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September 28, 2007

VIA HAND DELIVERY - RETURN COPY

Hon. Vernon A. Williams
Secretary
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

ENTERED
Office of Proceedings

SEP 28 2007

Part of
Public Record

Dear Secretary Williams,

Enclosed for filing in STB Docket No. AB-988 (Sub-No. 1X), Nebkota Railway, Inc.--Abandonment Exemption--In Dawes and Sheridan Counties, NE. are the original and ten copies of the Reply of Nebkota Railway, Inc.

Additional copies of this letter and of the Reply are enclosed for you to stamp to acknowledge your receipt of them and to return to me via the messenger.

If you have any questions concerning the foregoing which you believe I may be able to answer or if I otherwise can be of assistance, please let me know.

Sincerely yours,


Fritz R. Kahn

Enc.

cc Nathan L. Donovan, Esq.
Andrea C Ferster, Esq.

SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

ORIGINAL



SIB Docket No. AB-988 (Sub-No. 1X)

NEBKOTA RAILWAY, INC
-- ABANDONMENT EXEMPTION --
IN DAWES AND SHERIDAN COUNTIES, NE

REPLY
OF
NEBKOTA RAILWAY, INC.

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Attorney for

NEBKOTA RAILWAY, INC.

Dated: September 28, 2007

SURFACE TRANSPORTATION BOARD
WASHINGTON, D C



STB Docket No. AB-988 (Sub-No. 1X)

NEBKOTA RAILWAY, INC.
-- ABANDONMENT EXEMPTION --
IN DAWES AND SHERIDAN COUNTIES, NE

REPLY
OF
NEBKOTA RAILWAY, INC.

Nebkota Railway, Inc. of Chadron, Nebraska ("NRI"), pursuant to 49 C.F.R. 1104.13, replies to the Petition of the Nebraska Game and Parks Commission ("NGPC"), mailed September 17, 2007,¹ as follows

1 NGPC has failed to allege and much less demonstrate that the Board's Decision, served August 22, 2007, involved material error or should be vacated because of new evidence or changed circumstances, as required by 49 C.F.R. 1115.3

2 NGPC simply slept on its rights. Pursuant to 49 C.F.R. 1152.28(a)(3), NGPC's request for a public use condition, and, pursuant to 49 C.F.R. 1152.29(b)(2), NGPC's interim trail use statement were due 20 days after publication on May 24, 2007, of the Federal Register notice of the filing of the NRI's petition for exemption. NGPC, however, did not get around to

¹ The STB's web page inserted the Petition as having been filed on the date it was mailed. The web page copy of the Petition does not include the date and time stamp when it actually was received by the STB.

mailing its interim trail use statement until August 28, 2007.

3. It is Petition, NGPC inexplicably asks that the effective date of the Board's abandonment authorization be postponed to March 21, 2008, notwithstanding that NRI previously had notified NGPC that it would not agree to any filing which would not allow the exemption to be effective September 21, 2007.

4. NRI notified the Board that, pursuant to the Board's August 22, 2007, decision, it had abandoned its line between Milepost 400.0 near Chadron and Milepost 374 at Rushville, effective September 22, 2007. Nevertheless, NRI is prepared to negotiate with NGPC for the conveyance to NGPC of the right-of-way of the abandoned line so that NGPC can extend The Cowboy Trail as contemplated by the master agreement of January 7, 1994. The master agreement committed NRI "upon request" to convey the right-of-way to be used as a trail, but, as already noted, NGPC's request was out of time..

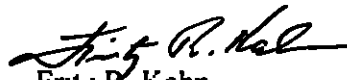
5. As a matter of fact, NRI attempted within the six-month negotiating period to convey by quitclaim deed to NGPC the right-of-way of the Merriman-to-Rushville line authorized for abandonment by the Board's Decision in STB Docket No. AB-988X, Nebkota Railway Inc.—Abandonment Exemption—In Sheridan Counties, NE, served March 21, 2006, but a year and a half later NGPC still has not yet revised the quitclaim deed to its satisfaction so that it might be recorded. In the meantime, NRI is burdened with the trouble and expense of maintaining the abandoned right-of-way

WHEREFORE, Nebkota Railway, Inc., asks that the Petition of the Nebraska Game and Parks Commission be denied

Respectfully submitted,

NEBKOTA RAILWAY, INC.

By its attorney,



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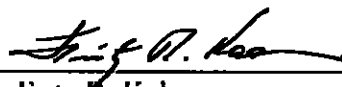
Tel (202) 263-4152

Dated September 28, 2007

CERTIFICATE OF SERVICE

I certify that I this day have served copies of the foregoing Reply upon the Nebraska Game and Parks Commission and the Rails-to-Trails Conservancy by e-mailing copies to their representatives, Nathan F. Donovan, Esq., and Andrea Ferster, Esq .

Dated at Washington, DC, this 28th day of September 2007.



Fritz R. Kahn