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SERVICE DATE – NOVEMBER 25, 2015

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 557 (Sub-No. 1X)

TRUSTEES OF THE CINCINNATI SOUTHERN RAILWAY COMPANY—
ABANDONMENT EXEMPTION—IN SCOTT COUNTY, TENN.

Decided: November 23, 2015

The Trustees of the Cincinnati Southern Railway Company (CSR) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon approximately 3.09 miles of rail line extending from milepost NR 215.61 near Helenwood to milepost NR 218.7 at New River in Scott County, Tenn. (the Line). Notice of the exemption was served and published in the Federal Register on October 28, 2015 (80 Fed. Reg. 66,122). The exemption is scheduled to become effective on November 27, 2015.

The Board's Office of Environmental Analysis (OEA) served an environmental assessment (EA) on November 2, 2015, recommending that three environmental conditions be imposed on any decision granting abandonment authority. In the EA, OEA notes that the Line has been the subject of two previous Board proceedings. In 2007, the Cincinnati, New Orleans, and Texas Pacific Railway Company (CNOTP) sought authority from the Board to abandon a line of railroad that included the Line. See Cincinnati, New Orleans & Tex. Pac. Ry.—Aban. Exemption—in Scott Cty., Tenn. (CNOTP 2007 Notice), AB 290 (Sub-No. 279X) (STB served Apr. 2, 2007).¹ In 2015, CNOTP sought authority from the Board to discontinue common carrier service over the Line. See Cincinnati, New Orleans & Tex. Pac. Ry.—Discontinuance of Service Exemption—in Scott Cty., Tenn., AB 290 (Sub-No. 354X) (STB served June 12, 2015).²

¹ CNOTP subsequently withdrew its notice of abandonment exemption in that proceeding, noting with respect to the track at issue here that CNOTP was not the owner of the track and its associated structures, and CNOTP therefore did not have the authority to undertake abandonment. Cincinnati, New Orleans & Tex. Pac. Ry.—Aban. Exemption—in Scott Cty., Tenn., AB 290 (Sub-No. 279X) (STB served Apr. 24, 2007).

² In its verified notice of exemption in Docket Number AB 290 (Sub-No. 354X), CNOTP stated that CSR, the owner of the Line, was not a railroad subject to Board jurisdiction and would therefore not be required to seek abandonment authority from the Board prior to conducting salvage activities and disposing of the right-of-way. In the present proceeding, CSR notes that this information was incorrect and that CSR is indeed a railroad subject to Board jurisdiction. Accordingly, CSR is now seeking Board authority to abandon the Line.

OEA states that, while no comments were received from the Office of the County Mayor of Scott County, Tenn., (Scott County) in the current proceeding, Scott County submitted comments in the CNOTP 2007 Notice. In those comments, Scott County expressed opposition to the proposed abandonment on the grounds that the long range plans of Scott County include the reopening of the railroad to serve coal, timber, and recreational businesses in the area. In the EA, OEA notes that Scott County did not identify any potential environmental impacts that could occur as a result of salvage. However, in order to ensure that salvage is conducted in a manner consistent with local environmental ordinances and environmental permitting requirements, OEA recommends a condition requiring CSR to consult with Scott County prior to undertaking salvage activities.

OEA also states that the National Geodetic Survey (NGS) submitted comments in the present abandonment proceeding indicating that six geodetic station markers may be located in the project area. Accordingly, OEA recommends a condition requiring CSR to consult with NGS prior to undertaking salvage activities in order to arrange for the possible relocation of geodetic station markers that could be damaged or destroyed by salvage activities.

Lastly, OEA states that the Tennessee Wildlife Resources Agency (TWRA) submitted comments in the CNOTP 2007 Notice, in which TWRA noted that a state-listed threatened fish, the ashy darter (*etheostoma cinereum*), is known to occur in waterways near the project area. Because salvage activities would be limited in scope and confined to the existing rail right-of-way, OEA believes that salvage of the Line would have no effect on the ashy darter or any other state-listed protected species. Nevertheless, in order to ensure that the potential for impacts to state-listed protected species from salvage activities are minimized, OEA recommends a condition requiring CSR to consult with TWRA prior to the start of salvage activities and to ensure that TWRA's reasonable recommendations are implemented.

No comments to the EA were received by the November 17, 2015 due date. Accordingly, the conditions recommended by OEA in the EA will be imposed.

The proposed abandonment, if implemented as conditioned, will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the notice served and published in the Federal Register on October 28, 2015, exempting the abandonment of the line described above is subject to the conditions that CSR shall: (1) prior to the start of salvage operations, consult with Scott County regarding the consistency of the proposed salvage activities with local environmental ordinances and environmental permitting requirements and ensure that salvage activities are conducted in a manner consistent with the reasonable recommendations of Scott County; (2) consult with NGS

and notify NGS at least 90 days prior to beginning salvage activities that would disturb or destroy any geodetic station markers in order to allow for the relocation of the station markers by NGS; (3) prior to the start of salvage operations, consult with TWRA regarding potential impacts of the proposed abandonment on state-listed threatened or endangered species and ensure that salvage activities are conducted in a manner consistent with the reasonable recommendations of TWRA to prevent or minimize any potential impacts.

3. This decision is effective on its service date.

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