

217846



Kanza
Rail-Trails Conservancy
PO Box 3863
Topeka, Kansas 66604-0863
www.kanzatrails.org

ENTERED
Office of Proceedings

October 9, 2006

OCT 18 2006

Part of
Public Record

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW, room 711
Washington, DC 20423

Re: Burlington Northern Santa Fe – Abandonment – Chase, Morris, Marion and Dickinson Counties in Kansas. Docket # AB_6_425_x

Dear Mr. Williams:

This comment should be treated as a protest or a petition for reconsideration in the above-captioned proceeding. This comment is filed on behalf of the Kanza Rail-Trail Conservancy which is a 50 1(c)(3) not for profit corporation whose interest is in the preservation and conservation of railroad corridors for the development and maintance of interim multi-use recreational trails, which is hereinafter referred to as "Commenter".

While not taking a position on the merits of this abandonment, Commenter requests issuance of a Public Use Condition as well as a Certificate or Notice of Interim Trail use rather than an outright abandonment authorization of the 25.57 mile line of railroad between BNSF mile post 0.00 near Neva and milepost 25.45 near Lost Springs, in Chase, Morris, Marion, and Dickinson counties in Kansas.

A. Public Use Condition

Commenter requests the STB to find that this property is suitable for other public use, specifically trail use, and to place the following conditions on the abandonment:

1. An order prohibiting the carrier from disposing of the corridor, other than the tracks, ties and signal equipment, except of public use on reasonable terms. The justification for this condition is that the corridor would be suitable for a recreational trail which would allow trail users on the rail banked 116-mile Flint Hills Nature Trail now under development by Commenter, to travel to the Tallgrass Prairie National Preserve, the state's only national park.

The time period sought is 180 days from the effective date of the abandonment authorization. Commenter needs this much time to have an opportunity to commence negotiations with the carrier.

2. An order barring removal or destruction of potential trail-related structures such as bridges, trestles, culverts and tunnels. The justification for this condition is that these structures have considerable value for recreational trial purposes. The time period requested is 180 days from the effective date of the abandonment authorization for the same reasons as indicated above.

B. Interim Trail Use

The railroad right-of-way in this proceeding is suitable for rail banking. Please accept this late-filed trail use statement pursuant to 49 C.F.R. 1152.29 (b) (6) and (e). This statement is being filed at this time because the Commenter did not receive notice of the commencement of the abandonment proceeding until September 6, 2006. Furthermore, the Board of Directors of Commenter had to approve this application to invoke Section 8(d) at a duly called meeting. The Board subsequently unanimously approved this application on September 15, 2006. In addition to the public use conditions sought above, Commenter also makes the following request:

STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY

In order to establish interim trail use and rail banking under section 8 (d) of the National Trails System Act, 16 U.S.C. 1247 (d), and 49 C.F.R. 1152.29., Kanza Rail Trail Conservancy Inc. is willing to assume 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 owned by BNSF and operated by BNSF.

The property, known as the extends from milepost 0.00 near Neva and milepost 25.45 near Lost Springs, a distance of 25.57 miles in Chase, Morris, Marion, and Dickinson counties in Kansas. The right-of-way is part of a line of railroad proposed for abandonment in STB Docket NO. AB_6_425_x.

A map depicting the right-of-way is attached.

Kanza Rail Trail Conservancy acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

By my signature below I certify service upon Burlington Northern Santa Fe Railroad Company, 2500 Lou Menk Drive, 80B 3rd floor, Fort Worth Texas 76131, by U.S. Mail, postage paid, first class, this day October 9, 2006

Respectfully submitted,



Doug Walker
212 First Street
Osawatomie, KS 66064
On behalf of: The Kanza Rail Trail Conservancy Inc.

