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SERVICE DATE - AUGUST 25, 1999

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-563 (Sub-No. 1X)]

Kansas Eastern Railroad, Inc.--Abandonment Exemption--in Butler and Greenwood
Counties, KS

[STB Docket No. AB-471 (Sub-No. 2X)]

South Kansas and Oklahoma Railroad, Inc.--Discontinuance of Service Exemption--in
Butler and Greenwood Counties, KS

Kansas Eastern Railroad, Inc. (KER) and South Kansas and Oklahoma Railroad, Inc. (SKO) have filed a notice of exemption under 49 CFR 1152 Subpart F--Exempt Abandonments and Discontinuances for KER to abandon and SKO to discontinue its trackage rights over a rail line between milepost 438.5, at Severy, and milepost 483.0 near Augusta, in Butler and Greenwood Counties, KS.¹ The line traverses United States Postal Service Zip Codes 67010, 67074, 67012, 67122 and 67137.

KER and SKO have 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 during the past two years;

¹ KER acquired the involved rail line from Burlington Northern Railroad Company as part of the transaction authorized in Kansas Eastern Railroad, Inc.--Acquisition Exemption--Burlington Northern Railroad Company, Finance Docket No. 33292 (ICC served Dec. 2, 1996).

SKO's trackage rights were the subject of an exemption in South Kansas and Oklahoma Railroad, Inc.--Trackage Rights Exemption--Kansas Eastern Railroad, Inc., Finance Docket No. 33293 (ICC served Dec. 2, 1996).

(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 (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 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 abandonment 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 September 24, 1999, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,² formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),³ and trail use/rail banking requests under 49 CFR 1152.29 must be filed by September 7, 1999. Petitions to

² The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

³ Each offer of financial assistance must be accompanied by the filing fee, which currently is set at \$1000. See 49 CFR 1002.2(f)(25).

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reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 14, 1999, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicants' representative: Karl Morell, Ball Janik LLP, 1455 F St., N.W., Suite 225, Washington, DC 20005. If the verified notice contains false or misleading information, the exemption is void ab initio.

KER and SKO have filed an environmental report which addresses the effects of the abandonment and discontinuance, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by August 30, 1999. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565-1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), KER 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 KER's filing of a notice of consummation by August 25, 1999, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

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Decided: August 19, 1999.

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

Vernon A. Williams

Secretary