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SEC

SERVICE DATE - APRIL 11, 2000

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-406 (Sub-No. 6X)

CENTRAL KANSAS RAILWAY, LIMITED LIABILITY  
COMPANY--ABANDONMENT EXEMPTION--IN MARION  
AND MCPHERSON COUNTIES, KS

Decided: April 10, 2000

Central Kansas Railway, Limited Liability Company (CKR) filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments to abandon a 33.4-mile portion of its line of railroad known as the McPherson Subdivision, in Marion and McPherson Counties, KS. Notice of the exemption was served and published in the Federal Register on March 13, 1996 (61 FR 10428-29). Subsequently, a trail condition was issued, providing time for CKR to negotiate an interim trail use/rail banking agreement with respect to the right-of-way involved in this proceeding. Two requests to extend the time to permit continued trail use negotiations were granted, and a new potential trail sponsor was substituted. A trail use agreement then was reached and CKR conveyed the entire right-of-way for rail banking/interim trail use to Central Kansas Conservancy on September 19, 1997.

On September 25, 1997, Kevin Jost, Alvin Kroupa, Allen Schlehuber and the Citizens Association of Marion and McPherson Counties (Petitioners) filed a petition to reopen on the grounds of material error and changed circumstances. By decision served December 18, 1998, the Board denied the petition to reopen. A court action was instituted before the United States Court of Appeals for the District of Columbia Circuit, and in Jost v. STB, 194 F.3d 79 (D.C. Cir. 1999), the court affirmed in part and remanded in part the Board's decision served December 18, 1998, declining to reopen this case.

By decision served December 8, 1999, the Board reaffirmed and clarified the decision served December 18, 1998. On December 29, 1999, Petitioners filed a petition for reconsideration of the December 1999 decision. On January 12, 2000, CKR requested an extension of time until February 7, 2000, to file its reply to the petition to reopen. By decision served January 14, 2000, CKR's extension request was granted. On March 28, 2000, after CKR had filed its reply, Petitioners filed a supplement to their petition for reconsideration filed December 29, 1999.

On April 6, 2000, CKR requested an extension of time until April 24, 2000, to file its reply to the supplement to the petition for reconsideration. The current due date for CKR's reply is April 17, 2000. CKR states that the extension is required because it did not receive the supplement to the petition for reconsideration until April 4, 2000.

CKR's request is reasonable and will be granted.

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

It is ordered:

1. CKR's extension request is granted.
2. CKR's reply to the supplement to the petition for reconsideration is due April 24, 2000.
3. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary