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ORIGINAL

October 27, 2006



VIA HAND DELIVERY - RETURN COPY

Hon. Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, NW (7<sup>th</sup> fl.)  
Washington, DC 20423-0001

ENTERED  
Office of Proceedings

OCT 30 2006

Part of  
Public Record

Dear Secretary Williams:

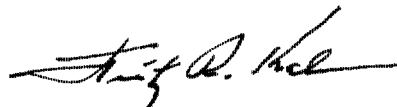
Enclosed for filing in STB Docket AB-471 (Sub-No. 3X), South Kansas and Oklahoma Railroad Company—Abandonment Exemption—In Cherokee and Allen Counties, KS are the original and ten copies of the Joint Statement of American Trails Association, Inc., and City of Iola.

This firms check for \$200 in payment of the filing fee is attached.

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

If you have any question 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: Karl Morell, Esq.

FILED  
OCT 31 2006  
SURFACE  
TRANSPORTATION BOARD

FILED  
OCT 27 2006  
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ORIGINAL

BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC

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STB Docket No. AB-471 (Sub-No. 3X)

SOUTH KANSAS AND OKLAHOMA RAILROAD COMPANY  
— ABANDONMENT EXEMPTION —  
IN CHEROKEE AND ALLEN COUNTIES, KS

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JOINT STATEMENT  
OF  
AMERICAN TRAILS ASSOCIATION, INC.,  
AND  
CITY OF IOLA

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Fritz R. Kahn  
Fritz R. Kahn, P.C.  
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Washington, DC 20036-1601  
Tel.: (202) 263-4152

Attorney for

AMERICAN TRAILS ASSOCIATION, INC.,  
and CITY OF IOLA

Dated: October 27, 2006

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SOUTH KANSAS AND OKLAHOMA RAILROAD COMPANY  
– ABANDONMENT EXEMPTION –  
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JOINT STATEMENT  
OF  
AMERICAN TRAILS ASSOCIATION, INC.,  
AND  
CITY OF IOLA

The American Trails Association, Inc., of Salt Lake City, UT (“ATA”) and the City of Iola in Allen County, Kansas (“Iola”), pursuant to 49 C.F.R. 1152.29(f), seek the Board's authorization, effective November 1, 2006, for ATA to relinquish its obligations as the trails operator of the right-of-way between Milepost 109 north of Lincoln Road and Milepost 110.5 at South Nevada Road, a distance of 1.5 miles in the City of Iola 66749, Allen County, Kansas, and for Iola to acquire said segment for interim trail use and rail banking under the National Trails System Act, 16 U.S.C. 1247(d), and 49 C.F.R. 1152.29, the segment being a part of the right-of-way of the railroad line of the South Kansas and Oklahoma Railroad Company (“SKOL”), authorized for abandonment by the Decision of the Board, served December 7, 2000, and maintained in the interim as a trail by ATA, pursuant to the Decision and Notice of Interim Trail Use or Abandonment, served March 13, 2001,

a copy of which is attached.<sup>1</sup>

By this Joint Statement, ATA seeks the Board's authorization to terminate its trail use and Iola to become the trails operator of the right-of-way extending between Milepost 109 near Lincoln Road and Milepost 110.5 at South Nevada Road, a distance of 1.5 miles in Iola 66749, Allen County, Kansas. ATA will continue to be the trails operator of the remainder of the former SKOL right-of-way, between Milepost 110.5 at Iola and Milepost 117.0 at Humbolt, in Allen County, Kansas.

#### Statement of Willingness to Assume

##### Financial Responsibility

In order to establish interim trail use and rail banking under the National Trails System Act, 16 U.S.C. 1247(d), and 49 C.F.R. 1152.29, Iola is willing to assume full responsibility for the 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 between Milepost 109 near Lincoln Road and Milepost 110.5 at South Nevada Road, a distance of 1.5 miles in Iola 66749, Allen County, Kansas, heretofore operated and maintained as a trail by ATA.

A map of the property depicting the right-of-way is attached.

Iola acknowledges that use of the right-of-way segments is subject to the user's continuing obligation 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 SKOL on the same date it is being served on the

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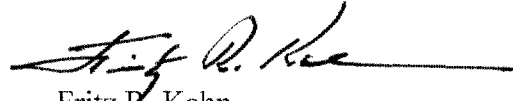
<sup>1</sup> The Board was advised that SKOL and ATA successfully negotiated an agreement for the transfer of the right-of-way by letter, filed March 21, 2001.

Board.

Respectfully submitted,

AMERICAN TRAILS ASSOCIATION, INC.  
CITY OF IOLA

By their attorney,

A handwritten signature in black ink, appearing to read "Fritz R. Kahn", followed by a horizontal line.

Fritz R. Kahn  
Fritz R. Kahn, P.C.  
1920 N Street, NW (8<sup>th</sup> fl.)  
Washington, DC 20036-1601  
Tel.: (202) 263-4152

Dated: October 27, 2006

### VERIFICATION

I, John McRae, Mayor of the City of Iola, declare under penalty of perjury, under the laws of the United States of America, that I have read the foregoing Statement of Willingness to Assume Financial Responsibility of the City of Iola and that its assertions are true and correct to the best of my knowledge, information and belief. I further declare that I am qualified and authorized to submit this verification on behalf of the City of Iola. I know that willful misstatements or omissions of material facts constitute Federal criminal violations punishable under 18 U.S.C. 1001 by imprisonment up to five years and fines up to \$10,000 for each offense. Additionally, these misstatements are punishable as perjury under 18 U.S.C. 1621, which provides for fines up to \$2,000 or imprisonment up to five years for each offense.

Dated at Iola, KS, this 24th day of October 2006..

  
John McRae

31603-  
DO

SERVICE DATE - MARCH 13, 2001

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-471 (sub-No. 3X)

SOUTH KANSAS AND OKLAHOMA RAILROAD COMPANY--  
ABANDONMENT EXEMPTION--IN CHEROKEE AND ALLEN COUNTIES, KS

Decided: March 8, 2001

South Kansas and Oklahoma Railroad Company (SKO) has filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon: (1) an 8-mile line of railroad between milepost 109.0 at Iola and milepost 117.0 at Humboldt, in Allen County, KS; and (2) a 5-mile line of railroad between milepost 382.0 at Sherwin and milepost 387.0 at Faulkner, in Cherokee County, KS. Notice of the exemption was served and published in the Federal Register on December 4, 2000 (65 FR 75817). The exemption became effective on January 3, 2001.<sup>1</sup>

On January 10, 2001, American Trails Association, Inc. (ATA) late-filed a request for issuance of a notice of interim trail use (NITU), under the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), in order to negotiate with SKO for use of the line as a trail.<sup>2</sup> ATA submitted a statement indicating its willingness to assume full financial responsibility for the management of, for any legal liability arising out of the transfer or use of, and for payment of any and all taxes that may be levied or assessed against, the right-of-way, as required at 49 CFR 1152.29, and acknowledged that the use of the right-of-way for trail purposes is subject to future reconstruction and reactivation for rail service. By reply filed March 6, 2001, SKO indicated that the abandonment has not been consummated and that it is willing to negotiate with ATA for interim trail use and rail banking for the entire line.

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<sup>1</sup> By decision served January 2, 2001, the proceeding was reopened at the request of the Board's Section of Environmental Analysis and the exemption was made subject to the condition that SKO shall not conduct salvage activities or dispose of the line until the completion of the section 7 process of the Endangered Species Act, 16 U.S.C. 1531.

<sup>2</sup> The December 4 notice provided that trail use/rail banking requests had to be filed no later than December 14, 2000. However, in Abandonment and Discontinuance of Rail Lines and Rail Transportation Under 49 U.S.C. 10903, STB Ex Parte No. 537 (STB served Dec. 24, 1996, and June 27, 1997), the Board retained the policy of accepting filings after the due date when good cause is shown. Because there is no indication that ATA's late-filed request will prejudice any party, it will be accepted. See Wheeling & Lake Erie Railway Company--Abandonment Exemption--In Starke County, OH, STB Docket No. AB-227 (Sub-No. 10X), slip op. at 1 n.1 (STB served Nov. 7, 1997).

ATA's request complies with the requirements of 49 CFR 1152.29 and SKO is willing to negotiate. Therefore, a NITU will be issued. The parties may negotiate an agreement during the 180-day period prescribed below. If the parties reach mutually acceptable final agreement, no further Board action is necessary. If no agreement is reached within 180 days, SKO may fully abandon the line, provided that the environmental condition imposed in the decision served January 2, 2001, is met. Use of the right-of-way for trail purposes is subject to restoration for railroad purposes. See 49 CFR 1152.29(d)(2).

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

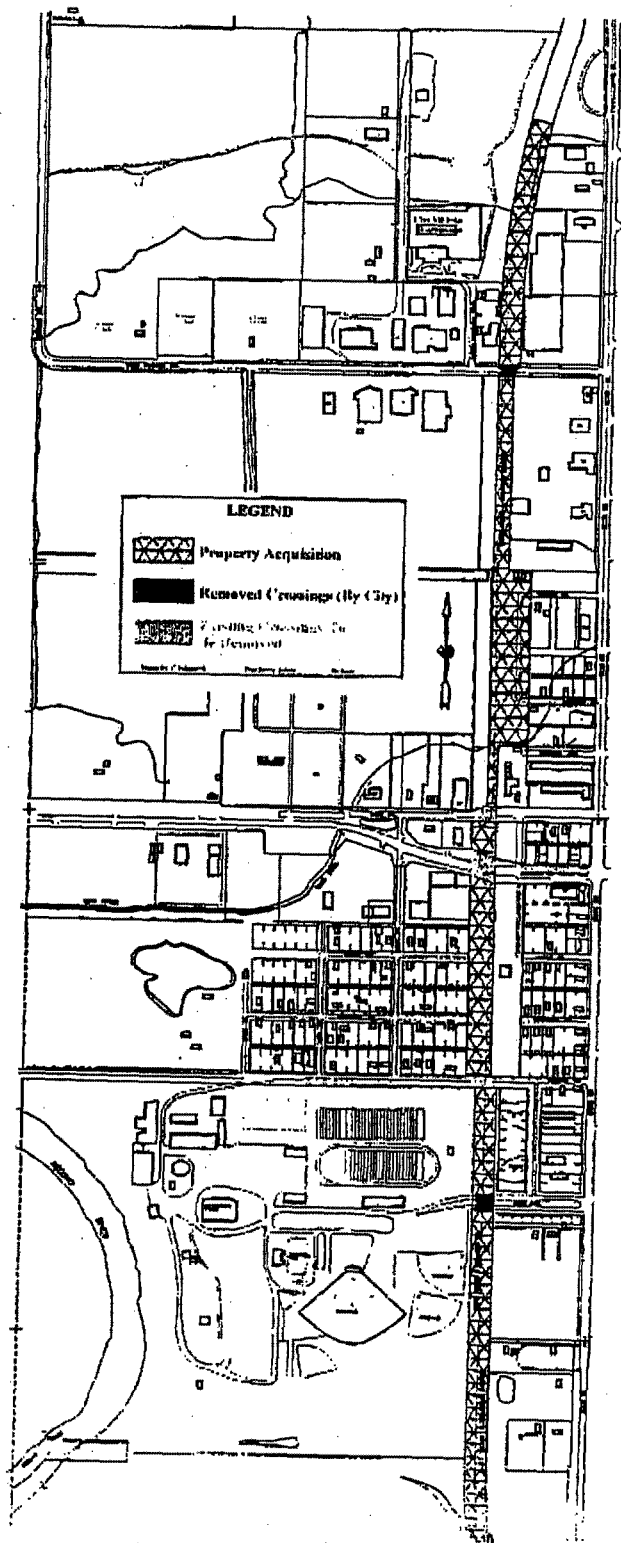
It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the notice of exemption published in the Federal Register on December 4, 2000, exempting the abandonment of the line described above 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 date of this decision and notice (until September 9, 2001), subject to the environmental condition imposed in the January 2, 2001 decision.
3. 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 against any potential liability), and for the payment of any and all taxes that may be levied or assessed against, the right-of-way.
4. 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.
5. 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 specified date.
6. If an agreement for interim trail use/rail banking is reached by September 9, 2001, interim trail use may be implemented. If no agreement is reached by that time, SKO may fully abandon the line.

7. This decision is effective on its service date.

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

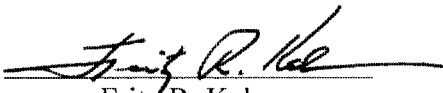
Vernon A. Williams  
Secretary



CERTIFICATE OF SERVICE

I certify that I this day have served a copy of the foregoing Joint Statement of American Trails, Inc., and the City of Iola on the South Kansas and Oklahoma Railroad Company by facsimile transmitting and mailing copies thereof by prepaid first-class mail addressed to its counsel, Karl Morell, Esq.

Dated at Washington, DC, this 27th day of October 2006

  
Fritz R. Kahn