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SERVICE DATE – MAY 20, 2022

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 853 (Sub-No. 4X)]

Kansas & Oklahoma Railroad, L.L.C.—Discontinuance of Service Exemption—in
Crowley, Pueblo, Otero, and Kiowa Counties, Colo.

On April 21, 2022, Kansas & Oklahoma Railroad, L.L.C. (K&O), filed a petition under 49 U.S.C. § 10502 for exemption from the prior approval requirements of 49 U.S.C. § 10903 to discontinue service over a 121.9-mile railroad line (the Towner Line) between milepost 747.5 at Towner and milepost 869.4 near NA Junction, in Crowley, Pueblo, Otero, and Kiowa Counties, Colo.¹ The Towner Line traverses United States Postal Service Zip Codes 81022, 81025, 81062, 81033, 81063, 81076, 81050, 81021, 81045, 81036, and 81071.

According to K&O, the proposed discontinuance will allow it to end its common carrier rail service obligation over the Towner Line, consistent with the plans of the Towner Line's owner, Colorado Pacific Railroad, LLC (CXR), to commence operations. K&O states that the proposed discontinuance will therefore leave no Towner Line

¹ K&O originally submitted its petition for exemption on April 8, 2022, but filed a supplement on April 21, 2022. Accordingly, April 21, 2022, will be considered the official filing date. Although, due to an inadvertent oversight related to the supplement, this notice will be published in the Federal Register more than 20 days after the petition was filed (see 49 C.F.R. § 1152.60(a)), there will be no prejudice to any person wishing to submit an expression of intent to file an offer of financial assistance (OFA), as the due date for such submissions will still be 10 days from publication. See 49 C.F.R. § 1152.27(c)(1)(i).

customer without access to railroad common carrier service, as any such customers would have service via CXR.

K&O states that, as a non-owner of the Line, it is unaware whether the Line contains federally granted rights-of-way. K&O also states that it will make any documentation that it may have concerning federally-granted rights-of-way available promptly to those requesting it.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. § 10502(b). A final decision will be issued by August 9, 2022.

Because this is a discontinuance proceeding and not an abandonment, interim trail use/rail banking and public use conditions are not appropriate. Because there will be environmental review during any subsequent abandonment, this discontinuance does not require an environmental review. See 49 C.F.R. §§ 1105.6(c)(5), 1105.8(b).

Any offer of financial assistance (OFA) for subsidy under 49 C.F.R. § 1152.27(b)(2) will be due no later than 120 days after the filing of the petition for exemption, or 10 days after service of a decision granting the petition for exemption, whichever occurs sooner.² Persons interested in submitting an OFA must first file a formal expression of intent to file an offer by May 31, 2022, indicating the intent to file

² The filing fee for OFAs can be found at 49 C.F.R. § 1002.2(f)(25).

an OFA for subsidy and demonstrating that they are preliminarily financially responsible.
See 49 C.F.R. § 1152.27(c)(1)(i).

All filings in response to this notice must refer to Docket No. AB 853 (Sub-No. 4X) and must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on K&O's representative, Bradon J. Smith, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606-2832. Replies to the petition are due on or before June 9, 2022.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment and discontinuance regulations at 49 C.F.R. part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis at (202) 245-0294. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339.

Board decisions and notices are available at www.stb.gov.

Decided: May 17, 2022.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.