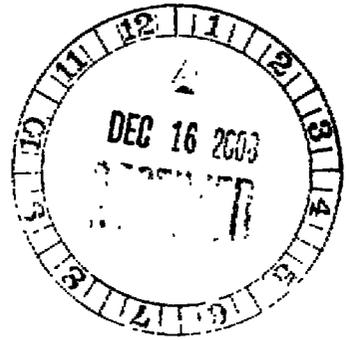


224202

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THOMAS F. MCFARLAND

December 15, 2008

By UPS overnight mail

Anne K. Quinlan, Esq.
Acting Secretary
Surface Transportation Board
395 E Street, S.W., Suite 1149
Washington, DC 20024

Re: Docket No. AB-853 (Sub-No. 1X), *Kansas & Oklahoma Railroad, Inc. --
Abandonment Exemption -- in Hodgeman, Comanche, Kiowa and Pratt Counties,
KS*

Dear Ms. Quinlan:

Enclosed please find an original and 10 copies of Petition For Issuance Of A Notice Of Interim Trail Use, for filing with the Board in the above referenced matter.

Also enclosed is a check in the amount of \$200 for the filing fee.

Very truly yours,

Thomas F. McFarland

Thomas F. McFarland
*Attorney for Petitioner, Sunflower
Recreational Trails, Inc.*

TMcF kl enc wps 0/1353 ltrsb1

ENTERED
Office of Proceedings
DEC 16 2008
Part of
Public Record

FILED
DEC 16 2008
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
DEC 16 2008
SURFACE
TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD



KANSAS & OKLAHOMA RAILROAD,)
INC. -- ABANDONMENT EXEMPTION) DOCKET NO. AB-853
-- IN HODGEMAN, COMANCHE,) (SUB-NO. 1X)
KIOWA AND PRATT COUNTIES, KS)

**PETITION FOR ISSUANCE OF A
NOTICE OF INTERIM TRAIL USE**

SUNFLOWER RECREATIONAL TRAILS, INC.
LARRY ROSS, President
P.O. Box 3863
Topeka, KS 66604-6863

Petitioner

By: THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1890
Chicago, IL 60604-1112
(312) 236-0204
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mcfarland@aol.com

Attorney for Petitioner

DATE FILED: December 16, 2008

BEFORE THE
SURFACE TRANSPORTATION BOARD

KANSAS & OKLAHOMA RAILROAD,)
INC. -- ABANDONMENT EXEMPTION) DOCKET NO. AB-853
-- IN HODGEMAN, COMANCHE,) (SUB-NO. 1X)
KIOWA AND PRATT COUNTIES, KS)

**PETITION FOR ISSUANCE OF A
NOTICE OF INTERIM TRAIL USE**

Pursuant to 49 C.F.R. § 1152.29(a), SUNFLOWER RECREATIONAL TRAILS, INC. (SRT), hereby respectfully petitions for issuance of a Notice of Interim Trail Use (NITU) providing for a 180-day period for SRT to negotiate with KANSAS & OKLAHOMA RAILROAD, INC. (K&O) for railbanking and interim recreational trail use of the right-of-way between Milepost 36.3 at Hanston and Milepost 47.0 at Jetmore, in Hodgeman County, KS.

In a decision issued on November 13, 2007, the Board vacated an NITU for that right-of-way that had been issued to American Trails Association (ATA) on November 25, 2003.^{1/} In a NITU issued by decision served March 8, 2008, to Hodgeman County, Kansas (the County), a 180-day period was provided for the County to negotiate with K&O for railbanking and interim recreational trail use of the Hanston-Jetmore right-of-way. That negotiating period expired on September 3, 2008 without an agreement having been reached between the County and K&O. SRT is informed and believes that the County is no longer interested in negotiating for

^{1/} The NITU also included a 46.8-mile right-of-way between Milepost 589.2 at Coats and Milepost 636.0 at Protection, in Comanche, Kiowa and Pratt Counties, KS. A new NITU for that right-of-way was issued in a decision in this docket, served February 4, 2008.

railbanking and interim recreational trail use of the involved right-of-way. SRT now desires to negotiate in place of the County. The County understands that K&O has not consummated abandonment of the involved right-of-way, and is agreeable to negotiating with SRT for railbanking and interim trail use.

The following are included in a Statement of Willingness to Assume Financial Responsibility, attached to this Petition as Appendix 1:

- (1) a map depicting the right-of-way proposed to be acquired;
- (2) a statement of SRT's willingness to assume responsibility for (a) managing the right-of-way; (b) any legal liability arising out of use of the right-of-way; and (c) payment of all taxes assessed against the right-of-way; and
- (3) an acknowledgment that interim trail use is subject to the user's continuing to meet its responsibilities identified above, and to possible reconstruction and reactivation of the right-of-way for rail service.

WHEREFORE, the Board should issue the requested NITU.

Respectfully submitted,

SUNFLOWER RECREATIONAL TRAILS, INC.
LARRY ROSS, President
P.O. Box 3863
Topcka, KS 66604-6863

Petitioner

Thomas F. McFarland

By: THOMAS F. McFARLAND
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Attorney for Petitioner

DATE FILED: December 16, 2008

APPENDIX 1

**Statement of Willingness
To Assume Financial Responsibility**

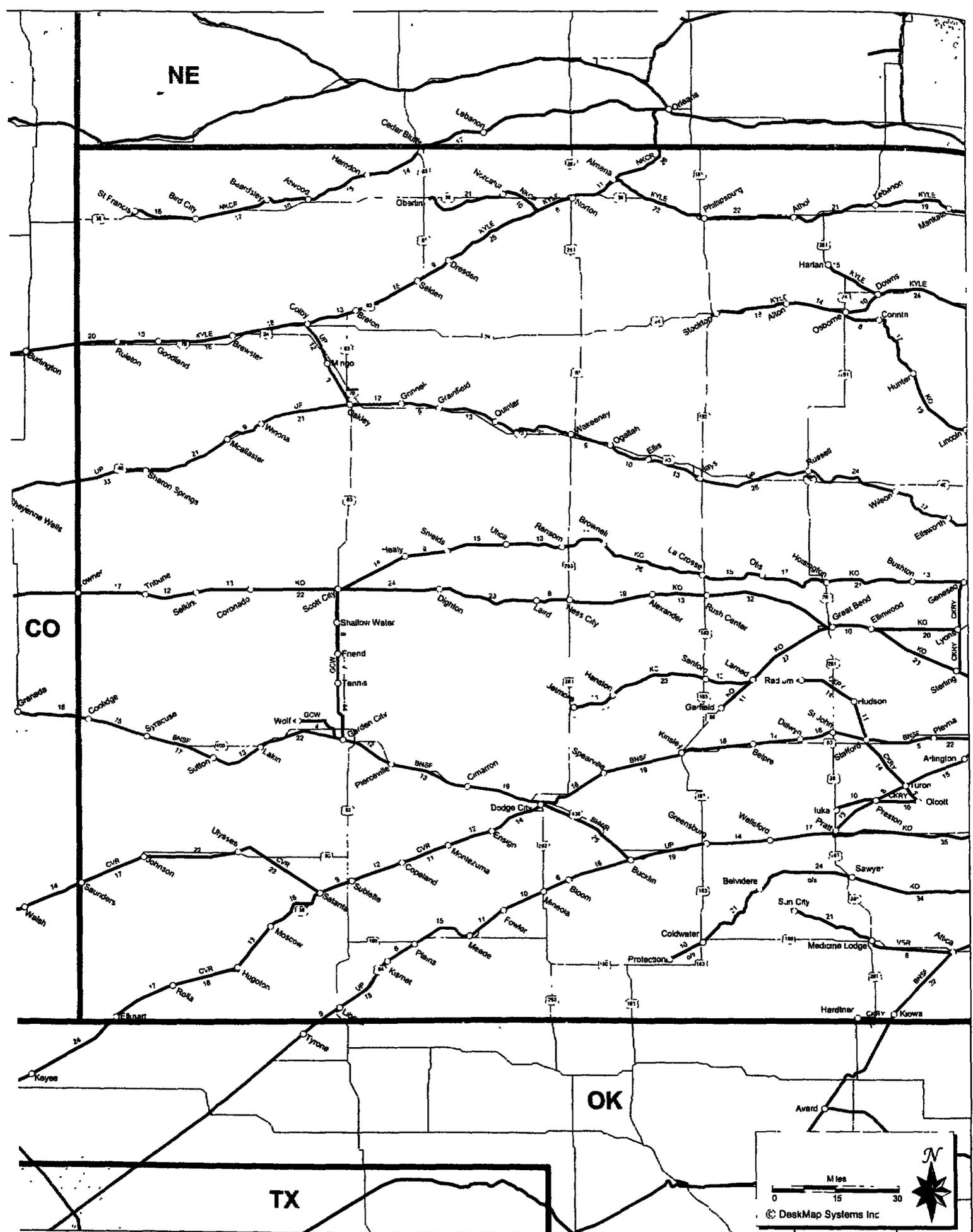
In order to establish interim trail use and rail banking under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1142.29, Sunflower Recreational Trails, Inc. (SRT), is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from 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 and operated by Kansas & Oklahoma Railroad, Inc. (K&O). The property extends from railroad Milepost No. 36.3 at Hanston and Milepost No. 47.0 at Jetmore, a distance of 10.7 miles in Hodgeman County, Kansas. The right-of-way is part of a line of railroad proposed for abandonment in Docket No. STB AB-853 (Sub-No. 1X).

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

SRT 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. A copy of this statement is being served on the railroad on the same date it is being served on the Board.

Thomas F. McFarland
Attorney for Petitioner

KANSAS

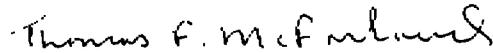


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CERTIFICATE OF SERVICE

I hereby certify that on December 15, 2008, I served the foregoing document, Petition For Issuance Of A Notice Of Interim Trail Use, on Karl Morell, Esq., Ball Janik, I.L.P, 1455 F Street, N.W., Suite 225, Washington, DC 20005, by first-class, U.S. mail, postage prepaid.



Thomas F. McFarland