

LAW OFFICES  
FRITZ R. KAHN, P.C.  
EIGHTH FLOOR  
1920 N STREET NW  
WASHINGTON DC 20036-1801

ENTERED  
Office of Proceedings

OCT 25 2007

Part of  
Public Record

(202) 203-4152  
FAX (202) 331-8330  
e-mail xccgc@worldnet.att.net

October 25, 2007

VIA HAND DELIVERY

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

220542



Re: STB Docket No. AB-471X. South Kansas and Oklahoma Railroad, Inc.--  
Abandonment Exemption--In Sumner County, KS

STB Docket No. AB-471 (Sub-No. 1X). South Kansas and Oklahoma  
Railroad, Inc.--Abandonment Exemption--In Neosho and  
Wilson Counties, KS

STB Docket No. AB-471 (Sub-No. 3X). South Kansas and Oklahoma  
Railroad, Inc.--Abandonment Exemption--In Cherokee and  
Allen Counties, KS

STB Docket No. AB- 853 (Sub-No. 1X). Kansas & Oklahoma  
Railroad, Inc.--Abandonment Exemption--In Hodgeman, Comanche,  
Kiowa and Pratt Counties, KS

Dear Secretary Williams.

The Notices of Intent to Terminate Rails Use of American Trails Association,  
Inc., filed yesterday, failed to have attached to them the relevant Decision and Notice of  
Interim Trails Use or Abandonment. Eleven copies of each are enclosed.

I apologize for the omission and any inconvenience it may have occasioned

Sincerely yours.

  
Fritz R. Kahn

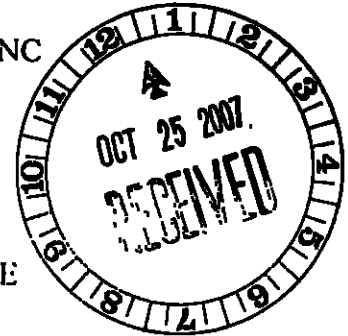
SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC

220542

STB Docket No AB-471 (Sub-No 1X)

SOUTH KANSAS AND OKLAHOMA RAILROAD, INC  
-- ABANDONMENT EXEMPTION --  
IN NEOSHO AND WILSON COUNTIES, KS

ENTERED  
Office of Proceedings  
OCT 25 2007  
Part of  
Public Record



NOTICE OF INTENT TO TERMINATE TRAIL USE  
OF  
AMERICAN TRAILS ASSOCIATION, INC.

American Trails Association, Inc. ("ATA"), pursuant to 49 C.F.R. 1152.29(d)(2), gives notice of its intent to terminate trail use of the right-of-way acquired by ATA between Milepost 130 near Chanute and Milepost 149.0 near Fredonia, a distance of 19 miles in Neosho and Wilson Counties, Kansas

1. A copy of the Decision and Notice of Interim Trail Use or Abandonment, served June 19, 1997, is attached.
2. ATA asks that the Decision and Notice of Interim Trail Use or Abandonment be vacated as of November 5, 2007.
3. Copies of the Board's Decision should be sent, as follows.

a. The abandoning railroad

South Kansas and Oklahoma Railroad, Inc  
315 West 3rd Street  
Pittsburg, KS 66762

b. The trail operator.

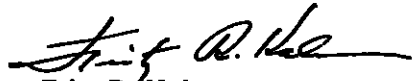
American Trails Association, Inc.  
P. O. Box 26421  
Salt Lake City, UT 84126

WHEREFORE, the trail operator, American Trails Association, Inc., asks that it be relieved of its obligations under the Trails Act with respect to the above-described rights-of-way

Respectfully submitted,

AMERICAN TRAILS ASSOCIATION, INC.

By its attorney,

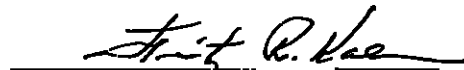
  
Fritz R. Kahn  
Fritz R. Kahn, P.C.  
1920 N Street, NW (8th fl.)  
Washington, DC 20036  
Tel. (202) 263-4152

Dated: October 24, 2007

#### CERTIFICATE OF SERVICE

I certify that I this day have served a copy of the foregoing Notice upon each of the parties by facsimile transmitting and mailing, by prepaid first-class postage, copies thereof to their representatives

Dated at Washington, DC, this 24th day of October 2007

  
Fritz R. Kahn

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No AB-471 (Sub-No 1X)

SOUTH KANSAS AND OKLAHOMA RAILROAD, INC --ABANDONMENT  
EXEMPTION--IN NEOSHO AND WILSON COUNTIES, KS

Decided June 18, 1997

South Kansas and Oklahoma Railroad, Inc (SKO) filed a notice of exemption under 49 CFR 1152 Subpart F--*Exempt Abandonments* to abandon a 19-mile portion of its line of railroad between milepost 130 0, near Chanute, and milepost 149 0, near Fredonia, in Neosho and Wilson Counties, KS The notice was served and published in the *Federal Register* on May 23, 1997 (62 FR 28533-34) The exemption is scheduled to become effective on June 22, 1997

The Board's Section of Environmental Analysis (SEA) has issued an environmental assessment (EA) in this proceeding, served June 3, 1997 In the EA, SEA indicates that the National Geodetic Survey (NGS) has identified 14 geodetic station markers that may be affected by the abandonment NGS states that it must be notified 90 days in advance of any activities that would disturb or destroy the 14 markers identified by NGS Therefore, SEA recommends that a condition be imposed requiring SKO to consult with the NGS and provide NGS with 90 days' notice prior to disturbing or destroying the 14 geodetic markers

SEA also indicates that the Kansas Department of Health and Environment (KDHE) has determined that the abandonment may affect water quality, particularly in areas where tracks are located near streams, flood plains, wetlands or other aquatic areas sensitive to pollution Therefore, SEA recommends that SKO consult with the KDHE, Division of Environment, Bureau of Water, in Topeka, KS, prior to removing track materials on the line

On June 4, 1997, the Kansas Horseman Foundation (KHF) and American Trails Association, Inc (ATA) each late-filed requests for issuance of a notice of interim trail use/rail banking (NITU) for the entire line under the National Trails System Act, 16 U S C 1247(d) (Trails Act), to negotiate with SKO for acquisition of the right-of-way for a trail<sup>1</sup> KHF and ATA have submitted statements of willingness to assume responsibility for management of, and liability and payment of taxes for, the right-of-way, as required at 49 CFR 1152.29, and acknowledged that the use of the right-of-way as a trail is subject to future reactivation for rail service

By letter filed June 9, 1997, SKO indicated its willingness to negotiate with KHF and ATA for trail use In light of this and SKO's willingness to negotiate for interim trail use, a NITU will be issued under 49 CFR 1152.29 The parties may negotiate an agreement during the 180-day period prescribed below The negotiating period commences with the effective date of the exemption and may be extended on request if SKO remains willing to negotiate Qualified entities other than KHF and ATA may file requests for interim trail use/rail banking so long as the abandonment has not been consummated and SKO is willing to negotiate with them If the parties reach a mutually acceptable final agreement, no further action by the Board is necessary If no agreement is reached within 180 days, SKO may fully abandon the line, provided that the environmental conditions imposed in this decision are met See 49 CFR 1152.29(d)(2) Use of the right-of-way for trail purposes is subject to restoration for railroad purposes

---

The May 23 notice provided that requests for trail use/rail banking had to be filed by June 2, 1997 The notice stated, however, that the Board would accept a late-filed trail use request as long as it retained jurisdiction to do so Accordingly, because the abandonment has not been consummated, KHF's and ATA's requests will be considered

This decision will not significantly affect either the quality of the human environment or 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 May 23, 1997, 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 180 days commencing June 22, 1997, the effective date of the exemption (until December 19, 1997), and is subject to the conditions that SKO shall (a) consult with the NGS and provide NGS with 90 days' notice prior to disturbing or destroying the 14 geodetic markers, and (b) consult with the KDHE, Division of Environment, Bureau of Water, in Topeka, KS, prior to removing materials on this line

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 any agreement for interim trail use/rail banking is reached by December 19, 1997, 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