

FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208

BRADON J. SMITH

(312) 252-1516
bsmith@fletcher-sippel.com

ENTERED
Office of Proceedings
July 28, 2021
Part of
Public Record

Phone: (312) 252-1500
Fax: (312) 252-2400
www.fletcher-sippel.com

July 28, 2021

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20423-0001

Re: **FD 36527**
South Kansas and Oklahoma Railroad L.L.C. —
Lease and Operation Exemption—
Tulsa's Port of Catoosa Facilities Authority

Dear Ms. Brown:

Attached for filing in the above-captioned proceeding is a **Verified Notice of Exemption of the South Kansas and Oklahoma Railroad, L.L.C. Pursuant to 49 C.F.R. § 1150.42**, and a **Petition for Waiver**, each dated July 28, 2021. The fee for this filing has been tendered electronically via Pay.gov.

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

Respectfully submitted,

Bradon J. Smith
Attorney for South Kansas and Oklahoma Railroad,
L.L.C.

FILED
July 28, 2021

BJS:bs
SURFACE
TRANSPORTATION BOARD
Attachments

FEE RECEIVED
July 28, 2021
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36527

SOUTH KANSAS AND OKLAHOMA RAILROAD, L.L.C.
— LEASE AND OPERATION EXEMPTION —
TULSA'S PORT OF CATOOSA FACILITIES AUTHORITY

**VERIFIED NOTICE OF EXEMPTION OF
SOUTH KANSAS AND OKLAHOMA RAILROAD, L.L.C.
PURSUANT TO 49 C.F.R. PART 1150, SUBPART E**

Bradon J. Smith
Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500

**ATTORNEYS FOR SOUTH KANSAS AND
OKLAHOMA RAILROAD, L.L.C.**

Dated: July 28, 2021

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36527

SOUTH KANSAS AND OKLAHOMA RAILROAD, L.L.C.
— LEASE AND OPERATION EXEMPTION —
TULSA’S PORT OF CATOOSA FACILITIES AUTHORITY

**VERIFIED NOTICE OF EXEMPTION OF
SOUTH KANSAS AND OKLAHOMA RAILROAD, L.L.C
PURSUANT TO 49 C.F.R. PART 1150, SUBPART E**

Pursuant to 49 C.F.R. Part 1150, Subpart E, South Kansas and Oklahoma Railroad, L.L.C. (“SKOR”), a Class III rail carrier, hereby files this Verified Notice of Exemption (the “Notice”) to lease from Tulsa’s Port of Catoosa Facilities Authority (the “Port”) a line of railroad extending approximately 7.1 miles between Milepost 0.00 in Owasso, Oklahoma, and Milepost 7.07 in Catoosa, Oklahoma (the “Line”). In accordance with the requirements of 49 C.F.R. § 1150.43, SKOR submits the following information:

Name and Address of Applicant: 49 C.F.R. § 1150.43(a)

The full name and address of the applicant herein is as follows:

South Kansas and Oklahoma Railroad, L.L.C.¹
315 W. Third Street
Pittsburg, KS 66782

¹ South Kansas and Oklahoma Railroad, Inc. converted from a stock corporation to a limited liability company in 2016.

Applicant's Representative: 49 C.F.R. § 1150.43(b)

SKOR's representative to whom correspondence regarding this transaction should be sent is as follows:

Bradon J. Smith
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606
(312) 252-1500

Statement Concerning Agreement: 49 C.F.R. § 1150.43(c)

SKOR and the Port have entered into a "Rail Line Lease Agreement" (the "Lease Agreement") to govern the subject transaction.

Operator of the Property: 49 C.F.R. § 1150.43(d)

SKOR will operate and provide all rail common carrier service to shippers on the Line.

Background and Summary of the Transaction: 49 C.F.R. § 1150.43(e)

SKOR previously operated the Line pursuant to assignment of a leasehold from the former Atchison, Topeka & Santa Fe Railway Company. *South Kansas and Oklahoma Railroad, Inc. — Lease Exemption — The Atchison, Topeka & Santa Fe Railway Company*, FD 32082 (ICC served Aug. 11, 1992). SKOR and the Port have entered into a new lease for the Line² effective upon the receipt of all regulatory approvals.

² The 7.1 miles identified in this notice is a more accurate measurement of the Line than the 7.3 miles given in FD 32082.

The name and address of the entity leasing the Line to SKOR is:

Tulsa's Port of Catoosa Facilities Authority
5350 Cimarron Road
Catoosa, Oklahoma 74015

The parties intend the Lease Agreement to be effective on receipt of all necessary regulatory approvals, at which point SKOR expects to consummate the lease transaction and continue common carrier operations on the Line under the terms of that agreement. The Line extends approximately 7.1 miles between Milepost 0.00 in Owasso, Oklahoma and Milepost 7.07 in Catoosa, Oklahoma.

Maps: 49 C.F.R. § 1150.43(f)

A map showing the Line is attached as Exhibit A.

Certificate of Compliance: 49 C.F.R. § 1150.43(g)

The projected revenues will not result in SKOR becoming a Class I or II rail carrier. A certification to this effect is made with the verification of this Notice.

Interchange Commitments: 49 C.F.R. § 1150.43(h)

The Lease does not include an interchange commitment.

Advance Notice: 49 C.F.R. § 1150.42(e)

SKOR is an existing Class III carrier with rail revenues in excess of \$5 million annually. However, given that SKOR has operated the Line since 1992, the proposed transaction does not give rise to the concerns the workforce advance notice requirement 49 C.F.R. § 1150.42(e) are intended to address; SKOR is thus seeking a waiver of this requirement concurrent with the filing of this Notice by separate pleading.

Environmental and Historic Preservation Data: 49 C.F.R. § 1105

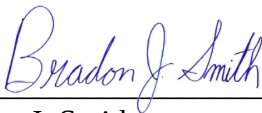
Under 49 C.F.R. § 1105.6(c)(2), this transaction is exempt from environmental reporting requirements because it will not result in significant changes in carrier operations, i.e., changes that exceed the thresholds established in 49 C.F.R. § 1105.7(e)(4) or (5).

Under 49 C.F.R. § 1105.8(b)(1) the transaction—which is intended for the purpose of continued rail operations—is exempt from historic preservation reporting requirements. Separate Surface Transportation Board approval would be required for SKOR to be able to discontinue service, and there are no plans to dispose of or alter properties subject to Board jurisdiction that are fifty years old or older.

Caption Summary: 49 C.F.R. § 1150.42(a)

A caption summary in appropriate form is attached as Exhibit B.

Respectfully submitted,

By: _____

Bradon J. Smith
Robert A. Wimbish
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606-3208
(312) 252-1500

**ATTORNEYS FOR SOUTH KANSAS AND
OKLAHOMA RAILROAD, L.L.C**

Dated: July 28, 2021

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 36527

**SOUTH KANSAS AND OKLAHOMA RAILROAD, L.L.C.
— LEASE AND OPERATION EXEMPTION —
TULSA'S PORT OF CATOOSA FACILITIES AUTHORITY**

EXHIBIT A

MAP

FD 36527

South Kansas and Oklahoma Railroad, L.L.C. -- Lease and Operation

Exemption -- Tulsa's Port of Catoosa Facilities Authority

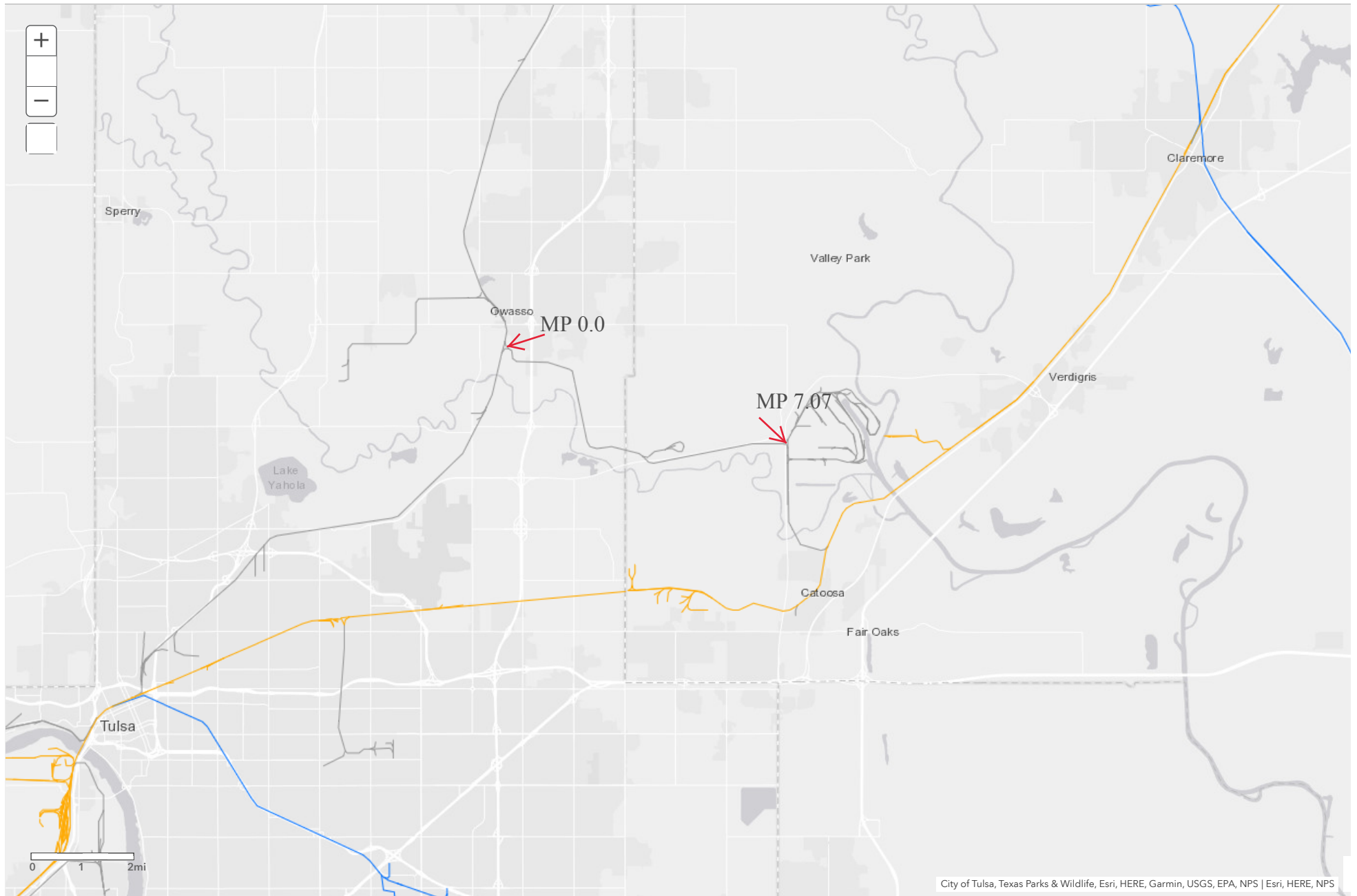
Details |

Basemap |

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FD 36527

**SOUTH KANSAS AND OKLAHOMA RAILROAD, L.L.C.
— LEASE AND OPERATION EXEMPTION—
TULSA'S PORT OF CATOOSA FACILITIES AUTHORITY**

EXHIBIT B

FEDERAL REGISTER NOTICE

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

SOUTH KANSAS AND OKLAHOMA RAILROAD, L.L.C.
— LEASE AND OPERATION EXEMPTION —
TULSA'S PORT OF CATOOSA FACILITIES AUTHORITY

South Kansas and Oklahoma Railroad, L.L.C., a Class III carrier, has filed a notice of exemption (the "Notice") to lease from the Port of Catoosa Facilities Authority a line of railroad extending approximately 7.1 miles between Milepost 0.00 in Owasso, Oklahoma, and Milepost 7.07 in Catoosa, Oklahoma.

Comments must be filed with the Board and served on:

Bradon J. Smith
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 800
Chicago, Illinois 60606
(312) 252-1500

The Notice is filed under 49 C.F.R. § 1150.41. If the Notice contains false or misleading information, the exemption is void *ab initio*. The filing of a petition to revoke will not automatically stay the transaction.

CERTIFICATION AND VERIFICATION

Rick D. Baden hereby certifies and verifies under penalty of perjury as follows:

1. I am the Executive Vice President and Chief Financial Officer of the South Kansas and Oklahoma Railroad, L.L.C. ("SKOR").
2. The annual rail revenues of SKOR will not result in SKOR becoming Class I or II rail carrier under the thresholds set forth at 49 C.F.R. § 1201 (1-1).
3. I have read the foregoing Notice of Exemption and know that the facts stated herein are true.

Dated: July 28, 2021


Rick D. Baden