

**SURFACE TRANSPORTATION BOARD
OPEN VOTING CONFERENCE
MARCH 21, 2003**

*Sunflower Rail Company, LLC—Construction and Operation Exemption—Finney County,
KS, STB Finance Docket No. 34210*

**STATEMENT OF YVONNE M. KRYWYJ, ATTORNEY,
OFFICE OF PROCEEDINGS**

Sunflower Rail Company, LLC (SRC), a subsidiary of Sunflower Electric Power Company (Sunflower), has filed a petition for exemption to construct and operate 4.7 miles of railroad line in the vicinity of Garden City, which is in Finney County, KS. The draft decision before you today would grant a conditional exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901, subject to your further consideration of the environmental impacts of the proposal and the issuance of a final decision after completion of the environmental review process.

Sunflower operates a coal-fired electricity generating plant near Holcomb, KS, which is southwest of Garden City. Only BNSF can deliver coal to the Holcomb Station Spur, which is a 3.4-mile spur track owned by Sunflower that leads to the Holcomb Plant. The proposed build-out would allow Sunflower to gain access to UP, providing Sunflower with a competitive alternative to BNSF for Powder River Basin coal traffic.

The construction proposal consists of two segments connected in the middle by an existing line of railroad owned by The Garden City Western Railway, Inc (GCW). The first segment would begin at a connection with Sunflower's Holcomb Station Spur at a point approximately 0.8 miles southeast of BNSF's main line connection with the same spur track. This new line would proceed from the spur track switch in a northeasterly direction, cross over

BNSF's tracks by way of an overpass, and proceed eastward until it connects with GCW's Lowe Spur. The second segment would begin at a switch on GCW's Lowe Spur and proceed in an easterly direction until it reaches a connection with GCW's Shallow Water-Garden City line at a point about 1.8 miles north of Garden City.

SRC acknowledges that it will become a rail carrier upon completion of the project but expects that it will grant trackage rights so GCW and UP can provide the actual service. SRC expects any third party that would provide common carrier service over the line to seek authority from the Board as necessary to engage in such operations.

The draft decision finds that detailed scrutiny of the proposed construction and operation under 49 U.S.C. 10901 is not necessary to carry out the rail transportation policy. Rather, an exemption under 49 U.S.C. 10502 will promote that policy and afford Sunflower access to additional rail service via UP and SRC; consequently the construction and operation will increase competition. Benefits of direct rail competition are expected to come in the form of reduced rail rates and improved service and reliability. The draft decision also finds that regulation of the transaction is not necessary to protect shippers from the abuse of market power.

As I've previously stated, the proposed construction involves crossing BNSF's tracks. Although SRC is hopeful that BNSF will agree to the crossing, obviating the need for any Board action, SRC has filed a related petition in STB Finance Docket No. 34210 (Sub-No. 1) seeking authority under 49 U.S.C. 10901(d) to cross BNSF's line. This is a separate proceeding, which will be dealt with later, and is not part of the decision before you today.

That concludes my statement. If you have any questions, we will be happy to answer them.