

Draft.....For Discussion Purposes Only.....Draft
PANHANDLE LEASE:
RAILROAD MAINTENANCE RESPONSIBILITIES
NORMAL VRS EXTRAORDINARY MAINTENANCE ITEMS
March 17, 2008

This language would be added to the existing Maintenance Article for the express purpose of defining “normal” and “extraordinary” maintenance. No deducts in the Rent would be allowed for normal maintenance, but deducts for extraordinary maintenance would be allowed. The C&OR would still need to meet the FRA standards stipulated for each segment of track.

Differentiation between Normal and Extraordinary Maintenance Activities for the Purpose of Determining C&OR Rent Payments to ORDC: Nothing in this section absolves the C&OR from its maintenance responsibilities as outlined herein above in this Article ___ “Maintenance”. The purpose of this section is to differentiate which railroad improvements made by the C&OR can be eligible for reductions in rent payments the C&OR shall pay to ORDC as stipulated in Article ___ “Rent” of this Lease Agreement.

“Normal Maintenance” and “Extraordinary Maintenance” activities are defined herein below. For the purposes of this Lease Agreement, Normal Maintenance shall include but not be limited to the items listed below. However, Extraordinary Maintenance shall include only the expressly stated items included herein below.

At any time during the course of this Lease Agreement, the C&OR shall have the right to petition ORDC in writing to add items to the list of Extraordinary Maintenance. Such petition shall include a description of the work which will be needed to maintain or improve or replace the item in question as well as the estimated costs and a brief description of the potential benefits to the railroad and to the public of performing the needed work. ORDC at its sole discretion shall determine whether to grant the C&OR request.

Normal Maintenance Activities

- **Inspections as required by law, regulation, or good operating practices.**
- **Maintaining sufficient road bed for continued effective operations, i.e. sub-grade, sub-ballast, and ballast.**
- **Repairing washouts of up to 1,000 feet per occurrence (i.e. total length of wash outs in a particular area occurring in a single event).**
- **Maintaining drainage ditches and drainage culverts.**
- **Replacing defective culverts up to 72 inches in diameter (round) or an area of 16 square feet (box).**
- **Tie replacement up to 1,000 ties per mile.**
- **Raising, tamping, and lining track for installation of up to 1,000 ties per mile.**
- **Bridge deck replacement.**
- **Bridge maintenance and inspection.**
- **Replacing of bridges or other crossing structures of 25 ft. or less in length.**

- Replacing rail on contiguous segments of track one-half mile or shorter.
- Replacing, renewing, or installing turn outs and switches.
- Maintaining joints including bolt tightening and replacing defective joint bars.
- Maintaining and replacing crossing frogs and diamonds.
- Maintaining tunnel drainage, repairing small slides or collapses costing under \$150,000 to repair, and clearing of ice and other debris at portals.
- Maintaining and replacing crossing surfaces under 50 feet in length.
- Maintaining passive crossing warning devices as required by law.
- Inspecting and maintaining highway crossing protection devices.
- Constructing active warning devices as ordered by the Public Utilities Commission of Ohio.
- Maintaining existing train control devices such as dispatching communications, radio and cell phone communications, and other related communication devices.
- Maintaining maintenance of way equipment, machinery, and tools as well as acquisition of such equipment, machinery, and tools costing under \$500,000 for each individual piece.
- Construction of new spur or siding track of under one-quarter mile in length.
- Controlling roadway vegetation.

Extraordinary Maintenance Activities

- Repairing washouts of over 1,000 feet per occurrence (i.e. total length of wash outs in a particular area occurring at the same time).
- Replacing defective culverts over 72 inches in diameter (round) or an area of 16 square feet (box).
- Raising, tamping, and lining track for installation of over 1,000 ties per mile.
- Tie replacement exceeding 1,000 ties per mile.
- Repairing Gould Tunnel for small slides or collapses costing over \$150,000; repairing Gould Tunnel for drainage issues costing over \$150,000.
- Installing new wayside signals or new train control devices.
- Purchasing maintenance of way equipment, machinery, or tools costing over \$500,000 for each individual piece.