

U.S. Surface Transp Board
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Wash, DC 20423-0001

308401

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Office of Proceedings
June 18, 2024
Part of
Public Record

Before the Surface Transportation Board

STB Finance Docket - 36714 (Sub-No. 1)

**REQUEST FOR A DECLARATORY ORDER FROM THE BOARD
BY SUNFLOWER STATE INDUSTRIAL RAILWAY, LLC**

Required fee: \$1,400.00 (encl)

Submitted by:



Steve P. Gorsline, General Manager
Sunflower State Industrial Railway, LLC
Box 245 - Colony, Kansas 66015-0245

Date: 12 June 2024



FILED
June 18, 2024
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
June 18, 2024
SURFACE
TRANSPORTATION BOARD

Before the Surface Transportation Board

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**REQUEST FOR A DECLARATORY ORDER FROM THE BOARD
BY SUNFLOWER STATE INDUSTRIAL RAILWAY, LLC**

Sunflower State Industrial Railway, LLC (Sunflower) herein Requests the Board to issue a Declaratory Order finding Sunflower qualifies to operate as a Class 3 Pvt RR. On Sept 19, 2024 the Board denied Sunflower's prior filing: finding it deficient of all necessary info for a decision. As such hereinbelow: Sunflower's added the absent info & provides it to the Board for inclusion.

Sunflower without the benefit of legal representation is hampered its ability to gather vital info the Board needs for this matter. As such, Sunflower's follows a previous case heard by the Board. Sunflower relies on: STB Finance Docket No. 34952 - The Devens Recycling Center, LLC.

In the above cited case Devens sought a determination that - Board prior authorization isn't required under 49 USC § 10901 for construction of rail in Middlesex County, MA as the rail did qualify for a exception found at 49 USC § 10906 as Ancillary Rail (spur, industrial, team switching or side track). Devens sought a determination regardless of Classification of the rail construction it would not result in Massachusetts Development Finance Agency (Mass. Develop) or Devens from becoming "rail common carriers".

Here Sunflower is responsible for building its track & retains ownership of all track & related structures. Sunflower will enter into an Agreement w/ Union Pacific RR whereby: UP switches RR cars to & from Sunflower's rails. (UP RR is Agreeable to co-operating the Garnett interchange).

Sunflower will service E. Kansas Agri Energy LLC (EKAE). EKAE is a 35 million gallon/yr ethanol site. Its Annual Plant capacity besides ETOH: is output to include 68,000 tons of DDGs, 110,000 tons of WDGs & 92,000 tons of CO2. The plant was built in 2005: 14 yrs after Atchison Topeka & Santa Fe RR abandoned rails that ran just 900feet west of EKAE's site. [Note: in the aerial photo of EKAE: is a 'right of way' for RR that was built But no rail svc / new rail start-up ever materialized]. Consequently w/o rail svc: ethanol plant ships 100% tank trucks. Nearest interstate I-35 is 23 miles away. Garnett Kansas has 1 RR, 6 frt (local) lines, 6 interstate carriers.

Sunflower has NO plans to let Any other shipper to use Any part of its RR. Adjacent the RR: between the point where the interchange w/ the UP is & the ethanol site is: There's 2 companies. One is a farm svc co. It produces feeds / agri svc for area farms & the other business is a small repair machinery svc. Neither business has ANY interest in moving its product or goods by rail. As said: EKAE WILL Use the planned RR svc. Of 13 ETOH plants in Ks ONLY EKAE has NO NO Rail Svc. They'd be the first to say: shipping by RR IS way Cheaper than moving 35 million gallons of ETOH via semi truck! And safer too: top speed here for ETOH cars is 10 mph (max)!

Sunflower notes: 2 nearby companies who ONCE had rail svc - but No longer do and ship 100% by trk include: Brummel Farm Svc & Beachner Grain elevator. Formerly were served by Union Pac: for them: truck was Cheaper. Both companies were contacted: neither wants rail svc.

Sunflower notes that the physical characteristics & intended use of that rail = the planned track is: 'Ancillary spur track' & excepted under 49 USC § 10906 fr approval requirement of 49 USC § 10901. Sunflower notes the said rail has physical characteristics of spur trk as it's 2.5 miles in length, is stub-ended, will be used for operations that are 'ancillary' to Union Pac's operations over its mainline & Only serves EKAE (moving produced EKAE goods in RR cars To Union Pac

RR & Bringing empty railcars Fr UP RR to EKAE's RR tracks: Period). Moreover there's No transfer stations agents or loading platforms built along the line. ALL rail traffic id shipments for EKAE & that the track won't invade the territory of another RR.

Sunflower adds that neither it nor the ETOH site (EKAE) are or intend to become common carriers. Rather operator Union Pacific RR acquires a common carrier obligation once proposed transaction's OK'd. [Maine DoT Acq. Exemp ME Cen'l R. Co, 8 I.C.C.2d 835 ('91) State of Me].

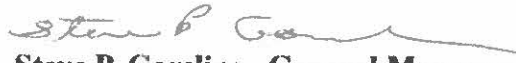
Sunflower further notes: there's NO potential rail svc opportunities aside of svc with EKAE. Traffic volume (carloads) is expected to be between 25-30 cars/week.

Sunflower has received 2 bids from A&K RR Materials. Plans are: use #110 & #115 relayer rail (used). Sunflower uses its Other Track (see Map Diagram: Track Use) that isn't serving ETOH plant: to operate the Prairie Spirit Diner Car services & thus Sunflower won't be using all 3 miles its trk, to provide svc to EKAE but will use approximately 1/4 mile of track (out of 3 total miles) to serve EKAE. The other 2.75 miles of RR is used by Sunflower for its dining car svcs, rail car storage & rails to reach Sunflower's rail maintenance garage. Thus Most of the private rail will be used by Sunflower for its Own use & falls Outside the Decision @ Effingham RR. [See Effingham RR - Pet'n for Dec Ord - Constr @ Effingham, IL 2 STB 606, 609-10 ('97), aff'd sub nom. United Transp. Union-Ill. Legislative Bd, v. STB, 183 F.3d 606 (7 Cir. 1999) [required party seek constr. & operating authority under 49 U.S.C § 10901 in what would otherwise be § 10906 rail as the rail to be constructed constitutes the Entirety of the party's rail system. See STB Fin Doc # 34952].

Here, "Private Trk" to serve Only EKAE: meets requirements of § 10906, as (a) it serves 1 customer & (b) Sunflower's main rails are for rail tour services (dining car svc & caboose rides): are clearly: non-STB regulated rail.

Per the above mentioned 'added info' Sunflower's re-submits for STB review & examination of a prev rejected 09-19-2023 Notice by STB. Sunflower submits to STB a Request for Declaratory Order that seeks Private Rail status for Sunflower.

Respectfully submitted,


**Steve P. Gorsline, General Manager
Sunflower State Industrial Railway, LLC
Box 245 - Colony, Kansas 66015-0245**

06-12-2024

Exhibits:



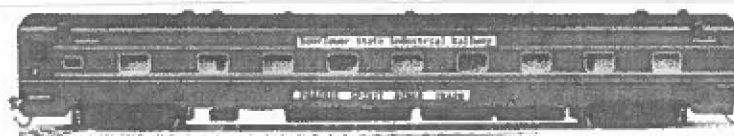
SUNFLOWER STATE INDUSTRIAL RAILWAY, LLC
Post Office Box 245 - Colony, Kansas 66015-0245

SunflowerStateIndustrialRR@Gmail.Com

"Home of the Prairie Spirit Dinner Train"

PRAIRIE SPIRIT DINNER TRAIN

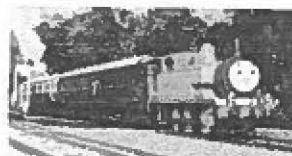
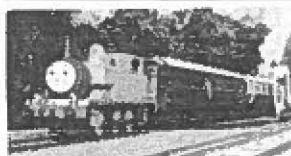
3 mile RT dinner aboard coach car.



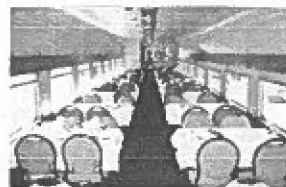
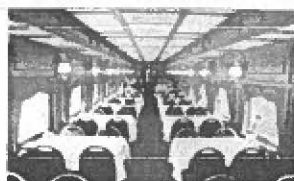
1/2 hour Caboose train excursions.



Day Out w/ Thomas RR celebrations.

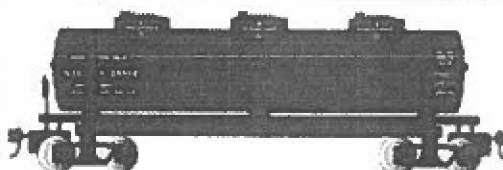


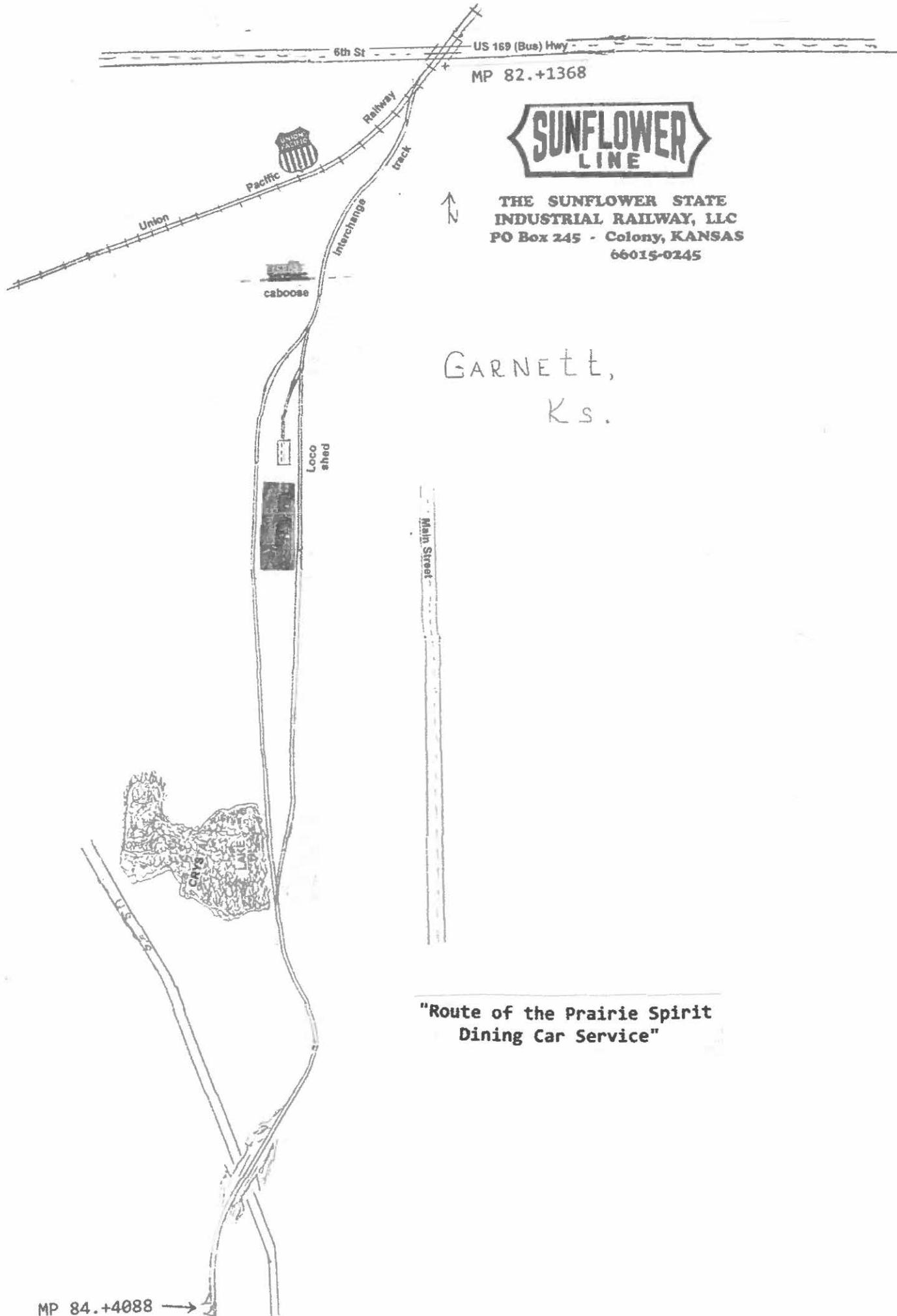
Holiday (pvt lease) Diner car use.



GARNETT ENERGY RAIL SERVICE

Exclusive Rail Service for EKAE Plant.





**SUNFLOWER
LINE**

THE SUNFLOWER STATE
INDUSTRIAL RAILWAY, LLC
PO Box 245 - Colony, KANSAS
66015-0245

GARNETT,
Ks.

"Route of the Prairie Spirit
Dining Car Service"

MP 84.+4088 →

8th Street

US 168 (Bus) Hwy

Union Pacific RR



THE SUNFLOWER STATE
INDUSTRIAL RAILWAY, LLC
1400 Sun Hwy, Colmar, Kansas
66013-0241

GARNETT, KS

ATSF RR
station

Loco
shed

Primary Rail Tracks
[Diner car Opn's]



EKAE T/O
'triangle'

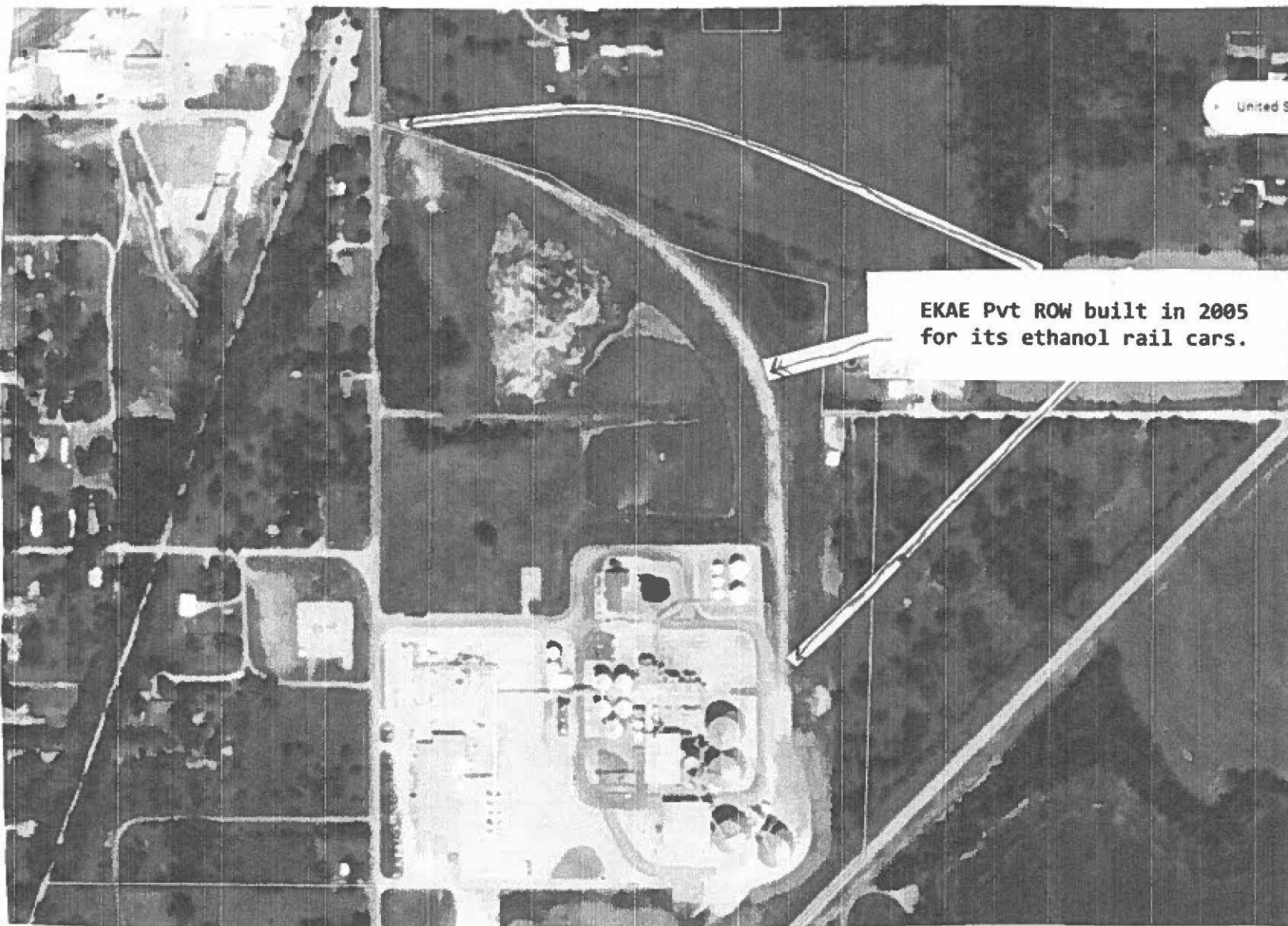
Main Street

Secondary Rail Tracks
[Servicing EKAE Br]

EKAE Plant
(ethanol)



US Hwy 88



EKAE Pvt ROW built in 2005
for its ethanol rail cars.

6th Street US 169 (Bus) Hwy

Union Pacific RR



THE SUNFLOWER STATE
INDUSTRIAL RAILWAY, LLC
PO Box 245 - Colony, Kansas
66015-0245

GARNETT, KS

Loco shed

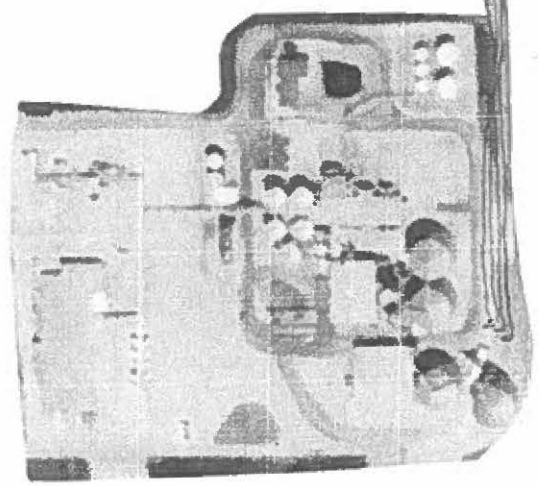
ATSF RR station

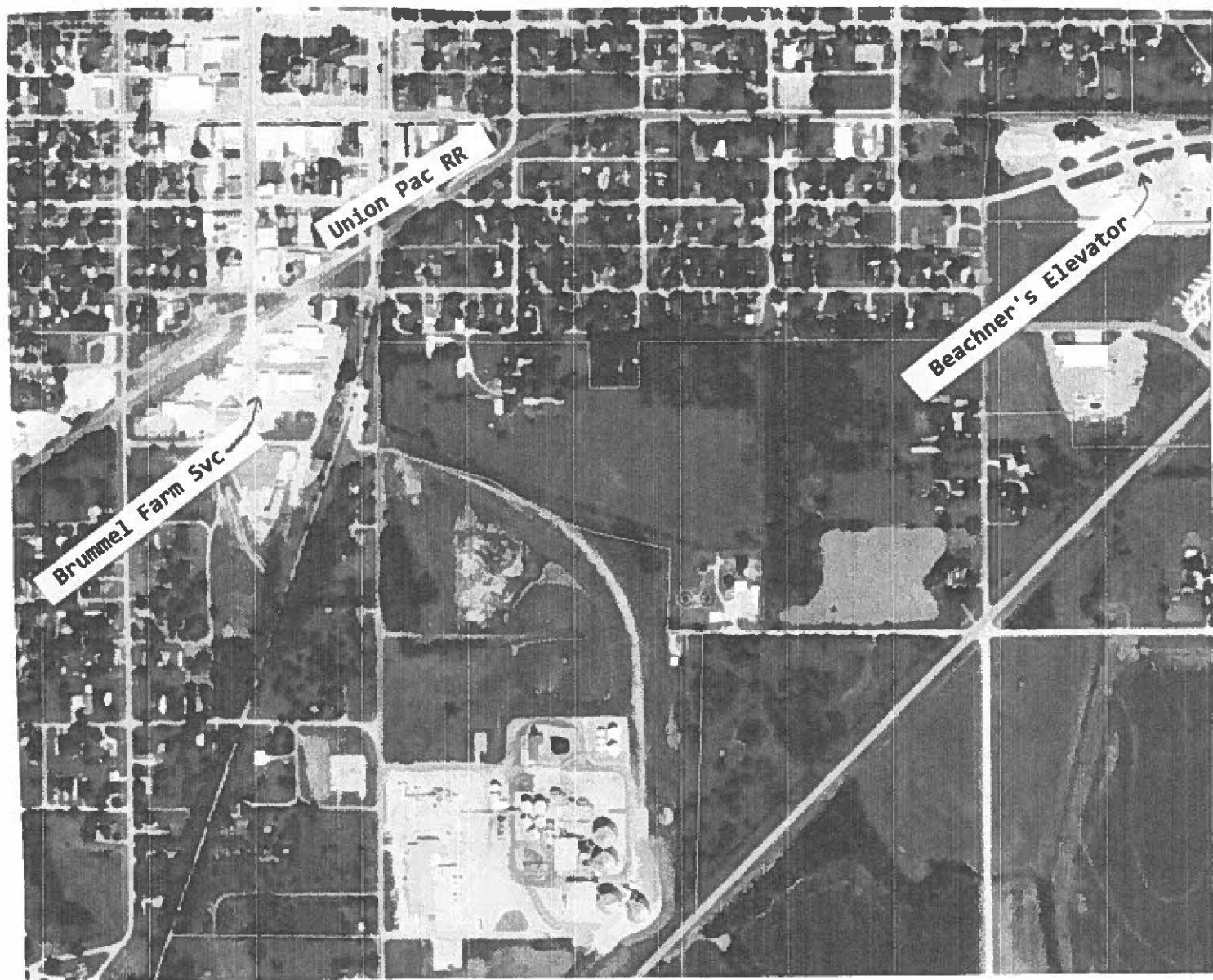
MAIN Street

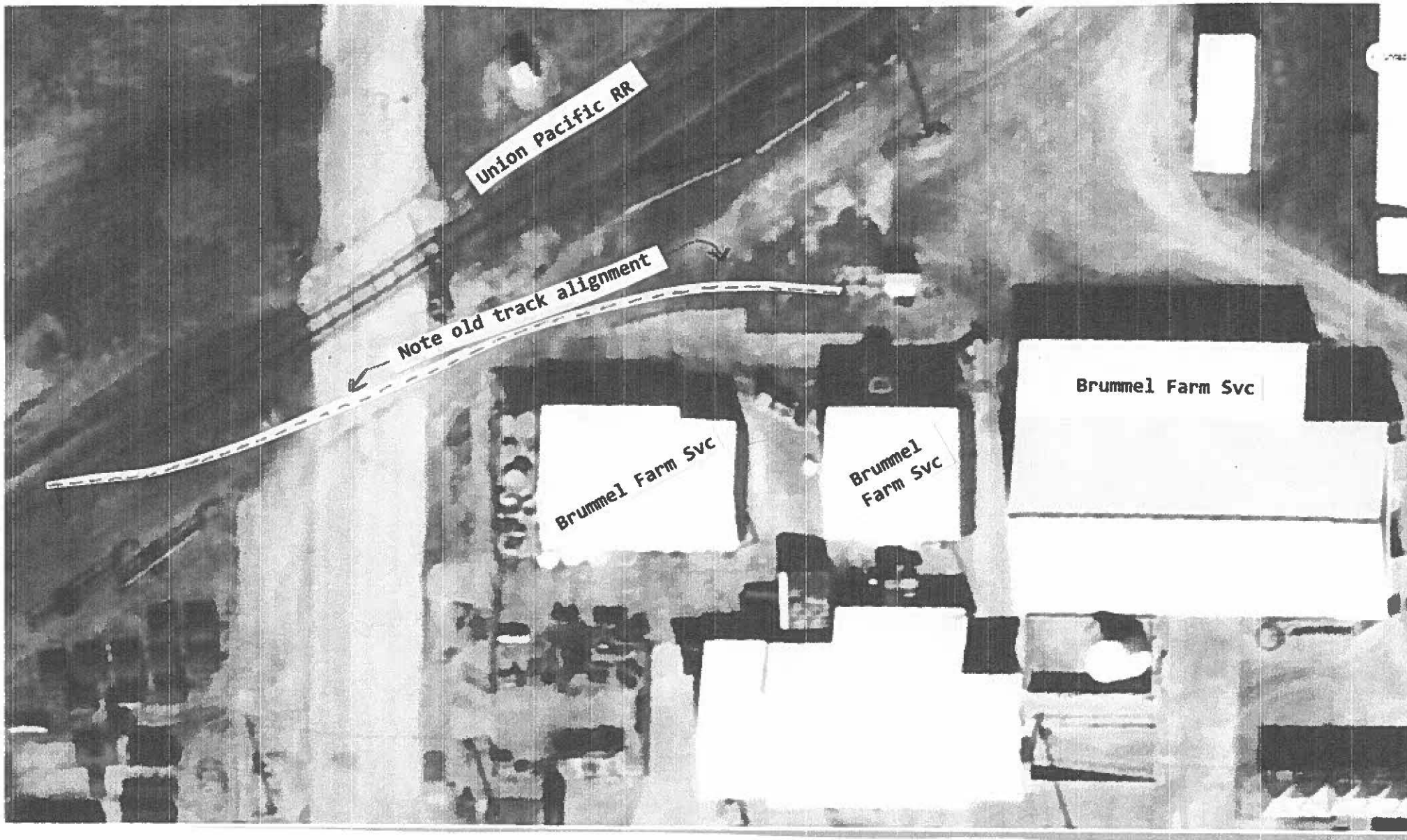


Yutzy Roofing

US Hwy 59







Union Pacific RR

Note old track alignment

Beachner's
Elevator

Quotation

Page 1 of 2



**A&K Railroad
Materials, Inc.**

2134 South 74th Street
Kansas City, KS 66106
USA
Phone (913) 375-1810 Fax Email SBurnell@akrailroad.com

Quotation ID QS-20-04671-6
Date quoted 05/13/2020
Your reference
Customer account 009998

Buyer THE SUNFLOWER STATE INDUSTRIAL RAILWAY
528 EAST MAHAN AVE
Hazel Park, MI 48030
.. USA

Ship to **THE SUNFLOWER STATE INDUSTRIAL RAILWAY**
THE SUNFLOWER STATE INDUSTRIAL RAILWAY
WILL ADVISE
Garnett, KS 66032
USA

Requested by STEVE GORSLINE
Email

Phone
Fax

Cell phone

WE THANK YOU FOR YOUR INQUIRY AND ARE PLEASED TO QUOTE AS FOLLOWS:

Quantity	Unit	Description	Price unit	AMOUNT	Ship via
604.03	NT	RELAY 110RE 1/8" TOPWEAR RAIL IN 39' LENGTHS DRILLED 3X6 WITH 10% SHORTS	618.56	373,628.80	FB-TRUCK
845.00	PR	RELAY 110RE FULLTOE BARS DRILLED 3X6 1" BOLT	50.80	42,926.00	FB-TRUCK
136.00	KG	NEW 1X6X50 BHON BOLTS WITH NUTS	56.67	7,706.90	FB-TRUCK
3,400.00	EA	NEW 1X3/8 SQ LOCK WASHERS	0.39	1,311.52	FB-TRUCK
2.00	PR	NEW 115RE 3-1/2X6 TO 110RE 3X6 CAST COMP BARS AB 24"	500.12	1,000.24	FB-TRUCK
315.00	KG	NEW 5/8X6X100 AREMA TRACK SPIKES	69.66	21,948.83	FB-TRUCK
18,846.00	EA	RELAY 5-1/2" BASE DSTP 8-1/2X12 5/8 SPIKE 1:40 CANT	9.03	170,179.38	Dump Truck
10.00	EA	NEW EZ THRU 22 SWITCH STAND RED/WHITE TARGET 3 6" CONN ROD 1-1/8" ROD BOLT 1-5/16 JAW OPENING	1,004.54	10,045.40	FB-TRUCK

PAYMENT TERMS 1/2% 10 Days, Net 30

AVAILABILITY All in stock unless noted

SHIPPING TERMS DAP (Buyer's Final Destination)

TERMS AND CONDITIONS. This Quote is issued subject to and will be governed by the A&K Railroad Materials, Inc. Sales Order Terms and Conditions that are in effect on the date of this Quote and that can be found at www.akrailroad.com. Buyer is considered to have received and agreed to be bound by the Terms and Conditions. Please contact the Sales Person listed on this Quote if you require another copy of the Terms and Conditions.

THE OPPORTUNITY OF QUOTING IS APPRECIATED AND WE HOPE THAT WE MAY BE FAVORED WITH YOUR ORDER

PLEASE VISIT OUR WEBSITE AT WWW.AKRAILROAD.COM



U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

April 5, 2024

Mr. Steve Gorsline
General Manager
The Sunflower State Industrial Railway, LLC
PO Box 245
Colony, KS 66015

Dear Mr. Gorsline:

Thank you for your letter to the Federal Railroad Administration (FRA) regarding funding for private railways. We appreciate you following up after your completion of registration for the federal government's System for Award Management (SAM). To remain eligible to do business with the federal government, you must renew your entity's registration in SAM every year. Your annual renewal date for this registration is February 1, 2025. I encourage you to continue monitoring your SAM account while in the Discretionary Grant Application process.

There are four phases of the Discretionary Grant Application process. You can read about the phases of the Discretionary Grants Application Process at <https://railroads.dot.gov/grants-loans/discretionary-grants-application-process>. As you completed your initial SAM registration on March 29, 2023, you are currently in Phase 1 – Step 2. In order to complete this phase, you will need to register at Grants.gov, and complete an Authorized Organization Representative (AOR) profile.

To be considered to receive federal funding, an eligible applicant will need to apply for a discrete eligible project under one of FRA's discretionary grant programs. In addition, the project must comply with federal requirements including environmental review under the National Environment Policy Act (NEPA). Information about the various FRA discretionary grant programs can be found at <https://railroads.dot.gov/grants-loans/discretionary-grant-programs>, and you can learn more about NEPA requirements at <https://railroads.dot.gov/rail-network-development/environment/environment>.

Additionally, we encourage you to consult the FRA Discretionary Grant Program Tool at <https://railroads.dot.gov/grants-loans/fra-discretionary-grant-program-tool>. This tool is designed to help you identify the grant program under which you and your project may be eligible.

Finally, FRA recently published a calendar for the anticipated 2024 notices of funding opportunity for discretionary grant programs. This and more information on the funding

Mr. Steve Gorsline

Page 2

opportunities under the Bipartisan Infrastructure Law can be found on FRA's website at <https://railroads.dot.gov/BIL>.

Sincerely,

A handwritten signature in cursive script, appearing to read "Paul Nissenbaum".

Paul Nissenbaum

Associate Administrator, Office of Railroad Development



Surface Transportation Board
Washington, D.C. 20423-0001

*Office of Public Assistance, Governmental Affairs,
and Compliance*

October 18, 2022

Mr. Steve P. Gorsline
General Manager
Sunflower State Industrial Railway, LLC
P.O. Box 245
Colony, KS 66015

Dear Mr. Gorsline:

Thank you for your most recent letter to Chairman Oberman regarding your interest in restoring rail service to a rail line in Kansas. Chairman Oberman appreciates you informing him of your progress in this matter and has referred your letter to the Board's Office of Public Assistance, Governmental Affairs, and Compliance.

For further assistance and information related to Surface Transportation Board jurisdiction and to evaluate next steps, please continue to reach out to the Board's Rail Customer and Public Assistance program by calling (866) 254-1792 (toll-free) or 202-245-0238, or by emailing repa@stb.gov.

Sincerely,

Janie Sheng
Director
Office of Public Assistance, Governmental Affairs,
and Compliance

**STATE OF KANSAS**
OFFICE OF THE SECRETARY OF STATE[Visit Kansas Business One Stop](#)

Business Entity Search

Date: 11/13/2022

Be advised the business information on this page is for summary informational purposes only. It is not an official filing with the Secretary of State's office and should not be relied on as such. Please view actual documents filed by customers with the secretary of State's office to ensure accurate information. When filing a Uniform Commercial Code statement on an entity, consult with your attorney to ensure the correct debtor name.

Business Summary

Current Entity Name

THE SUNFLOWER STATE INDUSTRIAL RAILWAY, LLC

[File Name Change Online](#)**Business Entity ID Number**

5383955

[View History and Documents](#)Current Mailing Address: PO BOX 245, COLONY, KS 660150245 [Update](#)

Business Entity Type: KANSAS LTD LIABILITY COMPANY

Date of Formation in Kansas: 08/20/2020

State of Organization: KS

Current Status: ACTIVE AND IN GOOD STANDING

Current Status: ACTIVE AND IN GOOD STANDING

[Certificate of Good Standing](#)**Resident Agent and Registered Office****Resident Agent:** STEPHEN P. GORSLINE**Registered Office:** 224 EAST BROAD ST, COLONY, KS 66015[Update Resident Agent/Office](#)**Annual Reports**

The following annual report information is valid for active and delinquent status entities only

Tax Closing Month: 12

The Last Annual Report on File: 12/2021

Next Annual Report Due: 04/15/2023 [File Online](#)**Forfeiture Date:** 07/15/2023[Close Your Business](#)

Be advised the business information on this page is for summary informational purposes only. It is not an official filing with the Secretary of State's office and should not be relied on as such. Please view actual documents filed by customers with the secretary of State's office to ensure accurate information. When filing a Uniform Commercial Code statement on an entity, consult with your attorney to ensure the correct debtor name.