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December 15, 2015

BY E-FILING

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

Re: Trustees of the Cincinnati Southern Railway Company – Abandonment Exemption – In Scott County, Tennessee, AB-557 (Sub-No. 1X)
Notice of Consummation & Transfer of Responsibility for Complying with Salvaging Conditions

Dear Ms. Brown:

On October 8, 2015, the Trustees of the Cincinnati Southern Railway Company (“CSR”), which holds legal title to the CSR line for the benefit of the City of Cincinnati, filed a verified notice of exemption (“Notice”) under 49 C.F.R. part 1152 subpart F – Exempt Abandonments for CSR to abandon approximately 3.09 miles of rail line (referred to herein as the “CSR Line”) extending from milepost NR 215.61 (near Helenwood) to milepost NR 218.7 (at New River) in Scott County, Tennessee.¹ Notice of the exemption was served and published in the Federal Register on October 28, 2015 (80 Fed. Reg. 66,122).

¹ This proceeding is related to The Cincinnati, New Orleans and Texas Pacific Railway Company – Discontinuance of Service Exemption – In Scott County, Tennessee, AB-290 (Sub-No. 354X)(STB served June 12, 2015) in which The Cincinnati, New Orleans and Texas Pacific Railway Company (“CNOTP”), a long term lessee of the CSR Line, obtained authority to discontinue its operations over the CSR Line. During the AB-290 (Sub-No. 354X) proceeding, CNOTP mistakenly believed that CSR was not a carrier for which abandonment authority would be required. As such, CNOTP did not coordinate with CSR to have CSR seek abandonment authority in conjunction with CNOTP’s discontinuance. However, CSR is in fact a rail carrier subject to the jurisdiction of the Board and therefore CSR needed independent abandonment authority. See In the Matter of the Application of the Cincinnati, New Orleans & Texas Pacific

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As explained in the Notice,² CSR initiated this abandonment with the intention of selling CSR's interest in the underlying right-of-way to KT Group, LLC. ("KTG") once CSR received abandonment authority from the Board.³ In a decision served November 2, 2015, the Board's Office of Environmental Analysis ("OEA") issued its Environmental Assessment, which recommended that the Board impose three self-executing salvage conditions. The Board imposed the three recommended conditions in a subsequent decision served on November 25, 2015 ("Nov. 25th Decision"). The exemption became effective on November 27, 2015. As indicated by the Nov. 25th Decision, these conditions must be satisfied prior to commencing salvage.

Under existing precedent, a condition imposed under the National Environmental Policy Act ("NEPA") that is related to salvage activities is not a regulatory barrier to consummation of abandonment authority.⁴ As explained by the Board in its Consummation Decision, "a notice of consummation may be filed prior to satisfying ... salvage condition[s];" however, "filing a notice of consummation in that situation does not remove the condition, which must still be satisfied if and when salvage activities are conducted." *Id.* Moreover, when consummation of a line subject to NEPA conditions is sold prior to the owner satisfying the salvaging conditions imposed, the successor interest must show that it agrees to abide by the salvage conditions, by including the conditions in the instrument of conveyance. *Id.* at 5.

Because KTG will acquire the CSR Line prior to salvage, and the salvage conditions have not yet been fulfilled, KTG has agreed to abide by the salvage conditions. Accordingly, consistent with the Consummation Decision, CSR and KTG have executed Amendment 1 – To July 8, 2014 Purchase and Sale Agreement (Instrument of Conveyance). The Amendment ensures that KTG, as the successor in interest, has agreed to abide by and fully comply with any salvage conditions imposed by the Board and to be solely responsible for any liabilities or

Railway Company for Authority to Assume, as Lessee of the Cincinnati Southern Railway, Obligations in Respect of In an Issue of Bonds of The City of Cincinnati, FD 1098 (STB served Dec. 15, 1920). This proceeding is also related to The Cincinnati, New Orleans and Texas Pacific Railway Company – Abandonment Exemption – In Scott County, Tennessee, STB Docket No. AB-290 (Sub-No. 355X) (STB served February 4, 2015) whereby CNOTP sought abandonment authority for a 12.63 mile segment of track that it owned and operated over and which connected to the CSR Line.

² See Notice at 4.

³ On July 8, 2014, CSR, CNOTP, and KTG (collectively, the "Parties") entered into to a purchase and sale agreement pursuant to which KTG agreed to acquire the CSR Line once abandonment authority was granted.

⁴ See Consummation of Rail Line Abandonments that are Subject to Historic Preservation and Other Environmental Conditions, EP 678, FN 1 (April 23, 2008) ("Consummation Decision"), discussing Santa Clara Valley Transportation Authority – Abandonment Exemption—In Santa Clara and Alameda Counties, CA, AB-980X (Consummation Notice filed on May 8, 2007).

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obligations arising from such Board imposed salvage conditions.⁵ Accordingly, because CSR desires to consummate its abandonment authority and transfer the Line to KTG, CSR hereby notifies the Board that in accordance with the provisions of 49 C.F.R. § 1152.29(e)(2) and the Board's Nov. 25th Decision, CSR has consummated its abandonment authority and will transfer responsibility for complying with the salvage conditions from CSR to KTG.

Should you have any questions concerning this Notice of Consummation & Transfer of Responsibility for Complying with Salvaging Conditions, please contact the undersigned counsel for CSR.

Sincerely,



William A. Mullins
Counsel for Trustees of the Cincinnati Southern
Railway Company

Enclosure

cc: Emily Woerner
Maqui Parkerson
Dwayne King (KT Group, LLC)
Herb Hillard (Tennessee Regulatory Authority)
John Schroer (Tennessee Department of Transportation)

⁵ Per the Consummation Decision, a copy of the instrument of conveyance between the seller and successor interest must be submitted to the Board for inclusion in the pertinent abandonment proceeding. See Exhibit 1 (Amendment 1 – To July 8, 2014 Purchase and Sale Agreement (Instrument of Conveyance)).

Board of Trustees
CINCINNATI SOUTHERN RAILWAY

November 17, 2015

c/o Office of City Solicitor
City of Cincinnati

801 Plum Street, Suite 214
Cincinnati, Ohio 45202
Phone (513) 352-3334
FAX (513) 352-1515

Thomas C. Kilcoyne
President

Mr. Dwayne King
KT Group, LLC
P.O. Box 10
Winfield, TN 37892

Re: Trustees of the Cincinnati Southern Railway Company –
Abandonment Exemption – in Scott County, Tennessee, AB 557
(Sub-No. 1X)
Amendment 1 – To July 8, 2014 Purchase and Sale Agreement

Dear Mr. King:

The Trustees of the Cincinnati Southern Railway ("Trustees"), The Cincinnati, New Orleans and Texas Pacific Railway Company ("CNO&TP"), and KT Group, LLC ("KTG") are parties to a purchase and sale agreement dated July 8, 2014 ("Agreement"), under which KTG agreed to acquire the Trustees owned and CNO&TP leased rail line located in Scott County, Tennessee between mileposts NR 215.61 and NR 218.70 (the "Helenwood Branch"). The Parties now wish to amend the Agreement by entering into this letter agreement.

CNO&TP filed for and acquired authority from the Surface Transportation Board ("Board") to discontinue its operations over the Helenwood Branch. CNO&TP and the Trustees subsequently determined that the Trustees, as owner of the Helenwood Branch and holder of a residual common carrier obligation, also needed to obtain abandonment authority from the Board to remove the Trustees' residual common carrier obligation on the Helenwood Branch. Accordingly, on October 8, 2015, the Trustees filed a notice of exemption to abandon its residual common carrier over the Helenwood Branch.

On November 2, 2015, the Board's Office of Environmental Analysis ("OEA") issued the enclosed environmental assessment ("EA") recommending that the Board impose certain conditions that must be satisfied prior to the commencement of salvage activities on the Helenwood Branch. More specifically, OEA has recommended that the Board require the Trustees to consult with two state agencies (Tennessee Wildlife Resources Agency and Office of the Mayor of Scott County,

Mr. King, KT Group LLC
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Tennessee) and to provide ninety (90) days' notice to the National Geodetic Survey prior to commencing salvage activities.

The Trustees expect that the Board's abandonment authority for the Helenwood Branch will become effective on November 27, 2015, subject to the recommended environmental conditions. The imposition of such conditions, however, does not bar the Trustee's from consummating the abandonment authority and transferring the Helenwood Branch to KTG as long as KTG – the salvaging entity in this case – agrees to fulfill the any Board imposed consultation or pre-salvage environmental conditions before undertaking any salvage activity.¹ Accordingly, the Parties wish to enter into this letter agreement to amend the Agreement so as to require KTG to satisfy any conditions imposed by the Board prior to its commencement of salvage activities for the Helenwood Branch and to be solely responsible for any liabilities or obligations arising from such Board imposed pre-salvage conditions.

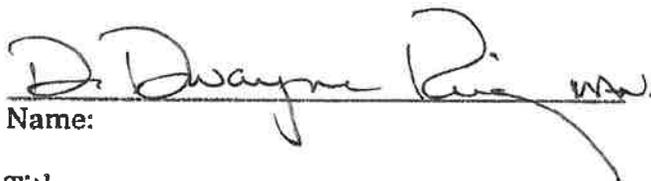
By signing in the space below and returning one fully executed original to me for our records, KTG consents to consider this letter as an amendment to the Agreement whereby KTG agrees to abide by and fully comply with any pre-salvage conditions imposed by the Board in the above referenced proceeding and to be solely responsible for any liabilities or obligations arising from such Board imposed pre-salvage conditions.

Respectfully,



Thomas C. Kilcoyne
President, Board of Trustees of the Cincinnati Southern Railway

Acknowledged and Accepted on Behalf of KT Group, LLC By:



Name:

Title:

MANAGED

¹ Consummation of Rail Line Abandonments that are Subject to Historic Preservation and Other Environmental Conditions, EP 678 (April 23, 2008).