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SERVICE DATE - NOVEMBER 12, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-471 (Sub-No. 4X)

SOUTH KANSAS AND OKLAHOMA RAILROAD COMPANY–  
ABANDONMENT EXEMPTION–IN CRAWFORD, WILSON, ELK AND GREENWOOD  
COUNTIES, KS, AND OSAGE AND TULSA COUNTIES, OK

Decided: November 7, 2002

South Kansas and Oklahoma Railroad Company (SKO) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon: (1) a 35-mile line of railroad between milepost 153.0 near Tulsa and milepost 188.0 near Barnsdall, in Osage and Tulsa Counties, OK; (2) a 6-mile line of railroad between milepost 359.0 at Pittsburg and milepost 365.0 at Cherokee, in Crawford County, KS; and (3) a 23.5-mile line of railroad between milepost 438.5 at Severy and milepost 415.0 at Fredonia, in Wilson, Elk, and Greenwood Counties, KS.<sup>1</sup> On November 29, 2000, a decision and notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for SKO to negotiate a trail use agreement with: (1) the City of Pittsburg for the 6-mile portion of the right-of-way between milepost 359.0 near Pittsburg and milepost 365.0 near Cherokee; and (2) the Trust for Public Land (TPL) for the 35-mile portion of the right-of-way between milepost 153.0 near Tulsa and milepost 188.0.

SKO and TPL reached a trail use agreement as to the portion of the right-of-way between milepost 153.0 and milepost 157.10 and by decisions served on June 1, 2001, and December 31, 2001, the negotiation period was extended to May 24, 2002, at TPL's request for the portion of the right-of-way between milepost 157.10 and milepost 188.0.<sup>2</sup> TPL and SKO reached a trail use agreement as to the portion of the right-of-way between milepost 157.10 and milepost 163.21 and Tulsa County was subsequently authorized to replace TPL as the interim trail user for that portion of the right-of-way by decision served on April 24, 2002. By decision served on June 11, 2002, the

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<sup>1</sup> Notice of the exemption was served and published in the Federal Register on October 6, 2000 (65 FR 59891-92).

<sup>2</sup> The City of Tulsa was subsequently authorized to replace TPL as the trail user between milepost 153.05 and milepost 157.10.

negotiation period under the NITU was extended at TPL's request to November 20, 2002, for the portion of the right-of-way between milepost 163.21 and milepost 188.0.

On October 28, 2002, TPL filed a request to extend the negotiating period for the portion of the line between mileposts 163.21 and 188.0 for an additional 180 days. TPL states that it is continuing to negotiate with SKO with regard to this portion of the right-of-way, but anticipates that the negotiations will not be completed prior to the expiration of the NITU negotiation period. By facsimile filed on October 31, 2002, SKO advised that it is agreeable to the extension request.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended.<sup>3</sup> Under the circumstances, a further extension of the negotiating period is warranted and the NITU negotiating period will be extended to May 19, 2003, for the portion of the right-of-way between milepost 163.21 and milepost 188.0.<sup>4</sup>

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

It is ordered:

1. The negotiation period under the NITU for the portion of the right-of-way between milepost 163.21 and milepost 188.0 is extended to May 19, 2003.
2. This decision is effective on its service date.

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

Vernon A. Williams  
Secretary

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<sup>3</sup> See Rail Abandonments--Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).

<sup>4</sup> With the various extensions that have been granted, the NITU negotiation period currently extends until December 27, 2002, for the City of Pittsburg to negotiate with SKO as to the 6-mile line between milepost 359.0 at Pittsburg and milepost 365.0 at Cherokee, in Crawford County, KS.