



STATE OF NORTH CAROLINA
DEPARTMENT OF JUSTICE

Roy Cooper
ATTORNEY GENERAL

PLEASE REPLY TO:
Scott K. Beaver
ASSISTANT ATTORNEY GENERAL
Transportation Section

April 7, 2005

VIA FEDERAL EXPRESS

Honorable. Vernon A. Williams
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423

FILED

APR 8 2005

ENTERED
Office of Proceedings

APR 08 2005

Part of
Public Record

Re: *Rocky Mount & Western Railroad Co., Inc. – Abandonment Exemption Nash
County, North Carolina
Docket No. AB-883 (Sub-No. 1X)*

Dear Secretary Williams:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of the Offer of Financial Assistance of the North Carolina Department of Transportation (NCDOT) dated April 8, 2005. A check in the amount of \$1,200 representing the appropriate fee for this filing is attached. As an agency of the State of North Carolina, NCDOT respectfully submits that it is exempt from the filing fee requirement and requests that the fee be remitted to NCDOT.

If you have any questions regarding this filing, please feel free to contact me. Thanks you for your assistance in this matter.

Sincerely,

Scott K. Beaver
Assistant Attorney General

Attachments

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ATTORNEY GENERAL'S OFFICE
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RALEIGH, NC 27699-1505

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LOCATION:
DEPARTMENT OF TRANSPORTATION
TRANSPORTATION BUILDING
1 SOUTH WILMINGTON STREET
RALEIGH, NC 27601

cc: Rocky Mount & Western Railroad Co., Inc.
Rose-Michele Weinryb, Esq.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-883 (Sub-No. 1X)

**ROCKY MOUNT AND WESTERN RAILROAD CO., INC.
ABANDONMENT EXEMPTION
NASH COUNTY, NORTH CAROLINA**

OFFER OF FINANCIAL ASSISTANCE

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

By: Scott K. Beaver
Assistant Attorney General

1 South Wilmington Street
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(919) 733-3316
(919) 733-9329 (fax)

Dated: April 7, 2005

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. AB-883 (Sub-No. 1X)

**ROCKY MOUNT AND WESTERN RAILROAD CO., INC.
ABANDONMENT EXEMPTION
NASH COUNTY, NORTH CAROLINA**

OFFER OF FINANCIAL ASSISTANCE

Pursuant to 49 C.F.R. § 1152.27 (c)(2), the North Carolina Department of Transportation (NCDOT), a state governmental agency with legislative authority to provide financial and technical assistance to freight railroads pursuant to N.C. Gen. Stat. § 136-44.36 *et seq.*, hereby files the following Offer Of Financial Assistance to purchase the approximately 4.7 route miles of railroad line between milepost 34.8 at or near Momeyer and milepost 39.5 at or near Spring Hope in Nash County, North Carolina owned by the Rocky Mount & Western Railroad.

The Rocky Mount and Western Railroad is affiliated with corporate owners Gulf & Ohio Railways based in Knoxville TN. Its operating name is Nash County Railroad. On March 9, 2005 the Rocky Mount & Western Railroad filed a notice of exemption pursuant to 49 C.F.R. 1152.27 (b)(2)(ii) to abandon the Momeyer to Spring Hope line. On March 18, 2005 and in accordance with 49 C.F.R. 1152.27 (c)(2)(i) the NCDOT submitted a formal expression of intent to file an Offer of Financial Assistance to

subsidize or purchase the 4.7-mile track along with a request to for financial data and information as per 49 C.F.R. 1152.27 (a)(1)(ii).

The NCDOT seeks to acquire the Rocky Mount and Western track to preserve it for economic development. NCDOT's statutory mandate states, in pertinent part, that "preservation of rail corridors, through... State acquisition of strategic corridors, is in the public interest and is an integral and necessary part of a balanced transportation system..." N.C. Gen. Stat. § 143B-61.

This rail corridor is strategically located in North Carolina, 10 miles from Interstate 95 and 1 mile from US 64. There are plans to extend water and sewer to the Momeyer and Spring Hope area and CSX has indicated an interest in marketing sites along the track.

Nash County, Carolina Gateways Partnership and the town of Spring Hope support preservation of the tracks and have met with the Railroad and NCDOT to discuss alternatives to abandonment. The Carolina Gateways Partnership is marketing available buildings adjacent to the track and identified a prospect interested in shipping by rail.

OFFER FOR PURCHASE

The North Carolina Department of Transportation has requested in writing information as set forth in 49 C.F.R 1152 on March 18, 2005 in a formal Notice of Intent to File Offer of Financial Assistance. The Gulf & Ohio Railways was aware of the NCDOT's interest as early as February 24, 2005 when the NCDOT and Carolina Gateways Partnership met with the Gulf & Ohio Railways to discuss preserving the 4.7 miles. As of this filing the Gulf & Ohio Railways has provided traffic and revenue

information and has indicated that additional information is being assembled and will be forwarded within two to four weeks.

The North Carolina Department of Transportation hereby offers to pay the following to purchase the Rocky Mount & Western Railroad line from milepost 38.4 at or near Momeyer to milepost 39.5 at or near Spring Hope based on NCDOT's evaluation of the net liquidation value (see Appendix A) and information provided in Appendix B by the Carolina Gateways Partnership:

The amount of \$ 104,257 based on \$ 47,307 for net liquidation value plus \$56,950 for property assuming fee simple ownership of the entire right of way.

The amount of \$47,307 based on \$47,307 net liquidation value plus \$0 for property assuming easement and no fee simple ownership of the right of way.

This offer is based on a comparable sale is comparable to a Norfolk Southern Railroad estimate of net liquidation value for the Gastonia to Dallas rail line Appendix C dated May 16, 2003. NLV and right of way assumptions are contained in Appendix D.

Information was obtained from the Carolina Gateways Partnership (an economic development entity organized and incorporated under the laws of North Carolina and located in Nash County, North Carolina) regarding the estimated right of way acreage and local market value. As of this date the Gulf & Ohio Railways has not provided an appraisal or title search that would support an assertion that the line is held in fee. As a result of prior litigation and practice, NCDOT is constrained from offering more than net liquidation value where the real property interest is other than fee simple.

As noted above, NCDOT has requested financial information and data concerning the subject line, and was informed that such information would be available in two to four weeks. NCDOT then petitioned for a tolling of the time period in which to submit

this OFA, in order to receive the carrier's estimate of the minimum purchase price. As of the close of business April 7, 2005, petitioning Railroad has not informed NCDOT of its position with respect to the petition for tolling and extension. Accordingly, as of this filing, the petitioning Railroad has not yet provided NCDOT with the estimate of minimum purchase price contemplated by 49 C.F.R. 1152.27 (a)(1)(ii).

In light of these considerations, NCDOT submits that their offer is reasonable and *bona fide*.

THE NCDOT IS A FINANCIALLY RESPONSIBLE PERSON

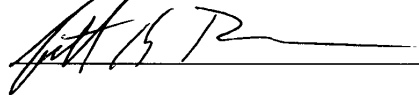
The North Carolina Department of Transportation is a governmental entity and thus presumed to be financially responsible for purposes of these OFA proceedings pursuant to 49 C.F.R. 1152.27 (c)(1)(ii)(B). The Secretary of Transportation, who is appointed by the governor, leads the NCDOT. The NCDOT is responsible for planning, providing and maintaining a safe, and efficient transportation system that consists of an extensive highway network, railroads, airports, two state owned ports, ferries, city buses and rural transit.

The NCDOT's Rail Division is responsible for developing and maintaining a safe and effective rail system supporting local and statewide economic development. The Rail Corridor Preservation Act, passed by the General Assembly in 1988, gives the department the power to become directly involved in preserving inactive railroads for "future rail use and interim compatible uses." N.C.Gen. Stat. § 136-44.35 *et seq.*

CONCLUSION AND REQUESTED RELIEF

Whereas, NCDOT respectfully requests that it be deemed a financially responsible person who has offered financial assistance to maintain rail service for future economic development. Based upon this filing the Board is asked to grant the relief mandated by 49 C.F.R. § 1152.27 (e)(2).

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

A handwritten signature in black ink, appearing to read "Scott Beaver", is written over a horizontal line.

By: Scott Beaver
Assistant Attorney General
1 South Wilmington Street
Raleigh, North Carolina 27601
(919) 733-3316 (voice)
(919) 733-9329 (fax)

Dated April 7, 2005

CERTIFICATE OF SERVICE

I hereby certify that on April 7, 2005 the foregoing **OFFER OF FINANCIAL ASSISTANCE** was deposited in the mail for sending by first-class mail, postage prepaid, to the following parties:

Rose-Michele Weinryb
Weiner, Brodsky Sidman & Kider Pc
1300 19th Street NW 5th Floor
Washington, DC 20036-1609
Attorney for Rocky Mount & Western Railroad Co., Inc.

A handwritten signature in black ink, appearing to read "SKB", is written over a horizontal line.

By: Scott K. Beaver
Assistant Attorney General
1 South Wilmington Street
Raleigh, N.C., 27601
(919) 733-3316 (voice)
(919) 733-9329 (fax)

APPENDIX A

ROCKY MOUNT & WESTERN RAILROAD CO.

NET LIQUIDATION VALUE ESTIMATE

Momeyer, N.C. to Spring Hope, NC

MP 34.8 to MP 39.5

4.70 MILES OF TRACK

GROSS VALUE:

ITEM	QUANTITY			UNIT	UNIT VALUE	GROSS VALUE
85 # RAIL	4.7 Miles	700 NT	@	NT	\$182.00	\$127,400
OTM	4.7 Miles	241.58NT	@	NT	\$182.00	\$43,968
TURNOUTS		5 Each	@	EA	\$5,000	\$25,000
CROSSTIES		1,584 EA	@	EA	\$5.00	\$7,920
TOTAL						\$204,288

REMOVAL COSTS:

ITEM	QUANTITY		UNIT	TOTAL COST
REMOVE TRACK:	4.7 MILES	@	\$25,000/MI	\$117,500
REMOVE TURNOUTS	5 EA	@	\$500/EA	\$2,500
DISPOSE OF CROSSTIES	14,256 EA	@	\$2.00/EA	\$28,512
HANDLING COSTS	941.00/NT	@	\$9.00/NT	\$8,469
TOTAL				\$156,981

ESTIMATED NET LIQUIDATION VALUE = \$ 47,307
(Gross Value minus Removal Costs)

4.70 MILES OF MAIN TRACK = \$10,065/mile

NLV OF TRACK MATERIALS ONLY

APPENDIX B

NASH COUNTY RAILROAD RIGHT OF WAY (ROW) AND ASSESSED VALUE*

The Nash County tax records show that the Rocky Mount & Western Railroad is composed of 282 acres of ROW, and it has a tax value of \$1,000 per acre. Historically Nash County, NC assessed tax values have been 80% of fair market value. Therefore fair market value is \$1,250 per acre. **Fee simple ownership of the Railroad is not assumed. A title search is required to determine the exact nature of Railroad ROW ownership.**

Based on the abandonment of 4.7 miles of track, the following conversions were made:

1. The average width of the ROW is 80 feet.
2. 4.7 miles of track x 5,280 feet per mile = 24,816 feet of abandonment
3. 24,816 feet x 80 feet wide = 1,985,280 square feet of track planned to be abandoned
4. 1,985,280 square feet / 43,560 square feet (acre) = 45.56 acres of track ROW to be abandoned.

The fair market value of the track ROW is $45.56 \times \$1,250$ per acre or \$56,950

The tax value of the property is $\$282,000 \times \0.66 per \$100 = \$1,861.20. For the proposed abandonment the conversion is as follows:

1. $45.56 / 282$ acres = 16% of track area
2. $\$1,861.20 \times 16\%$ = \$297.79

* Source: Carolina Gateways Partnership

RPD

NORFOLK SOUTHERN CORPORATION

ATLANTA 16-May-03

NET LIQUIDATION VALUE ESTIMATE
 Gastonia,NC to Gebo,NC
 HG 47.0 - HG 52.0
 5.00 MILES OF MAIN TRACK

APPENDIX C

GROSS VALUE:	ITEM	QUANTITY	UNIT	UNIT VALUE	GROSS VALUE
132 #RAIL:	0.00 MI.	0	NT @	\$220 /NT =	\$0
#OTM:		0	NT @	\$129 /NT =	\$0
131 #RAIL:	0.00 MI.	0	NT @	\$200 /NT =	\$0
#OTM:		0	NT @	\$129 /NT =	\$0
130 #RAIL:	0.00 MI.	0	NT @	\$180 /NT =	\$0
#OTM:		0	NT @	\$129 /NT =	\$0
115 #RAIL:	0.00 MI.	0	NT @	\$352 /NT =	\$0
#OTM:		0	NT @	\$129 /NT =	\$0
112 #RAIL:	0.00 MI.	0	NT @	\$280 /NT =	\$0
#OTM:		0	NT @	\$129 /NT =	\$0
110 #RAIL:	0.00 MI.	0	NT @	\$192 /NT =	\$0
#OTM:		0	NT @	\$129 /NT =	\$0
100 #RAIL:	0.00 MI.	0	NT @	\$300 /NT =	\$0
#OTM:		0	NT @	\$129 /NT =	\$0
80 #RAIL:	0.00 MI.	0	NT @	\$99 /NT =	\$0
#OTM:		0	NT @	\$129 /NT =	\$0
75 #RAIL:	5.00 MI.	594	NT @	\$129 /NT =	\$76,626
#OTM:		257	NT @	\$129 /NT =	\$33,089
60 #RAIL:	0.00 MI.	0	NT @	\$129 /NT =	\$0
#OTM:		0	NT @	\$129 /NT =	\$0
TURNOUTS:		3	EA @	\$2,000 EA =	\$6,000
CROSSTIES:	10 %	1,584	EA @	\$5.00 EA =	\$7,920

GROSS VALUE SUBTOTAL = \$123,635

REMOVAL COSTS:

REMOVE TRACK AND REPAIR

GRADE CROSSINGS:	5.00 MI. @	\$14,000 /MI. =	(\$70,000)
REMOVE TURNOUTS:	3 EA @	\$500 EA =	(\$1,500)
HANDLING COSTS:	969 NT @	\$9.00 /NT =	(\$8,721)

REMOVAL COSTS SUBTOTAL = (\$80,221)

ESTIMATED NET LIQUIDATION VALUE = \$43,414

Gastonia,NC to Gebo,NC

\$8,683 PER MILE

5.00 MILES OF MAIN TRACK

NLV OF TRACK MATERIALS ONLY

APPENDIX D

NLV Assumptions:

- Rail prices are \$182.00 per net ton based on current rail scrap prices.
- All rail is 85# and has a weight of 85 pounds per yard.
- Ten percent of crossties have salvage value
- Other track materials are estimated at 51.4 tons per mile.
- Removal of track is \$25,000 per mile. Source of information is NCDOT – Rail Division research.
- Five turnouts were estimated.
- Value of turnouts for scrap was \$5,000 each based on NCDOT – Rail Division estimate.
- Removal cost for turnouts was \$500 each, based on NCDOT – Rail Division estimate.
- Handling cost is \$9.00/NT and is defined as cost associated with transporting scrap metal in accordance with Norfolk Southern NLV estimate for Gastonia NC to Gebo NC, May 2003.
- Disposal costs of crossties are \$2.00 per tie based on NCDOT – Rail Division estimate.
- Property values are \$1,250 per acre and based on the Nash County tax records for the property in question and are only applicable if the property is held in fee by the railroad. No value should be assigned if ROW is easement.
- No additional value assigned based on the property being a corridor because of its short length, the fact that there was no traffic on the railroad in over two years, and it is not likely to be needed as a corridor for a water and sewer easement.