

**DEPARTMENT OF TRANSPORTATION****Surface Transportation Board**

[STB Ex Parte No. 290 (Sub-No. 5) (2006-2)]

**Quarterly Rail Cost Adjustment Factor**

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Approval of rail cost adjustment factor.

**SUMMARY:** The Board has approved the second quarter 2006 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The second quarter 2006 RCAF (Unadjusted) is 1.178. The second quarter 2006 RCAF (Adjusted) is 0.562. The second quarter 2006 RCAF-5 is 0.537.

**DATES:** *Effective Date:* April 1, 2006.

**FOR FURTHER INFORMATION CONTACT:** Mac Frampton, (202) 565-1541. [Federal Information Relay Service (FIRS) for the hearing impaired: 1-800-877-8339.]

**SUPPLEMENTARY INFORMATION:**

Additional information is contained in the Board's decision, which is available on our Web site <http://www.stb.dot.gov>. To purchase a copy of the full decision, write to, e-mail or call the Board's contractor, ASAP Document Solutions; 9332 Annapolis Rd., Suite 103, Lanham, MD 20706; e-mail [asapdc@verizon.net](mailto:asapdc@verizon.net); phone (202) 306-4004. [Assistance for the hearing impaired is available through FIRS: 1-800-877-8339.]

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: March 15, 2006.

By the Board, Chairman Buttrey and Vice Chairman Mulvey.

**Vernon A. Williams,**  
*Secretary.*

[FR Doc. 06-2782 Filed 3-22-06; 8:45 am]

**BILLING CODE 4915-01-P**

**DEPARTMENT OF TRANSPORTATION****Surface Transportation Board**

[STB Docket No. AB-992X]

**Atlantic & Pacific Railroad and Transportation Company—Discontinuance of Service Exemption—in Rice County, KS**

On March 2, 2006, Atlantic & Pacific Railroad and Transportation Company (APR) filed with the Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to discontinue service over an approximately 4-mile line of railroad owned by the Kansas & Oklahoma Railroad (KO) and located in Rice County, KS.<sup>1</sup> The line extends from the point of interchange with KO's line at approximately milepost 87.0 (at or near Chase, KS), to the point of interchange with KO's line at approximately milepost 91.0 (at or near Silica, KS). The line traverses U.S. Postal Service Zip Codes 67524, 67554, and 67573, and includes no stations.

APR states that, as it is not the owner of the line, it does not have information on whether the line contains Federally granted rights-of-way. Any documentation in the possession of the railroad will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by June 20, 2006.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by the appropriate filing fee. *See* 49 CFR 1002.2(f)(25).<sup>2</sup>

All filings in response to this notice must refer to STB Docket No. AB-992X and must be sent to: (1) Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001; and

<sup>1</sup> APR was granted an exemption to lease and operate the line in *Atlantic & Pacific Railroad and Transportation Company—Lease and Operation Exemption—Kansas & Oklahoma Railroad*, STB Finance Docket No. 34451 (STB served July 20, 2004). According to APR, the line has no active shippers and no rail service has been performed during the lease term.

<sup>2</sup> Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Likewise, no environmental or historic documentation is required under 49 CFR 1105.6(c) and 1105.8.

(2) Rose-Michele Nardi, Weiner Brodsky Sidman Kider PC, 1300 19th Street, NW., 5th Floor, Washington, DC 20005. Replies to the petition are due on or before April 11, 2006.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152.

Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis at (202) 565-1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: March 16, 2006.

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

**Vernon A. Williams,**  
*Secretary.*

[FR Doc. 06-2827 Filed 3-22-06; 8:45 am]

**BILLING CODE 4915-01-P**

**DEPARTMENT OF TRANSPORTATION****Surface Transportation Board**

[STB Finance Docket No. 34554 (Sub-No. 5)]

**Union Pacific Railroad Company—Temporary Trackage Rights Exemption—BNSF Railway Company**

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Partial Revocation of Exemption.

**SUMMARY:** The Board, under 49 U.S.C. 10502, revokes the class exemption as it pertains to the modified trackage rights described in STB Finance Docket No. 34554 (Sub-No. 4)<sup>1</sup> to permit the trackage rights to expire on or about December 31, 2006, in accordance with

<sup>1</sup> On February 13, 2006, Union Pacific Railroad Company (UP) concurrently filed a verified notice of exemption under the Board's class exemption procedures at 49 CFR 1180.2(d)(7). The notice covered the agreement by BNSF to extend the expiration date of the local trackage rights granted to UP over BNSF's line of railroad between BNSF milepost 579.3 near Mill Creek, OK, and BNSF milepost 631.1 near Joe Junction, TX, a distance of approximately 51 miles. UP submits that the trackage rights are only temporary rights, but, because they are "local" rather than "overhead" rights, they do not qualify for the Board's class exemption for temporary trackage rights at 49 CFR 1180.2(d)(8). *See Union Pacific Railroad Company—Trackage Rights Exemption—BNSF Railway Company*, STB Finance Docket No. 34554 (Sub-No. 4) (STB served Mar. 3, 2006).

the agreement of the parties,<sup>2</sup> subject to the employee protective conditions set forth in Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979).

**DATES:** This exemption is effective on April 22, 2006. Petitions to stay must be filed by April 3, 2006. Petitions to reopen must be filed by April 12, 2006.

**ADDRESSES:** An original and 10 copies of all pleadings referring to STB Finance Docket No. 34554 (Sub-No. 5) must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of all pleadings must be served on petitioner's representative: Gabriel S. Meyer, 1400 Douglas Street, STOP 1580, Omaha, NE 68179.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar (202) 565-1609. [Federal Information Relay Service (FIRS) for the hearing impaired: 1-800-877-8339.]

**SUPPLEMENTARY INFORMATION:**

Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, e-mail or call: ASAP Document Solutions, 9332 Annapolis Rd., Suite 103, Lanham, MD 20706; e-mail [asapdc@verizon.net](mailto:asapdc@verizon.net); telephone: (202) 306-4004. [Assistance for the hearing impaired is available through FIRS at 1-800-877-8339.]

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Decided: March 17, 2006.

By the Board, Chairman Buttrey and Vice Chairman Mulvey.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. E6-4210 Filed 3-22-06; 8:45 am]

**BILLING CODE 4915-01-P**

<sup>2</sup> The original trackage rights granted in *Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company*, STB Finance Docket No. 34554 (STB served October 7, 2004), also extended from BNSF milepost 579.3 near Mill Creek, OK, to BNSF milepost 631.1 near Joe Junction, TX. By decisions served on November 24, 2004, in STB Finance Docket No. 34554 (Sub-No. 1) and on March 25, 2005, in STB Finance Docket No. 34554 (Sub-No. 3), the Board granted exemptions to permit the trackage rights authorized in STB Finance Docket No. 34554 and extended in STB Finance Docket No. 34554 (Sub-No. 2), served on Feb. 11, 2005, to expire. At the time of that extension, it was anticipated by the parties that the rights would expire on or about December 31, 2005. However, this authority had not yet been exercised at the time of filing of the notice of exemption in STB Finance Docket No. 34554 (Sub-No. 4) for a further extension of the expiration date.

**DEPARTMENT OF TRANSPORTATION**

**Surface Transportation Board**

**[STB Docket No. Ab-988X]**

**Nebkota Railway, Inc.—Abandonment Exemption—In Sheridan and Cherry Counties, NE**

By petition filed on December 1, 2005, Nebkota Railway, Inc. (NRI) seeks an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10903 to abandon a 43-mile portion of its line of railroad extending from milepost 374 at Rushville 69360 to the end of the line at milepost 331 at Merriman 69218 in Sheridan and Cherry Counties, NE. Notice of the filing was served and published in the **Federal Register** on December 21, 2005 (70 FR 75860). The Nebraska Game and Parks Commission (NGPC) filed a request for issuance of a notice of interim trail use (NITU). Rails to Trails Conservancy (RTC) and NGPC jointly filed a reply to NRI's petition and a request for imposition of a public use condition. NRI responded. We will grant the petition for exemption, subject to public use, trail use, environmental, and standard employee protective conditions.

**Background**

The line proposed for abandonment is part of a 73.5-mile rail line acquired by NRI from the Chicago and North Western Transportation Company (CNW) in *Nebkota Railway, Inc.—Acquisition and Operation Exemption—Line of Chicago and North Western Transportation Company*, Finance Docket No. 32442 (ICC served Feb. 4, 1994). The 73.5-mile line extends from Merriman to Chadron, NE. In that proceeding, NRI also acquired incidental trackage rights over 27.8 miles of CNW's rail line extending from Chadron to Crawford, NE, to allow NRI to interchange with the Burlington Northern Railroad Company (BN). The line is a part of what had been CNW's Cowboy Line, which was mostly abandoned by CNW pursuant to authority granted in *Chicago and North Western Transportation Company—Abandonment Exemption—Between Norfolk and Merriman, NE*, Docket No. AB-1 (Sub-No. 249X) (ICC served June 2, 1994).

There are three shippers on the portion of the line proposed for abandonment, Farmers Co-op Elevator Company of Gordon, Retzlaff Grain Co., Inc., and West Plains Grain, Inc. According to NRI, the traffic on that portion, which constitutes the eastern end of its line, has declined

dramatically over the past few years and has proven to be a drain on the remainder of its operations. NRI's traffic data show that the number of revenue carloads being transported has dropped from 346 in the year 2002 to 108 in the year 2004. NRI states that, in the 3-year period, it has sustained an operating loss of \$24,309.80. No overhead traffic moves over the line and NRI does not anticipate any increase in local traffic within the foreseeable future. NRI states that, if the 43-mile portion is authorized for abandonment, the tracks, ties, and other track materials will be salvaged and sold to help NRI retain and profitably operate the remainder of its railroad system, extending between Chadron and Rushville, with incidental trackage rights between Chadron and Crawford. NRI states that it has notified the three shippers on the line of the abandonment proposal and that they do not oppose the abandonment.

In a joint reply filed on January 10, 2006, RTC and NGPC have expressed concern regarding the disposition of the right-of-way (ROW) should the Board authorize the abandonment. They contend that NRI, CNW, and RTC entered into a master agreement to settle a prolonged dispute between CNW and the State of Nebraska regarding abandonment of the Cowboy Line. RTC and NGPC point out that the master agreement, among other things, requires NRI to consent to rail bank its line under section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), and convey the ROW to RTC or its assignee should NRI seek to abandon all or a portion of its line. Because NRI has disputed its obligations under the master agreement, RTC and NGPC request that the Board impose a public use condition in the instant proceeding and retain jurisdiction over the line by various other means until the contractual dispute with NRI is resolved.

In a letter dated January 26, 2006, NRI has responded that, without accepting the arguments advanced in support of the request for the public use condition, NRI agrees upon the Board's approval of its abandonment petition to convey the ROW to NGPC to be used as a recreational trail pursuant to the Trails Act. NRI believes that this action would obviate the need for imposition of a public use condition.

On February 17, 2006, RTC and NGPC jointly filed a status report on their negotiations, to which NRI responded by letter dated February 24, 2006. RTC and NGPC jointly filed a further reply on February 28, 2006, and NRI responded by letter dated March 1, 2006.