

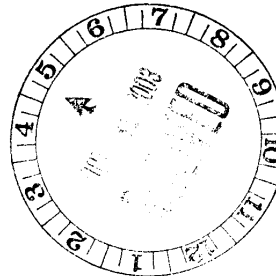
WEINER BRODSKY SIDMAN KIDER PC

BRUCE E. ALEXANDER*
RICHARD J. ANDREANO, JR.
SANDRA L. BRICKEL
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DAVID M. SOUDERS
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FIFTH FLOOR
WASHINGTON DC 20036 1609
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October 31, 2003

BY HAND DELIVERY

The Hon. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423

ENTERED
Office of Proceedings
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Re: STB Finance Docket No. AB-441 (Sub-No. 1X); SWKR Operating Co. -
Abandonment Exemption - In Cochise County, AZ, and 209293
STB Finance Docket No. AB-441 (Sub-No. 2X); SWKR Operating Co. -
Abandonment Exemption - In Cochise County, AZ - 209294

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceedings are an original and 10 copies of the Joint Notice of San Pedro Trails, Inc. and Cochise Trails, LLC of Intent to Substitute Trail Users.

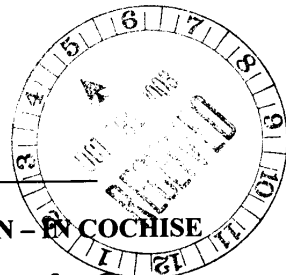
Please acknowledge receipt of this letter by date-stamping the enclosed acknowledgment copy and returning it to our messenger.

Sincerely,

Troy W. Garriss

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**SWKR OPERATING CO. – ABANDONMENT EXEMPTION – IN COCHISE
COUNTY, AZ
DOCKET NO. AB-441 (Sub-No. 1X)**



**ENTERED
Office of Proceedings**

AND

NOV - 3 2003

**SWKR OPERATING CO. – ABANDONMENT EXEMPTION – IN COCHISE
COUNTY, AZ
DOCKET NO. AB-441 (Sub-No. 2X)**

**Part of
Public Record**

**JOINT NOTICE OF SAN PEDRO TRAILS, INC. AND COCHISE TRAILS, LLC
OF INTENT TO SUBSTITUTE TRAIL USERS**

In Docket No. AB-441 (Sub-No. 1X), SWKR Operating Co., Inc. ("SWKR") sought authority to abandon approximately 17.26 miles of rail line in Cochise County, AZ, as follows: (i) the Bisbee Branch, extending from approximately milepost N 1085.0 (at or near Bisbee Junction) to approximately milepost N 1090.6 (at or near Bisbee), and (ii) a segment of the Douglas Branch from approximately milepost N 1097.3 (at or near Paul Spur) to the end of the line at approximately milepost N 1107.96. The Surface Transportation Board ("Board") served a decision and notice of interim trail use in the matter on August 26, 1996, permitting SWKR to negotiate railbanking and trail use with San Pedro Trails, Inc. ("SP Trails"). A copy of that decision is attached hereto as Attachment A. In a subsequent decision in the matter, served October 12, 1999, the Board noted it had been notified by SP Trails on February 24, 1997 that the parties had reached a railbanking agreement in the proceeding. SP Trails terminated railbanking for

the final 1.46-mile segment of the Douglas Branch between approximately milepost N 1106.5 and the end of the line at milepost N 1107.96; and SWKR consummated abandonment of that segment. *See* Notice of Consummation dated October 15, 1999.

In similar fashion, in Docket No. AB-441 (Sub-No. 2X), SWKR sought authority to abandon approximately 41.5 miles of the Douglas Branch from approximately milepost N 1055.8 (at or near Charleston) to approximately milepost N 1097.3 (at or near Paul Spur). The Board served a decision and notice of interim trail use in the matter July 7, 1998, permitting SWKR to negotiate railbanking and trail use with SP Trails. A copy of that decision is attached hereto as Attachment B. In a subsequent decision in the matter, served September 29, 1998, the Board noted it had been notified by SWKR on August 17, 1998 that the parties had reached a railbanking agreement in the proceeding. Together, the lines currently railbanked in Docket Nos. AB-441 (Sub-No. 1X) and (Sub-No. 2X) are referred to herein as the "Railbanked Lines." A map of the Railbanked Lines is attached hereto as Attachment C.

SP Trails and Cochise Trails, LLC ("Cochise") have agreed on the transfer of railbanking and trail use rights from SP Trails to Cochise. Accordingly, pursuant to 49 CFR 1152.29(f)(1), SP Trails hereby requests the Board to terminate its trail use over the Railbanked Lines effective October 31, 2003, and concurrently permit Cochise to become the new trail user effective the same date. Cochise hereby notifies the Board of its willingness to assume responsibility for the Railbanked Lines and, pursuant to 49 CFR 1152.29(f)(1), attaches hereto its statements of willingness to assume responsibility for the Railbanked Line, one for each of the two proceedings. *See* Attachments D and E.

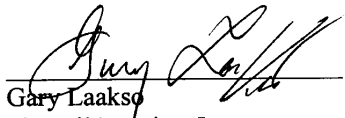
The requesting parties have been advised by the pertinent railroads, SWKR Operating Co., Inc. ("SWKR") and San Pedro Railroad Operating Company, LLC ("SPROC"), that the railroads support this request.¹

WHEREFORE, the parties ask that Cochise be substituted for SP Trails as the trail user for the Railbanked Lines.

Respectfully submitted,

SAN PEDRO TRAILS, INC.

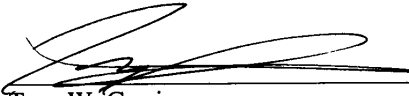
By its attorneys,



Gary Laakso
c/o RailAmerica, Inc.
5300 Broken Sound Blvd., NW
Boca Raton, Florida 33487

COCHISE TRAILS, LLC

By its attorneys



Troy W. Garis
Weiner Brodsky Sidman Kider PC
1300 19th Street, NW
Fifth Floor
Washington, D.C. 20036-1609
(202) 628-2000

¹ On October 24, 2003, SPROC filed for authority to acquire all of SWKR's assets and interests in various assets, including the rights to reinstitute service on the Railbanked Lines. See San Pedro Railroad Operating Company, LLC – Acquisition and Operation Exemption – SWRK Operating Co., Inc., STB Finance Docket No. 34430.

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**SWKR OPERATING CO. – ABANDONMENT EXEMPTION – IN COCHISE
COUNTY, AZ
DOCKET NO. AB-441 (Sub-No. 1X)**

AND

**SWKR OPERATING CO. – ABANDONMENT EXEMPTION – IN COCHISE
COUNTY, AZ
DOCKET NO. AB-441 (Sub-No. 2X)**

ATTACHMENT A

**COPY OF NITU ISSUED IN
SUB-NO. 1X PROCEEDING**

Citation Found Document
Slip Copy
(Cite as: 1996 WL 479106 (I.C.C.))

Rank(R) 1 of 1

Database
FTRAN-STB

Surface Transportation Board (S.T.B.)

*1 SWKR OPERATING CO., INC.--ABANDONMENT EXEMPTION--IN COCHISE COUNTY, AZ

Decided: August 21, 1996

Service Date: August 26, 1996

SURFACE TRANSPORTATION BOARD [FN1]
DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT
Docket No. AB-441 (Sub-No. 1X)

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

In a decision and notice of exemption served and published in the Federal Register on October 12, 1995 (60 FR 53198), SWKR Operating Co., Inc. (SWKR), was exempted under 49 U.S.C. 10505 from the prior approval requirements of 49 U.S.C. 10903-04 to abandon a total of 17.26 miles of rail line in Cochise County, AZ, as follows: (1) the Bisbee Branch between milepost 1085.0 at Bisbee Jct. and milepost 1090.6 at Bisbee; and (2) a segment of its Douglas Branch between milepost N 1097.30 near Paul Spur and the end of the line at milepost N 1107.96, near Douglas, including a 1-mile line from milepost 1107 in Douglas to the international border with Mexico at Agua Prieta. [FN2] The exemption was made subject to labor protective, environmental, and historic preservation conditions, [FN3] and it became effective on November 11, 1995.

On August 2, 1996, San Pedro Trails, Inc. (SP Trails), filed a request for a notice of interim trail use (NITU) for the line under the National Trails System Act (Trails Act), 16 U.S.C. 1247(d). It submitted a statement of willingness to assume financial responsibility for interim trail use and rail banking in compliance with 49 CFR 1152.29 and acknowledged that use of the right-of-way as a trail is subject to future reactivation for rail service.

SP Trails states that the Board retains jurisdiction over the right-of-way because SWKR has not fully consummated the abandonment. It states that Bisbee Jct. and Paul Spur continue to be listed as stations in the Official Railroad Station List and, as a consequence, that certain of SWKR's rates to and from those stations remain in effect. Also, it states that some of the tracks and ties and all of the berm, bridges, and culverts along the right-of-way remain in place and have not been disturbed. By letter filed August 5, 1996, SWKR states that it is agreeable to negotiating, and anticipates that it will enter into, an interim trail use agreement with SP Trails.

Trail use requests may be accepted as long as the Board retains jurisdiction over the right-of-way, [FN4] and the carrier is willing to enter into negotiations. Accordingly, a NITU will be issued under 49 CFR 1152.29. The parties may negotiate a trail use agreement during the 180-day period following service of this decision. If the parties reach a mutually acceptable final agreement, further Board approval is unnecessary. If no agreement is reached within 180 days, SWKR may fully abandon the line, provided that the remaining conditions imposed in the October 12, 1995 decision are met. Use of the right-of-way for trail purposes is subject to restoration for railroad purposes.

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The logo for Westlaw, featuring the word "Westlaw" in a stylized, cursive-like font with a swoosh underneath.

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(Cite as: 1996 WL 479106, *2 (I.C.C.))

*2 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. Upon reconsideration, the decision served October 12, 1995, is modified to the extent necessary to implement interim trail use/rail banking, as set forth below.
 3. Subject to the conditions imposed in the decision served October 12, 1995, SWKR may discontinue service on the line and salvage track and related materials consistent with interim trail use/rail banking after the effective date of this decision and notice.
 4. If an interim trail use/rail banking agreement is reached, it must require the trail user to assume, for the term of the agreement, full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad from any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way.
 5. Interim trail use/rail banking is subject to the future restoration of rail service and to the user's continuing to meet the financial obligations for the right-of-way.
 6. If interim trail use/rail banking is implemented and subsequently the 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.
 7. If an agreement for interim trail use/rail banking is reached by the 180th day after service of this decision and notice, interim trail use may be implemented. If no agreement is reached by that time, SWKR may fully abandon the line.
 8. This decision is effective on the date of service.
- Vernon A. Williams
Secretary

FN1. The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (ICCTA), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the ICCTA provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the ICCTA. This decision relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10903. Therefore, this decision applies the law in effect prior to the ICCTA, and citations are to the former sections of the statute, unless otherwise indicated.

FN2. The Bisbee and Douglas Branches were among the 84.9 miles of rail line acquired by SWKR from the Southern Pacific Transportation Company (SPT), in SWKR Operating Co., Inc.--Acquisition and Operation Exemption--Southern Pacific Transportation Co., Finance Docket No. 32620 (ICC served Dec. 23, 1994). The lines had previously been leased by SPT to San Pedro & Southwestern Railway Co. (San Pedro), in San Pedro & Southwestern Railway Co.--Acquisition and Operation

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(Cite as: 1996 WL 479106, *2 (I.C.C.))

Exemption--Southern Pacific Transportation Co., Finance Docket No. 32084 (ICC served June 30, 1992), and, during the lease, SWKR provided operations under an agreement with San Pedro.

FN3. In a decision served December 22, 1995, the proceeding was reopened and the section 106 condition, imposed under the National Historic Preservation Act, 16 U.S.C. 470f, was removed after SWKR met the requirements of the mitigation agreement it reached with the Arizona State Historic Preservation Office.

FN4. See Rail Abandonments--Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-8 (1987); Soo Line Railroad Company--Exemption--Abandonment in Waukesha County, WI, Docket No. AB-57 (Sub-No. 23X) (ICC served May 14, 1987); and Missouri-Kansas-Texas Railroad Company--Abandonment--In Pettis and Henry Counties, MO, Docket No. AB-102 (Sub-No. 16) (ICC served Apr. 26, 1991).
1996 WL 479106 (I.C.C.)
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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**SWKR OPERATING CO. – ABANDONMENT EXEMPTION – IN COCHISE
COUNTY, AZ
DOCKET NO. AB-441 (Sub-No. 1X)**

AND

**SWKR OPERATING CO. – ABANDONMENT EXEMPTION – IN COCHISE
COUNTY, AZ
DOCKET NO. AB-441 (Sub-No. 2X)**

ATTACHMENT B

**COPY OF NITU ISSUED IN
SUB-NO. 2X PROCEEDING**

Citation Found Document
Slip Copy
(Cite as: 1998 WL 398187 (I.C.C.))

Rank(R) 1 of 1

Database
FTRAN-STB

Surface Transportation Board (S.T.B.)

*1 SWKR OPERATING CO.--ABANDONMENT EXEMPTION--IN COCHISE COUNTY, AZ

Decided: June 26, 1998

Service Date: July 7, 1998

SURFACE TRANSPORTATION BOARD DECISION AND NOTICE OF INTERIM TRAIL USE OR
ABANDONMENT
STB Docket No. AB-441 (Sub-No. 2X)

For the Board, Chairman Morgan and Vice Chairman Owen.

This decision denies an extension request related to the Board's December 2, 1997 decision in this matter and grants a request for issuance of a notice of interim trail use.

BACKGROUND

By decision served February 14, 1997 (62 FR 7086), the Board permitted SWKR Operating Co. (SWKR) to abandon a 41.5-mile line of railroad, running between Charleston and Paul Spur, AZ. Chemical Lime Company (CLC), a shipper on the line, filed an offer of financial assistance and a request that the Board set terms and conditions for subsidy and purchase of the line under 49 U.S.C. 10905. CLC rejected the terms set by the Board and, in a decision served December 2, 1997, the abandonment was made effective on that date.

By letter filed March 30, 1998, Representative Gail Griffin of the Arizona House of Representatives requests a 90-day "extension" of the December 2 decision to allow the Arizona Department of Transportation time to hire a consultant to conduct a feasibility study on the practicable uses, economic benefits, and potential purchase of the line. SWKR filed a reply on April 13, 1998. Also on April 13, 1998, San Pedro Trails, Inc. (SPT) filed a request for issuance of a notice of interim trail use (NITU) for 180 days under the National Trails System Act, 16 U.S.C. 1247(d).

DISCUSSION AND CONCLUSIONS

The extension request. Because the abandonment authorization is now effective and the proceeding is administratively final, the available relief is a petition to reopen the proceeding under 49 CFR 1115.4 or a petition to revoke the exemption under 49 U.S.C. 10502(d). We must therefore review Representative Griffin's request in light of the standards for granting relief by the means available. The Board may reopen an administratively final decision when the petitioner submits new evidence, shows that the Board has committed material error or demonstrates that new circumstances have arisen that warrant a different result. The Board may revoke an exemption when a petitioner shows that the application of the statutory provision from which an exemption has been granted is necessary to carry out the transportation policy set out in the ICC

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(Cite as: 1998 WL 398187, *1 (I.C.C.))

Termination Act of 1995. The pleading submitted by the Representative does not afford the Board a basis for granting relief by either provision. [FN1]

Trail use request. Along with its trail use request, SPT submitted a statement indicating its willingness to assume full responsibility for management of, and liability for payment of taxes for, the right-of-way, as required by 49 CFR 1152.29, and acknowledges that the use of the right-of-way as a trail is subject to future reactivation for rail service. By letter filed April 20, 1998, SWKR states that the Charleston-to-Paul Spur track has not yet been abandoned, that the railroad is willing to negotiate an agreement to rail bank the right-of-way, and that it supports the request of SPT for issuance of a NITU.

*2 Trail use requests may be accepted as long as the Board retains jurisdiction over the right-of-way [FN2] and the carrier is willing to enter into negotiations. Since SWKR has not consummated the abandonment and is willing to negotiate for trail use, a NITU will be issued under 49 CFR 1152.29. The parties may negotiate a trail use agreement during the 180-day period prescribed below. [FN3] If the parties reach a mutually acceptable final agreement, further Board approval will not be necessary. If no agreement is reached within 180 days, SWKR may fully abandon the line. See 49 CFR 1152.29(d)(1). Use of the right-of-way for trail purposes is subject to restoration for railroad purposes.

As conditioned, this action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The request for a 90-day extension of the December 2, 1997 decision is denied.

2. This proceeding is reopened.

3. Upon reconsideration, the decision served and published on February 14, 1997, exempting the abandonment of the above-described line, is modified to the extent necessary to implement interim trail use/rail banking as set forth below for a period of 180 days from the service of this decision.

4. If an interim trail use/rail banking agreement is reached, it must require the trail user to assume for the term of the agreement, full responsibility for management of, any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against, the right-of-way.

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

6. If interim trail use is implemented and subsequently the 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 specific date.

7. If an agreement for interim trail use/rail banking is reached by the 180th day after service of this decision and notice, interim trail use may be implemented. If no agreement is reached by that time, SWKR may fully abandon the line, provided that the historic preservation and labor protective conditions imposed in the February 14 decision are met.

8. This decision is effective on the date of service.

Vernon A. Williams

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(Cite as: 1998 WL 398187, *2 (I.C.C.))

Secretary

FN1. Because the decision went into effect before the Representative filed her petition, the Board would not be able to stay the decision.

FN2. See Rail Abandonments--Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Soo Line Railroad Company--Exemption--Abandonment in Waukesha County, WI, Docket No. AB-57 (Sub-No. 23X) (ICC served May 14, 1987); and Missouri-Kansas-Texas Railroad Company--Abandonment--in Pettis and Henry Counties, MO, Docket No. AB-102 (Sub-No. 16) (ICC served Apr. 26, 1991).

FN3. Should the parties reach an agreement for trail use, the corridor will be rail banked. As such, should a need for rail service develop in the future, rail service can be restored over the right-of-way.

1998 WL 398187 (I.C.C.)

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

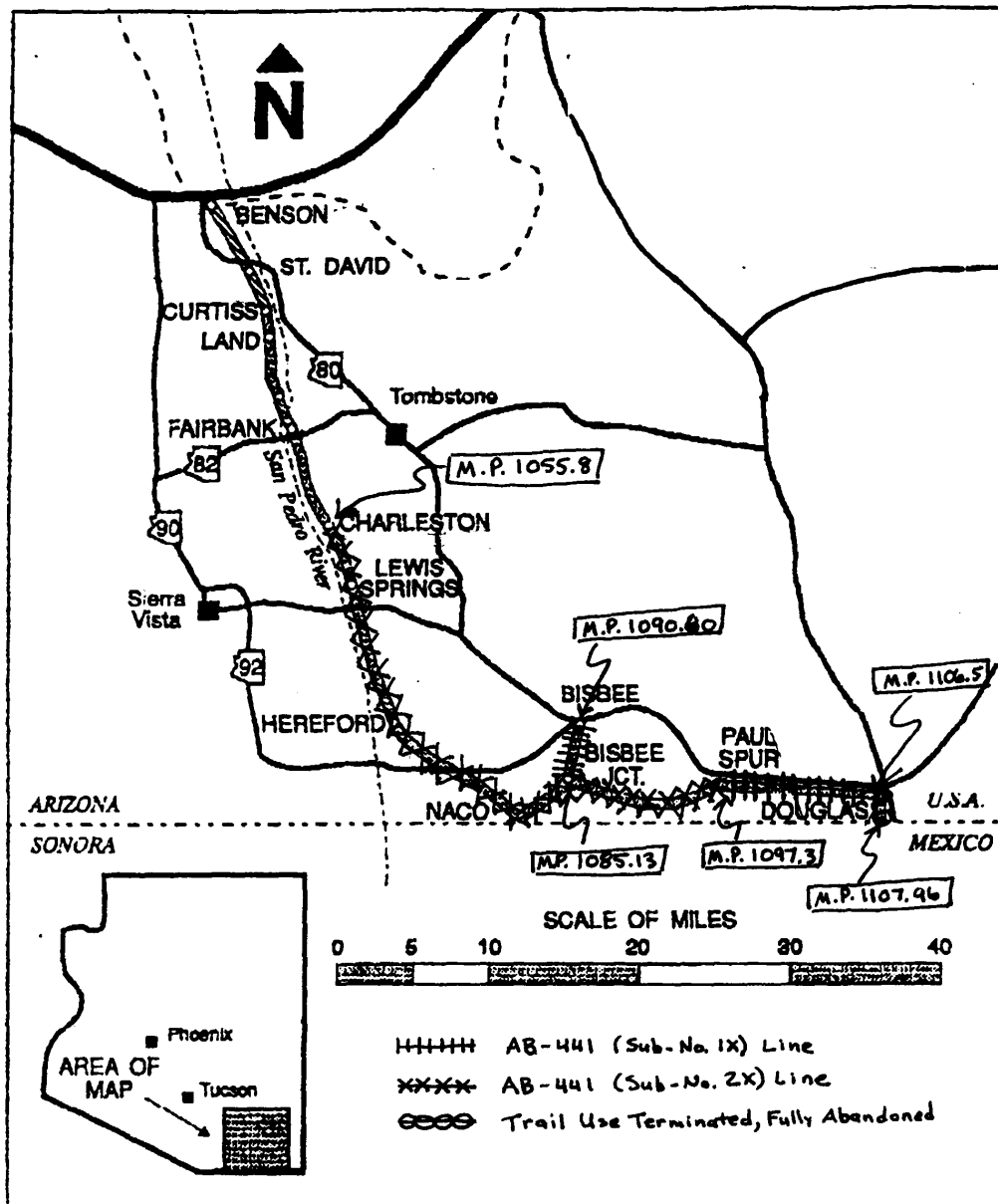
**SWKR OPERATING CO. – ABANDONMENT EXEMPTION – IN COCHISE
COUNTY, AZ
DOCKET NO. AB-441 (Sub-No. 1X)**

AND

**SWKR OPERATING CO. – ABANDONMENT EXEMPTION – IN COCHISE
COUNTY, AZ
DOCKET NO. AB-441 (Sub-No. 2X)**

ATTACHMENT C

MAP OF RAILBANKED LINES



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**SWKR OPERATING CO. – ABANDONMENT EXEMPTION – IN COCHISE
COUNTY, AZ
DOCKET NO. AB-441 (Sub-No. 1X)**

AND

**SWKR OPERATING CO. – ABANDONMENT EXEMPTION – IN COCHISE
COUNTY, AZ
DOCKET NO. AB-441 (Sub-No. 2X)**

ATTACHMENT D

**COCHISE TRAILS, LLC'S
STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL
RESPONSIBILITY FOR RAILBANKED LINE IN SUB-NO. 1X PROCEEDING**

In order to establish interim trail use and railbanking under 16 U.S.C. 1247(d) and 49 CFR 1152.29, effective October 31, 2003, Cochise Trails, LLC ("Cochise") is willing 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 right-of-way owned by San Pedro Railroad Operating Company, LLC ("SPROC"), successor-in-interest to SWKR Operating Co., Inc. ("SWKR"), and previously operated by SWKR. The property is known as (i) the Bisbee Branch, extending from approximately milepost N 1085.0 (at or near Bisbee Junction) to approximately milepost N 1090.6 (at or near Bisbee), and (ii) a segment of the Douglas Branch extending from approximately milepost N 1097.3 (at or near Paul Spur) to the

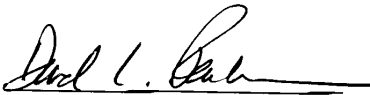
end of the line at approximately milepost N 1106.5 in Cochise County, AZ. The right-of-way is part of a line of railroad that was proposed for abandonment in Docket No. AB 441 (Sub-No. 1X). A map of the property depicting the right-of-way is attached.

Cochise acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the railroads on the same date it is being served on the Board.

IN WITNESS WHEREOF, Cochise Trails, LLC has executed the foregoing
Statement of Willingness as of the date indicated below.

COCHISE TRAILS, LLC,
an Arizona limited liability company

By: Arizona Railroad Group, LLC,
an Arizona limited liability company,

By: 
David L. Parkinson
Its: Sole Manager

Date: 10/30, 2003

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**SWKR OPERATING CO. – ABANDONMENT EXEMPTION – IN COCHISE
COUNTY, AZ
DOCKET NO. AB-441 (Sub-No. 1X)**

AND

**SWKR OPERATING CO. – ABANDONMENT EXEMPTION – IN COCHISE
COUNTY, AZ
DOCKET NO. AB-441 (Sub-No. 2X)**

ATTACHMENT E

**COCHISE TRAILS, LLC'S
STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL
RESPONSIBILITY FOR RAILBANKED LINE IN SUB-NO. 2X PROCEEDING**

In order to establish interim trail use and railbanking under 16 U.S.C. 1247(d) and 49 CFR 1152.29, effective October 31, 2003, Cochise Trails, LLC ("Cochise") is willing 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 right-of-way owned by San Pedro Railroad Operating Company, LLC ("SPROC"), successor-in-interest to SWKR Operating Co., Inc. ("SWKR"), and previously operated by SWKR. The property, a segment of the Douglas Branch, extends from approximately milepost N 1055.8 (at or near Charleston) to approximately milepost N 1097.3 (at or near Paul Spur) in Cochise County, AZ. The right-of-way is part of a line

of railroad that was proposed for abandonment in Docket No. AB 441 (Sub-No. 2X). A map of the property depicting the right-of-way is attached. Cochise acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the railroads on the same date it is being served on the Board.

IN WITNESS WHEREOF, Cochise Trails, LLC has executed the foregoing
Statement of Willingness as of the date indicated below.

COCHISE TRAILS, LLC,
an Arizona limited liability company

By: Arizona Railroad Group, LLC,
an Arizona limited liability company,

By: 
David L. Parkinson
Its: Sole Manager

Date: 10/30, 2003

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Joint Notice of Intent to Substitute Trail Users was served on October 31, 2003, by first-class mail, postage pre-paid, on the following parties:

SWKR Operating Co., Inc.
c/o RailAmerica, Inc.
5300 Broken Sound Blvd., NW
Boca Raton, Florida 33487
ATTN.: Scott Williams

San Pedro Railroad Operating Company, LLC
221 Gateway Road West, #401
Napa, California 94558



Troy W. Garriss, Esq.

Weiner Brodsky Sidman Kider PC
1300 19th Street, NW
Washington, DC 20036-1609
(202) 628-2000

Attorneys for
Cochise Trails, LLC

VERIFICATION

I, the undersigned, certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief. Further, I certify that I am qualified and authorized to cause the foregoing to be filed.

COCHISE TRAILS, LLC,
an Arizona limited liability company

By: Arizona Railroad Group, LLC,
an Arizona limited liability company,

By: 
David L. Parkinson
Its: Sole Manager

Dated: 10/30/03, 2003