile railroad line located in Rockwood, TN between mile posts 156.9-H and 158.0-H. In considering your proposal to abandon this stretch of railway, I am not aware of any adverse impact this action will have on air quality.

Thank you for allowing me the opportunity to comment on this matter.

Sincerely,

Barry R. Stephens, P. E.
Director

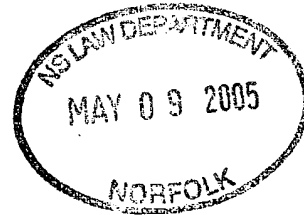
Cc: Jackie Waynick



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
National Geodetic Survey
Silver Spring, Maryland 20910-3282

MAY 5 2005

Ms. Victoria J. Rutson
Chief, Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001



Dear Ms. Rutson:

The area in question on the map with the Environmental and Historic Reports for the proposed rail line abandonment of The Cincinnati, New Orleans, & Texas Pacific Railway Company for 1.1 mile of rail line between Milepost 156.9-H and Milepost 158.0-H at Rockwood, Roane County, Tennessee, STB Docket No. AB-290 (Sub-No. 236X), has been reviewed within the areas of National Geodetic Survey (NGS) responsibility and expertise and in terms of the impact of the proposed actions on NGS activities and projects.

As a result of this review, 1 geodetic station marker have been identified that may be affected by the proposed abandonment; a listing of this marker is enclosed. Additional information about this station marker can be obtained via the Internet www.ngs.noaa.gov. If there are any planned activities which will disturb or destroy this marker, NGS requires not less than 90 days notification in advance of such activities in order to plan for it's relocation.

If further information is needed for this geodetic marker, contact Mr. Frank C. Maida. His address is NOAA, N/NGS2, Room 8736, 1315 East-West Highway, Silver Spring, Maryland 20910-3282, telephone: 301-713-3198, fax: 301-713-4324, e-mail: Frank.Maida@noaa.gov.

Sincerely,

Richard A. Snay
Chief, Spatial Reference System Division

Enclosures

cc: N/NGS1 - G. Mitchell
James R. Paschall, Norfolk Southern Railway Co.



Printed on Recycled Paper



THE CINCINNATI, NEW ORLEANS & TEXAS PACIFIC RAILWAY COMPANY

AT ROCKWOOD, ROANE COUNTY, TENNESSEE

DOCKET NO. AB-290 (SUB-NO. 236X)

1 GEODETIC CONTROL MARK IN THE PROPOSED ABANDONMENT AREA

PIDS	DESIGNATION	LATITUDE	LONGITUDE
FC0645	LHT 1081	N355324	W0843838

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-290 (Sub-No. 236X)

THE CINCINNATI, NEW ORLEANS, & TEXAS PACIFIC RAILWAY COMPANY
- ABANDONMENT -
- PETITION FOR EXEMPTION -
AT ROCKWOOD, TENNESSEE
IN ROANE COUNTY, TENNESSEE

REVISED HISTORIC REPORT

The Cincinnati, New Orleans and Texas
Pacific Railway Company
Three Commercial Place
Norfolk, VA 23510

Dated: July 13, 2005

REVISED HISTORIC REPORT
PROPOSED RAIL LINE ABANDONMENT

PROPOSED ACTION AND ALTERNATIVES

The Cincinnati, New Orleans and Texas Pacific Railway (CNOTP) proposes to file with the Surface Transportation Board (STB) a notice of exemption to abandon 1.1 miles of rail line at Rockwood, Tennessee in Roane County, Tennessee, but to sell the line to Franklin Industries, Inc. for incorporation into its private rail line. The line will continue to be used as an interchange track for exchange of rail traffic between CNOTP and Franklin Industries, Inc. and Horsehead Resources Development, Inc. An Historic Report with respect to this undertaking was submitted to the Tennessee Historical Commission in May, 2003, but CNOTP was unable to complete work on the filing at that time. Therefore, CNOTP submits this revised Historic Report with respect to the proposed STB abandonment exemption filing. A map delineating the line proposed for abandonment is attached as Exhibit "A."

The formal abandonment of the subject line of railroad in this case will result in no material change in the operation of the property as a railroad track and the track and material will not be salvaged. Instead, the line will be conveyed by CNOTP to Franklin Industries for incorporation in its private rail line. That private line already operates on a connecting line segment between Rockwood, TN and Crab Orchard, TN. The subject line segment must be formally abandoned as a line of railroad before the sale and change in classification of the track may take place.

After the subject line segment is conveyed to Franklin Industries, Franklin

Industries will use the line to pick up and deliver cars for interchange to CNOTP. CNOTP plans to continue to use the track as an interchange track under an agreement with Franklin Industries. Another shipper located on the subject line, Horsehead Resources Development Co., Inc., also will use the line for interchange of its rail traffic with CNOTP.

Because the operation of the line will continue after the abandonment, and because CNOTP previously prepared an historic report with respect to the proposed undertaking, to which the Tennessee State Historic Preservation Officer responded in the attached letter dated May 21, 2003, CNOTP believes that the previous historic report and response from the Tennessee SHPO remain as adequate compliance with the requirements of Section 106 of the National Historic Preservation Act. In fact, in view of the continuing use of the property for railroad operations, CNOTP believes the STB could waive the requirement for an historic report in this docket. Nonetheless, because of the passage of time since the submission of the previous report, CNOTP is submitting this revised Historic Report with a request that the Tennessee State Historical Commission reaffirm the previous determination that there are no National Register of Historic Places Listed or Eligible Properties affected by the proposed undertaking. CNOTP also states its view that the proposed action, which will result in no change in the subject property or its use, would not have resulted in an adverse impact on properties listed in or eligible for listing in the National Register of Historic Places or on historic resources in any event. This revised historic report contains some additional recently discovered information, particularly concerning the locations of Tennessee Central Railway Company's extant records.

Under the circumstances, CNOTP requests that the Tennessee SHPO and the STB to find that no National Register of Historic Places Listed or Eligible Properties will be affected by the proposed undertaking or that an STB decision approving or exempting the undertaking and the CNOTP's proposed action in formally abandoning the line and conveying it to Franklin Industries for continuing railroad use will have no adverse impact on properties listed in or eligible for listing in the National Register of Historic Places or on historic resources.

ADDITIONAL INFORMATION

(1) U.S.G.S. Topographic Map -- Maps were previously furnished to the Tennessee Historical Commission in connection with CNOTP's earlier historic report.

(2) Written Description of Right of Way - The right of way width varies from 25 feet to 150 feet on each side of the main track centerline, but is generally 50 feet on each side. The line passes through mostly forest (70%) with some residential (20%) and industrial (10%) areas.

(3) Photographs -- There are no bridges or significant structures on the line. Moreover, the line will continue in operation after its formal abandonment and sale to Franklin Industries.

(4) Date of Construction of Structures -- There are no bridges or significant structures on the line that are 40 years old or older. Moreover, the line will continue in operation after its formal abandonment and sale to Franklin Industries.

(5) History of Operations and Changes Contemplated -

The Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP), a subsidiary of Norfolk Southern Railway Company (NSR), formerly Southern Railway Company (SR), proposes to abandon a 1.1-mile line of railroad between Milepost 156.9-H and Milepost 158.0-H at Rockwood, TN and sell that property to Franklin Industries for continued railroad operation as an industrial lead or private track. Construction of the subject railroad line segment at Rockwood, Tennessee was completed in 1900 by corporate predecessors of the Tennessee Central Railway Company (TCR). This segment was built as part of a 54.65-mile line of railroad between Emory Gap, TN and Monterey, TN that was constructed by the company between 1893 and 1900. The Tennessee Central Railway (a separate entity from the more recent TCR) was completed to Rockwood in 1900. This rail line was the second rail line through the area. This second line made available the timber and mineral resources of the Cumberland Plateau more readily accessible to Rockwood, TN and other locations along the line.

Norfolk Southern Railway Company's predecessor, Southern Railway Company, acquired the line segment to be abandoned in 1969 when Harriman and Northeastern Railroad Company (H&NE), another Southern Railway Company subsidiary, acquired the 36.5 miles of the previously independent Tennessee Central Railway Company's line between Crossville, TN and Harriman, TN.

Harriman and Northeastern Railroad Company, Cincinnati, Burnside and Cumberland River Railway, Chattanooga Traction Company, New River Railway Company and NU Road, Inc. merged into CNOTP on March 31, 1970, pursuant to a

decision of the Interstate Commerce Commission in ICC Finance Docket Nos. 25901, 25902, and 25903. CNOTP acquired control of the Crab Orchard-Rockwood rail line segment already acquired by Franklin Industries from CNOTP after the segment's abandonment in 2000 through this transaction.

Southern Railway Company had owned, directly or indirectly, a majority of the shares of CNOTP since 1897. It was only in 1954 that Southern Railway acquired control of CNOTP, however, through acquisition of the CNOTP shares then owned by The Baltimore and Ohio Railroad Company. Some shares of CNOTP remained in the hands of the public even after Southern Railway Company acquired the B&O's shares. Southern Railway Company acquired full control of The Cincinnati, New Orleans and Texas Pacific Railway Company following the ICC Decision in April 1970 that is cited above.

The Tennessee Central Railway Company that was acquired by the CNOTP had several corporate predecessors. Most of these predecessors had similar, if not identical, names to Tennessee Central Railway Company. Some existed at the same time in the 1890s and early 1900s and were related companies. In its early years, between August 1893 and May 1904, Tennessee Central Railway Company's, and the related companies', president and developer was Mr. Jere Baxter.

Tennessee Central Railroad Company was incorporated under the general laws of Tennessee on August 25, 1893, for the purpose of building a line from the eastern terminus (now Monterey, TN) of The Nashville and Knoxville Railroad Company line, which was later merged with the Tennessee Central, to a point on The Cincinnati, New Orleans and Texas Pacific Railway Company line near Glen Alice, Tennessee. On July

1, 1897, Tennessee Central Railroad Company, which, after the Panic of 1893, had become insolvent in April 1895, was sold to Tennessee Central Railway Company, which was incorporated under the general laws of Tennessee on June 14, 1897. This company was a separate entity from the Tennessee Central Railway Company that was incorporated February 5, 1901.

The separate Tennessee Central Railway Company just mentioned was incorporated under the general laws of Tennessee on February 5, 1901 and sold to Tennessee Central Railroad Company on May 1, 1902. Tennessee Central Railroad Company's predecessor was the Nashville and Clarksville Railroad Company, which was incorporated in Tennessee on April 16, 1901. The Nashville and Clarksville Railroad Company was bought by Tennessee Central Railroad Company on April 30, 1902. Tennessee Central Railroad Company was the surviving company from these related companies after these purchase and merger transactions.

With construction beginning in 1893 and ending in 1904, Tennessee Central Railroad Company and its predecessor and related companies built and purchased a line of railroad between Harriman, TN and Hopkinsville, KY via Nashville, TN that consisted of approximately 287 miles of track, including branch lines.

Part of the Tennessee Central Railroad Company railroad line consisted of 75.993 miles of main line and about 20 miles of branch lines between Lebanon, TN and Monterey, TN. Tennessee Central Railroad Company purchased the Lebanon, TN-Monterey, TN line, and its branches, on May 1, 1902, from the Nashville and Knoxville Railroad Company. The Nashville and Knoxville Railroad Company had built its main line and branches between 1888 and 1894. The Nashville and Knoxville Railroad

Company had been founded in 1884 by Alexander Crawford, a Pennsylvania iron industry owner.

On September 30, 1902, the Tennessee Central Railroad Company also purchased 8.88 miles of line between Campbell Junction, TN and Isoline, TN, which were built between 1900-1902 by Cumberland Plateau Railroad Company.

The Tennessee Central Railway Company predecessor, Nashville and Knoxville Railroad Company, had built a branch line from Monterey, TN to Hanging Limb, TN that was completed in 1894. Tennessee Central Railroad Company built a coal spur from Hanging Limb, TN to Crawford, TN, which was completed and extended to Wilder, TN in December 1903.

Tennessee Central Railroad Company entered into receivership on December 31, 1912 and thereafter operated in technical insolvency for ten years. Tennessee Central Railway Company was chartered on January 22, 1922 for the purpose of acquiring and operating the property of its insolvent predecessor. Company records make it apparent that the Tennessee Central Railroad Company undertook a substantial renovation project that included the Crab Orchard, TN-Rockwood, TN segment of the line in 1927-28.

The Tennessee Central Railway Company was operated as an independent company until 1968, except for a brief period between July 1, 1905 and June 30, 1908. During that short time period the line between Southern Junction, TN and Harriman, TN was operated by Southern Railway Company, the line between Central Junction and Southern Junction was operated by Nashville Terminal Company and the line between Central Junction, TN and Hopkinsville, KY was operated by Illinois Central Railroad

Company. Mr. W. W. Glenn became the last president of the Tennessee Central Railway Company in 1966.

On December 14, 1967, the United States District Court for the Middle District of Tennessee entered an order approving the petition of the Tennessee Central Railway Company for reorganization under Section 77 of the Bankruptcy Act. Mr. A. Battle Rodes was appointed trustee. In a decision dated April 25, 1968, in *Tennessee Central Railway Company Abandonment of Operations*, 333 I.C.C. 443 (1968), the Interstate Commerce Commission permitted Tennessee Central Railway Company to discontinue (abandon) operations over its entire line of railroad.

A significant factor in the financial decline of the Tennessee Central Railway Company was the decrease in the volume of its coal traffic. Tennessee Valley Authority's Kingston Steam Plant took as many as 1.3 million tons of coal annually from mines on the Tennessee Central Railway Company line in the 1950s. By 1967, TVA received only 35,604 tons from the Tennessee Central Railway Company coal mine origins. There was no apparent prospect the coal traffic from those origins would increase. While the Tennessee Central Railway Company origin mines might still have supplied a large volume of coal, the sulfur content of the coal from the Tennessee Central Railway Company Crawford branch origin mines was too high for use by TVA. Tennessee Central Railway Company operated its last train before its division among Southern Railway Company, Illinois Central Railroad Company and Louisville and Nashville Railroad Company, described below, on August 31, 1968.

In a further decision in *Tennessee Central Ry. Co. Abandonment*, 334 I.C.C. 235 (1969) and related cases, the ICC permitted the total abandonment of the Tennessee

Central Railway Company's entire line. However, the ICC also approved the acquisition of substantially all of the line by larger and more financially healthy carriers. The ICC authorized Illinois Central Railroad Company to acquire about 79 miles of Tennessee Central Railway Company railroad line between Hopkinsville, KY and Nashville, TN. The ICC authorized Louisville and Nashville Railroad Company to acquire approximately 135 miles of Tennessee Central Railway Company railroad line between Nashville, TN and Crossville, TN and certain branch lines and property in the Nashville area. Finally, the ICC authorized Harriman and Northeastern Railroad Company, a subsidiary of Southern Railway Company, to acquire about 37 miles of Tennessee Central Railway Company railroad line between Milepost 129.0 west of Crossville, TN and Milepost 165.8 near Harriman, TN. Soon thereafter, as noted above, Harriman and Northeastern Railroad Company merged into CNOTP.

In a decision served June 8, 1989, in ICC Docket No. AB-290 (Sub-No. 63), *The Cincinnati, New Orleans and Texas Pac. Ry. Co. -- Aband. -- Between Crab Orchard and Crossland in Cumberland Cty., TN*, the ICC authorized CNOTP's abandonment of the 12.5 miles of Tennessee Railway Company line between Crossville, TN and Crab Orchard, TN. Thus, the line segment between Crab Orchard, TN and Rockwood, TN that was abandoned and sold to Franklin Industries after the STB's decisions in 2000, which are described below, became the end of a dead-end CNOTP branch line in 1989.

On December 4, 1980, Norfolk Southern Corporation, Norfolk and Western Railway Company, and Southern Railway Company filed a joint application to the ICC in Finance Docket No. 29430 (Sub-No. 1), pursuant to which they sought authority under 49 U.S.C. 11343 for Norfolk Southern Corporation to acquire control through

stock ownership of Norfolk and Western Railway Company and its subsidiary carrier companies, and of Southern Railway Company and its consolidated system companies, including CNOTP.

Under approval granted by the ICC in Finance Docket No. 29430 (Sub-No. 1), *Norfolk Southern Corporation -- Control -- Norfolk and Western Railway Company and Southern Railway Company*, 366 I.C.C. 173 (1982), dated March 19, 1982, Norfolk Southern Corporation acquired control of Norfolk and Western Railway Company and Southern Railway Company and their subsidiaries on June 1, 1982.

Two books on the Norfolk and Western Railway Company and Southern Railway Company systems provide detailed information on their history and development to the time of the Norfolk Southern consolidation. They are: E. F. Pat Striplin, *The Norfolk And Western: A History* (Roanoke, VA: The Norfolk and Western Railway Co., 1981) and Burke Davis, *The Southern Railway: Road Of The Innovators* (Chapel Hill, NC: University of North Carolina Press, 1985).

Gary W. Dolzall wrote a two part history of the Tennessee Central Railway for Trains magazine: *A Railroad Worthy of Acquaintance*, Trains, September 1987, page 34, The Tennessee Central story #1 and *Stability, Turmoil, Resale*, Trains, October 1987, page 48, The Tennessee Central story #2. One internet source states that a book on the history of the Tennessee Railway Company, *Tennessee Central Railroad - The Nashville Route* by Cliff Downey was scheduled for release in April 2004. Another source states that it was released in September 2003, ISBN: 1883089867. Yet another states it was scheduled for release in April 2005. We have been unable to confirm the

exact status of this book as of the date of this report but it appears that it is still scheduled for imminent release.

Effective December 31, 1990, Southern Railway Company changed its name to Norfolk Southern Railway Company. Norfolk and Western Railway Company became a wholly owned subsidiary of Norfolk Southern Railway Company rather than a subsidiary of Norfolk Southern Corporation.

Pursuant to a notice of exemption filed in STB Finance Docket No. 33648, *Norfolk Southern Railway Company--Merger Exemption--Norfolk and Western Railway Company*, served August 31, 1998, Norfolk Southern Railway Company (NSR) merged Norfolk and Western Railway Company (NW) into NSR, effective September 1, 1998.

Norfolk Southern Corporation ("NSC"), parent to Norfolk Southern Railway Company ("NSR"), entered into a Transaction Agreement (the "Conrail Transaction Agreement") among NSC; NSR; CSX Corporation ("CSX"); CSX Transportation, Inc. ("CSXT"), a wholly-owned subsidiary of CSX; Conrail Inc. ("CRR"); Consolidated Rail Corporation ("Conrail"), a wholly-owned subsidiary of CRR; and CRR Holdings LLC, dated June 10, 1997, pursuant to which CSX and NSC indirectly acquired all the outstanding capital stock of CRR. The Conrail Transaction Agreement was approved by the Surface Transportation Board ("STB") in a decision served July 23, 1998 in STB Finance Docket No. 33388, *CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company - Control and Operating Leases/Agreements - Conrail Inc. and Consolidated Rail Corporation*. The transaction was closed and became effective June 1, 1999.

Pursuant to the Conrail Transaction Agreement, certain Conrail assets were allocated to Pennsylvania Lines LLC ("PRR"), a wholly-owned subsidiary of Conrail. Furthermore, pursuant to the Conrail Transaction Agreement, PRR's assets, in turn, were leased to and were operated by NSR under the terms of an allocated assets operating agreement between PRR and NSR (the "NSR Operating Agreement") with an original term of twenty-five (25) years from the effective date of June 1, 1999, and two optional renewal terms of five (5) years each. The Conrail Transaction Agreement permitted NSR to operate and to enter into various transactions with regard to the assets allocated to PRR.

By decision served November 15, 2000, in STB Docket No. AB-290 (Sub-No. 208X), *The Cincinnati, New Orleans and Texas Pacific Railway Company - Abandonment Exemption - in Cumberland and Roane Counties, TN*, the STB granted an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 for CNOTP to abandon a line of railroad between milepost 141.5-H at Crab Orchard, TN and milepost 156.9-H at Rockwood, TN, a distance of 15.4 miles in Cumberland and Roane Counties, TN. The Board removed Section 106 historic preservation process and endangered species consultation conditions in a further decision served December 22, 2000. Thereafter, CNOTP sold the line to Franklin Industries, Inc. for use in a private rail operation serving its facility at Crab Orchard.

On June 4, 2003, Norfolk Southern Corporation (NSC), CSX Corporation (CSX), and Consolidated Rail Corporation (Conrail) announced the joint filing of a petition with the STB for approval to establish direct ownership and control by CSX Transportation, Inc. (CSXT) and Norfolk Southern Railway Company (NSR), the railroad subsidiaries of

CSX and NSC, respectively, of the two Conrail subsidiaries - New York Central Lines LLC (NYC) and Pennsylvania Lines LLC (PRR) that CSXT and NSR had been managing and operating, respectively, since June 1, 1999 under operating agreements approved by the STB in the 1998 decision. The STB approved the petition, subject to certain conditions, in a decision served on November 7, 2003. The effect of the transaction, which was concluded on August 27, 2004 by the merger of NYC into CSXT and of PRR into NSR was to replace the operating agreements and allow NSR and CSXT to operate the NYC and PRR lines via direct ownership.

Judge William E. Miller donated a collection of Tennessee Central Railway Company records, consisting of 52.08 linear feet of documents in 126 boxes, to the Tennessee State Library and Archives. The collection, which was cataloged in 1985, includes an almost complete collection of Tennessee Central Railway Company reports to the Interstate Commerce Commission between 1905 and 1968. An earlier collection of Tennessee Central Railway Company papers can be found in the Special Collections Library of the University of Tennessee, MS 1702. That collection contains, among other documents, Tennessee Central Railway Company reports to the Interstate Commerce Commission from 1898 to 1904 and also including 1912. The 1898 and 1899 annual reports are those of the Nashville and Knoxville Railroad Company, which was later purchased by the Tennessee Central Railroad Company. The 1901 report is that of the separate Tennessee Central Railway Company, also later purchased by Tennessee Central Railroad Company.

Roane County, Tennessee was created in 1801 from Knox County and unorganized lands. Roane County was named in honor of Archibald Roane

(1760-1819), 1796 State Constitutional Convention delegate, Superior Court of Law and Equity Judge, Supreme Court Judge and Governor of Tennessee. A history of Roane County can be found in *Roots of Roane County, TN – 1792-*, published in 1981, by Snyder E. Roberts. Development at Rockwood, Tennessee began with the construction of the Roane Iron Company works in 1868, although the town was not incorporated until 1890. As noted above, the Tennessee Central Railway Company line arrived at Rockwood in 1900, twenty years after the Cincinnati Southern Railroad (The Cincinnati, New Orleans and Texas Pacific Railway Company, lessee) line was built through the area. The subject line of railroad is not part of the Cincinnati Southern railroad line. *Company Town: A History of Rockwood and The Roane Iron Company* is a publication available from the Roane County Heritage Commission.

The change contemplated in the operation of the subject 1.1-mile line of railroad at Rockwood, TN is for The Cincinnati, New Orleans and Texas Pacific Railway Company, a wholly-owned subsidiary of Norfolk Southern Railway Company, to abandon the line, but to sell it to Franklin Industries for continued operation as an industrial lead or private track. Franklin Industries is located at Crab Orchard at the end of the previously abandoned 15.4-mile line segment that connects with the subject line segment at Rockwood, TN. Horsehead Resource Development Co., Inc. also is located on the subject 1.1-mile line at Rockwood, TN, but also will continue to receive rail service over the track as an interchange track. Franklin Industries can better maintain and operate the subject track, and needs access to the track for interchange operations.

Franklin Industries does not seek to become a common carrier or to serve other

customers. It will allow Horsehead, which has its own locomotive for use at its plant, to use the track to interchange cars with CNOTP. Thus, Franklin Industries and Horsehead Resource Development Co. Inc. will not oppose the abandonment of the line, because those industries will continue to receive rail service over the track through Franklin Industries' private rail operation and through use of the line segment as an interchange track after its formal abandonment by CNOTP.

(6) Summary of Documents In Carrier's Possession That Might Be Useful for Documenting a Structure That Is Found To Be Historic --

Not applicable. There are no structures on the line.

(7) Opinion Regarding Criteria For Listing In The National Register Of Historic Places --

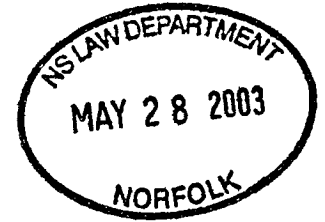
It is CNOTP's opinion that the 1.1-mile line of railroad at Rockwood, TN to be formally abandoned as a result of the subject petition for exemption, but which will be retained for private railroad and interchange operations, does not meet the criteria for listing in the National Register of Historic Places. There are no structures or other characteristics that distinguish the line from other railroad lines running through forests and small residential and industrial areas in the vicinity. Because of the line will continue to be operated as a railroad line, as well as the line's limited history, CNOTP has no reason to believe that the line or any property connected with it is historic or that the action proposed would have an adverse impact on any historic properties or resources. CNOTP believes the proposed undertaking will not result in an affect on National Register of Historic Places Listed or Eligible properties. The SHPO's letter of May 21, 2003, a copy of which is attached, confirms this conclusion.

(8) Subsurface Ground Conditions That Might Affect Archaeological Recovery

-- CNOTP is not aware of any prior subsurface ground disturbances or environmental conditions that would affect archaeological recovery.

Moreover, this is not applicable to the proposed action. The material on the line will not be salvaged. Furthermore, grading and filling of the right-of-way at the time of the railroad's construction would have disturbed the surface of the ground and some space below it so that any archaeological evidence that might be recovered from the site already has been severely disturbed if not destroyed.

(9) Follow-Up Information -- CNOTP will endeavor to provide any additional information that it has about the subject line as appropriate.



May 21, 2003

TENNESSEE HISTORICAL COMMISSION
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
2941 LEBANON ROAD
NASHVILLE, TN 37243-0442
(615) 532-1550

Ms. Sandra J. Gorby
Norfolk Southern Corp.
Three Commercial Place
Norfolk, Virginia, 23510-9241

RE: STB, ABANDONMENT/1.1 MILE OF LINE, ROCKWOOD, ROANE COUNTY

Dear Ms. Gordy:

In response to your request, received on Friday, May 16, 2003, we have reviewed the documents you submitted regarding your proposed undertaking. Our review of and comment on your proposed undertaking are among the requirements of Section 106 of the National Historic Preservation Act. This Act requires federal agencies or applicant for federal assistance to consult with the appropriate State Historic Preservation Office before they carry out their proposed undertakings. The Advisory Council on Historic Preservation has codified procedures for carrying out Section 106 review in 36 CFR 800. You may wish to familiarize yourself with these procedures (Federal Register, December 12, 2000, pages 77698-77739) if you are unsure about the Section 106 process.

After considering the documents you submitted, we determine that THERE ARE NO NATIONAL REGISTER OF HISTORIC PLACES LISTED OR ELIGIBLE PROPERTIES AFFECTED BY THIS UNDERTAKING. We have made this determination either because of the specific location, scope and/or nature of your undertaking, and/or because of the size of the area of potential effect; or because no listed or eligible properties exist in the area of potential effect; or because the undertaking will not alter any characteristics of an identified eligible or listed property that qualify the property for listing in the National Register or alter such property's location, setting or use. Therefore, we have no objections to your proceeding with your undertaking.

If you are applying for federal funds, license or permit, you should submit this letter as evidence of consultation under Section 106 to the appropriate federal agency, which, in turn, should contact us as required by 36 CFR 800. If you represent a federal agency, you should submit a formal determination of eligibility and effect to us for comment. You may find additional information concerning the Section 106 process and the Tennessee SHPO's documentation requirements at www.state.tn.us/environment/hist/sect106.shtm. You may direct questions or comments to Joe Garrison (615) 532-1550-103. This office appreciates your cooperation.

Sincerely,

Herbert L. Harper
Executive Director and
Deputy State Historic
Preservation Officer

HLH/jyg



April 15, 2005

TENNESSEE HISTORICAL COMMISSION
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
2941 LEBANON ROAD
NASHVILLE, TN 37243-0442
(615) 532-1550

Mr. James R. Paschall
Norfolk Southern
Three Commercial Place
Norfolk, Virginia, 32510-2191

RE: STB, STB DOCKET NO AB-290 SUB NO 236X, ROCKWOOD, ROANE COUNTY

Dear Mr. Paschall:

In response to your request, received on Tuesday, April 12, 2005, we have reviewed the documents you submitted regarding your proposed undertaking. Our review of and comment on your proposed undertaking are among the requirements of Section 106 of the National Historic Preservation Act. This Act requires federal agencies or applicant for federal assistance to consult with the appropriate State Historic Preservation Office before they carry out their proposed undertakings. The Advisory Council on Historic Preservation has codified procedures for carrying out Section 106 review in 36 CFR 800. You may wish to familiarize yourself with these procedures (Federal Register, December 12, 2000, pages 77698-77739) if you are unsure about the Section 106 process.

After considering the documents you submitted, we determine that **THERE ARE NO NATIONAL REGISTER OF HISTORIC PLACES LISTED OR ELIGIBLE PROPERTIES AFFECTED BY THIS UNDERTAKING.** We have made this determination either because of the specific location, scope and/or nature of your undertaking, and/or because of the size of the area of potential effect; or because no listed or eligible properties exist in the area of potential effect; or because the undertaking will not alter any characteristics of an identified eligible or listed property that qualify the property for listing in the National Register or alter such property's location, setting or use. Therefore, we have no objections to your proceeding with your undertaking.

If you are applying for federal funds, license or permit, you should submit this letter as evidence of consultation under Section 106 to the appropriate federal agency, which, in turn, should contact us as required by 36 CFR 800. If you represent a federal agency, you should submit a formal determination of eligibility and effect to us for comment. You may find additional information concerning the Section 106 process and the Tennessee SHPO's documentation requirements at www.state.tn.us/environment/hist/sect106.shtm. You may direct questions or comments to Joe Garrison (615) 532-1550-103. This office appreciates your cooperation.

Sincerely,

Herbert L. Harper
Executive Director and
Deputy State Historic
Preservation Officer

HLH/jyg



Roane County News	Morgan County News	P.O. Box 610, 204 Franklin Street
Harriman Record	Rockwood Times	Kingston, TN 37763
R.C. News-Record	Web Printing Plant	(865) 376-3481 FAX (865) 376-1945

TO Norfolk Southern Corporation

ADVERTISING Legal Advertising

PUBLISHER'S AFFIDAVIT

State of Tennessee, Roane County

I, Johnny Teglase, make oath that the attached advertisement or notice was published in:

 X The Roane County News, tri-weekly newspaper published at Kingston

 The Harriman Record, a weekly newspaper published at Harriman

 The Rockwood Times, a weekly newspaper published at Rockwood

 The Morgan County News, a weekly newspaper published at Wartburg

in said county and state, and that the advertisement or notice of: Notice of Intent to Abandon Rail

was published in said newspaper on the following dates: July 18, 05

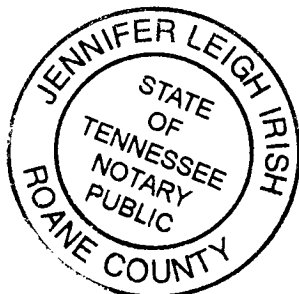
and that the statement of account herewith is correct to the best of his knowledge and belief

Signed Johnny Teglase

Subscribed and sworn to before me this 26th day of July, 2005

Jennifer Leigh Irish
Notary Public

My commission expires September 17, 2008



**NOTICE OF INTENT TO
ABANDON RAIL
SERVICE**

The Cincinnati, New Orleans and Texas Pacific Railway Company, a wholly-owned subsidiary of Norfolk Southern Railway Company, gives notice that on or about August 15, 2005, it intends to file with the Surface Transportation Board (STB), Washington, DC 20423, a petition for exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments*, permitting the abandonment of a 1.1-mile line of railroad between Milepost 156.9 and Milepost 158.0 at Rockwood, Tennessee, which traverses through United States Postal Service ZIP Code 37854 in Roane County, Tennessee. The proceeding will be docketed as No. AB-290 (Sub-No. 236X). The railroad line will be sold to Franklin Industries, Inc., for continued railroad use in the operation of Franklin Industries' existing 15.4-mile private railroad line and as an industrial track to serve Horsehead Resource Development, Inc.

The Board's Section of Environmental Analysis (SEA) will generally prepare an Environmental Assessment (EA), which will normally be available 60 days after the filing of the petition for abandonment exemption. Comments on environmental and energy matters should be filed no later than 30 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to SEA, Surface Transportation Board, Washington, DC 20423 or by calling SEA at 202-565-1545.

Appropriate offers of financial assistance to continue rail service can be filed with the STB. Requests for environmental conditions, public use conditions, or rail banking/ trails use also can be filed with the STB. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the STB's Office of the Secretary, 1925 K Street, N.W., Washington, DC 20423-0001 [See 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicant's representative [See 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the STB's Office of Public Assistance at 202-927-7597. Copies of any comments or requests for conditions should be served on the applicant's representative: James R. Paschall, Senior General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510-9241, (757) 629-2759