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SERVICE DATE - JANUARY 19, 2005

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-290 (Sub-No. 259X)]

Tennessee Railway Company--Abandonment Exemption--in Anderson and Campbell Counties, TN

Tennessee Railway Company (TNR)¹ has filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon a 14.04-mile line of railroad between milepost TE-27.96 at Nick's Creek and milepost TE-42.00 at Devonia, in Anderson and Campbell Counties, TN. The line traverses United States Postal Service Zip Code 37710.

TNR has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) no overhead traffic has moved over the line for at least 2 years and 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 or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal

¹ TNR is a wholly owned subsidiary of Norfolk Southern Railway Company (NSR).

letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to government agencies) have been met.

As a condition to this exemption, any employee adversely affected by this abandonment shall be protected under Oregon Short Line R. Co.-Abandonment-Goshen, 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 February 18, 2005,² unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,³ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),⁴ and trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 31, 2005.

² TNR has requested that the Board treat the notice of exemption as being filed on December 30, 2004, rather than the actual date the applicant filed it, December 29, 2004. The Board will set December 30, 2004 as the filing date and use this date to compute the due dates in this proceeding.

³ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service 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.

⁴ Effective October 31, 2004, the filing fee for an OFA increased to \$1,200. See Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services-2004 Update, STB Ex Parte No. 542 (Sub-No. 11) (STB served Oct. 1, 2004).

Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by February 8, 2005, with: the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to NSR's representative: James R. Paschall, Norfolk Southern Railway Company, Three Commercial Place, Norfolk, VA 23510.

If the verified notice contains false or misleading information, the exemption is void ab initio.

TNR has filed an environmental report which addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by January 24, 2005. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 565-1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] 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.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), TNR 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 TNR's filing of a

notice of consummation by January 19, 2006, 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 11, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary