

38429

SERVICE DATE – OCTOBER 15, 2007

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-1013X]

Kaw River Railroad, Inc.–Discontinuance of Service Exemption–in Clay County, MO

Kaw River Railroad, Inc. (KRR)<sup>1</sup> has filed a verified notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments and Discontinuances of Service to discontinue service over a 0.27-mile line of railroad between milepost 199.86 and milepost 200.13, in Kearney, Clay County, MO.<sup>2</sup> The line traverses United States Postal Service Zip Code 64060.

KRR has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there has been no overhead traffic on the line for at least 2 years and no overhead traffic can move over the line as it is stub-ended; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in

---

<sup>1</sup> KRR was authorized to lease and operate the line in Kaw River Railroad, Inc.–Lease and Operation Exemption–BNSF Railway Company, STB Finance Docket No. 34693 (STB served May 12, 2005).

<sup>2</sup> BNSF Railway Company (BNSF) was authorized to abandon the above-described line in BNSF Railway Company–Abandonment Exemption–in Clay County, MO, STB Docket No. AB-6 (Sub-No. 450X) (STB served Aug. 15, 2007) (BNSF abandonment exemption). While BNSF was authorized to abandon its rail line located between milepost 199.07 and milepost 200.13, KRR's lease only extended to milepost 199.86 (which explains the 0.79-mile difference in mileages sought by BNSF and KRR).

favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under Oregon Short Line R. Co.–Abandonment–Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 14, 2007, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 CFR 1152.27(c)(2),<sup>3</sup> must be filed by October 25, 2007.<sup>4</sup> Petitions to reopen must be filed by November 5, 2007, with: Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to KRR's representative: Karl Morell, Ball Janik LLP, 1455 F Street, N.W., Suite 225, Washington, DC 20005.

---

<sup>3</sup> Each OFA must be accompanied by the filing fee, which currently is set at \$1,300. See 49 CFR 1002.2(f)(25).

<sup>4</sup> Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Any environmental or historical documentation required here under 49 CFR 1105.6(c) and 1105.8(b), respectively, is contained in the reports filed in the BNSF abandonment exemption.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Board decisions and notices are available on our website at “WWW.STB.DOT.GOV.”

Decided: October 5, 2007.

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

Vernon A. Williams

Secretary