30036 SERVICE DATE - LATE RELEASE JUNE 10, 1999
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SURFACE TRANSPORTATION BOARD

DECISION AND CERTIFICATE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-437 (Sub-No. 1)

KANSAS SOUTHWESTERN RAILWAY, L.L.C.—ABANDONMENT—IN SUMNER, HARPER, BARBER, RENO AND KINGMAN COUNTIES, KS

Decided: June 9, 1999

By application filed February 19, 1999, the Kansas Southwestern Railway, L.L.C. (KSW), seeks authority under 49 U.S.C. 10903 to abandon: (1) its 57.85-mile Hardtner Branch, extending from milepost 514.00 at Conway Springs to milepost 571.85 at Kiowa; and (2) a 50.97-mile portion of its Stafford Branch, extending from milepost 559.028 at Conway Springs to milepost 610.00 at Olcott, in Sumner, Harper, Barber, Reno, and Kingman Counties, KS.[1] Collectively, the two lines (Lines) extend 108.82 miles and include an additional 10.85 miles of side track.[2]

A request for labor protective conditions was filed by the United Transportation Union, and a request for a public use condition and issuance of a certificate of interim trail use or abandonment (CITU) was filed by the City of Kingman, KS (City). KSW filed a reply to the latter. Upon review of the record, we will grant the application, subject to environmental, public use, and standard employee protective conditions, and issue a CITU.

TRAFFIC, OPERATIONS, AND REVENUES

KSW states that it essentially acts as a feeder carrier for the Union Pacific Railroad Company (UP). KSW moves the wheat traffic originating on the Lines to UP and otherwise largely depends on UP to establish rates and supply cars. According to KSW, shippers began trucking their wheat to the major gathering areas in nearby Enid, OK, and Hutchinson, KS, as UP began increasing its rates. KSW states that 302, 354, 27 and 53 carloads, respectively, originated or terminated on the Lines in 1996, 1997, 1998, and the base year (September 1, 1997–August 31, 1998). Wheat and iron and steel scrap constituted the principal outbound movements, and urea, monoammonium phosphate, anhydrous ammonia, agricultural implements, and nitrogen fertilizer constituted the principal inbound movements.

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[1] Notice was served and published at 64 FR 12213 on March 11, 1999.

[2] The Hardtner Branch has an additional 9.43 miles of side track, and the Stafford Branch has an additional 1.42 miles of side track.

During the base year, KSW operated 20 trains round-trip on the Hardtner Branch and 11 trains round-trip on the Stafford Branch.[3] Rail service has been provided on an as-needed basis using trains powered by up to three engines and staffed by one engineer and one conductor. The trains operate out of Wichita, KS, and usually return to Wichita in the same day. At times, the engines and cars are left overnight at a shipper's facility for loading or unloading and the crew returns from Wichita the next day.

KSW calculated a base year operating loss of $53,291 and, based on a projected gross revenue of $86,005, a forecast year operating loss of $580,305 if the necessary maintenance is performed.[4] KSW states that it has operated the Lines at a loss for years in the hope that traffic volumes would increase to a level that would justify their operation. Asserting that the hoped for increase never materialized, that there is no reasonable prospect that traffic will increase in the foreseeable future, and that significant maintenance expenditures are necessary to keep the Lines in compliance with FRA Class 1 safety standards, KSW claims that continued operation constitutes a significant economic burden on the remainder of its system and can no longer be justified.

AVOIDABLE COSTS

KSW projects a forecast year on-branch avoidable cost of $627,688. Normalized maintenance accounts for $538,301 of that total and consists of $272,001 for maintenance-of-way and structures (MOW), $216,300 to repair/replace the crossing diamond at Argonia, KS, and $50,000 to maintain the interlocker at the same location. According to KSW, the crossing diamond must be replaced three times a year at a cost of $72,100 per replacement. KSW attributes the replacement cost and the annual cost of maintaining the interlocker to the heavy volume of high speed BNSF traffic that moves over the crossing. Absent any evidence establishing responsibility for replacing the crossing diamond and maintaining the interlocker, we cannot accept the cost projections for those items as avoidable costs.

With regard to its MOW projection, KSW has not submitted specific support. Instead, it has used its system-wide average annual maintenance cost per mile ($2,671 for 1995-1997) to project a MOW unit cost of $2,500, resulting in total MOW costs of $272,001.[5] Data from past

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[3] KSW embargoed the Hardtner Branch west of Argonia on January 26, 1998, because The Burlington Northern and Santa Fe Railway Company (BNSF) had removed the crossing diamond that gave KSW access to shippers at Freeport, Anthony, Ruella, Corwin, Hazelton, and Kiowa, KS.

[4] KSW projected a forecast year (February 1, 1999–January 31, 2000) freight revenue of $58,661, using the 1997 traffic volume of 354 carloads, the highest volume since 1995.

[5] KSW projects $144,625 in MOW expenses for the Hardtner Branch and $127,400 in MOW for the Stafford Branch for a total of $272,025, but, in the verified statement of Mr. Phillip Burris, at p. 19 of the working papers, KSW projected $272,000 in MOW.

abandonment proceedings show, however, that $2,500 per mile for MOW is very conservative even for an FRA Class 1 line, and therefore KSW's MOW projection appears reasonable.

Additionally, the balance of KSW's on-branch avoidable costs (transportation, maintenance of equipment, car hire costs, return on value for locomotives, and property tax expenses) and KSW's projection of $38,622 in forecast year off-branch avoidable costs conform to Board regulations at 49 CFR 1152.32-34, and appear reasonable. Our restatement of KSW's forecast year avoidable costs accepts $272,001 for on-branch MOW, a total avoidable cost of $400,010, and a total avoidable operating loss of $314,005. See Appendix, infra.

LINE CONDITION AND REHABILITATION

The Hardtner Branch main line contains 57 miles of 75-lb. rail, 0.50 miles of 85-lb. rail, and 0.35 miles of 90-lb. rail. The track was laid in 1940 except for 21 miles laid in 1910. Prior to the removal of the crossing diamond, the Hardtner Branch marginally complied with FRA Class 1 standards. KSW claims that the 75-lb. rail is worn out and attributes several recent derailments to rail defects. Tie conditions vary from marginal to poor; approximately 300 ties per mile need to be replaced, and over 30 bridges need varying degrees of repair. The Hardtner Branch has a history of washouts with several that occurred in the current year.[6]

The Stafford Branch main line contains 27.172 miles of 112-lb. head free rail, 3.8 miles of 112-lb. rail, and 20 miles of 90-lb. rail. KSW claims that the Stafford Branch also is in poor condition, barely meeting FRA Class 1 standards. Applicant states that the rails require resurfacing, between 350 and 500 ties per mile must be replaced, and 3 or 4 cars of ballast per mile must be laid.

KSW does not include rehabilitation costs. Instead, it states that, with the exception of what was absolutely necessary for operations, maintenance has been deferred for years to minimize the losses incurred by low traffic levels. KSW estimates that $538,301 in annual maintenance would be needed in the forecast year to accommodate recent traffic levels at the FRA Class 1 level, and claims that, even then, the Lines would still be prone to derailments. Further, KSW states that major capital improvements would be needed if traffic on the Lines increased significantly and that it would cost in excess of $3 million to replace all of the worn out rail.[7]

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[6] KSW states that an additional $150,000 would have to be expended to repair the recent washout that occurred on the Hardtner Branch west of Argonia.

[7] As noted above, however, our restatement accepts a forecast year MOW expense of $272,001.

OPPORTUNITY COST

Opportunity cost (or total return on value) reflects the economic loss experienced by a carrier from forgoing a more profitable alternative use of its assets. Under Abandonment Regulations—Costing, 3 I.C.C.2d 340 (1987), the opportunity cost of road property is computed on an investment base equal to the sum of: (1) allowable working capital; (2) the net liquidation value (NLV) of the line; and (3) current income tax benefits (if any) resulting from abandonment. The investment base (or valuation of the road properties) is multiplied by the current 15.6% nominal rate of return,[8] to yield the nominal return on value which must be adjusted by applying a holding gain (or loss) to reflect the increase or decrease in value a carrier will expect to realize by holding assets for one additional year.

KSW estimates that the Lines have a forecast year total opportunity cost of $355,674. It estimates an NLV of $582,584 for the Hardtner Branch[9] and $1,597,370 for the Stafford Branch[10] for a total NLV of $2,179,953. KSW's unit costs for relay and scrap material are comparable to those accepted in other recent abandonments, and its removal cost also appears reasonable. In addition, KSW's estimates for working capital (based on 15 days operating expenses) and income tax consequences (based on actual tax rates) are acceptable. We restate KSW's opportunity costs using the current 15.6% nominal rate of return; KSW has used a 1997 pre-tax cost of capital rate of 17.1% which also failed to include a factor for state taxes. Our restatement accepts a forecast year opportunity cost of $323,209.

SUMMARY OF COST AND REVENUE EVIDENCE

KSW's forecast year revenue and cost estimates, including return on value, are not contested. Our restatement of the cost evidence shows that the Lines will generate an avoidable operating loss of $314,005 and an opportunity cost of $323,209 for a total forecast year avoidable loss of $637,214 and an estimated subsidy payment of $638,074.

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[8] The 15.6% pre-tax nominal cost of capital rate is determined from the after-tax cost of capital (10.7%). See Railroad Cost of Capital—1998, STB Ex Parte No. 558 (Sub-No. 2) (STB served May 17, 1999).

[9] KSW's NLV estimate values all track as scrap at $100 per ton and includes main line and side track as follows: (1) 56-lb. scrap valued at $8,885; (2) 75-lb. scrap valued at $815,938; (3) 85-lb. scrap valued at $20,601; and (4) 90-lb. scrap valued at $50,598. Other track material (OTM) is valued at $50 per ton for $134,573, and removal costs are estimated at $50 per ton of rail for a total of $448,011.

[10] KSW's NLV estimate values main line and side track as follows: (1) 90-lb. retained relay at $150 per ton for $510,840; (2) 90-lb. relay at $125 per ton for $16,099; (3) 112-lb. retained relay at $739,200; and (4) 112-lb. relay at $706,264. OTM is valued at $50 per ton for a total of $106,474, and removal costs are estimated at $50 per ton for a total of $481,507.

SHIPPER AND COMMUNITY INTERESTS

No protests or comments in opposition to the abandonment have been filed on behalf of shipper interests. A letter-comment filed March 26, 1999, by Mr. Gary Rohlman expressed opposition to the request for rail banking/interim trail use.

ALTERNATIVE TRANSPORTATION

KSW states that the affected shippers will continue to have access to rail service[11] and that competitive and effective motor carrier service[12] is readily available.

OK Coop Grain & Mercantile Company (OK Coop), an operator of grain elevators, has a facility in Corwin that is served by KSW; a facility in Hardtner, KS, that is served by Kiowa Hardtner Pacific Railroad; and facilities at Hazelton and Kiowa that are served by BNSF and KSW. KSW states that the facility at Kiowa receives most of OK Coop's inbound fertilizer traffic from BNSF and Corwin is approximately 15 miles by truck to BNSF at Hazelton and Kiowa and close to the major grain gathering area in Enid.

Anthony Farmers Cooperative Elevator Company, an operator of grain elevators, has facilities in Harper and Duquoin, KS, that are served by BNSF, and a Spring, KS facility that is served by CKR. It also has facilities in Anthony and Shook, KS, that are located on the Hardtner

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[11] A BNSF main line, which crosses the KSW line at Argonia, and connects with the Hardtner Branch at Kiowa, essentially runs parallel to the Hardtner Branch between Conway Springs and Kiowa. BNSF also operates a north-south line through Wichita, and an east-west line through Hutchinson and Stafford, KS. UP operates north-south lines east of Argonia and an east-west line through Hutchinson, Turon and Preston, KS. BNSF and UP both serve the grain gathering areas of northern Oklahoma that were served by the Hardtner Branch. KSW's affiliate, the Central Kansas Railway, L.L.C. (CKR), operates several branch lines in the area, including an east-west line between Wichita and Pratt, KS, that traverses Kingman; two east-west lines between Rago and Protection, KS, and between Attica and Sun City, KS; and a north-south line between Ellinwood and Rago, KS, that traverses Kingman and Hutchinson. KSW will continue to operate its branch lines between Wichita and Conway Springs and between Wichita and Geneseo, KS.

[12] KSW lists numerous general commodity, heavy hauling, and bulk carriers that serve the affected area, which is accessed by an extensive highway network and a number of major county roads capable of supporting motor carrier transportation. For example, Interstate Highways 135 and 35 run north-south through Wichita; Interstate Highway 54 runs east-west through Wichita, Kingman and Pratt; Interstate Highway 160 runs east-west through Argonia; State Highway 61 runs through Turon, Preston and Pratt; State Highway 14 runs north-south through Kingman and near Penalosa and Brown Spur, KS; State Highway 42 runs east-west through Norwich and nearby Milton and Belmont, KS; and State Highway 2 runs through Anthony, Hazelton and Kiowa.

Branch. According to KSW, wheat stored at Anthony, Shook and Spring can be trucked nearby to BNSF at Harper, Crisfield, Hazelton, and Kiowa, KS, or to Enid.

Danville Cooperative Association (Danville Coop), an operator of grain elevators, has a facility at Danville, KS, that is served by BNSF. It has facilities at Argonia and Freeport that are located on the Hardtner Branch, and, according to KSW, they can receive service nearby at Argonia and Danville from BNSF, at Conway Springs from KSW, and at Enid. KSW also notes that Danville Coop operates its own fleet of trucks and that its Bluff City and Metcalf, KS, facilities have no direct access to rail service.

Cheney Cooperative Elevator Association, an operator of grain elevators, has facilities at Cheney and Murdock, KS, that are served by CKR. Its facility in Belmont is located on the Stafford Branch, and, according to KSW, wheat stored there can be trucked nearby to KSW at Conway Springs and Wichita; CKR at Kingman, Murdock, Cheney, and Wichita; BNSF at Harper and Wichita; and UP at Wichita.

Cairo Cooperative Equity Exchange, an operator of grain elevators, has facilities in Cairo, Cunningham, and Waldeck, KS, that are served by BNSF, and facilities in Arlington, Preston, and Turon, KS, that are served by the UP. Its facilities in Browns Spur and Penalosa are located on the Stafford Branch, and according to KSW the wheat stored in them can be trucked readily to CKR at Kingman, KSW at Conway Springs, UP at Turon, or to the major grain-gathering area in Hutchinson.

Kiowa Service, Inc. (Kiowa Service) receives shipments of agricultural implements at its facility in Kiowa. KSW states that Kiowa Service will continue to have access to BNSF in Kiowa and, in any event, notes that all of its inbound shipments have moved by truck since January 1998, when KSW embargoed the Hardtner Branch west of Argonia.

Similarly, Conrady Implements (Conrady) receives shipments of agricultural implements at its facility in Anthony. KSW states that Conrady will continue to have access to BNSF at Anthony and KSW at Conway Springs and Wichita. With the exception of one shipment transloaded at Wichita, KSW also notes that Conrady used truck service exclusively since the embargo.

Finally, Dye Manufacturing ships iron and steel scrap from its facility at Kingman to Wichita, and, according to KSW, will have continued rail access from CKR at Kingman, and can truck shipments directly to Wichita.

DISCUSSION AND CONCLUSIONS

The statutory standard governing an abandonment or discontinuance of service is whether the present or future public convenience and necessity permit the proposed abandonment and discontinuance. 49 U.S.C. 10903(d). In implementing this standard, we must balance the potential harm to affected shippers and communities against the present and future burden that continued operations could impose on the railroad and on interstate commerce. Colorado v. United States, 271 U.S. 153 (1926). Essentially, the Board must determine whether the burden on the railroad from continued operation is outweighed by the burden on the shippers and the public from the loss of rail service.

The record shows that KSW's continued operation of the Lines will result in a total forecast year operating loss of $314,005, and, when opportunity costs of $323,209 are factored in, a total annual loss of $637,214. There is nothing of record to suggest that traffic levels will increase in the future and neither the affected shippers nor the public has expressed opposition. Thus, we conclude that the Lines will continue to suffer heavy losses if the proposed abandonment is denied.

On balance, we conclude that any harm to the shippers and the community from the proposed abandonment is outweighed by the demonstrated harm to KSW and the burden on interstate commerce through continued operation of the Lines. We will therefore grant the abandonment application.

We note that 49 U.S.C. 10904 provides a mechanism for those who want to continue rail service that the Board has authorized to be discontinued or abandoned. Under section 10904, any financially responsible person (and all government agencies are deemed to be financially responsible) may file an offer of financial assistance (OFA) to acquire a line or subsidize the losses of the existing operator. Should area shippers or any other interested party determine that continued rail service over the Lines is in their best interest, they may avail themselves of the section 10904 procedures.

LABOR PROTECTION

In approving this abandonment application, we must ensure that affected rail employees will be adequately protected. 49 U.S.C. 10903(b)(2). We have found that the conditions imposed in Oregon Short Line R. Co.--Abandonment--Goshen, 360 I.C.C. 91 (1979) (Oregon), satisfy the statutory requirements, and we will impose those conditions here.

ENVIRONMENTAL ISSUES

The Board is also required to consider the environmental and energy impacts of the proposed abandonment. KSW has submitted an environmental report with its application and has notified the appropriate Federal, state, and local agencies of the opportunity to submit information concerning the energy and environmental impacts of the proposed abandonment. See 49 CFR 1105.11. Our Section of Environmental Analysis (SEA) has examined the environmental report, verified its data, and analyzed the probable effects of the proposed action on the quality of the human environment. SEA served an environmental assessment (EA) on March 24, 1999, and requested comments by April 23, 1999. No comments have been filed.

In the EA, SEA noted that the U.S. Department of the Army, Kansas City District, Corps of Engineers (Corps), indicated that if the abandonment requires excavation or the discharge of dredged or fill material in any waters of the United States, including wetlands, a Department of the Army permit may be required. Therefore, SEA recommends that any abandonment authority be conditioned to require KSW to consult with the Corps prior to salvaging the right-of-way to determine if permits are required under section 404 of the Clean Water Act, 33 U.S.C. 1344. We agree with SEA's recommendation and will adopt it.

TRAIL USE

City requests issuance of a CITU pursuant to section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), to enable it to acquire for recreational trail use a 3.4-mile portion of the right-of-way between milepost 591.8 and milepost 595.2. City has submitted a statement of willingness to assume financial responsibility for the right-of-way and acknowledged that use of the right-of-way is subject to possible future reconstruction and reactivation for rail service as required under 49 CFR 1152.29. By letter dated March 12, 1999, KSW states that it is willing to negotiate with City. Because City's request complies with the requirements of 49 CFR 1152.29 and KSW is willing to enter into negotiations, we will issue a CITU covering the 3.4-mile portion of line. The parties may negotiate an agreement during the 180-day period prescribed below. If an agreement is executed, no further Board action is necessary. If no agreement is reached within 180 days, KSW may fully abandon this line segment, subject to the conditions imposed below. See 49 CFR 1152.29(d)(1). Use of the right-of-way for trail purposes is subject to restoration for railroad purposes.

The parties should note that operation of the trail use procedures could be delayed, or even foreclosed, by the financial assistance process under 49 U.S.C. 10904. As stated in Rail Abandonments—Use of Rights-of-Way as Trails, 2 I.C.C.2d 591, 608 (1986) (Trails), OFAs to acquire rail lines for continued rail service or to subsidize rail operations take priority over interim trail use/rail banking and public use. Accordingly, if an OFA is timely filed under 49 U.S.C. 1152.27(c)(1), the effective date of this decision and certificate will be postponed beyond the effective date indicated here. See 49 CFR 1152.27(e)(1). In addition, the effective date may be further postponed at later stages in the OFA process. See 49 CFR 1152.27(f). Finally, if the line is sold under the OFA procedures, the abandonment application will be dismissed and trail use precluded. Alternatively, if a sale under the OFA procedures does not occur, trail use may proceed.

Mr. Gary Rohlman, a tenant on two adjacent properties, has filed in opposition to City's request for rail banking/interim trail use. Mr. Rohlman is concerned that trespassing from the trail onto the adjacent property will occur, and he sees no need for a taxpayer funded trail.

It is settled that the trail user is obligated, in addition to maintaining the integrity of rail banking, to ensure that the right-of-way does not become a public nuisance. Federal preemption does not extend to the legitimate exercise of police power by states and localities. Our role in administering the Trails Act is only ministerial. We do not decide whether rail banking and use of the right-of-way as a recreational trail is desirable for a particular line of railroad; Congress has made that determination (for all lines). See 16 U.S.C. 1247(d). If the railroad agrees to negotiate with a party for the acquisition of the right-of-way for rail banking/interim trail use, and that party meets the requirements of 49 CFR 1152.29 (i.e., the trail user submits a statement of willingness to assume financial responsibility and acknowledges that interim trail use is subject to possible future reactivation for rail service), we will issue a CITU that provides a negotiation period, usually 180 days, for the parties to complete a trail use agreement.

PUBLIC USE

SEA has indicated in its EA that the right-of-way may be suitable for other public use after abandonment, and City also requests imposition of a public use condition on the same 3.4-mile portion of the right-of-way. City states that 180 days are needed to assemble and review title information, complete a trail plan, and commence negotiations with KSW. It requests that KSW be prohibited from disposing of the corridor other than the tracks, ties, and signal equipment, except for public use on reasonable terms, and that KSW be barred from the removal or destruction of potential trail-related structures, such as bridges, trestles, culverts, and tunnels, for a 180-day period from the effective date of the abandonment authorization. City states that acquisition of the railroad right-of-way will allow a public park to connect with a planned expansion and development along a scenic river and otherwise will provide important wildlife habitat and green space.

Persons who file under the Trails Act may also file for public use under 49 U.S.C. 10905. When the need for both is established, it is our policy to impose both conditions concurrently, subject to the execution of a trail use agreement. See Trails, 2 I.C.C.2d at 609. City has met the public use criteria for imposing a public use condition; it has specified: (1) the condition sought; (2) the public importance of the condition; (3) the period of time for which the condition would be effective; and (4) justification for the period of time requested. 49 CFR 1152.28(a)(2). Accordingly, the requested 180-day public use condition will also be imposed. Also, we note that a public use condition is not imposed for the benefit of any one potential purchaser. Rather, it provides an opportunity for any interested person to acquire a right-of-way that has been found suitable for public purposes, including trail use. Therefore, KSW is not required to deal exclusively with City, it may engage in public use negotiations with other interested persons.

We find:

1. The present or future public convenience and necessity permit the abandonment of the above-described lines, subject to: (1) the employee protective conditions in Oregon; (2) the condition that KSW consult with the Corps prior to salvaging the right-of-way to determine if permits are required under 33 U.S.C. 1344; (3) the condition that KSW leave intact the portion of the right-of-way between milepost 591.8 and milepost 595.2, including bridges, trestles, culverts and tunnels (but not track and track materials), for a 180-day period from the effective date of this decision and certificate, to enable any state or local government agency or any other interested person to negotiate an acquisition for public use; and (3) the condition that KSW comply with the

interim trail use/rail banking procedures, as set forth below, for the portion of the right-of-way between milepost 591.8 and milepost 595.2.

2. Abandonment of service over the Lines will not have a serious, adverse impact on rural and community development.

3. The Lines may be suitable for other public purposes.

4. As conditioned, this action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This application is granted subject to the conditions specified above.

2. If an interim trail use/rail banking agreement is reached, it must require the trail user 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 for the payment of any and all taxes that may be levied or assessed against, the right-of-way.

3. 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.

4. If interim trail use is implemented and subsequently the user intends to terminate trail use, it must send the Board a copy of this decision and certificate and request that it be vacated on a specified date.

5. If an agreement for interim trail use/rail banking is reached by the 180th day after service of this decision and certificate, interim trail use may be implemented. If no agreement is reached by that time, KSW may fully abandon the line, provided the conditions imposed above are met.

6. KSW must promptly provide any interested person the information they require to formulate an OFA to acquire or subsidize the line.

7. An OFA under 49 CFR 1152.27(c)(1) to allow rail service to continue must be received by the railroad and the Board by June 18, 1999, subject to time extensions authorized under 49 CFR 1152.27(c)(1)(i)(C). The offeror must comply with 49 U.S.C. 10904 and 49 CFR 1152.27(c)(1). Each OFA must be accompanied by the filing fee, which currently is set at $1,000. See 49 CFR 1002.2(f)(25).

8. OFAs and related correspondence to the Board must refer to this proceeding. The following notation must be typed in bold face on the lower left-hand corner of the envelope: **"Office of Proceedings, AB-OFA."**

9. Provided no OFA has been received, this decision and certificate will be effective July 10, 1999. Petitions to stay must be filed by June 21, 1999, and petitions to reopen must be filed by June 30, 1999.

10. Pursuant to 49 CFR 1152.29(e)(2), KSW shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. 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. If a legal or regulatory barrier to consummation exists at the end of the 1-year period, the notice of consummation must be filed no later than 60 days after satisfaction, expiration, or removal of the legal or regulatory barrier.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams
Secretary

APPENDIX

	KSW's Forecast Year Figures Column (1)	STB Restatement Figures Column (2)
1. Freight Orig. and/or Term. on Branch	$58,661	$58,661
2. Bridge Traffic	$0	$0
3. All Other Revenue and Income	$27,344	$27,344
4. Total Attributable Revenue (Ls. 1 thru 3)	$86,005	$86,005
5. On-branch Costs:		
a. Maintenance-of-Way and Structures	$538,301	$272,001
b. Maintenance-of-Equipment (Including Depreciation)	$2,305	$2,305
c. Transportation	$39,127	$39,127
d. General & Administrative	$0	$0
e. Deadheading, Taxi and Hotel	$0	$0
f. Overhead Movement	$0	$0
g. Freight Car Costs (Other Than Return)	$9,039	$9,039
h. Return on Value - Locomotives	$7,445	$7,445
i. Return on Value - Freight Cars	$0	$0
j. Revenue Taxes	$0	$0
k. Property Taxes	$31,471	$31,471
l. Total (Ls. 5a thru 5k)	$627,688	$361,388
m. Holding Gains - Locomotives	$0	$0
n. Holding Gains (Loss) - Freight Cars	$0	$0
o. Net On-br Costs (Ls. 5l - 5m & 5n)	$627,688	$361,388
6. Off-branch Costs:		
a. Off-Branch Costs (Other Than Return)	$35,024	$35,024
b. Return on Value - Freight Cars	$3,598	$3,598
c. Holding Gains - Freight Cars	$0	$0
d. Net Off-br Costs (Ls. 6a+6b - 6c)	$38,622	$38,622
7. Total Avoidable Costs (L. 5o + L. 6d)	$666,310	$400,010
8. Rehabilitation	$0	$0
9. Administrative Costs (Subsidy Year Only)	$860	$860
10. Casualty Reserve Account	$0	$0
11. Total Subsidization Cost (Ls. 8 thru 10)	$860	$860
12. Valuation of Road Properties		
a. Working Capital	$27,077	$27,077
b. Income Tax Consequences	($42,652)	($42,652)
c. Net Liquidation Value	$2,179,953	$2,179,953
d. Total (Ls. 12a thru 12c)	$2,164,378	$2,164,378
13. Nominal Rate of Return	17.1%	15.6%
14. Nominal Return on Value (L. 12d x L. 13)	$370,109	$337,643
15. Holding Gain (Loss)	$14,434	$14,434
16. Total Return on Value (L. 14 - L. 15)	$355,674	$323,209
17. Avoidable (Loss) or Profit from Operations (L. 4 - l. 7)	($580,305)	($314,005)
18. Avoidable (Loss) or Profit Including Return on Value (L.4 - Ls. 7&16)	($935,979)	($637,214)
19. Estimated Subsidy Payment (L.4 - Ls. 7, 11, & 16)	($936,839)	($638,074)