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WILLIAM A. MULLINS

ENTERED
 Office of Proceedings
 January 15, 2015
 Part of
 Public Record

(202) 663-7823 (Direct Dial)
 E-Mail: wmullins@bakerandmiller.com

January 15, 2015

BY HAND DELIVERY

Cynthia T. Brown, Chief
 Section of Administration, Office of Proceedings
 Surface Transportation Board
 395 E Street, SW
 Washington DC 20423-0001

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

Dear Ms. Brown:

Enclosed are an original and eleven copies of a Verified Notice of Exemption by The Cincinnati, New Orleans and Texas Pacific Railway Company (“CNOTP”) to abandon rail service over an approximately 12.63-mile rail line extending from milepost NR 0.0 (at New River, TN) to milepost NR 12.63 (at Sterling, TN). Please acknowledge receipt and filing of this notice of exemption by date-stamping the enclosed eleventh copy and returning it to the courier for return to me. This submission also includes an electronic copy of the entire filing and a separate electronic file of a draft Federal Register notice.

Finally, pursuant to 49 C.F.R. § 1002.2(f)(21)(ii), I have enclosed a filing fee check in the amount of \$3,800.00. If there are any questions about this matter, please contact me directly, either by telephone: 202-663-7823 or by e-mail: wmullins@bakerandmiller.com.

Sincerely,

William A. Mullins
 Attorney for Cincinnati, New Orleans and Texas
 Pacific Railway Company

Enclosures

cc: Marc Kirchner
 Maquiling Parkerson
 Lawada Poarch

FILED
 January 15, 2015
 SURFACE
 TRANSPORTATION BOARD

FEE RECEIVED
 January 15, 2015
 SURFACE
 TRANSPORTATION BOARD

**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

**Maquiling B. Parkerson
General Attorney
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510
Telephone: (757) 533-4939
Facsimile: (757) 533-4872**

**William A. Mullins
Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., NW
Suite 300
Washington, DC 20037
Tel: (202) 663-7820
Fax: (202) 663-7849**

**Attorneys for The Cincinnati, New
Orleans and Texas Pacific Railway
Company**

January 15, 2015

**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

The Cincinnati, New Orleans and Texas Pacific Railway Company (“CNOTP”) hereby submits a verified notice of exemption pursuant to 49 C.F.R. part 1152, subpart F (Exempt Abandonments and Discontinuances of Service and Trackage Rights) for CNOTP to abandon approximately 12.63 miles of rail line (referred to herein as the “Line”) located in Scott County, Tennessee. The Line extends from milepost NR 0.0 (at New River, TN) to milepost NR 12.63 (at Sterling, TN). The Line traverses United States Postal Zip Code territories 37755 and 37852. There are no customers served on the Line, and the Line has been dormant for many years.

In accordance with the requirements of 49 C.F.R. §§ 1152.50(b) and (d), CNOTP provides the following information in support of this notice of abandonment:

Certification: 49 C.F.R. § 1152.50(b)

Under the exemption provisions at 49 C.F.R. part 1152, subpart F, CNOTP certifies that the Line satisfies the criteria for abandonment. See Certification of T.L. Reynolds, General Manager Western Region for The Cincinnati, New Orleans and Texas Pacific Railway Company (Exhibit A). During the past two years, CNOTP has provided no local or overhead common carrier service over the Line, nor has it received any requests for common carrier service over it.

Proposed Consummation Date: 49 C.F.R. § 1152.50(d)(2)

The proposed abandonment will be consummated on or after March 6, 2015 (50 days after filing the notice of exemption).

Additional Information Required: 49 C.F.R. §§ 1152.22(a)(1)-(4), (7)-(8) and (e)(4)

Exact name of applicant (49 C.F.R. § 1152.22(a)(1)):

The Cincinnati, New Orleans and Texas Pacific Railway Company

Whether applicant is a common carrier by railroad (49 C.F.R. § 1152.22(a)(2)):

CNOTP is a common carrier by railroad subject to the Board's jurisdiction under 49 U.S.C. Subtitle IV, chapter 105.

Relief sought (49 C.F.R. § 1152.22(a)(3)):

CNOTP hereby invokes the Board's two-year-out-of-service class exemption procedures to abandon approximately 12.63 miles of rail line. The Line extends from milepost NR 0.0 (at New River, TN) to milepost NR 12.63 (at Sterling, TN). All of the track is located in Scott County, Tennessee. The Line traverses United States Postal Zip Code territories 37755 and 37852. There are no customers served on the subject Line, and the Line has been dormant for many years. Following abandonment, CNOTP will convey the Line to KT Group, LLC. KT Group, L.L.C. will be required, by contract, to abide by any STB environmental conditions in performing salvage on the Line. There are six bridges on the Line that are also being conveyed to KT Group, L.L.C.

Map (49 C.F.R. § 1152.22(a)(4)):

A detailed map showing the location of the Line is attached hereto as Exhibit B.

Applicant's representative (49 C.F.R. § 1152.22(a)(7)):

CNOTP's representatives to whom correspondence regarding this proceeding should be sent is as follows:

William A. Mullins
Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., NW, Suite 300
Washington, DC 20037
Tel: (202) 663-7820
Fax: (202) 663-7849

USPS ZIP codes (49 C.F.R. § 1152.22(a)(8)):

The Line is located in the following United States Postal Zip Code territories 37755 and 37852.

Suitability of the Line for Other Public Purposes (49 C.F.R. § 1152.22(e)(4)):

CNOTP does not have fee title to the entire right-of-way underlying the line segment proposed for abandonment. Thus, CNOTP may not have the legal right to convey the corridor for re-deployment for possible alternative public use. Subject to the foregoing, CNOTP is unaware of any restrictions on the title to the right-of-way that would affect the transfer of title or the use of property for other than rail purposes. Because of the title uncertainty, CNOTP has no opinion about whether the right-of-way would be suited for other public purposes. Following abandonment, CNOTP will convey the Line and whatever legal rights it has in the right-of-way to KT Group, LLC. KT Group, L.L.C. will be required, by contract, to abide by any STB environmental conditions in performing salvage on the Line. There are six bridges on the Line that are also being conveyed to KT Group, L.L.C. The Line does not contain federally-granted right-of-way. As appropriate, CNOTP is willing promptly to make available any information in its possession to anyone so requesting it.

Labor Protection

Because the Line has been dormant for well over two years, no railroad employees will be adversely affected by exercise of abandonment authority. Nevertheless, the interests of CNOTP employees who may be adversely affected by the proposed abandonment will be adequately protected by the labor protective conditions set forth in Oregon Short Line R. Co – Abandonment – Goshen, 360 I.C.C. 91 (1979).

Certifications

Attached hereto as Exhibit C are Certificates of Service and Publication certifying compliance with the advance notice and newspaper publication requirements set forth at 49 C.F.R. § 1152.50(d)(1) and 49 C.F.R. § 1105.12, respectively. Attached as part of Exhibit D is a certificate of compliance with the advance notice requirements for Environmental and Historic Reports as set forth at 49 C.F.R. § 1105.11.

Environmental and Historic Report

As is reflected in the certificate of compliance with the provisions of 49 C.F.R. § 1105.11 (see Exhibit D), CNOTP has prepared a combined Environmental and Historic Report (“E&HR”) in anticipation of the proposed abandonment of the Line that conforms to the requirements of 49 C.F.R. §§ 1105.7 and 1105.8. A copy of the E&HR is attached hereto as Attachment 1 to Exhibit D (§ 1105.11 certification).

Respectfully submitted,



Maquiling B. Parkerson
General Attorney
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510
Telephone: (757) 533-4939
Facsimile: (757) 533-4872

William A. Mullins
Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., NW
Suite 300
Washington, DC 20037
Tel: (202) 663-7820
Fax: (202) 663-7849

January 15, 2015

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

**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**

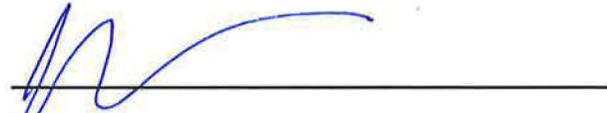
VERIFIED NOTICE OF EXEMPT ABANDONMENT

VERIFICATION

Verification

I, John Friedmann, Vice President for Norfolk Southern Railway Company, parent company of The Cincinnati, New Orleans and Texas Pacific Railway Company ("CNOTP"), hereby verify under penalty of perjury that to the best of my knowledge the foregoing abandonment notice of exemption is true and correct. Further, I certify that I am qualified and authorized to make such verification on behalf of CNOTP in connection with this proceeding before the Surface Transportation Board.

Executed this fifth day of December, 2014



John H. Friedmann
Vice President

**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 A

CNOTP CERTIFICATION

CERTIFICATION

STATE OF GEORGIA:

ss:

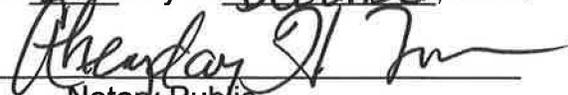
CITY OF ATLANTA:

T. L. Reynolds makes oath and says that he is General Manager Western Region for Cincinnati, New Orleans and Texas Railway Company; that the rail line between Mileposts NR 0.0 and NR 12.63, over which service is to be abandoned, is subject to his supervision and direction; that no local traffic has moved over the line for at least two years, that no overhead traffic has moved over the line for at least two years and that overhead traffic, if there were any, could be rerouted over other lines; and that no formal complaint filed by a user of rail service on the line or a state or local government entity acting on behalf of such user regarding cessation of service over the line either is pending before the Surface Transportation Board or any U. S. District Court or has been decided in favor of the complainant within the two-year period.



T. L. Reynolds

Subscribed and sworn to before me
this 2 day of December, 2014.



Notary Public

My commission expires:

9/16/18

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

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

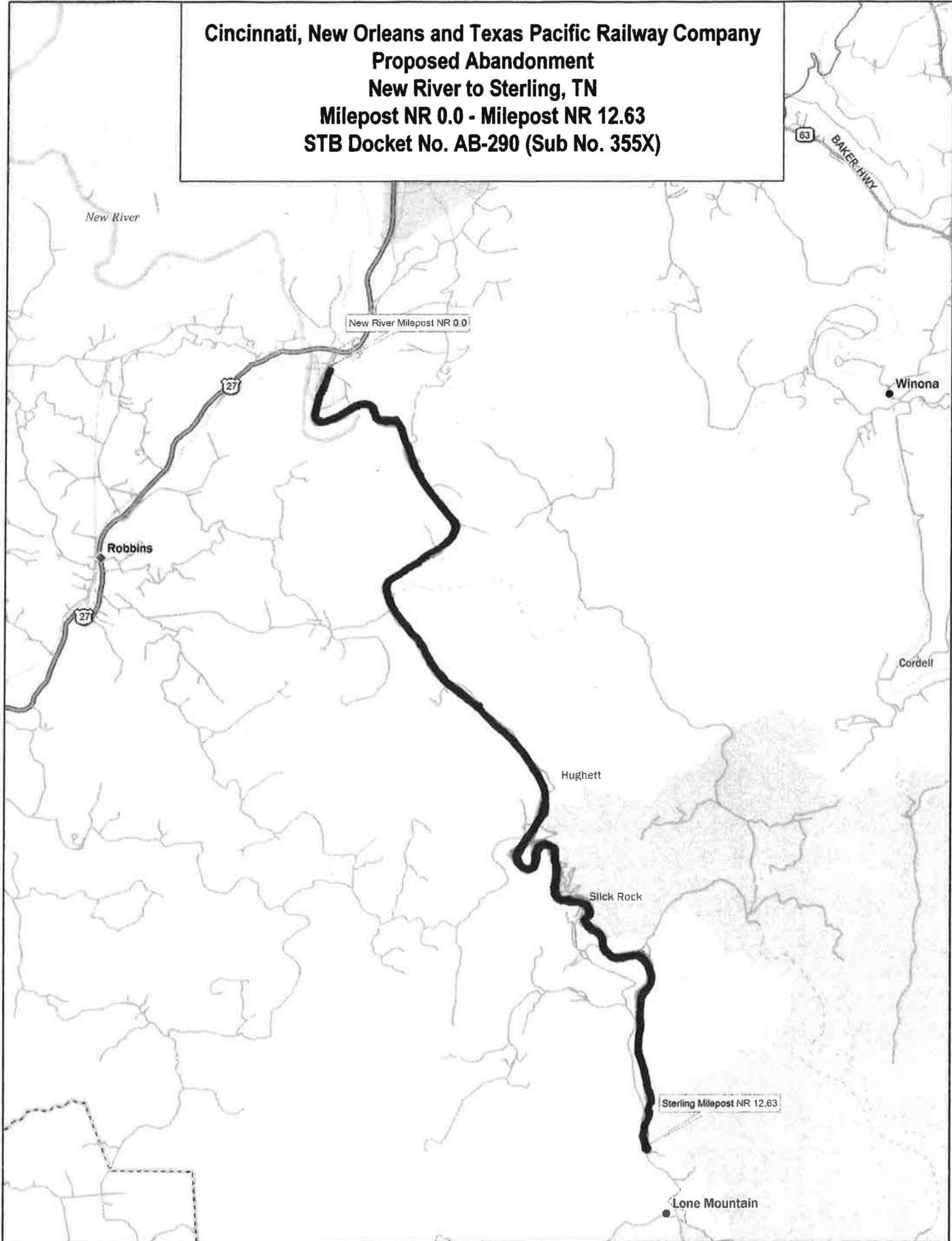
**THE CINCINNATI, NEW ORLEANS AND TEXAS PACIFIC RAILWAY COMPANY
– ABANDONMENT EXEMPTION –
IN SCOTT COUNTY, TENNESSEE**

VERIFIED NOTICE OF EXEMPT ABANDONMENT

EXHIBIT B

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



**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 C

CERTIFICATES OF SERVICE/PUBLICATION

Certificate of Service of Advance Notice

49 C.F.R. § 1152.50(d)(1) – Notice

I certify that, on December 24, 2014, in keeping with 49 C.F.R. § 1152.50(d)(1), I caused the following parties to be served with written notice of the intent of The Cincinnati, New Orleans and Texas Pacific Railway Company to invoke the Board's notice of exemption procedures to abandon approximately 12.63 miles of rail line located in Scott County, Tennessee:

Public Service Commission, et al.

Herb Hilliard
Chairman
Tennessee Regulatory Authority
502 Deaderick Street, 4th Floor
Nashville, TN 37243

John Schroer
Commissioner of Transportation
Tennessee Department of Transportation
James K. Polk Building, Suite 700
505 Deaderick Street
Nashville, TN 37243-0349

Department of Defense (Military Traffic Management Command, Transportation Engineering Agency, Railroads for National Defense Program)

David Dorfman
SDDCTEA
Railroads for National Defense
709 Ward Dr., Bldg. 1990
Scott AFB, IL 62225

The National Park Service, Recreation Resources Assistance Division

Charlie Stockman
National Park Service
Rivers & Trails Conservation Program
1201 Eye Street, NW, 9th Floor (Org. Code 2220)
Washington, D.C. 20005

U.S. Department of Agriculture, Chief of the Forest Service

Thomas L. Tidwell, Chief
Forest Service
U.S. Department of Agriculture
Sidney R. Yates Federal Building
201 14th Street SW
Washington, DC 20024

January 15, 2015



William A. Mullins
Attorney for The Cincinnati, New Orleans and Texas
Pacific Railway Company

Certificate of Newspaper Publication

49 C.F.R. § 1105.12 – Newspaper Notice

I certify that a “Notice of Intent to Abandon Rail Service” was published in a newspaper of general circulation in the county in which the Line is located and in the form prescribed by the Board for abandonment notices of exemption (49 C.F.R. § 1105.12). The notice was published one time on January 12, 2015, in The Independent Herald, a newspaper of general circulation in Scott County, Tennessee. As of January 15, 2015, CNOTP has confirmed publication in the newspaper, but we have not yet received the standard affidavit of publication that typically follows.

January 15, 2015



William A. Mullins
Attorney for The Cincinnati, New Orleans and
Texas Pacific Railway Company

**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

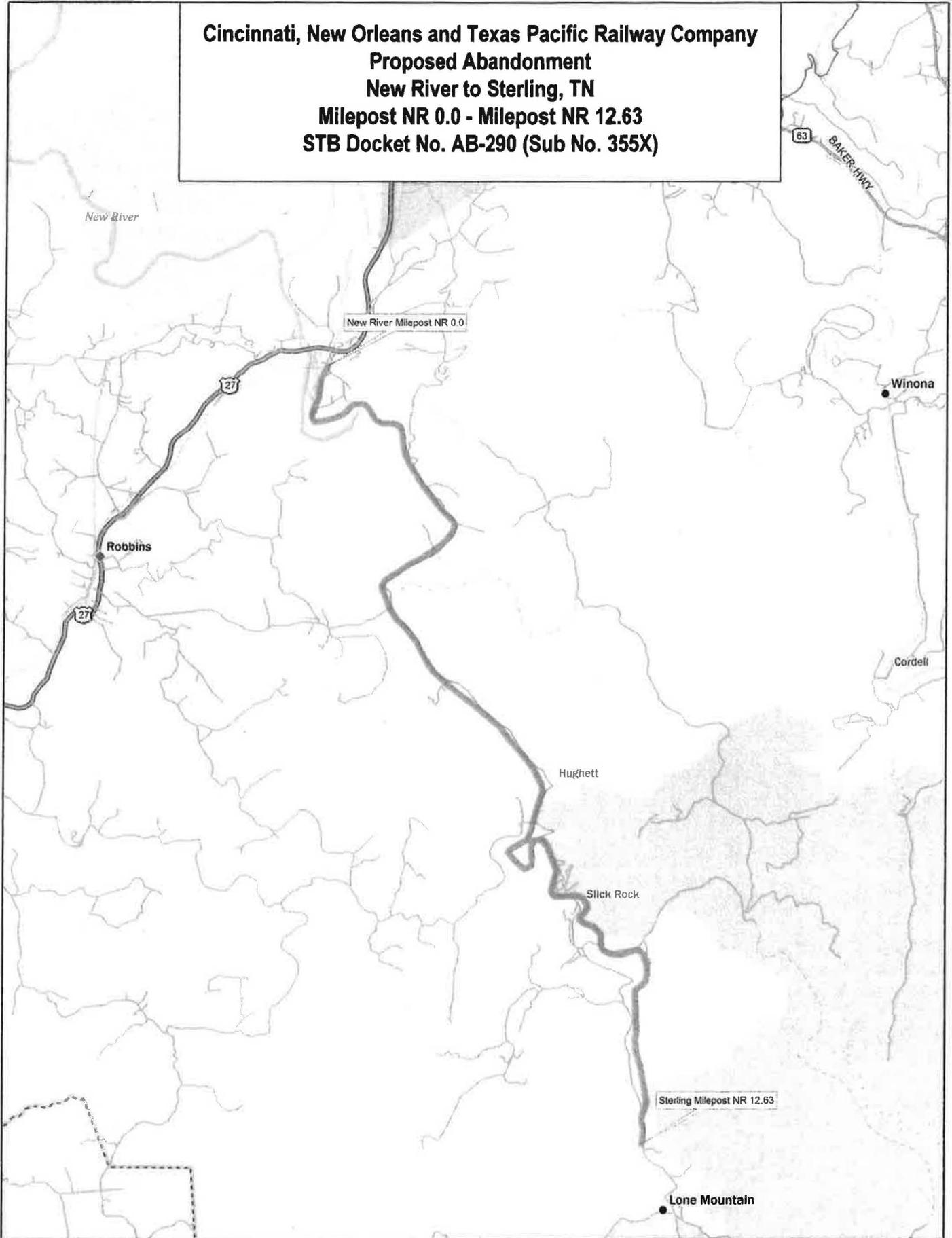
The railroad is not aware of any prior subsurface ground disturbances or environmental conditions that would affect archaeological recovery. Moreover, abandonment of the line and salvage of material from its surface will not affect any potential archaeological resources. The subsurface of the right-of-way 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)**



Data use subject to license.



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
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



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 'MKirchner', written in a cursive style.

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
Project Name: New River to Sterling, TN

September 25, 2014

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 pearl mussel <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

**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

**DRAFT NOTICE OF EXEMPTION
[CAPTION SUMMARY]**

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

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

The Cincinnati, New Orleans and Texas Pacific Railway Company – Abandonment Exemption –
In Scott County, Tennessee

The Cincinnati, New Orleans and Texas Pacific Railway Company (“CNOTP”) has filed on January 15, 2015, a verified notice of exemption under 49 C.F.R. part 1152 subpart F–Exempt Abandonments to abandon approximately 12.63 miles of rail line (referred to herein as the “Line”) located in Scott County, Tennessee. The Line extends from milepost NR 0.0 (at New River, TN) to milepost NR 12.63 (at Sterling, TN). The Line traverses United States Postal Zip Code territories 37755 and 37852. All of the track is located in Scott County, Tennessee.

CNOTP has certified that: (1) no local traffic has moved over the Line for at least 2 years; (2) that no overhead traffic has moved over the Line for at least two years and that overhead traffic, if there were any, could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 C.F.R. § 1105.7(c) (environmental report), 49 C.F.R. § 1105.11 (transmittal letter), 49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line Railroad – Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To

address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on February __, 2015, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,¹ formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),² and trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by _____, 2015. Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by _____, 2015, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to CNOTP's representative:
William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave., NW, Suite 300,
Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void ab initio.

CNOTP has filed a combined environmental and historic report which addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by _____, 2015. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423-0001) or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available

¹ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

² Each OFA must be accompanied by the filing fee, which is currently set at \$1,600. See 49 C.F.R. § 1002.2(f)(25).

through the Federal Information Relay Service (FIRS) at 1-800-877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 C.F.R. § 1152.29(e)(2), CNOTP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by CNOTP's filing of a notice of consummation by _____, 2015, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: _____, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.