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BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB 1032 (SUB-NO. 2X)

ENTERED
Office of Proceedings
July 22, 2019
Part of
Public Record

NEBRASKA, KANSAS & COLORADO RAILWAY, L.L.C. – ABANDONMENT
EXEMPTION – IN DECATUR, NORTON, AND PHILLIPS COUNTIES, KAN., AND
HARLAN COUNTY, NEB

REPLY OF NEBRASKA, KANSAS & COLORADO RAILWAY, L.L.C. TO LANDOWNERS'
PETITION FOR INTERVENTION, DECLARATORY JUDGMENT, INJUNCTIVE RELIEF
AND CERTIFICATE OF ABANDONMENT

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Dated: July 22, 2019

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Nebraska, Kansas & Colorado Railway, L.L.C. (“NKCR”), hereby replies in opposition to the Petition for Intervention, Declaratory Judgment, Injunctive Relief and Certificate of Abandonment filed by the Arnold Landowners (Arnold Landowners) with the Surface Transportation Board (“Board”) on July 2, 2019 (“Petition”).¹

The Arnold Landowners are Plaintiffs in a pending proceeding before the Court of Federal Claims. NKCR will in the near future seek to consummate the abandonment that was authorized by the Board in this proceeding. Upon the consummation of the abandonment, NKCR will transfer the right-of-way to LI RR LLC (“LI”). The Arnold Landowners seek to have the Board enjoin NKCR from such a transfer.

On June 11, 2019, the Landowners filed a Motion For Declaratory and Injunctive Relief (“Motion”) in Docket No. AB 1032X. On July 1, 2019, NKCR filed a Reply to the Motion

¹ The proceeding is docketed as AB 1032 (Sub-No. 2X), but the correct docket Number is AB 1032X)

("NKCR Reply"). Since the Arnold Landowners' Petition is largely identical to the Motion, NKCR incorporates the NKCR Reply into this Reply to the Arnold Landowners' Petition.

The Arnold Landowners falsely claim that NKCR improperly utilized its authority to abandon the rail lines and caused injury to the reversionary landowners. NKCR has properly utilized all applicable Board procedures in seeking and obtaining abandonment authority and extensions of the consummation deadline. NKCR is not affiliated with LI. Rather, NKCR has simply entered into a contingent agreement to sell to LI all of NKCR's interests in the rail lines. NKCR is of the firm belief that it owns a sizeable portion of the right-of-way in fee simple. In any event, no one has forced an adjacent land owner to acquire the portion of the right-of-way adjacent to their land. All transactions involving the NKCR right-of-way have been voluntarily entered into. Consequently, if any Landowner suffers any harm, that harm would be self-inflicted.

NKCR respectfully urges the Board to deny the Petition. The Petition falls woefully short of justifying the requested relief.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of July, 2019, I have caused a copy of the foregoing
Reply to be served on all parties of record.

Karl Morell

Karl Morell