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FEE RECEIVED
May 29, 2019
SURFACE
TRANSPORTATION BOARD

Marc A. Elster
2030 E. 25th Place
Lawrence, KS 66046
marcelster@yahoo.com
(913) 226-9740

ENTERED
Office of Proceedings
May 29, 2019
Part of
Public Record

February 19, 2019

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20423

FILED
May 29, 2019
SURFACE
TRANSPORTATION BOARD

Re: STB Docket No. 853 (Sub-No. 1X) - South Kansas & Oklahoma Railroad
Petition to Reopen

Dear Ms. Brown,

I am providing the enclosed "Petition To Reopen" to resolve an untenable and inequitable situation on my property located in Kiowa County, Kansas. I am requesting the STB declare the physically abandoned railroad right of way (ROW) across my land officially abandoned and grant a Certificate of Abandonment so that the ROW may revert to me as the adjacent land owner under Kansas law (K.S.A. §66-525.) (copy attached as Exhibit A for your reference). If this is not an acceptable avenue to secure the relief I am requesting, then I would ask the Board to please let me know the best way to secure this relief.

Before you suggest that I work with the railroad (now owned and operated by Watco in Kansas), I have sent the railroad demand letters asking them to legally abandon the ROW (Exhibits B & C attached are examples). I have been on phone calls with their lawyer. I have had legal and other representatives contact them. After multiple attempts the railroad's position is that they are not compelled to do anything, and they will not cooperate.

As for paying large sums of money for this relief, the ROW on my property encumbers eight acres. It is not financially feasible to hire a lawyer to pursue this on my behalf and pay filing fees. Yet the railroad, under circumstances where it could not have any legitimate railroad interest in the ROW, persists in blocking any progress toward abandonment. I am therefore requesting that under the totally egregious facts in this case and the totally embarrassing and unconscionable position taken by the railroad that the filing fee be waived for this filing.

My problem is that someone has moved a modular home onto the ROW across my land and is turning it into a junk yard as well as becoming a general nuisance. So, I need the Board to provide the relief requested or please tell me how someone in my position can secure the requested relief in a financially practical manner. Please, I need to hear from you.

This Board has authorized the abandonment of these lines on several occasions, beginning in 2003. The railroad physically abandoned this ROW in 2003 and 2004. After a couple of rounds with railbanking entities no railbanking agreements were consummated. And the railroad refuses to consummate the abandonment under facts so egregious that the Federal Court of Claims in Farmers Coop (full citation in the brief), on reconsideration, accurately described my "quandary" as:

Inexplicably, despite having removed the track and having quitclaimed its interest in the corridors to ATA, which in turn never initiated any trail usage and then subsequently sought and obtained from the STB the termination of its obligations, K&O has apparently failed to file any notice of consummation of abandonment of the lines. Such notice is a necessary step under federal regulations to complete the process of abandonment and end STB jurisdiction over the lines.

The Court, acknowledging the "Plaintiffs' quandary," nonetheless reasoned that "it is not this court's province to answer Plaintiffs' question, 'What then?'" or address how I might best extricate my property from the consequences of the railroad's failure to file the requisite consummation of the abandonment, even though its abandonment of the ROW is evident under state law."

And now it is 2019 and the situation remains unchanged. K&O acting in bad faith is unwilling to take any position or make any effort to abandon. I have now been deprived of my interest in the land for over 10 years. As I stated above, I am seeking your support to obtain a Certificate of Abandonment. We have unfinished business with an uncooperative railroad. If this is not an acceptable approach, please tell me how someone in my position can secure the requested relief in a financially practical manner. I look forward to your response.

Sincerely,



Marc Elster

Enclosures

cc:

Kansas & Oklahoma Railroad, L.L.C.
WATCO Companies
c/o Karl Morell & Associates
655 15th Street, NW, Suite 225
Washington, DC 20005
(202) 595-9045
karlm@karlmorell.com

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET AB-853 (SUB-NO. 1X)

KANSAS & OKLAHOMA RAILROAD, L.L.C.
(F/K/A KANSAS & OKLAHOMA RAILROAD, INC.)
SOUTH KANSAS & OKLAHOMA RAILROAD, L.L.C.
(F/K/A SOUTH KANSAS & OKLAHOMA RAILROAD, INC.)

PETITION TO REOPEN

COMES NOW the petitioner, Marc Elster, pursuant to *49 U.S.C. § 10903(d)(1)*, *(e)(1)*, and pertinent federal administrative regulations, and I petition the Board pursuant to 49 C.F.R. §1115.3(b)(2), to reopen the Board's decision of December 29, 2008, in this proceeding in order to obtain relief quashing any stagnant claims of former Trails Operators and issuing an order consummating the abandonment of the vacated railroad lines at issue which the Kansas & Oklahoma Railroad, L.L.C.¹ physically abandoned many years ago, but refuses to legally consummate the abandonment of these lines.

In support of my motion I submit the following:

¹ Kansas & Oklahoma Railroad, Inc. converted from a Kansas domiciled corporation to a Kansas domiciled limited liability company named Kansas & Oklahoma, L.L.C.; (hereinafter "K&O") on or about December 9, 2010. The South Kansas & Oklahoma Railroad, Inc. converted from a Kansas domiciled corporation to a Kansas domiciled limited liability company named South Kansas & Oklahoma, L.L.C.; (hereinafter "SK&O") on or about January 15, 2016. (See Kansas Secretary of State; sos.ks.gov). Their respective mailing addresses are currently at 315 W. 3rd Street, Pittsburg, Kansas 66762. Their Kansas registered agent is the Corporation Service Company, 200 SW 30th Street in Topeka, Kansas 66611.

INTRODUCTION

1. The Board is being petitioned by a landowner adjacent to a vacated railroad line through Kiowa County in rural Kansas, herein requesting that this proceeding be reopened, that the Board determine and declare that no valid Trails Agreement has ever been established for either of these lines, and that the rail corridor adjacent to my land be ordered abandoned under federal law. This order would allow the reversionary aspects of Kansas property law regarding abandoned railroad easements to fully vest and merge the dominant and servient estates in me as the adjacent landowner.

2. I own 180 acres of farm ground immediately south of the small town of Belvidere, Kansas. (A legal description is included in Exhibit B hereto.) I have highlighted my land on the county Section map attached hereto as Exhibit E. This map also shows the ROW traversing the northern boundary of my land. Exhibit F is an aerial view of my land (outlined in red) with the ROW between my land and the county roadway to the north. As you can see the ROW includes extra width and area due to the structure that formerly sat at the base of the spur that juts into the heart of my property. It also shows some of the facilities constructed by the person that moved onto the ROW highlighted in yellow. For a current aerial view of this property see:

<https://earth.google.com/web/@37.44940796,->

99.07873469,563.82862166a,608.83344466d,35y,132.02862737h,0t,0r

3. In August 2003, the K&O filed a Notice of Exemption to abandon this ROW - actually two railroad lines in Kansas; the K&O operated a railroad line including a 10.7-mile railroad right-of-way from milepost 36.3 at Hanston, Kansas to milepost 47.0 at Jetmore, Kansas, in Hodgeman County, Kansas (the "Hodgeman corridor") and a 46.8

mile rail line between milepost 589.2 at Coats, Kansas to milepost 636.0 at Protection, Kansas, in Comanche, Kiowa and Pratt counties in Kansas (the "CKP corridor"). My property is adjacent to a stretch of this corridor. Therein the railroad advised of its intent, now fulfilled, "to remove the rail, track, material and crossties." The Board authorized the abandonment of these railroad rights-of-way (ROW) in its decisions on November 13, 2007 (as well as similar orders on September 26, 2003, September 29, 2003, November 9, 2007, and December 29, 2008).²

4. K&O discontinued any use of the ROW over 20 years ago and physically removed all of its assets along the ROW in 2003 and 2004.

5. No Trails Organization has ever made any use of or any improvements to or performed any work on the ROW.

6. K&O has never acted to consummate the abandonment authority that it received from this Board after it physically abandoned the ROW 15 years ago.

7. The STB has not since enforced any railroad obligations on the line.

8. The current status of the ROW is in limbo and has been mired in debate and lack of progress for over a decade. It has been totally abandoned physically; all railroad assets have been removed for over a decade; neither the K&O or any other railroad is making any use of the ROW; ATA abandoned their NITU to create a trail (See Exhibit D). SRT also filed for a NITU to negotiate with K&O. That negotiating period expired on August 2, 2008¹. All NITU's have been vacated or expired without a permanent railbanking agreement. (See *Farmers Coop. v. United States*, 98 Fed.Cl. 797 (2011) (reconsideration

² See *STB Docket AB-853 (SUB-NO. 1X) Kansas & Oklahoma Railroad, Inc. -- Abandonment Exemption -- In Hodgeman, Comanche, Kiowa and Pratt Counties, Kansas*.

Farmers Coop. v. United States, 100 Fed.Cl. 579 (2011)) at 800) (hereafter *Farmers Coop.*). Mired in all this confusion and controversy K&O has been unwilling to progress with the formal abandonment of this ROW - all to the detriment of the rural Kansas adjacent landowners, including me.

9. The Court in *Farmers Coop.* (*Farmers Coop.*, Id., at 579), on reconsideration, accurately described my "quandary" as:

Inexplicably, despite having removed the track and having quitclaimed its interest in the corridors to ATA, which in turn never initiated any trail usage and then subsequently sought and obtained from the STB the termination of its obligations, K&O has apparently failed to file any notice of consummation of abandonment of the lines. Such notice is a necessary step under federal regulations to complete the process of abandonment and end STB jurisdiction over the lines.

The Court nonetheless reasoned that "it is not this court's province to answer Plaintiffs' question, 'What then?'" or address how they might best extricate themselves from the consequences of the railroad's failure to file the requisite notice of consummation, even though its abandonment of the ROW seems evident under state law." (*Farmers Coop.*, Id., at 584).

10. Abandonment of the ROW has been requested by the railroad and authorized by this Board. Without any justification, the railroad refuses to complete the process. I am stuck in a perpetual "do nothing" loop with no chance to extricate my small amount of property from the railroad's clutches without the requested action by the Board. **It is time for the Board to finish this unfinished business.**

STATEMENT OF FACTS

THE K&O'S INITIATION OF ABANDONMENT PROCEEDINGS OF THE LINES BEFORE THE STB - EXPIRATION OF THE NITUS

These facts are covered thoroughly (at least up through 2011) in *Farmers Coop. v. United States*, 98 Fed.Cl. 797 (2011) and upon reconsideration *Farmers Coop. v. United States*, 100 Fed.Cl. 579 (2011).

11. "In 1887, K & O's predecessor-in-interest, the Chicago, Kansas & Western Railroad Company ("CK&W"), acquired the [railroad-purposed] easement in question through condemnation procedures under Kansas law in Comanche, Kiowa, Pratt, and Hodgeman counties."
12. The K&O had operated a railroad line including along the Hodgeman corridor and the CKP corridor. My property is located along the CKP line formerly operated in Kiowa County, Kansas.
13. On August 7, 2003, the K&O filed a Notice of Exemption pursuant to 49 C.F.R. §1152.50 stating, in relevant part, "The property underlying the rights-of-way is reversionary, which would affect the transfer of the property for other than rail or rail-banking purposes." (Ex. 6, p. 5, *Farmers Coop*; see 49 C.F.R. §1152.22(e)(4)). Further, the Notice provided that, "the Lines do not contain federally granted rights-of-way".
14. On August 27, 2003, K&O's Notice of Exemption was served and published in the Federal Register (68 FR 51637) and the exemption became effective on September 26, 2003.
15. On November 12, 2003, the American Trails Association ("ATA") filed comments before the STB, in part, requesting the issuance of a Notice of Interim Trail Use ("NITU") for the purpose of rail banking.

16. On November 25, 2003, a Decision and Notice of Interim Trail Use or abandonment (NITU) under the National Trails System Act, 16 U.S.C. §1247(d), was served, reopening the proceeding and establishing a 180-day period for ATA to negotiate an interim trail use/rail banking agreement with K&O for acquisition of the respective rights-of-way.

17. In 2004 the K&O and the ATA, as trail operator, reached a railbanking agreement, and executed a Quit Claim Deed (Exhibit D) purporting to transfer to ATA the railroad's interest in the ROW.

18. On October 25, 2007, ATA filed a notice of intent to terminate trail use over the ROW, pursuant to 49 CFR §1152.29(d)(2), and requested that the NITU be vacated effective November 5, 2007.

19. By STB Decision served on November 9, 2007, the Board reopened the proceeding and granted ATA's request for vacation of the NITU. The Board again indicated that K&O may fully abandon the line segments subject to compliance with the previously imposed environmental condition.

20. The ATA filed a "Disclaimer and Release" recorded on February 25, 2008, vacating all interest in these ROWs, including within its scope the ROW in Kiowa County, Kansas adjacent to my property. (Copy attached as Exhibit D.).

21. On February 4, 2008, the STB issued a NITU to Sunflower Recreational Trails, Inc. ("SRT") establishing a 180-day period for SRT to negotiate with K&O for the CKP corridor, including Kiowa County, Kansas. The negotiating period expired on the NITU on August 2, 2008. No agreement was reached within the 180-day period or any extension. (*Farmers Coop., Id.* at 801).

22. I have confirmed with Karl Morrell, the lawyer for the K&O, that the railroad has no record of any Trails Agreement with SRT or any other Trails Operator being consummated.

23. Consequently, the K&O was given permission to fully abandon the ROW subject to compliance with the previously imposed environmental condition. (See 49 CFR §1152.29(d)(1)).

24. On January 5, 1987, the predecessor of K&O executed a quitclaim deed purporting to transfer a portion of this ROW to an individual. (See Exhibit G hereto.)

25. The Kansas legislature requires that “a railroad right-of-way shall be considered abandoned when: (1) The tracks, ties, and other components necessary for operation of the rail line are removed from the right-of-way *following* the issuance of an abandonment order by the appropriate federal or state authority.” (K.S.A. §66–525(a)(1)) (emphasis added). That same statute also requires that the ROW abandoner, “file a release of all right, title and interest in the right-of-way with the register of deeds of the counties in which the property is located, within 180 days after being requested by any owner of property servient to the right-of-way.” (K.S.A. §66–525(b)(2))

26. The K&O has never filed a Notice of Consummation of Abandonment contemplated by 49 C.F.R. §1152.29(e)(2) (www.stb.gov) nor the release in Kiowa County.

ARGUMENT FOR ABANDONMENT

27. K&O has voluntarily relinquished any objection to the proposed abandonment as it has already physically abandoned these lines.

28. At the time K&O submitted their Notice of Exemption in August 2003, the carrier certified that "[t]here has been no local traffic on the Lines in over two years. **The Lines are stub-ended and, therefore, not capable of handling overhead traffic.**" *Exemption*, § (a)(3), p. 4. Thus, there has not been traffic on the Lines in over 20 years.

29. Furthermore, the Court of Claims noted that the "tracks, ties and other components" necessary for railroad operations were removed around 2004. (Statement of Facts 65). Consequently, there is no infrastructure for the K&O to utilize for any potential railroad purposed operations over the Lines.

30. The rail beds have deteriorated for over 15 years with no maintenance.

31. The ROW, at least in my immediate area, has a home and outbuildings on it, it is fenced over, and it not capable of being recovered as a railroad ROW without great expense.

32. In addition to the fact that the Lines are stub-ended and not capable of handling railroad traffic, as reported by the railroad, perhaps most telling concerning the K&O's lack of a cognizable stake in the proposed abandonment is its purported sale of its property interests in the ROW to a non-carrier on multiple occasions. K&O attempted to convey the Lines to the non-carrier, then trail operator ATA, and also separately to the Halleys, on separate occasions. In doing so, the railroad abandoned its rights concerning "all of the Grantor's interests," including its "rights of way...."

33. K&O putatively sold its interest in April 2004. Since that time, it has not paid taxes on the property. All tracks, ties and other operational equipment has been removed. These facts, along with the K&O's actions displaying abandonment, clearly and unmistakably evidence that the railroad does not have any interest or potential benefit

in the current status quo of the property or any railroad-purposed ROW. There can be no burden of abandonment on the K&O.

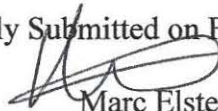
34. Based upon the foregoing, the Board is requested to find that the ROW adjacent to my property has been abandoned as a matter of law. Consequently, the Board should issue a Certificate of Abandonment of the ROW at issue.

CONCLUSION

This Board has previously authorized the abandonment of this ROW on multiple occasions, all NITUs have expired without a Trails Agreement being finalized, all railroad assets have been removed from this ROW and this ROW has been abandoned and idle for over a decade. K&O has no legitimate railroad interest in this ROW and there can be no possible burden of the requested abandonment on the K&O. Under these circumstances the requested relief is supported by the record.

Therefore, the Board should reopen the Board's decision served on December 29, 2008 in this proceeding and reconfirm that all NITUs on the ROW have expired without any consummated Trails Agreement and issue a Certificate of Abandonment of this ROW adjacent to my property.

Respectfully Submitted on February 2, 2019, by:

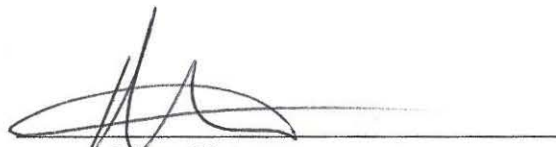


Marc Elster (Landowner)
2030 E. 25th Place
Lawrence, Kansas 66046
marcelster@yahoo.com
(913) 226-9740

Certificate of Mailing

I hereby certify that on February 19, 2019, a true and accurate copy of this **PETITION TO REOPEN** was emailed to:

WATCO Companies
c/o Karl Morell & Associates
655 15th Street, NW, Suite 225
Washington, DC 20005
(202) 595-9045
karlm@karlmorell.com



Marc Elster

66-525. Railroad right-of-way; abandonment, when; requirements; release; notice; exception.

(a) For purposes of this section, a railroad right-of-way shall be considered abandoned when:

(1) The tracks, ties, and other components necessary for operation of the rail line are removed from the right-of-way following the issuance of an abandonment order by the appropriate federal or state authority;

(2) if, within two years after the exercise of such an order, removal of such components is not completed and railroad operating authority is not restored or reissued by an appropriate court or other federal or state authority; or

(3) if no rail line is placed on the right-of-way within 10 years after the right-of-way is acquired. A railroad right-of-way shall not be considered abandoned if the railroad company or any other entity continues to use the right-of-way for railroad purposes after abandonment authority has been issued.

(b) If the grantee or assignee of record of a recorded railroad right-of-way abandons such right-of-way, such grantee or assignee shall:

(1) Remove crossbucks and modify signal devices or install "exempt" signs at all locations within 90 days of abandonment; and

(2) file a release of all right, title and interest in the right-of-way with the register of deeds of the counties in which the property is located, within 180 days after being requested by any owner of property servient to the right-of-way.

(c) If a grantee or assignee of record of a railroad right-of-way refuses or neglects to file a release when required by subsection (b), the owner of the servient property may bring an action in a court of competent jurisdiction to recover from the grantee or assignee of record damages in the amount of \$500, together with costs and reasonable attorney fees for preparing and prosecuting the action. The owner may recover such additional damages as the evidence warrants, and may obtain injunctive relief to quiet the title and eject any unauthorized parties from the property.

(d) A grantee or assignee of railroad right-of-way, at any time, may file a general release of all right, title and interest in the right-of-way of one or more particular rail lines or portions thereof with the register of deeds of the county or counties in which such property is located. If such action has been taken, the grantee or assignee shall be relieved of any further obligation under this section to file individual releases of any right-of-way included in such a general release.

(e) Within 30 days after entering abandoned railroad right-of-way property upon the tax rolls pursuant to K.S.A. 79-401 et seq., and amendments thereto, the county clerk of each county in which such property is so entered shall forward to the most recent railroad company holder of such property for right-of-way purposes, a certified list of the names and addresses of all property owners so entered upon the tax rolls following abandonment.

Within 30 days after receipt of such certified list by the railroad company, it shall send a notice of abandonment by first-class mail to each landowner at the address provided. The grantee or assignee of record of a recorded railroad right-of-way who abandons such right-of-way and provides the notice of such abandonment required by this subsection shall incur no civil or criminal liability for failure to notify any person who claims, or may claim, ownership of property servient to the abandoned right-of-way, nor shall such grantee or assignee incur any civil or criminal liability for notifying any person who has no legal claim to ownership of property servient to the abandoned right-of-way. The notice required by this subsection shall not create any legal right, be construed as a warranty or guarantee, nor shall such notice impair or cloud any lawful claim, right, title or interest of any person.

(f) Except where a railroad company conveys its right, title and interest in and to railroad right-of-way which it owns in fee simple, any conveyance by a railroad company of any actual or purported right, title or interest in property acquired in strips for right-of-way to any party other than the owner of the servient estate shall be null and void, unless such conveyance is made with a manifestation of intent that the railroad company's successor shall maintain railroad operations on such right-of-way.

(g) As used in this section, "railroad company" has the meaning of such term as defined in K.S.A. 2012 Supp. 66-2,123, and amendments thereto.

Marc A. Elster

2030 E. 25th Place
Lawrence, KS 66046
marcelster@yahoo.com
(913) 226-9740

March 4, 2015

Kansas & Oklahoma Railroad, Inc.
315 West Third Street
Pittsburg, KS 66762

Re: Abandoned Railroad Right of Way

Dear Sirs,

I am the owner of property servient to your abandoned railroad right-of-way in Kiowa County, Kansas. My property lies immediately south of the city of Belvidere. The legal description is:

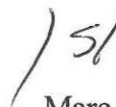
The South Half of the Southwest Quarter (S1/2 SW1/4); Northeast Quarter of the Southwest Quarter (NE1/4 SW1/4); all that part of the South Half of the Northwest Quarter (S1/2 NW1/4) and the Northwest Quarter of the Southwest Quarter (NW1/4 SW1/4) South of the right-of-way of the Atchison, Topeka and Santa Fe Railway Company in Section Nine (9); and part of the Southeast Quarter (SE1/4) of Section Eight (8), described as follows: Beginning at a point 36 rods South of the Northeast corner of said Southeast Quarter (SE1/4) being the intersection of the East line of said quarter section with the South line of the right-of-way of the A. T. & S. F. Ry., Co., thence in a southwesterly direction along the South line of said right-of-way 43 rods, thence Southeast at an angle of 90degrees with said right-of-way 72 1/4rods to the East line of said quarter section, thence north 58 rods to the place of beginning, all in Township Thirty (30) South, Range Sixteen (16) West of the Sixth Principal Meridian.

I am writing this letter to request that you "file a release of all right, title and interest in the right-of-way with the register of deeds of the counties in which the property is located, within 180 days" as required under Kansas law. (See K.S.A. 66-525(b)(2).) If you fail to file this release Kansas law allows for the recovery of damages, including attorney's fees. (See K.S.A. 66-525(b)(3).)

Please file your release within the stated 180 day period. I would appreciate it if you could follow up and provide to me a copy of the release filed in Kiowa County.

Please feel free to contact me if you require any additional information.

Sincerely,



Marc Elster

Ex h.b.4B

Marc A. Elster

2030 E. 25th Place
Lawrence, KS 66046
marcelster@yahoo.com
(913) 226-9740

December 1, 2016

WATCO Companies
Kansas & Oklahoma Railroad, L.L.C.
South Kansas & Oklahoma Railroad, L.L.C.
315 West Third Street
Pittsburg, KS 66762

Re: Abandoned Railroad Right of Way

Dear Sirs,

I am the owner of property servient to your abandoned railroad right-of-way in Kiowa County, Kansas. I previously corresponded with you on March 4, 2015, about "request that you 'file a release of all right, title and interest in the right-of-way with the register of deeds of the counties in which the property is located, within 180 days' as required under Kansas law. (See K.S.A. 66-525(b)(2).)" You failed and refused to file the legally mandated release with Kiowa County and I am therefore advising you that I intend to institute legal action against you in order to:

(c) If a grantee or assignee of record of a railroad right-of-way refuses or neglects to file a release when required by subsection (b), the owner of the servient property may bring an action in a court of competent jurisdiction to recover from the grantee or assignee of record damages in the amount of \$500, together with costs and reasonable attorney fees for preparing and prosecuting the action. The owner may recover such additional damages as the evidence warrants, and may obtain injunctive relief to quiet the title and eject any unauthorized parties from the property.

I will seek the statutory damages, the cost of this action (including attorney fees) as well as the cost of any additional actions required to evict the squatter using this right of way.

Please feel free to contact me if you require any additional information.

Sincerely,


Marc Elster

Exhibit C

State of Kansas, Kiowa County, S.S.
Entered in Transfer Record in my office
this 7th day of September A.D., 2004

Evelyn K. Brown
County Clerk
By Karen Butler
Deputy



STATE OF KANSAS
KIOWA COUNTY

} SS

This instrument was filed for record this
7th day of September, 2004
at 11:00 o'clock A.M. and recorded
in Book 86 Page 1426 Fees 16.00

June Smith
Register of Deeds
By Karen Butler
Deputy

QUITCLAIM DEED

Grantor, South Kansas Oklahoma Railroad, Inc. ("SKO") a Kansas Corporation, with offices at
Pittsburg, Kansas, for good and valuable consideration receipt of which is hereby acknowledged, hereby
conveys, remises, releases and forever quitclaims to Grantee, American Trails Association, Inc., whose
mailing address is P.O. Box 26421, Salt Lake City, Utah 84126 ("ATA"), all of Grantor's interests, in lands
and premises, right of way, bridges, culverts, easements, buildings, supporting structures, and other
fixtures, improvements and appurtenances on the following described premises in the counties of
Hodgeman, Comanche, Kiowa, and Pratt in the State of Kansas.

THAT PORTION OF THE REAL ESTATE AND IMPROVEMENTS THAT CONSTITUTES
THE TWO, CERTAIN RAILROAD RIGHT-OF-WAY SEGMENTS CONNECTING COATS WITH
PROTECTION AND HANSTON, KANSAS WITH JETMORE, KANSAS, IN THE COUNTIES OF
HODGEMAN, COMANCHE, KIOWA AND PRATT, AND BEING MORE PARTICULARLY
DESCRIBED IN EXHIBIT A ATTACHED HERETO AND INCORPORATED HEREIN.

IN WITNESS WHEREOF, Grantor's authorized representative has hereunto set his hand and
affixed Grantor's corporate seal this 1st day of April 2004.

SOUTH KANSAS OKLAHOMA RAILROAD

By: [Signature]
Title: [Signature]

STATE OF KANSAS)
COUNTY OF CRAWFORD)

I, Craig R. Richey, a Notary Public in and for the County of Crawford, State of Kansas, do hereby certify that Gary Lundy, Executive Vice President of SKO, personally known
by me to be the person holding this office with SKO, appeared before me this day in person and
acknowledged that he signed the Quitclaim Deed dated this date as his free and voluntary acts, and the free
voluntary act of SKO.

GIVEN under my hand and notarial seal this 1st day of April 2004.

[Signature]
Notary Public

Craig R. Richey
Notary Public
State of Kansas
My Appt. Expires 5-1-07

Exhibit D

EXHIBIT A

(Hanston, Kansas to Jetmore, Kansas - Hodgeman County)
(M.P. 36.3 to M.P. 47)

That portion of real estate and improvements lying within the right of way and constituting a portion of that certain line of railroad designated in the records of the Kansas & Oklahoma Railroad, Inc. as the Jetmore subdivision, all lying in Hodgeman County, Kansas, more particularly described as follows:

Commencing at Milepost 36.3 of the main track of the Jetmore subdivision lying in Section 23, Range 22 West, Township 22 South of the Sixth Principal Meridian;

Thence in a generally southwesterly direction through Sections 22, 27, 28, 33, 32, and 31, Range 22 West, Township 22 South of the Sixth Principal Meridian;

Thence in a generally westerly direction through Sections 36, 35, and 34, Township 22 South, Range 23 West of the Sixth Principal Meridian;

Thence in a generally westerly direction through Sections 3, 4 and 5, Township 23 South, Range 23 West of the Sixth Principal Meridian, to a point being Milepost 47 of the Original Centerline of the Main Track of the Jetmore Subdivision lying in Section 5, Township 23 South, Range 23 West of the Sixth Principal Meridian.

(Coats, Kansas to Protection, Kansas - Comanche, Kiowa and Pratt Counties)
(M.P. 589.2 to M.P. 636)

That portion of real estate and improvements lying within the right of way and constituting a portion of that certain line of railroad designated in the records of the Kansas & Oklahoma Railroad, Inc. as the Englewood subdivision, lying in Pratt, Kiowa and Comanche counties of Kansas, more particularly described as follows:

PRATT COUNTY

Commencing at Milepost 589.2 of the main track of the Englewood subdivision lying in Section 22, Range 14 West, Township 29 South of the Sixth Principal Meridian;

Thence in a generally westerly direction through Sections 21, 20, and 19, Range 14 West, Township 29 South of the Sixth Principal Meridian;

Thence in a generally westerly direction through Sections 24, 23, 22, 21, 20, 19 and 30, Township 29 South, Range 15 West of the Sixth Principal Meridian, Through the communities of Springvale and Croft, and to the Pratt County/Kiowa County Line;

86-1426

KIOWA COUNTY

Thence in a generally southwesterly direction through sections 24, 25, 36, and 35, Township 29 South, Range 16 West of the Sixth Principal Meridian;

Thence in a generally southwesterly direction through Sections 2, 3, 10, 9, 8, 17, 18, and 19, Township 30 South, Range 16 West of the Sixth Principal Meridian, through the community of Belvidere;

Thence in a generally southerly direction through Sections 24, 25, and 36, Township 30 South, Range 17 West of the Sixth Principal Meridian, to the Kiowa County/Comanche County Line;

COMANCHE COUNTY

Thence in a generally southwesterly direction through sections 2, 3, 10, 9, 16, 17, 20 and 19, Township 31 South, Range 17 West of the Sixth Principal Meridian, through the community of Wilmore;

Thence in generally westerly and southwesterly directions through Sections 24, 23, 26, 27, 34, and 33, Township 31 South, Range 18 West of the Sixth Principal Meridian;

Thence in a generally southwesterly direction through Sections 4, 5, 8 and 7, Township 32 South, Range 18 West of the Sixth Principal Meridian, through the community of Coldwater;

Thence in a generally southwesterly direction through Sections 12, 13, 14, 15, 22, 21, 20, 29, and 30, Township 32 South, Range 19 West of the Sixth Principal Meridian;

Thence in a generally southwesterly direction through Sections 25, 36, 35, and 34, Township 32 South, Range 20 West of the Sixth Principal Meridian;

Thence in a generally westerly direction through Sections 3 and 4, Township 33 South, Range 20 West of the Sixth Principal Meridian to a point being Milepost 636 of the Original Centerline of the Main Track of the Englewood Subdivision, lying in or near Protection, Comanche County, Kansas.

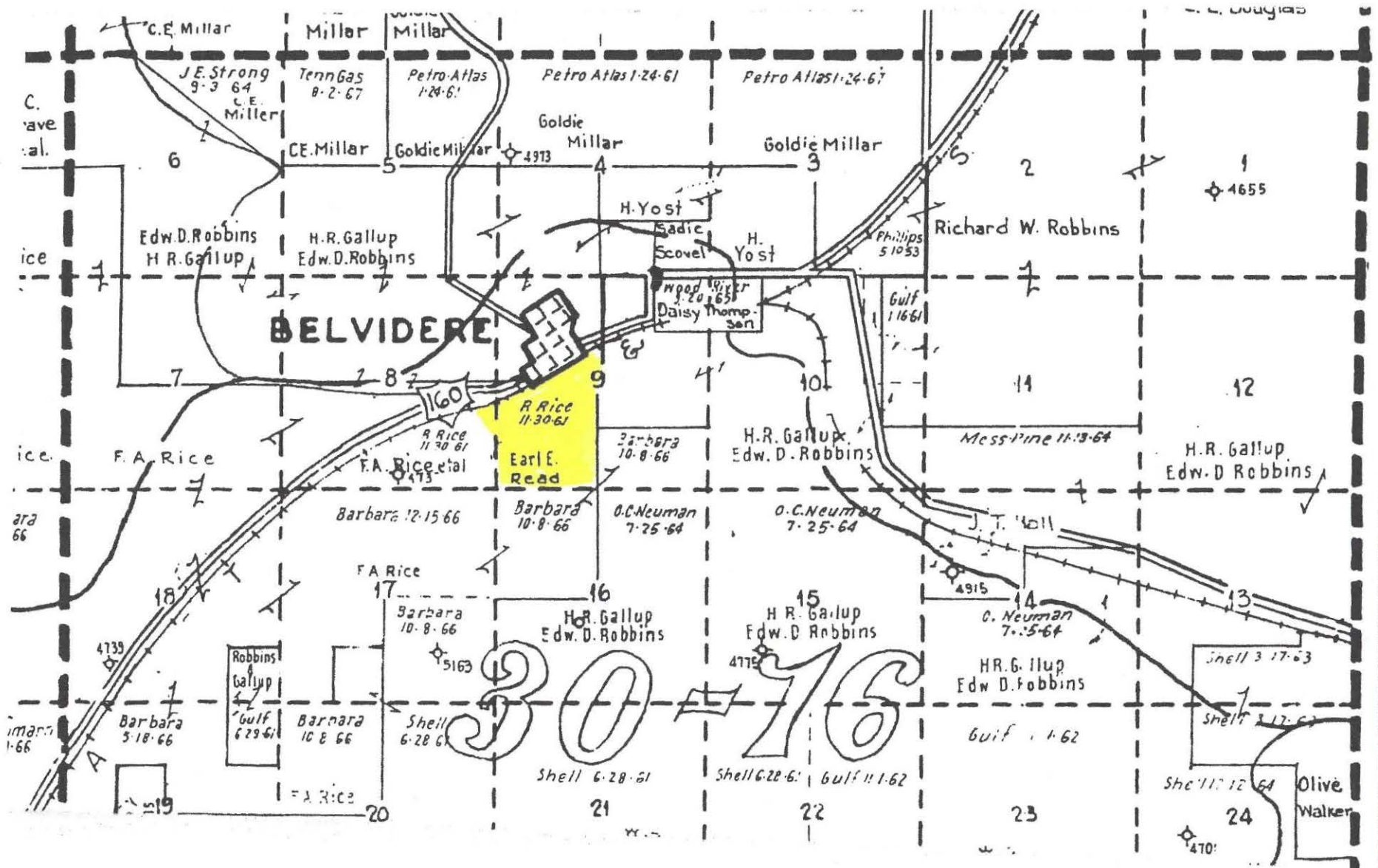




Exhibit F

APPROVED AS TO FORM BY GENERAL COUNSEL
ON NOVEMBER 20, 1987

State of Kansas, Kiowa County, S.S.
Entered in Transfer Record in my office,
this 19 day of May, A.D., 1989
Faye Hargadine
COUNTY CLERK

MICROFILMED

STATE OF KANSAS
KIOWA COUNTY } SS
This instrument was filed for record this
19th day of May 1989
at 9:30 o'clock A.M. and recorded
in Book 83 Page 857 fees 15.00
Faye Hargadine
Deputy



QUITCLAIM DEED

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, a corporation of the State of Delaware, Grantor, for the consideration of TEN AND NO/100 DOLLARS (\$10.00), the receipt of which is hereby acknowledged, hereby Quitclaims to HENRY H. HALLEY and DIANE HALLEY, husband and wife, as joint tenants with the right of survivorship and not as tenants in common, an undivided one-half (1/2) interest; and Bob Garten, an individual, an undivided one-half (1/2) interest, Grantees, whose mailing address is General Delivery, Greensburg, Kansas, 67054, all of its right, title and interest in and to the real property situated in the County of Kiowa, State of Kansas, legally described in Exhibit "A" attached hereto and hereby made a part hereof (hereinafter "the Property").

Grantor expressly reserves and excepts all minerals contained in the Property, including, without limiting the generality thereof, oil, gas and other hydrocarbon substances, as well as metallic or other solid minerals, provided that Grantor shall not have the right to go upon or use the surface of the Property, or any part thereof, for the purpose of drilling for, mining, or otherwise removing, any of said minerals. Grantor, may, however, and hereby reserves the right to, remove any of said minerals from the Property by means of wells, shafts, tunnels, or other means of access to said minerals which may be constructed, drilled or dug from other land; provided, that the exercise of such rights by Grantor shall in no way interfere with or impair the use of the Property hereby conveyed or of any improvements thereon.

Grantor represents that it is not a foreign person for purposes of Section 1445 of the Internal Revenue Code, and that its proper name, address and taxpayer identifying number (U.S. Employer number) are as set forth in Exhibit "B", attached hereto and hereby made a part hereof.

Dated this 5th day of January, 1989.

ATTEST:

J. L. Brown
Type or Print J. L. BROWN
Its Assistant Secretary

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY

By G. W. Dodd
Type or Print G. W. Dodd
Its Senior Vice President - Finance
and Chief Financial Officer

Exhibit G

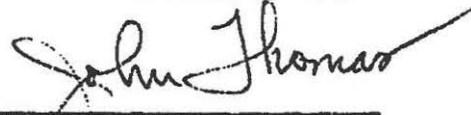
STATE OF ILLINOIS)

COUNTY OF COOK)

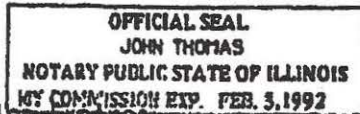
ss

BE IT REMEMBERED, That on this 10TH day of JAN, A. D., 19 89, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came G.W. DODD, who is personally known to me to be the same person who executed the foregoing instrument of writing as Senior Vice President - Finance and Chief Financial Officer of The Atchison, Topeka and Santa Fe Railway Company, and said person duly acknowledged the execution of the same to be the act of said corporation, and that the seal thereto affixed is the common or corporate seal of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.



Notary Public



My Commission Expires _____

0107e

EXHIBIT A

EXHIBIT "A" ATTACHED TO DEED DATED _____, 198 ____ FROM THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY TO HENRY H. HALLEY.

FOUR (4) PARCELS OF LAND IN THE COUNTY OF KIOWA, STATE OF KANSAS, LYING IN THE WEST-HALF OF SECTION 9 AND THE SOUTHEAST QUARTER OF SECTION 8 OF TOWNSHIP 30 SOUTH, RANGE 16 WEST OF THE SIXTH PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

PARCEL 1

ALL OF THAT CERTAIN 1.13 ACRE PARCEL OF LAND DESCRIBED IN DEED DATED AUGUST 27, 1918, FROM W. C. MILLAR AND CARRIE E. MILLAR TO THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, FILED FOR RECORD SEPTEMBER 11, 1918 IN BOOK 48 OF DEEDS AT PAGE 212 OF THE RECORDS OF SAID COUNTY, DESCRIBED IN SAID DEED FOR REFERENCE AS FOLLOWS:

"BEGINNING AT A POINT ONE HUNDRED AND FIFTY (150) FEET NORTHWESTERLY FROM AND AT RIGHT ANGLES TO THE CENTER LINE OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY'S MAIN TRACK, AS THE SAME IS NOW LOCATED AND CONSTRUCTED OVER AND ACROSS SAID QUARTER SECTION NINE (9), AT PROFILE STATION 338 PLUS 04.1 FEET; SAID POINT BEING ON THE WEST SECTION LINE OF SAID SECTION NINE (9); THENCE NORTHERLY ALONG SAID WEST SECTION LINE A DISTANCE OF THREE HUNDRED AND TWENTY-FIVE (325) FEET; THENCE NORTHEASTERLY AT AN ANGLE OF 48°06' TO THE RIGHT A DISTANCE OF TWENTY (20) FEET; THENCE SOUTHEASTERLY AT AN ANGLE OF 68°48' TO THE RIGHT A DISTANCE OF THREE HUNDRED FIVE AND TWO TENTHS (305.2) FEET TO A POINT ON THE NORTHERLY PROPERTY LINE OF SAID RAILWAY COMPANY; THENCE SOUTHWESTERLY AT AN ANGLE OF 118°00' TO THE RIGHT, ALONG SAID NORTHERLY PROPERTY LINE OF RAILWAY COMPANY, A DISTANCE OF THREE HUNDRED AND FIFTY (350) FEET TO POINT OF BEGINNING."

PARCEL 2

ALL OF THAT CERTAIN 2.55 ACRE PARCEL OF LAND DESCRIBED IN REPORT OF CONDEMNATION COMMISSIONERS DATED MAY 4, 1897, FILED FOR RECORD MAY 6, 1897 IN BOOK 33 AT PAGE 391 OF THE RECORDS OF SAID COUNTY, DESCRIBED IN SAID REPORT FOR REFERENCE AS FOLLOWS:

"BEGINNING AT THE INTERSECTION OF THE EAST LINE OF THE N.E.1/4 OF THE S.E.1/4 OF SEC. 8 TOWNSHIP 30 SOUTH OF RANGE 16 WEST IN KIOWA COUNTY KANSAS WITH THE NORTH LINE OF THE CHICAGO KANSAS & WESTERN RAILROAD COMPANY'S RIGHT-OF-WAY; THENCE WESTERLY ALONG SAID RIGHT-OF-WAY LINE 350 FEET; THENCE IN N.W. DIRECTION AT RIGHT ANGLES TO SAID RIGHT OF WAY LINE 250 FEET; THENCE EASTERLY AND PARALLEL TO SAID RIGHT OF WAY LINE 550 FEET MORE OR LESS TO THE EAST LINE OF SAID SECTION EIGHT 8; THENCE SOUTH ON SAID EAST LINE TO PLACE OF BEGINNING
..."

PARCEL 3

THAT PORTION OF THAT CERTAIN 300-FOOT WIDE STRIP OF LAND DESCRIBED IN REPORT OF CONDEMNATION COMMISSIONERS DATED MAY 4, 1897, FILED FOR RECORD MAY 6, 1897 IN BOOK 33 AT PAGE 391 OF THE RECORDS OF SAID COUNTY, LYING SOUTHWESTERLY OF THE SOUTHEASTERLY PROLONGATION OF THE SOUTHWESTERLY BOUNDARY OF LONG STREET, 80-FOOT WIDE, AND LYING NORTHWESTERLY OF THE NORTHWESTERLY BOUNDARY OF THAT CERTAIN 100-FOOT WIDE STRIP OF LAND DESCRIBED IN REPORT OF CONDEMNATION COMMISSIONERS DATED MAY 6, 1887, FILED FOR RECORD MAY 6, 1887 IN BOOK "A" OF MISCELLANEOUS RECORDS AT PAGE 225 OF THE RECORDS OF SAID COUNTY, SAID 300-FOOT WIDE STRIP DESCRIBED IN SAID REPORT FOR REFERENCE AS FOLLOWS:

"A STRIP OF LAND 300 FEET WIDE BEING 150 FEET WIDE ON EACH SIDE OF THE CENTER LINE OF THE CHICAGO KANSAS & WESTERN RAILROAD COMPANY'S MAIN TRACK AS THE SAME IS NOW CONSTRUCTED OVER AND ACROSS THE WEST HALF OF SECTION 9, TOWNSHIP 30 SOUTH OF RANGE 16 WEST IN KIOWA KANSAS, EXCEPTING A STRIP 100 FEET WIDE BEING 50 FEET WIDE ON EACH SIDE OF SAID CENTER LINE WHICH HAS HERETOFORE BEEN CONVEYED TO SAID R. R. COMPANY."

PARCEL 4

THAT PORTION OF THAT CERTAIN 300-FOOT WIDE STRIP OF LAND DESCRIBED IN REPORT OF CONDEMNATION COMMISSIONERS DATED MAY 4, 1897, FILED FOR RECORD MAY 6, 1897 IN BOOK 33 AT PAGE 391 OF THE RECORDS OF SAID COUNTY, LYING NORTHEASTERLY OF THE SOUTHEASTERLY PROLONGATION OF THE CENTER LINE OF TOWN STREET, 80-FOOT WIDE, AND LYING NORTHWESTERLY OF THE NORTHWESTERLY BOUNDARY OF THAT CERTAIN 100-FOOT WIDE STRIP OF LAND DESCRIBED IN REPORT OF CONDEMNATION COMMISSIONERS DATED MAY 6, 1887, FILED FOR RECORD MAY 6, 1887 IN BOOK "A" OF MISCELLANEOUS RECORDS AT PAGE 225 OF THE RECORDS OF SAID COUNTY, SAID 300-FOOT WIDE STRIP DESCRIBED IN SAID REPORT FOR REFERENCE AS FOLLOWS:

"A STRIP OF LAND 300 FEET WIDE BEING 150 FEET WIDE ON EACH SIDE OF THE CENTER LINE OF THE CHICAGO KANSAS & WESTERN RAILROAD COMPANY'S MAIN TRACK AS THE SAME IS NOW CONSTRUCTED OVER AND ACROSS THE WEST HALF OF SECTION 9, TOWNSHIP 30 SOUTH OF RANGE 16 WEST IN KIOWA KANSAS, EXCEPTING A STRIP 100 FEET WIDE BEING 50 FEET WIDE ON EACH SIDE OF SAID CENTER LINE WHICH HAS HERETOFORE BEEN CONVEYED TO SAID R. R. COMPANY."

EXHIBIT B

NONFOREIGN AFFIDAVIT

Exemption From Withholding of Tax
for
Dispositions of U.S. Real Property Interests

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real property interest by, The Atchison, Topeka and Santa Fe Railway Company, Transferor, the undersigned hereby certifies the following:

1. The Atchison, Topeka and Santa Fe Railway Company, Transferor, is not a nonresident alien, foreign corporation, foreign partnership, foreign trust, or foreign estate for purposes of U.S. income taxation. (If the transferor is a foreign corporation that has made a valid election under Section 897 (i) of the Internal Revenue Code to be treated as a domestic corporation, a copy of the acknowledgement of the election provided to the corporation by the Internal Revenue Service, is attached hereto);
2. The Atchison, Topeka and Santa Fe Railway Company's taxpayer identifying number (Social Security or U.S. employer number) is 36-2686122; and
3. The Atchison, Topeka and Santa Fe Railway Company's address is 920 S. E. Quincy, Topeka, Kansas 66628.

The Atchison, Topeka and Santa Fe Railway Company understands that this certification may be disclosed to the Internal Revenue Service by the transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct, and complete, and I further declare I have authority to sign this document.

G. W. Dodd 1-5-89
Signature and Date

G. W. Dodd
Senior Vice President-Finance and
Chief Financial Officer

Marc A. Elster

2030 E. 25th Place
Lawrence, KS 66046
marcelster@yahoo.com
(913) 226-9740

March 23, 2019

Andrea Pope-Matheson
Surface Transportation Board
395 E Street SW
Washington, DC 20423

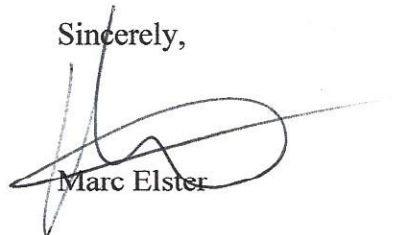
Re: STB Docket No. 853 (Sub-No. 1X) - South Kansas & Oklahoma Railroad
Petition to Reopen

Dear Ms. Pope-Matheson,

I mailed letters to both Tom F. Neenan and Steven Van Wagenen at the addresses listed in your email. Tom Neenan's letter was returned undeliverable. I received a response from Doug Davis, General Counsel of American Trails Association, Inc, requesting that all further communications be directed to him. I sent Doug Davis (contact information below), the general delivery address for the American Trails Association and the general delivery address of the Iowa Trails Council all copies of the Petition to Reopen. I believe this satisfies the requirement that I serve the parties to the original cation.

If you require further from me, please let me know.

Sincerely,



Marc Elster

cc: Doug Davis, General Counsel
American Trails Association, Inc
Tel: 801.977.6347 | Cell: 801.815.1689
PO Box 30076, Salt Lake City, UT 84130
Doug Davis <ddavis@akrailroad.com>