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February 23, 2021

VIA E-FILE

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

Re: **Docket No. AB-1296X**
R. J. Corman Railroad Property, LLC – Abandonment Exemption –
in Scott, Campbell, and Anderson Counties, Tennessee

Dear Ms. Brown:

R. J. Corman Railroad Property, LLC (“RJC Railroad Property”) provides the following reply to the letter filed by the Anderson County Mayor (“Mayor”), dated February 17, 2021 and entered in the record on February 18, 2021 as a motion/petition/request (the “Letter”). The Letter alleges that RJC Railroad Property failed to include in this abandonment proceeding, which seeks abandonment of approximately 41.05 miles of railroad line in Scott, Campbell and Anderson Counties, TN (the “Line”), a branch line (“Beech Fork”) that is within the STB’s jurisdiction. The allegation is based on a recently discovered decision, *In the Matter of the Application of the Tennessee Railroad Company for a Certificate of Public Convenience and Necessity*, 65 I.C.C. 654 (Jan. 12, 1921) (the “Decision”).

In the 100-year-old Decision, the ICC approved Tennessee Railroad Company’s (“TRC”)¹ application to operate six (6) miles of track to be built by the Beech Fork Timber Company. The ICC states that the timber holdings were expected to produce tonnage for about seven or eight years and that there was a possibility for haulage of coal at some point in the future. The Decision also states that other than coal and timber, “no other industrial development of any importance is possible in the region” due to the geography and “if the timber and coal

¹ Tennessee Railroad Company appears to have been successor to the Tennessee Railway Company in 1918 and the names are at times interchanged.

should be exhausted at some future date, the applicant may desire to discontinue use of this branch.” Finally, it states that due to “diversity of ownership of the several tracts,” service was needed by a common carrier operating for the benefit of all shippers. The Decision, however, only identifies one shipper, who is the same shipper who agreed to build the track. There is no evidence the branch was ever anything other than a stub-end track.

History of Line and Alleged Branch as Reflected by ICC and STB Proceedings

According to the Annual Report of the ICC (74 I.C.C. 216), Appendix D, TRC was in receivership as June 30, 1960. Southern Railway Company (now Norfolk Southern Railway (NSR)), purchased TRC out of bankruptcy in the 1970s. (August 26, 2004 Letter, filed as of record in AB-260 (Sub 259X)(Exhibit A, attached hereto). In addition, Finance Docket No. 27313, entitled *Southern Railway Company – Purchase and Operations – Tennessee Railroad Company* (not printed)(June 22, 1973), appears to document this transaction.² What remained of Beech Fork and whether it was part of the transaction in 1973 is unknown. It is also unknown if Beech Fork was abandoned (as TRC suggested it might in the 1921 Decision) prior to Southern Railway Company’s purchase of TRC from bankruptcy.

In 1988, Southern Railway Company and TRC filed an abandonment proceeding involving milepost TE-42.0, at Devonia, TN, and milepost TE-44.7 at Fork Mountain, TN. *Southern Railway Company and Tennessee Railway Company – Discontinuation of Service and Abandonment Exemption – Between Devonia and Fork Mountain, TN* (Docket No. AB-290 (Sub-No. 42X) (STB served October 12, 1988).

In early 2005, TRC sought permission from the STB to abandon the Line, in two segments, in two separate proceedings. *Tennessee Railway Company – Petition for Exemption – Abandonment – in Scott County, TN*, Docket No. AB-290 (Sub-No. 260X)(STB served Jan. 19, 2005) (involving milepost TE-0.95 near Oneida, and milepost TE-27.96 near Nicks Creek) and *Tennessee Railway Company – Abandonment Exemption – in Anderson and Campbell County, TN*, Docket No. AB-290 (Sub-No. 259X)(STB served March 18, 2005) (involving milepost TE-27.96 at Nick’s Creek and milepost TE-42.00 at Devonia). Significantly, neither abandonment proceeding referenced Beech Fork at all, and did not request authority to abandon it. TRC’s filings, a portion of which is attached as Exhibit B, provides an extensive history of the Line, consistent with the information above.

Ultimately, the Line was not abandoned as National Coal Corporation (NCC) purchased the Line through the OFA process. Approval for that transaction is found in *Tennessee Railway Company – Abandonment Exemption – in Scott County, TN*, Docket No. AB-290 (Sub-No. 260X) et. al. (STB served March 3, 2006). Similarly, there is no mention of Beech Fork and no STB approval provided to NCC to purchase or operate Beech Fork.

In 2011, the STB approved RJC Railroad Property’s purchase of the Line from NCC and its operation by R. J. Corman Railroad Company/Bardstown Line, LLC. *R. J. Corman Railroad*

² The undersigned contacted the STB and requested a copy of the decision as well as any filings in the proceeding. The STB states that it does not have the records.

Property, LLC – Acquisition Exemption – NC Railroad, Inc., Finance Docket No. 35363 (STB served June 29, 2011); *R. J. Corman Railroad Company/Bardstown Line – Lease and Operation Exemption – R. J. Corman Railroad Property, LLC*, Finance Docket No. FD 35361 (STB served June 29, 2011). Like NSR and NCC, RJC Railroad Property did not seek authority from the STB to operate over the branch.

Current Abandonment Proceeding

Assuming Beech Fork was not abandoned prior to 1973, there has been no rail traffic and no shippers on the Line or Beech Fork well in excess of the regulatory requirements for abandonment.³ As stated in RJC Railroad Property's Verified Notice of Exemption seeking abandonment of the Line, there has been no traffic over the Line since May 2013. Had Beech Fork been active at all, it would necessarily create traffic over the Line. This is not the case. To the contrary, since there is no reference to Beech Fork since well before NSR's purchase of the Line in 1973, it follows that Beech Fork has not been in use since before 1973, and likely before 1960, given that TRC had been in receivership since 1960.

At the time of RJC Railroad Property's purchase, only remnants of Beech Fork existed. The right-of-way was largely forested over and not evident from GPS Ariel images. RJC Railroad Property has no information who removed track over the years, whether it was prior owners or due to vandalism. Although RJC Railroad Property did remove some excepted track in or around 2015, RJC Railroad Property denies removing six (6) miles of a branch line as the Mayor's Letter alleges.

RJC Railroad Property also rejects the Mayor's assertion that "there are numerous branches that are not referenced in the notice of exemption which causes further concerns about the thoroughness of the notice of exemption filed by RJC Railroad Property". Such assertion is wholly unfounded as demonstrated by the regulatory history. Neither NCC nor RJC Railroad Property sought STB authority to own and/or operate Beech Fork.⁴ It is also unclear whether such authority was sought in 1973 when NSR sought regulatory approval. Moreover, NSR, like RJC Railroad Property, took steps to abandon the Line without any reference to Beech Fork.

In closing, the Letter states that it may bring further action regarding this issue. It is apparent, however, that if Beech Fork was not abandoned by TRC sometime before 1973, it certainly is properly abandoned now. Any alleged concern by the Mayor that the branch may be orphaned if the abandonment of the Line is consummated is not tied to any shipper requiring service. Nor can it reasonably be argued that loss of access to a branch that has not been

³ In addition, public records of the NETRA, on whose Board Mayor Frank sits, highlights the fact that there is no need for continued rail service on the Line or the alleged branch. In fact, the June 16, 2020 meeting minutes, months after the abandonment was filed, are clear: "Mayor Frank discussed Mr. Elliot's advice that we work to locate shippers on the line and that this would be given priority by the STB. Shippers do not have to be current but can be future shippers." (Exhibit C).

⁴ Presumably, had there been any need whatsoever for service over this Branch in 2006 and 2011, issues would have been raised at the time NCC or RJC Railroad Property sought permission from the STB to only operate the Line and did not include any reference to the branch line.

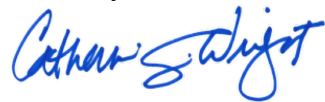
Cynthia T. Brown
February 23, 2021

operational for a minimum of 15 years (and possibly 50 years) negatively impacts the local economy in Campbell County, TN. In addition, it is likely that any attempt to put Beech Fork back in service, ignoring the cost prohibitions and lack of any need for service, without being able to rule out a prior abandonment, would face serious objections in state court from landowners seeking to enforce property rights.

RJC Railroad Property did not remove six miles of track or terminate service over Beech Fork. RJC Railroad Property never sought and was never granted authority to operate Beech Branch. At the time of RJC Railroad Property's purchase of the Line in 2011, Beech Fork track was largely absent and what remained of the right-of-way was so overgrown by forest that the length of time it had been out of service was abundantly clear. In short, the 1921 Decision has no practical or material impact on the current proceeding and the Mayor's Letter does not establish otherwise.⁵

Please feel free to contact the undersigned, if there are any questions.

Sincerely,



Catherine S. Wright
Attorney for R. J. Corman
Railroad Property, LLC

cc: Parties of Record

⁵ Under 49 C.F.R. § 1152.25(e)(4), a petition to reopen must state in detail the respects in which the proceeding involves material error, new evidence, or substantially changed circumstances. The alleged grounds must be sufficient to convince the Board that they would lead it to materially alter its prior action. *E.g.*, *Canadian Nat'l Ry.—Control—EJ&E W. Co.*, FD 35087 (Sub-No. 8), slip op. at 4 (STB served Apr. 26, 2017). In a petition alleging material error, a party must do more than simply make a general allegation; it must substantiate its claim of material error. *See, e.g.*, *Canadian Pac. Ry.—Control—Dakota, Minn. & E. R.R.*, FD 35081, slip op. at 4 (STB served May 7, 2009).



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August 26, 2004

Mr. Jerry E. Cross
Campbell County Mayor
P.O. Box 435
Jacksboro, TN 37757

Re: Proposed Rail Line Abandonment: Nick's Creek to Devonia, TN -
Milepost TE 27.96 to Milepost TE 42.00 (formerly referenced as TE 41.60).

Dear Mr. Cross:

This letter responds to your letter of June 3, 2004 to our Mr. Keith Miller asking for clarification of the right-of-way (ROW) information contained in the Environmental Report for the proposed Nick's Creek-Devonia, TN rail line abandonment. You asked us to clarify what portion of the right-of-way is owned by Tennessee Railway Company and "what areas are controlled by other ownership entities." I think you have misunderstood the meaning of the information provided in Section 3(i) Land Use Plans of the report and I hope this will clarify that paragraph.

For the purposes of possessing the right-of-way for railroad purposes, and owning and operating the line of railroad, Tennessee Railway Company, a subsidiary of Norfolk Southern Railway Company, completely controls the right-of-way and the railroad. No entity other than Norfolk Southern or its subsidiaries owns or controls any part of the right-of-way as a railroad line or controls or has any say in its operation in any respect.

The right-of-way ownership information in the land use plans paragraph of the environmental report is provided in order for the Surface Transportation Board to determine whether the underlying real estate is owned in whole or in part by the railroad in fee simple. If the railroad owns the real estate comprising the right-of-way in fee simple, it will still own that real estate after the line is abandoned. That might provide a continuous corridor for other uses such as highways and the STB might impose a 180-day "public use condition" on an abandonment. That means that the railroad could only dispose of the line for public use for 180 days, although it would be free to deal with it as it chose if no agreement were reached within that period.

If the real estate comprising the right-of-way is held by the railroad only by easement, that real estate most likely will revert to the fee simple owners of the real estate upon the railroad line's abandonment. The principal exception would be if the line is converted to a trail under the National Trails System Act. A public entity that wanted the entire right-of-way for some other purpose would have to deal not only with the railroad, but any other property owners. Condemnation might be

necessary in some cases. All this real estate ownership information would be relevant as to whether the contemplated use of the right-of-way after the abandonment (if known) is consistent with local land use plans or could fit in with them. It has no bearing on the current operation of the railroad line or on its abandonment. The underlying fee interest holders have no current say about the use of the property by the railroad or about the discontinuance of rail service over it.

As we see it, the information concerning the ownership status of the real estate that comprises the right-of-way, including whether any of the right-of-way is held by easement, is not relevant in at least four situations: 1 with respect to the current possession, use and operation of the rail line; 2 with respect to the transfer of the rail line to another railroad, such as a short line, for continued railroad purposes (although the overall percentage ownership interest might have some effect on the price that another railroad would pay for the property if that were in issue); 3 with respect to whether the railroad line can be abandoned (which means the permanent end of rail service on the line as approved by the STB, not forfeiture of any property owned by the railroad in fee simple); and 4 whether a trail can be established on the right-of-way under the provisions of the National Trail Systems Act. The U. S. Supreme Court has ruled that trail use can be maintained on right-of-way held by easement, because the trail user must convey the line back to the railroad at any time that the railroad decides to restore the rail line over the right-of-way. So railroad purposes for the right-of-way may not be abandoned forever under such circumstances.

The precise real estate ownership status of individual parcels of the right-of-way is not important until the railroad disposes of the property, or a party claims an interest in any of the property as the underlying fee owner, either of which must come after the abandonment authority or exemption from the STB is exercised by the railroad, and without the property being converted to a trail. It is enough at this stage to determine whether the railroad alone can convey title to the entire right-of-way. Our records, which are likely incomplete and would be subject to confirmation through the County records before final action is taken with respect to any parcel or portion of the right-of-way, disclose that Tennessee Railway Company was not the fee owner of all the underlying real estate.

We have no maps that would disclose the current identity of any parties that might be underlying fee interest holders to which any parcel or portion of the real estate comprising the right-of-way of the rail line might revert if the rail line were abandoned and not replaced by trail use. Inasmuch as the entire rail line is possessed and controlled entirely by Norfolk Southern's Tennessee Railway Company subsidiary, the map submitted with report identifies the location of the rail line sufficiently to show the points and general direction in which it runs and its end points. This conforms to the STB requirements. You might get additional detail from U. S. Geological Survey maps of the County, which I assume you have available or can obtain. These maps will not give you any real estate ownership information, but will give some additional detail as to the location of the rail line.

Tennessee Railway Company, sometimes known as Tennessee Railroad Company, started as an independent short line about 1904. Norfolk Southern Railway Company's predecessor, Southern Railway Company, bought the property out of bankruptcy in the 1970s. The records that were inherited may or may not be complete. It is sufficient at this point that they identify some property as having been held by easement.

In general, a railroad would have no interest in identifying easement segments while the railroad is operating over a right-of-way. It would have no reason to keep track of or otherwise to know the identity of the successors, if any, to the parties who conveyed an easement, rather than a fee interest, in any parcel of the right-of-way 100 or more years ago. If it became necessary to have or verify that information, we would have to consult the County records.

Jerry E. Cross, Mayor
Re: Nick's Creek - Devonia
August 26, 2004
Page 3

If your purpose is simply to identify the current parties who hold any underlying fee interests in any part of the railroad right-of-way, the County can do that through a search of local records more easily than the railroad can. If the County has some definitive proposal for disposition of the right-of-way or any segment of it in the County, in line with the land use planning or other public purposes for which the information in the environmental report is sought, we will work with you to find or confirm the ownership status of that property in order to determine the feasibility of the County's plan or the identity of other parties with which the County must deal (other than for trail use where the information does not matter).

I trust that this has provided you with sufficient information to clarify the matters raised in your letter.

Sincerely,



M. C. Kirchner
Director-Strategic Planning

Cy: J. R. Paschall
K. R. Miller
L. G. Western
J. M. Lipps

HISTORIC REPORT
PROPOSED RAIL LINE ABANDONMENT

PROPOSED ACTION AND ALTERNATIVES

Tennessee Railway Company, a wholly owned subsidiary of Norfolk Southern Railway Company (NSR) proposes to abandon 14.04 miles of rail line between milepost TE-27.96 at Nick's Creek and milepost TE-42.00 at Devonia, in Campbell and Anderson Counties, Tennessee. A map delineating the line proposed for abandonment is attached as Appendix "A".

The alternatives to abandonment of the line are to not abandon or to discontinue service on the line, retaining the trackage in place. Neither of these alternatives is economically feasible for NSR.

ADDITIONAL INFORMATION

- 1) **U.S.G.S. Topographic Map** -- Maps were furnished to the Tennessee Historical Commission.
- (2) **Written Description of Right of Way** -- The right of way width varies but is generally 50 feet on each side of the main track centerline. The line passes through forest (80%), pasture (10%), residential (5%) and commercial (5%) areas.
- (3) **Photographs** -- Photographs were furnished to the Tennessee Historical Commission.
- (4) **Date of Construction of Structures** -- Construction dates are shown on the Bridges and Structures Listing attached to this report.
- (5) **History of Operations and Changes Contemplated** -- The Notice of Exemption to the Surface Transportation Board (STB) to abandon a line of railroad of Tennessee Railway Company, a wholly-owned subsidiary of Norfolk Southern Railway Company, that is related

to this report, and this report itself, concern an approximately 14.04-mile railroad line between Milepost TE-27.96 at Nick's Creek, Tennessee and Milepost TE-42.0 at Devonia, Tennessee (the "Line"). The Line was part of the approximately 44.65-mile railroad line between Oneida, Tennessee and Fork Mountain, Tennessee that was built between 1904 and 1908 by a predecessor, also named Tennessee Railway Company. The subject segment of the Line is in Campbell and Anderson Counties, Tennessee. There have been no shipments along this segment of the Line for several years. The current Tennessee Railway Company, a successor to the company that built the Line, has been a wholly-owned subsidiary of Norfolk Southern Railway Company and its predecessor, Southern Railway Company, since 1973.

The original Tennessee Railway Company was chartered April 19, 1904 according to company records. The company was incorporated May 17, 1904, under the general laws of the State of Tennessee according to the Interstate Commerce Commission (ICC) valuation report, which was dated as of June 30, 1918. The Tennessee Railway Company established its headquarters at Oneida, TN. The Tennessee Railway Company was chartered to operate an approximately 45.0-mile line of railroad between Oneida, TN and Fork Mountain, TN.

The Tennessee Railway Company line was constructed mainly to serve coal mines in the vicinity of the New River. The Tennessee Railway also served several sawmills along its line during its early years of operation.

The Tennessee Railway was operated by its own organization until it entered receivership on July 1, 1913. Bird M. Robinson was the receiver.

Tennessee Railway Company initially acquired 8.51 miles of private railroad line from Bird M. Robinson on July 13, 1904. A secondary source identifies this private railroad line as

the line of the Paint Rock Coal and Coke Company. This railroad line consisted of a 6-mile segment between Oneida, TN and Jakes Branch, TN and 2.51 miles of branches and spurs.

The exact dates of construction of these private railroad line segments have not been determined and were not reported to the ICC in connection with the valuation of the company's property, but are assumed to be between 1897 and 1904.

The Tennessee Railway Company extended the line approximately 23 miles from Oneida, TN to Smokey, TN by 1907 and another 12 miles to Straight Fork, TN by 1908. By 1912, the Tennessee Railway Company line reached the vicinity of Fork Mountain, TN. Its highest total track mileage, including spurs and yard tracks, was between 63 and 65 miles at its completion in 1918.

In addition to the line acquired from Mr. Robinson, Tennessee Railway Company constructed 56.67 miles of railroad line as follows:

- 4.00 miles between Jakes Branch, TN and River Junction, TN, 1904-1905;
- 20.00 miles between River Junction, TN and Beech Fork, TN, 1905-1910;
- 14.23 miles of branches and spurs, 1905-1910;
- 2.5 miles of main line extensions, 1910-1913;
- 2.5 miles of branches and spurs;
- 8.22 miles of main line extensions, 1913-1918;
- 5.22 miles of branches and spurs, 1913-1918;

Tennessee Railway Company abandoned 8.73 miles of line prior to June 30, 1918.

Despite the rugged terrain where the Line is located, in 1918, the ICC identified only one metal bridge on the entire Tennessee Railway Company line, a 150-foot through-truss span on two concrete piers over the New River. The bridge is not further identified. We assume the bridge was a predecessor of the bridge over the New River that is located at Milepost TE-40.46. The current bridge at that location, which is shown in NSR's bridge list as two sets of spans totaling 254.48 feet in length, was rebuilt in 1981. The other structures on

the line evidently were wooden trestles or bridges that were subsequently replaced. NSR records indicate the early structures on the line have been replaced over the years with metal or more modern materials. The Line was lightly graded and mostly full earth surfaced. Only the first mile was ballasted with cinders. A full timbering and re-surfacing was performed in 1989 but revenue levels have not justified re-investment in the Line other than routine maintenance work since that year. The Line was constructed with 75, 70 and 60 pound per yard re-lay rail, which was improved to 70 to 112 pound rail by the time of Tennessee Railway Company's acquisition by Southern Railway Company in 1973.

The only connection of the Tennessee Railway Company to the national rail system at the time it was built was, and its only connection subsequently has been, with the line of Southern Railway Company's Cincinnati, New Orleans and Texas Pacific Railway Company subsidiary (lessor of the Cincinnati Southern Railway line), at Oneida, TN.

The records available to the ICC in 1918 showed that the Tennessee Railway Company received no aids, gifts, grants or donations in connection with the construction of its railroad line.

Tennessee Railway Company's property was sold at foreclosure on February 14, 1918 and was surrendered on February 15, 1918 to J. N. Baker, trustee for the purchasers. The purchasers reorganized the company as Tennessee Railroad Company on June 28, 1918.

On June 30, 1918, Tennessee Railroad Company, Tennessee Railway Company's successor, operated a 41.222-mile line between Oneida, TN and a point about 3 miles beyond Rosedale, TN, with a 4.987-mile branch line between Smoky Junction, TN and Newland, TN that subsequently has been abandoned. It also owned 14.329 miles of yard track and sidings on June 30, 1918. The Tennessee Railway Company line was

subsequently extended approximately 3.43 miles to Fork Mountain, TN later in 1918. At some point not disclosed by company records or other research, a segment of the Line between Milepost 42.0 at Devonia, TN and Milepost 44.65 at Fork Mountain, TN was abandoned.

The papers of Samuel Spencer, first president of Southern Railway Company, in the Manuscripts Department, Library of the University of North Carolina at Chapel Hill Southern Historical Collection #3477 contain materials from 1915-1919, of his son, Henry B. Spencer, relating to the Tennessee Railway Company.

A receiver for the Tennessee Railroad Company was appointed on January 22, 1921 but the company was able to work out its financial problems and the proceeding subsequently was dismissed.

An iron furnace at LaFollette in Campbell County closed in 1926.

Tennessee Railroad Company entered into receivership on July 1, 1959 and operated under receivership until it was acquired by Southern Railway Company. The company was re-incorporated in Tennessee as Tennessee Railway Company on January 15, 1973 in anticipation of its reorganization by Southern Railway Company. Southern Railway Company had agreed to acquire the Tennessee Railway Company, subject to ICC approval, in September 1972.

Tennessee Railway Company was acquired by Southern Railway Company out of receivership on August 1, 1973 for 20,000 shares of Southern Railway Company common stock, pursuant to ICC approval in ICC Finance Docket No. 27315. The former Tennessee Railway Company line commonly has been known as the Oneida Branch since its acquisition by Southern Railway Company.

All common stock of Tennessee Railway Company (100 shares of no par common voting stock) is currently held by Norfolk Southern Railway Company. As of the preparation date of this report, Tennessee Railway Company owned 42 miles of railroad line between Oneida, TN and Devonia, TN.

Southern Railway Company was incorporated under the laws of the Commonwealth of Virginia on June 18, 1894. Southern Railway Company was successor to Richmond and West Point Terminal Railway and Warehouse Company (incorporated in 1880) and its subsidiaries, including principal subsidiaries Richmond and Danville Railroad Company (1847), the East Tennessee, Virginia and Georgia Railway Company (1887), Charlotte, Columbia and Augusta Railroad Company (1869), Virginia Midland Railway Company (1880), Columbia and Greenville Railroad Company (1880), Western North Carolina Railroad Company (1880) and Georgia Pacific Railway Company (1881). Except for leased lines of the Atlanta and Charlotte Air Line Railway Company (1877) and the North Carolina Railroad Company (1868), these railroads were declared insolvent and placed in receivers' hands in 1892. In 1894, they were sold at foreclosure sales and deeded to the Southern Railway Company, which also then leased the Atlanta and Charlotte Air Line Railway Company and North Carolina Railroad Company properties. Southern Railway Company acquired several other smaller companies in 1894. After its acquisitions and leases in 1894, Southern Railway Company operated 4,432 miles of railway, 3,940 miles of which were owned and 492 miles of which were leased.

Norfolk and Western Railway Company was incorporated by special act of Virginia approved on January 15, 1896, and succeeded, under a plan of reorganization, to the properties of Norfolk and Western Railroad Company, the Lynchburg and Durham Railroad

Company (that had been sold first to the Norfolk, Lynchburg and Durham Railroad Company) and the Roanoke and Southern Railway Company (that had been sold first to the Norfolk, Roanoke and Southern Railroad Company). The two companies in parentheses were organized on the dates of purchase for the sole purpose of acquiring and transferring the property of the named companies to Norfolk and Western Railway Company.

Norfolk Southern Corporation, a non-carrier holding company, was incorporated in the Commonwealth of Virginia on July 23, 1980. Based on an Agreement of Merger and Reorganization, dated July 31, 1980, and eventual Interstate Commerce Commission (ICC) approval, Norfolk Southern Corporation acquired control of Norfolk and Western Railway Company and Southern Railway Company and their subsidiaries. At the time of the Norfolk Southern consolidation, Norfolk and Western Railway Company was headquartered in Roanoke, Virginia. Southern Railway Company was headquartered in Washington, DC with a substantial number of offices in Atlanta, Georgia.

On December 4, 1980, Norfolk Southern Corporation, Norfolk and Western Railway Company, and Southern Railway Company filed a joint application to the ICC in Finance Docket No. 29430 (Sub-No. 1), pursuant to which they sought authority under 49 U.S.C. 11343 for Norfolk Southern Corporation to acquire control through stock ownership of Norfolk and Western Railway Company and its subsidiary carrier companies, and of Southern Railway Company and its consolidated system companies.

Under approval granted by the ICC in Finance Docket No. 29430 (Sub-No. 1), Norfolk Southern Corporation -- Control -- Norfolk and Western Railway Company and Southern Railway Company, 366 I.C.C. 173 (1982), dated March 19, 1982, Norfolk Southern Corporation acquired control of Norfolk and Western Railway Company and Southern

Railway Company on June 1, 1982.

Two books on the Norfolk and Western Railway Company and Southern Railway Company systems provide detailed information on their history and development to the time of the Norfolk Southern consolidation. They are: E. F. Pat Striplin, *The Norfolk And Western: A History* (Roanoke, VA: The Norfolk and Western Railway Co., 1981) and Burke Davis, *The Southern Railway: Road Of The Innovators* (Chapel Hill, NC: University of North Carolina Press, 1985).

Effective December 31, 1990, Southern Railway Company changed its name to Norfolk Southern Railway Company. Norfolk and Western Railway Company became a wholly-owned subsidiary of Norfolk Southern Railway Company rather than a subsidiary of Norfolk Southern Corporation.

As of August 30, 1996, NSR's wholly-owned subsidiary, The Cincinnati, New Orleans and Texas Pacific Railway Company, renewed its lease of the line of railroad of the Cincinnati Southern Railway under an agreement with the City of Cincinnati expiring in 2026, with the option to extend 25 years to December 31, 2051 (which must be exercised on or before January 1, 2022).

Pursuant to a notice of exemption filed in STB Finance Docket No. 33648, Norfolk Southern Railway Company--Merger Exemption--Norfolk and Western Railway Company, served August 31, 1998, Norfolk Southern Railway Company (NSR) merged Norfolk and Western Railway Company (NW) into NSR, effective September 1, 1998.

Norfolk Southern Corporation ("NSC"), parent to Norfolk Southern Railway Company ("NSR"), entered into a Transaction Agreement (the "Conrail Transaction Agreement") among NSC; NSR; CSX Corporation ("CSX"); CSX Transportation, Inc. ("CSXT"), a wholly-

owned subsidiary of CSX; Conrail Inc. ("CRR"); Consolidated Rail Corporation ("Conrail"), a wholly-owned subsidiary of CRR; and CRR Holdings LLC, dated June 10, 1997, pursuant to which CSX and NSC indirectly acquired all the outstanding capital stock of CRR. The Conrail Transaction Agreement was approved by the Surface Transportation Board ("STB") in a decision served July 23, 1998 in STB Finance Docket No. 33388, CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company - Control and Operating Leases/Agreements - Conrail Inc. and Consolidated Rail Corporation. The transaction was closed and became effective June 1, 1999.

Pursuant to the Conrail Transaction Agreement, certain Conrail assets were allocated to Pennsylvania Lines LLC ("PRR"), a wholly-owned subsidiary of Conrail. Furthermore, pursuant to the Conrail Transaction Agreement, PRR's assets, in turn, were leased to and were operated by NSR under the terms of an allocated assets operating agreement between PRR and NSR (the "NSR Operating Agreement") with an original term of twenty-five (25) years from the effective date of June 1, 1999, and two optional renewal terms of five (5) years each. The Conrail Transaction Agreement permitted NSR to operate and to enter into various transactions with regard to the assets allocated to PRR.

On June 4, 2003, Norfolk Southern Corporation (NSC), CSX Corporation (CSX), and Consolidated Rail Corporation (Conrail) announced the joint filing of a petition with the STB for approval to establish direct ownership and control by CSX Transportation, Inc. (CSXT) and Norfolk Southern Railway Company (NSR), the railroad subsidiaries of CSX and NSC, respectively, of the two Conrail subsidiaries - New York Central Lines LLC (NYC) and Pennsylvania Lines LLC (PRR) that CSXT and NSR had been managing and operating, respectively, since June 1, 1999 under operating agreements approved by the STB in the

1998 decision. The STB approved the petition, subject to certain conditions, in a decision served on November 7, 2003. The effect of the transaction, which was concluded on August 27, 2004 by the merger of NYC and PRR into CSXT and NSR, respectively, was to replace the operating agreements and allow NSR and CSXT to operate the NYC and PRR lines via direct ownership.

Anderson County was established by an act of the General Assembly of Tennessee passed on November 6, 1801. Its 2000 population was 71,330. Many of the residents live and work at Oak Ridge, TN, or the County seat of Clinton, TN, neither of which are located on the subject railroad line. Campbell County is located in Northeast Tennessee on the Kentucky-Tennessee border. It was formed in 1806 from parts of Anderson and Claiborne Counties. The 2000 federal census showed a population of 39,854 for Campbell County. Today more than forty small and medium industries employ more than 25 percent of the county's work force, providing 2,294 jobs, according to a web site about the county. The web site also indicated that tourism and the service industry employ more than half of the county's workers. The Tennessee State Library and Archives has compiled a large Bibliography of Tennessee Local History Sources with many books and publications about these counties, lists of which can be found on its web site.

Abandonment of the Line, and subsequent salvage of railroad materials from the Line, will have no adverse effect on pre-historic, or historic archeological sites if there are any along the Line. If any such sites existed immediately below the surface of the Line, those sites would have been disrupted during construction of the Line. Salvage operations, which take place on the surface of the land and involve picking up salvageable material, would not disturb any archaeological sites that might exist in the area.

The change contemplated in the operation of the Tennessee Railway Company railroad line between Nick's Creek, TN and Devonia, TN is for the Tennessee Railway Company, a wholly-owned subsidiary of Norfolk Southern Railway Company, to abandon the subject unused and unprofitable line of railroad, to salvage the track and material from the Line and to the extent of its title to the real estate to deal with the right-of-way as ordinary real estate no longer subject to a common carrier obligation.

(6) **Summary of Documents In Carriers' Possession That Might Be Useful for Documenting a Structure That Is Found To Be Historic** – Bridge plans may be available for the structures on the line.

(7) **Opinion Regarding Criteria For Listing In The National Register Of Historic Places** – It is carriers' opinions that the structures on the line to be abandoned do not meet the criteria for listing in the *National Register of Historic Places*. The structures are bridges which are short in length and relatively modern and ordinary in design and construction. There is nothing that distinguishes the bridges from others in the region. Carriers have no reason to believe that there is any likelihood of finding archaeological resources or historic properties on the line proposed for abandonment.

(8) **Subsurface Ground Conditions That Might Affect Archaeological Recovery** – Carrier is not aware of any prior subsurface ground disturbances or environmental conditions that would affect archaeological recovery.

(9) **Follow-Up Information** – Additional information will be provided as appropriate.

**North East Tennessee Rail Authority (NETRA)
Virtual Meeting
July 30, 2020 10:00 a.m.**

Agenda

Call to Order

Approval of Minutes from June 16, 2020

Report by Mayor Frank regarding actions authorized by NETRA: Reference Memo

Request Motion to authorize payment of application fee to Surface Transportation Board. See attached. Application is being filed for a waiver as we are a government entity.

Procedural questions regarding payment of legal fee invoice. See attached.

Designation of Treasurer.

Discussion on status of line abandonment and possible next steps.

Adjourn

North East Tennessee Rail Authority (NETRA)

Minutes
June 16, 2020

Members in Attendance: Campbell County Mayor E.L. Morton; Scott County Mayor Jeff Tibbals; Anderson County Mayor Terry Frank; Anderson County Commissioner Tim Isbel

Others in attendance: Don Stansberry, Michael Brown and Robert Van Camp

The meeting was called to order at approximately 10:05 a.m.

Mayor Jeff Tibbals was introduced by Mayor Frank as the prior Chairman of NETRA.

Mayor Tibbals made a motion to nominate Mayor Frank as Chairman, seconded by Mayor Morton and approved unanimously.

Mayor Frank recapped the legislation applicable to the NETRA.

Mayor Frank initiated a discussion regarding R.J. Corman Railroad Property, LLC Abandonment efforts before the STB and an effort by the Arkansas Oklahoma to purchase the line.

A motion was made by Mayor Morton, seconded by Commissioner Isbel to file a request with TDOT asking them to file a letter of support with the Surface Transportation Board (STB) on behalf of the Arkansas Oklahoma Railroad, Inc. (AOK) Offer of Financial Assistance (OFA). Unanimously approved.

A motion was made by Mayor Morton, seconded by Mayor Tibbals to appropriate funds not to exceed \$5,000 to secure the services of attorney Daniel Elliott, former Chair of the STB, to file properly formatted support for the AOK before the STB. Unanimously approved.

Mayor Frank discussed Mr. Elliott's advice that we work to locate shippers on the line and that this would be given priority by the STB. Shippers do not have to be current, but can be future shippers.

Mayor Frank also discussed AOK's desire to have Anderson, Scott and Campbell County assistance in verifying the land values RJ Corman had submitted, noting that independent and accurate information would be important in this effort. Mayor Tibbals and Mayor Morton agreed to help verify this information.

Meeting was adjourned without objection at approximately 10:50 a.m.

Daniel Elliott PLLC
2169 Chain Bridge Road
Vienna, VA 22182

INVOICE

North East Tennessee Railroad Authority
100 North Main Street
Suite 208
Clinton, TN 37716

Invoice 10067

Date	Jul 29, 2020
Terms	
Service Thru	Jul 29, 2020

In Reference To: Filing Fee (Expenses)

Date	By	Expenses	Amount
07/29/2020	DE	Miscellaneous: Filing Fee	\$ 350.00

Total Expenses	\$ 350.00
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Total Invoice Amount	\$ 350.00
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Invoice Amount After (\$350.00) Discount	\$ 0.00
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Previous Balance	\$ 0.00
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Balance (Amount Due)	\$ 0.00
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Daniel Elliott PLLC
2169 Chain Bridge Road
Vienna, VA 22182

INVOICE

North East Tennessee Railroad Authority
100 North Main Street
Suite 208
Clinton, TN 37716

Invoice 10063

Date	Jul 08, 2020
Terms	
Service Thru	Jul 08, 2020

In Reference To: OFA Support (Labor)

Date	By	Services	Hours	Rates	Amount
07/08/2020	DE	Draft: Draft letter of support and appeal for OFA.	Flat Fee	\$ 5,000.00	\$ 5,000.00

Total Labor \$ 5,000.00

Total Invoice Amount \$ 5,000.00

Previous Balance \$ 0.00

Balance (Amount Due) \$ 5,000.00
