

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-1296X

**R. J. CORMAN RAILROAD PROPERTY, LLC
– ABANDONMENT EXEMPTION –
IN SCOTT, CAMPBELL, AND ANDERSON COUNTIES, TENNESSEE**

**APPLICANT'S RESPONSE TO REQUEST
FOR SUPPLEMENTAL INFORMATION**

R. J. Corman Railroad Property, LLC (“RJC Railroad Property” or “Applicant”), by counsel, submits the following response to the Board’s request for supplemental information set forth in the Board’s October 6, 2021 decision in the above-referenced matter.

1. *Ownership of the Beech Segment*

By virtue of a quitclaim deed received from NC Railroad, Inc. (“NCR”) when it purchased the Oneida Line¹ in 2011 (the “Deed”), RJC Railroad Property received ownership rights to the main tracks, sidings, spurs and other appurtenant railway facilities of the Oneida Line. To this extent, the Deed filed of record in Campbell County, TN refers to a series of attached Railway Valuation Maps including Val Map pages V-1/13a, 13b and 13c. Those Val Map pages relate to a portion of the Beech Segment² and confirm that whatever ownership rights to the Beech Segment that NCR had were transferred to RJC Railroad Property. RJC Railroad Property’s Deed is consistent with the quitclaim deed NCR received in 2006 from Tennessee Railway Company, a

¹ The Oneida Line extends from milepost 0.96 at or near Oneida, TN, to the end of the line at milepost 42.0 at or near Devonia, TN, a distance of approximately 41.05 miles in Scott, Campbell, and Anderson Counties, TN.

² The Val Map pages appear to encompass the Beech Segment from the junction with the Oneida Line to the former railroad station location of Carbon Hill. They do not include any former right-of-way extending southeast along the Stony Fork to Clinchmore.

subsidiary of Norfolk Southern Railway Company (“NSR”), in that NCR’s deed also references, inter alia, Val Map pages 13a, 13b and 13c.

A review of the Campbell County, TN property recordings identified in RJC Railroad Property’s Deed also confirms that the right of way comprising the Beech Segment consists primarily of easements, as opposed to fee simple ownership, obtained from adjacent landowners dating from the early 1920’s and then in again in 1940 and 1941, when it appears that additional track was built extending the Beech Segment to Carbon Hill.³

2. *Has any entity sought to abandon the segment in the past?*

The Tennessee Railroad Company (“TRC”) filed an application on June 30, 1959 seeking authority “to abandon its entire line and operation of railroad, the main line of which comprises approximately 44.6 miles extending from Fork Mountain to Oneida, Tenn., including all of the branch lines and sidings, for a total of 70.32 miles, all within Scott, Campbell, Anderson and Morgan Counties, Tenn.” (Card Catalogue for FD 20705, attached as Exhibit B). TRC’s application was filed one day prior to it entering receivership on July 1, 1959.

TRC remained in receivership until 1973 when its assets were purchased by Southern Railway Company. At that time, the railroad was reconstituted as the Tennessee Railway Company. The attached card catalog entries for FD 27312, 27313, 27314 and 27315 relate to that purchase and reference a Plan and Agreement of Reorganization of the TRC. (Exhibit C). RJC Railroad Property has confirmed that NSR is unable to provide additional facts related to the 1973 transaction or copies of the relevant decisions or related filings.

³ Notwithstanding the Deed, as explained in RJC Railroad Property’s June 15, 2021 response filed with the Board, Campbell County, Tenn. concluded the Beech Segment was abandoned long before RJC Railroad Property purchased the Oneida Line such that it unilaterally paved over the right-of way cutting the Beech Segment off from the main Oneida Line, and built a bridge making the railroad right of way impassable. Campbell County also built, maintains and exercises control over a two-mile gravel road built directly on the Beech Segment right-of-way, which is known as the Carroll-Adkins Cemetery Road and located at Stoney Fork/Beechfork. (See List of County Roads, Exhibit A).

Moreover, as of this filing, RJC Railroad Property has been unable to review the ICC dockets from 1959 or 1973 referenced in Exhibit B and C hereto. Despite its request for copies of these dockets, the National Archives has informed RJC Railroad Property that it remains closed due to the pandemic and is unable to provide a date when it will reopen. At this point, RJC Railroad Property does not know if the docket materials even exist. RJC Railroad Property also attempted without success to obtain Tennessee Railroad Company's bankruptcy records from the National Archives in Kansas City, Kansas.

3. *Is the Beech Segment currently a railroad line within the Board's jurisdiction?*

Petitioner Anderson County, TN claims the Beech Segment remains in the Board's jurisdiction because TRC received ICC approval in 1921 to enter a contract with a lumber company to build the Beech Segment⁴ and that the Beech Segment has never been abandoned by the ICC or STB. Anderson County, TN allegedly seeks to reopen or vacate the abandonment exemption granted to RJC Railroad Property in this proceeding to prevent the Beech Segment from being stranded.⁵ RJC Railroad Property responded on June 15, 2021 to Petitioner's filing objecting to the reopening or vacating of the exemption. The objections set forth in that response are restated in full herein.

With respect to the jurisdiction question presented by the Board, based on the available records, RJC Railroad Property cannot conclude that the Beech Segment remains within the jurisdiction of the Board. Abandonment of the Beech Segment is consistent with TRC's 1959 application to abandon all its rail lines during receivership and the absence of evidence that any

⁴ A 1921 newspaper article announced the "Chancery Sale of Properties of Tennessee Railroad Company" and provides that whoever purchases the railroad will "assume the contract" the Tennessee Railroad Company entered with the Beech Fork Lumber company relating to construction of the Beech Segment. (June 23, 1921 Journal and Tribune, Knoxville, TN, Exhibit D).

⁵ Presumably, Anderson County, TN would agree that the only portion of the abandonment exemption that is at issue is from the point on the Oneida Line where the Beech Segment junction once existed at milepost 33 up to milepost 0.96 where the Line connects with NSR at Oneida, TN.

railroad after that, including the Tennessee Railway Company, ever sought or received carrier authority from the ICC or STB to operate the Beech Segment. The combination of a pending abandonment plus the ICC's approval of a purchase that did not expressly make carrier service over the Beech Segment a condition of the transfer and control of the railroad, would result in its abandonment. Moreover, the TRC – the only carrier which had a definitive obligation to provide service on the Beech Segment – no longer exists and has not existed since approximately 1973.

The conclusion that the Tennessee Railway Company did not possess a common carrier obligation on the Beech Segment is consistent with later available regulatory filings, including Tennessee Railway Company's 1988⁶ and 2004-2005⁷ abandonment filings related to the Oneida Line. None of those filings, which are extremely detailed, reference the Beech Segment. The 2005 decision relates to the abandonment of the Oneida Line from milepost 27.96 at Nick's Creek to milepost 42 at Devonia. Given the Beech Segment's junction with the Oneida Line was at milepost 33, if the Beech Segment was still a part of the Board's jurisdiction at that time, the 2005 abandonment would have necessarily included the Beech Segment which was then owned by the Tennessee Railway Company. However, the Beech Segment is not identified as being abandoned on the Tennessee Railway Company map submitted with its filings for AB 290 (Sub-No. 259X). (Map, Exhibit E).

RJC Railroad Property can also confirm that it never sought or received authority to operate over the Beech Segment and has never operated or held itself out as operating over the Beech

⁶ *Southern Railway Company and Tennessee Railway Company – Discontinuance of Service and Abandonment Exemption – Between Devonia and Fork Mountain, TN*, Docket No. AB-290 (Sub-No. 42X) (STB Served October 12, 1988).

⁷ *Tennessee Railway Company – Abandonment Exemption – in Anderson and Campbell County, TN*, Docket No. AB-290 (Sub-No. 259X) (STB served March 18, 2005); *Tennessee Railway Company – Petition for Exemption – Abandonment - in Anderson and Campbell County, TN*, Docket No. AB-290 (Sub-No. 260X) (STB served Jan. 19, 2005).

Segment. In fact, at the time RJC Railroad Property purchased the Line, operations over the Beech Segment were impossible – as they are now. The same can likely be said for NCR.

Based on the available information, RJC Railroad Property concludes that the Beech Segment is not currently a rail line within the Board's jurisdiction.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2021, I served the foregoing response using the below email addresses on all parties of record in this proceeding:

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/s/ Catherine S. Wright

Road	Location	Length (MI)	ROW	Roadbed	Surf Type	Surf Width
Captain Brown Lane	Flat Hollow Road	1.00			ASP	20
Capuchin Road	Whistle Creek Road	1.80			GRV	
Card Lane	Twin Cove/Hill Crest	0.25			ASP	
Carr View Lane	Flat Hollow Road	0.50		24	ASP	
Carr Wynn Road	Middlesboro Road	1.44	40		ASP	
Carroll-Adkins Cemetery Road	Stoney Fork/Beechfork	2.00			GRV	
Cartel Lynch Lane	Cross Valley Road	0.19	40	14	GRV	
Cave Springs Road	Pleasant Ridge Road	0.88			ASP	
Cedar Circle	McDeerman Road	0.57	60	24	ASP	
Cedar Creek Road	Long Hollow	3.70		24	ASP	
Cedar Lane	Race Track Hollow Roa	0.40			GRV	
Cemetery Lane	Stoney Fork Road				GRV	
Cemetery Road	City of Caryville	0.34			CMX	
Chadwell Hollow Lane	White Oak Road	0.74			GRV	
Chambers Road	River Road	1.47			ASP	
Chapel Drive	Carr Wynn Road	0.07			ASP	
Chapel Heights Lane	Chapel View Drive	0.45			ASP	
Chapel View Drive	Carr Wynn Road	0.17			ASP	
Chapman Crest Drive	Farris Circle	0.10			ASP	
Chapman Lane	Landfill Road	0.48			ASP	18
Chapman Village Lane	Lynch Hollow	0.70			T&C	
Chase Lane	Hatmaker Ridge	0.10			ASP	18
Cherokee Lane	Indian River	0.24	24	ASP	20	
Cherokee Trail	Indian River Boat Doc	0.25			ASP	
Cherry Bottom Road	Hwy. 116	2.00			ASP	
Cherry Lane	Dogwood Lane	0.35	20	ASP		

20705

6/30/59

Sec. 1(18)

TENNESSEE RAILROAD COMPANY

App. for auth. to abandon its entire line and operation of railroad, the main line of which comprises approx. 44.6 miles extending from Fork Mountain to Oneida, Tenn., including all of the branch lines and sidings, for a total of 70.32 miles, all within Scott, Campbell, Anderson, and Morgan Counties, Tenn.

FD 27312

2-16-73

Sec. 5(2)

SOUTHERN RAILWAY COMPANY and
TENNESSEE RAILWAY COMPANY

Joint applic. for authority to Tennessee Ry.Co. to purchase and operate the lines of railroad, other property and assets of TRC.

(in conn. with FD 27313, 27314 & 27315)

FD 27313

2-16-73

Sec. 5(2)

SOUTHERN RAILWAY COMPANY

Applic. for authority to Sn. Ry. Co. to acquire control
Tennessee Railway Company through stock ownership, all
pursuant to a Plan and Agreement of Reorganization of
Tennessee RR. Co.

(in connection with FD's 27312, 27314, 27315)

FD 27314

2-16-73

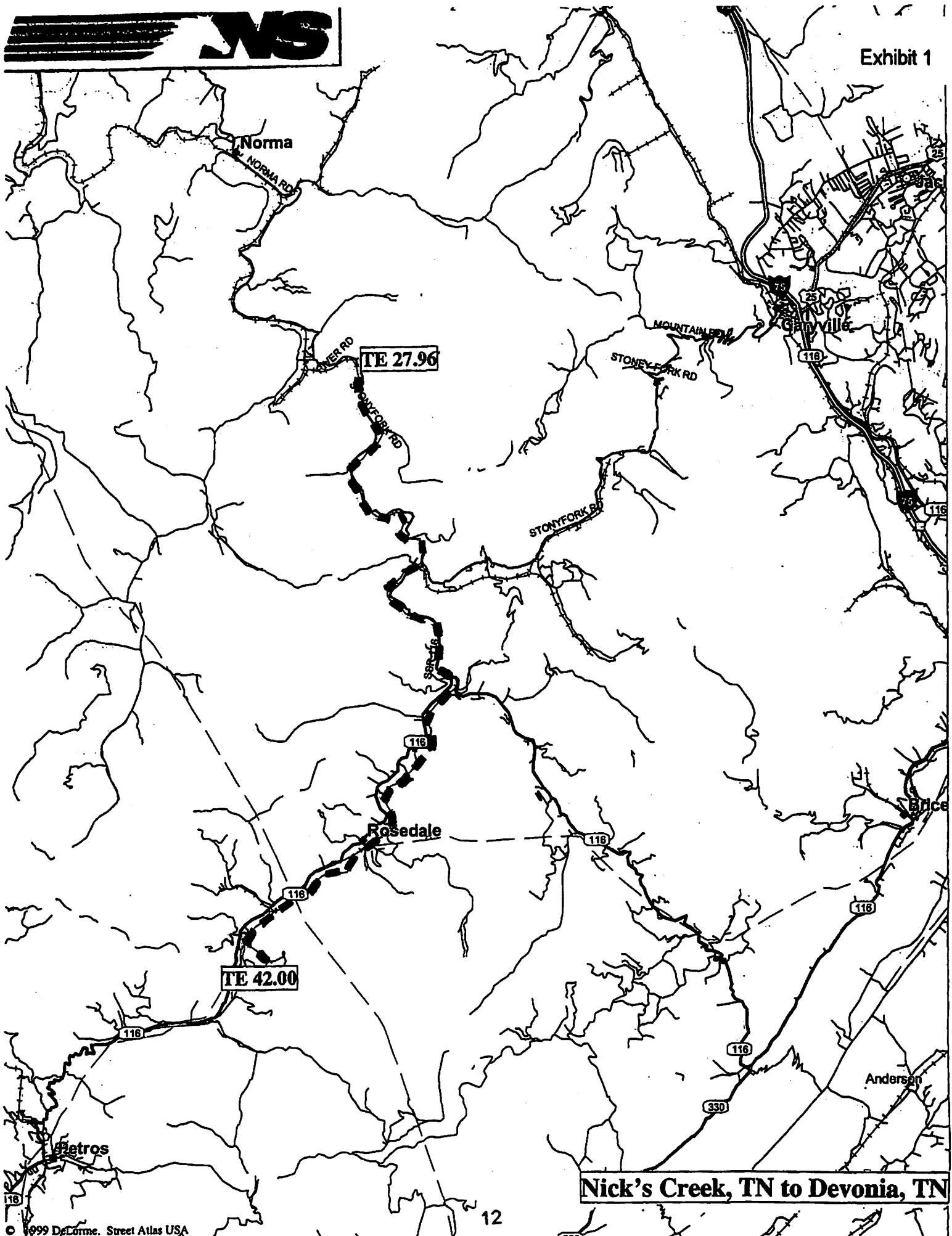
Sec. 20a

SOUTHERN RAILWAY COMPANY

Applic. -for- authority to issue 20,000 shares of Common
Stock without par value in exchange for 100 shares of
Common Stock without p.v. of Tennessee Railway Company.

(in connection with FD's 27312, 27313, 27315)

[illegible]



Nick's Creek, TN to Devonia, TN