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SEC

SERVICE DATE - JANUARY 14, 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: January 13, 2000

Central Kansas Railway, Limited (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, negotiation periods were provided for CKR to negotiate with several potential trail users for an interim trail use/rail banking agreement with respect to the right-of-way involved in this proceeding. As a result, 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 the proceeding to challenge the Board's authorization of the trail use negotiations that resulted in the conveyance. By decision served December 18, 1998, the Board denied the petition to reopen. A Court Action was instituted before the U.S. District Court of Appeals for the District of Columbia Circuit, and in Jost v. STB, No. 99-1054 (D.C. Cir. Oct. 22, 1999), the court affirmed in part and remanded in part the Board's decision served December 18, 1998, declining to reopen this case. Specifically, the court affirmed the Board's determination not to scrutinize the financial fitness of the trail sponsor, but remanded for further explanation the determination not to reopen the proceeding to consider the impact of alleged right-of-way sales.

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 that decision. On January 12, 2000, CKR filed a request for an extension of time to file its reply to the petition to reopen. The current due date for CKR's reply is January 18, 2000. CKR states that the extension is required because the undersigned attorney is presently in the hospital. CKR also indicates that counsel for the Petitioners does not object to the extension request.

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 is due February 7, 2000.
3. This decision is effective on the service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary