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SERVICE DATE – MAY 21, 2025

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 3 (Sub-No. 111X)

MISSOURI PACIFIC RAILROAD COMPANY—ABANDONMENT
EXEMPTION—IN OSAGE, LYON AND MORRIS COUNTIES, KAN.

Docket No. AB 3 (Sub-No. 115)

MISSOURI PACIFIC RAILROAD COMPANY—ABANDONMENT—
IN MIAMI, FRANKLIN, AND OSAGE COUNTIES, KAN.

Docket No. AB 3 (Sub-No. 121X)

MISSOURI PACIFIC RAILROAD COMPANY—ABANDONMENT
EXEMPTION—IN MORRIS AND DICKINSON COUNTIES, KAN.

Docket No. AB 33 (Sub-No. 313X)¹

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT
EXEMPTION—IN MIAMI COUNTY, KAN.

Decided: May 21, 2025

This decision addresses a joint petition for substitution of trail user under 49 C.F.R. § 1152.29(f) for four connected rail-banked lines extending between milepost 335.05, near Osawatomie, Kan., and milepost 451.57, near Herington, Kan.

By decision and notice of interim trail use or abandonment (NITU) served on July 25, 1997 (July 1997 Decision & NITU), in Docket Nos. AB 3 (Sub-No. 111X), AB 3 (Sub-No. 115), and AB 3 (Sub-No. 121X), the Board authorized the Kansas Horseman Foundation (now known as Kanza Rail-Trails Conservancy, Inc. (KRTC)) to replace Seranata Farms School of Equestrian Arts as the trail sponsor for the rail-banked lines at issue in those three dockets. As further detailed in the July 1997 Decision & NITU, the lines consist of: (i) a portion of a line of railroad known as the Flint Hills Greenway (formerly known as the Hoisington Subdivision), between milepost 388.25 near Osage City, Kan., and milepost 425.0 near Council Grove, Kan. (Docket

¹ In the July 1997 Decision & NITU (defined below), the Board consolidated Docket Nos. AB 3 (Sub-No. 111X), AB 3 (Sub-No. 115), and AB 3 (Sub-No. 121X). Docket No. AB 33 (Sub-No. 313X) has not been consolidated with these proceedings but is being addressed in the same decision for administrative efficiency.

No. AB 3 (Sub-No. 111X)); (ii) a portion of the Flint Hills Greenway between milepost 335.5 near Osawatomie, and milepost 388.25 near Osage City, as well as a portion of a line of railroad known as the Topeka Industrial Lead, between milepost 368.3 near Lomax, Kan., and milepost 381.8 near Overbrook, Kan. (Docket No. AB 3 (Sub-No. 115)); and (iii) a portion of the Flint Hills Greenway between milepost 425.0 near Council Grove and milepost 451.57 near Herington (Docket No. AB 3 (Sub-No. 121X)). See July 1997 Decision & NITU, AB 3 (Sub-No. 111X) et al., slip op. at 1-2.

Additionally, by decision and NITU served on June 29, 2015, in Docket No. AB 33 (Sub-No. 313X), the Board authorized KRTC to replace the City of Osawatomie as the trail sponsor for the line of rail on the Osawatomie Industrial Lead between milepost 335.05 and milepost 335.5, near Osawatomie.

On April 9, 2025, KRTC and the Kansas Department of Wildlife and Parks (KDWP) (together, Petitioners) filed a joint petition indicating that KRTC and KDWP have entered into an agreement whereby KDWP has agreed to use the portion of rail line located between milepost 335.05 near Osawatomie and milepost 451.57 near Herington (the Line) for public, trail, and recreation uses. (Joint Pet. 2.) The joint petition states that KRTC intends to transfer responsibility for the Line to KDWP within 90 days of the Board's decision authorizing the substitution. (*Id.*) Accordingly, KRTC and KDWP request that the Board, pursuant to 49 C.F.R. § 1152.29(f), reopen the above-captioned proceedings, vacate the existing NITUs served on July 25, 1997, and June 29, 2015, and issue a replacement NITU substituting KDWP as the Line's new interim trail sponsor in place of KRTC.²

As required by 49 C.F.R. § 1152.29(f), Petitioners have submitted a copy of each extant NITU and a statement of willingness by KDWP to assume full responsibility for management of, for any legal liability arising out of the transfer or use of, and for the payment of any and all taxes that may be levied or assessed against “the portion of the right-of-way formerly owned by Missouri Pacific Railroad and Union Pacific Railroad Company and currently managed by [KRTC]”—which is located between milepost 335.05 near Osawatomie and milepost 451.57 near Herington. (Joint Pet., Ex. 2.) KDWP also acknowledges that the use of the right-of-way for trail purposes is subject to KDWP's continuing to meet the responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. (*See id.*) Petitioners state that “Union Pacific Railroad Company has consented to the substitution of KDWP as interim trail manager.” (Joint Pet. 2.)

² Petitioners have not requested that KDWP become the interim trail sponsor for the portion of the Topeka Industrial Lead between milepost 368.3 and 381.8, which, as noted above, was part of the trackage at issue in Docket No. AB 3 (Sub-No. 115). See July 1997 Decision & NITU, slip op. at 1.

The petition meets the requirements of 49 C.F.R. § 1152.29(f). Accordingly, the request to substitute trail users in Docket Nos. AB 3 (Sub-No. 111X), AB 3 (Sub-No. 115), AB 3 (Sub-No. 121X), and AB 33 (Sub-No. 313X) will be granted, and replacement NITUs will be issued.³

It is ordered:

1. These proceedings are reopened.
2. The NITU served on July 25, 1997, in Docket Nos. AB 3 (Sub-No. 111X), AB 3 (Sub-No. 115), and AB 3 (Sub-No. 121X) is partially vacated, as described above.
3. A replacement NITU applicable to KDWP as interim trail sponsor in Docket Nos. AB 3 (Sub-No. 111X), AB 3 (Sub-No. 115) (except with respect to the portion of the Topeka Industrial Lead between milepost 368.3 and 381.8), and AB 3 (Sub-No. 121X) is issued, effective on the service date of this decision and notice.
4. The NITU served on June 29, 2015, in Docket No. AB 33 (Sub-No. 313X) is vacated.
5. A replacement NITU applicable to KDWP as interim trail sponsor in Docket No. AB 33 (Sub-No. 313X) is issued, effective on the service date of this decision and notice.
6. Interim trail use/rail banking is subject to the future restoration of rail service and to KDWP's continuing to meet the financial obligations for the right-of-way.
7. If the trail sponsor intends to terminate trail use, it must send the Board a copy of this decision and notice and request that the NITU be vacated on a specified date.
8. This decision and notice is effective on its service date.

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

³ Because Petitioners have not requested substitution with respect to the portion of the Topeka Industrial Lead at issue in Docket No. AB 3 (Sub-No. 115), KRTC remains the interim trail sponsor for that portion of the right-of-way. Accordingly, the portion of the July 1997 Decision & NITU pertaining to that segment remains in effect.