

**Railroad Abandonment in Scott County, TN**
Joshua Wayland to: Jennifer Barnett

02/13/2015 04:55 PM

[Show Details](#)

Hi Jennifer,

As I mentioned on the phone the other day, I am conducting an environmental and historic review of a proposed railroad abandonment in Tennessee. The rail line is approximate 12.63 miles long and is located in Scott County between the towns of New River and Sterling. The railroad submitted an environmental and historic report, including topographical maps and pictures of the structures on the line, to the Tennessee Historical Commission in November 2014, but they have not reported any follow up consultation to us. Since we haven't been able to consider the SHPO's opinion, my office has recommended a condition to prevent the railroad from conducting any salvage activities until the Section 106 process is complete.

I am forwarding to you a copy of the environmental and historic report that we received from the railroad and a copy of the environmental assessment that my office prepared. A map of the project site is also attached. We would be very interested in knowing your opinion regarding whether the proposed abandonment would have the potential to affect historic or archeological resources. I am happy to pass along any additional information you need in order to provide comments. Thank you so much for your time and assistance.

[Environmental and Historic Report \(AB-290-355X\).pdf](#)[Environmental Assessment \(AB-290-355X\).pdf](#)[Site Map \(AB-290-355X\).pdf](#)

Best regards,

Josh Wayland
Environmental Protection Specialist
Office of Environmental Analysis
Surface Transportation Board
Tel: (202) 245-0330

**BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC**

STB Docket No. AB-290 (Sub-No. 355X)

**THE CINCINNATI, NEW ORLEANS AND TEXAS PACIFIC RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN SCOTT COUNTY, TENNESSEE**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

EXHIBIT D

**CERTIFICATE OF COMPLIANCE WITH
ENVIRONMENTAL AND HISTORIC REPORT
REQUIREMENTS**

Environmental and Historic Report
Certificate of Service

Pursuant to the requirements of 49 C.F.R. § 1105.7(b) and 49 C.F.R. § 1105.8(c), the undersigned hereby certifies that a copy of the Combined Environmental and Historic Report in Docket No. AB-290 (Sub-No. 355X) was mailed via first class mail on November 5, 2014 to the following parties:

STATE ENVIRONMENTAL PROTECTION AGENCY

Mr. Bob Martineau, Jr., Commissioner
Department of Environmental & Conservation
312 Rosa L. Parks Ave – Tennessee Tower – 2nd Floor
Nashville, TN 37243

REGIONAL ENVIRONMENTAL PROTECTION AGENCY

Regional EPA – Region 4
Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303

STATE COASTAL ZONE MANAGEMENT

Not Applicable

NATURAL RESOURCES CONSERVATION SERVICE

Mr. J. Kevin Brown, State Conservationist
USDA NRCS
801 Broadway Suite 675
Nashville, TN 37203

FISH AND WILDLIFE SERVICE

Ms. Cindy Dohner, Regional Director
U.S. Fish and Wildlife Service – Region 4
1875 Century Blvd., Suite 400
Atlanta, GA 30345

US ARMY CORPS OF ENGINEERS

U.S. Army Corps of Engineers
Nashville District
110 9th Avenue South
Nashville, TN 37203

COUNTY

Mayor Jeff Tibbals
Scott County Office Building
2845 Baker Highway
Huntsville, TN 37756

STATE CLEARINGHOUSE (DOT)

TDOT Commissioner's Office
James K. Polk Building, Suite 700
505 Deaderick Street
Nashville, TN 37243

STATE HISTORIC PRESERVATION OFFICE

Tennessee Historic Resources
E. Patrick McIntyre, Jr., Executive Director
2941 Lebanon Road
Nashville, TN 37243

NATIONAL PARK SERVICE

Charlie Stockman
National Park Service
Rivers and Trails Conservation Program
1201 Eye Street, NW 9th floor
Washington D.C. 20005

NATIONAL GEODETIC SURVEY

National Geodetic Survey
Geodetic Service Division
Room 9202 NGS/12
1315 East-West Hwy
Silver Spring, MD 20910

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

USEPA
Ariel Rios Building
1200 Pennsylvania Ave., NW
Mail Code 1101-A
Washington, D.C. 20460



Marcellus C. Kirchner
November 5, 2014

ATTACHMENT 1
ENVIRONMENTAL AND HISTORIC REPORT
INCLUDING SAMPLE TRANSMITTAL LETTER



Norfolk Southern Corporation
3 Commercial Place
Norfolk, VA 23510-9207

Strategic Planning Department
Three Commercial Place
Norfolk, VA 23510-9207
(757) 629-2679

November 5, 2014

RE: STB Docket No. AB-290 (Sub-No. 355X), The Cincinnati, New Orleans and Texas Pacific Railway Company – Abandonment - in Scott County, Tennessee

Dear Sir/Madam:

The Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP) plans to request authority from the Surface Transportation Board (STB) to abandon a segment of rail line between mileposts NR 0.0 at New River and NR 12.63 at Sterling in Scott County, Tennessee.

Enclosed is a Combined Environmental and Historic Report (Report) which describes the proposed abandonment and other pertinent information. A map of the proposed track abandonment can be found in **Appendix A** of this report. **Appendix B** of this report lists the various agencies receiving it.

The railroad does not anticipate adverse environmental impacts; however, if you identify any adverse environmental effects please describe the actions that would assist in alleviating them. Please provide us with a written response indicating any concerns or lack thereof, which will be included in the Report and sent to the Surface Transportation Board (STB).

This Report is being provided so that you may submit information that will form the basis for the STB's independent environmental analysis of the proceeding. If you believe any of the information is incorrect, if you think 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) by telephone at (202) 245-0295 or by mail to:

Surface Transportation Board
395 E Street, S.W., Room 1106
Washington DC 20423-0001

Please refer to the above Docket when contacting the STB. Applicable statutes and regulations impose stringent deadlines for processing this action. For this reason your written comments (with a copy to us) would be appreciated within three weeks.

Your comments will be considered by the Board in evaluating the environmental impacts of the contemplated action. In order for us to consider your input prior to filing with the STB, we must receive your comments within three weeks. Please provide information to LaWada Poarch by email at LaWada.Poarch@nscorp.com, or by mail to:

LaWada Poarch
Abandonments Coordinator
Norfolk Southern Corporation
Strategic Planning Department
Three Commercial Place
Norfolk, VA 23510

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Kirchner', with a stylized, cursive script.

Marcellus C. Kirchner
Director Strategic Planning
The Cincinnati, New Orleans and Texas Pacific Railway Company

Attachment

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB DOCKET NO. AB-290 (Sub-No. 355X)

THE CINCINNATI, NEW ORLEANS AND TEXAS PACIFIC RAILWAY COMPANY

PROPOSED RAIL LINE ABANDONMENT

BETWEEN MILEPOST NR 0.0 AND MILEPOST NR 12.63

IN SCOTT COUNTY, TENNESSEE

Combined Environmental and Historic Report

The Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP) submits this Combined Environmental and Historic Report ("EHR") pursuant to 49 C.F.R. § 1105.7(e) and 49 C.F.R. § 1105.8(d), respectively, in connection with the proposed abandonment of 12.63 miles of rail line between milepost NR 0.0 and milepost NR 12.63 in Scott County, Tennessee.

November 5, 2014

ENVIRONMENTAL REPORT

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. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

The Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP), a wholly-owned subsidiary of Norfolk Southern Railway Company, proposes to abandon 12.63 miles of rail line between milepost NR 0.00 at New River and milepost NR 12.63 at Sterling, in Scott County, Tennessee. The line proposed for abandonment has been dormant for many years.

Following abandonment, CNOTP will convey the right-of-way to KT Group, LLC ("KT Group"). KT Group will perform salvage on the line. No crosstie removal will occur as they are not recoverable. There are six bridges on the line segment being conveyed.

The alternative to abandonment is to not abandon the line and retain the remaining track in place. This alternative is not satisfactory. CNOTP would incur opportunity and holding costs that would be covered by non-existent on-line shippers were the line segment to be retained.

A map depicting the line proposed for abandonment is attached as **Appendix A**. An example of the railroad's letter to federal, state and local government agencies along with a list of the consulting agencies CNOTP has contacted is attached as **Appendix B**. Comments received as a result of CNOTP's written requests for feedback can be found

in **Appendix C**. A list of bridges is attached as **Appendix D**.

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

Describe the effects of the proposed action on regional or local transportation systems and patterns. 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: Effects of the proposed action on regional or local transportation systems and patterns are expected to be negligible. There is no rail freight or passenger traffic on the line segment proposed for abandonment. Consequently, no rail traffic will be diverted to highway or other modes as a result of the abandonment.

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: An outline of future land use plans has been requested from the Mayor of Scott County, who was asked to comment on the consistency of the proposed abandonment with existing land use plans.

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

RESPONSE: The United States Department of Agriculture Natural Resources Conservation Service (USDA NRCS) advises that the project will have no adverse effects on farmland, as such; the project appears to meet the Farmland Protection Policy Act. A copy of the response received from the USDA NRCS is attached as part of **Appendix C**.

(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: Not Applicable.

(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 railroad does not have fee title to the entire right-of-way underlying the segment proposed for abandonment.

49 CFR 1105.7(e)(4) Energy.

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

RESPONSE: Development and transportation of energy resources will not be affected by the abandonment as no freight or passenger traffic has moved over the line for many years.

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

RESPONSE: Movement or recovery of recyclable commodities will not be affected by the abandonment.

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

RESPONSE: The proposed action will not result in any material impact in overall energy efficiency.

(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: The diversion of traffic to motor carriers will not exceed the thresholds set forth at 49 CFR §1105.7(e)(4) as no diversions will occur. Accordingly, there is no need to produce data on diverted traffic or to quantify the net change in energy consumption.

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: The above thresholds will not be exceeded.

(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: The above thresholds will not be exceeded. For the record, Scott County, Tennessee is an attainment area 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: Not applicable.

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 above thresholds will not be exceeded.

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: Abandonment of the subject rail line segment will have no adverse impact on public health and safety.

- (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: Not applicable.

- (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: The railroad has no knowledge of hazardous waste sites or sites where there have been known hazardous material spills on the right of way or in adjacent areas.

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: The railroad has requested input from the U.S. Fish and Wildlife Service (USFWS) to ascertain any impacts to surrounding habitats and species. USFWS' preliminary list of federally listed endangered and threatened species that may occur in the proposed project area is attached as part of **Appendix C**.

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

RESPONSE: The line segment proposed for abandonment does not appear to pass through state parks or forests, national parks or forests, or wildlife sanctuaries. No adverse effects on wildlife sanctuaries, national parks or forests, or state parks or forests are anticipated.

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: The railroad does not intend to remove or alter the contour of the roadbed underlying the rail line to be abandoned by way of excavation or other ground disturbance activity. Accordingly, no soils will be disturbed as a result of the proposed

abandonment, and no storm water mitigation measures – including, but not limited to, a National Pollutant Discharge Elimination System permit – will be required. There are no plans to undertake in-stream work, or dredge and/or use any fill materials in connection with the proposed abandonment, so, for this reason also, the proposed abandonment will not result in water quality impacts. Consultation has been requested from the State of Tennessee Department of Environmental & Conservation and from the Regional Environmental Protection Agency offices. The State of Tennessee Department of Environment and Conservation Division (TNDEC), Division of Water Resources advises that our activities are consistent with applicable water quality standards and will not necessitate a National Pollutant Discharge Elimination permit. A copy of their response is attached as part of **Appendix C**.

(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 geometry of the roadbed will not be altered and no in-stream work is contemplated. No discernible effects on either 100-year flood plains or adjacent wetlands are expected in connection with the proposed abandonment. Consultation was requested from the U.S. Army Corps of Engineers and it advises the proposed activities would not involve work in waters; therefore, a permit would not be required. A copy of the USACE response is attached as part of **Appendix C**.

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

RESPONSE: The railroad does not plan to remove or alter the roadbed underlying the line to be abandoned, to undertake in-stream work or to dredge or use any fill materials. There will be no excavation or other ground-disturbance activity, and, because no soils will be disturbed, no storm water mitigation measures – including, but not limited to, a National Pollutant Discharge Elimination System permit – will be required. The railroad anticipates that the abandonment will not affect water quality and that additional permitting under Section 402 will be required. Nevertheless, CNOTP has requested input from the Regional Environmental Agency and the Tennessee Department of Environment and Conservation (TNDEC) Division of Water Resources.

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: Abandonment of the involved rail line is not expected to produce adverse environmental impacts for the reasons set forth above. Only minimal physical activity may occur as a result of the proposed abandonment, such as removal of railroad appurtenances. Crossties will remain. The railroad will undertake all reasonable mitigation associated with these activities as directed by the Board to assure the abandonment does not produce adverse environmental impacts.

HISTORIC REPORT

49 CFR 1105.8(d)

PROPOSED ACTION AND ALTERNATIVES

The Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP), a wholly-owned subsidiary of Norfolk Southern Railway Company, proposes to abandon 12.63 miles of rail line between milepost NR 0.00 at New River and milepost NR 12.63 at Sterling, in Scott County, Tennessee. The line proposed for abandonment has been dormant for many years.

Following abandonment, CNOTP will convey the right-of-way to KT Group, LLC ("KT Group"). KT Group will perform salvage on the line. No crosstie removal will occur as they are not recoverable. There are six bridges on the line segment being conveyed.

The alternative to abandonment is to not abandon the line and retain the remaining track in place. This alternative is not satisfactory. CNOTP would incur opportunity and holding costs that would be covered by non-existent on-line shippers were the line segment to be retained.

A map depicting the line proposed for abandonment is attached as **Appendix A**.

ADDITIONAL INFORMATION

- (1) **U.S.G.S. Topographic Map** - Map was furnished to the Tennessee Historical Commission.
- (2) **Written Description of Right of Way** - The right-of-way width ranges from 50 feet to 100 feet along the main track centerline. Pursuant to Surface Transportation

Board (STB) policy, the railroad's right-of-way will constitute the Area of Potential Effect (APE) for this undertaking.

(3) **Photographs** – Photographs were furnished to the Tennessee Historical Commission.

4) **Date of Construction of Structures** – Construction dates are shown on the Bridge List attached as **Appendix D**.

(5) **History of Operations and Changes Contemplated** – The line segment was originally the Brimstone Railroad, incorporated in Tennessee in 1941. The Brimstone Railroad was constructed by the W.M. Ritter Company and operated as a private carrier after it bought the New River Lumber Company. The railroad served the mill as a logging railroad. In January 1942, the Interstate Commerce Commission authorized the Brimstone Railroad to operate as a common carrier in Finance Docket No. 13397, *Brimstone Railroad Company Acquisition and Operation*, 252 ICC 123. In 1965, the Brimstone was abandoned pursuant to ICC authorization in Finance Docket No. 23017, *Brimstone Railroad Company Abandonment of Entire Line in Scott County, Tennessee*. December 16, 1964. CNOTP subsequently formed a wholly-owned subsidiary, New River Railway Company, which acquired the physical properties of the abandoned Brimstone Railroad Company and commenced operations as a common carrier on March 31, 1966. This transaction was approved by the ICC May 10, 1965 in Finance Docket Nos. 23494, 23495 and 23496, *New River Railway Co. Acquisition and Operation in Scott County, Tenn., etc.*

(6) Summary of Documents In Carrier's Possession That Might Be Useful for

Documenting a Structure That Is Found To Be Historic – While general plans may be available for the structure on the line; it is most likely that any such plans are standard plans used for construction of similar structures.

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

Places – There are six structures on the subject line or within the APE for this undertaking. The railroad has no reason to believe that there is any likelihood of finding archaeological resources or historic properties on the line proposed for abandonment. The structures are bridges which are relatively short in length and ordinary in design and construction.

(8) Subsurface Ground Conditions That Might Affect Archaeological Recovery

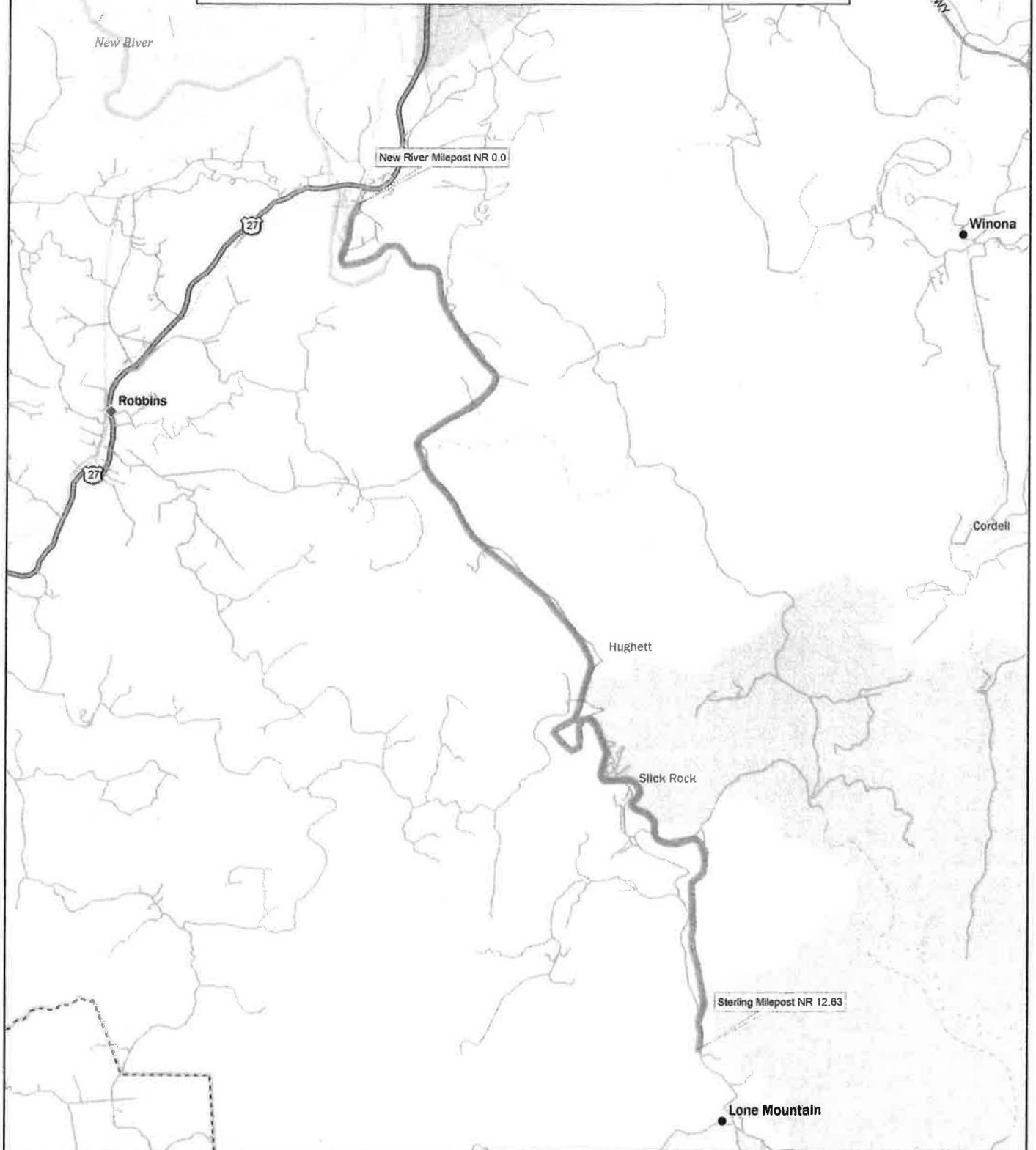
The railroad is not aware of any prior subsurface ground disturbances or environmental conditions that would affect archaeological recovery. Moreover, abandonment of the line and salvage of material from its surface will not affect any potential archaeological resources. The subsurface of the right-of-way was initially disturbed in the construction of the railroad line by grading and filling. Abandonment and salvage of the line will not result in activities below the surface, or below the level of initial disturbance.

(9) Follow-Up Information - Additional information will be provided as appropriate.

APPENDIX A

Site Map

**Cincinnati, New Orleans and Texas Pacific Railway Company
Proposed Abandonment
New River to Sterling, TN
Milepost NR 0.0 - Milepost NR 12.63
STB Docket No. AB-290 (Sub No. 355X)**



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www.delorme.com

APPENDIX B

Agency Letters

RECIPIENT LIST

Proposed Rail Line Abandonment on the segment of rail line between Mileposts NR 0.0 and NR 12.63 in Scott County, Tennessee.

STATE ENVIRONMENTAL PROTECTION AGENCY

Mr. Bob Martineau, Jr., Commissioner
Department of Environmental & Conservation
312 Rosa L. Parks Ave – Tennessee Tower – 2nd Floor
Nashville, TN 37243

REGIONAL ENVIRONMENTAL PROTECTION AGENCY

Regional EPA – Region 4
Atlanta Federal Center
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STATE COASTAL ZONE MANAGEMENT

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USDA NRCS
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Tennessee Historic Resources
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Charlie Stockman
National Park Service
Rivers and Trails Conservation Program
1201 Eye Street, NW 9th floor
Washington D.C. 20005

NATIONAL GEODETIC SURVEY

National Geodetic Survey
Geodetic Service Division
Room 9202 NGS/12
1315 East-West Hwy
Silver Spring, MD 20910

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

USEPA
Ariel Rios Building
1200 Pennsylvania Ave., NW
Mail Code 1101-A
Washington, D.C. 20460



Norfolk Southern Corporation
3 Commercial Place
Norfolk, VA 23510-9207

Strategic Planning Department
Three Commercial Place
Norfolk, VA 23510-9207
(757) 629-2679

November 5, 2014

RE: STB Docket No. AB-290 (Sub-No. 355X), The Cincinnati, New Orleans and Texas Pacific Railway Company – Abandonment - in Scott County, Tennessee

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Surface Transportation Board
395 E Street, S.W., Room 1106
Washington DC 20423-0001

Please refer to the above Docket when contacting the STB. Applicable statutes and regulations impose stringent deadlines for processing this action. For this reason your written comments (with a copy to us) would be appreciated within three weeks.

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LaWada Poarch
Abandonments Coordinator
Norfolk Southern Corporation
Strategic Planning Department
Three Commercial Place
Norfolk, VA 23510

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Kirchner', with a stylized, cursive script.

Marcellus C. Kirchner
Director Strategic Planning
The Cincinnati, New Orleans and Texas Pacific Railway Company

Attachment

APPENDIX C

Agency Responses



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

August 28, 2014

LaWada Poarch
Abandonments Coordinator
Norfolk Southern Corporation
3 Commerce Place
Strategic Planning – 12th Floor
Norfolk, VA 23510

Dear Ms. Poarch:

We received your request for concerns we might have about any prime farmland impacts of a project to abandon a rail line between mileposts NR 0.0 at New River and NR 12.63 at Sterling in Scott County, Tennessee.

NRCS has responsibility for implementing the Farmland Protection Policy Act (FPPA). The FPPA is intended to minimize the impact that Federal programs have on the conversion of farmland to nonagricultural uses. When locations and all possible alternates have been established for this project, a CPA-106 form should be initiated by the responsible agency and submitted to this office. NRCS will then supply a farmland conversion impact rating. More information about FPPA can be found at <http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/landuse/fppa/>.

In most cases, an FPPA Assessment will not be required for modifications to existing structures, for land that is already in or committed to urban uses (commonly identified as having density of 30 or more structures per 40-acre area), for land within an existing right-of-way purchased on or before August 4, 1984, for corridor projects less than 10 acres in 1 mile where an approved LESA system is in place, for land used for water storage, or for other projects that do not irreversibly convert prime farmland to non-agricultural uses. Land use zoning for non-agricultural use in itself, or current ownership however are not exemptions under FPPA.

It appears from the project description and location information you sent that the project is entirely modifications to existing structures which would not convert farmland. As such, the project appears to meet exemptions for FPPA. If the Federal agency that is assisting you with this project agrees, an FPPA Assessment would not be required for this project

Our soil survey information can also be found online at <http://websoilsurvey.nrcs.usda.gov>. This website will provide you with all of our most current soil survey data and interpretations, including prime farmland and hydric soils.

-- MORE --



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF WATER RESOURCES
William R. Snodgrass - Tennessee Tower
312 Rosa L. Parks Avenue, 11th Floor
Nashville, Tennessee 37243-1102

September 2, 2014

Marcellus C. Kirchner
Director Strategic Planning
Norfolk Southern Corporation
3 Commercial Place
Norfolk, VA 23510-9207

Re: Railway Abandonment in Scott County, TN (AB-290)

Mr. Kirchner,

Thank you for your letter of August 18, 2014, regarding the abandonment of 12.63 miles of rail line between mileposts NR0.0 at New River and NR 12.63 at Sterling in Scott County, TN.

Staff and I have reviewed your description of the activities associated with this abandonment and find the activities to be consistent with applicable water quality standards. Furthermore, this project, as described, will not necessitate a National Pollutant Discharge Elimination permit.

Thank you again for your correspondence. If your activities change in scope please contact my office and inquire as to whether permits are necessary. You may reach me at britton.dotson@tn.gov or call me at (615) 532-0774.

Sincerely,

Britton Dotson
Deputy Director, Water Quality Branch, Division of Water Resources



DEPARTMENT OF THE ARMY
NASHVILLE DISTRICT, CORPS OF ENGINEERS
REGULATORY BRANCH
3701 BELL ROAD
NASHVILLE, TENNESSEE 37214

September 12, 2014

SUBJECT: Reference No. LRN-2014-00934; Norfolk Southern Corporation, Abandon Rail Track and Salvage Materials, Docket No. AB-290 (Sub No. 355X), Cincinnati, New Orleans and Texas Pacific Railway Company, Scott County, TN

LaWada Poarch, Abandonments Coordinator
Norfolk Southern Corporation
Strategic Planning - 12th Floor
3 Commercial Place
Norfolk, VA 23510

Dear Ms. Poarch:

This is in regard to your recent request for environmental review of the subject project relating to wetlands and if a Department of the Army permit would be required.

The U.S. Army Corps of Engineers (USACE) has regulatory responsibilities pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403). Under Section 404, the USACE regulates the discharge of dredged and/or fill material into waters of the U.S., including wetlands. Under Section 10, the USACE regulates any work in, or affecting, navigable waters of the U.S.

A review of the information provided indicates the proposed activities would not involve work in waters of the US (streams and/or wetlands); therefore, a Department of the Army permit would not be required.

If you have questions regarding this matter, please contact me at the above address or telephone (615) 369-7504.

Sincerely,

A handwritten signature in cursive script that reads "Lisa R. Morris".

Lisa Morris
Project Manager
Operations Division



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Tennessee Ecological Services Field Office
446 NEAL STREET
COOKEVILLE, TN 38501
PHONE: (931)528-6481 FAX: (931)528-7075

Consultation Tracking Number: 04ET1000-2014-SLI-0841

September 25, 2014

Project Name: New River to Sterling, TN

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project.

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the

human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment



United States Department of Interior
Fish and Wildlife Service

Project name: New River to Sterling, TN

Preliminary Species list

Provided by:

Tennessee Ecological Services Field Office
446 NEAL STREET
COOKEVILLE, TN 38501
(931) 528-6481

Consultation Tracking Number: 04ET1000-2014-SLI-0841

Project Type: Land - Easement / Right-Of-Way

Project Description: Proposed Rail Line Abandonment between Mileposts NR 0.0 and NR 12.63
in Scott County, TN

Preliminary



United States Department of Interior
Fish and Wildlife Service

Project name: New River to Sterling, TN

Project Counties: Scott, TN

Preliminary a/w



United States Department of Interior
Fish and Wildlife Service

Project name: New River to Sterling, TN

Endangered Species Act Species List

There are a total of 30 threatened or endangered species on your species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Critical habitats listed under the **Has Critical Habitat** column may or may not lie within your project area. See the **Critical habitats within your project area** section further below for critical habitat that lies within your project. Please contact the designated FWS office if you have questions.

Clams	Status	Has Critical Habitat	Condition(s)
Alabama lampmussel (<i>Lampsilis virescens</i>) Population: Entire Range; Except where listed as Experimental Populations	Endangered		
Cumberland bean (<i>Villosa trabalis</i>) Population: Entire Range; Except where listed as Experimental Populations	Endangered		
Cumberland bean (<i>Villosa trabalis</i>) Population: AL; Free-Flowing Reach of the Tennessee River below the Wilson Dam, Colbert and Lauderdale Counties, AL	Experimental Population, Non-Essential		
Cumberland bean (<i>Villosa trabalis</i>) Population: U.S.A. (TN - specified portions of the French Broad and Holston Rivers; see 17.85(b)(1))	Experimental Population, Non-Essential		
Cumberland elktoe (<i>Alasmidonta atropurpurea</i>)	Endangered	Final designated	
Cumberlandian combshell (<i>Epioblasma brevidens</i>) Population: Entire Range; Except where	Endangered	Final designated	



United States Department of Interior
Fish and Wildlife Service

Project name: New River to Sterling, TN

listed as Experimental Populations			
Cumberlandian combshell (<i>Epioblasma brevidens</i>) Population: AL; Free-Flowing Reach of the Tennessee River below the Wilson Dam, Colbert and Lauderdale Counties, AL	Experimental Population, Non- Essential		
Cumberlandian combshell (<i>Epioblasma brevidens</i>) Population: U.S.A. (TN - specified portions of the French Broad and Holston Rivers; see 17.85(b)(1))	Experimental Population, Non- Essential		
Finerayed pigtoe (<i>Fusconaia cuneolus</i>) Population: Entire Range; Except where listed as Experimental Populations	Endangered		
Finerayed pigtoe (<i>Fusconaia cuneolus</i>) Population: AL; Free-Flowing Reach of the Tennessee River below the Wilson Dam, Colbert and Lauderdale Counties, AL	Experimental Population, Non- Essential		
Finerayed pigtoe (<i>Fusconaia cuneolus</i>) Population: U.S.A. (TN - specified portions of the French Broad and Holston Rivers; see 17.85(b)(1))	Experimental Population, Non- Essential		
Littlewing pearlymussel (<i>Pegias fabula</i>) Population: Entire	Endangered		
Oyster mussel (<i>Epioblasma capsaeformis</i>) Population: Entire Range; Except where	Endangered	Final designated	



United States Department of Interior
Fish and Wildlife Service

Project name: New River to Sterling, TN

listed as Experimental Populations			
Oyster mussel (<i>Epioblasma capsaeformis</i>) Population: AL; Free-Flowing Reach of the Tennessee River below the Wilson Dam, Colbert and Lauderdale Counties, AL	Experimental Population, Non-Essential		
Oyster mussel (<i>Epioblasma capsaeformis</i>) Population: U.S.A. (TN - specified portions of the French Broad and Holston Rivers; see 17.85(b)(1))	Experimental Population, Non-Essential		
Purple bean (<i>Villosa perpurpurea</i>)	Endangered	Final designated	
Tan riffleshell (<i>Epioblasma florentina walkeri</i> (=e. walkeri)) Population: Entire	Endangered		
Fishes			
Blackside dace (<i>Phoxinus cumberlandensis</i>) Population: Entire	Threatened		
Cumberland darter (<i>Etheostoma susanae</i>) Population: Entire	Endangered		
Duskytail darter (<i>Etheostoma percnum</i>) Population: Entire	Endangered		
Duskytail darter (<i>Etheostoma percnum</i>) Population: Tellico River, TN	Experimental Population, Non-Essential		
Duskytail darter (<i>Etheostoma</i>	Experimental		



United States Department of Interior
Fish and Wildlife Service

Project name: New River to Sterling, TN

<i>percunrum</i> Population: U.S.A. (TN - specified portions of the French Broad and Holston Rivers; see 17.84(q)(1)(ii))	Population, Non-Essential		
Spotfin Chub (<i>Erimonax monachus</i>) Population: Entire	Threatened	Final designated	
Spotfin Chub (<i>Erimonax monachus</i>) Population: Shoal Creek	Experimental Population, Non-Essential		
Spotfin Chub (<i>Erimonax monachus</i>) Population: Tellico River, TN	Experimental Population, Non-Essential		
Spotfin Chub (<i>Erimonax monachus</i>) Population: U.S.A. (TN - specified portions of the French Broad and Holston Rivers; see 17.84(m)(1)(iii))	Experimental Population, Non-Essential		
Flowering Plants			
Cumberland rosemary (<i>Conradina verticillata</i>)	Threatened		
Cumberland sandwort (<i>Arenaria cumberlandensis</i>)	Endangered		
Virginia spiraea (<i>Spiraea virginiana</i>)	Threatened		
Mammals			
Indiana bat (<i>Myotis sodalis</i>) Population: Entire	Endangered		



United States Department of Interior
Fish and Wildlife Service

Project name: New River to Sterling, TN

Critical habitats that lie within your project area

The following critical habitats lie fully or partially within your project area.

Clams	Critical Habitat Type
Cumberland elktoe (<i>Alasmidonta atropurpurea</i>)	Final designated
Cumberlandian combshell (<i>Epioblasma brevidens</i>) Population: Entire Range; Except where listed as Experimental Populations	Final designated
Oyster mussel (<i>Epioblasma capsaeformis</i>) Population: Entire Range; Except where listed as Experimental Populations	Final designated

APPENDIX D

The Cincinnati, New Orleans and Texas Pacific Railway Company

Abandonment in Scott County, Tennessee

Bridge List

Milepost	Spans	Bridge Type	Deck Construction	Length in Feet	Year Constructed	Name of Crossing
NR 1.15	2	Deck Plate Girder/ Timber Trestle	Open	76	1910	New River
NR 2.10	1	Deck Plate Girder	Open	26	unknown	waterway
NR 2.82	1	Deck Plate Girder	Open	26	unknown	Sugar Hollow
NR 4.75	1	Pile Trestle	Open	14	1910	waterway
NR 6.46	1	Pile Trestle	Open	14	1910	Huntsville Branch
NR 9.84	1	Pile Trestle	Open	15	1910	Funks Branch

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB 290 (Sub-No. 355X)

**The Cincinnati, New Orleans and Texas Pacific Railway Company – Abandonment
Exemption – in Scott County, Tenn.**

BACKGROUND

In this proceeding, the Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in Scott County, Tennessee. The rail line proposed for abandonment extends approximately 12.63 miles from milepost NR 0.0 at New River, Tennessee to milepost NR 12.63 near Sterling, Tennessee (the Line). A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, CNOTP will be able to salvage track, ties, and other railroad appurtenances and to dispose of the right-of-way.

ENVIRONMENTAL REVIEW

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

Diversion of Traffic

CNOTP states that no local traffic or overhead traffic has moved over the Line for at least two years. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or of recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

¹ The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 290 (Sub-No. 355X).

Salvage Activities

If abandonment authority is granted in this proceeding, CNOTP states that it would convey the Line to KT Group, LLC (KT Group), which would conduct salvage. Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present in the rail right-of-way, and regrading of the right-of-way. CNOTP anticipates that KT Group would not salvage crossties on the Line because they are not recoverable. CNOTP also states that the contour of the existing underlying roadbed would remain intact and existing drainage systems would not be altered during salvage. There are six bridges on the Line that would be conveyed to KT Group. These structures may be removed during salvage.

Land Use

In response to CNOTP's request for comment on the abandonment, the U.S. Natural Resource Conservation Service (NRCS) states that the abandonment, as proposed, would not result in the conversion of prime farmland. Because the proposed abandonment would occur within an existing rail right-of-way, OEA concurs with the conclusions of NRCS. Accordingly, no mitigation regarding the conservation of agricultural land is recommended.

The National Geodetic Survey (NGS) has not submitted comments regarding the potential impact of the proposed abandonment to any geodetic survey markers that may be present in the project area. Accordingly, OEA is recommending a condition requiring CNOTP to consult with NGS prior to beginning salvage activities.

CNOTP requested comments from Scott County regarding the consistency of the proposed abandonment with existing land use plans, but has received no response to date. Because the proposed abandonment would be limited in scope and would take place within an existing rail right-of-way, OEA does not anticipate that the proposed abandonment would be inconsistent with any existing land use plans.

Water Resources

The Line crosses the New River and appears to cross several small streams. In its review of available geospatial data, OEA also concluded that the Line crosses areas that may contain wetlands.² Given the limited scope of proposed salvage activities, OEA believes that negative impacts to waterways and wetlands are unlikely to occur as a result of the proposed abandonment.

The Tennessee Department of Environment and Conservation, Division of Water Resources (TDEC) submitted comments stating that the proposed abandonment would be

² U.S. Fish and Wildlife Service, National Wetlands Inventory, <http://www.fws.gov/wetlands/Data/Mapper.html> (last visited January 30, 2015).

consistent with applicable water quality standards. TDEC also states that the proposed abandonment would not require a pollutant discharge permit under Section 402 of the Clean Water Act (33 U.S.C. § 1251). Because the proposed abandonment would not result in the discharge of pollutants or alter existing drainage systems, OEA concurs with the conclusions of TDEC. Accordingly, no mitigation regarding water quality is recommended.

CNOTP requested comments from the U.S. Army Corps of Engineers, Nashville District (the Corps) regarding the need for a permit under Section 404 of the Clean Water Act (33 U.S.C. § 1344). In its response, the Corps states that, because the proposed abandonment would not involve any work affecting streams or wetlands, a Section 404 permit would not be required. Because the proposed abandonment would not result in the discharge of dredge or fill material into any waterway, OEA concurs with the conclusions of the Corps. Accordingly, no mitigation regarding impacts to wetlands or waterways is recommended.

Hazardous Materials

CNOTP states that it has no knowledge of any hazardous waste sites or sites where hazardous material spills have occurred on or adjacent to the right-of-way. OEA's review has confirmed that there are no federally listed Superfund sites in the vicinity of the Line.³ Accordingly, no mitigation regarding hazardous waste sites or hazardous material spills is recommended.

Biological Resources

The U.S. Fish and Wildlife Service (USFWS) submitted comments identifying federally listed threatened and endangered species that may be located in the vicinity of the Line. OEA also conducted a search of the USFWS Information, Planning, and Conservation System (IPaC) in order to identify protected species.⁴ The table below shows the protected species known or thought to occur in Scott County, Tennessee, as identified by USFWS and by OEA's search.

³ Environmental Protection Agency, NEPAassist, <http://nepassisttool.epa.gov/nepassist/entry.aspx> (last visited January 29, 2015).

⁴ U.S. Fish and Wildlife Service, Information, Planning, and Conservation System, <http://ecos.fws.gov/ipac/> (last visited January 29, 2015).

Protected Species in Scott County, Tennessee			
Group	Common Name	Scientific Name	Status
Clams	Alabama lampmussel	<i>Lampsilis virescens</i>	Endangered
	Cumberland bean	<i>Villosa trabalis</i>	Endangered
	Cumberland elktoe	<i>Alasmodonta atropurpurea</i>	Endangered
	Cumberlandian combshell	<i>Epioblasma brevidens</i>	Endangered
	Finerayed pigtoe	<i>Fusconaia cuneolus</i>	Endangered
	Littlewing pearlymussel	<i>Pegias fabula</i>	Endangered
	Oyster mussel	<i>Epioblasma capsaeformis</i>	Endangered
	Purple bean	<i>Villosa perpurpurea</i>	Endangered
	Tan riffleshell	<i>Epioblasma florentina</i>	Endangered
Fishes	Blackside dace	<i>Phoxinus cumberlandensis</i>	Threatened
	Cumberland darter	<i>Etheostoma susanae</i>	Endangered
	Duskytail darter	<i>Etheostoma percnurum</i>	Endangered
	Spotfin Club	<i>Erimonax monachus</i>	Threatened
Flowering Plants	Cumberland rosemary	<i>Conradina verticillata</i>	Threatened
	Cumberland sandwort	<i>Arenaria cumberlandensis</i>	Endangered
	Virginia spiraea	<i>Spiraea virginiana</i>	Threatened
Mammals	Indiana bat	<i>Myotis sodalist</i>	Endangered

USFWS identified critical habitat for three species—the Cumberland elktoe, the Cumberlandian combshell, and the Oyster mussel—within Scott County, Tennessee. OEA notes that, based on a search using the USFWS critical habitat mapping tool, the Line does not appear to be located near the critical habitat areas identified by USFWS.⁵

OEA notes that the Line crosses or is located adjacent to several waterways where aquatic protected species (fishes and/or clams) could potentially be present. Among the plant species identified by USFWS, Cumberland rosemary and Virginia spiraea are typically found in sandy to silty soils, such as may occur along streambeds, and may therefore be present in areas where the Line crosses streams. Cumberland sandwort typically occurs on sandstone cliff ledges and in shady areas along cliff lines, and is therefore unlikely to occur within the rail right-of-

⁵ U.S. Fish and Wildlife Service, Critical Habitat Portal, <http://ecos.fws.gov/ipac/> <http://ecos.fws.gov/crithab/> (last visited January 29, 2015).

way. Because salvage would be limited in scope and would take place within an existing rail right-of-way, OEA does not anticipate adverse impacts to any species that may be present in the project area. However, because one or more protected species may be present within or adjacent to the rail right-of-way, we are recommending a condition requiring CNOTP to consult with USFWS and to comply with that agency's reasonable recommendations. OEA is sending a copy of this EA to USFWS for review and comment.

Air Quality

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality.

Noise

Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

Summary

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. OEA is providing a copy of this EA to USFWS for that agency's review and comment.

HISTORIC REVIEW

According to CNOTP, the Line was constructed in 1941 as the Brimstone Railroad. The Brimstone Railroad operated as a private carrier for the New River Lumber Company. Both the railroad and the lumber company were owned by the W.M. Ritter Company. The Interstate Commerce Commission authorized the Brimstone Railroad to operate as a common carrier in 1942. Brimstone Railroad subsequently abandoned the Line in 1965. CNOTP formed the New River Railway Company, a wholly-owned subsidiary, which acquired the physical properties of the Line and began operating as a common carrier in 1966.

There are six structures within the right-of-way (the Area of Potential Effect or APE) of the proposed abandonment. CNOTP states that these structures are bridges that are relatively short in length and ordinary in design and construction.

CNOTP served the Historic Report, including topographic maps of APE, on the Tennessee Historical Commission (State Historic Preservation Officer or SHPO), pursuant to 49 C.F.R. § 1105.8(c). To date, the SHPO has not provided comments. To the best of OEA's knowledge, the Line and its associated structures are not listed on the National Register of Historic Places (National Register). Because OEA has not been able to consider the SHPO's opinion, however, we are unable to determine whether the Line or any structures associated with it may be eligible for listing on the National Register. Accordingly, we are recommending a condition requiring CNOTP to retain its interest in and take no steps to alter the historic integrity

of all historic properties, including sites, buildings, structures and objects within the APE eligible for listing or listed in the National Register, until the Section 106 process has been completed. Guidance regarding the Board's historic preservation review process is available on the Board's website at <http://www.stb.dot.gov/stb/environment/preservation.html>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the National Park Service Native American Consultation Database to identify federally recognized tribes that may have ancestral connections to the project area.⁶ The search identified one federally recognized tribe, the Eastern Band of Cherokee Indians of North Carolina, as potentially having knowledge regarding properties of traditional religious and cultural significance within the right-of-way of the proposed abandonment. Accordingly, OEA is sending a copy of this EA to that tribe for review and comment.

CONDITIONS

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

- 1. Prior to the commencement of any salvage activities, The Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP) shall consult with the National Geodetic Survey (NGS). If NGS identifies geodetic station markers that may be affected by the proposed abandonment, CNOTP shall notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers in order to plan for the possible relocation of the geodetic station markers by NGS.**
- 2. Prior to the commencement of any salvage activities, The Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP) shall consult with the U.S. Fish and Wildlife Service (USFWS) regarding the potential impact of salvage activities on federally listed threatened and endangered species in the project area and shall comply with the reasonable recommendations of USFWS to mitigate any potential impacts. CNOTP shall report the results of any consultations with USFWS to the Board's Office of Environmental Analysis.**
- 3. The Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP) shall retain its interest in and take no steps to alter the historic integrity of all historic properties, including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f, has been completed. CNOTP shall report back to the Office of Environmental Analysis (OEA) regarding any**

⁶ National Park Service, National NAGPRA Program Native American Consultation Database, <http://grants.cr.nps.gov/nacd/index.cfm> (last visited January 30, 2015).

consultations with the Tennessee Historical Commission (State Historic Preservation Officer or SHPO) and the public. CNOTP may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

CONCLUSIONS

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

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

PUBLIC USE

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

TRAILS USE

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

PUBLIC ASSISTANCE

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

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to

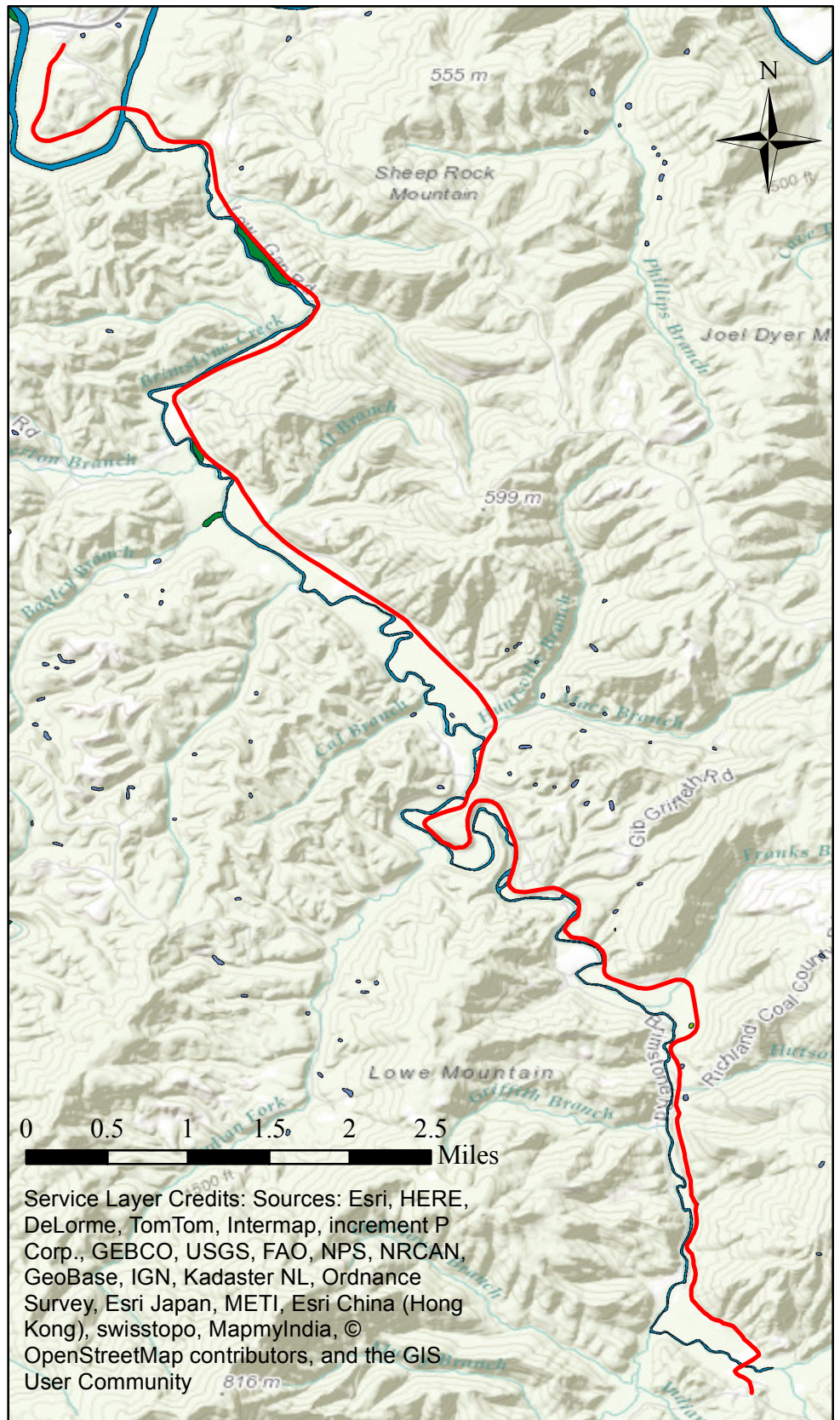
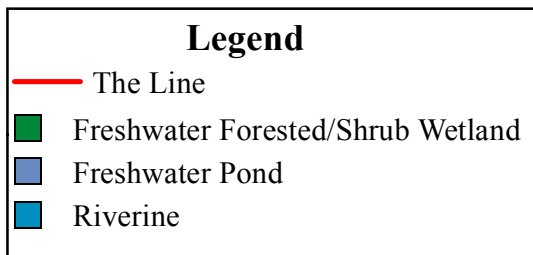
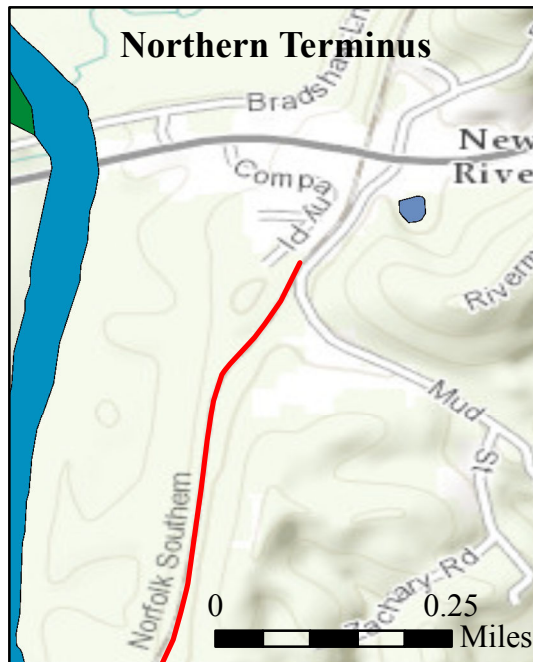
the attention of Joshua Wayland, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-290 (Sub-No. 355X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Joshua Wayland, the environmental contact for this case, by phone at (202) 245-0330, fax at (202) 245-0454, or e-mail at waylandj@stb.dot.gov.

Date made available to the public: February 9, 2015.

Comment due date: February 24, 2015.

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

AB 290 (Sub-No. 355X)
The Cincinnati, New Orleans and Texas Pacific Railway Company
– Abandonment Exemption –
in Scott County, Tenn.



Maps produced by the Surface Transportation Board, Office of Environmental Analysis are based on information provided by the rail applicant and are for general reference purposes only.