

37532

SERVICE DATE – NOVEMBER 24, 2006

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-290 (Sub-No. 280X)]

The Cincinnati, New Orleans and Texas Pacific Railway Company — Abandonment
Exemption — in Roane County, TN

On November 6, 2006, The Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP), a wholly owned subsidiary of Norfolk Southern Railway Company, filed with the Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon an approximately 1.10-mile line of railroad extending from milepost 156.9-H to milepost 158.0-H in Rockwood, Roane County, TN.¹ The line traverses United States Postal Service Zip Code 37854 and serves the station at Rockwood, where CNOTP will continue to provide rail service.

In addition to an exemption from 49 U.S.C. 10903, CNOTP seeks exemption from the offer of financial assistance (OFA) and public use provisions at 49 U.S.C. 10904 and 49 U.S.C. 10905, respectively. In support, CNOTP contends that an exemption from

¹ On August 15, 2005, CNOTP filed a petition for exemption to abandon this same line based solely on the proposition that there was no need for continued operations over the line because no shipper would lose any service it required. CNOTP did not attempt to justify that petition based on operating losses. When a shipper on the line, Horsehead Corp. (Horsehead), opposed the abandonment, the Board denied the petition without prejudice to the subsequent filing of an application or a properly supported petition for exemption to abandon the line. See The Cincinnati, New Orleans and Texas Pacific Railway Company — Abandonment Exemption — In Roane County, TN, STB Docket No. AB-290 (Sub-No. 236X), slip op. at 3 (STB served Dec. 2, 2005).

these provisions is necessary to permit conveyance of the line to Franklin Industries (Franklin) for continued operation as a private rail line.² Also, CNOTP intends to continue to use the line, under an agreement with Franklin, as an interchange track to interchange freight traffic with both Franklin and Horsehead.³ These additional exemption requests will be addressed in the final decision.

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

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

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by February 23, 2007.

Any OFA under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption, unless the Board grants the requested exemption from the OFA process. Each OFA must be accompanied by a \$1,300 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Unless the Board grants the requested exemption from the public use provisions, any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than December 14, 2006.

² Franklin previously acquired a 15.4-mile line of railroad (known as the Crab Orchard Line) from CNOTP. See The Cincinnati, New Orleans and Texas Pacific Railway Company — Abandonment Exemption — in Cumberland and Roane Counties, TN, STB Docket No. AB-290 (Sub-No. 208X) (STB served Nov. 15, 2000).

³ In this filing, CNOTP states that Horsehead's name is Horsehead Resource Development, Inc.

Each trail use request must be accompanied by a \$200 filing fee. See
49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB-290 (Sub-No. 280X) and must be sent to: (1) Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001; and (2) James R. Paschall, Norfolk Southern Railway Company, Three Commercial Place, Norfolk, VA 23510. Replies to the petition are due on or before December 14, 2006.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565-1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

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

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

Decided: November 15, 2006.

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

Vernon A. Williams

Secretary