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SEA**

**SERVICE DATE – JANUARY 5, 2007**

**SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC 20423**

**ENVIRONMENTAL ASSESSMENT**

**STB DOCKET NO. AB 290 (Sub-No. 280X)**

**The Cincinnati, New Orleans and Texas Pacific Railway Company --  
Abandonment Exemption -- In Roane County, Tennessee**

**BACKGROUND**

In this proceeding, Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP), a wholly-owned subsidiary of Norfolk Southern Railway Company, has filed a petition under 49 U.S.C. 10502 for an exemption from 49 U.S.C. 10903 for abandonment of approximately 1.10 miles of rail line (Line) between milepost 156.9-H to milepost 158.0-H in Rockwood, Roane County, TN. The Line proposed for abandonment traverses U.S. Postal Zip Code 37854 and serves the rail station in Rockwood, TN. CNOTP states that the Line does not contain any Federally granted rights-of-way.

A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA). If the abandonment is approved, CNOTP states that the Line will be sold to Franklin Industries, Inc. (Franklin) for inclusion into its current private rail line; therefore, no salvage will take place following the consummation of the abandonment. CNOTP plans to continue to provide rail service over the private rail line to the rail station in Rockwood.

**ENVIRONMENTAL REVIEW**

CNOTP has submitted an environmental and historic report that concludes that the quality of the human environment would not be significantly affected as a result of the discontinuance or any post-abandonment activities. CNOTP has served the environmental and historic report on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's environmental rules at 49 CFR 1105.7(b).<sup>1</sup> The Board's Section of Environmental Analysis (SEA) has investigated and reviewed the record in this proceeding.

In its petition, CNOTP states that there are only two shippers on the Line, Franklin and Horsehead Development Company, Inc. (Horsehead). In the twelve month period ending June

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1 CNOTP previously circulated a draft Environmental Report and a draft Historic Report concerning the proposed abandonment of the Line in October 2001 and renewed the notice given then in March 2003. However, CNOTP's plan to file a petition for exemption with the Board and reclassification of the track as private track was delayed both times. Although CNOTP did file a petition in August 2005 in STB Docket No. AB 290 (Sub No. 236X), an issue arose concerning the contracts covering the operation of the Line following abandonment which could not be resolved prior to the Board's statutory deadline to render a decision, and the Board was obliged to deny the petition without prejudice. The contract matters have since been resolved.

30, 2006, 4,229 loaded cars were transported over this portion of the Line while 4,479 loaded cars were transported during the twelve month period ending June 30, 2005. Franklin ships processed lime while Horsehead receives slag for cleaning or processing and then sends it to Pennsylvania for further processing and use in the steel industry.

According to CNOTP, the abandonment, if approved, would not result in the physical abandonment of the Line or the discontinuance of railroad operations. After consummation, CNOTP plans to sell the Line to Franklin for incorporation into its existing private rail line for use as an interchange of rail traffic between CNOTP and Franklin and also between CNOTP and Horsehead.<sup>2</sup> The formal abandonment will not result in any material change in the operation of the property as a rail line. In letters dated August 11, 2006, and August 16, 2006, Franklin and Horsehead, respectively, state that they have reached satisfactory agreements between themselves as well as with CNOTP regarding the continued use of the exchange track to be abandoned by CNOTP and acquired and operated by Franklin. Additionally, both Franklin and Horsehead believe that the Line can be more efficiently and economically maintained and operated if it is sold to Franklin and incorporated into its existing private rail line.

CNOTP states that there are no reasonable alternatives to the proposed abandonment. Furthermore, CNOTP states that no alternatives are required because rail service would continue over this portion of the Line.

SEA notes that CNOTP twice previously circulated an Environmental and Historic Report for abandonment of this same section of the rail line under AB 290 (Sub No. 236X). As part of these previous circulations of the Environmental and Historic Reports, the following agencies have responded indicating that the abandonment, as proposed, would not result in any adverse impacts: U.S. Department of Agriculture, Natural Resources Conservation Service (letter dated April 27, 2005); U.S. Fish and Wildlife Service (letter dated May 2, 2005); and the Tennessee Department of Environment and Conservation, Division of Pollution Control (letter dated April 15, 2005). Lastly, under this current filing, in letters dated August 25, 2006, and September 6, 2006, the U.S. Environmental Protection Agency, Region 4, and the Department of Army, Nashville District, Corps of Engineers, respectively, indicate that the abandonment, as proposed, will not require permits from their respective agencies.

## **HISTORIC REVIEW**

CNOTP submitted an historic report as required by the Board's environmental rules [49 CFR 1105.8(a)] and served the report on the Tennessee Historical Commission (SHPO), pursuant to 49 CFR 1105.8(c). In a letter dated May 21, 2003, in response to CNOTP's previous filing under STB Docket No. AB 290 (Sub No. 236X), the SHPO concluded that there are no National Register of Historic Places Listed or Eligible Properties that would be affected by this undertaking.

SEA conducted a search of the Native American Consultation Database at

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<sup>2</sup> Franklin currently operates a private rail line between milepost 141.5-H at Crab Orchard, TN, and milepost 156.9-H at Rockwood, TN, a distance of 15.4 miles in Cumberland and Roane Counties, TN. Franklin acquired this portion of rail line from CNOTP after its formal abandonment pursuant to a Board decision served November 15, 2000, in STB Docket No. AB 290 (Sub No. 208X).

<http://home.nps.gov/nacd/> to identify Federally recognized tribes that may have ancestral connections to the project area. The database indicated that there is a single tribe, the Eastern Band of Cherokee Indians of North Carolina, that may have an interest in the proposed abandonment. SEA will ensure that each tribe receives a copy of this EA for its review and that the tribe be added to the service list for this proceeding.

In an email dated October 18, 2006, the U.S. Department of Commerce, National Geodetic Survey (NGS) indicated five (5) geodetic station markers may be located in the area of the proposed abandonment. If the markers are to be disturbed by abandonment activities, NGS requests a 90-day advance notice to attempt their formal relocation. Accordingly, we recommend a condition requiring the CNOTP to notify NGS not less than 90 days in advance of any activities on the Line that would disturb or destroy any of the five (5) station markers.

Based on all information available to date, SEA does not believe that salvage activities would cause significant environmental impacts.

### **CONDITIONS**

1. The Cincinnati, New Orleans and Texas Pacific Railway Company shall notify the National Geodetic Survey (NGS) at least 90 days prior to beginning salvage activities in order to plan for the possible relocation of the five geodetic station markers identified by NGS on the subject line.

### **CONCLUSIONS**

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, that discontinuance of service on the Line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed discontinuance would include denial (and therefore no change in operations) or and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

### **PUBLIC USE**

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 these provisions is necessary to permit conveyance of the line to Franklin for continued operation as a private rail line. 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. These matters are beyond the scope of this Environmental Assessment and will be addressed in the final decision.

A request containing the requisite four-part showing for imposition of a public use condition use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

### **TRAILS USE**

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of the petition for exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

### **PUBLIC ASSISTANCE**

The Board's Office of Public Services responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact the Office of Public Services directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

### **COMMENTS**

If you wish to file comments regarding this environmental assessment, you should send an **original and two copies** to Vernon A. Williams, Office of the Secretary, Washington, DC 20423, to the attention of Troy Brady, who prepared this environmental assessment. **Please refer to STB Docket No. AB- 290 Sub No. 280X in all correspondence addressed to the Board.** If you have questions regarding this environmental assessment, you should contact Troy Brady at (202) 565-1643.

Date made available to the public: **January 5, 2007.**

**Comment due date: February 5, 2007.**

By the Board, Victoria J. Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams  
Secretary

Attachment