

BEFORE THE
SURFACE TRANSPORTATION BOARD

ENTERED
Office of Proceedings
April 9, 2025
Part of
Public Record

Docket No. AB-3 (Sub-No. 111X)

MISSOURI PACIFIC RAILROAD—ABANDONMENT EXEMPTION—IN OSAGE, LYON AND
MORRIS COUNTIES, KS

Docket No. AB-3 (Sub-No. 115)

MISSOURI PACIFIC RAILROAD COMPANY—ABANDONMENT—IN MIAMI, FRANKLIN,
AND OSAGE COUNTIES, KS

Docket No. AB-3 (Sub-No. 121X)

MISSOURI PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN MORRIS
AND DICKINSON COUNTIES, KS

Docket No. AB 33 (Sub-No. 313X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN MIAMI
COUNTY, KAN.

JOINT PETITION FOR SUBSTITUTION OF TRAIL USER

John Payne, President
KRTC Registered Office
510 Spencer, Suite B
Council Grove, KS 66846
785-409-9964

KANZA RAIL-TRAILS
CONSERVANCY, INC.

and

Christopher J. Kennedy, Secretary
1020 S Kansas Ave, Suite 200
Topeka, KS 66612
785-296-2281

KANSAS DEPARTMENT
OF WILDLIFE AND PARKS

April 9, 2025

JOINT PETITION FOR SUBSTITUTION OF TRAIL USER

Pursuant to 49 C.F.R. § 1152.29(f), Kanza Rail-Trails Conservancy, Inc. (“KRTC”, formerly Kansas Horseman Foundation, Inc.) and the Kansas Department of Wildlife and Parks (“KDWP”) submit this joint petition requesting that KDWP be substituted for KRTC as the interim trail issuer for the portion of the line located between milepost 335.05, near Osawatomie, Kansas and milepost 451.57, near Herington, Kansas (the “Line”).

In a decision served July 25, 1997, the Board consolidated Docket Nos. AB-3 (Sub-No. 111X), AB-3 (Sub-No. 115), and AB-3 (Sub-No. 121X), vacated the decisions and notices of interim trail use served in those dockets on October 31, 1994, January 30, 1995, and March 31, 1995, respectively, and authorized Kansas Horseman Foundation, Inc. (now KRTC) to replace Seranata Farms School of Equestrian Arts as the trail sponsor.

In a decision served June 29, 2015, in Docket No. AB 33 (Sub-No. 313X), the Board vacated the notice of interim trail use served in that docket on August 19, 2013, and authorized KRTC to replace the City of Osawatomie as the trail sponsor.

In an agreement with KRTC, KDWP has agreed to use the corridor for public, trail and recreation uses, consistent with the National Trails System Act, as amended, 16 U.S.C. § 1247(d), and the NITU issued by the Board in this proceeding. KDWP acknowledges that interim trail use is subject to possible future reconstruction and reactivation of the right-of-way for rail service. The parties intend to transfer responsibility for the segment of the right-of-way within 90 days of the Board's decision authorizing the substitution.

KRTC and KDWP respectfully urge the Board to reopen Docket Nos. AB-3 (Sub-No. 111X), AB-3 (Sub-No. 115), AB-3 (Sub-No. 121X), and AB 33 (Sub-No. 313X), vacate the existing NITUs served July 25, 1997, and June 29, 2015, and issue an appropriate replacement NITU to KDWP.

Union Pacific Railroad Company has consented to the substitution of KDWP as interim trail manager.

Attached as Exhibit 1 are copies of the NITUs issued July 25, 1997, and June 29, 2015.

Attached as Exhibit 2 is the Statement of Willingness to Assume Financial Responsibility. Attached as Exhibit 3 is the form officially changing the name of KRTC from the Kansas Horseman Foundation, Inc., to Kanza Rail-Trails Conservancy, Inc.

Respectfully submitted,

/s/ John Payne
John Payne, President
KRTC Registered Office
510 Spencer, Suite B
Council Grove, KS 66846
785-409-9964

KANZA RAIL-TRAILS
CONSERVANCY, INC.

/s/ Christopher J. Kennedy
Christopher J. Kennedy, Secretary
1020 S Kansas Ave, Suite 200
Topeka, KS 66612
785-296-2281

KANSAS DEPARTMENT
OF WILDLIFE AND PARKS

April 9, 2025

CERTIFICATE OF SERVICE

I, Franklin T. Bruce, hereby certify that on this 9th day of April, 2025, I caused a copy of the foregoing document to be served on Union Pacific Railroad Company and Kaza Rail-Trails

Conservancy, Inc., as follows:

Christine A. Neuharth
Senior Counsel – Finance & Compliance
Union Pacific Railroad Company
1400 Dodge Street
Omaha, NE 68179
caneuhar@up.com

John Payne, President
Kanza Rail-Trails Conservancy, Inc.
KRTC Registered Office
510 Spencer, Suite B
Council Grove, KS 66846
785-409-9964

/s/ Franklin T. Bruce
Legal Counsel
Kansas Department of
Wildlife and Parks

EXHIBIT 1

SERVICE DATE – JUNE 29, 2015

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB 33 (Sub-No. 313X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT
EXEMPTION—IN MIAMI COUNTY, KAN.

Decided: June 26, 2015

Union Pacific Railroad Company (UP) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon 0.50 miles of the Osawatomie Industrial Lead, from milepost 335.0 to milepost 335.5 near Osawatomie, in Miami County, Kan. Notice of the exemption was served and published in the Federal Register on July 23, 2013 (78 Fed. Reg. 44,190). On August 19, 2013, a decision and notice of interim trail use or abandonment (NITU) was served in this proceeding, authorizing a 180-day period, until February 15, 2014, for the City of Osawatomie (the City) to negotiate an interim trail use/rail banking agreement with UP for the line pursuant to the National Trails System Act, 16 U.S.C. § 1247(d). UP and the City subsequently reached a trail use/rail banking agreement for 0.45 miles of the line, between milepost 335.05 and milepost 335.5.¹

By joint request filed on March 31, 2015, and supplemented on May 4, 2015, the City and the Kanza Rail-Trails Conservancy, Inc. (KRTC) (collectively, petitioners), request that the Board, pursuant to 49 C.F.R. § 1152.29(f), reopen the proceeding, vacate the existing NITU, and issue a replacement NITU substituting KRTC as the new interim trail sponsor in place of the City.

Petitioners have submitted a copy of the extant NITU and a statement by KRTC of its willingness to assume 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, as required by 49 C.F.R. § 1152.29. Petitioners also acknowledge that the use of the right-of-way for trail purposes is subject to the user's continuing to meet the responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. Petitioners indicate that the date of transfer of responsibility for the right-of-way is scheduled to occur on July 1, 2015.

¹ Joint Notice of Interim Trail Use/Rail Banking Agreement between UP & the City, Nov. 26, 2014. On June 5, 2015, UP filed a corrected Joint Notice of Interim Trail Use/Rail Banking Agreement to correct a typographical error and clarify that it would continue to operate over the portion of the line between milepost 335.00 and milepost 335.05.

Petitioners' submission meets the requirements of 49 C.F.R. § 1152.29(f). Accordingly, petitioners' request will be granted and a replacement NITU will be issued.

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

It is ordered:

1. The proceeding is reopened.
2. The NITU served on August 19, 2013, is vacated.
3. A replacement NITU applicable to KRTC as interim trail sponsor is issued, effective on the service date of this decision and notice.
4. Interim trail use/rail banking is subject to the future restoration of rail service and to the new sponsor's continuing to meet the financial obligations for the right-of-way.
5. If the trail sponsor 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. This decision and notice is effective on its service date.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

SERVICE DATE - JULY 25, 1997

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE INTERIM TRAIL USE OR ABANDONMENT

Docket No. AB-3 (Sub-No. 111X)

MISSOURI PACIFIC RAILROAD--ABANDONMENT
EXEMPTION--IN OSAGE, LYON AND MORRIS COUNTIES, KS

Docket No. AB-3 (Sub-No. 115)

MISSOURI PACIFIC RAILROAD COMPANY--ABANDONMENT--
IN MIAMI, FRANKLIN, AND OSAGE COUNTIES, KS

Docket No. AB-3 (Sub-No. 121X)

MISSOURI PACIFIC RAILROAD COMPANY--ABANDONMENT
EXEMPTION--IN MORRIS AND DICKINSON COUNTIES, KS

Decided: July 21, 1997

In Docket No. AB-3 (Sub-No. 111X), Missouri Pacific Railroad Company (MP) filed a notice of exemption under 49 CFR 1152 Subpart F--*Exempt Abandonments and Discontinuances of Service and Trackage Rights* to discontinue service over and abandon a 37.83-mile portion of its Hoisington Subdivision extending between milepost 388.25 near Osage City and milepost 425.0 near Council Grove, in Osage, Lyon, and Morris Counties, KS. A notice of exemption was served and published in the *Federal Register* on December 7, 1993 (58 FR 64412).¹ On October 31, 1994, a decision and notice of interim trail use or abandonment (NITU) was served that reopened the proceeding to implement interim trail use/rail banking under 49 CFR 1152.29 and provided a 180-day period for MP to negotiate an agreement with Rail-to-Trails Conservancy (RTC) for the right-of-way. By decision served May 5, 1995, the NITU negotiation period was extended until October 26, 1995. By decision and notice of interim trail use or abandonment served May 24, 1996, the proceeding was reopened and the NITU served October 31, 1994, was vacated and Seranata Farms School of Equestrian Arts (Seranata) was substituted as the new trail user.

In Docket No. AB-3 (Sub-No. 115), by decision served and published in the *Federal Register* on December 30, 1994 (59 FR 35950), MP was authorized to abandon a portion of a line of railroad known as the Hoisington Subdivision, between milepost 335.5, near Osawatomie, and milepost 388.25, near Osage City, and the Topeka Industrial Lead, between milepost 368.3, near Lomax, and milepost 381.8, near Overbrook, a total of 66.25 miles, in Miami, Franklin, and Osage Counties, KS. On January 30, 1995, a decision and certificate of interim trail use or abandonment (CITU) was served, authorizing a 180-day period for MP to negotiate an interim trail use/rail banking agreement with the Rails-to-Trails Conservancy (RTC) for the right-of-way.² By decision served July 27, 1995, the negotiation period was extended to January 25, 1996. By decision and notice of interim trail use or abandonment served May 17, 1996, the proceeding was reopened and the CITU served January 30, 1995, was vacated and Seranata was substituted as the new trail user.

In Docket No. AB-3 (Sub-No. 121X), MP filed a notice under 49 CFR 1152, Subpart F--*Exempt Abandonments* to abandon an approximately 26.57-mile portion of its Hoisington

¹ The December 7, 1993, decision also imposed an Endangered Species condition under section 7 of the Endangered Species Act, 16 U.S.C. 1536. That condition was removed by decision served November 9, 1994.

² The January 30, 1995 decision also contained employee protective conditions, four environmental conditions, and a public use condition. The public use condition expired on July 29, 1995, but the other conditions remain in effect.

Subdivision between the end of the line at milepost 425.0 near Council Grove and milepost 451.57 near Herington, in Morris and Dickinson Counties, KS. A notice of the exemption was served March 2, 1995, and published in the *Federal Register* on March 3, 1995 (60 FR 11995-96). On March 31, 1995, a decision and notice of interim trail use or abandonment (NITU) was served that reopened the proceeding to implement interim trail use/rail banking under 49 CFR 1152.29 and provided for a 180-day period for MP to negotiate an agreement with Rails-to-Trails Conservancy (RTC). Qualified entities other than RTC were also invited to file requests for interim trail use/rail banking.³ By decision served October 20, 1995, the NITU negotiation period was extended for an additional 180 days, through March 27, 1996. By decision and notice of interim trail use or abandonment served April 22, 1996, the proceeding was reopened and the NITU served March 31, 1995, was vacated, and Seranata was substituted as the new trail user.⁴ By decision served October 20, 1995, the negotiation period was extended to March 27, 1996.

On December 18, 1995, MP notified the Board that the entire Hoisington Subdivision, including bridges and ballast, had been conveyed to RTC in accordance with the National Trails System Act, 16 U.S.C. 1247(d). MP stated that the conveyance was effective on December 15, 1995.

By motion filed July 14, 1997, the Kansas Horseman Foundation (KHF) and Seranata request that the Board consolidate the above-captioned proceedings, vacate the existing NITU and issue an appropriate replacement NITU substituting KHF in lieu of Seranata as the interim trail manager pursuant to 49 CFR 1152.29(f), effective on the service date. The parties state that they have entered into an agreement to transfer ownership of and management responsibility for the Hoisington Subdivision, which is now known as the Flint Hills Greenway. MP consents to the transfer.

KHF submitted a statement indicating its willingness to assume full financial responsibility for management of, and liability for payment of taxes for, the right-of-way, as required by 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.

KHF and Seranata have complied with the requirements of 49 CFR 1152.29(d)(2)(f) regarding a request to vacate and reissue a NITU.⁵ The parties have also indicated that responsibility for the right-of-way is to transfer to KHF as of the date the new NITU is issued. Therefore, these proceedings will be reopened and the NITUs served October 31, 1994, and March 31, 1995, and the CITU served January 30, 1995, will be vacated.

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

It is ordered:

1. These proceedings are reopened.
2. The motion to consolidate these proceedings is granted and the proceedings are consolidated.

³ A public use condition was also imposed. That condition expired on September 29, 1995.

⁴ The March 31, 1995 decision also contained a historic condition requiring MP to retain its interest in and take no steps to alter the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f. That condition remains in effect.

⁵ KHF and Seranata request consolidation of the proceedings and issuance of an appropriate "order." The requests are being granted. Under the circumstances, rather than continuing any separate references to NITUs and CITUs for these proceedings, a single NITU will be issued.

3. The decisions and notices of interim trail use served October 31, 1994, January 30, 1995, and March 31, 1995, are vacated and KHF is authorized to replace Seranata as the new trail user over the involved right-of-way, effective on the service date of this decision.

4. The exemption of the abandonment of the line described above is subject to the environmental conditions imposed in the January 30, 1995 and March 31, 1995 decisions.

5. The new trail user is required 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 the payment of any and all taxes that may be levied or assessed against the right-of-way.

6. 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.

7. If the new trail user intends to terminal trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specific date.

8. This decision is effective on its service date.

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

Vernon A. Williams
Secretary

EXHIBIT 2

BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. AB-3 (Sub-No. 111X)

MISSOURI PACIFIC RAILROAD—ABANDONMENT EXEMPTION—IN OSAGE, LYON AND
MORRIS COUNTIES, KS

Docket No. AB-3 (Sub-No. 115)

MISSOURI PACIFIC RAILROAD COMPANY—ABANDONMENT—IN MIAMI, FRANKLIN,
AND OSAGE COUNTIES, KS

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Docket No. AB 33 (Sub-No. 313X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN MIAMI
COUNTY, KAN.

STATEMENT OF WILLINGNESS TO
ASSUME FINANCIAL RESPONSIBILITY

In order to establish interim trail use and rail banking under section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d) and 49 C.F.R. 1152.29, Kansas Department of Wildlife and Parks is willing to assume 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 portion of the right-of-way formerly owned by Missouri Pacific Railroad and Union Pacific Railroad Company and currently managed by Kanza Rail-Trails Conservancy, Inc (KRTC).

The property is located between milepost 335.05, near Osawatomie, Kansas, and milepost 451.57, near Herington, Kansas. A map depicting the right-of-way is attached.

The State of Kansas acknowledges that use of the right-of-way is subject to the user's continuing 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 the KRTC and Union Pacific Railroad Company on this 9th day of April, 2025.

/s/ Christopher J. Kennedy
Christopher J. Kennedy, Secretary
1020 S Kansas Ave, Suite 200
Topeka, KS 66612

KANSAS DEPARTMENT
OF WILDLIFE AND PARKS

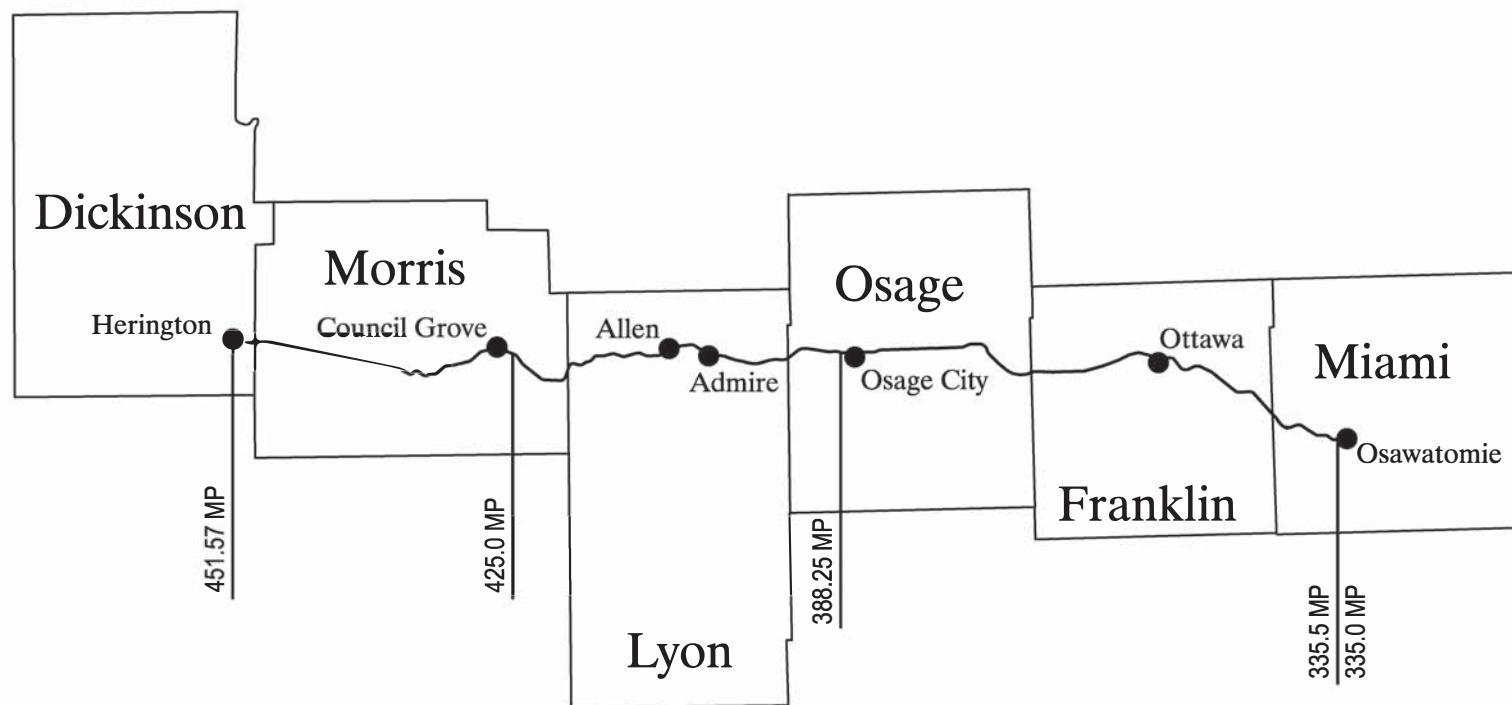


EXHIBIT 3

238-4030

Kansas Secretary of State
Nonprofit Corporation Certificate of Amendment

AN

All information must be completed or this document will not be accepted for filing.

1. Name of the corporation

Kansas Horseman Foundation, Inc.
Name must match the name on record with the Secretary of State

2. The articles of incorporation are amended as follows:

The name of the Corporation shall be:

Kanza Rail-Trails Conservancy, Inc.

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3. The amendment was adopted in accordance with the provisions of K.S.A. 17-6602.

I declare under penalty of perjury under the laws of the state of Kansas that the foregoing is true and correct.

Executed on the 2 of January, 2003
Day Month Year



President or Vice President Daniel Pickert

Attest: 

Secretary or Assistant Secretary Clark H. Coan

Please submit this form in duplicate with the \$20 filing fee.

Contact Information Kansas Secretary of State Ron Thornburgh Memorial Hall, 1st Floor 120 SW 10th Avenue Topeka, KS 66612-1240 785-296-4564 kssos@kssos.org www.kssos.org	FILED SECRETARY OF STATE KANSAS	03 JUN 2 AM 9 21
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