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SERVICE DATE – FEBRUARY 4, 2015

DO

FR-4915-01-P

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, Tenn.

The Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP), a wholly owned subsidiary of Norfolk Southern Railway Company, has filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon approximately 12.63 miles of rail line from milepost NR 0.0 at New River to milepost NR 12.63 at Sterling, in Scott County, Tenn. (the Line).<sup>1</sup> The Line traverses United States Postal Service Zip Codes 37755 and 37852.

CNOTP has certified that: (1) no local traffic has moved over the Line for at least two years; (2) 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

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<sup>1</sup> CNOTP states that, following abandonment, CNOTP intends to convey the Line, its legal rights to the right-of-way, in addition to six bridges that are located on the Line, to KT Group, L.L.C. (the Group). CNOTP also states that the Group will be required, by contract, to abide by all of the Board's environmental conditions when performing salvage activities on the Line.

has been decided in favor of complainant within the two-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 March 6, 2015, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>2</sup> formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),<sup>3</sup> and trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by February 17, 2015. Petitions to reopen or requests for public use conditions under 49 C.F.R.

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<sup>2</sup> 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.

<sup>3</sup> 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).

§ 1152.28<sup>4</sup> must be filed by February 24, 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., N.W., 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 that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by February 9, 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 through the Federal Information Relay Service at (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.

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<sup>4</sup> According to CNOTP, it may not have the legal right to convey the corridor for re-deployment for possible alternative public use because CNOTP does not have fee title to the entire right-of-way underlining the Line proposed for abandonment. CNOTP states that it 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. CNOTP also states that because of the title uncertainty, CNOTP has no opinion whether the right-of-way would be suitable for other public purposes.

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 February 4, 2016, 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: January 30, 2015.

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