

204687

OmniTRAX, INC.

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November 2, 2001

The Honorable Vernon Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Suite 715
Washington, D.C. 20423-0001

ENTERED
Office of the Secretary
FEB 05 2002
Part of
Public Record

Via Facsimile: (202) 565-9004

Re: STB Docket No. AB-406 (Sub-No. 14X), Central Kansas Railway, L.L.C. – Abandonment Exemption – In Sedgwick County, Kansas

Dear Secretary Williams:

In a decision served on April 10, 2001, the Surface Transportation Board ("STB") granted Central Kansas Railway, L.L.C. ("CKR") an exemption under 49 U.S.C. 10502 from prior approval requirements of 49 U.S.C. 10903 to abandon a 16 mile line or railroad extending between milepost 19.5 near Garden Plain, Kansas and milepost 3.5 southeast of the grade crossing at McCormick Avenue in Wichita, Kansas. The grant was made subject to conditions relating to the rerouting of overhead traffic, as well as environmental, historic preservation, and standard employee protective conditions.

The Board directed that CKR could not consummate the abandonment until it undertook the following:

- (1) That CKR request dismissal of the portion of the abandonment proceeding in Kansas Southwestern Railway, L.L.C. – Abandonment – In Sumner, Harper, Barber, Reno and Kingman Counties, KS, STB Docket No. AB-437 (Sub-No 1)(STB served June 10, 1999, June 13, 2000, and November 30, 2000) with respect to the line segment between milepost 559.028 at Conway Springs and milepost 591.8 at Kingman and certify that any necessary rehabilitation and maintenance has been performed such that CKR can operate between Wichita and Kingman via Conway Springs.

Response: Attached as Appendix A to this letter is a copy of a letter dated May 4, 2001, in which Kansas Southwestern Railway, L.L.C. requested dismissal of that portion of AB-437 (Sub-No. 1) that the STB directed CKR to accomplish. That request to dismiss the proceeding as to the Conway Springs – Alameda portion was granted by the STB in Kansas Southwestern Railway, L.L.C. – Abandonment – In Sumner, Harper, Barber,

Reno and Kingman Counties, KS, STB Docket No. AB-437 (Sub-No. 1)(STB served May 23, 2001. Thus, the first part of this first condition has been met.

Regarding the second part of this first condition, in a decision and notice in Kansas & Oklahoma Railroad, Inc. – Acquisition Exemption – Central Kansas Railway, L.L.C., STB Finance Docket No. 34030 (STB served June 12, 2001), the Board exempted under 49 CFR 1150.31 the acquisition and control by Kansas & Oklahoma Railroad, Inc. ("K&O") of approximately 903 miles of rail lines owned or leased by CKR, including the former KSW lines between Conway Springs and Belmont. In a decision and notice in Kansas & Oklahoma Railroad, Inc. – Trackage Rights Exemption – Central Kansas Railway, L.L.C., STB Finance Docket No. 34047 (STB served June 12, 2001), the Board exempted under 49 CFR 1180.2(d)(7) CKR's grant to K&O of temporary overhead trackage rights over the subject 16 mile line between Garden Plain and Wichita. The decision reiterated the certification condition imposed on CKR in STB Docket No. 406 (Sub-No. 14X).

Because K&O had purchased the line over which the rehabilitation and relocation would occur, it assumed the obligation for the rehabilitation and relocation. Attached as Appendix B to this letter is a copy of a letter from K&O in which K&O certifies that the rehabilitation and relocation project was completed on October 15, 2001. As noted in that letter, K&O has started to route its traffic between Wichita and Kingman via Conway Springs. Accordingly, CKR hereby certifies that the necessary rehabilitation and maintenance has been performed such that K&O as successor to CKR can operate between Wichita and Kingman via Conway Springs. Thus, the second part of this condition has been met.

- (2) That CKR shall notify the National Geodetic Survey not less than 90 days prior to commencement of any operations that are expected to destroy or disturb any geodetic station markers.

Response: Attached as Appendix C to this letter is a copy of the response from the National Geodetic Survey in which it states that there are no markers on the line segment involved. In an abundance of caution, CKR requested American Rail Marketing, LLC ("AmRail") the company that will undertake the obligation of complying with the condition. Attached as Appendix D is a copy of the letter from AmRail in which it complies with this condition. Thus, the second condition has been met.

- (3) That, prior to the initiation of any salvage, CKR consult with the Kansas Department of Transportation ("KDOT") regarding the preparation of a track salvage work plan.

Response: Attached as Appendix E to this letter is a copy of a letter that AmRail sent to KDOT regarding this subject. This letter was sent after consultation with KDOT. Thus, the third condition has been met.

- (4) That CKR shall consult with the Kansas Department of Health and Environment – Bureau of Water and prepare a Non-point Source Pollution Control Plan prior to

abandonment and secure all necessary permits prior to initiation of salvage or disposal activities.

Response: Attached as Appendix F to this letter is a copy of a letter that AmRail sent to KDHE regarding the Non-point Source Pollution Control Plan. This letter was sent after consultation with KDHE. No permits are required for this salvage operation. Thus, the fourth condition has been met.

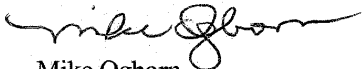
- (5) That CKR shall consult with the Kansas State Historical Society to determine if the proposed abandonment is consistent with the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

Response: Attached as Appendix G to this letter are copies of two letters CKR received from KSHS, both of which state that the abandonment will not effect any property listed on the National Register of Historic Places or otherwise identified in its files as having historical significance. Thus, the fifth condition has been met.

Accordingly, all conditions imposed in the Decision have been met by CKR and it requests that the conditions be removed. Please contact me if you have any questions about the information contained in this letter.

Thank you.

Sincerely,



Mike Ogborn
Manager
Central Kansas Railway, L.L.C.

cc: Karl Morell

APPENDIX A

BALL JANIK LLP

ATTORNEYS

1455 F STREET, NW, SUITE 225
WASHINGTON, D.C. 20005

www.balljanik.com

TELEPHONE 202-638-3307

FACSIMILE 202-783-6947

KARL MORELL

KMORELL@BJLLP.COM

May 4, 2001

BY HAND DELIVERY

The Honorable Vernon Williams
Surface Transportation Board
1925 K Street, N.W., Suite 715
Washington, DC 20423-0001



Re: STB Docket No. AB-437 (Sub-No. 1), Kansas Southwestern Railway, L.L.C. -- Abandonment -- In Sumner, Harper, Barber, Reno and Kingman Counties, KS

Dear Secretary Williams:

By decision served June 10, 1999, in the above-referenced proceeding, the Surface Transportation Board ("Board") authorized Kansas Southwestern Railway, L.L.C. ("KSW") to abandon: (1) its 57.85-mile Hardtner Branch, located between milepost 514.00, at Conway Springs, KS, and milepost 571.85, at Kiowa, KS; and (2) a 50.97-mile portion of its Stafford Branch, located between milepost 559.028, at Conway Springs, and milepost 610.00, at Olcott, KS. The June 10th decision stated that, if consummation has not been effected by KSW's filing of a notice of consummation by June 10, 2000, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

By letter dated March 24, 2000, KSW notified the Board that on March 2, 2000, KSW had consummated the abandonment of: (1) its Hardtner Branch between milepost 514.25, at Conway Springs, and milepost 571.85, at Kiowa; and (2) the portion of its Stafford Branch between milepost 593.31, at Kingman, KS, and milepost 610.00, at Olcott. KSW also indicated that it would subsequently notify the Board as to the status of the remaining portion of the Stafford Branch between milepost 559.028, at Conway Springs, and milepost 593.31, at Kingman.

By letter dated May 25, 2000, KSW requested an extension of the time to consummate the abandonment of the portion of the Stafford Branch located between mileposts 559.028 and 591.8. KSW explained that it was working with the State of Kansas to relocate a portion of its rail line near Kingman and that KSW was uncertain as to which portion of the line approved for abandonment will become unnecessary for future operations after the relocation

BALL JANIK LLP

The Honorable Vernon Williams
May 4, 2001
Page 2

project is completed. By decision served June 13, 2000, the Board granted, until December 11, 2000, the requested extension of time to consummate the abandonment.

By letter dated November 15, 2000, KSW requested an additional extension, until June 8, 2001, of the time to consummate the abandonment and to file its notice of consummation for the portion of the Stafford Branch between milepost 591.8, at Kingman, KS, and milepost 559.028, at Conway Springs, KS. KSW explained that it was continuing to work with the State of Kansas on the relocation project. Because the engineering plans for the relocation project have not yet been finalized, it still remained unclear precisely which portion of the line near Kingman would be unnecessary for continued operations and therefore can be abandoned by KSW.

By decision served November 30, 2000, in this proceeding, the Board granted the requested extension and, pursuant to the request of the City of Kingman, modified the CITU.

Pursuant to the provisions of 49 C.F.R. 1152.29(e)(2), Central Kansas Railway, L.L.C. ("CKR"), as successor in interest to KSW,¹ hereby notifies the Board that on May 3, 2001, CKR consummated the abandonment of the portion of the Stafford Branch located between milepost 583.3, near Alameda, KS, and milepost 591.8, at Kingman, KS. CKR further notifies the Board that CKR has decided not to exercise its abandonment authority for the portion of the Stafford Branch located between milepost 559.028, at Conway Springs, KS, and milepost 583.3, near Alameda, KS, and requests that the Board dismiss this abandonment proceeding as to the Conway Springs-Alameda line. The Conway Springs-Alameda line is being rehabilitated to provide CKR an alternate route to and from Wichita, KS via Conway Springs.

As a result of these actions: (1) KSW and its successor have consummated the abandonment of the Hardtner Branch between mileposts 514.25 and 571.85, and the portions of the Stafford Branch between mileposts 593.4 and 610.00 and between mileposts 583.3 and 591.8; (2) the portion of the Stafford Branch between mileposts 591.8 and 593.4 are covered by the CITU; and (3) the portion of the Hardtner Branch between mileposts 514.00 and 514.25 and the portion of the Stafford Branch between mileposts 559.028 and 583.3 are being retained by CKR and will remain subject to the Board's jurisdiction.

¹ KSW was merged into the CKR. See STB Finance Docket No. 33868, *OmniTRAX, Inc., Central Kansas Railway, L.L.C., and Kansas Southwestern Railway, L.L.C. - Corporate Family Transaction Exemption* (not printed), served May 8, 2000.

BALL JANIK LLP

The Honorable Vernon Williams
May 4, 2001
Page 3

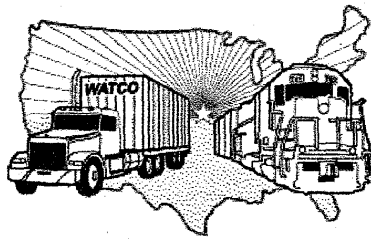
If you have any questions concerning this matter or require additional information, please contact the undersigned.

Sincerely,

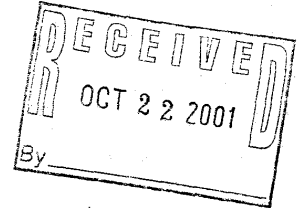
A handwritten signature in black ink, appearing to read "Karl Morell", written in a cursive style.

Karl Morell

APPENDIX B



WATCO
COMPANIES, INC.
"Your Transportation Specialists"



10/18/01

Mr. Michael J. Ogborn
Manager
Central Kansas Railway, L.L.C.
252 Clayton Street, 4th Floor
Denver, CO 80206

RE: STB Docket No. AB-406 (Sub-No. 14x) and STB Finance Docket No. 34047

Dear Mike:

Kansas & Oklahoma Railroad, Inc. (K&O) hereby certifies that the relocation project near Kingman and the rehabilitation of the rail line between Kingman and Conway Springs that K&O assumed from Central Kansas Railway, L.L.C (CKR) were completed on October 15th, K&O started to reroute all of it's overhead traffic moving between Kingman and Wichita via Garden Plain to the Kingman-Conway Springs-Wichita route. Consequently, K&O will no longer need to utilize the temporary trackage rights authorized in Finance Docket No. 34047.

Sincerely,

Richard B Webb
jm

Richard B. Webb
President
Kansas & Oklahoma Railroad, Inc.

315 West 3rd Street Pittsburg, KS 66762

Fax: 620-231-0812



APPENDIX C
M. Ogborn

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
National Geodetic Survey
Silver Spring, Maryland 20910-3282

July 6, 2000

Ms. Elaine K. Kaiser
Chief, Section of Environmental
Analysis
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

Dear Ms. Kaiser:

The areas in question in the letters of June 14, 2000, signed by Mike Ogborn, Manager, Central Kansas Railway, L.L.C. (copies enclosed), for the abandonments proposed under STB Docket No. AB-406 (Sub-No. 13X), have been reviewed within the scope of National Geodetic survey (NGS) responsibility and expertise and in terms of the impact of the proposed actions on NGS activities and projects.

As a result of this review, several geodetic station markers have been identified that may be affected by the proposed actions. The endangered marks are in the following proposed abandonment locations:

1. MP 19.5, near Garden Plain, to MP 3.5, southeast of the at-grade crossing at McCormick Avenue, in Wichita, Sedgwick County, Kansas: No endangered marks,
2. MP 3.6, at Hutchinson, to MP 31.1, at Kingman, in Reno and Kingman Counties, Kansas: 48 endangered marks,
3. MP 48.2, at Rago, to MP 59.7, at Harper, in Kingman and Harper Counties, Kansas: 25 endangered marks, and
4. MP 58.0, at Conway, to MP 77.4, at Lyons, in Rice and McPherson Counties, Kansas: 22 endangered marks.

An index for each of these markers is enclosed. Additional information about these station markers can be obtained via the Internet or NGS CD-ROM. A fact sheet for these two data retrieval methods is enclosed.

If there are any planned activities which could disturb or destroy these marks, NGS requires not less than 90 days' notification in advance of such activities in order to plan for their relocation.



If further information is needed for these geodetic station markers, my address is NOAA, N/NGS2, Room 8813, 1315 East-West Highway, Silver Spring, Maryland 20910-3282, telephone: 301-713-3191, fax: 301-713-4324, e-mail: Ed.Mckay.noaa.gov

Sincerely,

Edward J. McKay

Edward J. McKay
Chief, Spatial Reference
System Division

Enclosures

cc: M. Ogborn - Central Kansas Railway
N/NGS1x1 - M. Rivers

AMERICAN RAIL MARKETING, LLC

**21 NORTH SKOKIE HIGHWAY, SUITE G7
LAKE BLUFF, ILLINOIS 60044-1776**

TEL: (847) 615-9821 • FAX: (847) 615-9840 • EMAIL: esaam@amrailind.com

October 29, 2001

Mr. Edward J. McKay
Chief, Spatial Reference
System Division
National Oceanic and Atmospheric Administration
N/NGS2, Room 8813
1315 East-West Highway
Silver Spring, MD 20910-3282

**RE: STB DOCKET NO. AB-406 (SUB-NO. 14X), CENTRAL KANSAS RAILWAY, L.L.C. –
ABANDONMENT EXEMPTION – IN SEDGWICK COUNTY, KANSAS**

Dear Mr. McKay:

American Rail Marketing, L.L.C. ("AmRail"), has contracted with Central Kansas Railway, L.L.C. ("CKR") for the salvage of certain tracks in the above referenced proceeding in Sedgwick County, Kansas. AmRail is in receipt of your index for the geodetic markers on the rail line to be salvaged. Please be advised that no planned salvage activities will disturb or destroy any of these markers.

Please contact me if you have any questions or concerns.

Thank you.

Very truly yours,

Edward B. Saam
General Manager

cc: Mike Ogborn

AMERICAN RAIL MARKETING, LLC

**21 NORTH SKOKIE HIGHWAY, SUITE G7
LAKE BLUFF, ILLINOIS 60044-1776**

TEL: (847) 615-9821 • FAX: (847) 615-9840 • EMAIL: esaam@amrailind.com

October 29, 2001

Mr. John J. Rosacker
Assistant Bureau Chief, Transportation Planning
Kansas Department of Transportation
Bureau of Transportation Planning
Office of Rail Affairs
Thatcher Building
217 SE Fourth Street, Second Floor
Topeka, KS 86603-0963

**RE: STB DOCKET NO. AB-406 (SUB-NO. 14X), CENTRAL KANSAS RAILWAY, L.L.C. –
ABANDONMENT EXEMPTION – IN SEDGWICK COUNTY, KANSAS**

Dear Mr. Rosacker:

American Rail Marketing L.L.C. ("AmRail"), has contracted with Central Kansas Railway, LLC ("CKR") for the salvage of certain tracks in the above referenced county. It is our obligation to remove the rail and cross ties from all road crossings. Per our agreement with CKR, all public road crossings shall be reconstructed comparable to adjacent road construction. All public road crossings shall be removed in accordance with the requirements of the governmental agency that maintains the roads.

AmRail will repair all road crossings located on the project within 60 days of the completion of the salvage operations. If you have any questions, please feel free to contact me.

Thank you.

Very truly yours,

Edward B. Saam
General Manager

AMERICAN RAIL MARKETING, LLC

21 NORTH SKOKIE HIGHWAY, SUITE G7

LAKE BLUFF, ILLINOIS 60044-1776

TEL: (847) 615-9821 • FAX: (847) 615-9840 • EMAIL: esaam@amrailind.com

October 29, 2001

Ms. Judy Schorf
Non-point Source Pollution
Bureau of Water
Kansas Department of Health & Environment
Forbes Field, Building 283
Topeka, Kansas 66620-0001

**RE: STB Docket No. AB-406 (Sub-No. 14X) – Central Kansas Railway, L.L.C. –
Abandonment Exemption – In Sedgwick County, Kansas**

Dear Judy:

Per our prior conversations, please accept the following non-point pollution control plan for track abandonment on the Central Kansas Railway, L.L.C. ("CKR") in Sedgwick County in the captioned proceeding:

- All salvage work will be performed on the railroad right-of-way
- All track material will be removed from the job site upon completion of the project
- The railroad right-of-way will be left in a clean and level condition upon completion of work
- An erosion fence will be erected around streams, waterways or steep slopes that may lead to waterways

If you have any questions or concerns, please contact me. Thank you.

Sincerely,

Edward B. Saam
General Manager

cc: Mike Ogborn



**KANSAS
STATE
HISTORICAL
SOCIETY**

Richard Pankratz
Director
Cultural Resources
Division
tel. ext. 217

6425 S.W. 6th Avenue
Topeka, Kansas
66615-1099
PHONE# (913) 272-8681
FAX# (913) 272-8682
TTY# (913) 272-8683

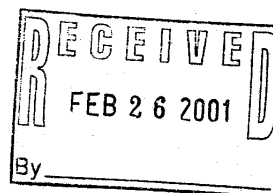
KANSAS HISTORY CENTER

Administration
Center for Historical Research
Cultural Resources
Education / Outreach
Historic Sites
Kansas Museum of History
Library & Archives

HISTORIC SITES

Adair Cabin
Constitution Hall
Cottonwood Ranch
First Territorial Capitol
Fort Hays
Goodnow House
Grinter Place
Hollenberg Station
Kaw Mission
Marais des Cygnes Massacre
Mine Creek Battlefield

APPENDIX G (1 of 2)



February 20, 2001

Mr. Michael J. Ogborn
Manager
Central Kansas Railway, L.L.C.
OmniTRAX, Inc.
252 Clayton Street, 4th Floor
Denver, CO 80206

RE: AB-Docket No. 406 (Sub-No. 14X)
Central Kansas Railway, L.L.C.--Abandonment Exemption--In
Sedgwick County (Garden Plain to Wichita)

Dear Mr. Ogborn:

This letter is being sent to correct errors contained in the project
identification line in our letter of November 21, 2000.

We have reviewed the project identified above and have determined that it
will not affect any property listed on the National Register of Historic
Places or otherwise identified in our files as having historical significance.
This office has no objection to implementation of the project.

Sincerely yours,

Ramon Powers
State Historic Preservation Officer

Richard Pankratz
Director, Cultural Resources Division

cc: Surface Transportation Board



**KANSAS
STATE
HISTORICAL
SOCIETY**

◆
Cultural Resources Division
Extension 240

◆
6425 S.W. 6th Avenue
Topeka, Kansas
66615-1099
PHONE# (785) 272-8681
FAX# (785) 272-8682
TTY# (785) 272-8683

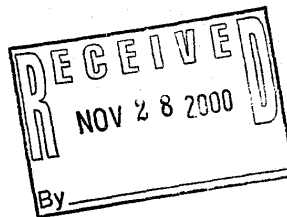
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KANSAS HISTORY CENTER

Administration
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HISTORIC SITES

Adair Cabin
Constitution Hall
Cottonwood Ranch
First Territorial Capitol
Fort Hays
Goodnow House
Grinter Place
Hollenberg Station
Kaw Mission
Marais des Cygnes Massacre
Mine Creek Battlefield
Native American Heritage Museum
Pawnee Indian Village
Pawnee Rock
Shawnee Mission

APPENDIX G (2 of 2)



November 21, 2000

Michael J Ogborn, Manager
Central Kansas Railway LLC
OmniTRAX INC
252 Clayton Street 4th Floor
Denver CO 80206

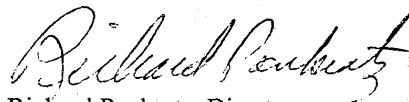
Re: Abandonment of Track From Wichita to Goddard
Sedgwick County

Dear Mr. Ogborn:

We have reviewed the project identified above and have determined that it should not affect any property listed on the National Register of Historic Places or otherwise identified in our files as having historical significance. This office has no objection to implementation of the project.

Sincerely yours,

Ramon Powers
State Historic Preservation Officer


Richard Pankratz, Director
Historic Preservation Office

clg