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SERVICE DATE – NOVEMBER 13, 2007

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-853 (Sub-No. 1X)

KANSAS & OKLAHOMA RAILROAD, INC.–ABANDONMENT EXEMPTION–IN
HODGEMAN, COMANCHE, KIOWA, AND PRATT COUNTIES, KS

Decided: November 9, 2007

Kansas & Oklahoma Railroad, Inc. (K&O) filed a verified notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon two rail line segments as follows: (1) a 10.7-mile rail line between milepost 36.3 at Hanston, and milepost 47.0 at Jetmore, in Hodgeman County, KS; and (2) a 46.8-mile rail line between milepost 589.2 at Coats, and milepost 636.0 at Protection, in Comanche, Kiowa, and Pratt Counties, KS. Notice of the exemption was served and published in the Federal Register on August 27, 2003 (68 FR 51637). The exemption was scheduled to become effective on September 26, 2003.

By decision served on September 29, 2003, an environmental condition was imposed in this proceeding requiring K&O to consult with the National Geodetic Survey (NGS) and provide NGS with 90 days' notice prior to disturbing or destroying any geodetic station markers in order to plan for the markers' relocation. That condition remains in effect.

On November 25, 2003, a decision and notice of interim trail use or abandonment (NITU) under the National Trails System Act, 16 U.S.C. 1247(d), was served reopening the proceeding and establishing a 180-day period for American Trails Association, Inc. (ATA) to negotiate an interim trail use/rail banking agreement with K&O for acquisition of the right-of-way.

On October 24, 2007, ATA filed a notice of intent to terminate trail use over the right-of-way of the above-described segments, pursuant to 49 CFR 1152.29(d)(2). ATA requests that the NITU be vacated, effective November 5, 2007.

ATA has complied with the requirements of 49 CFR 1152.29(d)(2) regarding a request to vacate a NITU. Whenever a trail manager intends to terminate trail use and sends the Board a request that a NITU be vacated, the Board will reopen the proceeding and vacate the NITU. Therefore, ATA's request to vacate the NITU will be granted, effective November 5, 2007. Under the circumstances, K&O may fully abandon the line segments after compliance with the previously imposed environmental condition.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. ATA's request to vacate the NITU is granted.
3. The NITU served November 25, 2003, is vacated, effective November 5, 2007. K&O may fully abandon the line segments after compliance with the environmental condition imposed in the September 29, 2003 decision.
4. This decision is effective on the date of service.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary