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SERVICE DATE – DECEMBER 8, 2011

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 406 (Sub-No. 7X)

CENTRAL KANSAS RAILWAY, LIMITED LIABILITY COMPANY—ABANDONMENT  
EXEMPTION—IN BARTON, ELLSWORTH AND RICE COUNTIES, KAN.

Decided: December 7, 2011

On January 29, 1998, a decision and notice of interim trail use or abandonment (NITU) was served in this proceeding, authorizing a 180-day period for Iowa Trails Council (ITC) to negotiate an interim trail use/rail banking agreement with Central Kansas Railway, Limited Liability Company (CKR) for a 53.2-mile portion of CKR's Little River Subdivision from milepost 577.1 near Lyons to milepost 594.1 near Lorraine, then from milepost 20.7 near Lorraine to milepost 56.9 near Galatia, in Barton, Ellsworth and Rice Counties, Kan. The negotiating period was subsequently extended. On December 10, 2001, the ITC cut back its trails use request to 37.4 miles, and the railroad filed a notice of consummation for the remaining 15.8 miles. CKR and ITC subsequently reached a trail use/rail banking agreement.

By joint petition filed on September 13, 2011 and amended on September 22, 2011, ITC and Sunflower Rail-Trails Conservancy, Inc. (SRTC) (collectively, petitioners), request the Board, pursuant to 49 C.F.R. § 1152.29(f), to reopen the proceeding, vacate the existing NITU, and issue a replacement NITU substituting SRTC as the new interim trail user. CKR consented to the substitution request on November 21, 2011.

Petitioners have submitted a copy of the extant NITU and a statement by SRTC of its willingness to assume financial responsibility for interim trail use and rail banking pursuant to the Trails Act and 49 C.F.R. § 1152.29. Petitioners' submission meets the requirements of 49 C.F.R. § 1152.29. Accordingly, petitioners' request will be granted and a replacement NITU will be issued.

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

It is ordered:

1. The proceeding is reopened.
2. The NITU served on January 29, 1998, is vacated.

3. A replacement NITU applicable to SRTC as interim trail user is issued, effective on the service date of this decision and notice.

4. Interim trail use/rail banking is subject to the future restoration of rail service and to the new user's continuing to meet the financial obligations for the right-of-way.

5. If the trail user intends to terminate trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.

6. This decision and notice is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.